

Malheur County Planning Commission

The Malheur County Planning Commission Meeting was held at Four Rivers Cultural Center and, via GoToMeeting, on February 24th, 2022. Kathy Clarich called the meeting to order at 7:34 p.m.

MALHEUR COUNTY COMMISSION MEMBERS PRESENT:

Kathy Clarich
Linda Simmons
Clark Forsyth
Teresa Ballard
Chad Gerulf
Ed Anthony
John Faw

PLANNING DEPARTMENT STAFF MEMBERS:

Eric Evans, Planning Director
Alexis McDaniel, Planning Clerk
Stephanie Williams, County Counsel

OLD BUSINESS:

Applicant: Jimmy Simpson
709 Owyhee Ave.
Nyssa, OR 97913

Owner of Record: Jimmy Simpson
709 Owyhee Ave.
Nyssa, OR 97913

Consideration of the condition use approval for a 15 space RV park on Exclusive Farm Use (EFU) zoned land. Planning Department file #2021-12-016.

Kathy Clarich – Now is the time to hear the request for a conditional use permit for the consideration of approval for a 15 space RV park in an Exclusive Farm Use Zone for applicant Jimmy Simpson. Planning department file #2021-12-016.

When called to speak please state your name, address and title (if any) for the record.

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 and questions should not be directed to staff or directly to witnesses.
3. Do any members of the County Planning Commission need to abstain?
If so, state the reason.

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4. Do any members of the County Planning Commission have any conflicts to disclose?
If so, state the conflict.

5. Do any members of the County Planning Commission have any bias to disclose?
If so, state bias.

6. Do any members of the County Planning Commission have any ex parte communications, including any site visits, to disclose?

Kathy Clarich, John Faw, Teresa Ballard, Clark Forsyth, and Chad Gerulf - site visit.

7. Does anyone object to any of the members of the Malheur County Planning Commission hearing this application?

8. Does anyone challenge the County Planning Commission's jurisdiction to hear these matters?

9. Land use statements 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:

The Malheur County Code:

MCC 6-6-7 General Criteria to Evaluate Suitability
MCC 6-6-8-7 Recreational Vehicle Parks

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 or evidence sufficient to afford the decision makers and the parties an adequate opportunity to respond to each issue.

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.

10. Order of Proceeding.

The applicant will be allocated up to 20 minutes for initial applicant presentation. The applicant may also present up to 10 minutes for final rebuttal. All others wishing to testify will be given 5 minutes each.

Preliminary Staff Report: Read by Planning Director, Eric Evans.

Eric Evans – Tonight we are here for a continuance from last meeting. The applicant requested a continuance, so they could respond to one of the letters of opposition we have. This application is for, it's a little confusing. I would call this application, so the Staff Report will kind of contradict what I have said in some of these places. This Conditional Use would be for a campground in EFU. There's a distinguish between a campground and a RV park. Where in our rules it actually states that a RV park must have certain amenities like individual hookups. State Law in the EFU doesn't allow individual hookups on resource zoned land. There is no way we can actually do a RV park. We can do parks and we can do campgrounds they just can't be an RV park like Malheur County Code states. This Conditional Use would be for a 15-space campground on EFU. It's tax lot 102, township 20 South, 46 East, section 35. Malheur County Reference #20605. It's about 8.3 miles South of Nyssa on Hwy 201 on the right-hand side. Right at Owyhee Junction. It's zoned, it's actually kind of a split zone piece of property. It's partially zoned EFU, and partially zoned Rural Service Center. The parcel is 5.14 acres. Currently there is an existing dwelling, restaurant, grocery store, and where the proposed RV park is, is just a dry field. There is an existing access. So, the property is actually surrounded mostly by Rural Service Center on the North and East, and some EFU on the South. Again, the Staff Report is wrong when it comes to the sanitation requirements, because we wouldn't be allowing any kind of septic system on this property, because individual sewer hookups wouldn't be allowed. It's located in the Adrian Rural Fire District. There is a small portion of the property that is located in the flood plain. It's a pretty small portion of it, that wouldn't have anything to do with this application. One of the things about this location is Rural Service Center. This particular Rural Service Center, Owyhee Junction, prohibits RV parks, so it's not allowed in the Rural Service Center, but it is allowed as a Conditional Use Permit. A campground is a Conditional Use Permit on EFU zoned land. Does anyone have questions for me?

Kathy Clarich – I do. So, then what is the length of stay for a campground?

Eric Evans – Well, County Code says you can stay 30 days in a calendar year?

Linda Simmons – 30 days and then 60 days.

Kathy Clarich – But that's for an RV park. Is the campground going to be the same as a RV park?

Eric Evans – Yeah, I think that it would be pretty interchangeable with how the RV ordinance would be.

Stephanie Williams – Oregon rule says that shall not exceed 30 days during any consecutive 6-month period.

Kathy Clarich – Okay, thank you. Is it the same for tents?

Eric Evans – I don't think our ordinance addresses tent camping. It's really about RVs. How long a RV can stay. If you can indefinitely stay in a tent, our statute doesn't address that.

Teresa Ballard – So, who provides oversight? Who knows that I didn't come and go 3 times?

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Eric Evans – Well, I mean if you are talking about a regulatory perspective I can't address that, and so it would be complaint driven. I mean if we got complaints, but I mean we know how that goes, right? It's pretty tough. We do have an Ordinance Officer now, that I pushed for when I was first hired in this position, so we do utilize that to the best as we can. Complaints can be pretty tough for my office to continuously to do, because its hours, hours, and hours of time for every one little complaint. So, I mean we would do our best. It could be a condition you know of approval that they stay in tents for a certain amount of time. That gives us a little more authority to go and use this CUP against them.

Kathy Clarich – Okay, so are they still going to have shower?

Eric Evans – They are being represented tonight by Dustin Martinsen. So, I think he ---

Kathy Clarich – --- So, would that be allowed on the farm ground though, I guess is what I am asking you?

Eric Evans – So, on the farm ground it says no intense uses can be allowed on that. So, nothing intensive like no grocery stores, no anything like that on it. So, I would say on farm ground my interpretation would be a shower and laundromat wouldn't be allowed. I am not actually saying that it might not be allowed in the Rural Service Center portion of their property.

John Faw – What portion is EFU and Rural Service Center?

Eric Evans – Can you see that? The two colors now? Red is the EFU and blue is Rural Service Center. So, if you look this is the store, right? The back edge of the property line is here, and so it's cut straight across there. There is like a slide out there. I don't know it might still be set up like that. I want to say this was kind of developed kind of like a motocross deal. I don't think I have ever seen any agriculture, crops or anything like that. I don't believe, I don't think there is a water right.

Chad Gerulf – There is.

Eric Evans – So, I am wrong. The thing is that the argument would be if they have used it in the last 5 years. I don't know if it's the state water right. I'm not sure.

Clark Forsyth – So, they are changing it to the campground versus the RV park. Is the lay out concept kind of the same? Or just changing the name of it?

Eric Evans – So, for me the biggest thing to me is whether we are calling it a RV park, or we are calling it a campground. Is realistically in our code RV parks are required to have single hookups, individual hookups for every site, and we can't allow that. So, I don't think it changes anything, except that it's going to be a self-service.

Clark Forsyth – Is Cow Hollow a RV park or a campground?

Eric Evans – I don't think they have individual hookups. Do they?

Stephanie Williams – That is a public land park. There are different provisions that come with public lands and private lands.

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John Faw – I thought that was private land.

Stephanie Williams – The Cow Hollow park is managed by the Cow Hollow Park Association. They have a contract to manage the park. The park is actually owned by the county.

Eric Evans – So, some of the new, I mean from the legal perspective, so you could potentially develop a RV park in the EFU land, and get all the private hookups, if you take a Goal exception. So, if you got an exception to state wide planning Goal 3, maybe 14, at least Goal 3, then you could potentially develop this however you want. The law allows you to do, still meet the state-wide planning goals as long as you meet these other criteria, like no intensely developed pieces, no individual sewage, water, electrical hookups. So, I mean that's where we are at tonight. Is we are not asking for Goal exceptions. We are using the rules that allow us to do this without getting Goal 3 exception.

Linda Simmons – What did we do in Annex?

Eric Evans – Annex is a Rural Service Center, but Annex is different, because it doesn't prohibit a RV park in that Rural Service Center. It's actually Conditional Use Permit. So, I mean, back when our comprehensive plan in the early mid-80s was developed. Each of these communities got together and were represented, is my understanding, that these communities got together, and they decided what the uses that they wanted in their particular area is. My assumption is that this Owyhee Junction the people there decided they absolutely did not want an RV park there in that Rural Service Center.

Kathy Clarich – There was also a limit on the ones they could have on Annex too, wasn't there? There's some sort of thing they could only be allowed to have so many.

Eric Evans – So many hookups?

Kathy Clarich – Yeah.

Teresa Ballard – I am thinking maybe only 6.

Kathy Clarich – There wasn't very many. Okay, so you said somebody else was representing the Simpsons?

Eric Evans – I am not sure who is going to speak, but Dustin Martinsen is on, or if the Simpsons will speak.

