

Malheur County Planning Commission

The Malheur County Planning Commission Meeting was held remotely, via GoToMeeting, and in person, on January 26, 2023. The meeting started 7:30 p.m.

PLANNING COMMISSIONERS PRESENT

Kathy Clarich
Clark Forsyth
Chad Gerulf
Linda Simmons
Robert Quick
Ed Anthony

PLANNING DEPARTMENT STAFF MEMBERS:

Tatiana Burgess, Planning Manager
Julie Bromley, Planning Clerk
Derrick McKrola, Malheur Surveyor

OLD BUSINESS

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

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

Kathy Clarich – So, first thing on our agenda will be old business for applicant of Oregon Trail Mennonite Church and I think everybody got the letter that they have withdrawn their application, at this time anyway. So, we can be done with that one. So, the next thing is new business. The applicant is Mike Kurtz and let me get started. I got to read this into the minutes.

NEW BUSINESS

Applicant: Larry Wilson
3573 Highway 201
Ontario OR 97914

Owner of Record: Michael Kurtz
776 Cloverdale Ave
Nyssa OR 97913

Consideration of a Conditional Use Permit for 2 non-farm dwellings and 2 non-farm partitions in an exclusive farm use zone.

Kathy Clarich – Now is the time to hear the request for a conditional use permit for two non-farm dwellings and two non-farm partitions in Exclusive Farm Use zone for applicant Michael Kurtz. Planning department file 2022-12-009.

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. 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.

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

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

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

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

Robert Quick and Kathy Clarich drove out to the site.

Kathy Clarich – And it wasn’t marked like it was supposed to be.

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

7. Does anyone challenge the County Planning Commission’s jurisdiction to hear these matters?

8. 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 Partitions 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.

Preliminary Staff Report: Read by Planning Manager, Tatiana Burgess

Tatiana Burgess – So this is the planning department file #2022-12-009 – a conditional use permit application for 2 non-farm dwellings and 2 non-farm partitions. The applicant was Larry Wilson at 3573 Highway 201 in Ontario and the property owner is Michael Kurtz – 776 Cloverdale Ave in Nyssa, OR. The proposal is for 2 non-farm partitions, which will be 2 acres each. And the property is identified as two separate tax lots actually: so, it is tax lot 900 on Assessor’s map 19S46E34, Malheur Country Ref. #9575 together with tax lot 300 on Assessor’s map 20S46E02, Malheur Country Ref. #9969. And to clarify, this is one single unit of land, but it just happens to stretch across the boundaries of two separate maps. So, that’s why it is called out as two tax lots, but it is one single unit of land that is a total 139.65 acres. The property is zoned exclusive farm use and there are currently row crops being grown on the property. There is also a residence on tax lot 900. The properties in the vicinity of the subject parcel are all employed in farm land. The access is going to be off of Cloverdale Ave through an easement and there will be DEQ sanitation systems required for each of the resulting new non-farm dwellings. The subject parcels are within the Nyssa Rural Fire Protection District. And there are current water rights on the property and specifically in the vicinity of the subject area, there is a field that is irrigated at 1.7 acres. There is a variety of soils on the property of class III, VI, and VIII. And the sites of the proposed partitions are predominantly covered in soils of class VI and VIII and there is just a small portion of soils of class III. And the residence that I mentioned previously – that has been built in 1940 and then, there was a machine shed added in 1999. There are no constructions at all on tax lot 300. And then a bit about the history of this proposal: it had been previously approved through the same CUP for two non-farm dwellings/two non-farm partitions back in 2009. The applicants have started a survey but they never filed anything and then the permit expired in 2013. There is no other known zoning history.

Kathy Clarich – Ok.

Tatiana Burgess – It doesn't seem that we have the applicant on-line.

Kathy Clarich – And Derrick's not here to talk about it, or anybody?

Tatiana Burgess – No.

Kathy Clarich – Ok. So, if we don't have the applicant... I guess...

Ed Anthony – He's not on-line?

Tatiana Burgess – No. This is... only Derrick is on-line.

Ed Anthony – I make a motion, if we don't have the applicant, we're not going to hear this.

Tatiana Burgess – You don't want to discuss it?

Ed Anthony – Nope.

Tatiana Burgess – Ok.

Ed Anthony – We don't got anybody to answer any questions for us.

Kathy Clarich – It's kind of true.

Tatiana Burgess – It's up to you guys.

Ed Anthony – I would say...

Clark Forsyth – Are there questions?

Ed Anthony – Well, there's always questions about something...

Clark Forsyth – Ok.

Ed Anthony – But I'm not going to approve an applicant... If the applicant doesn't have enough guts to be here himself.

Linda Simmons – Never called, never said I can't be there or anything?

Tatiana Burgess – I never talked to the applicant. I only talked to Larry Wilson.

Ed Anthony – I make motion to...

Kathy Clarich – Larry's is the applicant.

Tatiana Burgess – Larry is the applicant. Correct, he's not the owner.

Robert Quick – Is he listed as the agent? Is that Larry?

Tatiana Burgess – He's listed as the applicant on the application. Correct, so we have the property owner and then...

Linda Simmons – He should know that. He used to be on this Commission.

Tatiana Burgess – Yes, he has the notice, I sent him the notice and everything.

Ed Anthony – I just make a motion – we table it. I guess?

Robert Quick – Absolutely.

Ed Anthony made a motion to continue the application to the next month's hearing. Clark Forsyth seconded the motion which was unanimously approved by the Commissioners present.

Kathy Clarich – To a time certain.

Tatiana Burgess – To a time date and certain?

Kathy Clarich – Which is? Because we didn't have one in February. So, the next one is going to be March?

Tatiana Burgess – Well I guess it is up to you guys?

Ed Anthony – Move it to March.

Tatiana Burgess – So, when we continue it we can continue it to date and time certain. Because I already made public notice for this. So, we don't have to notice it in the paper necessarily. So, for February – it's going to be on February 23rd. We have not received any other applications for February. So right now, we didn't have anything scheduled. If you guys wanted to move it March – you can, I mean it is up to you.

Ed Anthony – Makes no difference to me.

Tatiana Burgess – Then March?

Linda Simmons – Unless they called in, but if they didn't care enough to come in today...

Tatiana Burgess – Yeah, we don't have... So, both February and March would be on the 23rd.

Kathy Clarich – You think you're going to have something in March?

Tatiana Burgess – Yes, I do have a lady.

Ed Anthony – Let's go to March.

Kathy Clarich – Let’s go to March.

Tatiana Burgess – March 23rd at 7:30. Ok.

Kathy Clarich – At 7:30 – date and time certain.

Tatiana Burgess – Ok.

Kathy Clarich – OK. So we’re going next to the October minutes.

OLD BUSINESS

Ed Anthony made a motion to approve October with changes Kathy had already made. Robert Quick seconded the motion. The motion passed unanimously by Planning Commission members.

Robert Quick made a motion to adjourn the meeting. Linda Simmons seconded the motion. The motion passed unanimously by Planning Commission members.

Respectfully submitted, Julie Bromley.

Minutes approved by:



Name:



Date: