

Malheur County Planning Commission

The Malheur County Planning Commission Meeting was held remotely, via GoToMeeting, and in person, on July 28th, 2022. Kathy Clarich called the meeting to order at 7:33 p.m.

PLANNING COMMISSIONERS PRESENT

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

PLANNING DEPARTMENT STAFF MEMBERS:

Eric Evans, Planning Director
Tatiana Burgess, Planning Manager

NEW BUSINESS

Applicant: Oregon Trail Mennonite Church
839 Onion Ave
Ontario, OR 97914

Owner: Oregon Trail Mennonite Church
839 Onion Ave
Ontario, OR 97914

Consideration of a Conditional Use Permit for Oregon Trail Mennonite Church private school in rural residential zone.

Kathy Clarich – Now is the time to hear the request for a conditional use permit for a private school in a rural residential zone. When called to speak please state your name, address and title 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 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 bias to disclose?
If so, state the conflict.
5. Do any members of the County Planning Commission have any bias to disclose?
If so, state the bias.

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

Kathy Clarich visited the site.

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 to 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- General Criteria to Establish Suitability

MCC 6-3C-3(E) Conditional Use Criteria for Private School in a rural residential 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 to anyone to raise an issue accompanied by the 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 the 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 a Conditional Use Approval for a private school. Planning Department number 2022-06-009. Tax Lot 400, T17S, R47E, Sec. 29; Assessors Map 17S47E29; Malheur County Reference #15899. The applicant and owner is Oregon Trail Mennonite Church located at 839 Onion Ave in Ontario. From Ontario, head north on Hwy 201 for 3.5 miles. Turn left onto Chester Rd. Continue for ¾ mile. Turn left onto Foothill Dr. The property is on the right-hand side. The existing dwelling on the property has the address of 378 Foothill Dr, Ontario OR 97914. Zoning is Rural Residential. The parcel is 6.59 acres. Parcel is currently idle. There is a single-family dwelling on the parcel. Residential properties to the east and south, there is a property that is being farmed. Access is from Foothill Dr. All required Oregon Department of Environmental Quality permits including the onsite wastewater, will be required. The parcel is

located within the Ontario Rural Fire Protection District. No natural hazards have been identified. The parcel has no water rights. The soils on the property are predominately class III and VIII. The existing dwelling was built in 1968. In 2004, there was a property line adjustment done with the adjoining tax lot 600 (Malheur Co. Ref.#6999) and another one in 2007 with tax lot 1100 (Malheur Co. Ref.#19748). Subsequently in 2007, there was a partition plat filed as well, that segregated tax lot 401 (Malheur Co. Ref.#20137) and 402 (Malheur Co. Ref.#20138), bringing the subject parcel to its current size of 6.59 acres.

Applicant Testimony

Representing Oregon Trail Mennonite Church: Russell Koehn 5010 Hyline Rd Ontario, OR 97914

Russell Koehn – I am a member of the Oregon Trail Mennonite Church. The school we have right now is not adequate. We bought this property to build our own private school. We have got plans in the making. I have a floor plan. 10,824 sq ft. It has a gym on it, couple classrooms, kitchen, and eating hall. The kitchen is not for preparing food. It's just for warming because we bring it in. The front will face east. The baseball field will be south. In regards to the home on the property, the teachers will be living in that. So, that is our plan and our dream. Hopefully, it suits or works.

Kathy Clarich – Just out of curiosity what grades do you have in that?

Russell Koehn – Kinder through 8th. On that note, maybe in the next 5 years we are 22 enrollments. Unless, we have a bunch of move in's or pregnancies, 25 will be the max for a couple years to come. It's not a big school. It's just a private school. Little.

Kathy Clarich – Anything else you want to add to that? Anyone have any questions for him? Nope. Okay, if you would like to step back, I am looking for people who are opponents to this.