Applicant Testimony:

Dustin Martinsen, applicant's attorney – 679 Klamath Ave, Nyssa, OR 979713

Dustin Martinsen – I think Mr. Evans has done a great job of laying out what the Simpson's have in mind. Obviously, due to their location to the Owyhee Reservoir, and Owyhee River area, they do feel as though there is a need for a campground to be put on their ground. You can see from the map this ground is not being used for agricultural purposes. It has not been used for agricultural purposes in a number of years, but Oregon's statute 215.213 does specifically allow campgrounds in EFU zoned areas, so this would be an appropriate use for that ground. It would

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be a way of driving additional revenue to the area. Some changes I am sure everybody is aware that numerous neighbors have submitted a letter of opposition to this, and discussing potential ways of remedying that, the Simpsons have agreed to a few things. While the county allows the maximum stay at a campground to be 30 days in the 6-month period. They are willing to say if the board would like to limit it to 14 days they are perfectly content with that limitation. The other limitation that is in play here that Mr. Evans touched upon, is in a campground, while the county does typically require, or allows full service hookups, the statute or the OAR specifically says this type of camp site cannot have power hookups, sewage hookups. The original application does indicate they would like each site to have power and sewage, they are saying okay we will get rid of the sewage hookups, and we will get rid of the power hookups. This right now is laid out for 15, I suppose it's easy to call them RV parking spaces, but camp trailers or motorhomes parking spots. The Simpsons are saying they are willing to get rid of those RV parking spots, and count them only for tent sites. The reason for that is under OAR 660-033-0130, the rule allows for yurts to be on campsites. So, rather than having these big individual parking spots for trailers. They would like to convert this over to tents instead, and that allows for yurts, and, so, a 1/3 or up to 10 of the camp sites would be yurts. Under the administrative rule the yurts are allowed to have an electrical service. So, rather than a bunch of individual sites with electrical services they're willing to pull back on that and have yurts on the property instead, with electrical services. I think that should remedy some of the primary concerns that have been brought up. I think at this point it would be more efficient use of time to address some of the issues in the Martin's letter, rather than reserve time for rebuttal. You all have the application in front of you. You're aware of the area. You're aware of its location to recreation. It also makes sense for this piece of ground to be utilized for something other than bare dirt. So, the thing I want to address in the Martin's letter. First, they did bring up OAR 660-033-0130, I think we remedied the issue there, or we have a great remedy for to the issue of electrical hookups, by forgoing those, except on those camping spots that have yurts. In that same administrative rule, they also indicate it needs to be established on land that is contiguous to land or the park or any other outdoor amenity. I would purpose that is not the entirety of the statute. What it actually says is campgrounds approved under this provision must be found to be established on a site, or is contiguous to land with a park or other outdoor, and that's ---- (media cut out, went offline) ---

Eric Evans – I think we are set. Are you still there Dustin?

Dustin Martinsen – I am. So, the portion of the letter I was at is the case that was cited in, Linn County case, and the Martin's used that case specifically to state that this sort of facility, or campground, would not be allowed under that case, because electrical hookups were not allowed in that case. Well, there is two issues with that. One, this case really is not on point, because it does deal with the publicly owned campground, and we are talking about a private owned campground, so two separate rules, but it is interesting to note that case specifically stated, or stood for the fact that while no individual sewage hookups weren't allowed at each campsite, electrical hookups are allowed at each campsite. So, the argument really doesn't hold. The case does go through and discuss what kind of amenities are available at campgrounds. Well, in that instance electrical hookups were allowed, but we realized that is for publicly owned, not privately owned, and, so we really fall under OAR 660-033-0130, which does not allow individual water, electrical, or sewage hookups, but it does allow if a yurt is on that campground. So, the Simpsons essentially would say they are willing to back off from the maximum allow stay. The Simpsons have been running their business there for a lot of years. They live there in the area. They're invested in keeping this area clean, safe, and secure it. It is in their own

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backyard as well. Because, of that what they will do is implement a computer system where they can put individual name and information in. That computer system will flag them if they have hit that maximum of 14 days, and if they have hit the maximum of 14 days, and their system says they have been here too long it's time to let them go. They will go and make sure that person is removed. They will police the area. I guess in a nut shell it would be a good asset to the area. It allows people coming for recreation to have good safe place to stay. It brings revenue into that neighborhood, and the county. They will back off the maximum time frame. They will set implemented computer system to monitor how long the individuals have been in the campground. They will remove their partition to allow for water and sewer hookups. Also, not have electrical services at every campsite, but only at those campsites that have yurts on them. With those I believe it addresses most of the issues that have risen. That's why they are asking approval for this CUP.

Kathy Clarich – Did Jimmy want to add on that?

Jimmy Simpson – Actually, Tyler is going to take the reins on this portion of everything. So, if anything needs to be added it should probably be added by Tyler.

Kathy Clarich – Okay, Tyler do you need to add anything?

Tyler Simpson – No, Dustin summed it up pretty well for us. I mean I think the yurts will be a great asset. I think it will be overall better than the RV hookup spots. We will be able to police it a little better. We will be able to keep the area a little cleaner. We will be able to maintain control of what goes on, and what doesn't go on. Who can come into campsite, and who cannot. So, I think that sums it up pretty well.

Kathy Clarich – Okay, I got a couple of questions. So, these yurts are going to be year-round camping spots, and you're going to just rent them out to people? Is that correct?

Tyler Simpson – Correct. It will be somewhat of an Airbnb type style of camping. Vacation rental so to speak.

Kathy Clarich – Is that allowable in a farm zone?

Stephanie Williams – Yes, they are saying 14 days in a 30-day period.

Kathy Clarich – Okay, but, the tents don't move, so that's why I was...the yurts won't move.

Dustin Martinsen – It is in section 19B. It allows for yurts. Further down in C it describes what the yurt has to be. If it helps I can read that portion. It just reads a round dome shelter, cloth or canvas, on a collapsible frame. With no plumbing, sewage, disposable hookup, or internal cooking appliance, but 19B does allow the yurts to have electrical service.

Eric Evans – I would note, I am a little confused on the numbers, but it does say in the statute 19D, subject of approval with the county designated private campground may provide yurts for overnight camping. No more than 1/3 or maximum of 10 campsites whichever is smaller may include a yurt. So, I guess to me if there are 15 campsites, 5 have them could be yurts.

Kathy Clarich – 5 can be yurts.

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Dustin Martinsen – What we would actually be asking here, where we are getting rid of the significantly larger sites required for trailers. We think we could actually bump that up to 21 sites, camping sites for tents. That would allow 7 yurts to be on the property.

Kathy Clarich – Here is the problem I have with this, with your changing of all the plans and stuff, and we don't have that. I mean you haven't shown us, you haven't given us anything that shows us where the yurts are going to place. You haven't given us anything showing...I mean you have completely changed your plan on us without giving us anything other than a verbal we are going to do this and this and this. And it is really hard for us to make a decision without that. I almost think that we should put this off another month, and they bring us back the information we need.

Teresa Ballard – To redo the application. To make it clearer.

Kathy Clarich – Yeah, because it's just, I have so many questions on it now, that you come up with the yurts, and the no septic, and whatever, I don't know how the people in the yurts, where they are going to go to bathroom or anything.

Chad Gerulf – Especially, if you are there for 2 weeks.

Kathy Clarich – yeah, if you are there...

Chad Gerulf – If this property does have water rights on it. We don't approve that for any other projects. I mean that would be a disqualifier right there, for a home or anything else.

Kathy Clarich – Whether the waters been, whether the waters being used on it right now, if it hasn't been taking away from it, it still has the water rights.

Chad Gerulf - I know of a property that hasn't been used on for a long time, and it's still active per the irrigation company. That would kind of be a first step, to find out if that's the case.

Kathy Clarich – Can we do a continuance?

Stephanie Williams – If you don't feel like there is substantial evidence in the record by what has been presented in front of you. You can ask if they will continue if further.

Kathy Clarich – Can we do a continuance, or do they need to do a new application?

Stephanie Williams – Well, it wouldn't be a new application, because we don't allow a new application within a 6-month period. So, it would just be amending application.

Kathy Clarich – So, we have to ask them if they want to do the continuance then? Or can we just do it?

Stephanie Williams – I am sure Dustin will waive it. They need to bring in a new site plan, and a new operation plan.

Kathy Clarich – Exactly.

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Eric Evans – Can you hear Stephanie at all, Dustin?

Dustin Martinsen – Just bits and pieces and all.

Eric Evans – So, I guess the request is doing a new site plan. A new operations plan, that actually addresses these issues. From my perspective the thing that I am a little worried about is the 120-day rule, that the county has to issue a final answer to this by looks like April 26th. So, if we were to, like for instance if we were to wait until March to come hear this again, and if there was an appeal on that, then our final order could potentially be after that, which we can't do.

Stephanie Williams – Let me make sure it is 120 and not 150, but the next option is to deny and they can reapply in 6 months.

Eric Evans – So, the options would be you could say there is not enough substantial evidence on the record to support this, and deny it, and they can reapply within 6 months. Or, I mean we can't ask them to waive the 120 days, but if they were wanting to waive that 120 days, and continue on with this process, then they can do that as well.

Linda Simmons – So, they do come back next month.

Dustin Martinsen – And, there is yet another alternative. We could move forward with our request with the plan as written, and as done simply with the acknowledgment this board as the authority to give conditions, and one of those conditions could be the plan is approved as it sits currently, but we can't put in sewer hookups or electrical hookups to those camp spots. Tyler, I don't know your thoughts on that?

Tyler Simpson – I will leave this one up to you Dustin, whatever you think is best moving forward.

Dustin Martinsen – My thoughts are, one, I would think that, that time to make the final decision could be waived by the applicant. I would think that is a protection to keep applications moving through time. So, if the board would like us to submit a new drawing showing where yurts would be located, we are certainly willing to do that, and willing to waive the 120-day period, as well.

Eric Evans – Stephanie just looked it up. It is 150 days, so, but either way, I mean it's another month, and we have to have the final decision by the county. That means any appeal or anything. So, I would be concern about meeting that.

Kathy Clarich – Even if they waive the...?

Eric Evans - If they waive it, it doesn't matter.

Kathy Clarich – Okay.

Dustin Martinsen – Yeah, we would be willing to waive that. I think that's the better avenue. We can certainly have planned to resubmit it within a month, but we're willing to waive that time period.

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Eric Evans – Can we do a continuance to date and time? The meeting is March 24th at 7:30.

Ed Anthony made a motion to continue this application to March 24th at 7:30PM. If they agree to waive their continuance. Linda Simmons seconded the motion which was unanimously by the Commissioners members present.

Kathy Clarich – We'll have you bring back the stuff you've been talking about today, so that we can actually see what you're actually talking about. Thank you.

Dustin Martinsen – Will do. Thank you very much for your time.

