



PLANNING & ZONING DIVISION

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING  
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

## CLACKAMAS COUNTY BOARD OF COMMISSIONERS

### LAND USE HEARING

December 8, 2021

10:00 AM

This public hearing will be conducted in person *and* virtually using the Zoom platform. If you wish to attend in person, the address is:

**2051 Kaen Rd, BCC Hearing Room—4<sup>th</sup> Floor, Oregon City**

The Zoom link to the public hearing and details on how to observe and testify online or by telephone are available on our website: <https://www.clackamas.us/meetings/bcc/landuse>.

All interested parties are invited to attend the hearing in person, online or by telephone and will be provided with an opportunity to testify orally, if they so choose. The staff report and drafts of the proposed amendments are available on our website at <https://www.clackamas.us/meetings/bcc/landuse>. Please direct all calls and correspondence to the staff member listed below.

### LAND USE HEARING

**File No.:** Z0208-21-CP: Northwest Bible Training Center Comprehensive Plan Amendment

**Applicants:** Northwest Bible Training Center

#### **Proposal:**

A proposed Comprehensive Plan Amendment for an exception to Statewide Planning Goal 3 (Agriculture), pursuant to ORS 660, for use of the property, including an existing residence and accessory buildings, as an 'addiction recovery farm'. **Staff Contact:** Melissa Ahrens, Senior Planner, 503-742-4519, [MAhrens@clackamas.us](mailto:MAhrens@clackamas.us)

*Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at least three (3) business days before the meeting at 503-742-4545 or email [Drenhard@clackamas.us](mailto:Drenhard@clackamas.us).*

¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод? | 翻译或口译? | Cần Biên dịch hoặc Phiên dịch? | 번역 또는 통역?

P. 503.742.4500

F. 503.742.4550

WWW.CLACKAMAS.US



---

**Land Use Hearing Item**  
**Staff Report to the Board of County Commissioners**

---

**File Number:** Z0208-21-CP, Comprehensive Plan Amendment and Zone Change

**Staff Contact:** Melissa Ahrens, Planning and Zoning Division, 503-742-4519,  
mahrens@clackamas.us

**Board of County Commissioners Hearing Date:** December 8th, 2021

---

**PROPOSAL:**

A proposed Comprehensive Plan Amendment for an exception to Statewide Planning Goal 3 (Agriculture), pursuant to ORS 660, for use of the property, including an existing residence and accessory buildings, as an 'addiction recovery farm'. The use would include long term (8-10 month) residential drug and alcohol addiction recovery treatment for adults, with up to 31 staff and residents living in a dormitory and in an existing dwelling on the property. The proposed use is not a church, not a school or boarding school, not a farm labor dwelling, and not a residential treatment home or facility, per the application materials and regulatory definitions of each use. The use consists of the following:

- Faith based, long term (8-10 month), free of charge, residential addiction recovery treatment for adults (over 18)
- No short term or overnight guests
- No large gatherings- an estimated 7 vehicle trips per day
- Use of existing accessory building, currently permitted as a shop, as part of the proposed treatment program to include one large multi-purpose room to be used for Bible classes and prayer meetings, 3 staff offices for file storage, shared kitchen, library, a men's dormitory style bedroom with accompanying bathroom, a women's dormitory-style bedroom with accompanying bathroom, and a laundry room, 3 staff bedrooms and 2 staff lounges
- 26 staff and residents living in the dormitory building
- 5 staff living in an existing dwelling on the property
- 'Passive farming' activities part of program

Because the subject site is zoned EFU (Exclusive Farm Use), the proposed faith based addiction recovery treatment facility is not allowed on the site under both county regulations and state law. As such, to locate these uses on the site, an exception to Statewide Planning Goal 3 (Agriculture) must be taken under the procedure described in the Oregon Administrative Rules (OAR) 660, Division 4

Statewide Planning Goal exceptions are amendments to Comprehensive Plan provisions that set forth facts and reasons authorizing and justifying the necessary departures from the Statewide Planning Goals. In this instance, the applicant has requested "reasons" exceptions to Goal 3, in which the applicant must demonstrate why the proposed use (1) is "needed" on the subject property, (2) cannot reasonably be located on an "alternative" site, (3) will have minimal adverse "consequences", and (4) is "compatible" with neighboring uses.

In reviewing the proposed use, and the requested "reasons" exception to Goal 3, the County is required by state law to make findings regarding consistency with Statewide Planning Goal 14 (Urbanization). After consideration of relevant factors (detailed in Section E of the Staff Report, No. 4 of the BCC packet), Staff has found that the proposed use is an "urban" use under the context of Goal 14. The proposed urban use would not provide for an orderly and efficient transition from rural to urban land uses, the requirement for Goal 14, and, as such, an exception to Goal 14 is required *in addition* to the Goal 3 exception. Consideration of the criteria related to both Goal 14 and Goal 3 exceptions are detailed in the Planning Commission Staff Report (No. 4 in BCC Packet).

**Background:**

The subject property is 7.7 acres in size and is located outside of the Portland Metropolitan Urban Growth Boundary at 23172 S Bluhm Rd. The subject property is located in a rural, largely undeveloped, agricultural area of the County surrounded by EFU zoning. The subject site is relatively flat farmland, classified as having high value agricultural soils per the NRCS soil classifications for Clackamas County. There are no wetlands, floodplains, steep slopes, or other protected natural resources on the subject property. The subject property has an existing well that provides water service and the applicant submitted an email from the state water master explaining that the use was considered exempt from needing a water right unless any farm crops were being sold from farming on the property. Since commercial farming and sale of farm crops is not proposed as part of the described use, no water right was required by the state. The applicant also submitted a land use compatibility statement from Clackamas County's septic department indicating that the soils on site could feasibly accommodate a septic system to serve the proposed use and number of proposed residents.

The subject applicant, Northwest Bible Training Center (NWBTC), is a satellite branch of Mission Teens, who is the property owner and is classified as a 501(C)(3) faith ministry, according to the NWBTC's website. Mission Teens was founded in 1969 in New Jersey and there are now 20 different residential treatment facilities spread throughout the US that are owned by Mission Teens and operated under the Mission Teens treatment ideology and program schedule. NWBTC was started in 1994 in North Portland and operated there until 2018, when the subject property was purchased by Mission Teens and the treatment facility operation was moved. The applicants were using an existing shop building as a residential dormitory associated with the proposed use. A violation file was opened in 2019 by the building department because modifications were made to the shop building without the benefit of building permits. A commercial building permit would be required to formally convert the building so it could be useable for the purpose proposed by the applicants.

**Figure 1: Property Aerials**



---

**RELATED PRIOR BCC ACTION:**

None.

---

**PLANNING COMMISSION ACTION:**

A public hearing was held on November 8<sup>th</sup>, 2021, for Planning Commission consideration of the proposal. At that hearing, the Planning Commission continued the hearing after public testimony was closed, since the meeting had gone on for over 4 hours. There were public comments made both in support and opposition of the proposed application. Major themes of the comments in support were descriptions of the benefits of the proposed use and how it had helped many overcome drug and alcohol dependence, homelessness and traumatic life situations. Many comments were made by former participants of the treatment program and volunteers who regularly visited and helped with teaching at the program. Major themes of the comments in opposition were concerns about farmland protection from neighboring farmers who described adverse impacts the proposed use was having on their farming operations, as well as concern about the use setting an inappropriate precedent in the rural area.

The meeting was continued to November 22, 2021, for Planning Commission deliberations and discussion. At the November 22, 2021 meeting the Planning Commission voted 6 to 2 to support staff's recommendation of denial on the proposed application. Approved minutes of the Planning Commission hearing are included in the BCC materials.

---

**CPO RECOMMENDATIONS:**

No formal recommendation was made by the Beavercreek CPO. Their comments are attached as Exhibit 17 in the exhibits document (No. 7 of the Packet).

---

**SIGNIFICANT ISSUES:**

Three main categories of significant issues were raised at the Planning Commission hearing.

*(1) Inconsistency with Goal Exception Statutes*

Multiple Commissioners expressed that, while they were supportive of the use itself and recognized the many benefits of the service being provided by NWBTC, they thought the proposal does not comply with the requirements in statute for approval of an exception to Statewide Planning Goal 3 or 14. There is a very high bar set by state law for meeting the requirements of a "reasons" exception to statewide planning goals and this application did satisfy the criteria for an exception to Goal 3 or 14.

*(2) Protection of rural area and farming*

Commissioners who voted to deny the proposed application were also concerned about the precedent this would set for the rural areas of the County where farmland and farming activities were intended to be protected from urban uses. There was concern about this being an urban use, with many people coming from the urban area to the facility. The program was able to operate successfully in the urban area in Portland from 1994 to 2018 and so it was clear the treatment facility does not need to be located on the subject rural property to function. In

addition, there may be other rural areas where the proposed use can occur that still have the desired rural character, but are not high value farmland and EFU zoning.

*(3) RLUIPA*

The applicant asserted during their testimony that the Religious Land Use and Institutionalized Persons Act (“RLUIPA”) applies to the proposed use and that there is no compelling interest for the County to restrict the religious exercises of NWBTC to protect EFU zoned land. Planning staff addressed this issue in section III of the Planning Commission staff report and also summarized the issue in their presentation to the Planning Commission. To provide the BCC additional guidance on this topic, County Counsel has prepared a memo regarding RLUIPA and how it applies to the application (see exhibit 27 in No. 7 of the BCC packet of the board packet). In summary, the applicant in this case has not demonstrated how application of state and county land use controls renders their religious exercise “effectively impractical” and offers no alternative site analysis or evidence of how moving to another property would substantially burden their religious exercise. The inconvenience of finding alternative property, or the fact that property elsewhere is more expensive or less suitable than a particular site is not a sufficient demonstration of a “substantial burden” under RLUIPA that would allow a local government to waive land use regulations. Additionally, when an applicant cannot demonstrate a substantial burden in the first place, the government is not required to assert a government interest or show that the regulations are the least restrictive means of achieving that interest. County Counsel will be available at the hearing to address this issue and answer any questions.