Proponent Testimony

Dan Capron, 4394 Grandview Ln, Ontario, OR 97914 – Do you mind if I show you on map where I live. That's our place. I am a proponent of this place. For one thing, it will clean up the area of that place. I don't think the traffic flow will not be heavy. That intersection coming up on Chester is a goofy one anyways. I wish the county would look into fixing that anyways. What they are going to do is clean up and there won't be as much fire danger. There won't be much traffic. I think it will reduce the crime on that corner. Right now we have a lot of crime on that corner. With the cars and everything that park there and I think it will be a great asset to there. I look forward to it coming.

Kathy Clarich – Any more proponents? I am going to go to opponents.

Opponent Testimony

Merle Helum, 255 SW 4th Ave, Ontario, OR 97914 – I am a witness for Troy Nelson. From what I am seeing from what I was shown. The baseball diamond is going to be too close to his property. I have built his property basically, everything but the house, I have put it in. We have a lot of snakes that come down the hill. Sometimes in the spring and a lot in the summer, and we

shoot them. I don't think it will be good for a baseball diamond to be right next to his property where the snakes travel through and we got to shoot them. That's all I got for now.

John Faw – What kind of snakes?

Merle Helum – We got rattle snakes, bull snakes, all kinds of snakes coming down his fence line. I have ran into them putting the fence in.

Kathy Clarich – So, the only objection to this is the ball diamond? Not to the school?

Merle Helum – Yes, the ball diamond, and he sprays the fence line with 2,4-D.

Troy Nelson, 386 Foothill Dr, Ontario, OR 97914 – I don't think, the way I understand it here is I bought this property back in '07, and I didn't buy this property. I bought this property under a CC and Rs when Skip there made with County Commissioners when he broke the land up. What you are going to do here is commercial, and I'm not saying things can't work out, but as of right now where it stands the property will not be what I purchased, and you will change it, and that's not going to work.

Kathy Clarich – Are you talking because of the CC and Rs?

Troy Nelson – Yes.

Kathy Clarich – What's your point on the CC and Rs?

Troy Nelson – Well, first thing is a private school is a private school, a commercial school. Is it a commercial school?

Kathy Clarich – It's a school it's not commercial.

Troy Nelson – Schools not commercial?

Eric Evans – Schools well.

Tatiana Burgess – It's an approve use within that zone.

Eric Evans – Well, it might be. What you're saying is probably correct. It's commercial, but schools are allowed with a conditional use permit in a Rural Residential property. So, even if you call it a commercial use. It is allowed in a Rural Residential property according to state statute. So, other commercial properties won't, but the specifically call out public and private schools in statute. You might be right it might be commercial generally, but it is allowed in this area specifically with a CUP.

Troy Nelson – So, as we mentioned before. On the way the baseball diamond is up against my property. Again, this interferes with farming. I spray 2, 4-D up and down that fence all the time. You are going to put me up next to a bunch of kids 6-7 years old. I'm not saying we can't work it out. I have nothing against educating our children, no problem. I raised 4 of my own. I am a United States Marine. I live in the real world. I bought the property under the CC and Rs. under the CC and Rs. You are going to change a lot of them when you put the school in. I am not saying we can't work it out with people. I'm saying we are going to work it out, or I am sitting here wasting my time. You know what I mean? I should have retained myself an attorney.

Kathy Clarich – Alright.

Troy Nelson – Okay?

Kathy Clarich – Yep, okay do I have anyone else who is opposed? Brandy on the phone?

Brandy Boris, 394 Foothill Dr, Ontario, OR 97914 – So, me and my husband moved out here to be away from the city life, away from schools. My husband is a registered sex offender, and we moved out here to get away from that stuff. Now it is literally following us. What are we supposed to do? What we are supposed to up and sell our house, because they decided to build a school? How is this going to work? I mean me and my husband moved out here to get away from schools. My husband wasn't breaking no laws. Now, putting this school in here it's going to make him break the laws. He cannot be that close to a school. We bought first. I don't understand why now it is okay. Where are we supposed to go? Sex offenders are trying to get out of the place and not break the rules and go back to jail. And, you guys are trying to making it to like where it is next door. We have to up and sell our house and move again. We work hard to get our place. I am 26 years old. This is our second house we have tried buying. Now, I am going to have to uproot my family because of, I mean what are we supposed to do?

