

The Malheur County Planning Commission Meeting was held remotely, via GoToMeeting, and in person, on June 22<sup>nd</sup> 2023. Kathy Clarich called the meeting to order at 7:32 p.m.

**PLANNING COMMISSIONERS PRESENT**

Kathy Clarich  
Chad Gerulf  
Ed Anthony  
John Faw  
Linda Simmons  
Teresa Ballard  
Carol Skerjanec

**PLANNING DEPARTMENT STAFF MEMBERS:**

Eric Evans, Planning Director  
Julie Bromley Planning Clerk  
Stephanie Williams Malheur County Counsel

**NEW BUSINESS**

**Applicant:** Calico Resources USA Corp  
665 Anderson Street  
Winnemucca, NV 89445

**Owner:** Calico Resources USA Corp  
665 Anderson Street  
Winnemucca, NV 89445

Kathy Clarich – So, the first thing on our agenda, are we still going in the order we were going?

Eric Evans – I think so, yeah.

Kathy Clarich – Ok. Is Calico Resources USA Corp.

Eric Evans - And you know, we can do this, you know, without anything, any kind of fan fair, any kind... just on our own motion. The Planning Commission's own motion, so... I know that the attorney representing Calico's there, just in case you do have questions for him, but the reality is, this is just an extension to the CUP we did back in 2018. Is that right? That permit 2018-10-012 for a goldmine on a patent parcel just 22 miles south of Vale.

Ed Anthony – Is it still just the sage-hen study thing, they're waiting on?

Eric Evans – No, I mean they're... well, I don't know exactly. I mean, they're still having all their technical advisory committee meetings that get together. They go through all these, the baseline study, the wildlife study, and all these different studies. So, this review committees, part of it, it's a consortium of different agencies throughout the state. So, DOGAMI is part of it, you know, DEQ is part of it and all these different people. So, I mean, they're... there's a ton of red tape, this is, you

know, when this is permitted, it'll be the first chemical process goldmine in the State of Oregon. So obviously, there's just a lot of hoops they have to jump through, so you know, I would...

Ed Anthony – I want to make a motion to extend the...

Eric Evans – Perfect, the CUP?

Linda Simmons – I second.

Kathy Clarich – I do have one question, though.

Eric Evans – Ok.

Kathy Clarich – So, what is the SGP?

Eric Evans – That's the sage grouse permit.

Kathy Clarich – Oh, ok.

Eric Evans – If you remember, we don't break it out quite like this, but when we first started going these, the sage grouse rule was band spanking new.

Kathy Clarich – Yeah.

Eric Evans – And so, the attorney had, you know, he was trying to do things as he interpreted that rule in statute.

Kathy Clarich – Ok.

Eric Evans – So, he decided to make... So, so, we did that as a permit onto itself, so.

Kathy Clarich – Ok.

Linda Simmons – Can we do it for both one time? There's one...

Kathy Clarich – There's three permits there.

Eric Evans – So, two of them are administrative so, we'll handle those administratively in our office, and one of them will be an extension that the County Commission has to do.

Kathy Clarich – So we're just doing the two-year extension on this CUP?

Eric Evans – Right.

Kathy Clarich – Ok, that's the one you want?

Ed Anthony – Yep.

Kathy Clarich – Ok, I have a motion and a second. So, all in favor, say “I”. Opposed? Motion carried.

***Ed Anthony made a motion to extend Calico Resources permit. Linda Simmons seconded the motion which was unanimously approved by the Commissioners present.***

Kathy Clarich – Did we need to have any questions, if anybody else had any comments or not?

Eric Evans – No.

Kathy Clarich – I didn’t think so. So, the next thing on our list is Randal McLay.

**Applicant:** Randal McLay  
2978 Fairview Drive  
Nyssa, OR 97913

**Owner of Record:** David & Carla Robbins & Dona Mathews  
892 Cloverdale Avenue  
Nyssa, OR 97913

***Conditional Use Approval for a minor home occupation to operate a Federal Firearms License.***

Kathy Clarich – Now is the time to hear the request for a conditional use permit for a minor home occupation for the purpose of operating a Federal Firearms License Facility, Planning Department file# 2023-05-001 in an Exclusive Farm Use zone for applicant Randal McLay. Please sign in at the podium. We want you to fill out a testimony question sheet if you haven’t done so. But I don’t know, we don’t have those today, so.

Eric Evans – No, I didn’t think there was going to be enough.

Kathy Clarich – We’ll just go past that one then.

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.
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?
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 6-6-8-6 (A)        Specific Conditional Use Criteria for minor home occupation  
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.

Kathy Clarich – So, staff report. Eric?

**Preliminary Staff Report: Read by Planning Director, Eric Evans.**

Eric Evans – So, this application is for a minor home occupation in order for Mr. McLay to have a FFL or a Federal Firearms License, right?

Randal McLay – Federal Firearms License.

Eric Evans – So I do want to make one note. So, I put together the original staff report that we sent out to you. I actually used the minor home business. So, there's actually three things: minor home occupation, minor home business, and another minor home-thing. I put it together, as a minor home business. Tatiana actually, said after we have sent it out, she was like, oh, look, this is minor home occupation. And it is really, based on number of traffic. And I did it based on the same one we did the fireworks one, and then I realized that he didn't need to meet all the criteria as the fireworks one. So, the staff report that we'll have, as part of the record, is a little bit different than the staff report that you guys have seen. But the criteria is, is mainly the same. So, I mean, we can go through some of those changes, you know, the change, it's... I put it up on the screen as well. But we just changed it to use the minor home occupation, rather than a minor home business criteria. Um, so I'll start with that and then we can get back to that. So, this is for tax lot 101 in T20S, R46E, Sec 2, County Ref. #20185. And again, this is Planning Department file #2023-05-001. This is located on Fairview Drive in Nyssa. It's zoned Exclusive Farm Use. The parcel is 104.36 acres, currently being used as farmland and also has a home site on it. All the properties around it are also employed as farmland. The access is from Fairview Drive. We did receive a letter from the Nyssa Road District regarding access. This use will not require any kind of onsite wastewater treatment system or an authorization notice of any kind. It's located within the Nyssa Rural Fire Protection District. No hazards on-site. The soils on the property are class III, IV, and VI. But this isn't going to change any use there, there's no additional buildings. This is going to be out of the existing home. We did grant, in 2007, the Planning Commission granted a non-farm partition there, at the very end, so kind of east of this property. If you remember, I think the applicant was Bairs and I think they still live there. And that's kind of all I have. You guys have any questions for me?

Kathy Clarich – I don't. Ok, state your name.

**Applicant's Testimony: Randal McLay – 3978 Fairview Drive Nyssa OR, 97914**

Randal McLay – Randy McLay

Kathy Clarich – And your address?

Randal McLay – 3978 Fairview Drive, Nyssa OR, 97914

Kathy Clarich – Now, tell us what your plan is.

Randal McLay – I didn't realize when I moved out there, that it was Farm Use Only. I have had my FFL License for 39 years. When I was a police officer, I got it in '84 and I have had it ever-since. They tell me, well because it's farm land use only, you have to go to the Zoning deal and get a permit to authorize to use it. I don't use it as a business per se. I use it for myself, family, and friends. So, I explained that. He was worried that I might put a retail store out there. I've never had a retail store. Don't plan on having a retail store. I don't stock any guns, no ammunition, or any kind of accessories out there. Somebody comes to me and say, "Hey, can you get this gun for me?" I'll try. They pay for it. I do all the paperwork through the State of Oregon to do a background check. Or they'll buy a gun from a dealer someplace else – they'll ship it to me because I can do the paperwork. And that's what, as I was explaining it, I don't have any ideas to have a retail store whatsoever. It's just for personal use. I have had it for 34, 39 years. And so, I came in here to fill it out, filled out the paperwork, and that's about all I can say.

Kathy Clarich – Ok. Anybody have any questions for him?

Linda Simmons – I have one.

Kathy Clarich – Go ahead.

Linda Simmons – Do you, on premises, have... I think he said “no”, any AR-15s or multi-load magazines?

Randal McLay – My personal.

Linda Simmons – You do? But it’s not part of this?

Randal McLay – No, like I said, I don’t stock any guns for anybody. I have my own personal guns, like most everybody. But when that somebody comes to buy a gun or something, they get the gun, they pay for it.

Linda Simmons – Ok, thank you.

Kathy Clarich – Anybody else have any questions?

Carol Skerjanec – Randy, this is just... you’re just leasing this house and you’re living in it, and you want to keep your license, that’s basically it?

Randal McLay – Yeah, I just want to keep my license so I can... Because, you know, the inflation is going up so bad as it is, you can’t hardly buy a gun.

Carol Skerjanec – Ok.

Randy McLay – I mean, they’re just outrageous. But I can still get them at retail or wholesale price, and give somebody a break. I mean, like going to Outdoorsman, you walk in the door, gun might be \$800 to them, but the actual re-price for that, it’s probably \$560 you know... \$600... so, that’s a bargain for them. That’s the only reason I’ve ever got it, because I was a police officer for 27 years in Vale.

Carol Skerjanec – Right.

Randy McLay – And you go down and buy a gun, when you’re working for Vale. I’m like, well, I’m going to have to take a loan, or put the house up for sale. So that’s what I’m saying, I just want to have the right to have my own firearms license back. Because they’ve already taken it from me, so.

Kathy Clarich – Ok. Anybody else have any questions for him? Ok, so you can go ahead and sit back down. Is there anybody here that’s, in favor of this, that would like to speak? Who’s D?

Eric Evans – I don’t know who Doug is.

Kathy Clarich – So, if anybody online wants to speak, they need to unmute with \*6.

Eric Evans – If they’re on their phone.

Kathy Clarich – If you’re on your phone.