---

**STAFF RECOMMENDATION:**

Staff recommends **DENIAL** of Z0208-21-CP by the Board of County Commissioners, as detailed in the Planning Commission staff report (No. 4 of the Board Packet) and as also recommended by the Planning Commission.

# Z0208-21-CP: COMPREHENSIVE PLAN AMENDMENT



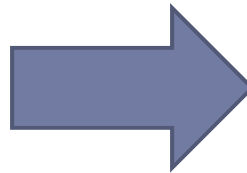
BCC Public Hearing  
December 8th, 2021

# GOAL EXCEPTIONS

---

- (1) "Physically Developed" exception
- (2) "Irrevocably Committed" exception

(3) "Reasons" exception



- A. Need**
- B. Alternatives**
- C. Consequences**
- D. Compatibility**

- Extremely high bar for approval
- Regulated by State Statute



# PROPOSED USE

- Faith based, long term (8-10 month), free of charge, residential addiction recovery treatment for adults (over 18)
- No short term or overnight guests
- No large gatherings- 7 trips per day
- 26 staff and residents living in a dormitory, with shared living and teaching spaces
- 5 staff living in an existing dwelling on the property
- 'Passive farming' activities part of program

# SUBJECT PROPERTY

**23172 S Bluhm Rd.**

**Property Size: 7.7 acres**

**Property Zoning:  
Exclusive Farm Use (EFU)**

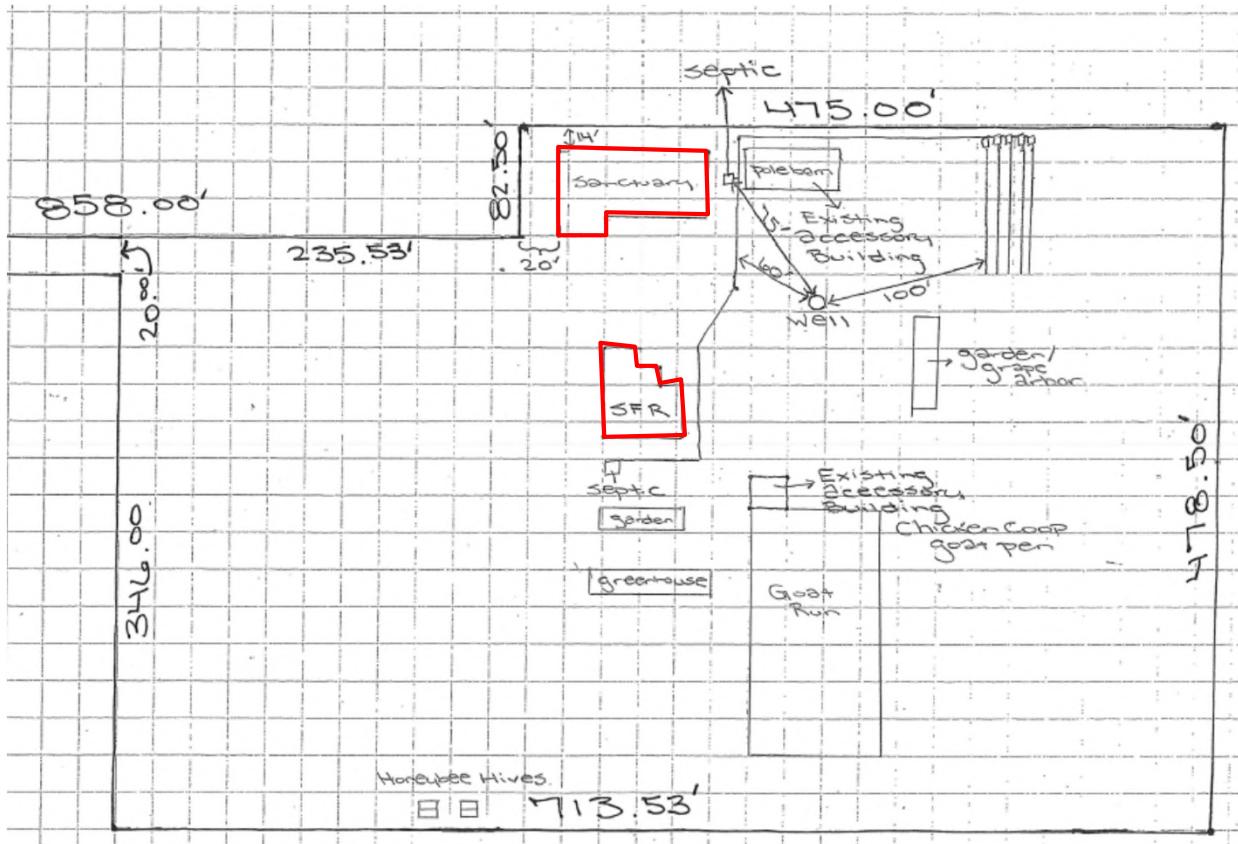
**Property Land Use  
Designation: Agriculture**

**Property Owner: Mission  
Teens**

Z0208-21-CP [4]



# BACKGROUND



## Development on the Property

- Single family residence
- Accessory building
- Pole Barn
- Livestock structure

# BACKGROUND

- Property purchased 2018
- Northwest Bible Training Center moves Portland treatment facility to subject site
- Violation file V0037919 opened 2019
- Code enforcement hearing July 9<sup>th</sup> 2020



# WHICH STATEWIDE PLANNING GOALS EXCEPTIONS ARE NEEDED?

- Goal 2 – Goal exception process

- Goal 3 – Agricultural Land

*“Agricultural lands shall be preserved and maintained for farm use”*

- Goal 14- Urbanization

*To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land [...]*

# RURAL OR URBAN USE

- Site and use specific determination made on a case by case basis
- Major themes for determination:
  - Does it require urban level of public facilities and services?
  - Would it impact the ability of the UGB to function?
  - Would the use be limited to the needs of, and appropriate for, the rural community?
  - Would the use draw people from urban areas to rural areas?

# APPROVAL CRITERIA

## State Statute (OARs and ORS)

- ❑ **OAR 660, Division 4- Goal exception process**
- ❑ OAR 660, Division 12- Transportation Planning
- ❑ **OAR 660, Division 14 - Urban Development on Rural Lands**
- ❑ OAR 660-012-0060 Plan and Land Use Regulation Amendments
- ❑ ORS 197 Hearing procedures, Goal exception process, Comp. plan amendments

## Statewide Planning Goals

## County Comprehensive Plan

# REASONS EXCEPTION CRITERIA

A. REASONS/NEED

B. ALTERNATIVE AREA ANALYSIS

C. EESE ANALYSIS

D. COMPATABILITY



A-D Required by Statewide planning Goal 2 and ORS 197.732 (Goal Exception Criteria)



# A. REASON/NEED

## 1. Proposed use or activity needs to :

- Be dependent upon a resource only obtained at or near the subject site
- Have special features or qualities that necessitate its location on or near the proposed exception site.

## 2. Proposed use or activity cannot be reasonably accommodated within the UGB

**IF PROPOSED USE CAN FUNCTION ON A DIFFERENT SITE OR OTHER AREA THEN EXCEPTION CRITERIA NOT MET**

# B. ALTERNATIVE AREA ANALYSIS

## **Can the proposed use be reasonably accommodated:**

- ON non Resource land or lands in general that would not require a goal exception?
- INSIDE an urban growth boundary?
- ON resource land that is already irrevocably committed to nonresource uses
- IN OR THROUGH expansion of UGB or in existing rural communities

**IF YES TO ANY OF THE ABOVE THEN EXCEPTION CRITERIA NOT MET**

# C. EESE ANALYSIS

☐ Would the proposed use have environmental and economic social and energy consequences more adverse than those that would occur on:

→ non-prime ag land

or

→ rural residential land

**IF YES THEN EXCEPTION CRITERIA NOT MET**

# D. COMPATIBILITY

- Is the proposed use incompatible with adjacent land uses (agriculture)?
- Does urban development at the proposed site:
  - impact the UGB?
  - Interfere with area wide agriculture operations?

**IF YES TO ANY OF THE ABOVE THEN EXCEPTION CRITERIA NOT MET**

# PLANNING COMMISSION MEETINGS

- November 8<sup>th</sup>, 2021- first meeting
- November 22, 2021- continued meeting
- 6-2 vote to recommend denial of the proposed Comprehensive Plan Amendment

# PLANNING COMMISSION MEETING

## MAIN ISSUES

- Inconsistency with Goal Exception Statutes
- Protection of rural areas and farming
- Religious Land Use and Institutionalized Persons Act (“RLUIPA”)

# PUBLIC COMMENTS

---

- 17 public comment letters received
- Comment letters from 1000 friends and DLCDC
- CPO did not submit a recommendation, only minutes from the meeting

# STAFF AND PC RECOMMENDATION

## **DENIAL** OF THE PROPOSED COMPEHENSIVE PLAN AMENDMENT

- 1) **Inconsistent** with “Reasons Exception” criteria in State Statute
- 2) **Inconsistent** with Statewide Planning Goals 2, 3, and 14
- 3) **Inconsistent** with Comprehensive Plan Chapter 3, Agriculture



# RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT ("RLUIPA")

- Applicability of RLUIPA
- Substantial burden
- Compelling government interest
- Waiver of land use regulation

---

THANK YOU

---





**PLANNING COMMISSION STAFF REPORT**

This document represents the Planning and Zoning Staff findings and recommendations for a Type III Land Use Application for a Comprehensive Plan amendment as cited below.

