

## **Planning Commission Meeting**

**September 22<sup>nd</sup>, 2022**

### **PLANNING COMMISSION MEMBERS**

Kathy Clarich  
Ed Anthony  
Chad Gerulf  
John Faw  
Teresa Ballard  
Bob Quick

### **Staff**

Eric Evans- Planning Director  
Tatiana Burgess – Planning Manager  
Julie – Planning Clerk  
Stephanie Williams – County Attorney

### **New Business:**

**Applicant:** Janine Grund  
111 Duncan Ave  
Middleton, ID 83644

**Owner of Record:** Rosalie Johnson  
Kimberly Buxton, Personal representative  
2571 S Wise Way  
Boise, ID 83716

Kathy Clarich - 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 Janine Grund. Planning department file 2022-08-010. When called to speak please state your name, address and title (if any) for the record. When called to speak please state your name, address and title (if any) for the record. 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. All testimony and questions shall be directed to or through the chair. Testimony and questions should be directed to staff or directly to witnesses.

Do any members of the County Planning Commission need to abstain? If so, state the reason.

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

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

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

Kathy Clarich, Ed John – visited the site.

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

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

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 Nonrecourse Dwellings in EFU, ERU or EFFU Zones

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. 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.

**Staff Report:**

Tatiana Burgess – This is a Conditional Use approval for one non-farm dwelling. Tax Lot 300, T18S, R45E, Sec. 32B; Assessors Map 18S45E32B; Malheur County Reference #15246. From Vale, go South on Glenn St, which turns into Lytle Blvd. Continue on Lytle Blvd for 0.6 miles, then keep right onto Sand Hollow Rd. Continue on Sand Hollow Rd for 0.6 miles. The property will be on the right just past 1648 Sand Hollow Rd, in Vale OR. The zoning is Exclusive Farm Use. The parcel is 5.15 acres. The parcel is vacant land, non-irrigated. Some of the surrounding properties to the west are employed in farm use. The properties to the east are range land. Access to property is Sand Hollow Road. A DEQ approved sanitation system would be required. The parcel is within the Vale Rural Fire Protection District. No natural hazards. The property currently has no water rights. The entire subject site of the proposed dwelling is soils of class III, non-irrigated. The soils west of the canal, are class I. No known zoning history.

**Applicant Testimony: Janine Grund, 111 Duncan Ave, Middleton, ID 83644 – Consideration Use Permit for a non-farm dwelling in an EFU zone.**

Janine Grund – Well, my plans have shifted some. I am actually working to buy the property next door and the house as well. So, initially that wasn't an option nor on the table. So, when I put this in and applied for it, it was based on meeting a residence and a dwelling going up for my family. So, that has shifted some for me. I started this process and I am going to complete it, because I have started and let's finish it. I don't know what the future holds. I have worked in law enforcement for 13 years. So, life has happened to me and it happens to everybody. I would rather be prepared than not. I have started it so here we go. So, tentatively I am looking at not probably in the next 4 years, but if it comes up it does to put a small dwelling. I do not have specific plans. I don't have a set floor plan or anything above. I put a maximum on this tentatively of 1800 sq. ft, but nothing more than that 100 percent. I called the Police Department, Fire Department as far as impact on the county and the city. As far as they were concerned there was none involved. Other than that there is really not any information, if you guys do I would be happy to answer any questions.

Kathy Clarich – Anybody have any questions for her?

John Faw – Are there any water rights below the canal?

Janine Grund – No, it's all dry.

John Faw – On both of those parcels?

Janine Grund – As of now, yes. In theory right, and I would have to work this out with Warm Springs Irrigation, because buying both lots they haven't split that water right to match both sides. It currently is to the full acreage to both, but it has been split. So, the Warm Springs has not split water right between the two.

John Faw – But, there is water right available?

Janine Grund – As of now, yes there is. On both sides.

John Faw – Has it been used in the last number of years?

Janine Grund – That has not been maintained at all. Like I have a bit of cleaning to do.

Kathy Clarich – is it not the place that has the sprinklers in?

Janine Grund – It does, but I don't think they really put them to use. That's the best I can.

Kathy Clarich – I don't know if you put the money to it and not put them to use that's uh, that's the only thing.

Janine Grund – I think they are fairly new and to the best of my knowledge they were going to put cows over there prior to some of the shaking out. I have walked it and there are no cow patties and I can make the assessment they have not placed cows there, so the system is still very new. The sprinklers, if you take a look the piping and everything on it is pretty good.