Eric Evans – It wouldn't really be appropriate for them to testify in opposition right now?

Stephanie Williams – Well, did you close the hearing?

Eric Evans – Well I guess not.

Kathy Clarich – We just voted to continue it to next month.

Stephanie Williams – You could take their testimony if they are here.

Eric Evans – Did you guys want to tonight? Or did you guys want to come back with us next month?

Sara Marten – I would like to tonight.

Kathy Clarich – First, was there anybody else at all for proponents or anything?

Eric Evans – Realistically, we should. There will be more time next time.

Kathy Clarich – Next time we will do the proponents and opponents again.

Kathy Clarich – You need to state your name and address.

Opponent Testimony:

Sara Martin – 719 Owyhee Ave, Nyssa, OR 97913

I am a 1st grade teacher at Adrian school right where I live. My husband is Bobby Martin, and he and his dad have a local business also, Martin and Martin builders. The shop is one house over from where we live. It's also a tax lot that is directly where the Simpsons have proposed their RV or campground. So, I feel like my husband and I are very invested in this community as well. We both grew up here, and we both live here now as adults. So, if you look on the map there that you have pulled up. We have 800, 700, 500 is my husband and I's house that we bought from his grandparents, they built that house. The following ones are our neighbors. 6 out of the 7 tax lots have signed our letter that they would not like to see that put there in our backyards. The 7th one is right there at the corner, and, so she opted out of signing. While we have issues of the legalities of this, as stated in our letter, that was one tiny piece of our letter. I think that the Simpsons are missing our more prominent issue with this, and it's the safety, and that is stated

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through out our letter. I don't feel like that any of those have been addressed by them or their lawyer. So, you know imagine my husband and I we have kids at our house, and they play in our backyard as we like to be where we live in a rural area, where our kids can just play in our backyard. You know, we have a lot of things that aren't very convenient out there for us, but that is one thing that is convenient for us. We don't have a lot of worries that people do in town. We know the people that live around us, and our backyard is a safe place. Whether it is a yurt, or a tent, or a RV it is still somebody we don't know. 16 spaces, 15 ft from our backyard is what is on the map proposed, that could be anybody at any time, and, so, thinking about my 6-year-old son that can right now go from my house to the shop, to see his granddad working, I mean we can't do that anymore once there's who knows who is back there. Beyond that our own personal safety issues. The 16-spot campground, like I said whether it is a yurt, a tent, or a RV really does not matter to me. The point is that it will immediately change the dynamic of our little neighbor we have there. If you have ever been to Owyhee Junction and Owyhee Avenue, we got small little houses, it is families and elderly residents. You know the Oregon Law will make it possible to remove somebody, and Eric touched on that little, about the difficulty they may see when those problems arise for us. Law enforcement out where we live, we don't have our own law enforcement, we rely on Malheur County Sheriff Department, and in the recent application they stated, and we know this, it can take up to 2 hours to them to respond out where we live. That's just the nature of that being they could be all the way across county by the time they get our call. With two deputies on the task force at a time. So, I just think all these different safety concerns are very prominent, and they are more so prominent then the legalities issue they touched on in changing this into a yurt or a tent campground. So, I just don't feel confident that there is going to be a real solution of these issues that are going to arise. I think there is a lack of experience with this type of business. It just doesn't give me confidence in a way they are stating they are going to take care of all these things. I don't think they can. I am not willing to jeopardize our family's safety, or our neighborhood, or our lively hood, my husband's business for them to have a big idea on something. So, pigging backing off the statement of the new plans, that is something I have also heard from Tyler. I told him on the map 15 ft of our back yard. He said no it's supposed to be 30 ft. Okay, well, that is one change there are several other ones that are just kind of like you stated. We need to see what it is actually going to be. I also want to point out that the Owyhee Reservoir has campgrounds up there, public. Same as Cow Hollow Park, that was already brought up, and, so, the statement that there is a real need for this in our community, I feel like that is mute here, because 6 miles away is Cow Hollow Park. Then up the river of the reservoir where people are going to be taking their boats and camping.

Kathy Clarich – Should I ask if there is anybody else? Or, so, the rest would be at the next meeting, right?

Eric Evans- Yes.

Kathy Clarich – Okay, alright. Thank you, Sarah.

No Proponent Testimony.

Closed to Public Testimony.

Kathy Clarich - Okay, so, then the next thing on our agenda is going to be applicant Beebee

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NEW BUSINESS:

Applicant: Jay Beebee
1392 Ridgeview Road
Adrian, OR 97901

Owner of Record: Jay Beebee
1392 Ridgeview Road
Adrian, OR 97901

Consideration of the Conditional Use Permit for one non-farm dwelling and a non-farm partition on Exclusive Farm Use (EFU) zoned land. Planning Department file #2022-01-014.

Kathy Clarich - Now is the time to hear the request for a conditional use permit for one non-farm dwelling and a non-farm partition. Planning department file 2022-01-014.

When called to speak please state your name, address and title (if any) for the record.

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3. Do any members of the County Planning Commission need to abstain?
If so, state the reason.
4. Do any members of the County Planning Commission have any conflicts to disclose?
If so, state the conflict.

Teresa Ballard stated she has property nearby, but it is not a conflict.

5. Do any members of the County Planning Commission have any bias to disclose?
If so, state bias.
6. Do any members of the County Planning Commission have any ex parte communications, including any site visits, to disclose?

Kathy Clarich and John Faw site visit.

7. Does anyone object to any of the members of the Malheur County Planning Commission hearing this application?
8. Does anyone challenge the County Planning Commission's jurisdiction to hear these matters?
9. Land use statements 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:

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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:

The Malheur County Code:

- MCC 6-6-8-1 Nonresource dwellings in EFU, ERU or EFFU zones.
- MCC 6-6-8-2 Nonresource partition in an EFU, ERU or EFFU zone.

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 or evidence sufficient to afford the decision makers and the parties an adequate opportunity to respond to each issue.

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.

10. Order of Proceeding.

The applicant will be allocated up to 20 minutes for initial applicant presentation. The applicant may also present up to 10 minutes for final rebuttal. All others wishing to testify will be given 5 minutes each.

Preliminary Staff Report: Read by Planning Director, Eric Evans.

Eric Evans – This is going to make a little bit more sense as we go along, because if you guys remember right the end game of this is already kind of in front of you guys. That final non-farm partition, non-farm dwelling, that is apart of this application we have already heard and approved. It will make sense, you guys remember? No? Okay, alright, you might be a little bit confused. Let me go through some of the main stuff. This is an application for 5 different actions, which we will describe as we go along. It's for TL 3400, T22S, R46E, Sec 26, Assessors Map 22S46E, Malheur County Ref # 10942. It is located West of the intersection of Succor Creek Hwy and Hwy 201, in Adrian, OR. It is zoned EFU, which is C-A1. The parcel size is 351.79 acres. With parts of it, a good portion of it actually where they want to put the non-farm partition is a vacant lot with uneven terrain with slopes and a canal going through the middle of the parcel. All the adjoining properties are in EFU. It's access by Hwy 201. There will be a DEQ approved sanitation system, will be required. It is within the Adrian Rural Fire Protection District. There are no natural hazards, no water rights. When I say that, there are water rights on the 350 acres, there are no water rights on the portion where the non-farm dwelling and the non-farm partition is going to occur. Mostly Class 6, Class 7 soils. In 2010, a property line

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adjustment was performed, granting 14.61 acres to tax lot 100 (ref#10944) and 5.00 acres to tax lot 400 (ref#10963). Additionally, in 2019 this property was approved for a nonfarm partition and nonfarm dwelling. The approval of this application would void that approval. Let me give you a timeline, or events on how it has kind of happened. So, obviously we approved a non-farm partition and non-farm dwelling. They hired Mr. Mckrola to come in and do the non-farm partition. So, during his research he found that the 350 acres is actually composed with a whole bunch of legal discrete units of land, or several anyways, and you should have an exhibit that kind of shows by deed they can allow these several different units of land. For me personally I didn't feel comfortable saying "okay, that's fine, and we still go ahead with this non-farm partition." The way you guys understood it, and they way you guys approved it. So, I am like hey look I am sending this entire thing back to Planning Commission, because they approved it thinking one way, and for some reason in the future they find this is now approved in a different way. Within this proposal there is 5 different actions, and my choice was just to have you guys approve everything. It just makes sense. Some of the actions I can actually do as an administrative action, but just in full transparency. I want you guys to be aware of how that is going to happen. Action 1 is a verification of discrete units of land. So, that is Mr. McKrola going back through all the deeds. Finding the 350 acres as it has been described on different deeds in the past, and we can legally find that the 350 acres composed as multiple units of land. Number 2 and 3, are actually property line adjustments, but again I hardly ever bring in front of you. This piece of property if you remember right is owned by a family that has had it in their name for a long time. So, throughout the years there was some handshake agreements that said, "hey look you own this property, and I own this property." One of them was down here to the West of Succor Creek Road, which obviously is more, is access from this 300, and obviously farmed at least this 300. The other one part of this 3300 right here, obviously makes more sense to keep it with 3400. So, that triangle and this triangle through years ago there was a handshake that said this is going to be it. The property line adjustments are just in that. I only said one of those rights, because this one is actually going to be created right by the highway going through it, but this other one wasn't. It is adjusting the land to meet those deeds of the land owner. Again, it's something you guys to have to do, but I wanted everything to be transparent and come in front you, because, obviously, things are kind of a little bit different with the units of land. Action 4, is again something I would typically recognize, but you guys wouldn't. Again, it changes things enough I don't want you guys to be like what are you doing. So, there is case law there, and I think I have talked to you guys about this in the past. That the majority of roads, well I will say most state highways if not all state highways that go through Malheur County are owned in fee. Meaning that the state of Oregon actually owns that. It is not a right away, it's not an easement, and not owned by the underlining land owner. It is owned by the state. In the past and now it is lawful, and actually we did this to some of the land that ODOT is talking about too, but its lawful to say that when this highway was put in, let's say 1950, Derrick might know dates better than me. That when you divide a piece of property those pieces of property are no longer contiguous, and therefore, they're are separate distinct units of land. Nowadays if that happens if ODOT were to buy, let's say they wanted a new highway, state law says that ownership of deed no longer divides these properties. Therefore, I think it is 2001 on, January 1st, 2001 on. This doesn't count, but anything prior that there is case long say that law did not apply retroactively. So, with that being said this division right here separated these two, this actually we are going to consider separate distinct unit of land from this 3300. That makes sense? So, that's action 4. Again, we have approved I believe in this area a non-farm partition down there, and I didn't feel comfortable saying "okay, now this is a distinct unit of land, this is a distinct unit of land, these are all different distinct units of land." Then come to you guys and you guys find out that is not. We approved the 350 acres piece of property. I want it all to come back to you guys. So, you

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could actually grasp what was going on. Then you guys could just approve it all. Hopefully, that makes a little bit of sense to you guys.