**SUMMARY**

---

**DATE:** November 1st, 2021

**HEARING DATE:** November 8th, 2021 (Agenda Item Time: 6:30 pm)

**CASE FILE NO.:** Z0208-21-CP

**PROPOSAL:** A proposed Comprehensive Plan Amendment for an exception to Statewide Planning Goal 3, pursuant to ORS 660, for use of the property, including an existing residence and accessory buildings, as an addiction recovery farm. The use would include long term (8-10 month) residential addiction recovery treatment for adults, with up to 31 staff and residents living in a dormitory and in an existing dwelling on the property. The subject property is 7.7 acres in size and is located outside of the Portland Metropolitan Urban Growth Boundary at 23172 S Bluhm Rd.

**STAFF CONTACT(S):** Melissa Ahrens, (503) 742-4519, [mahrens@clackamas.us](mailto:mahrens@clackamas.us)

**LOCATION:** 23172 S Bluhm Rd., T3S, R3E, Section 31 Tax Lot 503

**APPLICANT(S):** Mission Teens Inc., North West Bible Training Center (NWBTC)

**OWNER(S):** Mission Teens Inc.

**TOTAL AREA:** Approximately 7.7 acres

**ZONING:** Exclusive Farm Use, (EFU)

**COMPREHENSIVE PLAN DESIGNATION:** Agricultural

**COMMUNITY PLANNING ORGANIZATION:** Hamlet of Beavercreek

**NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER:** ORS Chapter 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

**OPPORTUNITY TO REVIEW THE RECORD:** The complete application file is available for review online by accessing the following link: <https://accela.clackamas.us/citizenaccess/> . If you are unable to access the file online, contact the staff person listed on the front page of this decision for assistance. Copies of all documents may be purchased at the rate of \$1.00 for the first page and 10-cents per page thereafter.

**APPLICABLE APPROVAL CRITERIA:** This application is subject to the standards and criteria of Clackamas County Zoning and Development Ordinance (ZDO) Section 1307, procedures, and the Comprehensive Plan. This application is being processed as a Type III Permit, pursuant to Section 1307. A Type III Permit is quasi-judicial in nature, and involves land use actions governed by standards and approval criteria that require the use of discretion and judgment. The issues associated with the land use action may be complex and the impacts significant, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with this Ordinance and the Comprehensive Plan. The Type III procedure is a quasi-judicial review process where the review authority receives testimony, reviews the application for conformance with the applicable standards and approval criteria, and issues a decision.

**TABLE OF CONTENTS**

I. STAFF RECOMMENDATION.....4

II. COMPREHENSIVE PLAN AMENDMENT APPLICATION FINDINGS.....4

    A. Background and Proposed Comprehensive Plan Amendment.....4

    B. Submittal Requirements .....12

    C. Applicable Standards and Criteria.....12

    D. Comprehensive Plan Amendment for an Exception to Statewide Planning Goals .....13

        1. “Reasons” Exceptions Generally .....14

        2. Reasons Consistency Findings .....16

    E. Statewide Planning Goal Consistency.....24

    F. Compliance with Clackamas County Comprehensive Plan Policies .....32

III. RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT OF 2000 (RLUIPA) .....35

**Attachments:**

- 1.Submitted Application*
- 2.Exhibits 1-20*

## **I. STAFF RECOMMENDATION**

**DENIAL** of the Comprehensive Plan Map Amendment (File No. Z0208-21-CP) for an exception to statewide Planning Goals 3 and 14 to allow for the proposed residential substance abuse treatment program in the Exclusive Farm Use (EFU) zoning district.

Staff recommends denial of the Comprehensive Plan Amendment based on the proposal's inconsistency with the following:

- The Statewide Planning Goal exception requirements in Goal 2 and applicable implementing OARs; and
- Statewide Planning Goals 2, 3 and 14.

This recommendation is based on the findings detailed in Sections II of this Staff Report.

## **II. COMPREHENSIVE PLAN AMENDMENT APPLICATION FINDINGS**

This application is subject to Oregon Revised Statutes (ORSs) and Administrative Rules (OARs), Statewide Planning Goals, Comprehensive Plan criteria, and Zoning and Development Ordinance (ZDO) Section 1307 procedures for land use application processing. The Clackamas County Planning and Zoning Staff have reviewed the applicable state and county criteria in conjunction with this proposal and make the following findings and conclusions:

### **A. Background and Proposed Comprehensive Plan Amendment**

#### Property Land Use and Permitting History

The subject site (tax lot T3S, R3E, Section 31 Tax Lot 503) is located outside of the Portland Metropolitan Urban Growth Boundary, in the Beavercreek area on an Exclusive Farm Use (EFU) zoned 7.7 acre property. The subject tax lot is a legal lot of record, created by a partition in 1975 (MP266-1175-B), when the property was zoned RA-2. The subject property was first zoned RA-2 and retained that zoning until 8/23/79, when it was rezoned General Agricultural District (GAD) as part of the Rural Plan Amendment I (RUPA I), that identified the subject property as agricultural land, and not rural exception land, based on the property's location, use, size, and prime agricultural land soil capabilities. The subject property was then rezoned Exclusive Farm Use (EFU) on 11/4/93.

The subject property contains one residence and \_\_\_ accessory structures. The subject residence was originally built in 1910, with an addition in 1976, according to County tax assessor records. A major remodel of the existing residence was approved by the County in 2011. The structures on the property are described by the applicant as follows:

- Existing Accessory Building "Pole Barn" – Used for storage of large farm equipment and canned food.
- Existing Accessory Building "Chicken Coop" – Contains a large coop holding 48 chickens with a large connected outdoor chicken run, a pen housing 3 goats with a large outdoor goat run, and two storage rooms for animal and gardening equipment.

- Single Family Residence – 5 staff bedrooms, 3 bathrooms.
- Existing Accessory Building “Sanctuary” (known to the county as “Shop Building”) – First Floor: One large multi-purpose room to be used for Bible classes and prayer meetings, 3 staff offices for file storage, kitchen, library, a men’s dormitory style bedroom w/ accompanying bathroom, a women’s dormitory-style bedroom w/ accompanying bathroom, and a laundry room. Second Floor: 3 staff bedrooms and 2 lounges.

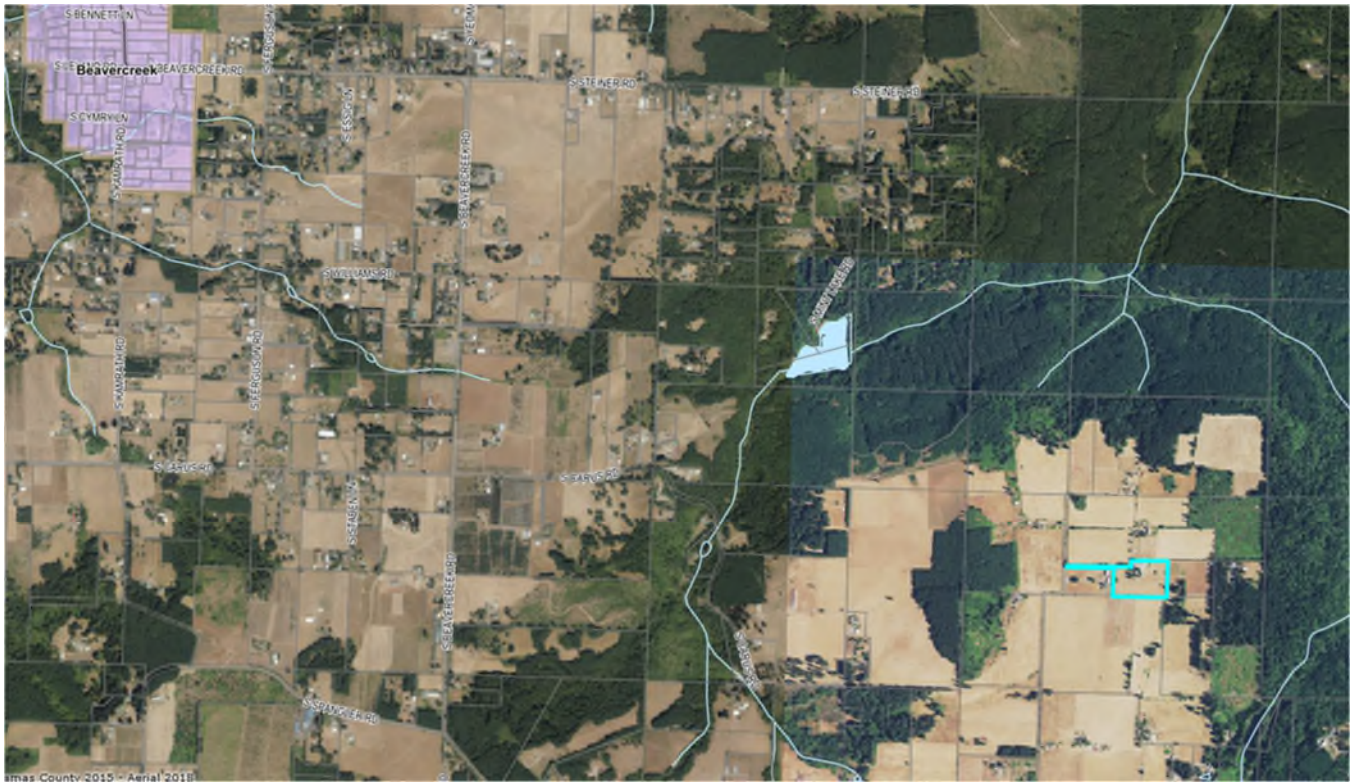
The subject property is located in a rural, largely undeveloped, agricultural area of the County surrounded by EFU zoning. The subject site is relatively flat farmland, classified as having prime agricultural soils per the NRCS soil classifications for Clackamas County. There are no wetlands, floodplains, steep slopes, or Goal 5 resources on the subject property. The subject property has an existing well that provides water service and the applicant submitted an email from the state water master explaining that the use was considered exempt from needing a water right unless any farm crops were being sold from farming on the property. Since commercial farming and sale of farm crops is not proposed as part of the described use, no water right was required by the state. The applicant also submitted a land use compatibility statement from Clackamas County’s septic department indicating that the on-site septic system could accommodate the proposed use and number of proposed residents.