Eric Evans – I think he is using a computer or smartphones so.

Kathy Clarich – Ok. Alright, is there anyone here that is against this motion, opposed to it? If not, I’ll close it to public testimony.

**No proponent testimony.**

**No opponent testimony.**

**Closed to public testimony.**

Kathy Clarich – What do you guys think? Want to talk about it? I don’t see a problem with it.

Eric Evans – I’d like to answer one thing, though, just to make it clear about like, my position with this, real fast. So, obviously... well, maybe it’s not obvious. But, so, it, as part of that FFL condition of having that, is that you have to meet the zoning regulations in the county. So, they have to get a paper signed by me, saying “I meet those regulations”. In order to meet those regulations and have a business on EFU, I mean this is, this is the only option that we have. So, if he was just doing this, and was able to do this without that, you know, that signature, but as a condition to having that FFL, he’s required to meet those zoning regulations. I can’t, I can’t sign off on him having a business out there without him coming in front of this.

Kathy Clarich – Ok.

Teresa Ballard – And to answer your question, Kathy, I’m in favor of it, of accepting this application.

Chad Gerulf – Me too.

Kathy Clarich – Ok.

John Faw – I had a rather lengthy conversation with one of the neighbors when I was out there.

Kathy Clarich – Yeah?

John Faw – Yeah. Farmers on a road, it turned it and he had no concerns, so why should I? He lives there, farms there.

Linda Simmons – Make a motion.

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

***Ed Anthony made a motion to approve a Conditional Use Approval for minor home occupation. Chad Gerulf seconded the motion which was unanimously approved by the Commissioners present.***

Kathy Clarich – You’re good to go.

Randal McLay – Thank you. Will I get something in the mail?

Eric Evans – Yeah, we’ll send you a copy of the order and then we send that out and then, there is a 10-day appeal period, so if somebody were wanting to...

Randal McLay – Thank you.

Eric Evans – Thank you.

**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 Exclusive Farm Use.***

Kathy Clarich – Ok, next on our journey is Oregon Tail Mennonite Church. I’m going to read this into the minutes. Now is the time to hear the request for a conditional use permit for a private school in an Exclusive Farm Use. 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.

**John Faw – Yes. My business partner put this together for these guys. And so, I do have rather detailed knowledge and a vested interest in it as well. So, I need to recluse myself from this part, please.**

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 – Been through that property.**

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 6-6-7 General Criteria to Establish Suitability

MCC 6-3A-3(A) Conditional Use for Private School in an Exclusive Farm Use 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 Administer, Eric Evans.**

Eric Evans – Ok. So, this is kind of a continuation on, we’ve had a couple of other hearings. So, these are the same applicants that a... about different pieces of property within the county. So, this is a conditional use for a private school. The Planning Department file# 2023-05-010. It’s on, it’s proposed to be on tax lot 300, T17S, R47E, Sec. 03. Malheur County Ref. #6593. It is zoned Exclusive Farm Use, C-A1. The parcel is 15.20 acres. So, it’s currently sitting idle, it’s not being farmed, but historically it’s been farmed and there is a single-family dwelling on the parcel as well. It’s surrounded by a single... Exclusive Farm Use with single family dwellings. It’s accessed off Evergreen Road. There is currently an existing on-site wastewater treatment system on the property that is for a single-family dwelling. And obviously, anything new would require you know, the proper DEQ permits, as well. Whether that’s through the county or through DEQ is really up to whatever the proposal is. It is located within the Payette Rural Fire Department, there is a letter addressing that. No natural hazards, it’s not in any floodplain or anything like that. The parcel does have water rights, that’s if you look at Exhibit 3, that has that map. And the soils are all Class III. Looks like that existing house is built in 1976 and in 1984 a second dwelling was permitted to be placed on the property, that was, that replaced a different manufactured home on it. And then the manufactured home was eventually moved off in 2017. That’s it.

Kathy Clarich – Thank you.

Eric Evans – If you have any questions, let me know.

Kathy Clarich – Well, who’s going to speak? Ok, get up and state your name.

Eric Evans – Are you going to be more than 20 minutes, do I need to start at timer ok.

**Applicant Testimony: Shalyn Unruh, at 288 Evergreen Rd, Ontario, OR 97914**

Shalyn Unruh – I live at 288 Evergreen Rd, just kind of across the road from this place. So, do you want me to explain what we're trying to do?

Kathy Clarich – Yeah.

Shalyn Unruh – We're wanting to build this private school here. We apparently have a small school, down here by the airport, I think you all know where we're at. We have about 20 students right now. It could change, grow, could shrink, we don't know. So that's kind of where we're at right now. We have 4 teachers, sometimes 5, so we're kind of a small group. We are planning on building a facility there with an attached gym, eventually, and so, that's what we're looking forward to. We will have a parking lot out front. You've seen that on the plans. That was kind of put in there, that we will have a parking lot there. Any other questions?

Linda Simmons – I have one. The person living in the home right now, are they going to be affiliated with the school, or will it be totally separate?