Kathy Clarich – Anybody else have any questions for her? If not I will ask you to step back. At this time I will ask for anybody, who has, wants to testify in favor of this action. Okay, nobody in favor. Is there anybody that is in opposition to it? Step up here and state your name and address.

### **No Proponent Testimony**

### **Opponent Testimony: Kim & Mike Recla – 1662 Sand hollow Rd, Vale OR 97918**

Kim Recla – We own 2 different parcels of property across the road from the one in question I am not sure what the addresses are on those.

Kathy Clarich – Okay, so it's to the west.

Kim Recla – To the East. We have prepared a seven page letter. I can either read it in to the record or I can pass it out, or we can just visit whatever your preference is.

Eric Evans – We will want one for our record for us for sure.

Kathy Clarich – Should we just go ahead and read it in?

Eric Evans – I mean you have minutes and about minutes left.

Kim Recla – okay, we would like to register our strong opposition to the granting of Janine Grund's request to let a non-farm dwelling on the Sand hollow property currently in an exclusive farm use zone. The property in question, this is our understanding, and we still are not sure about the water right. We have a different understanding then what has been stated.

Mike Recla – When they put, I am sorry, when they put a solid set sprinkler system in they covered the whole acreage with it. So, I thought there was a full water right on that.

Kim Recla – And, I was told by the property owner, Kim Buxton, that it had full water right, so, um, that might be something we all need more clarification on. If you haven't heard back from Warm Springs. So, for now, my statement says and it may or may not be correct. The

property in question has full water right and has been used exclusively and solely for farm agriculture purposes for at least the nearly years we have lived at 1662 Sand hollow. During the time Ron Johnson owned the property it was used as a pasture for livestock. Since, Mr. Johnson passed away a few years ago it is continued to be used and maintain as pasture by renters and recently had a beautiful new underground sprinkler system installed all throughout the area, which is now being targeted for housing development. Prior to Mr. Johnson owning the property it was owned by the Martinez family who also used it for exclusively agriculture purposes. Prior to that it was part of Como's farming operation. As a member of the board and directors Warm Springs Irrigation District, ironically, I am well aware of the value and scarcely of piece of property this size will a full water right and the ramifications of the agricultural community of squandering this water right ground for housing purposes when there are plenty of non-water right ground available for that type of development. This particular piece of property is long and thin as opposed to square to nature. It is also cut in half by the canal running through it. We feel that the Planning Commission should also take the particulars of this property in to account when rendering a decision. Because of the shape and size of the lot and the fact that it has a main irrigation canal running through the center of it. It makes it harder to locate a house in the manner that it would create a space between houses that is comparable and consistent with distances between houses found in this rural farming community. Sand hollow Road is approximately 6 miles long from Lytle Blvd to Russel Road. We were not able to find any other situation along the entire stretch of road where there are any houses as close together as Ms. Grund is proposing with this application. Granting this application will change the nature of the area and set a precedent to the future city in the county type of development, the type of development often seen in rural Idaho where the planning laws are much laxer. There are a number inaccuracies and confusing statements in Ms. Grund application when we went through them. The first one is on page 4 Ms. Grund states that the surrounding neighbors are open to construction to a new dwelling. We are absolutely not in favor or open to the construction of a non-farm dwelling on this property. The next door neighbors, Casey and Todd Shaffer, which Casey Shaffer is our daughter, are also not to open to that type of construction when there is such a surprising inaccuracy in the application. It is probably going to be wise to treat other statements in the application with some caution. We have not contacted any other neighbors to see what their feelings are on the application. Should I pass it to Mike? Or, should I take Mike's time? Or, should I just stop?

Kathy Clarich – Pass it on to him.

Mike Recla – Ms. Grund states the land its self hasn't been farmed for the last 50 years per seller. Perhaps in this issue the property was definitely used for farming in the last 40 years. The property is surrounded by all farms on both sides. Ms. Grund states that none of the surrounding properties are currently farm. This is re-peat.

Kim Recla – You need to tell them where we are looking. That is on page 7, number 2.