**Figure 1: Property Aerials**





## Property Aerials, Continued.



*Source: Clackamas County Aerial 2018*

### Code Enforcement Order

The accessory building on the property, proposed for use as part of the residential addiction recovery treatment program, was originally permitted as an agricultural building in 2011 (reference building permit AG010311) and was converted to a residential accessory structure (shop building) in 2013 (reference building permit B0063213). No other building permits were issued for the subject accessory structure. In 2019, the building department became aware of the existing accessory shop building being used as a residential dormitory as part of the Northwest Bible Training program. The building department was required to have the enforcement department open a violation file since the residential use of the building was considered a 'dangerous building' per building codes. As such, violation file V0037919 was opened for the dormitory use of the building, as well as unpermitted additions including a kitchen, dormitory style bathrooms, and associated mechanical and electric improvements made without permits. Hearings were held by the code enforcement compliance officer on July 9<sup>th</sup>, 2020 and on July 28, 2020 for the violation case and the compliance officer found that the Dangerous Building Notice and Notice to Vacate that the Building Official for Clackamas County posted on January 8, 2020 should be upheld (See Exhibit no. 19). The proposed Comprehensive Plan Amendment and Goal 3 exception request is made in order to get approval to formally convert the accessory building into a dormitory and offices for the Northwest Bible Training Center (NWBTC).

### Proposed Use Requiring a Goal 3 Exception

The submitted application explains that NWBTC “uses its property like a church, however, NWBTC is not, in fact, a church” (submitted application page 8). On page 11 of the application it states that NWBTC is seeking a Goal exception for a ‘faith-based addiction recovery farm’. However, there are also references in the application materials comparing the use to a ‘boarding school’ and a ‘farm labor dwelling’. The application draws reference to the need for affordable housing in Clackamas County and explains that “addiction and homelessness are interconnected”. The application states that the program participants would be adults age 18 and over who would spend a 8-10 month period residing in the dormitory on the property as part of the treatment program NWBTC is offering free of charge. The property would not be open to the public and a maximum of 26 residents in the dormitory and 5 in the main home is proposed as part of the use. Additionally, as part of the pre-application meeting, required before the Comprehensive Plan amendment application submittal, the applicant submitted materials explaining that:

*“Northwest Bible Training Center is a Christian non-denominational 8-10-month discipleship-training curriculum. During this time, we offer practical, encouraging, and faith-based solutions for anyone with life-controlling problems through Biblical teachings. We are a nonprofit ministry running completely off outside donations receiving no government funding and all our staff are unpaid volunteer missionaries. We do not charge for any of our services. [...] Although NWBTC may resemble a long-term drug and alcohol treatment center in the fact that most of our residents have dealt with those issues, we have never identified as such. [...] We are a congregate family with like-minded beliefs in living, learning, and working the land together. There are no independent units, all meals are eaten together, and everyone does their part farming the land. We are not a medical facility, but we do escort our residents to all their necessary medical appointments”.*

The subject applicant, NWBTC, is a satellite branch of Mission Teens, who is the property owner and is classified as a 501(C)(3) faith ministry, according to the NWBTC’s website. Mission Teens was founded in 1969 in New Jersey and there are now 20 different residential treatment facilities spread throughout the US that are owned by Mission Teens and operated under the Mission Teens treatment ideology and program schedule. NWBTC was started in 1994 in North Portland and operated there until 2018, when the applicant states that they relocated to “provide outdoor activities essential to their mission, and to escape growing impacts of population growth, increased availability of drugs and alcohol, and a loss of connection to nature.” The submitted application states that “NWBTC requires a rural tax lot between 5-10 acres outside of the UGB, in a fire protection district staffed 24 hours a day”.

In the submitted application NWBTC states the use in ORS 215.283(2)(o) for “residential homes” is exactly what they are using the property for. However, ORS 215.283(2)(o) relies on the definition for ‘residential treatment home’ in ORS 443.400 as follows:

*“Residential treatment home” means a facility that provides for five or fewer individuals with mental, emotional or behavioral disturbances or alcohol or drug dependence, residential care and treatment in one or more buildings on contiguous properties.”*

In ORS 443.400 A residential treatment facility is defined as follows and allows for more than five individuals:

*“Residential treatment facility” means a facility that provides, for six or more individuals with mental, emotional or behavioral disturbances or alcohol or drug dependence, residential care and treatment in one or more buildings on contiguous properties.*

ORS 197.660 defines a Residential Treatment Facility as follows:

*(1) "Residential facility" means a residential care, residential training or residential treatment facility, as those terms are defined in ORS 443.400, that provides residential care alone or in conjunction with treatment or training or a combination thereof for **six to fifteen individuals** who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.*

While a ‘Residential Home’ as defined in ORS 197.660 would be allowed in the EFU zoning district as a Type II application, ORS 215.283 and the County’s ZDO would require the use to occur only in existing dwellings. Since the proposed use would neither be limited to five or fewer individuals nor be exclusively located within the existing residence it would not meet the definition of a ‘Residential Home’. ORS 443.440 also includes a definition for a ‘residential treatment facility’ that allows for treatment of six or more individuals, however, this is not a use allowed within the EFU zoning district per the County’s ZDO and ORS 215.283. Additionally, ORS 197.660 limits the number of individuals receiving treatment to 6-15.

Furthermore, according to the Oregon Health Authority licensing staff, (Planning staff phone conversation with Melissa Farin, LPC, Licensing and Certification Compliance Specialist, Oregon Health Authority – Health Systems Division on 10/27/21) to be defined as a ‘residential treatment home’ per the ORS definition they would need to be licensed by the state as such. However, she also stated that all residential treatment programs that are licensed by the state are secular and are required to adhere to specific state treatment program guidelines. Per an email from OHA (reference Exhibit no. 16) the state does not consider faith-based residential treatment programs to meet the definition of ‘treatment’ in ORS 443.400(12). Per OHA, they do not allow any faith-based residential treatment home or facility to obtain state licensing. That also means though that no faith based substance use recovery organization can meet the definition of a ‘residential treatment home’ or ‘residential treatment facility’ in statute. Planning staff defers to the OHA’s interpretation of their own statutes and how they define such homes and facilities for the purposes of the findings in this staff recommendation.

Planning staff acknowledge that the submitted application materials provide confusing and sometimes inaccurate descriptions about the nature of the proposed use. Based on a review of the submitted application, relevant state statutes, and County Comprehensive Plan and ZDO, Staff concludes that the proposed use is not a church, not a school or boarding school, not a farm labor dwelling, and not a residential treatment home or facility. The use that the proposed ‘faith-based addiction recovery farm’ most closely resembles is a congregate housing facility, per the County’s ZDO definition in Section 202 as follows:

***CONGREGATE HOUSING FACILITY:*** *A building that contains more than one dwelling unit and provides common facilities and services for residents who require or desire a more supportive living environment than typically afforded to residents in multifamily, three-family, two-family, or single-family dwellings. Regular on-*

*premise supervision by a registered physician, registered nurse, or other health care provider may be included.*

Dwelling unit as defined in this section of the Code references a building with one or more rooms used for residential occupancy. The use most similar to the proposed facility, which is a congregate housing facility, is allowed only in the urban land use designations and zoning districts of the County within the Urban Growth Boundary.

#### Proposed Use Requiring a Goal 14 Exception

In reviewing the proposed use, and the requested “reasons” exception to Goal 3, the County is required to make findings regarding consistency with Goal 14, Urbanization. Specifically, findings need to be included in a local government’s action to explain why the proposed use is “rural” and not “urban”. If the proposed use is found to be “urban” the use would also need an exception to Goal 14. What is “urban” and what is “rural” is not explicitly clear in the context of Goal 14; as such, the determination must be made based on a number of factors that include consideration of:

- 1. That public facilities and services providing for the use will be limited to the types and levels of service available and appropriate for rural lands. Or in other words, that the proposed uses on rural lands will not require urban levels of service.*
- 2. The potential impact on a nearby Urban Growth Boundary. Specifically, consideration of whether the proposed use would impermissibly affect the ability of nearby UGBs to perform their urbanization function.*
- 3. Whether the use is appropriate for, but limited to, the needs and requirements of the rural area to be served; whether the type and intensity of use is consistent with those typically found in other rural areas of the County.*
- 4. Whether the use is likely to become a “magnet” attracting people from outside the rural area*

After consideration of such factors (detailed in Section E of this staff report), staff has found that the proposed use is an “urban” use under the context of Goal 14 for the following primary reasons:

- The proposed use will serve a primarily urban population; no need for the service has been demonstrated in the rural area
- The proposed use relies on volunteers/staff/service and essential goods and service providers coming from outside of the rural area
- The proposed use is not appropriate for or limited to the needs and requirements of the Beavercreek rural area
- The proposed use is not a permitted use in the rural area of the County and there are no other similar facilities that have been permitted on EFU zoned land in the County to staff’s knowledge.

While it is clear that the applicant does not agree with this determination and asserts in the application that the proposed use is a rural use, not an urban use, the application contained no evidence addressing consistency with Goal 14 implementing statutes and associated case law and instead relies upon the assertion that because EFU zoned property is rural that the use itself is rural. Staff would like to clarify that the proposed use is being evaluated for its consistency with Goal 14 on its own merits. Just because the property is considered rural land does not mean that every use proposed to occur on the property can

be determined to be a rural use. Based on the information about the proposed use contained in the record, and consideration of relevant case law, staff could not determine that the proposed use was a rural use pursuant to Goal 14 and implementing statutes. Therefore, a Goal 14 exception, and the application of OAR 660-004-010(1)(d)(D) and OAR 660-014-0040 would apply to the subject proposal and are addressed in Section D of this staff recommendation.