Shalyn Unruh – The home is vacant right now.

Linda Simmons – Ok. Thank you!

Carol Skerjanec – I have a question. The permit application indicates proposed improvement includes a dwelling, not just the, the other, which I'm assuming is the school with the gym. Is that accurate, are you planning to build a dwelling there, as well?

Shalyn Unruh – No, we're not planning on building another dwelling, no.

Carol Skerjanec – Ok.

Kathy Clarich – The dwelling is down here as existing.

Shalyn Unruh – The dwelling is on there, existing.

Carol Skerjanec – Oh...Oh... Ok.

Kathy Clarich – Top of proposal, it's existing.

Shalyn Unruh – We are planning on keeping that dwelling.

Carol Skerjanec – Ok.

Shalyn Unruh – That will house our teachers.

Carol Skerjanec – Ok.

Shalyn Unruh – We have teachers that come in from out of state.

Carol Skerjanec – Ok

Kathy Clarich – Yeah.

Carol Skerjanec – And you're not planning to build the gymnasium right now, that's in the future, you said?

Shalyn Unruh – Well, that’s where we’re just... what we’re trying to do is... whether, we can build a school there.

Carol Skerjanec – Ok.

Shalyn Unruh – We’re not saying we’re going to build everything out there right now, but we’re just wanting to know. Because we got a purchase agreement for this piece of property. But with our other piece that we had, go... went the way it did, we didn’t want to have to buy this piece and then come to this Board and find out a “no”, another “no”, you know.

Carol Skerjanec – Ok.

Kathy Clarich – That’s going to take them a lot of work to clean it up anyway, so.

John Faw – Yes.

Shalyn Unruh – Yes.

Kathy Clarich – Because I went and looked at it with my nephew. He was looking for a house and it was like... So, I do have a question, though. You have the water rights for, I can’t remember, for lot of the ground there. Was it like 11 acres or 14 acres or something?

Shalyn Unruh – 14 acres.

Kathy Clarich – Are you planning on putting it back into farming?

Shalyn Unruh – Very little of it will be farming. Most of it will be playground. Possibly, we might have a little bit of farm ground in the back, but it will be irrigated ground somewhat. And then, some of that area where the school and the parking lot will be, I have permission from Owyhee to, that we can, we can let go of some water rights or transfer them, where that will be placed.

Kathy Clarich – Ok. The reason I asked you is that, because even though the ground hasn’t been farmed for a few years, we have a no net loss of farm ground. So even if you turn the water back, it’s still a farm ground that’s how the State looks at it. So that’s why I was asking you if you’re planning on farming it, or what you were planning on doing. Because when I looked at where you had your, I assume, this is the parking lot, and this is a building back here, on your drawing. It looked like part of that was some of the field area there. So that was why I was asking.

Linda Simmons – Isn’t that fit into the statute as acceptable for school?

Kathy Clarich – Putting a parking lot on farm ground?

Linda Simmons – No, the school itself.

Eric Evans – So, yes, it is.

Kathy Clarich – The school is acceptable on there. It’s just that it’s usually not on ground that is farmed.

Eric Evans – If you look at this rule, right behind ’ya.

Linda Simmons – Yeah.

Eric Evans – So this is allowed, non-farm uses allowed.

Linda Simmons – Right.

Eric Evans – Potentially allowed on farmland as a conditional use permit. So, these... a school's special, because you know, it's like building a cell tower or something like that. Now, with that said...

Kathy Clarich – So what's the difference between that and putting house on, but we make them put it on where they cannot... not the actual ground that's farmed?

Eric Evans – I mean.

Kathy Clarich – I mean, there is plenty of ground there, that is not...

Eric Evans – Right. I'm just...

Kathy Clarich – Doesn't have water rights.

Eric Evans – I was getting also, to your other point too, is that... So, the "no net loss of farmland" isn't necessarily a state statute, that's in our comprehensive plan. So, I mean, you know that, I mean, how you, that's how you guys get to determine it, is how to interpret that and what, what to say when it comes to the "no net loss of farmland". But yeah, I mean, I, I think that it's very appropriate, in my opinion, that you know, irrigated farmland is pretty, is a big thing here and we all know that. But if they have their chance to move these water rights somewhere else, it still means that property is farmland but it's a conditional use, it's allowed on farmland so.

Linda Simmons – That's how I interpret it.

Kathy Clarich – I understand that. But I also understand how Owyhee does things, too. Because if somebody just wants like another acre-foot or whatever, for the ground that they already have Owyhee will let them do that, if they turn back their water rights. And that's what I'm saying, that's still losing farm ground itself, it's just given more water to some who already have the water.

John Faw – Question. Doesn't the playground qualify as farm? They're just harvesting their grass in a different manner, they're playing on it. Golf courses match?

Eric Evans – Golf courses are the same thing, right? I mean, they're a conditional use, allowed on farmland.

John Faw – It's just a matter of how you harvest it.

