

**Before the Planning Commission**

**Planning Department File No. 2023-05-010**

**CONDITIONAL USE APPLICATION  
FOR  
A PRIVATE SCHOOL**

Planning Commission Meeting Date: June 22, 2023

- 1. APPLICANT:** Oregon Trail Mennonite Church Inc  
839 Onion Ave  
Ontario, Oregon 97914
- 2. OWNER OF RECORD:** Marlin Barklow  
PO Box 503  
Ontario, Oregon 97914
- 3. PROPOSED ACTION:** Conditional Use approval for a private school.
- 4. PROPERTY IDENTIFICATION:** Tax Lot 300, T17S, R47E, Sec. 03; Assessor's Map 17S47E03; Malheur County Reference #6593.
- 5. PROPERTY LOCATION AND DIRECTIONS:** from Ontario, head north on Hwy 201 for 6.5 miles. Turn left onto Evergreen Rd. Continue for 1 mile. The property is on the left-hand side. The existing dwelling on the property has the address of 275 Evergreen Rd, Ontario OR 97914.
- 6. ZONING:** Exclusive Farm Use (C-A1).
- 7. PARCEL SIZE:** The parcel is 15.20 acres.
- 8. PARCEL USE:** Parcel is currently idle, not being farmed. There is a single-family dwelling on the parcel.
- 9. SURROUNDING USE:** Exclusive farm use properties with single-family dwellings.
- 10. ACCESS:** Evergreen Rd. (Exhibit 4)
- 11. SANITATION REQUIREMENTS:** There is an existing septic system currently, for the existing single-family dwelling that is on the property. Any new structures with restroom facilities would require an Oregon Department of Environmental Quality permit including onsite wastewater.
- 12. FIRE PROTECTION:** The parcel is located within the Payette Rural Fire Department (Exhibit 2).

- 13. NATURAL HAZARDS:** No natural hazards have been identified.
- 14. WATER RIGHTS:** The parcel has water rights (Exhibit 3).
- 15. SOIL TYPE:** The soils on the property are class III.
- 16. ZONING HISTORY:** The existing dwelling was built in 1976. In 1984, a second dwelling (a manufactured home) was permitted to be placed on the property, to replace another manufactured home that has been previously existing on the property. The manufactured home was removed off the property in 2017.

#### **GENERAL CONDITIONAL USE CRITERIA**

**MCC 6-6-7 - GENERAL CRITERIA TO EVALUATE SUITABILITY:** In considering the suitability of proposed conditional uses, the Planning Commission shall base its decision upon the following criteria:

- A. Comprehensive Plan goals and policies, as applicable.
- B. Specific plan recommendations

**Finding: MCC 6-3A-3(A) regulates the conditional use process for a private school in an exclusive farm use zone and MCC 6-6-7 regulates the general criteria to evaluate suitability for conditional use process.**

- C. Existing development and viewpoints of property owners in the surrounding area.

**Finding: Letter notice was sent to adjoining landowners on June 1, 2023 and published in the Argus Observer on May 31, 2023. No opposing comments were received.**

- D. Availability of services and utilities.

**Finding:**

**ROADS:** The proposed school will be accessed via Evergreen Rd. The Ontario Rural Road Assessment District does not anticipate any adverse traffic or maintenance impact to the district (Exhibit 4). A dual wall Hancor-style culvert (of minimum, but not limited to 10 inches) will be required for the access point to the property from Evergreen Rd.

**FIRE & POLICE PROTECTION:** The building will be located within the Payette Rural Fire Department. All driveways and facilities will comply with current fire and safety regulations and as provided by the State Fire marshal. Coverage will be ensured by the Department (Exhibit 3).

**SEWER & WATER:** The facility will be required to have a DEQ permitted onsite wastewater treatment system. The proposal will meet the definition of a

**non-transient non-community public water system and be subject to regulation by the Oregon Health Authority – Drinking Water Services. Plans for the water system must be submitted for review prior to construction per OAR 333-061-0060 to ensure the facilities will meet current construction standards.**

**ELECTRICAL & TELEPHONE: The facility will need an additional power pole installed and will naturally increase the power used on the line.**

**SOLID WASTE DISPOSAL: The facility will contract with Ontario Sanitary Services.**

- E. The effect of the proposed use on the stability of the community’s social and economic characteristics.