Mike Recla- Page 8, Ms. Grund states that if development occurs there will be little to no impact on the ground surrounding the proposed dwelling. We strongly disagree to this

statement. The impact of the property would be that they recently installed underground irrigation system would be abandoned or torn out and all the property for that canal would be taken out of Ag use. As far as the ground surrounding this property that integrity of that area would change and there would be no longer any motivation from refrain from developing this property into development rental use or small parcels of residential sites. Now on top of all the reasons listed why we oppose this application and our asking to the Planning Commission to deny the request there is also the fact that the applicant has made, there has been an entirely change to this property and the intent use to the property, and all the reasons applying to the conditional use are no longer appear to be accurate or true. It very recently came to our attention that Ms. Grund is, you guys already went over that part.

Kathy Clarich – so, just finish telling us what you want to tell us what you want to tell us about it.

Mike Recla –I just don't think it is a good place to be putting a home. Just for the ecstasies of it alone it just doesn't work as a rural setting. It would be looking like Idaho.

Kathy Clarich – Okay.

Kim Recla – We mostly just want you to know that it is not accurate that it hasn't been farmed. It has been farmed. Even after Ron Johnson passed away they still had people who have rented it have still ran cattle, llamas, we have had all sorts of animals in that pasture over there and they did put in, Ron Johnson's daughter in law, her husband put in a very intensive sprinkle system with in the last?

Mike Recla – I think the last 2 years. Now, there hasn't been any rain or water you know, so.

Ed Anthony – So, do you know if it has a water right or not, Mike?

Mike Recla – Ed, I don't know for sure, but I assume that it did and assume is not a good word.

Kim Recla – We were told that it did by Kim Johnson.

Eric Evans – We can comment on that as well.

Ed Anthony – Because, I would like to know who went in there and did this.

Mike Recla – Ed, like I say, Mike Payne's is the one who put the water system in.

Eric Evans – We talked to the Water Master this week, so.

Kim Recla – We also brought a letter from the Shaffer's who said they would wish to join in with the opposition and with the testimony and our thing. I am sorry we didn't get to hear any of it, I didn't read fast enough.

Eric Evans – We will enter both of these into the record.

Kathy Clarich – That will be in the packet you give out then?

Tatiana Burgess – Yeah.

Mike Recla – Thank you guys.

Kim Recla - I do have a couple extras. That is the original that is sign.

Kathy Clarich – That’s the original that is signed and they’ve got other copies if you guys want one.

Kim Recla – Any questions for us?

Kathy Clarich – Um, no I think you covered it pretty good. At least for me you did.

Kim Recla – It’s been hard to prepare testimony when the situation has changed. A huge number of times and, um, does the Planning Commission make a decision tonight? Or, at a later date?

Kathy Clarich – It depends but probably tonight. So, um, okay, I am going to ask you guys to step back. Is there anyone else here that is in opposition to this? Okay, so, then, Janine we get to have a rebuttal to their comments. You get a 10 minute rebuttal.

**Applicant’s Rebuttal:**

Janine Grund – I don’t need 10 minutes. To make it, I am a more black and white person, so, per ORS per the city ordinance.

Tatiana Burgess – County.

Janine Grund – The County it is applicable it falls within the codes and ordinances in black and white it hits those check marks. Now, as a human being, I don’t want to see it populated either in fairness, but I started it and I paid for it and I am going to finish it. And, for future reference, I have a delayed son, so emotionally if he ever comes in a place in life where he needs a place to live 20 years down the road and I don’t finish this today. I will likely reapply because he might need my support in it, might be too close to other houses, I don’t know, but check marks black and white I hit it. Emotionally driven I am not trying to over populate it or make anything. I have 4 kids it’s a country life. I want them content. Yeah, we are likely going to put cows over in that pasture now. Like, we are going to go down that road, but I want to make sure that if I ever had an emergency and life happened I could go down that road if I absolutely had to if my back was against the wall, and that is all I can do as a mom is prepare for the worst case scenario and that would be I would have to build right there for my family. That is it. That is all I’m asking.

Kathy Clarich – Thank you. Okay, at this time I am going to close it to public hearing.

**Closed to Public Hearing**

Kathy Clarich – My question is, I realize it is a small parcel, but I also realize it’s been watered. If it has water rights we aren’t supposed to build on it.

Eric Evans – So, we talked to the Water Master, Jered this week. Everything to the west of that canal of that canal has water rights; it’s Warm Springs Irrigation water rights. Everything to the east does not have water rights. They have 24 acres of water rights.