Teresa Ballard – So, in the end, we are not looking at any further partitions?

Eric Evans – No, there is nothing additional here. In the end game there is some distinct units of land that are different. The maps should be, let's see, this map right here is what we are looking at with the 3 distinct units of land we are finding.

Teresa Ballard – Then the additional property will officially go to the canal there?

Eric Evans – Right. They haven't developed that way. The Beebe's have agreed to...

Teresa Ballard – So, these little parcels are going to be, will show part of that 350 acres.

Eric Evans – No, they will all be separate distinct units of land. So, there is like the 160 acre one, there is almost a 40 acre one, and then there is a 140-acre parcel as well.

Teresa Ballard – So, in concept can they be split off?

Eric Evans – So, that is part of it. The one thing, one of things Derrick is good at is recognizing it and trying to prepare his clients future rights for things. So, in essence, the non-farm partition will be part of this portion right here. So, this non-farm partition will only be part of this parcel. So, in essence, this Northern 160 acres there is that potential of doing 2 non-farm partitions again. Right? Does that make sense? No more on this lower 140 acres.

Kathy Clarich – But, that part had already, was already on one before, right? This was all one before.

Eric Evans – So, it was recognized as one tax lot.

Kathy Clarich – Right.

Eric Evans – But, a tax lot and a discrete unit of parcel, a discrete unit of land, are two totally different things sometimes. So, tax lot can show you that it is 350 acres, but there has never been any formal process for Planning and Zoning to have truly consolidate that parcel.

Kathy Clarich – I can understand what you're telling me there, but if they are going to start divide this off and have a separate parcel up here.

Eric Evans – I am not dividing it off. I am saying what I am, we are not partitioning this. There is no partition. What we are doing is recognizing that this already exists.

Kathy Clarich – So, you are not doing a lot line adjustment on this and separating this part into two.

Eric Evans – No, the recognition is that, that already exists. And, it exists, because State Law 92 and I'm sure I quoted it in here. 92.192 actually says it all can be a discrete unit of land unless (Inaudible) conditions happen. Either it is re-platted or I can't remember.

Applicant Testimony – Derrick McKrola, applicant’s representative, 3811 Birch Road, Vale, OR 97918

Thank you, Eric, for the great information. So, yes, I was called and asked to survey this property, and as usual I (Inaudible) recognizing what is discrete. When we talked about here in partition the current deed actually describes the 3 discrete land units that are validated pre-1974 date. From my perspective it’s odd to see, and its understandable to see why we see deeds written like a consolidated land description. The current deed describes the current 3 distinct tax lots. So, there is the section line recognizing the Northeast corner of section 26. That is probably what concentrated on, and leave the upper portion alone. So, what happens in partition, if we did partition the whole thing, then we end up (Inaudible) being a consolidation and that doesn’t add up, we didn’t want to do that. So, that’s action 1. The next action was to recognize to (inaudible) separate those two, and recognize these land owners had a handshake deal on this being done with farming and this being tax lot 3400. So, those happened through action 2 and action 4, and action 3 there is that 3500 where (inaudible) it proven since that was created pre-1974, so I am in the process in doing all this work, I wanted to make sure (inaudible) such as this piece and the ground around this piece get corrected as a (inaudible) that’s here for the consideration for the two non-farm partition and 2 non-farm dwellings. Originally, just one and when recognizing the demographical features on the ground out there he had the tiny road and the canal here, that’s the property line there, and then this county road here. Then recognizing there is a lateral ditch here, and so, that would be good to recognize two parcels there. Don’s the father, Jay is the son, and they are just looking to I guess (inaudible) farm and that site down there and he wants to be next door to Don to help him out. That’s the end game. Jay are you online? Any questions?

Kathy Clarich – I have a question. I thought somewhere I thought they said the access is going to be off hwy 201, but this looks like it is off of Succor Creek Road?

Derrick McKrola – The county road is 201 and you can get access to property from county road.

Kathy Clarich – Right. So, it’s not off the Hwy 201? I mean do we say they turn off 201? The actual property is off the county road.

Derrick McKrola – It’s not real clear what the roads are according to the county for the ODOT letter (Inaudible) one is recognized as Succor Creek Road, and the other is being referred to as the old Succor Creek Hwy Rd, or vice versa.

Teresa Ballard – The neighborhood we call the high road and the low road.

Derrick McKrola – (Inaudible) is kind of cut off and the other...

Teresa Ballard- So, Derrick, it’s still unclear, I know where Jay put his house. Where is the second house going to go? Is that what we are talking about?

Derrick McKrola – It’s right in here.

Teresa Ballard – Right below the road than?

Derrick McKrola – They are both by highway. They just started to evolve it here. There is another approach here. I think that might be represented (Inaudible) acres or something, but there

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is enough room there for the drive. I think it goes to the Benson's there. The ditch road and highway. That (Inaudible) county road is usually pretty flat along. There's a drop in the highway.

Ed Anthony – (Inaudible) property line, right?

Eric Evans – Well, I mean it's addressing the fact those are going to be separate, that's number 1. Than the two property lines adjustments...

Kathy Clarich – Yeah, because we have proved one before.

Ed Anthony – We are going to approve another one tonight.

Eric Evans – Right, that is number 5. So, I was looking over the staff report and I know there was 5. So, the non-farm partition and the non-farm dwelling is 5, but it is from that bottom 140 acres now instead of the entire 350. I mean in a way you guys can sit there and say we have already approved that, and we are okay with it being apart of the 140. I wanted to make sure you know ---

Kathy Clarich – --- Well, but, if they're going to do the second one we have to go back and not have the first one approved, because we asked them at the time do you want to do 2? They said no.

Eric Evans – Right, that's why they haven't don't it yet. So, I figured hey let's go back and relook at this and do it right.

Kathy Clarich – So, he hasn't done the changing of it or anything?

Eric Evans – They have done nothing since the order was approved. They haven't paid back taxes, they haven't done anything.

Derrick McKrola – Getting back to the first approval (Inaudible) started doing some research that revealed some more information (Inaudible) I agreed with Eric to bring it back before you for your reapproval.

Kathy Clarich – So, I also have some questions though, because the letter to the county from the Road District is back in 2019, and it only addresses the first one, it's okay to have it come off the road, that the site is good. The second property that hasn't been addressed. If he has to put a culvert in. Whether if that is approved access to that other piece. You know what I am saying? It just says says that they don't have a problem, this is good for the first one we approved.

Derrick McKrola – So, I guess make that a condition of approval.

Eric Evans – I think it is kind of like before, the same thing. So, we can continue this if you want to? Ask them to come back with a letter. Or we could do it as a condition ---

Kathy Clarich – --- As a condition that says it's.

Eric Evans – The second one has to be approved by.

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Kathy Clarich – That makes sense to me. I just, I don't want to just go ahead and approve it, and then they come back and say hey you can't put a road there.

Eric Evans – I agree.

Kathy Clarich – Without visibility is not good and whatever.

Eric Evans – Did you say there was going to be one access in there?

Derrick McKrola – Uh, yeah...(Inaudible)

Kathy Clarich – It says, it shows 2 on the.

Derrick Mckrola – (Inaudible) on that part ---

Kathy Clarich – --- cause' the canal would split it.

Eric Evans – So, we will just need to make that, I probably won't have this ready for you to sign tonight.

Kathy Clarich – Okay. Do you guys have any more questions? Okay, if you have no more questions for Derrick, I will open this up to the public, or anybody who is proponent, for this action, would like to make a statement. If you're on the phone *6 to unmute you. If there is nobody for this action, I have to ask if there is anybody against this action? If, so *6 on your phone to unmute. Anybody who's against this? If not, any more questions before I close it to public.

Jay Beebee – This is Jay, I am on here now. We heard everything, we heard it we just couldn't get it off mute, sorry about that.

Kathy Clarich – Did you want to add anything else?

Jay Beebee – No, I don't think so at this time. I think we are okay.

Kathy Clarich – Okay, thank you. Okay, so I close it to public testimony here. Do you just want to work it through actions and go through there?

Eric Evans – I think I said my peace.

Kathy Clarich – When we get all done. Would we add that as a condition on the last one?

Eric Evans – Yes, I mean you would make motion to accept my Staff Report with some modifications.

Kathy Clarich – Just to make sure we have the Road District letter. I do have a question on the action 4. It says a survey is not required, but we usually require one under 4 acres or something.

Eric Evans – I think it is a property line adjustment, it's described that way, right? Derrick can explain that better.

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Derrick McKrola – So, parcel 2 won't be surveyed, because it is less than 10 acres. (Inaudible) doesn't need surveyed.

Kathy Clarich – Okay.

No Proponent Testimony.

No Opponent Testimony.

Closed to Public Testimony.

Ed Anthony made a motion to approve the staff report and findings of fact as modified. Teresa Ballard seconded the motion which was unanimously approved by the Commissioners present.

Ed Anthony made a motion to approve actions 2-5. Clark Forsyth seconded the motion which was unanimously approved by the Commissioners present.