**Finding: The current plan is to be a contributing member to the community’s economics by operating the school in Ontario.**

- F. It does not interfere with traditional fish and wildlife use of habitats determined critical or sensitive in the Fish and Wildlife Habitat Protection Plan for Malheur County.

**Finding: The proposed school is not located in an area that contains fish or wildlife deemed critical or sensitive, and will not interfere with traditional fish and wildlife.**

- G. General Criteria

1. Increasing setbacks of structures to reduce possibilities of overshadowing adjoining property, noise, odor or night lighting nuisances.

**Finding: The proposed development is within an exclusive farm use area, with residential developments. The closest single-family dwelling is more than 420 feet away, across Evergreen Rd and there is no expected overshadowing. There is no expected significant addition to noise, odor or lighting nuisances.**

2. Landscaping improvements for the visual benefits of the subject site and for the improved appearance of the neighborhood and County.

**Finding: There will be normal landscaping improvements (lawn, shrubs and trees). The overall appearance will enhance the area and the County.**

3. Location and size of driveway access points and right-of-way widening and improvement for present and future traffic circulation and safety.

**Finding: The access point will be off Evergreen Rd. As per Ontario Rural**

**District, a minimum, but not limited to 10-inch dual wall Hancor-style culvert for access points. (Exhibit 4).**

4. Visual screening of outdoor waste and storage areas.

**Finding: The proposed development is for a private school. Outdoor storage will be limited.**

5. Control and focusing of outdoor lighting to avoid glare being directed beyond property limits.

**Finding: Any lighting will be on and around the school building. There will be no interference with the adjoining properties.**

6. Special criteria listed below, as applicable:

H. Allowance of Certain Uses: A use allowed under Section 6-3A-3 of this Title shall be approved only where it is found that the use will not:

1. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
2. Significantly increase cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. (Ord. 86, 12-7-1993)

**Finding: The property is zoned exclusive farm use. The property hasn't been farmed. The proposed development will be sited on non-irrigated land to minimize any loss of farm ground.**

## **OTHER FINDINGS OF FACT**

The applicant has submitted additional proposed findings of fact in the conditional use application.

## **CONDITIONS OF APPROVAL**

### **1. PREREQUISITE:**

- a. All applicable federal, state, and local permits must be obtained.
- b. All prerequisite conditions must be met prior to the issuance of a zoning permit and the start of construction.

### **2. PERFORMANCE STANDARDS:**

- a. Adequate firebreaks shall be constructed and maintained to minimize danger from potential wildfire and the access road shall be brought up to the International Fire Code standards.

- b. The driveway must be constructed to meet the International Fire Code standards. A culvert will be required to be installed in the approach (Exhibit 4).
- c. New structures must meet International/Oregon Fire Code requirements for structure design, considering the minimum fire-flow requirements for structure size and construction.
- d. A public water system will be constructed as required by the Oregon Health Authority – Drinking Water Services. Plans for the water system must be submitted for review prior to construction per OAR 333-061-0060 to ensure the facilities will meet current construction standards.
- e. Authorization of this conditional use shall be void after two (2) years unless substantial construction has taken place.

**CONCLUSION**

Based upon the foregoing finding of fact, the Malheur County Planning Commission makes the following conclusion and decision:

Substantial evidence exists in the record to support the conclusion that the application meets the general and specific criteria established in the Malheur County Code and Oregon Revised Statutes for a private school in an exclusive farm use zone.

**ORDER**

This application for a conditional use permit for a private school is approved.

**APPEALS**

The appellate body for appeals from the final decision of the Planning Commission is the County Court. To file an appeal an appellant must file a completed notice of appeal on a form prescribed by the Planning Department with a \$200.00 appeal fee with the Planning Department not later than 5:00 pm on the tenth day following the mailing of written notice of the decision. Notice of appeals may not be received by fax or email. The notice must include a statement raising any issue relied upon for the appeal with sufficient specificity to afford the County Court an adequate opportunity to respond to and resolve each issue. All appeals from the Planning Commission’s final decision shall be based on the record of the hearing made before the Commission. Therefore, no additional information or testimony not included in the record of the hearing before the Planning Commission may be brought before the appellate body. The appellant must pay for the transcription of the hearing appealed from and submit the transcript to the Planning Department within ten (10) days after the date of notice of appeal is filed or ten days after the hearing tape is mailed or given to the appellant, whichever is later.

  
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 Planning Commission Chair  
 Kathy Clarich

6-29-2023  
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 Date