

Before the Planning Commission

Planning Department File No. 2022-04-011

**CONDITIONAL USE APPLICATION
FOR
A MINOR HOME OCCUPATION**

Planning Commission Meeting Date: May 26, 2022

- 1. APPLICANT:** Randy & Michelle Oldenkamp
473 Jacobsen Gulch Rd
Ontario, Oregon 97914
- 2. OWNER OF RECORD:** Randy & Michelle Oldenkamp
473 Jacobsen Gulch Rd
Ontario, Oregon 97914
- 3. PROPOSED ACTION:** Conditional Use approval for a minor home occupation for the purpose of operating a home-based cosmetology salon.
- 4. PROPERTY IDENTIFICATION:** Tax Lot 200, T17S, R47E, Sec. 17B; Assessors Map 17S47E17B; Malheur County Reference #6919.
- 5. PROPERTY LOCATION AND DIRECTIONS:** from Ontario head north on Hwy 201 for 3.2 miles. Turn left onto Hyline Rd. Continue for ¼ mile and then slight left onto Jacobsen Gulch Rd. Continue for 0.9 miles. The property is SW of the intersection of Jacobsen Gulch Rd and Power Rd.
- 6. ZONING:** Exclusive Farm Use (C-A1).
- 7. PARCEL SIZE:** The parcel is 29.52 acres.
- 8. PARCEL USE:** Parcel is currently being used as farmland and has a home site. There is a sloped area that is vacant and has not been farmed before.
- 9. SURROUNDING USE:** The adjacent properties are employed in farm use and range use. The smaller properties to the southwest and northeast are only used as single-family dwelling sites.
- 10. ACCESS:** Jacobsen Gulch Rd. (Letter from Ontario Rural Road District included)
- 11. SANITATION REQUIREMENTS:** An existing DEQ permitted system has been in use for the dwelling. An Authorization Notice will be required from Malheur County Environmental Health to evaluate the system's capacity.

12. FIRE PROTECTION: The parcel is located within the Ontario Rural Fire Protection District (Letter from Ontario Rural Fire District included).

13. NATURAL HAZARDS: No natural hazards have been identified.

14. WATER RIGHTS: The property currently has 20 irrigated acres.

15. SOIL TYPE: The soils on the property are class III and VI.

16. ZONING HISTORY: The existing dwelling was built in 1973. In 2008 there was an addition constructed to the existing dwelling. There is no other known zoning history.

GENERAL CONDITIONAL USE CRITERIA

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

A. Comprehensive Plan goals and policies, as applicable.

B. Specific plan recommendations

Finding: MCC 6-6-7 regulates the general criteria to evaluate suitability and MCC 6-6-8-6 (A) regulates the conditional use process for a minor home occupation.

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

Finding: Letter notice was sent to adjoining landowners on May 6, 2022 and published in the Argus Observer on May 6, 2022. No comments were received.

D. Availability of services and utilities.

Finding:

ROADS: The plan is to direct traffic to this facility by way of Jacobsen Gulch Rd, through Hyline Rd to Hwy 201. It is expected that there will be a slight increase in traffic. The approach will have adequate visibility in both directions. The Ontario Rural Road Assessment District has requested that a 10” culvert for drainage on the Oak Rd access point be installed.

FIRE & POLICE PROTECTION: The salon will be located within the existing house, on the property in the Ontario Rural Fire Protection District. All driveways and facilities will comply with current fire and safety regulations.

SEWER & WATER: The facility will be using the existing DEQ permitted

onsite wastewater system for the customer restrooms. An Authorization Notice will be required. Any required upgrades will be necessary.

ELECTRICAL & TELEPHONE: No additional power will be required to support the operation of the salon. At this time, the facility proposes to use an internet-based telephone provided.

SOLID WASTE DISPOSAL: The property already has existing contracted service provided by Ontario Sanitary.

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

Finding: The proposal is to operate a registered business, which will act a regulated tax-paying entity. The operation will increase the County's tax revenue.

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

Finding: The site of the salon/dwelling is not located in an area that contains fish or wildlife deemed critical or sensitive, and will not interfere with traditional fish and wildlife.

- G. General Criteria

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

Finding: The salon will be operated from the perimeter of the existing dwelling. There are no new structures being proposed. There is no expected significant addition to noise or lighting nuisances. No odors are expected.

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

Finding: The proposal is for a minor home occupation within an existing dwelling. There are no landscaping improvements proposed at this time.

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

Finding: The access points are existing. No new access points are being proposed for this development.

4. Visual screening of outdoor waste and storage areas.

Finding: The proposed development is for an indoor salon. There will be no outdoor waste and storage areas.

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

Finding: All lighting will be indoors and lighting during non-operating hours will be minimal and for security purposes only.

6. Special criteria listed below, as applicable:

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

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

Finding: All of the farm ground that is located on the parent parcel will continue to be farmed and will not be impacted by the operating of this facility.

6-6-8-6: MINOR HOME OCCUPATION: A minor home occupation shall comply with the following standards:

1. Location: Any zone, not excluded below, in which a minor home occupation is a conditional use.

Finding: The subject property in zoned C-A1 (Exclusive Farm Use) and a minor home occupation is subject to the conditional use MCC 6-3A-3 (L). This criterion is met.

