



Public Hearing Item 2: Conditional Use Permit

Planning & Zoning Committee • June 4, 2024

<u>Proposed Use:</u>	Governmental, institutional, religious, or nonprofit community use (educational center)
<u>Applicable Section(s):</u>	12.105.02; 12.125.09; 12.155.04(4)
<u>Zoning District(s):</u>	A-1 Agriculture
<u>Property Owner(s):</u>	Schrock, Vernon O; Schrock Elizabeth Mae
<u>Applicant(s):</u>	Miller, Glen
<u>Property Location:</u>	Located in the Northwest Quarter of the Northwest Quarter of Section 10, Town 13 North, Range 10 East
<u>Town:</u>	Marcellon
<u>Parcel(s) Affected:</u>	176
<u>Site Address:</u>	N9580 Comstock Road

Background:

Glen Miller, applicant, and Vernon O and Elizabeth Mae Schrock, owners, requests the Planning and Zoning Committee review and approve a Conditional Use Permit for an Amish educational center, which is classified as a governmental, institutional, religious, or nonprofit community use. This use requires a Conditional Use Permit within the A-1 Agriculture zoning district per Table 12.105.02(1) of the Columbia County Zoning Ordinance. Parcel 176 is 40 acres in size and is zoned A-1 Agriculture. There is an existing residence and several agricultural structures on site. The property is zoned A-1 Agriculture and is planned for continued Agricultural or Open Space land use on the Columbia County Future Land Use map. There are no wetlands or floodplain present. Land use and zoning of adjacent properties are shown in the table below.

Adjacent Land Uses and Zoning

Direction	General Land Use	Zoning
North	Agriculture	A-1 Agriculture
East	Agriculture	A-1 Agriculture
South	Agriculture and Single-Family Residence	A-1 Agriculture
West	Agriculture	A-1 Agriculture

Analysis:

The proposed educational center is classified under Section 12.155.04(4) as a governmental, institutional, religious, or nonprofit community use, which is defined further as, “a grouping of civic and institutional uses as allowed in Agricultural and Open Space zoning districts and further regulated by the standards in Section 12.125.09, in order to meet the requirement of Wisconsin Statutes Chapter 91.” The proposed use does not qualify as a school, which is defined under 12.155.04(9) as, “an early childhood learning, elementary, junior high, or high school educational center that provide state-mandated basic education” because the Amish are exempt from state mandated education requirements per Wisconsin v. Yoder, 1972. Department staff further confirmed with the Wisconsin Department of Agriculture, Trade, and Consumer Protection that the use category of governmental, institutional, religious, or nonprofit community use is applicable, and that it is in conformance with farmland preservation requirements, provided that it follows the requirements of Section 12.125.09(3). This section further requires that the Planning and Zoning Committee makes the following determinations:

- (a) The use and its location in the district are consistent with the purposes of the zoning district per Section 12.105.01.
- (b) The use and its location in the district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- (c) The use is reasonable designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
- (d) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- (e) Construction damage to land remaining in agricultural use is minimized and will be repaired to the extent feasible.

The Amish educational center will typically be in session Monday through Friday from 8:30 am until 3:00 pm and will serve the surrounding Amish neighbors. The new building will be 28 feet by 44 feet in size and will be located behind the existing barn. A new access point is proposed to the south of the existing barn and will need to be approved by the Town. There will be no running water within the building. Restrooms for the children will be located outside of the structure. Two pit privies will be installed, and their location can be viewed on the included site plan. A separate 40-foot by 30-foot parking area will be located to the north of the existing barn.

The existing residence must retain a density of one home per 35 acres per farmland preservation requirements. The proposed educational center will be located on the existing parcel, and no new divisions are proposed. If any land divisions are proposed in the future on this parcel that would result in the home being located on a lot less than 35 acres in size, a rezone will be required to maintain a density of one home per 35 acres.

Town Board Action:

The Marcellon Town Board met on May 13, 2024 and recommended approval of the Conditional Use Permit, with no additional conditions.

Standards for Review:

The proposed use complies with the General Criteria of Section 12.150.07(4) of the Columbia County Zoning Ordinance. See Attachment A for more details.

Recommendation:

Staff recommends approval of the Conditional Use Permit for a Governmental, institutional, religious, or nonprofit community use (educational center), subject to the adoption of the following recommended Findings, Conclusions, and Conditions.

Recommended Findings of Fact:

1. Upon review of the guidelines in Section 12.150.07(4) of the Columbia County Zoning Ordinance, and with the explanation of the criteria in Attachment A of the Staff Report, the Committee finds the following:
 - a. Vernon O and Elizabeth Mae Schrock are the owners of the subject property.
 - b. Glen Miller is the applicant for a Conditional Use Permit.
 - c. Gen Miller, Vernon O Schrock, and Elizabeth Mae Schrock are requesting a Conditional Use Permit to establish an educational center on the subject property, which is zoned A-1 Agriculture.
 - d. The property is already developed with a single-family residence and several agricultural structures on site.
 - e. The establishment, maintenance, or operation of the proposed use will not be detrimental to or endanger the public health, safety, or general welfare of the occupants of surrounding lands.
 - f. The use will be designed, constructed, operated, and maintained so as to be compatible, and be appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area such that the use will substantially impair or diminish the use, value, or enjoyment of existing or future permitted uses in the area.
 - g. The erosion potential of the site, based on topography, drainage, slope, soil type, and vegetative cover is minimal.
 - h. There is no existing or anticipated water pollution including sedimentation, and no impacts on floodplain and wetlands.