Applicant: ODOT
1390 SE 1st Ave
Ontario, OR 97914

Owner of Record: ODOT
1390 SE 1st Ave
Ontario, OR 97914

Consideration of the Conditional Use Approval for the construction of a roundabout at the Cairo Junction Intersection of US 20 and OR201, on Exclusive Farm Use (EFU) zoned land. Planning Department file #2021-01-010.

Kathy Clarich - Now is the time to hear the request for a conditional use permit for the construction of a roundabout at the Cairo Junction Intersection of US 20 and OR201. Planning department file 2022-01-010.

When called to speak please state your name, address and title (if any) for the record.

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 and questions should not be directed to staff or directly to witnesses.

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3. Do any members of the County Planning Commission need to abstain?
If so, state the reason.
4. Do any members of the County Planning Commission have any conflicts to disclose?
If so, state the conflict.
5. Do any members of the County Planning Commission have any bias to disclose?
If so, state bias.
6. Do any members of the County Planning Commission have any ex parte communications, including any site visits, to disclose?

John Faw, Teresa Ballard, Linda Simmons, Kathy Clarich, Chad Gerulf, Ed Anthony, Clark Forsyth site visit.

Linda Simmons served on the Southeast area Commissioner transportation for 20 years, and hasn't been since the middle of 2019. She stated she knows Sean very well, but does not feel like there is any conflict.

7. Does anyone object to any of the members of the Malheur County Planning Commission hearing this application?
8. Does anyone challenge the County Planning Commission's jurisdiction to hear these matters?
9. Land use statements 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:

The Malheur County Code:

- OAR 660-012-0065 Transportation Improvements of Rural Lands
- OAR 660-012-0070 Exceptions for Transportation Improvements on Rural Land

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 or

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evidence sufficient to afford the decision makers and the parties an adequate opportunity to respond to each issue.

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.

10. Order of Proceeding.

The applicant will be allocated up to 20 minutes for initial applicant presentation. The applicant may also present up to 10 minutes for final rebuttal. All others wishing to testify will be given 5 minutes each.

Preliminary Staff Report: Read by Planning Director, Eric Evans.

Eric Evans – This is for a Conditional Use approval for the construction of a roundabout at the Cairo Junction Intersection of US 20 and OR201. In reality it is for the realignment of a state highway. Tax Lot 1100, T18S, R47E, Sec. 19; Assessors Map 18S47E19; Malheur County Reference #7799. Located at the intersection of US 20 and OR201. Exclusive Farm Use (C-A1). There are no homes on the parcel. Parcel is used solely for farming. Adjoining properties are being farmed, with farm dwellings. To the East and South, properties are zoned Rural Service Center. This application is for the realignment of an existing transportation system. Access is not applicable. This application is for the realignment of an existing transportation system. Sanitation will not be applicable. Fire protection will not be required. No natural hazards. The soils on the property are predominately class I. There is no zoning history for this property. A couple of things, again, when we do these things there is possibly doing a Goal exception. So, if this were a brand spankin' new highway that went through a property that is being proposed, so you would be looking at a Goal exception. Specifically, in the laws, in the OARs, it allows for a realignment of an existing highway as long as you meet certain criteria. This is basically what we are here to discuss tonight. I will just say this to preempt some questions maybe from you guys. If you know the applications you have we do have the actual application signed by ODOT. There is no application signed by the land owner, and even though I didn't address this in the Staff Report I just wanted to kind of making you guys aware. In Malheur County Code 6-9-5 it talks about application requirements for a CUP, and section B1 says these submitted by the property owner or person or represents in writing that they have authority from the property owner as defined for this application. That means we do not have to have that where we are right now. In section C it says exception, the following application are not subjected to the owner (Inaudible) in section B1, what I just talked about. The very first one there says applications submitted by or on behalf of public entity or public utility have the power of eminent domain with respect of the property subject to the application. So, that's where we are at tonight. That is why it didn't require an application that was signed by the land owner. ODOT does have the power of eminent domain for this application, therefore, we didn't require an application signed by the land owner. I can answer questions if you guys have any.

Kathy Clarich – So, if this application is by eminent domain why are we even doing it, if they are going to take it then?

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Eric Evans – Even though they have the ability to take it doesn't mean they can realign the highway without this CUP. Same with state law says they have to go through this process in order to realign this highway. So, I mean the eminent domain doesn't have variant on that. This process still has to happen.

Kathy Clarich – Okay, thank you. So, didn't want to keep wasting our time if they you know (Inaudible) can take it.

Eric Evans – We are not wasting anybody's time this legally necessary.

Kathy Clarich – Thank you. I have some questions, but is someone from ODOT going to be here?

Eric Evans – I do have a power point presentation. They are going to go over that with some people online, is my understanding, and with some people who are here. I will go ahead and fire up that PowerPoint presentation, and let them do their stuff.

Kathy Clarich – Is there's timed too?

Eric Evans – Yep, 15 minutes.

Kathy Clarich – What time is it now? Please, state your name and your address.

Applicant Testimony – Representing ODOT - Sean Maloney, Ontario office, 1390 S 1st St, Ontario, OR 97914, & Janelle Strattoner, Roseburg office, 3500 NW Stewart Pkwy, Roseburg, OR 97470

Sean Maloney – I will start with the presentation and then I will turn it over to Janelle Strattoner, who is our planner for this project, and then we also brought Kevin Hass who is our State Traffic Standards Engineer. He is also in our Ontario office for Technical Support. If you guys have questions I can't answer, he can answer them better. Our objective today is seeking a CUP approval. Some of the topics we are going to cover is, this first half I will kind of give you why we selected the roundabout. Why we are proposing intersection safety improvements here, which a lot of you guys know from driving in that intersection, and then Janelle will take it over from there. I think everybody knows where Cairo Junction is at I believe. The purpose today is to demonstrate and show compliance with the CUP criteria, to acquire farmland in the intersection permit, and for CUP approval, and of course the intersection we all know well. So, our problem is, just to just summarize, it is a high-speed intersection which is very important with an existing acceleration. We all know when we turn from Vale to head North to go to Ontario. There is that interior acceleration land, and we know what the problem with that is. Of course, we have folks that are already on Hwy 201 headed North that are you know traveling. The speed limit is 55 headed North, especially when we have people who are not use to the intersection, we even have people that are, they automatically want to pull over into the right lane. You have to pull over into the slow lane, which is typically the slow lane, the right-hand lane. There is oncoming traffic going 55, and a lot of times a lot faster then that. This intersection as a result to that, and just the fact that it is a high-speed rural intersection, and it has a very high crash history for ADT, ADT is average daily traffic. Then we also have high injury crashes and fatalities for an intersection like this for the ADT in the state of Oregon. We also have had a recent injury crash, a year ago, I am not sure if we have had once since, but we did have one a year ago in January. It has been

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identified as a safety priority site. This is a high priority route in the state of Oregon. That's the alternate route for Hwy 84, when it's closed and it's not running. Crash rate, which I mentioned before, is higher versus the intersection (Inaudible). Those pictures are not of this intersection, that's the one on the West side.

Kathy Clarich – We don't have pine trees, so we know that.

Sean Maloney – We have the crash history. We have just our 2009 – 2019 that's actually (Inaudible) with 31 crashes, 15 injury crashes, and one fatal. So, injury crashes are typically when someone gets hauled off to the hospital. This is a high scenario crashes based on the traffic volume we have here in our area. We have tried to consider I believe, I have highlighted the try is in blue, suspended flashing warning beacon, which we have today. Inside acceleration lane that has been tried, and then again some of the people pulling right in the 55-mph traffic coming from Vale, and headed North. We did put rumble strips on the border of that acceleration lane from Vale, and solid lines, I'm sure many of you have experienced. We did consider stop signs that we have installed. Things that we have considered were (Inaudible) sticks and barrier in the acceleration lane. Acceleration lane and that (Inaudible) lane barrier. Some people ask why not a concrete barrier right there? Well, some people are going to hit that concrete barrier, and it's going to be worse, or just as bad as if they hit or t-boned or hit other traffic. The sticks we do have some in that area and try to keep the snow from the sticks and keep the sticks maintained people are going to run them over, it's really not going to have a whole lot (Inaudible). We have also considered speed reduction. As we all know you can post any speed you want and pretty typically people are going to drive the speed they are driving today. We also considered a four way stop which is really not practical. We have considered a signal and of course we considered roundabout. The signal I think talk about that a little more. One thing we have learned we put a signal is not really a safety improvement, and signals also increase the number of accidents which you have. I will touch on that a little bit later. Why are we here tonight? For everybody's safety. All of us drive through and seen bad things happened. The main reason of safety is to reduce injury crashes. Typically, you have a high-speed T-intersection like we do now, you see rear end crashes and T-bones, and that's when people get hurt and haul to the hospital. What a roundabout does is people, we will still have accidents, but they will be side to side, door to door, and be at slower speeds. Distracting driving, I think the National Insurance Institute says over 50% of people or more than likely to be distracted at a traffic signal than at a roundabout. I think, if any of us have ever got to a signal intersection, and you look around what do you see? Everyone is looking at their phone. You even look at your own phone. So, one thing about a roundabout is that (Inaudible) If you can see the way a roundabout is designed is really to reduce traffic speed. You can build a sign that says 35 mph people aren't going to follow it. There are certain things you can do that unconsciously make drivers to slow down. That is what you can see we have done here. You can see we have a (Inaudible) curve that starts one way and go the other way before they go in. We also have installed (Inaudible) curves there that naturally slow down people without really with out thinking about it. Those are some of the big safe benefits for roundabout. Same difference for properties. Right now, I think most of us know there are a series of properties over here, and then there is the self-storage units. They all enter, yeah there is 120 ft access, and all the houses there, and all the people who are using self-storage units are all entering right into the danger zone today. So, this is where we have our problem. They're all entering right in the danger zone. Part of the idea of the roundabout here is basically to put a (Inaudible) roundabout, all these people can now access directly enter the roundabout and go whatever direction thy want, and a much, much safer condition than today. The point of access is pretty wide and you never know where cars are coming out and come in. Larger loads, and it's a