### Procedure Background on the Subject Comprehensive Plan Amendment

As noted, the subject property's Comprehensive Plan land use designation is Agriculture and the zoning is Exclusive Farm Use (EFU). The proposed use for a residential addiction recovery treatment facility is not an allowed land use in agricultural resource land in Clackamas County, per statewide planning Goal 3 and implementing state law as well as the EFU section of the County's ZDO. In order to change the Comprehensive Plan Map designation to any plan designation other than Agriculture, or to allow for a use that is not allowed on property designated Agriculture, it is necessary to take an exception to Statewide Planning Goal 3, under the procedure described in the Oregon Administrative Rules (OAR) 660, Division 4. As such, the applicant has requested an exception to Statewide Planning Goal 3, per the exception process outlined in Statewide Planning Goal 2, and implementing state laws. Planning staff has also determined that the proposed urban use would require a Goal 14 exception. Exceptions are amendments to Comprehensive Plan provisions that set forth facts and reasons authorizing and justifying the necessary departures from the Statewide Planning Goals. In this instance, the applicant has requested "reasons" exceptions to Goal 3. The applicant is applying for a "reasons" exception under ORS 197.732(1)(c). As far as staff is aware, in the past the County has always required a zone change to accompany a "reasons" exception approval, although there does not appear to be a legal requirement for an accompanying zone change. In this situation staff is just analyzing the consistency of the proposed use with the "reasons" Statewide Planning Goal exception statutes, other applicable OARs and ORSs and the County's Comprehensive Plan, however, a related Zone change or Land Use designation change is not being proposed or analyzed in this application.

---

### **Service Providers:**

1. Water: The property would be served by a private well on tax lot 33E31 00503, exempt from state water permit requirements.
2. Septic: The property has a feasibility statement signed by Clackamas County Septic staff stating the site can be accommodated by a septic system.
3. Fire Protection: Clackamas RFPD #1

---

### Noticing

This application has been processed consistent with those procedures. Specifically, the County has provided notice to DLCD, 1000 friends, the Community Planning Organization, local governments and property owners within ½ mile of the subject property consistent with State law and Section 1307 of the ZDO. The notification to property owners, public notices and hearings will ensure an opportunity for citizens to participate in the land use process.

Responses Received:

As of the date on this staff recommendation, Staff received 10 public comment letters, a letter from the Beavercreek CPO summarizing their meeting, and a comment letter from DLCDC. The comment letters are included in exhibits 5-14 and 17 and 18.

---

**B. Submittal Requirements**

Section 1307 of the Zoning and Development Ordinance lists the information that must be included in a complete application for a Comprehensive Plan amendment. State statutes in ORS 197.732 and ORS Chapter 660 also dictate the information that must be submitted to address the proposed “reasons” exception to Statewide Planning Goal 3.

This application includes a completed land use application form, site plan, application fee and completed supplemental application. The application also includes a description of the proposed use and vicinity map. All the submittal requirements under Subsection 1307 are included in the application. The application was submitted on May 11<sup>th</sup>, 2021 and deemed incomplete on May 27<sup>th</sup>, 2021. In response to the incomplete notice, the applicant submitted additional application materials on July 20<sup>th</sup>, 2021 and the application was deemed complete that day. The submitted application is included as *Attachment A* to this staff recommendation. Notice of the Planning Commission and Board of County Commissioner’s hearings was sent out on October 4<sup>th</sup>, 2021.

**The submittal requirements of Subsection 1307 are met.**

-----

**C. Applicable Standards and Criteria**

This application involves amendments to acknowledged county Comprehensive Plan provisions, as well as a “Reasons” exception to Statewide Planning Goal 3. Under Oregon’s land use statutes and goals, this application must be found to comply with a multitude of standards and criteria, including the following:

**1. State Statues (ORSs) and Administrative Rules (OARs)**

OAR Chapter 660, Division 4- Interpretation of Goal 2 Exception Process:

- OAR 660-004-000 Purpose
- OAR 660-004-005 Definitions
- OAR 660-004-0010 Application of the Goal 2 Exception Process to Certain Goals
- OAR 660-004-0015 Inclusion as Part of the Plan
- OAR 660-004-0018 Planning and Zoning Exception Areas
- OAR 660-004-0020 Goal 2 Exception Requirements
- OAR 660-004-0022 Reasons Necessary to Justify and Exception
- OAR 660-004-0030 Notice and Adoption of an Exception

- OAR Chapter 660, Division 12 – Transportation Planning
- OAR 660-014-0040, Division 14 – Urban Development on Rural Lands
- OAR 660-012-0060 Plan and Land Use Regulation Amendments

ORS 197.610 and 197.615 – Post-acknowledgment Amendments  
ORS 197.732 - Goal Exception standards  
ORS 197.763 – Notice procedures for quasi-judicial hearings

## **2. Statewide Planning Goals**

The following Statewide Planning Goals are implicated by this application:

Goal 1 Citizen Involvement  
Goal 2 Land Use Planning  
Goal 3 Agricultural Lands  
Goal 12 Transportation  
Goal 14 Urbanization

## **3. County Comprehensive Plan Provisions**

The following Clackamas County Comprehensive Plan provisions are implicated by this application:

Chapter 2. Citizen Involvement  
Chapter 3. Natural Resources and Energy  
Chapter 4. Land Use  
Chapter 5. Transportation System Plan  
Chapter 6. Housing  
Chapter 11. The Planning Process

In these findings, applicable standards and criteria are set forth in bold-face headings and/or italicized type followed by the county's findings including facts, reasons and legal conclusions. Often the same or similar criteria are found in more than one source. These findings attempt to minimize repetition and redundancy, using cross-references where possible and adding or repeating material only where necessary

### **D. Comprehensive Plan Amendment for an Exception to Statewide Planning Goals**

The subject property is designated as natural resource land (Agriculture) on the Comprehensive Plan Map. In order to change the Comprehensive Plan Map designation to any plan designation other than Agriculture, or to allow for a use that is not allowed on property designated Agriculture, it is necessary to take an exception to Statewide Planning Goal 3, under the procedure described in the Oregon Administrative Rules (OAR) 660, Division 4.

These departures from the requirements of Goals 3 and from acknowledged comprehensive plan provisions implementing that goal require the approval of "exceptions" to the goals. Exceptions are amendments to comprehensive plan provisions that set forth facts and reasons authorizing and justifying the necessary departures from the goals. In this instance, the applicants have requested a "Reasons" exception to Goal 3. The county's approval of this goal exception under the applicable state statutes and rules authorize the proposed amendments despite the fact that the amendments would otherwise conflict with the goals.

## 1. “Reasons” Exceptions Generally

Goal exceptions are authorized under statewide planning statutes, goals and administrative rules in order to provide flexibility for situations in which a departure from the strict application of the goals is justified based on site-specific and project specific conditions. Approval of a goal exception does not establish precedent for allowing future goal exceptions. Goal 2 defines the term "exception" as follows:

*"Exception means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:*

*"(a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;*

*"(b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and*

*"(c) Complies with standards for an exception."*

There are three types of exceptions: (1) "physically developed" exceptions are justified where the property is physically developed to the point where resource use is no longer practicable; (2) "irrevocably committed" exceptions are justified where the nature of nearby physical development makes resource use impracticable; and (3) "reasons" exceptions are justified where there is a need for development at the site in question and where the applicant establishes that reasons justify why the policy embodied in the applicable goals should not apply, the proposed development cannot reasonable locate elsewhere, and the proposed use is compatible with other adjacent uses or can be made compatible through measures designed to reduce impacts.

### Application of ORS 197.732 and OAR Chapter 660 Exception Criteria

The application requests a "Reasons" exception to Goal 3. The general criteria for reasons exceptions are set forth in the state statutes at ORS 197.732 and LCDC's administrative rules at OAR 660-004-0020. The rules then provide additional "reasons" that can justify an exception at OAR 660-004-0022, including criteria that must be applied to more specific types of uses.

ORS 197.732 - Goal Exceptions. ORS 197.732 sets for the following criteria for a goal exception based on a “reasons” argument, as follows:

*(c) The following standards are met:*

*a) Reasons justify why the state policy embodied in the applicable goals should not apply;*

*b) Areas that do not require a new exception cannot reasonably accommodate the use;*

*c) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and*

*(d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.*

These four standards outline the four-step process an applicant must engage in to demonstrate the proposal (1) is “needed”, (2) cannot reasonably be located on an “alternative” site, (3) will have minimal adverse “consequences”, and (4) is “compatible” with neighboring uses.



The rules under which to assess the above criteria are presented in OAR 660-004-0000 through 0040 in more detail. The requirements established by ORS 197.732 for goal exceptions, as well as the identical requirements of Goal 2, Part II and OAR 660 Divisions 4 are addressed below.

OAR 660-004-0000 through 0010. Purpose, Definitions, and Application of Goal 2 Exceptions Process to Certain Goals

These sections contain the background information and definitions for the goal exception and are information in nature.

OAR 660-004-0015. Inclusion as Part of the Plan

*(1) A local government approving a proposed exception shall adopt, as part of its comprehensive plan, findings of fact and a statement of reasons that demonstrate that the standards for an exception have been met. The reasons and facts shall be supported by substantial evidence that the standard has been met.*

*(2) A local government denying a proposed exception shall adopt findings of fact and a statement of reasons that demonstrate that the standards for an exception have not been met. However, the findings need not be incorporated into the local comprehensive plan.*

Both these criterion are informational in nature and, depending on the outcome of the decision, each will be adhered to as is necessary in the body of the Staff Report, the findings and recommendations provided in II this report, and as referenced in the land use application narrative.

660-004-0018: Planning and Zoning for Exception Areas. Subsection 660-004-0018(4): “Reasons” Exceptions, applies to this application.

1. 660-004-0018(4)(a): *When a local government takes an exception under the “Reasons” section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.*

If the proposed goal exception is adopted, use of the property would be limited to only those uses approved through the exception, and as noted in any conditions of approval.