- i. Access to streets and highways is suitable, and ingress and egress is designed to minimize traffic congestion and the potential effect on traffic flow.
- j. The Conditional Use shall conform to the standards of the applicable district(s) in which it is located.

Recommended Conclusions of Law:

1. The subject property is located in the Town of Marcellon and is zoned A-1 Agriculture.
2. A governmental, institutional, religious, or nonprofit community use is a conditional use within the A-1 Agriculture zoning district.
3. Vernon and Elizabeth Mae Schrock are the owners of the subject property. Signatures of the property owners are on file with the application for a Conditional Use Permit.
4. Glen Miller is the applicant for a Conditional Use Permit. The petition followed the procedures of Section 12.150.07(3) of the Columbia County Zoning Ordinance.
5. The proposed use is consistent with the purpose and intent of the Columbia County Zoning Ordinance.
6. The owners and applicant are proposing to establish and operate an educational center, which is allowed as a Conditional Use under Table 12.105.02(1). This use is classified as a governmental, institutional, religious, or nonprofit community use.
7. The Marcellon Town Board has reviewed and recommended approval of the Conditional Use Permit, with no additional conditions, in accordance with Section 12.150.07 of the Columbia County Zoning Ordinance.
8. The Columbia County Planning and Zoning Committee has the authority under Sections 12.150.03(2)(b) and 12.150.07 of the Columbia County Zoning Ordinance to conduct public hearings, review, and decide on requests for Conditional Use Permits.
9. The standards of Section 12.125.09 of the Columbia County Zoning Ordinance are applicable.

Recommended Conditions for the Decision:

1. A new Emergency Response Number shall be obtained for the educational center.
2. All lighting for the facility shall be oriented so that the lighting elements (or transparent shield) are not visible from an adjacent property or right-of-way. The use of shielded luminaries and careful placement of fixtures is encouraged to facilitate compliance with this requirement.
3. Signage shall comply with Section 12.145 of the Columbia County Zoning Code.
4. Installation of running water within the building shall require appropriate upgrades to the sanitary facilities on site.
5. Any amendments to the approved site plans, additions, or changes in the size of the structures shall be referred to the Town for review and the Committee for action.
6. The owner and operator shall comply with and obtain all necessary permits required by applicable federal, state, and local regulations.
7. The Planning and Zoning Department shall have the right of inspection for the purpose of determining compliance with this permit during normal working hours or upon reasonable notice outside of normal hours.
8. If the Planning and Zoning Committee finds that the review criteria of Subsection 12.150.07(4) of the Columbia County Zoning Ordinance, or the conditions stipulated in the Committee Decision are not being complied with, the Planning and Zoning Committee, after a public hearing, may revoke the Conditional Use Permit.
9. Any agreement(s) or condition(s) pertaining to this Conditional Use Permit between the Town of Marcellon and Vernon O Shrock, Elizabeth Mae Schrock and Glen Miller are hereby incorporated as part of this Conditional Use Permit; however, the County is not responsible for enforcing said agreement(s) or condition(s), unless an individual point of the agreement(s) or condition(s) is specifically included above as a condition of approval. Any additional Town agreements or conditions are listed below. In the event that the Town submits a finding of noncompliance with any of the item(s) listed below, for which the County has not assumed direct enforcement authority, upon written request by the Town, the County reserves the right to review the Conditional Use Permit.

Section 12.150.07(4): Criteria for review of all Conditional Uses

Re: Public Hearing Item 2: Schrock – Governmental, institutional, religious, or nonprofit community use

**Staff comments are italicized after each review item.*

Review Criteria. In reviewing the conditional use permit the Planning and Zoning Committee shall use the following as guides for making a decision.

- (1) The establishment, maintenance, or operation of the proposed use will not be detrimental to or endanger the public health, safety, or general welfare of the occupants of surrounding lands. *The requirements of Section 12.125.09(3) ensure the proposed use will comply with Farmland Preservation requirements. Issues which could be seen as having the potential to be detrimental appear to be able to be adequately mitigated by the application of conditions of approval, as well as abiding by all permitting requirements.*
- (2) The use will be designed, constructed, operated, and maintained so as to be compatible, and be appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area such that the use will substantially impair or diminish the use, value, or enjoyment of existing or future permitted uses in the area. *The essential character of the area will remain unchanged, with limited rural development in the area.*
- (3) The erosion potential of site based on topography, drainage, slope, soil type, and vegetative cover. *Erosion potential is minimal.*
- (4) The prevention and control of water pollution including sedimentation, and the potential impacts on floodplain and wetlands. *There are no wetlands or floodplain in the vicinity; however, site appropriate stormwater management and erosion control techniques should be used during construction to minimize disturbance to the surrounding environment.*
- (5) The site has adequate utilities, including if necessary acceptable disposal systems. *The proposed educational center will include two pit privies, with one located to the east and other located to the west of the proposed building. No running water is proposed within the building.*
- (6) Access to streets and highways is suitable, and ingress and egress is designed to minimize traffic congestion and the potential effect on traffic flow. *Ingress and egress to the site is from a town road. A new Emergency Response Number will need to be obtained for the use. There will likely be additional horse and buggy or foot traffic before/after school hours; however, it is not likely to cause any disturbances on traffic flow, because these roads have minimal traffic.*
- (7) The Conditional Use shall conform with the standards of the applicable district(s) in which it is located. *The use must comply with the conditions of approval as well as the standards set forth within the Columbia County Zoning Code, specifically 12.125.09(3).*