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truck friendly and really farm friendly roundabout, we have spent a fair amount of time with the mobility advisor which is a state-wide stake holder. Explaining to them how we can get freight through here. That was a big deal. We get farm traffic through here too. So, you know, I don't if any of you remember that mega load we had come through, I don't know how long it was, 6-8 years ago. That wouldn't make it through intersection before. It would make it through this roundabout. That's the difference. With some things we have done is we have (Inaudible) malleable, everything is malleable. It won't be very often, but we have mega loads come through. We also have removeable, we are going to have some elimination to line it up, so when people come to the roundabout that will also let them know, hey there is something ahead. We also have some pedestrian improvements there that will allow pedestrians through. There are two rectangular flash beacons. Those are the ones you see people, even in Ontario the ones they have. The ones you push lights flash and cars stop, we are going to have here. We have designed this so we can remove those posts if we get a mega load coming through. We wont need that for 90% of our traffic, but for the massive loads that come through. We are trying to think ahead to plan for those. It is very important to the state. We did install, as many as you know I think in 2003, we installed a signal there at John Deere dealership, SW 18th. Since then we have realized we have had a lot more injury crashes. A lot more crashes than we did before we had that signal. That's a big reason we aren't considering a signal at this intersection. In a matter of fact, we have doubled the amount of crashes that we have had, since before the intersection. It is way more efficient than advanced warning. Many of us have driven through school zone flashers, at least I have, and don't even notice it. It's just a natural thing. There are so many things that's are signs and lights, and especially when you are in town, that they really don't necessarily work for traffic. For future development I have mentioned that before, I will try to speed up Eric. We are trying to fix long term effects. We are going to fix, we are going to be done, and we are going to move on. We want to make sure folks are safe driving through. Now, I will turn this over to Janelle Strattoner for the rest presentation until the conclusion, and Janelle is online.

Janelle Strattoner – Okay, Thank you and good evening (Inaudible) and members of the Commission. My name is Janelle Strattoner, I am a planner for ODOT in the Roseburg office. My address is 3500 NW Stewart Pkwy, Roseburg, OR 97470. So, I will talk about the effected parcels and address the farm zone criteria, and then I will turn it over to Sean, if we have time left. So, the CUP request tonight is for the (Inaudible) farm zoned land, in order to improve the (Inaudible) operation of this intersection. We will be impacting 2 parcels. Tax lot 1100 and 1900. So, this aerial shows the entire parcel of TL 1100, which is in the NW corner of it, and a partial view of 1900. So, just for comparison they are probably the same size parcels. For now, just going to focus on TL 1900 that's in the SW property. It is split zoned. Meaning it has two zones on it. A Rural Service zone and EFU. So, the black that you see over the pink shaded area is also being acquired, but because it is zoned Rural Service Center it is not subject to farm zone criteria. The farm zoned criteria are applicable is small .03 acres. The triangular that is zoned EFU and its (Inaudible) only the dirt little patch areas on both parcels are subject to this application. CUP is for a total of 1.12 acres of EFU zoned land from these two parcels. It is owned by Ray and Vicky Winegar in the NW quadrant, and 1900 is owned by Dean Winegar in the SW quadrant. Both of these parcels are being farmed with row crops. The first criteria of this CUP states that the findings must show that the project will not force a significant change in the accepted farm practices on the surrounding land devoted to farm use. Or, significantly increase the cost of accepted farm practices on surrounding lands. The findings submitted for the CUP addressed this farm zoned criteria that has been applied to the Malheur County Code, and the Oregon Statute. The Oregon Revised Statutes defines accepted farming practices as a (Inaudible) operation that is common to farms with a similar nature necessarily for the operations of such

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farms that obtain a profit, and customarily utilizing conjunctural farm use. The Malheur County Code states that EFU zone is to maintain the resources (Inaudible) by permitting the establishment of only those uses that are compatible with agricultural activities. The intent is to make sure the area is classified as a farm reserved and protected from conflicting non-resource uses. So, the findings that were submitted demonstrate that roads and highways are compatible with agricultural activities. In fact, they are necessarily part of farming. 1.12 acres of farm land would be removed from production, but it will not interrupt accepted farm practices, nor will it render the remaining parcel useable for farm use. Nothing in this project is anticipated to significantly increase the cost of farming. Further impacts are minimizing in that they don't create a non-conforming parcel. It does not bisect land or interrupt critical farm practices. Project is not a new use. Road ways are an important part of farming and agricultural variations. All surrounding parcels will benefit from safely transportation system. The project will create a safer intersection for farm equipment. The intent of this project is to provide a safe intersection for all users. These criteria came from the Oregon Revised Statutes, and it is specific to transportation improvements. It states that the applicant identifies other reasonable alternatives, and assess the effects and considered impacts of the farmland structures and facilities. That we considered the effects of traffic on the movement of farm vehicles and equipment. And, that we considered the effects of access to those farm parcels. Based on the analysis the alternative that has the least impact on farmlands and meets the criteria for safe design is to be selected. We have considered 2 alternatives for these criteria. A signalized intersection and the roundabout. When we took in consideration the intent of the project purpose and the need of the project. We set the following goals and objectives. One we addressed that the historic and the future safety concerns at this intersection makes the long-term fix. Employ staff engineering and accommodate farm equipment and large loads. When we considered the signalized intersection, several issues became apparent. A signalized intersection, could not meet signal warnings. The crash rate of the 201 18th St intersection more than doubled in a 10-year period, since installing the signal. It is expected that the Cairo Intersection would be no different. A traffic signal would be inconsistent with Oregon 201 (Inaudible) Plan, in that we would not be able to improve access to the properties, and the challenge is coming to a complete stop at highway speed. The signalized intersection could not be supported by state engineers, because of these operational safety issues. Only one alternative met the purpose and need of the proposed project while avoiding unreasonable economic impacts, or which could be built at a reasonable cost giving the available budget. So, based on the analysis of the proposed alternatives, only the roundabout was reasonable. It met requirements for safe highway operations and would be constructed at a reasonable cost without considering (Inaudible). The impact of the protected farm lands are the results of the need to address the safety concern of this intersection, and to accommodate the efficient movement of traffic, and meet the project goals and objectives, and with that I will turn it over, do we have time to turn it over to Sean? Thank you for your time.

Seal Maloney – I guess the final thing I just want to reiterate really quick, is this is about safety this is the reason why we are here. If we don't do anything we will just continue the status quo with the high accidents at this intersection. That's all I have.

Kathy Clarich – Okay, does anybody have any questions for him?

Ed Anthony – Yeah, I have a question. On this map you show you have a lock gate for oversize loads. So, we can only take oversize loads to Nyssa, or how are you going to do that?

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Sean Maloney – Okay, with that, that’s a truck bypass that is gated. We won’t need it for the majority (Inaudible) that’s for like mega loads.

Ed Anthony – Right, what about the ones coming form Ontario? How are they going to get to that? On the map I don’t see how they are going to get to it?

Sean Maloney - Coming from what direction?

Eric Evans – He was wondering why there isn’t an access going North.

Ed Anthony - So, they are coming from Ontario with a mega load. How are they going to get to this road?

Sean Maloney – They don’t need to get to that road. They can go straight through the intersection. You can drive...

Ed Anthony – You can drive right through? I just don’t understand why you want to have one on one side, and not the other?

Sean Maloney – They are going to be able to go every direction. The only direction we have issues with was to give the mega loads, the extra-large loads, through here.

Ed Anthony – So, the mega loads can come the other way on the main road.

Sean Maloney – Yeah, everything can stay on the main road. Except, we designed this for traffic, for folks who are oversized load. If that makes sense.

Ed Anthony – It makes sense now that you explained.

Kathy Clarich – How wide? How wide in your roundabout. How wide? Is that because, we have farm equipment that’s easily 30 ft wide, and I don’t know, huge, it’s a solid bar. So?

Sean Maloney – We designed it for that.

Kathy Clarich – Yeah, but how wide? It’s not easy sometimes to make those corners.

Ed Anthony – Well, you can drive through the middle.

Kathy Clarich – It’s not easy sometimes to make those corners as it is. I know a roundabout can often have times you have somebody who still wants to go beside you, when you don’t have the room.

Sean Maloney – We might have to get into something where I can bring Kevin in on this. Kevin, is that okay with you? You can answer some of these questions a little bit better then I can.

Kevin Haas – Yeah, thank you. For the record Kevin Haas ODOT State Traffic Standards Engineer, 1390 SE 1st Ave, Ontario, OR 97914. One thing I can tell you on the width is, what you see here is that this will be a single lane roundabout except for this double lane with a kind of outside lane that will go from Ontario to Vale, but the single lane what you see inside this

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hatched area, that is the trucker, farm equipment apron that allows extra wide loads to go up on that, and it's only a three inch rise, and it's all malleable, so it's very low. So, anything a truck load like, or any low farm equipment will be able to use that apron, and have plenty of width plus the lane to get through the intersection.

Kathy Clarich – So, they're going to drive up on the concrete, is what you're saying to make it around?

Kevin Haas – Yeah, and it's a very low rise. It is not a vertical curve base. We are talking about a 3-inch rise, and that rise is needed to discourage passenger vehicles from staying off that area. That area is intended for trucks and farm equipment to be able to go off track on this.

John Faw – The way you got this design you're telling me the South bound can go clear up over that center circle? Would a really long truck?...

Kevin Haas – No, do you see that dark area, the black areas, are extra areas for them to have the off-tracking ability through there.

Kathy Clarich – So, it's just one lane around? It's not like most roundabouts that you have two and one can pull in front of you.

Kevin Haas – It's not a multiple lane. It's a single lane with the exception of a multi-lane approach coming South bound from Ontario. This is a dedicated right turn lane here. So, any vehicles that want to go to Vale they would come into this outside lane, they can come in this lane here, but this lane would also be for traffic that would like to go to Nyssa. Any traffic that wants to come from Ontario and go to Nyssa needs to be in this inside lane. They would yield to vehicles in the circulatory road way, and then they proceed and go in this way.