2. Scale: A minor home occupation must fit within the dwelling without expanding the structure or within an existing residential garage or accessory building, and must be incidental to the use of the dwelling as a residence and incidental to the original uses of the residential garage or accessory building.

Finding: A separate dedicated room, in the NE corner of the existing dwelling, with a separate dedicated access will be used as the premises of the proposed minor home occupation (salon). This criterion is met.

3. Participants: No persons other than family members living on the property shall be engaged in the minor home occupation.

Finding: The owner and the sole operator of the salon will be Michelle Oldenkamp – the owner of record. This criterion is met.

4. Character: The property upon which the minor home occupation exists shall be kept in a clean, neat, orderly fashion. There shall be no visible evidence of the conduct of a minor home occupation from outside the property except as otherwise allowed by this section.

Finding: The minor home occupation will have no effect on the character or visual appearance of the property, as all activity will be confined within the premises of the existing dwelling. This criterion is met.

5. Storage: All materials associated with the minor home occupation shall be contained within the allowed dwelling, garage or accessory building.

Finding: All materials associated with the minor home occupation will be contained within the dedicated space for the salon. This criterion is met.

6. Display: There shall be no display of products visible from outside the allowed dwelling or accessory structure.

Finding: The proposal is for a salon. All products necessary to conduct the activity will be contained within the room dedicated to the salon. This criterion is met.

7. Signs: Notwithstanding Chapter 7 of this title, there shall be no signs advertising or identifying the minor home occupation.

Finding: The proposal is for a salon. The clients will be scheduled by appointment only and no visible advertisement will be posted on the exterior of the dwelling. This criterion is met.

8. Traffic: Customer, client and/or business traffic shall not exceed five (5) trips per day. Business delivery vehicles shall not exceed gross vehicle weight of eleven thousand (11,000) pounds. U.S. postal service deliveries are exempt from this requirement.

Finding: The estimated number of customers is very minimal, as the proposal is for an appointment only based business. This criterion is met.

9. Parking: Vehicles owned, leased or operated by the participants of a minor home occupation shall not be parked or stored on the street or in the public right of way.

Finding: There will be dedicated parking space allotted on the property. There will be no offsite parking beyond the boundaries of the subject property. This criterion is met.

10. Noise And Other Nuisance Factors:

- a. Noise: Noise shall be kept to a minimum at all times, especially between the hours of ten o'clock (10:00) P.M. and eight o'clock (8:00) A.M. Equipment that creates a shrill or penetrating sound shall, at all times, be operated only within an enclosure that effectively prevents noise measured at the nearest dwelling exceeding the otherwise ambient noise level of the neighborhood. Where a question arises regarding noise levels, the planning director's determination shall be final.

Finding: The proposal is for a salon. The clients will be scheduled by appointment. The proposed operation hours are from 08:00 a.m. to 07:00 p.m., Sunday-Saturday. This criterion is met.

- b. Odors: Odors shall not be detectable from any boundary of a minor home occupation property at any time.

Finding: No odors will be generated by the business. This criterion is met.

- c. Electrical Interference: A minor home occupation shall not create visual or audible electrical interference in any radio, television, or other electrical device off the subject property or cause fluctuations in line voltage off the subject property.

Finding: The proposal is for a salon. There is no anticipated visual or audible electrical interference. This criterion is met.

OTHER FINDINGS OF FACT

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

CONDITIONS OF APPROVAL

1. PREREQUISITE:

- a. All aspects of the proposed minor home occupation (cosmetology salon) must stay confined within the boundaries of the existing dwelling.

2. PERFORMANCE STANDARDS:

- a. Adequate fire standards shall be maintained and the premises of the facility must be equipped with a minimum 5 lbs ABC fire extinguisher. (Exhibit 3).
- b. The home address shall be well market at the road with minimum 4" numbers (Exhibit 3).
- c. An Authorization Notice shall be obtained from Malheur County Environmental Health to evaluate the septic system's capacity.
- d. Any deviation from this proposal shall void this permit and a new permit must be obtained.

EXHIBITS

1. Application
2. Letter from Ontario Rural Road Assessment District
3. Email from Ontario Rural Fire Department

CONCLUSION

Based upon the foregoing finding of fact, the Malheur County Planning Commission makes the following conclusion and decision:

Substantial evidence exists in the record to support the conclusion that the application meets the general and specific criteria established in the Malheur County Code and Oregon Revised Statutes for a non-farm dwelling in an exclusive farm use zone.

ORDER

This application for a conditional use permit is approved.


APPEALS

The appellate body for appeals from the final decision of the Planning Commission is the County Court. To file an appeal an appellant must file a completed notice of appeal on a form prescribed by the Planning Department with a \$200.00 appeal fee with the Planning Department not later than 5:00 pm on the tenth day following the mailing of written notice of the decision. Notice of appeals may not be received by fax or email. The notice must include a statement raising any issue relied upon for the appeal with sufficient specificity to afford the County Court an adequate opportunity to respond to and resolve each issue. All appeals from the Planning Commission's final decision shall be based on the record of the hearing made before the Commission.

Therefore, no additional information or testimony not included in the record of the hearing before the Planning Commission may be brought before the appellate body. The appellant must pay for the transcription of the hearing appealed from and submit the transcript to the Planning Department within ten (10) days after the date of notice of appeal is filed or ten days after the hearing tape is mailed or given to the appellant, whichever is later.



Planning Commission Chair
Kathy Clarich



Date