

Malheur County Planning Commission  
June 23<sup>rd</sup>, 2022

**Malheur County Planning Commission**

The Malheur County Planning Commission Meeting was held remotely, via GoToMeeting, and in person, on June 23<sup>rd</sup>, 2022. Ed Anthony called the meeting to order at 7:30 p.m.

**MALHEUR COUNTY COMMISSION MEMBERS PRESENT:**

Ed Anthony  
Clark Forsyth  
Robert Quick  
Rob Kindschy  
Chad Gerulf  
John Faw  
Linda Simmons

**PLANNING DEPARTMENT STAFF MEMBERS:**

Eric Evans, Planning Director  
Tatiana Burgess, Planning Manager  
Alexis McDaniel, Planning Clerk

**NEW BUSINESS**

Applicant: Ryan & Becca Maag  
3663 Lincoln Dr  
Ontario, OR 97914

Owner of Record: Ryan & Becca Maag  
3663 Lincoln Dr  
Ontario, OR 97914

***Conditional Use approval for one non-farm dwelling.***

Ed Anthony – Now is the time to hear the request for a conditional use permit for one non-farm dwelling in Exclusive Farm Use zone for applicant Ryan & Becca Maag. Planning department file 2022-05-021.

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

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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- 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 6-6-8-1 Specific Conditional Use Criteria Non-Resource Dwellings in EFU, ERU or EFFU Zones

MCC 6-3A-3 Allowance of Certain Uses

OAR 660-033-130(4)(a)(D) Agricultural Lands

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

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

An issue that may be the basis of an appeal must be raised no later than the close of the record. Such issues must be raised and accompanied by statements 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 Manager, Tatiana Burgess.**

Tatiana Burgess – This is Planning Department file # 2022-05-021 for applicant Ryan & Becca Maag, 3663 Lincoln Dr Ontario, Oregon 97914. The proposed action is for a Conditional Use approval for one non-farm dwelling. The Tax Lot 300 on Assessor’s Map19S47E07; Malheur County Reference #9616. The property location is from Nyssa, head North on Hwy 26 for 3.5 miles. Turn left on Gem Ave. Continue for ¼ mile. The property is North of Gem Ave, on the right-hand side. The property is. Exclusive Farm Use (C-A1). The parcel is 5.00 acres. The property is vacant, with some irrigated land being used for row crops. All the surrounding properties are employed in farm use, except for the adjoining parcel directly south, which is the site of an old gravel pit. A DEQ approved sanitation system would be required. The sites of the proposed non-farm partitions are within Nyssa Rural Fire Protection District. No natural hazards. The property currently has some water rights; however, the site of the proposed non-farm dwelling will be on the non-irrigated portion of the parcel. The majority of the soils on the property are predominately class III, with a very insignificant amount of soils class I. The site of the proposed dwelling is non-irrigated and is covered in soils of class III. The subject parcel was partitioned off the farm ground through a conditional use permit for a non-farm partition and a non-farm dwelling, in 2006. (CUP#2006-05-007). The partition plat was recorded 12/05/2006 through the instrument #2006-8802. The farm use statement had been entered into the chain of title (recorded instrument #2007-5666, Exhibit 6) as a condition of approval of the CUP and the parcel has been permanently disqualified from the farm use special assessment for tax purposes, as of 2007. The conditional use permit has been expired since 2010. There was a 2-year extension granted in 2010, extending the approval through 2012. No non-farm dwelling was built.

**Applicant Testimony: Ryan & Becca Maag, 3663 Lincoln Dr, Ontario, OR 97914.**

Ryan Maag – Our plan with our property is to build about a 1900 sq. ft. home. Single level, modern farm house style for our personal use.

Ed Anthony – Anything else?

Ryan Maag – That’s pretty much it.

Ed Anthony – Pretty cut and dry.

Ryan Maag – Yeah.

Linda Simmons – Any outbuildings or anything like that?

Ryan Maag – No buildings of any kind or anything on the property.

John Faw – Don’t you have to fill a big hole in front?

Ryan Maag – Probably, we will leave it. It is kind of a cool spot. I cleaned it out and we kind of leveled it up a little bit. It has big cotton wood trees growing up in it. So, I want to plant grass in the bottom and kind of make it a little park area, is the plan right now.

John Faw – Well, that will work. Otherwise, it will just be a weedy eye sore.

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Ryan Maag – That’s what it was when we bought it.

Ed Anthony – Any other questions?

John Faw – One other question. The water to this comes up to at the top there and what comes your way?

Ryan Maag – So, I am going to have to figure out something else there. It got just one delivery system. Its still a continuous field. The farm it was split off of it was sold to farmers. It had just the single delivery system now. I think they will make me put something else in. Probably, after this we will meet with the engineer, and figure out if we can get away with splitting it there somehow, or, possibly putting in a whole new gate and pipe.

John Faw – That would make sense, but making sense doesn’t always work.

Ryan Maag – I am hoping we can split it there. If not, its going to be a long way. Its like 2500 ft from our land right there.

John Faw – Now, is that delivery pipe there on a head gate and tap out of the ditch?

Ryan Maag – Yeah, I think so.

John Faw – I walked up there and I go, this is the obvious place do split this, but somebody’s got to do something there, because you won’t be able to measure, and Owyhee won’t let you split it if you can’t measure it.

Ryan Maag- Nope. Yeah, hopefully.

Linda Simmons – Does this have to be in one of the conditions.

John Faw – I don’t think it has to be. That’s an Irrigation District problem. It will be a problem if you can’t.

Ryan Maag – Yeah, if we can’t. We can’t. I don’t think we are going to spend 3 or 4000 dollars an acre to set up 4 acres.

Ed Anthony – We can’t setup something that says Irrigation District has to give them a measuring device.

John Faw – No.

Ed Anthony – Yeah, they will look at us like we are nuts.

Ryan Maag - Yeah, we will see I will meet with them. See if they have any good ideas. Haven’t done that yet.

John Faw – If not you will have a dry piece of ground.

Ryan Maag – Probably, a rented piece of ground.

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John Faw – Probably, cheap.

Ryan Maag – Yep, a little under market for sure.

Ed Anthony – Anything else?

John Faw – I think your park is neat idea.

Ed Anthony – I am going to close it. Any proponents?

Tatiana – It’s just us and Bob.

Ed Anthony – Any opponents? None, either. So, I am going to close it to public hearing.

**No Proponent Testimony.**

**No Opponent Testimony.**

**Closed to Public Testimony.**

Rob Kindschy – Sounds like a good idea. It was a good idea in 2010 and 2012, and I think it is still a great idea.

Chad Gerulf – Yep, I think so.

John Faw – The only issue they got is the water there is water to it, because the road access is there. And if they let you figure the water out. There should be some way to do it. They got some of those boxes to measure with.

Ed Anthony – Does anybody want to make a motion, or whatever we are going to do. I am usually the one to do it, but I can’t do it tonight.

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

*John Faw made a motion to approve 1 non-farm dwelling. Linda Simmons seconded the motion which was unanimously approved by the Commissioners present.*

**OLD BUSINESS:**

*Approval of transcribed minutes from the May 26<sup>th</sup>, 2022 hearings.*

*John Faw made a motion to approve the transcribed minutes. Rob Kindschy seconded it. The motion passed unanimously and approved by the Commissioners present.*

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***John Faw made a motion to adjourn the public hearing. Rob Kindschy seconded the motion. The motion passed unanimously approved by the Commissioners present.***

Respectfully submitted, Alexis McDaniel

Minutes approved by:

  
Name:

Date: 7-28-2022