John Faw – Not quite the dumbest thing I have ever seen, but it's close.

Kathy Clarich – That's what I was thinking too.

John Faw – I have been in roundabouts in all kinds of vehicles. From passenger cars, school buses, semis, farm tractors, trucks, equipment, those things scare the crap out of me. I have left more paint in those than I have anywhere else.

Clark Forsyth – But you didn't get T-boned.

John Faw – I didn't get T-boned, but I have sure bent up some sheet metal.

Kevin Haas – So, one of the distinctions between what we build on the state highway system and what you typically see elsewhere in the Treasure Valley, maybe on the Idaho side of the border in Nampa and Caldwell ---

John Faw - --- I have been through the one is Sisters.

Kevin Haas – Yeah, and so, the ones we build on the state highway system are much larger to accommodate freight and farm equipment ---

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John Faw - ---Sisters isn't big enough to go through in a multi-axle trailer.

Kevin Haas – So, that is where they, and even in Sisters, we have a freight bypass route that the permitted super loads can get through there. There is a bypass route that is gated, that a permitted load can go through that.

John Faw – But, a guy pulling triples can't.

Kevin Haas – Triples have made it through that intersection. Remember, triples in Sisters are load restricted, you can't take triples across Santiam Pass.

Linda Simmons – No, you can't.

Kevin Haas – That is a restricted highway. There is not enough width on those highways for triples to go through that route. Whereas, obviously, through Cairo Junction triples are permitted through there.

John Faw – And you are only going send the lane to go around.

Kevin Haas – Yeah, but the width is going to be there to accommodate that. We do all the modeling of all the loads that have gone through, we've done all the engagement with the mobility advisory committees, and we've had all the track record is, we have not had on any of the state highway roundabout intersections that we have constructed, that ODOT has constructed. The first one went in Bend in 1999, that has been since juristically transferred, we have not had a single fatality. Not a single fatal crash on any state highway roundabout in the state of Oregon. The same cannot be said in a signalized intersection in Oregon, including 201 at 18th. It is truly the only intersection tool that we have that reduces fatal and serious injury crashes by more than 90%.

Ed Anthony – They're not saying you aren't going to have crashes, because you will have crashes on the roundabout.

Kevin Haas – Nobody is up here saying we aren't going to have crashes, but just like Sean said, the crashes are going to be low severity crashes. They are going to be side swipe crashes, instead of the T-bone serious injury crashes and fatal crashes that we see.

Linda Simmons – Yeah, you can't go 60 mph through there.

Clark Forsyth – Well, I feel like you are taking your own hand in your life every time you turn left now. People don't stay in that lane they just go straight out.

Kathy Clarich – So, I have another question. Why did you pick the time period of 2009-2018? Because you knew there was a fatal crash there, because I think we have only had one in the 60 years I have lived here.

Kevin Haas – Anytime, we try to do a before and after, before the signal went in at 18th and the most recent 10-year crash history that we have. Right now, the most recent crash history that we have, because there is a lag in crash history, we only have up through 2019 or 2020 data, because there is lag from DMV. So, the most complete year of crash data that we have, we put in the

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slide up there was the 10-year period through 2019. That is where we have had 22 crashes, including 10 injury and one fatal crash, at 18th and 201. In the 10 years prior to the signal being constructed, the signal was built in 2003. So, you go from 2002 back to 1993, those 10 years before the signal was installed there was 10 crashes at that intersection. So, we have more than doubled the crashes since the signal was installed at 18th and 201. It's not a trade secret. I can show any Planning Commissioner, Public Member it's public record. I can show you how you can pull the crashes and show you that data is just there in plain black and white.

Clark Forsyth – I have another question. During high traffic periods I hate that intersection as it is, because you sit there 20 cars backed up. So, the throughput of the roundabout, does it increase or decrease during rush hour traffic?

Kevin Haas – It actually increases because you don't have the delay of waiting for traffic to stop at the stop light. The one thing compared to signalized, or stop controlled intersections, is any signal or stop you have that delay time from vehicles being at a dead stop and having to accelerate, especially you think all freight traffic that goes through there, and how slowly freight accelerates. So, freight and farm equipment that the characteristics of roundabouts you tend to have a slow rolling que, so you have vehicles already in motion and you don't have to waste inefficiency of stop and go traffic.

Clark Forsyth – I am on your side. I am not with John on this. Just for the record. I love roundabouts myself, because I hate stop signs.

Eric Evans – I just like the idea that my commute is going to be less than 19 minutes a day.

Kathy Clarich – You think that's going to cut it?

Eric Evans – I think maybe.

Kevin Haas – And we aren't up here against signals. Signals have their place. SW 4th it's great to have signals along that urban corridor. Where signals don't have their place is on high speed rural intersections. We just have the data from across the state. Just 2 weeks ago in Western Oregon in another one of our state intersections that is a 55 mph, between Corvallis and Albany. Almost, identical type of characteristics of Cairo Junction just had a fatal crash, the first fatal crash since that signal went in about 3 years ago. There are just happening all the time when we have signals on 55 mph highways.

John Faw – I noticed you only use 18th and you don't use the one on SW 4th there at the airport.

Kevin Haas – What I said about the, if you look at our crash data across the state, it doesn't matter whether its Brookings, Astoria, Ontario, Bend, Klamath Falls. When we have signals on high speed facilities on average 50% of the crashes that happen on those signalized intersections are injury, or fatal crashes, we have 50% or video crashes. Some signals we have a little bit less than that. Some of the signals the crash data is worse. That's also published data that's in our Oregon Annual Crash Summary database. It's in the books, the crash figures we publish online.

Kathy Clarich – So, I do have one other question for you. Because, I have already been hearing from people, we'll just take Railroad. Because, it's faster than on Railroad than to go through a roundabout, they'll just take Railroad.

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John Faw – And a whole lot easier.

Clark Forsyth – Yeah, good luck.

Linda Simmons – That won't save you anytime.

Kathy Clarich – Oh, yeah, it does. I mean I don't go out to the highway. I go down Railroad.

Clark Forsyth – So, why would it take you longer? I am just kind of curious with your, like to go through this why would it take longer than go to a stop sign? Like here you don't even stop. You just go through it.

Kathy Clarich – Well, they are just going to say it's going to be faster to go down Railroad, because of traffic.

Clark Forsyth – I don't know.

Eric Evans – I have made that commute for 17 years. I use to go down Railroad, but it is way slower. Even with the intersection as it is right now. I promise. I did it ---

Kathy Clarich – --- You must drive the speed limit then.

Eric Evans – It doesn't matter if I drive the speed limit or not.

Kathy Clarich – That's the problem most people go down Railroad are going 65 – 70 mph, so they make better time then they do going down the highway.

Clark Forsyth – They do the same on Hyline too. They take Hyline instead of the highway.

Ed Anthony – If you are using that as an example, how many people have come off the road at Burkheart's and went straight out ahead in his field? There are just too many people on that road that just blow right through there.

Stephanie Williams – We are getting off the criteria.

Eric Evans – Yeah, that is one thing I wanted to say a little bit too. Is we are kind of getting on these little tangents and it's almost 10 o'clock. You know there are criteria in there, and I do appreciate the safety aspect, because I think the safety really is the thing that plays key into them meeting the criteria. I believe their argument for meeting their criteria, but otherwise I mean we have certain criteria we need to keep doing. Let's address that stuff if you guys have questions.

Kathy Clarich – I do have one other question on the farm ground to the South. You said some of it's into the, um, what's it called, Rural?

Chad Gerulf – Rural Service Center.

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Kathy Clarich – I couldn't remember the term. But, how much is in the Rural Service Center is out of that field that you are taking also? I want to know how much farm ground we are actually losing.

Clark Forsyth - .2

Kathy Clarich - .2 is what they're taking out of farm ground, but the other is farmed in Rural Service Center.

Eric Evans – I will answer that. So, there is no resource zoned land that is taking out of the Rural Service Center. It is zoned Rural Service Center, it's already gone through Goal 3 exception, therefore all the resource stuff, Goal 3 stuff, doesn't apply. So, losing farmland on that does not apply to our comprehensive plan.

Kathy Clarich – I know, I just want to know how much actually?

Eric Evans – Maybe Janelle has an answer on how much of that land, but the Goal 3 protections do not apply to that property.

Kathy Clarich – Right.

Eric Evans – So, the loss of resource ---

Kathy Clarich - --- except they need to hit some of the Goal 3 to get there.

Eric Evans – In a Rural Service Center farming is an out right allowed use, but also, this transportation stuff is also an out right allowed use. So, I mean, I guess my argument would be that losing that resource isn't losing resource zoned lands. I don't know if you guys have calculated how much in Rural Service Center that was, because it wasn't really applicable to this application.

Chad Gerulff – I know, I drive truck, and I go through there all the time with trucks. What I hate is, I hate when I am going down the highway at 55, and I am not sure if a light is going to turn yellow. I like this because it provides predictably. I know I am going to have to slow down. I know I am going to save breaks. I know it's going to be safer. I feel like this is safer. I feel like the roundabout is safer.

John Faw – I got one other question. In your roundabout there you got line drawn. Didn't you create a little island back there? Creating a parcel with your division.

Kathy Clarich – Instead of going straight it's like you moved it over. So, you go this area in there I think he is talking about for an island.

Janelle Strattoner – It is part of the right away.

Linda Simmons – It is part of the right away she said.

John Faw – But, they are creating an island. That map doesn't show it. The old store, the old gas station, you are purchasing that parcel, and taking that down.

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Sean Maloney – Yes, and taking that out. Essentially, it will be a cul de sac for now.

John Faw – Okay, and then you got a road that goes staright on through back to the farm ground.

Sean Maloney – Yes, the farmers will have access to that property. They will have legal access.

John Faw – Well, you're splitting a chunk, a small sliver off a piece of property out there.