Eric Evans – But the thing is, is that, you know, there are some, you know, some chances that maybe they would have to apply for commercial water rights, right? I mean we've talked about commercial water rights, and I can't remember what that rule is, 5,000 gallons a day or something. I mean, it's a pretty big amount that they're allowed to utilize. But, if they're using so much to water, grass isn't, I mean it would be pretty tough to say that you're actually... well, you can't say...

Ed Anthony – So, how many acres of water rights does this place have?

Eric Evans – Um.

Shalyn Unruh – I think it is 14.

Ed Anthony – 14?

Kathy Clarich – Yeah.

Ed Anthony – How big is the place?

Shalyn Unruh – 15.

Kathy Clarich – 15.2

Eric Evans – So, there is an acre without water rights.

Ed Anthony – And the school is going to be on how big of a piece of parcel? An acre or 2 acres?

Linda Simmons – They didn't put the parking lot on that one acre.

Shalyn Unruh – It will probably, oh, with the building and the parking lot, I'm going to guess somewhere around an acre and a half, maybe?

Ed Anthony – So, basically you could take your water right, just transfer it on that piece of property and keep it on that piece of property?

Shalyn Unruh – For the most part, yeah. If you look at the water right map, I mean, there's very little of it, really, that isn't covered, it's amazing. Right where the house is at, even the front yard – it's got water right on it.

Kathy Clarich – I didn't get their water right map from Owyhee, it's not like it used to be, so.

Ed Anthony – But the state allows schools on farm ground?

Eric Evans – As long as... the biggest thing, when you read the statute is the findings that we have regarding, that it doesn't force a significant change in accepted farm or forest practices on surrounding lands devoted to the farm or forest use and significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. Those are, really the two biggies in statute that...

Ed Anthony – And this isn't going to do that on either one of them?

Eric Evans – I mean, that's what the finding's going to say, right, if you guys approve this. Yes.

Linda Simmons – Is that the map you didn't get?

Kathy Clarich – Yeah, it's not.

Carol Skerjanec – Do you know how long it's been since the ground was farmed?

Kathy Clarich – No, I got it. It but doesn't really show.

Linda Simmons – Yeah, it doesn't.

Shalyn Unruh – Well, I have lived across the road for 10 years and I don't remember it being farmed. But the water... the ditch rider told me that they had put water on it a couple years ago.

Carol Skerjanec – Oh.

Shalyn Unruh – So, I don't... I remember it being worked up one time, about 3 or 4 years ago maybe, they disked it, but I don't ever remember a crop on it.

Ed Anthony – That doesn't mean that it wasn't farmed... (inaudible)

Shalyn Unruh – It didn't look like they were farming. They got a really good crop of gophers out there.

Ed Anthony – I just know that if they're going to lose their water right, they'll turn the water on whether it's farmed or not, so they don't lose their water rights.

Shalyn Unruh – And that's what I think happened.

Ed Anthony – Yeah, they just said ok, I will order 5-foot of water for my ground and they probably never turned it on. They just ordered it.

Shalyn Unruh – I think it just ran down the drain.

Ed Anthony – Yeah.

Eric Evans – If you wanted to see the GIS map, for the water rights out there, that's the map.

Kathy Clarich – Yeah, I thought that was all hill on that side of that. And what were the soil classifications?

Audience Member – That's not all flat, that's hilly.

Kathy Clarich – Yeah.

Eric Evans – Well, I mean, this is the GIS.

Audience Member – You're not going to be putting onions on it, is what I'm saying.

Eric Evans – This is the GIS layer that was submitted to the state from Owyhee Irrigation, that is...

Kathy Clarich – Where the water rights are.

Eric Evans – Basically where the water rights are. Period.

Kathy Clarich – Ok.

Eric Evans – The House Bill 30-11 you're... You know, several years ago, it said, in order to get funding from the state, you have to provide these maps. This is what Owyhee provided.

Linda Simmons – I don't have any more questions.

Kathy Clarich – Ok. Does anybody else have any more questions for him?

Teresa Ballard – Well, is there the prospect, you know... With private schools, generating revenue is always, at least in my experience, always an issue. Is there the prospect that you may put some of that into cultivation?

Linda Simmons – You can't ask that.

Teresa Ballard – Or is that not something the school would anticipate?

Shalyn Unruh – It's very possible. We could. I farm right across the road from it.

Teresa Ballard – Yeah.

Shalyn Unruh – So, I mean, if we want to, but it's kind of up to the group, that you know, our church group. Whether we can do that, it's probable that we will farm some of it. That's a big lawn to have.

Teresa Ballard – Well a crop of hay could, you know, bring your revenue for your school.

Shalyn Unruh – And I've thought about that, too.

Kathy Clarich – Ok, if nobody else has any questions, I'll ask you to sit down for a minute. Is there anybody here that would like to testify in favor of this action? Step up and state your name and your address.