Tatiana Burgess – It was across all the properties, yes, actually all the properties we are going over. The whole subject parcel is 5 acres, but what Jered is showing us it was across the larger area, because it was a very, very old map. We, Janine had contacted I believe she tried to contact the Irrigation District as well. I have tried calling them multiple times and I have never been able to leave a voice message because it keeps ringing, ringing, ringing. So, the map I and Eric reviewed with the Water Master's office was a very old map that was shown in 24 acres west of the canal.

Eric Evans – Everything was west.

Tatiana Burgess – Across multiple parcels the way that they look like today.

Eric Evans – Regardless I mean they might have been watering over there but I mean that doesn't necessarily mean they have water rights.

Kathy Clarich – They may have moved them to since you don't have anything that shows current.

Eric Evans – I am not sure how old Jered's maps are I will be honest. He said they were kind of older maps.

Ed Anthony – So can we table this until we find out if it has a water right?

Eric Evans – Yeah, and if somebody knows how to get a hold of Warm Springs Irrigation that would be great. We have been trying to for weeks.

John Faw – You might know how to get a hold of them?

Kim Recla – They might take his call.

Mike Recla – Well, I did try to.

Ed Anthony – That's all that concerns me is the water right deal. It's been irrigated and farmed for the last years.

Eric Evans – Right and that is fair but we all know sometimes that doesn't mean there are water rights there. I mean it is small acreage piece of property so they would have never said anything about watering 2 acres.

Ed Anthony – Well, they should but they don't.

Eric Evans – Right and I'll be honest I think that continuing this would be good because I think there are some questions we did some findings we would make to their opposition as well.

***Ed Anthony made a motion to table this for October 27<sup>th</sup> at 7:30 pm. Chad Gerulf seconded the motion to continue hearing. Planning Commissioners unanimously agree.***

Kathy Clarich – Okay, next month.



**Applicant:** Brett & Andrea Buchholz  
792 Owyhee Avenue  
Nyssa, Oregon 97913

**Owner of Record:** Brett & Andrea Buchholz  
792 Owyhee Avenue  
Nyssa, Oregon 97913

Kathy Clarich - Now is the time to hear the request for a conditional use permit for two non-farm partitions and two non-farm dwellings in Exclusive Farm Use zone in addition to the approval of an additional parcel partition and property line adjustment for applicants Brett & Andrea Buchholz. Planning department files 2022-08-011, 2022-08-012, and 2022-08-013. When called to speak please state your name, address and title (if any) for the record. 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. 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.

Do any members of the County Planning Commission need to abstain? If so, state the reason.

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

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

**John Faw disclosed he had done professional work with Andrea, her mother, and her dad. John states not bias.**

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

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

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

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 6-6-8-2 Specific Conditional Use Criteria Non-resource Partition in an EFU, ERU, or EFFU Zone

MCC 7-7 Land Partitioning

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. 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.

**Staff Report:**

Eric Evans – This has multiple things we are dealing with. Realistically, for you guys the important one is the non-farm partition and non-farm dwellings. But, because there is a property line adjustment and attentive of approval of a partition plat as well it is just easier to go through the quasi-judicial just to put it all together and bring in front of you guys. That way you guys know everything that is going on here. So, this is a Conditional Use approval for two non-farm dwellings and two non-farm partitions. Additionally, approval for two property line adjustments following the CUP. The Tax Lot 800, T20S, R46E, Sec.26; Assessors Map 20S46E26; Malheur County Reference #10387. West of the intersection of Owyhee Avenue and Highway 201. This property also has a solar farm. It is Exclusive Farm Use and Rural Service Center. The parcel is 288.20 acres. We have previously approved this for the solar farm as well. My office also approved this for a wireless telecommunication tower on the northeast corner across those sheds there. All adjoining properties are in Exclusive Farm Use (C-A1). This property also abuts to rural service center zoned property. Access to this property is off US Highway 201 and Owyhee Avenue. A DEQ approved sanitation system would be required for the non-farm dwellings. The parcel is within the Adrian Rural Fire District. There are no natural hazards outside the

regulatory flood plain. The only water rights located on the proposed 6.67 acre parcel is in the Action 3 partition plat. It is all in the rural service center.

Kathy Clarich – I have parcels 1, 2, and 3. This one says 207 and this one says 4.84 and 5.86. So, which one are you talking about?

Eric Evans – That one.

Kathy Clarich – The 6.67 acres and that is in the Rural Service Center?

Eric Evans – That is all Rural Service Center.

Kathy Clarich – But these two are not?