**This criterion can be satisfied if the goal exception is approved.**

2. 660-004-0018(4)(b): *When a local government changes the types or intensities of uses or public facilities and services within an area approved as a “Reasons” exception, a new “Reasons” exception is required.*

This site has not previously been approved as a “Reasons” exception.

**This criterion is not applicable.**

3. 660-004-0018(4)(c): *When a local government includes land within an unincorporated community for which an exception under the “Reasons” section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, whichever is more stringent.*

The subject property is not located in an unincorporated community.

**This criterion is not applicable.**

**2. Reasons Consistency Findings with 660-004-0020 (Exception Requirements), 660-004-0022 (Reasons necessary to justify an exception), and 660-014-0040 (Establishment of new urban development on undeveloped rural lands).**

660-004-0020: Goal 2, Part II(c), Exception Requirements: *If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception. As provided in OAR 660-004-0000(1), rules in other divisions may also apply.*

To evaluate a goal exception there must be a review of OAR 660-004-0022. OAR 660-004-022(1) defers to the reasons exception process in 660-014-0040 for ‘urban development on undeveloped urban rural lands. In *DLCD v. Umatilla County*, 39 Or LUBA 715 (2001) LUBA addressed the interplay between the Division 4 and Division 14 exception criteria where they explained:

*“Under this framework, determining which criteria apply requires that the local government identify the character of the use for which a reasons exception is proposed. If the proposed exception involves circumstances or uses not governed by OAR 660-004-022(2) through (10) or OAR 660, division 14 then OAR 660-004-022(1)(a)-(c) provide the applicable criteria for determining whether reasons justify the proposed exception. If, on the other hand, the proposed exception is intended to allow urban development, then OAR 660-004-0022(1) directs the County to OAR 660-014-0040.*

The subject application involves an exception that would allow the development of what is most closely defined as a congregate housing facility, which is only an allowed use within in the County’s urban growth boundary. Staff have determined in Section E for the findings under Statewide Planning Goal 14 than the proposed use constitutes an urban use and urban development and thus also requires an exception to Goal 14. As such, based on case law and a close reading of the statutes, staff find that the criteria for reviewing the proposed exceptions to Goal 3 and 14 are the Division 14 rules at OAR 660-014-0040.

However, as a precaution given the confusing case law around this subject and in case the Planning Commission and/or Board of County Commissioners find that the proposed use is *not* an urban use, staff have also included findings for OAR 660-004-0020 and 0022. To avoid repetition in the findings the OARs have been grouped where feasible into the categories of Statewide Planning Goal 2, Part II (c)(1) through 4 and ORS 197.732(C)(2)(c).

**Reasons/Need:** Reasons justifying why the policy embodied in the applicable Statewide Planning Goals should not apply.

The requirements of OAR 660-004-0020(2)(a), OAR 660-004-0022(1)(a)-(b), and OAR 660-014-0040(2) and (3)(a), are often overlapping in their requirements so staff has summarized the consistency findings these OAR sections to avoid repetition.

**660-004-0020(2)(a)**

*(2) The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:*

*(a) "Reasons justify why the state policy embodied in the applicable goals should not apply." The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land;*

State law provides further direction on how to address this first criteria (OAR 660-004-0020(2)(a), based on the type of use proposed and whether the use is “urban” or “rural.”

If the use is “rural”:

**OAR 660-004-0022(1)**

*(1) For uses not specifically provided for in this division, or in OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following: There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either:*

*(a) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this paragraph must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or*

*(b) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.*

If the use is “urban”:

**OAR 660-014-0040(2) and (3)**

*(2) A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.*

*(3) To approve an exception under section (2) of this rule, a county must also show:*

*(a) That Goal 2, Part II (c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;*

The applicant has stated in the application materials that they “require a rural tax lot between 5-10 acres outside of the UGB, in a fire protection district staffed 24 hours a day”. The application materials also state the following: “Originally located in Portland Oregon, NWBTC relocated to rural Clackamas County in 2018 to provide outdoor activities essential to their mission, and to escape the growing impacts of population growth, increased availability of drugs and alcohol, and a loss of connection to nature. The shortcomings of an urban location required a move to a permanent rural location outside of the UGB, but within proximity to essential government and private services”. The application states that in 2019 NWBTC, after their move to the subject location, began partnering with the County probation department as a resource for “low-level parolees”. The application materials explain that passive farming is used as part of the treatment program on site for faith-based addiction recovery. The application states “NWBTC does use the property, to some degree, for farming.” The application materials include pictures of a polytunnel greenhouse with raised beds and beekeeping activities and a site plan showing a goat run and chicken coop. The activities are small scale and similar to not for profit hobby gardening activities.

The application materials do not explain, however, why the proposed faith based addiction recovery treatment program is dependent upon agriculture for its operation. The application states that the proposed use needs a rural location, however, there is no specification as to why the use has to be located on the subject EFU zoned property with agricultural resource lands in order to operate. There is also no market analysis provided to demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon (agricultural resource land in this case) can reasonably be obtained. Based on goal exception statutes and relevant case law, a simple preference for a rural area does not meet the high bar for establishing a “need” pursuant to the criteria above. Additionally, since the agricultural activities described are more akin to hobby gardening and are not for profit it is unclear if they meet the requirements of ORS 308A.050, which defines farm use as follows: “farm use” means the current employment of land for the primary purpose of obtaining a profit in money [...]. Staff does not have enough information to conclude that the proposed use is dependent upon the subject agricultural resource property and a farm use, per OAR 660-014-0040(2).

Staff has included findings for Goal 14 determining that the proposed use is an urban use. One of the reasons for this determination is that there was nothing included in the application that demonstrated why the proposed use is not appropriate for, but limited to, the needs and requirements of the rural area to be served. There is no demonstration that there is a need for an addiction recovery treatment program to serve the rural population of the Beavercreek area, instead staff concludes from the materials on the record that the proposed use would largely serve an urban population and would at least partially rely on volunteers and/or service providers travelling from the Portland metro area. The proposed urban use would rely on and serve an urban population, however, there is nothing in the submitted application to clearly demonstrate that the proposed addiction recovery treatment program is dependent upon an agricultural resource property. In fact, the record demonstrates that NWBTC operated successfully for 25 years in the Portland metro area, as noted in comment letter that explains that the NWBTC had been located in North Portland on Greeley street since 1996 and over the 25 years of operation there had “seen many success stories of people finding freedom and a worthwhile lifestyle” (Comment letter from Chris

Tento). The hobby gardening occurring on the property can be done in any medium to high density residential zoning districts in the County where congregate housing facilities are allowed and the rural atmosphere of the specific property is not demonstrated to be necessary for the program to function. Livestock would not be allowed in every medium and high density zoning district, however, there are a couple zoning districts where it is also permitted pursuant to the County's ZDO livestock restrictions. The applicant has not submitted a market or area analysis of urban properties demonstrating that there are no other feasible locations where the use could occur in the UGB. There is also no explanation as to why urban scale hobby gardening would not provide the same benefit to the program participants as the gardening activities on the subject site. Staff do not have enough evidence to demonstrate that the proposed use is dependent upon resource land and cannot be reasonably accommodated within the UGB. As such, the proposal is not consistent with OAR 660-014-0040(2) and (3).

Additionally, while the application references a need for housing in Clackamas County, no findings are included regarding why that an agricultural resource property is necessary for the proposed congregate housing facility to alleviate a Goal 10 housing shortage, as opposed to any other property in the rural or urban area of the County where residential uses are allowed outright. The reasons needed (per either OAR 660-014-0040 or OAR 660-004-022 for rural or urban uses, respectively) to satisfy OAR 660-004-0020(2)(a) are not provided in the subject application.

**As such, the requirements of OAR 660-004-0020(2)(a), OAR 660-004-0022(1)(a), and OAR 660-014-0040(2) and (3)(a) are not met.**

**Alternative Area Analysis: Areas which do not require a new exception cannot reasonably accommodate the use.**

The requirements of OAR 660-004-0020(2)(b), and OAR 660-014-0040(3)(a) are often overlapping in their requirements so staff has summarized the consistency findings these OAR sections to avoid repetition.

**OAR 660-004-0020(2)(b)**

*(b) "Areas that do not require a new exception cannot reasonably accommodate the use". The exception must meet the following requirements:*

*(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that do not require a new exception. The area for which the exception is taken shall be identified;*

*(B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:*

*(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?*

*(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?*

*(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?*

*(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?*

*(C) The “alternative areas” standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.*

**OAR 660-014-0040(3)(a)**

*(3) To approve an exception under section (2) of this rule, a county must also show:*

*(a) That Goal 2, Part II (c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;*

The only alternative analysis the applicant submitted was of three rural residential zoned properties with the following analysis:

*“For comparison purposes, on several occasions the applicant researched rural properties for comparable 5-acre minimum zoned farmland; less than 10 acres in size, located outside of the UGB. Most were located to close to development, or poorly suited to accommodate NWBTC. None of the survey results met the applicant’s needs.”*

This alternative area analysis does not address the requirements of OAR 660-004-0020(2)(b) and OAR 660-014-0040(3)(a). The OARs require the applicant to first make a determination of what the specific needs are for the proposed use- a justification for their siting requirements- and an explanation justifying why they need to be located on the subject property. The application would then also need to explain what the relevant area consists of for purposes of compliance with the alternative area criteria above. There was no analysis included of the urban area, within a UGB, or of any other rural zoning district other than RRFF-5 (rural residential).