**Proponent Testimony:**

**Linda Henderson – 4797 Highway 201 Ontario, Oregon 97914**

Linda Henderson – Linda Henderson. 4797 Hwy 201, Ontario, I'm at the corner of Evergreen and 201. I'm not really either for or against it. I'm here out of interest, curiosity and to make some points. To the point of the farming – I believe there were some neighbors, that until Dean Barklow died, were farming that property. So, that would be 2 or 3 years ago, maybe, but I can find out for you, give you a name, if that would be helpful.

Kathy Clarich – That's kind of what I had understood, too, when we looked at the property, so.

Linda Henderson – They've answered a bunch of questions, because I was curious about how large a school this was going to be. I'm also curious: are they going to have to pay the \$10,000, like we do, if we put a second home, a residence on a farm use only thing? Is that something that's going to affect them?

Eric Evans – There's no tax penalties in statutes. That's specific about non-farm dwellings. Because you lose that non-farm, or you lose that farm subsidy, in your taxes, when you apply for another... for a non-farm dwelling. So, you have to pay the back taxes for 10 years. I mean, I've never seen it \$10,000, but I have seen a few thousand dollars, and I've seen it \$50. So, um, but schools aren't specifically written with any requirement like that. Any of those in 215.283, those CUPs that are allowed on farmland – none of them, besides non-farm dwellings, have to pay any kind of penalty.

Linda Henderson – Ok. And then, how will this be... will the school be zoned agricultural?

Eric Evans – Yeah, so the zoning doesn't change. So, this is specifically allowed as a Conditional Use Permit on farm ground. The schools are. So, I mean, this is, I mean, I think that historically, I'm not sure schools were necessarily allowed, but this is something that has... I mean, you see little tiny things. I mean, you could do a dog kennel, you can do schools, churches or things. You can do... I mean... So, there are things that are written in there, that are very specific uses.

Linda Henderson – I've been looking for a loophole for years and now I've found it.

Linda Simmons – What grades are you going to teach?

Linda Henderson – No. I'm just going to put a school on my property and not worry about tearing down the house we're living in, anyway.

Eric Evans – There might be some things that aren't loopholes, here coming up, so. I mean, I'd be interested for you guys. So, Senate Bill 70 that we've been talking about – Senate Bill 16, that fix for Senate Bill 16, came back and passed the Senate yesterday. So, it had its first hearing and work session in the House Rules Committee today. And there was one question and it looks like, you know, we might be granted that 200 acres to put... to, you know, rezone 200 acres for residential use for the county, so.

Linda Henderson – And so, even though it's, if they don't farm it, it's still considered agricultural and it's ok. But it's my understanding that if they don't farm it... but what you're saying that they're putting water rights on it, so they don't lose the water rights. Because if they...

Kathy Clarich – You just have to water once in like five years or something like that.

Ed Anthony – You don't have to farm it, you just have to water it.

Linda Henderson – Ok.

Kathy Clarich – Yeah, to keep your water rights.

Linda Henderson – Ok.

Ed Anthony – It doesn't say about farming, it just says you have to put the water rights on there, every five years or water on there, every five years.

Linda Henderson – And I'm curious why they're moving?

Kathy Clarich – The other place didn't, couldn't get the approval for it. Because it was in...

Eric Evans – Airport

Linda Simmons – You mean where they're right now?

Eric Evans – The airport approach zone.

Kathy Clarich – Yeah.

Linda Simmons – Yeah, that was temporary.

Linda Henderson – And...

Eric Evans – And, honestly, I mean, for the record, I mean, they've been looking for places. I don't know how many years, You guys, my office, you've been communicating about finding a place, so.

Linda Henderson – And then the other thing I wanted to point out, and since you live there, you are probably aware of this. But, I see a lot on that corner, of traffic and it used to be a passing lane. We got it... so it's a double, it's a no-passing lane now, but people still pass all the time. And what happens is, somebody stops to turn left, somebody slows down behind that person and some idiot doesn't pay attention to what's going on and zooms around, as this person is turning left, or worse. And I've seen, the last one – was in the ditch behind the house, across the street. Um, so, I just want to remind you, that you want to put your turn signal on early, you want to be looking in your mirrors to make sure a fool isn't coming up behind you.

Kathy Clarich – It's not a very good corner.



Linda Henderson – When you're turning off of 201 onto Evergreen.

Kathy Clarich – Yeah, it's not a very good corner.

Linda Henderson – And ah, it's better.

John Faw – Well, where they're at, is not sweet. You know, I've worked right across from where you're at now, for a number of years, and that can be problematic there, as well, because you've got four lanes there, high speed without a real dedicated turn-lane. And then, the time I was there I didn't see an accident. There were some close calls, but you can't fix stupid.

Kathy Clarich – Right.

Audience Member – That's what I was going to say.

Kathy Clarich – Ok.

Linda Henderson – I've seen plenty of stupid there so.

John Faw – So have I.

Linda Henderson – And I'm waving at you when you go around the corner, I guess, out there in the yard, so.

Kathy Clarich – Ok.