Sean Maloney – Yeah, I am not sure that we are.

Janelle Strattoner – That will be part of the right away.

John Faw – You're going to take that all as the right away.

Eric Evans – Right, I didn't understand. Janelle and I had talked about that before too, but all that I believe will be part of the right away. They will have to acquire all that property.

John Faw – What I was show earlier, and what I see here, it creates just a small sliver of unused land. Where you are going to divide it off, but if it is getting taken care of with the right away issues then it's not a problem.

Sean Maloney – Right, it will be taken care.

John Faw – Just makes the road wider.

Kathy Clarich – So, there isn't access there then.

John Faw – There is a driveway there now, but going to be replaced around the back.

Eric Evans – There is someone here with opponent testimony.

Sean Maloney – That will be actually handled with a right away to that property. We will essentially ---

Kathy Clarich - ---So, you are talking about he is going to go around on that exit there.

Linda Simmons – Kathy, there is someone that wants to talk.

Kathy Clarich – Okay, anymore questions for him. We need to ask if there is anyone here. This isn't marked. Okay, first I need to know if there is anyone here or online that is a for this action? Okay, is there anybody, well I'll start with Vicky. You said your opponent. Okay, if you would like to step up to microphone state your name and address.

No Proponent Testimony.

Opponent Testimony:

Vicky Winegar, 353 Brown Bear Way, Fruitland, Id 83619

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We moved from Ontario to Fruitland a year and a half ago. We lived at Cairo Junction all my married life, 55 years. I listened to this and I got a letter in the mail, and it talked about changing the boundaries. I was concerned on that, but you answered that. As a land owner I don't count. ODOT can come in and take it. So, I came tonight not knowing I didn't count. I just pay taxes on that property. I like to know, I was told by Sean when this first came out by telephone, because I found they were going to take my ground, and nobody had called us, or written us. Since then, I've been threatened within that domain, threatened by going to court. Sean told me, and I hope he remembers, that Oregon told them they had to build so many roundabouts, I am sorry I am nervous, I am mad. I wasn't until I listened to this presentation. That they are going to have to build so many roundabouts in the state of Oregon, and they didn't care where they went, because they just needed them put in by a certain date. Anyway, since then, I have been threatened. I have received nasty letters. I have received nice phone calls. I've talked to some people that were very nice. In all the years I have lived in Cairo Junction, I don't remember all these wrecks. I went to one county commission that wasn't county, it was a thing on the roundabout, and one of the fellows from Portland area, said "We took all these wrecks from other areas, and put them together." The Sheriff was here from Vale, and he came up and he said "No, we don't have all those here." And that's when they said "We take them from other areas, and put them together." Wonderful, you know we, my husband has farmed there all his life. His farther. He said they're not going to affect some of the housing. Well, our old farm house is on 201. Did you know they are taking the entrance to that? You cannot get into that once they do their roundabout. They are going to build a road in back of the storage sheds to get into that farm ground, and to get in that farm house. You didn't mention that. Okay, they said you're going to keep farming the ground where they are going to put the roundabout off 1100, which I pay taxes on. Well, how are they going to fix the irrigation water, that we irrigate with, while they are doing this roundabout, because it's going to affect that? It is going to affect our drainage water. It's going to affect how these farmers who will rent this ground to. How they get in and out of this property, and their safety. Like I said I didn't come here to talk on all this. I just thought it was about changing of my property, so that they can take it. I am really upset after this presentation. I found it very dishonest, and that is how I feel. I feel like ODOT has been dishonest. Their dishonest to you guys, and telling you this wonderful story on how it's going to help. What they are going to do. I had no idea once they go in on my property if their going to fix it back so we can farm it. I mean, they have not, they are just taking my ground as far as I know, because they have not said anything else to us about paying us for it. They talked about taking it. You know when they did that road that goes to Vale. They took property off of our ground, off 201 and 20 26, because this was going to be great, and so, now they are going to go in and do a roundabout, because they didn't get right then. Now, they are telling you they're going to get it right this time. I don't believe them. A lot of times when they do a roundabout they have to come back and redo it. This is not an easy thing. Thank you for listening. I am glad I found out I am obsolete. I don't matter. As a tax payer. You pay your taxes, but they do whatever Oregon wants, they can do. It's just sad.

Kathy Clarich – Thank you. Is there anybody else that is against this action, as an opponent? Do we know who Ken Patterson is.

Eric Evans – He has not called in. He has to be logged in on a computer or a smart phone.

Ken Patterson - I am Ken Patterson, I am with ODOT. I am going to be a proponent on the project. I am just listening in.

Kathy Clarich – Alright. So, I guess we close this to public hearing.

Eric Evans – Unless, the applicants want to do a rebuttal.

Kathy Clarich – Do you want to rebuttal.

Eric Evans – Do you want to rebuttal to the opponent’s testimony.

Applicant Rebuttal:

Sean Maloney – So, I am not sure, I can’t hear very well, I couldn’t hear exactly what Mrs. Winegar said. The way I understood, and respectfully please, that a roundabout quota. I never, respectfully maybe there was a misunderstanding, but I never, never mentioned any kind of quota, just to be clear for the record. As far as access, was a very important issue. You have the access that you have on the farm ground today. You have the legal right to the access. It’s not changing after the roundabout. Just to make sure everyone is clear on that. You own the right to those approaches you have. We aren’t buying those from you. We aren’t changing the locations at all. So, the same farm access you have today you will have in the future. Just an observation, of the location of where this is at. Of course, this is row crop ground, and it irrigates from the West to the East. It is farmed, again respectfully about us impacting the irrigation, we are not impacting the flow of the irrigation water. It is still going to flow West to East for the row crop at this location. That’s my interpretation of what I see here. That’s really all I have. To address those points. So, as you can see that the water is going to flow that way, and this is where the drain ditch is going to be down here at the bottom.

Vicky Winegar – You get a bubble up. It affects the bubble up where we irrigate from. So, yes you are going to affect.

Sean Maloney – We aren’t. As far as water goes. We are still going to provide your water. Your water, how it is getting delivered to you today is not going to change.

Vicky Winegar – You better talk to someone else, because I have been informed it is.

Stephanie Williams – You can’t allow these conversations happening during this.

Kathy Clarich – Okay. That is something you are going to have to get in writing from somebody who is giving you this information, and so right now it doesn’t do us any good to argue about it. Thank you.

Sean Maloney – That is all I have, thank you.

Kathy Clarich – Now, I am closing it to the public. I don’t know. I still have problems with this.

Closed to Public Testimony.

Teresa Ballard – The victim of that crash got hit by a beet truck, because it didn’t stop.

Kathy Clarich – I don’t know if this would make a difference either.

Teresa Ballard – It would have made a difference.

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Kathy Clarich – It might slow them down. I have seen people race through roundabouts. But one lane does change it from the 2 lanes.

Eric Evans – I don't really have any other staff comments, honestly. I think we have heard enough from me tonight. I have heard enough from me tonight.

Kathy Clarich – You just go on home and we will just sit here for a couple hours, and you know.

Eric Evans – Do you guys have any questions for me? I will reiterate that the whole idea is off criteria ---

Kathy Clarich - ---Okay

Eric Evans - and again, there is 2 ways to go about this. When it comes to roads and putting roads through farm land. There is having an exception. Going through the Goal 3 exception process and that is a very laid out process in statute. Or, it is this meet the realignment criteria they have laid out. Janelle probably does a better job in her application then I did in my Staff Report, but obviously, there is some general criteria in Malheur County Code too with the 6-6-7. Really, we are addressing 6-6-7 and OAR 012-00-65. So, the question for tonight in your guy opinion, have they met their burden to prove, or to choose they have handled these criteria.

Kathy Clarich – I have one other question for you. If we approve this tonight, does that give them the right then just to go in and take her property without doing anything, because we have approved it?

Eric Evans – I mean, my assumption there is an eminent domain process that they have to go through. I don't know what this is.

Stephanie Williams – This is just criteria ---

Kathy Clarich - ---So, we're just changing the zoning on it too.

Stephanie Williams – We are not changing the zoning. It is a CUP authorizing Planning and Zoning on this property regardless on who owns it. When it is going to be built. Or, how properties are going to change needs. You know ---

Kathy Clarich - ---What I am saying is what we do here doesn't affect her right to do something.

Stephanie Williams – No.

Kathy Clarich – Okay, that's what I needed to know.

Eric Evans – I can tell you. I think there is a process I don't know about it. I did get a call from an appraiser about this piece. ODOT has hired somebody to come through and evaluate the cost of this land.

Teresa Ballard – We just sold a piece of property for some new crossing lights to put in, at our new house. We were compensated very fairly.

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Chad Gerulf – So, she will get a compensation ----

Kathy Clarich - ---yeah, that's just what I wanted to know.

Eric Evans – That has absolutely no variant to this application and what we are discussing ---

Kathy Clarich - ---So

Eric Evans – discussing tonight. I just thought I would throw that in there. Again, it's really about whether you guys feel they meet the criteria of that they have put in front of you guys.

Ed Anthony 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.

Ed Anthony made a motion to accept the Conditional Use Approval for the construction of a roundabout at Cairo Junction intersection on US Hwy 20 and Oregon Hwy 201. Teresa Ballard seconded the motion which was unanimously approved by the Commissioners present.

Kathy Clarich – So, they have 3 years to get this finished.

Eric Evans – Yes, they can file for an extension if they need to.

Kathy Clarich – Well, yeah, it's the state they don't get things done that fast.

OLD BUSINESS:

Approval of transcribed minutes from the January 27th, 2022 hearing.

Ed Anthony made a motion to approve the transcribed minutes with Kathy's corrections. Teresa Ballard seconded it. The motion passed unanimously and approved by the Commissioners present.

Ed Anthony made a motion to adjourn the public hearing. Clark Forsyth seconded the motion. The motion passed unanimously approved by the Commissioners present.

Respectfully submitted, Alexis McDaniel

Minutes approved by:

Name: Kathy Clarich Date: 3-24-2022