

STAFF REPORT

Planning Department File No. 2026-04-017

**CONDITIONAL USE APPLICATION
FOR
A Hunting Preserve**

Planning Commission Meeting Date: May 28, 2026

1. **APPLICANT:** Jason Kelly
10303 Highway 95
Payette, ID 83661
2. **OWNER OF RECORD:** Stoney Schulthies
738 Enterprise Ave
Nyssa, OR 97913
3. **PROPOSED ACTION:** Conditional Use approval for a private hunting preserve on a 219-acre farm in Nyssa Oregon.
4. **PROPERTY IDENTIFICATION:** Tax Lot 1000 and 1100, T22S, R46E, Sec. 02; Assessor’s Map 20S46E02; Malheur County Reference #9972 and 9973.
5. **PROPERTY LOCATION AND DIRECTIONS:** from Ontario, head south for about 12 miles on Hwy 201 Continue on to OR-201 for 4.6 miles take a slight right onto Enterprise Ave. Continue straight for about 2 miles 738 Enterprise Ave will be on the right-hand side.
6. **ZONING:** Exclusive Farm Use (C-A1).
7. **PARCEL SIZE:** The parcels 143 acres and 76.37 acres for a total of 219.37
8. **PARCEL USE:** The primary use of tax lot 1000 is for a single-family with farm ground surrounding the property on tax lot 1100 the use is primary farm ground.
9. **SURROUNDING USE:** All the adjacent properties are being farmed with homesites and non-farm dwellings.
10. **ACCESS:** Access is directly off Enterprise and Fairview
11. **SANITATION REQUIREMENTS:** No sanitation system will be required. Applicant will place a porta potty at parking location for use from hunters.
12. **FIRE PROTECTION:** The parcel is located within the Nyssa Fire Department.

- 13. **NATURAL HAZARDS:** No natural hazards have been identified.
- 14. **WATER RIGHTS:** The property is within Owyhee Irrigation District
- 15. **SOIL TYPE:** The entire property is covered in soils of class 1, 3, 4, 6 and 7(see exhibit 9)
- 16. **ZONING HISTORY:** In 2020, Property Line Adjustment File No. 2020-02-005—008 was approved between REF #15803 and REF #9973. In 2021, the property owner applied for approval of two non-farm dwellings and two non-farm partitions. In 2023, an application for a 60' x 96' agricultural shop was submitted and approved. There is no other known zoning history associated with the property.

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

Proposed Finding: MCC 6-6-7 regulates the general criteria to evaluate suitability and ORS 497.248 private hunting preserve license.

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

Proposed Finding: Letter notice was sent to adjoining landowners on May 3rd, 2026 and published in the Argus Observer on May 3rd, 2026. No comments were received.

- D. Availability of services and utilities.

Proposed Findings:

ROADS: The entrance to the property will be off of Enterprise and Fairview. No additional access points will be required.

FIRE & POLICE PROTECTION: The proposed hunting preserve site is located in the Nyssa Fire Department All driveways and facilities will comply with current fire and safety regulations. There will be little to no impact on the police protection.

SEWER & WATER: The proposal is for a hunting preserve and portal toilets will be provided on the property for hunters

ELECTRICAL & TELEPHONE: No additional power will be required to support the operation of the hunting preserve

SOLID WASTE DISPOSAL: Waste will be disposed from applicant after each hunt.

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

Proposed Finding: The proposal is to operate a registered business, which will act a regulated tax-paying entity. The operation will increase the County's tax revenue.

- 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.

Proposed Finding: The site of the hunting preserve 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.

Proposed Finding: The possibilities of overshadowing the adjoining property will be reduced by the natural geographical location the noise or lighting nuisances will be limited within the bounds of the dedicated County Code regulation. Odor will be minimal. The dwelling located in close proximity of the hunting preserve is the property owner's children.

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

Proposed Finding: Landscaping improvements will be maintained in its current condition

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

Proposed Finding: The access points are existing. No new access points are being proposed for this development. All parking will be contained within the boundaries of the subject property.

