

**Before the Planning Commission**

**Planning Department File No. 2022-07-010**

**CONDITIONAL USE APPLICATION  
FOR**

**Conditional Use Permit for Commercial Activity in a Rural Service Center Zone**

Planning Commission Meeting Date: August 25, 2022

1. **OWNER OF RECORD:** **Travis & Marie Hata**  
4832 Hwy 201  
Ontario, OR 97914
2. **APPLICANT:** **Travis Hata**  
672 NW 16<sup>th</sup> St  
Ontario, OR 97914
3. **PROPOSED ACTION:** Conditional use approval for commercial activity in a Rural Service Center zone.
4. **PROPERTY IDENTIFICATION:** Tax Lot 1900, T16S, R47E, Sec. 35; Assessors Map 16S47E35; Malheur County Reference #6413.
5. **PROPERTY LOCATION AND DIRECTIONS:** The property is located about 7 miles north of Ontario, on Hwy 201.
6. **ZONING:** C-RSC (Rural Service Center).
7. **PARCEL SIZE:** The parcel is 0.57 acres.
8. **PARCEL USE:** Commercial.
9. **SURROUNDING USE:** Exclusive Farm Use to the east and west and to the north and south the properties are residential (zoned rural service center).
10. **ACCESS:** Via Hwy 201.
11. **SANITATION REQUIREMENTS:** A DEQ sanitation permit will be required to assess the capacity of the proposed use.
12. **FIRE PROTECTION:** The property is within Payette Rural Fire Department's jurisdiction. (Exhibit 3).
13. **NATURAL HAZARDS:** There are no natural fire hazards.
14. **ZONING HISTORY:** In 2007, a manufactured home was placed on the property. In 2009, a

conditional use permit (#2009-07-003) was approved for the construction of a woodworking shop. In March of 2022, the manufactured home was removed off the property.

Additionally, there is an existing permit approach for the driveway, off Hwy 201, granted in 1971, that according to ODOT (Exhibit 4), can be legally used by the new owner and for the new proposed use.

### **MALHEUR COUNTY CODE 6-3F-3 (F): Commercial Activity in a Rural Service Center Zone**

In all RSC zones the performance standards contained in section 6-3G-4 of this chapter shall apply to all nonresidential and all nonagricultural activities. (Ord. 86, 12-7-1993)

#### **MCC 6-3G-4: PERFORMANCE STANDARDS**

Each structure of use permitted or conditionally permitted in a commercial zone shall meet the following performance standards: (Ord. 86, 12-7-1993)

- A. Physical Appearance: With the exception of gasoline pumps, all operations other than pick-ups and deliveries shall be carried on within an enclosed building: provided, that new materials or equipment in operable condition may be stored in the open, such as a sales lot. Normal daily wastes may be stored in containers outside of a building when such containers are not readily visible from beyond the property line. The provisions of this subsection shall not be construed to prohibit the display of merchandise or vehicles for sale or rental, or the storage of automobiles, farm machinery, trailers, manufactured dwellings or similar equipment in operable condition when in association with a permitted use. This required yard areas other than driveway openings shall be landscaped. (Ord. 147, 4-14-2004)

**FINDING: The proposal is for the permitting of an electrical shop to operate in the existing old building that had previously operated as a cabinet shop. The proposal includes storing of electrical equipment and small office area. There are 8 employees, including office staff. The structure will not impact the surrounding neighborhood.**

- B. Hazard: No operation shall be established which fails to meet the state fire and electrical codes and any other applicable state or federal codes related to safety. This provision shall not be construed to prohibit the use of normal heating fuels, and other volatile materials when handled in accordance with applicable codes.

**FINDING: All remodels will be in compliance with Oregon Building Code. No hazardous or noxious materials will be used or stored on the premises.**

- C. Noise: No operation shall be carried on which creates noise in excess of the normal traffic noise of the adjacent street at the time of daily peak hour traffic volume. Noise volume generated by the use shall be measured at any property line. The comparable traffic noise shall be measured at the property line adjacent to the street. All noises shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.

**FINDING: The proposed use will be conducted during normal business hours and noise levels will be kept to a minimal.**

- D. Sewage And Liquid Waste: All operations shall comply with any applicable regulations of the county, state or federal agencies responsible for pollution control. NO wastes of a chemical, organic or

radioactive nature shall be injected or buried in the ground or stored in the open on the surface except in approved containers.

**FINDING: The proposal will use the existing septic system. A DEQ permit will be required to ensure that it fits the proposed capacity of the use.**

- E. Smoke, Particulate Matter And Gases: No use shall be established which fails to meet the air quality regulations of the Oregon department of environmental quality pertaining to emissions of smoke, particulate matter, fugitive dust, gases and other air contaminants.

**FINDING: Air quality should not be impacted.**

- F. Odor: The emission odors that are generally agreed to be obnoxious to any considerable number of persons is prohibited. Observations shall be made at the property line of the establishment generating the odor. As a general guide to classification of odor, it is deemed that odors of putrefaction, hydrogen sulfide, fermentation and rendering processes are objectionable while odors associated with baking, coffee roasting or nut roasting are normally not considered obnoxious.

**FINDING: No objectionable odor will be created.**

- G. Vibration: All machines shall be mounted so as to minimize vibration and in no case shall such vibration be perceptible, without the use of instruments, at the property line.

**FINDING: Vibration will not be created.**

- H. Glare And Heat: Any glare producing operations, such as welding arcs, shall be shielded so that they are not visible from the property line. Surfaces near the glare source shall be of a type which will minimize the reflection of such glare beyond the property line.

**FINDING: Neither glare nor heat producing operations will exist from the operation of the proposed electrical shop.**

- I. Dust: All surfaces used in the operation of the use shall be graveled or paved with a dust free surface. Gravel surfaces shall be watered down when conditions of use or weather cause dust to travel toward structures on adjacent properties.

**FINDING: Most of the area surrounding the building is covered with gravel. Water will be used to mitigate excessive dust.**

- J. Interpretation: Whenever it cannot be decided by reasonable observation that a performance standard is being met, it shall be the responsibility of the operator of the use to supply evidence or engineering data to support the contention that a standard is being met. The standards are designed, except where referring to other codes, to be judged by ordinary human senses and not by the minute detail of scientific quality instruments. Until such evidence or engineering data is supplied and proves to be convincing, the judgment of the planning director shall be the determining factor.

**FINDING: The applicants have stated that they have a clear understanding of the standard requirements and adherence.**

**CONDITIONS OF APPROVAL**

- 1. The conditional use permit granted by the County is valid for a period of two years from the date the permit becomes effective, which is 10 days after the notice of decision is sent provided there is no appeal.
- 2. A DEQ septic permit must be obtained to be able to use the existing septic system on site.

**EXHIBITS**

- 1. Conditional Use Permit application
- 2. Letter from Ontario Fire Chief
- 3. Letter from Payette Rural Fire Department
- 4. Letter from ODOT

**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.

  
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 Planning Commission Chair  
 Kathy Clarich

  
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 Date