Only 3 rural residential (RRFF5) properties were included in the analysis and no explanation was provided as to why the properties did not meet NWBTC’s needs, only a conclusion in the application that

“none of the survey results met the applicant’s needs”. The record shows that the subject treatment program was able to function for 25 years within an urban area and no rationale is provided as to why the property cannot remain functional in an urban area. The need for a rural location away from access to addictive substances is documented as a requirement of the treatment program, however, the applicant did not include an analysis explaining why they cannot mitigate this by other methods of treatment, such as access restrictions for residents etc. Additionally, it appears that all of the substance abuse treatment facilities located on the OHA treatment locations map (see exhibit 4) are in urban areas, demonstrating that substance abuse treatment programs can, and frequently do, operate in urban areas. The applicants fail to address “reasonable accommodation;” thresholds of OAR 660-004-0020 (2)(b). The question at hand is whether the proposed use can be accommodated within a UGB. Given the fact that the business was located for many years within the Portland Metropolitan UGB and that the OHA map in Exhibit 4 shows that many residential addiction recovery programs operate and function within the UGB, Staff does see any reason that the proposed uses cannot be reasonably accommodated inside an urban growth boundary. The information submitted as part of the pre-application conference by the applicant states that:

*“Since 1969, over 24,000 have entered Mission Teens Centers. We have 20 centers in the United States. The Oregon Center was started in 1994 in North Portland. In our annual review approximately 89% of the graduates and 40% of the non-graduates that report back to us are doing well.”*

It is clear from evidence on the record that the NWBTC was able to reasonably function in an urban area. The agricultural activities on the property as an accessory use to the addiction recovery treatment program and the program does not appear to be dependent upon agricultural resource land for its functionality. There is no analysis or information provided as to why the proposed use could not continue to function inside of Oregon City’s UGB or Canby’s UGB, for example, where zoning may allow for a use similar to a congregate housing facility and where a rural atmosphere and hobby gardening may still be available.

**As such, the requirements of OAR 660-004-0020(2)(b), OAR 660-004-0022(1)(a)(A), and OAR 660-014-0040(3)(a) are not met.**

**The EESE Analysis:** The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.

The requirements of OAR 660-004-0020(2)(c) and OAR 660-014-0040(3)(b) are often overlapping in their requirements so staff has summarized the consistency findings these OAR sections to avoid repetition.

**OAR 660-004-0020(2)(c)**

*(c) “The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.” The exception shall describe: the characteristics of each alternative*

*area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;*

**OAR 660-014-0040(3)(b)**

*(b) That Goal 2, Part II (c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:*

*(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and*

*(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.*

As with the alternative areas analysis, the analysis under this rule need only be a “broad review” of similar types of areas. This rule provides that there is not a requirement of needing an alternative sites analysis for the long-term environmental, economic, social and energy consequences for a use at the proposed site unless an alternative site is specifically described with facts to support the assertion that it has fewer adverse impacts through the review process.

Related to this criterion, the applicants provide some findings starting on page 8 of the submitted application (Attachment A), titled an EESE (environmental, economic, social and energy consequences) analysis, but the information provided in that section of the application does not fully address the requirements of the EESE criterion. The applicants provide no analysis of why the proposed use should be located on the subject property and cannot be located on a different EFU zoned property without non-prime agricultural lands that would result in less impacts to the agricultural resource. The applicants are not farming the property for profit and use the agricultural activities on the property as an accessory use to the addition recovery treatment program. The rule clearly states that the analysis needs to address whether adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a goal exception. In an EESE analysis, each of the four



consequences needs to be addressed separately. Given that this criterion was not adequately addressed by applicants, Staff cannot make an affirmative determination relating to this criterion.

**This criterion is not satisfied.**

**Compatibility:** The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

The requirements of OAR 660-004-0020(2)(d) and OAR 660-014-0040(3)(c) are often overlapping in their requirements so staff has summarized the consistency findings these OAR sections to avoid repetition.

**OAR 660-004-0020(2)(d)**

*(d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.*

**OAR 660-014-0040(3)(c)**

*(c) That Goal 2, Part II (c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:*

*(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and*

*(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.*

The proposed residential addiction recovery treatment program is an urban use per Goal 14 and most closely meets the County's ZDO definition of a congregate housing facility, which is only allowed in urban areas. The proposed urban use would involve long term residency of up to 31 individuals, with more individuals assumed to be coming to and from the property to provide services necessary to accommodate the significant residential population on the property. The proposed use would be out of character with the surrounding EFU zoned agricultural properties, which consist of scattered homesteads and large tracts of cultivated prime agricultural land. That said, the proposed use can rely upon the existing well on the property and can be served by a private septic system. No impacts to the transportation system are expected and the proposal did not require a traffic study, per Clackamas County's engineering staff, due to the low number of trips anticipated. Despite the ability of the proposed use to rely on private utility services, congregate housing facilities inherently result in a larger amount of people coming and going from the property and the use would be most similar to that type of development/use. The impact that this type of housing facility could have on the adjacent agricultural farming operations is unclear and no other congregate housing facilities in resource land exist in the

County to staff's knowledge. Additionally, the requirements of the fire department to provide service to such a facility in a rural location are unclear. Staff does not have enough information to make a finding of consistency with OAR 660-004-0020(2)(d).

The application stated that the proposed use cannot be located on other farmland properties because they are too far from the essential services and vendors the applicant relies upon. It is unclear what 'essential services' the use relies upon, however, it is assumed that some of those services come from surrounding cities. The application also did not provide an analysis of properties that were closer to these 'essential services' but still outside the UGB and in a rural location. The submitted application does not address consistency with OAR 660-014-0040(3)(c) and staff do not have enough information to find the proposal consistent with this statute.

**As such, the requirements of OAR 660-004-0020(2)(d) and OAR 660-014-0040(3)(c) are not met.**

## **E. Statewide Planning Goal Consistency**

**Goal 1: Citizen Involvement:** To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

This is a quasi-judicial land use application. The Clackamas County Comprehensive Plan and Section 1307 of the Zoning and Development Ordinance (ZDO) contain adopted and acknowledged procedures for citizen involvement and public notification. This application has been processed consistent with the notification requirements in Section 1307 including notice to individual property owners within ½ mile feet of the subject property, notice in the local newspaper, and notice to affected agencies, and dual interest parties. **This application is consistent with Goal 1.**

**Goal 2; Land Use Planning:** To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Goal 2 requires coordination with affected governments and agencies. Notice of this application has been provided to the following agencies and governments for comments; Hamlet of Beaver Creek, Clackamas County RFPD #1, 1000 friends, Oregon City, the Department of Land Conservation and Development (DLCD). The subject property is not located within any Urban Growth Management Areas (UGMA) of any nearby or surrounding cities. The property is not located in a designated urban or rural reserve area. Therefore, this application does not affect any other adopted City Comprehensive Plans.

Goal 2 requires that all land use actions be consistent with the acknowledged Comprehensive Plan. The background information and findings provided by the applicants and within this report, and comments received from agencies and interested parties provide an adequate factual base for rendering an appropriate decision.

However, his proposal requires an exception under Goal 2. As discussed in Section D of the Staff Report, the current proposal does not meet all the relevant criteria for the goal exception and therefore the proposal is not in compliance with this goal.

**This application is not consistent with Statewide Planning Goal 2.**

**Goal 3; Agricultural Land:** To preserve and maintain agricultural lands.

The subject property is considered Agricultural land as defined in the Statewide Planning Goals or County Comprehensive Plan. The proposal does not comply with Goal 3 and therefore an exception has been sought. As discussed previously, the current proposal does not meet the criteria for the goal exception.

**This application is not consistent with Goal 3.**

**Goal 4; Forest Land:** To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water and fish and wildlife resources and to provide for recreational opportunities and agriculture.

The subject property is not considered Forest land as defined in the Statewide Planning Goals or County Comprehensive Plan.

**Goal 4 is not applicable.**

**Goal 5; Open Spaces, Scenic and Historic Areas, and Natural Resources:** To conserve open space and protect natural and scenic resources.

Goal 5 resources include open space areas, scenic and historic resources and other natural features. Chapter 3 (Natural Resources and Energy) and Chapter 9 (Open Space, Parks and Historic Sites) of the Clackamas County Comprehensive Plan identifies significant Goal 5 resources within the County.

There are no Goal 5 resources identified in the Comprehensive Plan located on the subject property.

**Goal 5 is not applicable.**

**Goal 6; Air, Water and Land Resources Quality:** The County Comprehensive Plan and ZDO include adopted implementing regulations to protect the air, water and land resources. The County also has implementing regulations to accommodate all waste and process discharges in order to protect watersheds, airsheds and land resources. These regulations will be applied to any future development proposals on the property and to ensure the protection of the affected air, water and land resources.

**This application is consistent with Goal 6.**

**Goal 7; Areas Subject to Natural Disasters and Hazards:** The subject property is not located within any designated floodplain area. According to the Department of Geology and Mineral Industries (DOGAMI) maps the property does not contain any steep slopes or natural hazards (landslide topography, local slump, earth flow, mudflow or debris flow areas).

**Goal 7 is not applicable.**

**Goal 8; Recreational Needs:** To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate to provide for the siting of necessary recreational facilities including destination resorts.

This proposal does not involve any designated recreational or open space lands, affect access to any significant recreational uses in the area, or involve the siting of a destination resort. This proposal will have no impact on the recreational needs of the County or State. **Goal 8 is not applicable.**

**Goal 9; Economic Development:** “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon's citizens.”

This Goal is intended to ensure Comprehensive Plans contribute to a stable and healthy economy in all regions of the state. Goal 9 also requires the County to provide for an adequate supply of sites of suitable sizes, types, locations, and services for a variety of industrial and commercial uses consistent with plan policies.

OAR 660-009 (Industrial and Commercial Development) implements Goal 9. Pursuant to OAR 660-009-0010(1) the requirements and standards in OAR 660-009 are only applicable to areas within urban growth boundaries, which includes the subject property. However, OAR-660-009 would not apply to the subject Comprehensive Plan amendment because the proposed amendment would not change the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or another employment use designation to any other use designation. **Goal 9 is not applicable.**

**Goal 10; Housing:** "To provide for the housing needs of citizens of the state."

This Goal requires local jurisdictions to provide for an adequate number of needed housing units and to encourage the efficient use of buildable land *within urban growth boundaries*. OAR 660-007 and 660-008 defines the standards for determining compliance with Goal 10. OAR 660-007 addresses the housing standards inside the Portland Metropolitan Urban Growth Boundary. OAR 660-008 addresses the general housing standards.