4. Visual screening of outdoor waste and storage areas.

Proposed Finding: There will be no outdoor waste areas or storage.

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

Proposed Finding: No new outdoor lighting proposed.

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)

Proposed Finding: Adjacent farmland will not be impacted by the preserve.

ORS 497.248: Private hunting preserve license: A hunting preserve shall comply with the following standards:

1. No person shall engage in the business of operating a private hunting preserve for the hunting of privately owned or propagated game birds unless the person first obtains from the State Fish and Wildlife Commission a private hunting preserve license.

Proposed Finding: The applicant must first obtain Planning and Zoning approval prior to licensing through the Oregon Department of Fish and Wildlife (ODFW). The applicant has been in contact with ODFW and is in the process of obtaining the required licensing upon completion of County land use approval. This criterion is met

2. The commission shall issue a private hunting preserve license to an applicant therefor if the commission finds that the operation of the preserve with meeting the following:
 - a. The preserve is on one continuous tract of land owned by the applicant or leased by the applicant and contains: not more than 640 acres.

Proposed Finding: The proposed hunting preserve will be located on one continuous tract of land consisting of approximately 219.37 acres. This criterion is met.

- b. The preserve is located at least one-half mile from any other licensed private hunting preserves.

Proposed Finding: The nearest known licensed hunting preserve is located near Vale, Oregon, approximately 18 miles from the subject property. This criterion is met.

- c. No portion of the preserve is located closer than one-half mile to any park, wilderness area, refuge or wildlife management area operated by any agency of the state or federal government.

Proposed Finding: There are no known parks, wilderness areas, refuges, or wildlife management areas operated by a state or federal agency within one-half mile of the proposed hunting preserve. This criterion is met.

- d. The exterior boundaries of the preserve are clearly defined and posted with signs erected around the extremity at intervals of 1,320 feet or less. The signs shall comply with requirements prescribed by the state department of fish and game.

Proposed Finding: Boundary signage will be required in accordance with ODFW standards and regulations. Compliance with ODFW requirements will be required prior to operation of the hunting preserve. This criterion is met.

- e. The applicant has facilities to propagate or hold not less than 500 of each wildlife species to be released for hunting.

Proposed Finding: ODFW will review and regulate the applicant's propagation and holding facilities as part of the State licensing process. This criterion is met.

- f. The applicant will not prevent or attempt to prevent public hunting on lands adjacent to the preserve.

Proposed Finding: The applicant and property owner acknowledge that public hunting access on adjacent lands shall not be restricted or interfered with by operation of the hunting preserve. This criterion is met.

OTHER PROPOSED FINDINGS OF FACT

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

PROPOSED CONDITIONS OF APPROVAL

1. PREREQUISITE:

- a. All aspects of the proposed hunting preserve must stay confined within the boundaries of the subject property.

2. PERFORMANCE STANDARDS:

- a. Any deviation from this proposal, including but not limited to additions of new structures, shall void this permit and a new permit must be obtained. This permit is not transferable – it is personal to the Applicant and shall not run with the land. New owners of the property will need to obtain a permit.
- b. The hunting preserve shall operate substantially in accordance with the submitted application, site plan, and narrative materials.
- c. All applicable permits and licenses from the Oregon Department of Fish and Wildlife (ODFW) shall be maintained and complied with at all times.
- d. Hours or days of operation may be limited to reduce conflicts with surrounding agricultural uses and neighboring properties.
- e. Noise associated with the operation shall be kept to a minimum and comply with applicable County ordinances.
- f. Lighting shall not project off the property. Use of glaring lighting is prohibited.
- g. The hunting preserve shall not interfere with accepted farm or ranch practices on surrounding EFU properties.

EXHIBITS

1. Application
2. Letter from Owyhee Irrigation District
3. Letter from Kelly Walton - ODFW
4. Letter from Nyssa Fire Department
5. Letter from Nyssa Road Assessment District #2
6. Letter between Stoney Schulthies & Jason Kelly
7. Site plan
8. Proposal for the establishment and operation of The Final Flush
9. Soil classifications