Kathy Clarich – Good question.

Chad Gerulf – That is a good question.

John Faw – That is.

Brandy Boris – I am highly against this school. Not only that, you are messing with the lively hood of everyone in this neighborhood. Not only that, but three houses down they are growing hemp. Schools aren't supposed to be around that stuff. That will be taking their right away to grow. There will be a lot more traffic.

Kathy Clarich – Okay, thank you. I don't have any answers right now, but thank you. Is there anybody else here right now that is against this action? Okay. Alright, there is a rebuttal. You get a chance to say something against what they said. Do you want to answer anything about the ball diamond? The CC and R's? I don't know if you know what they are?

Applicant's Rebuttal

Russel Koehn – No, I don't about the CC and Rs. As far as the ball diamond in my mind I don't see how it's going to impact the neighbor. They are little school children. I don't think they are going to hit a home run over the fence. We can, we did propose when we went and visited the neighbors, Troy in particular. We can plant some tall ever greens. As far as spraying 2, 4-D, if you spray non-school hours it won't affect the school children.

Kathy Clarich – Okay, how about, did you know there was a sex offender that was in the neighborhood?

Russel Koehn – No, we went and visited, Shalyn my son, that was one of the contacts and that person was not home. It was just Sunday evening when we were having dinner, and a Sister from our church brought that up. We did not know that, that there was a sex offender there.

Kathy Clarich – Okay, anything else? It is your chance to.

Russel Koehn – Yeah, I don't know. I mean we were looking forward to doing it, and if we can't get permission then I guess we will do something different. We thought it was a good location. I guess what is frustrating a little bit. Is before we bought the property we talked to whoever, and they said it was possible to build a school there. Then you come to a meeting like this and you get shot down.

Kathy Clarich – We aren't saying you are shot down.

Russel Koehn – You feel that way.

Kathy Clarich – Oh, gotcha.

Eric Evans – Do you want to comment on anything how this will affect the neighborhood in a positive way?

Russell Koehn – Well, we are going to landscape, so you will have a better spot. As far as the traffic it will be two times a day. Parents bringing their children to school and taking them home. There is not going to be a lot of traffic. Some parents have 3 children at home, and some have 2 or one. There is only going to be a total of 22 enrollments. So, how many moms do you have coming to school? And, that intersection is bad. The county does need to look into that. We will impact it and the traffic will be a little bit more. How much I can't say. I guess that is all I have to say.

Kathy Clarich – Thank you, we appreciate it. Okay, anybody have any more questions for anybody?

Closed to public.

Kathy Clarich – I do have some questions though. So, do you know what the distance has to be for a registered sex offender?

Eric Evans – I do not know that. I mean we would, I mean I would defiantly have to look at that.

Linda Simmons – I can't believe they would make somebody move.

Ed Anthony – They can only be so many feet. It doesn't matter if they were there first.

Linda Simmons – That would most certainly be something to look at.

Eric Evans – I will at least talk a little about the CC and Rs, and I didn't know about that until tonight. But, a little quick information that I did gleam, look at, that he is talking about. I did pull up, this is that Bar-O ranch in the subdivision. If you note this is actually the property in question it is not even a lot in Bar-O Estates. The way I look at this. The way I interpret this is that it's not even covered by the CC and Rs, that I see. So, I mean I can do more research outside of this, but it is not part of the subdivision according to this map.

Kathy Clarich – So, the CC and Rs don't affect these at all?

Eric Evans – No, it can't affect it at all, anything outside of it.

Kathy Clarich- Okay.