Audience Member – You have all your fingers.

Linda Henderson – Thank you.

Kathy Clarich – Ok, is there anyone else here that is for this action?

Audience Member – I guess the one that is waving is next.

Kathy Clarich – State your name and your address please.

**E Jay Bear – 268 Evergreen Rd, Ontario, OR 97914**

E Jay Bear – Everybody knows me as E Jay Bear. My address is 268 Evergreen Rd. I guess I've been out there and known about these guys longer than anybody here, I think. Because where their school is now, I used to mow that lawn for Bob Smith. You guys have done a heck of a job keeping that place up, it looks better than it ever did.

Kathy Clarich – Yeah, it does.

John Faw – That is a fact.

E Jay Bear – Yes. And I think that's, I think that's what I'd like to see across the street from me. I'd like to see that place fixed up, for the first time ever. Because when that mobile home was pulled out, I didn't even notice it. I think you said 2017, it was gone?

Eric Evans – One of them, at least, yeah. I think there was an exchange at one point in time.

Linda Simmons – Only 6 years ago.

E Jay Bear – Yeah, but the weeds have been so high, I didn't realize, oh, the cars are gone too. When did that get pulled out?

Kathy Clarich – Yeah, there is a lot of weeds and trash, I mean it's just piled high.

E Jay Bear – So, the farming out there that is going on will be greatly improved, I think. If any of what they've have done out at the airport business center is any evidence, which I think it is. What they're wanting to do is a huge improvement and instead of farming onions they're farming kids. And I think that is a very good thing right now. They're farming kids, so they're... most of the people are coming from every different direction, not just 201. I've been out there long enough, where it wasn't called Evergreen, it was called Elm and before that it was Route 4. Forty-some years, so. I guess my point is, whether it's 20 kids, or 50 kids – well, let's give it a try.

Kathy Clarich – Ok, thank you. Anybody else that wants to speak for this action? Anybody online that wants to speak in favor of this action? Ok, is anybody in opposition of this? I think we're ok here.

Eric Evans – I think everybody here has talked. I'm just curious about...

Kathy Clarich – Anybody online that's in opposition?

Eric Evans – Curious about Doug.

Kathy Clarich – Doug?

Linda Simmons – Who's Doug?

Kathy Clarich – I don't know. If you're talking, you're muted, so. Give him a chance, I don't know who it is. Ok. He went... there was a "thumbs down" or something in the corner.

Eric Evans – Oh, was there a reaction? Ok.

**No opponent testimony.**

Kathy Clarich – Ok, so I'm going... unless anybody has any more question for them, I do – one. What grades did you say again, was going to be in there?

Shalyn Unruh – Kindergarten through eighth grade.

Kathy Clarich – Kindergarten through eighth. Do you plan to eventually maybe expand that?

Shalyn Unruh – We have no plans of that as of right now.

Kathy Clarich – Ok, so after eighth grade, they're going to local school, or they just don't go?

Shalyn Unruh – (Inaudible)

Kathy Clarich – You should be doing that before then, so I just, you know.

Audience Member – That's the other school.

Kathy Clarich – And it's a very hard school too, so. Ok, I'm going to close it to public.

**Closed to public testimony.**

Carol Skerjanec – I have a question for Eric. On your proposed findings.

Eric Evans – Mhm.

Carol Skerjanec – Under the General Criteria.

Eric Evans – Ok.

Carol Skerjanec – Your first proposed findings says that there is expected overshadowing. I’m going to assume that the word “no” was simply overlooked.

Eric Evans – What’s... under general, which letter is that?

Carol Skerjanec – One. Both of their documents presented said no overshadowing, but the proposed finding says...

Eric Evans – Yeah, I would say that, that was just a...

Carol Skerjanec – A typo?

Eric Evans – Scripter error, let’s just call it that.

Carol Skerjanec – Ok.

Linda Simmons – So, it’s supposed to say “no overshadowing”?

Eric Evans – Yeah.

Linda Simmons – You’re going to be good.

Kathy Clarich – I’m not in the same spot you guys are then.

Ed Anthony – Second page.

Linda Simmons – Right here.

Kathy Clarich – That’s under criteria.

Linda Simmons – That should be “no overshadowing”.

Carol Skerjanec – Then I had another question and I don’t know, please forgive me if I’m out of line, place, whatever. But on the Performance Standards, where it says a public water system will be constructed, that proposal... you haven’t put a proposal together for the water system that’s going to handle that?

Kathy Clarich – They haven’t done anything yet, until they can get the ground.

Eric Evans – So, the whole idea behind that is they will meet the criteria for public water system.

Carol Skerjanec – Ok.

Eric Evans – Therefore, they will be required for the Oregon Health Authority to go through plan review and to meet their requirements.

Carol Skerjanec – Ok.

Eric Evans – So, they'll meet the population and I mean, that's just what that means.

Carol Skerjanec – Ok, thank you.