Eric Evans- Correct, again, in my staff report I did note that portion of the property has already received a Goal 3 and Goal 14 Exception. As a result, Malheur County Goal 3, specifically Policy 7, which requires no net loss of farmlands, does not apply to this portion of the property. There is a portion of the C-RSC land which is a class I soil type. The proposed non-farm dwellings will be placed upon soils classified as class III soil types. In 2014 a conditional use permit was approved for solar panels. The panels were constructed in 2015. In 2020 the primary dwelling was approved for an addition. Lastly in 2022, a new 199-foot wireless telecommunication tower was approved. Additionally, a legal unit of land determination was completed (Planning Action Number 2022-05-019) in 2022. You see that reflect on my map, but since then they have recognized, Derrick is that where that was at along the field? What was the legal land we determined? So, it is comprised of multiple, and it should be reflective on the map.

John Flaw – Standing in that 207-acre parcel?

Eric Evans – Well, it is 288 acres to begin with. This is what it kind of looks like. See the 70 acre parcel and then this 146 acre parcel. That's what we determined.

Kathy Clarich – So, the one that was 207.12 is divided into two?

Eric Evans – Right, and then that's already been completed.

Ed Anthony – You did a plat line just for those?

Eric Evans – No, we went past this last deed and determined that, Oregon State of Law ORS 92-10 defines once a parcel is created it can't be uncreated unless there are specific things that happen to it. So, you can take a piece of property and look back at the deeds and unless they have gone through some formal planning and zoning process to consolidate those pieces of property then there are actually case laws back in 2011 that says they can undo that essentially. Tax maps and legal units of land are two totally different things. So, we recognized that they had two legal units of land out there.

Kathy Clarich – Okay, I don't understand all that but okay.

Ed Anthony – Well, they combined them.

Kathy Clarich – Somewhere they were combined and now they want to separate them back out?

Tatiana Burgess – They were owned by the same people so they were under one ownership.

Eric Evans – Tax law they are combined on the tax map. So, and that's typically what you see and that is what we are looking at right here and this is the tax map. The thing is that sometimes those tax maps and what the actual legal unit of land don't coincide, because I can go into the tax office and say hey look I only want to receive one bill from the tax assessor. So, they will combine all those for you and they will send you one reference number. Well, they should and usually they will.

Ed Anthony – I have one acre of range land there and one acre of land there.

Eric Evans – Oh, yeah they don't like to do it if you split your land up too much.

Ed Anthony – Is it all one piece?

Eric Evans – Again, this is 3 different sections that we put this into.

Kathy Clarich – So, is part of that solar part of the 80 acres then?

Eric Evans – The solar is in the 146. So, again there are 3 different things. Action 1 is two non-farm dwellings and 2 non-farm partitions. If you look at the maps that are provided.

Ed Anthony – Two? You said one non-farm dwelling and one non-farm partition. 2 PLAs.

Kathy Clarich – That's what you said.

Eric Evans – That was just my mistake. So, parcel 2 and 3 are the non-farm partitions. I apologize.

Ed Anthony – 2 non-farm dwellings.

Eric Evans – It says it on the agenda too I just didn't change it on staff report now I get it. So, it is two, and then the second action is a PLA and what that PLA is accomplishing is separating the other little piece of RSC off, which is this piece, and that ends up being .79 acres. The last piece would be a tentative of approval of partition plat. That's the big chunk on Hwy 201 the 6 acres that is coming off for, again it is RSC they both need minimum parcel size. Minimum parcel size for RSC is 1 acre per dwelling. So, we can partition those without approval. When you partition something if both pieces of property need minimum parcel size, so both minimum parcel size isn't always EFU minimum parcel size. So, RSC has a minimum parcel size that differs then EFU. EFU section will still be at least 80 acres. The RSC is 6 point something which is over the minimum parcel size of an acre.

Kathy Clarich – What was the little one on this side?

Eric Evans – That is being done by a PLA.

Chad Gerulf – So, this has nothing to do with us?

Eric Evans – It will be part of your...

Kathy Clarich – It will be part of your approval thing, so my next question is by doing your lot line adjustments or whatever. Does that give them the right to go back through and take 2 more parcels off?

Eric Evans – No, so this one 146 acres once you do that now that changes the date of creation. So, you have 146 you do 2 non-farm partitions that are shown on this. That changes the date of creation of that 146 acre parcel and there for it is done forever.

Kathy Clarich – That is all I want to know. I don't want to have to keep coming back and taking this little one here and this little one there.