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Tatiana Burgess - In this subdivision this lot was subdivided later on in 2007. It was on a separate partition plat that was filed later on. The one I talk about in the staff report. That one was done later on. Over here that one shows the larger parcel, and not the current size. The triangular piece on the bottom half had later been split off and filed on a partition plat separately.

Chad Gerulf – Because, those lots down below they were developed a long time before the ones on top, right?

Eric Evans – I think the lower ones were actually possibly part of stage 2. As I am kind of looking at this, which was a two staged proposed subdivision. The first stage was only one that got developed. The second stage was never developed. So, I am not certain the CC and Rs apply to that second stage, because it is not a plat part of that subdivision. So, another thing is that any kind of development or fence will be required to be 15 ft from any other property line. So, I doubt that really affects the baseball diamond any. The field is towards the middle of the property.

Kathy Clarich – Yes.

Ed Anthony – How many feet is it from the fence line?

Tatiana Burgess – Right now it was on the fence line.

Kathy Clarich – 240 ft from this direction.

John Faw – So, you could move...

Kathy Clarich – They have room to move it back.

John Faw – the ball diamond off the fence.

Russel Koehn – Yes, we could.

Eric Evans – Is there a...

Troy Nelson – You bet.

Eric Evans – A fence there, Okay.

Kathy Clarich – And, that property might also help with the snakes.

Ed Anthony – Who doesn't have...

Troy Nelson – What's that?

Ed Anthony – Who doesn't have snakes out in the country.

Troy Nelson – Yeah. The issue here isn't the snakes. The issue is the gun fire.

Kathy Clarich – The shooting of them.

Troy Nelson – Yeah, the shooting of them.

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Chad Gerulf – I mean, if you get a pasture full of cows, if somebody puts cows out there you have to respect their right to have cattle or children. You can't just shoot at snakes because they bug you.

Troy Nelson – Oh, because they are in your back yard.

Chad Gerulf – If you are shooting towards somebody's else house you have to be...

Troy Nelson – Well, no one is going to be shooting at someone's house.

Kathy Clarich – That's what he is trying to say. No one's going to be shooting towards kids.

Chad Gerulf – Well, I understand that, but you have to use some common sense also when you shoot a weapon.

Troy Nelson – Well, you have to remember when they threaten my grandchildren...

Eric Evans – So, this type of dialogue isn't really, I mean we have done the testimony and opposition and we have to keep it about this discussion.

Kathy Clarich – So, my question is, we can make a recommendation to the court which is what we are supposed to be doing, right?

Eric Evans – No, this is a conditional use permit. This is your guys' opinion.

Kathy Clarich – So, my question is, since it is considered a school, and what she pulled up it is 2,000 ft from a school.

Eric Evans – Okay, yeah, so in that case you can either do a continuance or come back with this, and the staff can go back and get answers to that question. Or, you guys could not approve it, and, because of that. Or, you can approve it with some sort of condition saying that has to be addressed somehow.

Kathy Clarich – So, how far away is their property?

Eric Evans – It's like less than 300 ft.

Tatiana Burgess – The subdivided property was split into 3. So, this is TL, the first partition...

Kathy Clarich – So, this is on the third one?

Tatiana Burgess – Yes.

Kathy Clarich – Make a motion then.

Ed Anthony made a motion to continue the hearing to a date and time certain – August 25th 2022 at 7:30 pm. Linda Simmons seconded. It was unanimously passed by Planning Commission members.

Eric Evans – So, I would like a little direction. Are we only talking about research for the sex offender piece and CC and R?

Kathy Clarich – Just to double check so we are in the free and clear.

Old Business

Ed Anthony made a motion to approve June minutes. Chad Gerulf seconded the motion. The motion passed unanimously by Planning Commission members.

Ed Anthony made a motion to adjourn the meeting. Chad Gerulf seconded the motion. The motion passed unanimously by Planning Commission members.

Respectfully submitted, Alexis McDaniel

Minutes approved by:

Name: 

Date: 8.25.2022