Kathy Clarich – So, what we're doing is, we're... if we allow them to go ahead, then we put in these conditions that they will have to meet to get their permits and stuff.

Carol Skerjanec – Ok.

Eric Evans – So, generally we, I mean, technically, we don't have to write those as conditions, right? Because they're required by other statute that they have to meet those. I mean, a lot of times, we'll try to write those in, just to make them aware of that and you know, make sure that we're allowing these things and they have the knowledge of that, that's going to come up.

Carol Skerjanec – Ok.

Kathy Clarich – So, I do have another question for you, Eric though. Because there is another building allowed on this property, a residential building, but you can't divide it off. So, does this take place of that?

Eric Evans – Yeah, I mean, if both of those homes, you know... I don't know for sure, both if both those homes were legally established...

Kathy Clarich – Which they are. I had checked with Tatiana.

Eric Evans – Ok. So, they're both legally established, they have the ability to do a replacement dwelling on those. They're not going to lose that right.

Kathy Clarich – So, they would still have that right, so they could put another house on it besides the school.

Eric Evans – Right. And one thing that you guys may think about putting as a condition as well, is that... the reality is that, so that if they build any new buildings, use any new structures, that use will have to... if they chose to shut down the school, they can't. Those are what those are for – they're for a school. They can't be used... a school or farming, right? Those are the only two allowed uses, if you grant the CUP. Right now, it's only farming. And so, if you grant it as a private or public school, or farming. So, whatever buildings they choose to build would, can only be used for that. Besides the residences, obviously that's...

Ed Anthony – If they close the school, the school has to be torn down or?

Eric Evans – Only used as farming.

Kathy Clarich – If somebody else, if somebody else...

Eric Evans – I mean. I think, there's... I mean, give me a proposal what you're going to use that building for, if it's for storage, if it's for...

Ed Anthony – A shop.

Eric Evans – A shop or for something that’s actually farming, sure. But they just can’t just necessarily, you know, rent it out for...

Ed Anthony – A business.

Eric Evans – Yeah, it’s not. There’s no commercial application, there’s nothing here. Just a school for them and farming.

Kathy Clarich – And so, it would be a school just for them, not for any other group that wanted to come in?

Ed Anthony – It could be a school for someone else.

Kathy Clarich – They would have to be approved?

Eric Evans – Sure. I mean, I think if you give a CUP for a school, I don’t see how we would limit it just to them.

Kathy Clarich – Ok, that is what I wanted to know.

Eric Evans – I mean, I guess, if it was a school, that totally transformed what you guys granted it as, I can’t think, a military school, where they’re... I don’t know, change the dynamic of it, out there. Sure, maybe we would require something, but...

Kathy Clarich – Ok. Well, I was just thinking like that one guy in Vale that wanted to teach truck driving school or something in his acre-lot.

Eric Evans – Right. I think there’s a pretty good argument that I would want them to come back in front of you guys, because they’re fundamentally changing, you know, really what that use is.

Kathy Clarich – What that use would be, ok. So, does anybody want to put in any conditions on it if we grant it or?

Ed Anthony – I think Eric’s got them wrote in there, pretty much already, on that.

Linda Simmons – That’s what I think.

Ed Anthony – Performance standard page: firebreak, driveway, construction – all that’s put in there, I don’t think we need to add anything else.

Kathy Clarich – And so you would get another plan, right, from them, other than what they drew up on this?

Eric Evans – Yeah, we’ll see. I mean, we’ll see, for them to make sure they meet the site, you know, the zoning permit, once it comes down. So yeah, we’ll get a site plan from them once they get everything, figured out exactly what they’re going to do.

Kathy Clarich – Ok. I’d like to see them continue to farm, but that’s up to you guys whether you want have them put it on the non-farm part or not. So, I need a motion.

***Ed Anthony made a motion to approve the staff report and findings of facts. Chad Gerulf seconded the motion which was unanimously approved by the Commissioners present, except for John Faw, who abstained from the vote.***

***Ed Anthony made a motion to approve a Conditional Use Approval for a private school and the performance standard that are already written. Carol Skerjanec seconded the motion which was unanimously approved by the Commissioners present, except for John Faw, who abstained from the vote.***

Kathy Clarich – Just check with him as to what you need to do from now on and then you can go for it.

Ed Anthony – We'll go from there.

Shalyn Unruh – Thank you very much, appreciate it.

Eric Evans – Thanks guys.

Kathy Clarich – Hopeful this one goes better than the last one. Ok, so we have to approve the April minutes.

Ed Anthony – Any changes Kathy?

Kathy Clarich – I made the corrections already and gave them to Julie.

***Ed Anthony made a motion to accept the minutes for the April 2023 meeting, with the corrections. Chad Gerulf seconded the motion which was unanimously approved by the Commissioners present.***

***Ed Anthony made a motion to adjourn meeting. Chad Gerulf seconded motion which was unanimously approved by the Commissioners present.***

Respectfully submitted, Julie Bromley.

Minutes approved by:

Name: 

Date: 