Eric Evans – Things that are said in some of the last, I mean we all know that it's not going to be this, there are only certain places where we can get non-farm dwellings approved. There are only certain places with 5 acre pieces of property without water rights and that meet the criteria. It is a one and done thing.

John Faw – Both of those pieces are in that RSC?

Eric Evans – the .79 and the 6 something.

Kathy Clarich – But these two parcels are not.

Eric Evans – Yeah, but the other 2 parcels are actually the non-farm partitions. Just like we would do on a big piece of property. Essentially what it comes down to they will have potentially 6 home sights on that 6 acres within the RSC for sure. Then the two homes for the non-farm dwellings.

John Faw – So, these 2 non-farm dwellings are just on the edge of the RSC, correct?

Eric Evans – Correct.

John Faw – Just outside.

Eric Evans – When we discuss this I mean they put those in there the way they cluster them together to have the least amount of impact.

Kathy Clarich – There are no water rights to either of these?

Eric Evans – There are no water rights. My great grandparents actually lived right across the street from there. I remember nothing grows on that very well. They have tried to grow stuff but it is very alkali out there.

Kathy Clarich – Yeah, I know. They have had water on it that's why I was asking. Anything, else?

John Faw – I believe when the solar deal went in there were water rights on that but the quality of the soil was such that.

Kathy Clarich – Solar is approved use on it. But I thought that there were water rights down that way. Or they were just moving water around. Okay, are you done then? Just double checking.

**Applicant Testimony: Brett Buchholz, 792 Owyhee Ave, Nyssa, OR 97913**

Brett Buchholz – I would like to be able to sell some lots down there in the RSC. Once we do it this one time it will pretty much be done. We have had interest from teachers and other people who are looking for places to live who want to be in the Adrian School District who have ended up in Homedale or Idaho somewhere, because there is no place for housing. There is not much housing in Adrian.

Kathy Clarich – Anything else you want to talk about?

Brett Buchholz – That's pretty much it.

Kathy Clarich – Any questions? That was easy.

Brett Buchholz – Well, he did a really good job at explaining it.

Kathy Clarich – I have a question but I am not sure, okay, on the RSC last time we had a discussion on what you can do on the RSC, so how is this one set up?

Eric Evans – They're primarily allowed for dwellings but you can also have some commercial activities on the RSC. They are kind of like rural hub. Particularly, they want dwellings there but they can get CUP for other kind.

Tatiana Burgess – Single family dwellings are outright permit use. It is not a conditional use.

Eric Evans – In this particular one I know for sure you can't have is parks. You can't do a RV park at Owyhee Junction. There are 17 communities they got together back when we were putting together our comp plan and put these maps together. Everybody had discussions and decided what they wanted and didn't want. This particular one if you remember that Simpson thing they couldn't have RV park in RSC.

Kathy Clarich – I also remember last month when we did that other one, because he was going from one business to another they had to come back and reapply.

Eric Evans – If they wanted to do a business they would have to come to you guys for that.

Kathy Clarich – Is there any minimum lot size in RSC area.

Eric Evans – 1 acre.

Kathy Clarich – And as long as you have enough water and stuff for septic and that stuff. Okay, alright, thank you. The one question I have is the letter from ODOT and the entrance off 201 and it says that it was approved approaches for farm use, and its 12ft wide and that doesn't meet our codes.

Eric Evans – We could always require them to.

Kathy Clarich – Now you want to talk.

Derrick McKrola – Consulting for Brett, 3811 Birch Rd Vale, OR 97918 - We may apply for when they go through building process they will need a wider permit which is in there I believe.

Ed Anthony – Will the State of Oregon give you one?

Derrick McKrola - Yes, you can widen an existing one. I don't know if they give new ones.

John Faw – They don't like to.

Kathy Clarich – It says it's based on this other thing and doesn't say it will be granted in the letter.

Derrick McKrola – It should be somewhere.

John Faw – Usually, the State of Oregon doesn't give you any guarantees to do any of them.

Kathy Clarich – Until you actually get it in writing.

Ed Anthony – We can just put it down there they can't do it unless they get a 20 ft easement to hwy.

Kathy Clarich – I would think they would need to have it. And that is not for farm use only. It is going to be for a house and can't be for farm use.

Eric Evans- Or even maybe you know the drive way the access has to be approved by the Fire Department.

Kathy Clarich – That and ODOT.

Ed Anthony – One is coming off 201 and where is the other one coming off? Off of 201 too? Are they going to have a road come in? Or is it coming off Owyhee Ave?

Eric Evans – That 6 acres I think this all has frontage. Where was the 6 acre piece access?

\*Everyone talking over one another\*

John Faw – That is residential frontage there.

Derrick McKrola – So, may I read from my email from John Eden? The RSC according to ODOT permitting rule OAR 734-051 the RSC doesn't change the number of approaches to a single rural site unless it is found to be in the urban area providing the state wide hwy. OR Hwy 201 S is a district Hwy and Owyhee Corner is not an urban area. Permitting a second approach to a rural site is directing to situations whether there are constraints that limit the development of alternate access and we do not see that in this case. If the property owners want to create additional partitions the existing acts will have to be utilized. I am not sure if it is referring to the RSC but apparently as I read through the other emails, so with this attachment this is a letter or presumption of written permission the letter is for the current conditions and is used if the property owner wants to make improvements such as widening more than 5 ft or changing the surface height we would have to apply for an approach upgrade or permit which is simpler process then applying for a new driveway. They do not need to apply for permit unless 50 power vehicle trips or 500 daily vehicles trips. I am thinking that letter mentioned two vehicles a day. Does that clarify anything if we need to...

Kathy Clarich – It sounds like either way they will need to apply for an approach. Whether he is going to be granted it or not. We will have to approve it with that.

Eric Evans – I would say the partition plat should have access on it. So, that should be done before the final partition plat is filed.

Kathy Clarich – The 6 acre one.

Eric Evans – Yes, so you guys would be approving the tentative with that as well and probably for the 2 non- farm dwellings you would probably want to add must be approved by Adrian Rural Fire Department and ODOT or the appropriate road district depending whether it is pulling off Hwy or Owyhee Ave.

Kathy Clarich – It needs to meet Oregon code because if the distance is back there far enough they have to have turn around or whatever. They need to have that in there too.

**No proponent.**

**No Opponent.**

**Closed to public testimony.**

Kathy Clarich – This is going to be a confusing one.

Eric Evans – So, there are 4 things.

Ed Anthony – Is everyone done talking about it?

Kathy Clarich – Did you want to go over the conditions so we know all of them.



Eric Evans – First it is going to be the right to farm statement as proposed condition. Then the 2 non-farm partitions will have to be disqualified from farm use tax wise. Again, adequate fire breaks constructed for partition wild fire. The approval for Action 1 which is the non-farm partition, non-farm dwellings is valid for 4 years substantial action must be taken action in this time period or it will lapse. Action 2 which is the PLA must meet all requirements of Planning Director and County Surveyor to finish the PLA. They just have to finish filing with our office. The site plan for the proposed non-farm dwelling this is again because we are doing this without actually having a proposed site or home sites on it I guess my ask is that you guys just approve that those can be approved by the Planning Department, by myself, without having to modify the CUP. They don't need to come back with site plan for you guys I will make sure it meets all setbacks and what not. We discussed the access roads must be approved by Adrian Rural Fire Department and ODOT is additional one you may want to add.

Kathy Clarich – I do not know what Adrian is but we need to be consistent to County's.

Tatiana Burgess – They are all to meet Oregon's fire code no matter the district.

Chad Gerulf – It is a standard for state and international code.

***Ed Anthony made a motion to accept staff report with modified conditions of approval discussed. Chad Gerulf seconded the motion. Planning Commissioners unanimously agreed.***

***Ed Anthony made a motion to accept 2 non-farm partitions & 2 non-farm dwellings. Chad Gerulf seconded motion. Planning Commissioners unanimously agreed.***

***Ed Anthony made a motion to approve the property line adjustment. Chad Gerulf seconded the motion. Planning Commissioners unanimously agreed.***

***Ed Anthony made a motion to partition the 6.67 parcel. Chad Gerulf seconded the motion. Planning Commissioners unanimously agreed.***

### **Old Business:**

Mennonite Church

***Ed Anthony made a motion to continue to October 27<sup>th</sup> at 7:30pm. Chad Gerulf seconded motion. Planning Commissioners unanimously agreed.***

***Ed Anthony made a motion to accept August 2022 minutes. John Faw seconded motion. Planning Commissioners unanimously agreed.***

***Ed Anthony made a motion to adjourn meeting. John Faw seconded motion. Planning Commissioners unanimously agreed.***