The subject property is not located inside of the Portland Metropolitan Urban Growth Boundary and OAR 660-007 and OAR 660-008 are not applicable to this proposal. This proposal does not include any housing; therefore Goal 10 is not applicable.

**Goal 10 is not applicable.**

**Goal 11; Public Facilities and Services:** “To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

This proposal will not require the extension of any new public facilities to support rural uses; therefore **Goal 11 is not applicable.**

**Goal 12; Transportation:** “To provide and encourage a safe, convenient and economic transportation system.”

Oregon Administrative Rule (OAR) 660-012 (Transportation Planning Rule) implements Statewide Planning Goal 12. OAR 660-012-0060 applies to any plan map amendment which significantly affects a transportation facility. OAR 660-012-0060(1) requires any amendments to a functional plan, acknowledged comprehensive plan or a land use regulation (including a zoning map) which significantly affects an existing or planned transportation facility to put in place measures as provided in OAR 660-012-0060(2) unless the amendment is allowed under OAR 660-012-0060(3), (9) or (10).

Pursuant to OAR 660-012-0060(1) a plan or land use regulation amendment is deemed to significantly affect a transportation facility if it;

- a. *Changes the functional classification of an existing or planned transportation facility;*
- b. *Changes standards implementing a functional classification; or*
- c. *Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluation projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*

*1. Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*

*2. Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan or;*

*3. Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

Compliance with OAR 660-012-0060(1) can be achieved by one or a combination of the following;

*a. Adopting measures that demonstrate the allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.*

*b. Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.*

*c. Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.*

*d. Providing other measures as a condition of development or through a development agreement or similar funding method, including transportation system management measures, demand management or minor transportation improvements. Local governments shall as part of the amendment specify when measures or improvements provided pursuant to this subsection will be provided.*

*providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, of the provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards.*

Clackamas County Engineering staff determined that the applicant's trip generation estimate – seven trips per day – appears low. It can be expected that trips will be generated not just by staff, but also by service and delivery vehicles, as well as visitors. This could result in two to three times more daily trips than that reported by the applicant. Note that a trip is defined as either originating or terminating at the site, so a delivery vehicle accessing the site is equal to two trips.

The number of trips will certainly increase on Bluhm Rd, and at the intersection of Bluhm and Lower Highland, over current levels. However, even with significantly more vehicle trips than estimated by the applicant, the peak hour trip generation is not expected to exceed 20 trips, which is the County standard threshold indicating the need to provide a traffic impact study. As noted by the applicant, the County told them that they would not need to provide a Traffic Impact Study (TIS). (Reference exhibit no. 15).

There are no known safety or operational issues on roadways and intersections in the vicinity, and the proposed amendment would not add sufficient trips to significantly degrade either safety or operations. It appears that amendment will not result in a significant effect per OAR 660-012-0060 from the information on the record.

**This application is consistent with Goal 12.**

**Goal 13; Energy Conservation: To conserve energy.**

This proposal will have no impact on any known or inventoried energy sites or resources. There are no planning or implementation measures under this Goal applicable to this application. **Goal 13 is not applicable.**

**Goal 14; Urbanization:** To provide for an orderly and efficient transition from rural to urban land uses.  
**Section OAR 660-004-0040 -- Application of Statewide Planning Goal 14 to Rural Residential Areas**

*(1) The purpose of this rule is to specify how Goal 14 “Urbanization” applies to rural lands in acknowledged exception areas planned for residential uses.*

(2) For purposes of this rule, the definitions in ORS 197.015, the Statewide Planning Goals and OAR 660-004-0005 shall apply. [...]

...

Comprehensive planning following adoption of the Statewide Planning Goals and the creation of the Department of Land Conservation and Development involved determining which rural lands could accommodate residential development and be acknowledged as rural exception lands, pursuant to an exception to statewide Planning Goals 3 and 4. However, when LCDC became concerned that certain Counties were allowing urban uses on rural land, the application of Goal 14, Urbanization, became an integral part of the comprehensive planning process<sup>1</sup>. Specifically, for Clackamas County, the adoption of Rural Exception lands was authorized through the Rural Plan Amendment or RUPA process, which included a number of different Comprehensive Plan amendment packages for different rural areas of the County. The subject property was not included in a rural exception area and was instead determined to be Agricultural resource land, as part of the RUPA I amendment, due to its location, size, use, and soil capabilities. As part of the RUPA process, LCDC and Metro required the County to make Goal 14 compliance findings for the rural exception lands. LCDC determined that the County did not allow any ‘urban uses’ on rural lands and, as such, the County was determined to be compliant with Goal 14.

In reviewing the proposed use, and the requested “reasons” exception to Goal 3, the County is required to make findings regarding consistency with Goal 14. Specifically, findings need to be included in a local government’s action to explain why the proposed use is “rural” and not “urban”. If the proposed use was found to be “urban” the use would need an exception to Goal 14. Specifically, *OAR 660-014-0040 Establishment of New Urban Development on Undeveloped Rural Lands* and *660-004-0010 Application of the Goal 2 Exception Process to Certain Goals*, provide the required process for a Goal 14 exception, for new urban development on rural lands (including resource and non-resource rural lands).

What is “urban” and what is “rural” is not explicitly clear in the context of Goal 14 since Statewide Planning Goals contain no definition of urban or rural uses. Additionally, while it is clear that OAR 660-004-040 applies to urban development on rural land, “urban development” is not defined in the OARs. That said, the statewide Planning Goals do contain the following definitions of rural and urban land:

*RURAL LAND. Rural lands are those which are outside the urban growth boundary and are:*  
*(a) Non-urban agricultural, forest or open space lands or,*  
*(b) Other lands suitable for sparse settlement, small farms or acreage homesites with no or hardly any public services, and which are not suitable, necessary or intended for urban use,*

*URBAN LAND. Land inside an urban growth boundary.*

The meaning of these terms in the context of individual applications has been contemplated in many different case law discussions over the years<sup>2</sup>. According to the Courts, these decisions must be made on a case-by-case basis. In general, Planning Staff’s review of relevant case law suggests that the following

---

<sup>1</sup> 1000 Friends of Oregon v. LCDC (Curry County), 301 Or 447.

<sup>2</sup> See Jackson County Citizens League v. Jackson County, 38 Or LUBA 37, 48 (2000).

main areas of consideration are relevant to this proposed use and must be addressed to make a determination that a use is rural or urban:

*1. That public facilities and services providing for the use will be limited to the types and levels of service available and appropriate for rural lands. Or in other words, that the proposed uses on rural lands will not require urban levels of service.*

The proposed use involves only well water that does not require a water right or any public water service. There is an onsite septic system currently available for the existing home and the County's septic department has determined that a system to serve the proposed 31 residents on site would be feasible. As such, planning staff finds that the proposed services to a new parcel in this area would still be a rural level of service. No road or traffic improvements have been deemed required to support the proposed use, per Goal 12 and associated statutes. Staff does not have enough information regarding what the required fire service would be to determine if the service required would be any different than that of another rural EFU zoned property without the proposed use.

*2. The potential impact on a nearby Urban Growth Boundary. Specifically, consideration of whether the proposed use would impermissibly affect the ability of nearby UGBs to perform their urbanization function.*

The proposed use and redevelopment of the accessory structure to a dormitory facility would attract people who would not otherwise locate within the agricultural resource land in the Beavercreek area. The proposed use also offers similar amenities to the urban amenities found in the UGB because the focus of the proposed use is on an addiction recovery treatment program, which are most commonly found in urban areas of the state (see exhibit 4), not on the agricultural resource lands. It is unclear from the application materials whether the addition of the congregate housing facility would impact the ability of nearby UGBs to perform their urbanization function; however, from all the materials on the record staff finds that the addition of 31 more residents to the rural property would draw people away from urban areas to provide goods and essential support services to a residential facility in a rural location. The proposed use, which most closely resembles a congregate housing facility, would not be consistent with the pattern of agricultural homesites in the Beavercreek area. The subject property is located approximately 4 miles from the Oregon City Urban Growth Boundary, so it is not directly adjacent to City limits or located adjacent to any urban uses would rely on a residential population, volunteers, and essential services and vendors that were coming from the urban area, drawing urban residents and urban service providers away from the urban area.

*3. Appropriate for, but limited to, the needs and requirements of the rural area to be served. Whether the type and intensity of use is consistent with those typically found in other rural areas of the County.*

The submitted application did not provide any materials demonstrating that it would be serving the rural area, instead the proposed use would provide people (many coming from an urban population based on the type of residents described in the application and testimony received) with urban services in a rural location, with hobby farming as an accessory to the main use. Staff have no evidence that the proposed use would be serving the needs and requirements of the rural area and it is reasonable to assume from the application materials that the primary residents of the residential treatment program would be from an urban population that suffers from higher rates of substance abuse/addiction issues. Additionally, the



proposed use is not a permitted use in the rural area of the County and there are no other similar facilities that have been permitted on EFU zoned land in the County to staff's knowledge. As such, the proposed use would not be consistent with the type and intensity of uses typically found in other rural areas of the County.

*4. Whether it is likely to become a "magnet" attracting people from outside the rural area*

In past cases, LUBA and LCDC have implied that rural commercial and industrial development present as serious a threat to the policies of Goal 14 as do rural residences.[37] LUBA \*307 has said that among the factors considered in determining if a particular use is urban are whether it is "appropriate for, but limited to, the needs and requirements of the rural area to be served," and whether it is likely to become a "magnet" attracting people from outside the rural area. *Conarow v. Coos County*, 2 Or. LUBA 190, 193 and n. 4 (1981)

As already noted, the definitions that accompany the goals do not define "urban uses." They do say that "urban land" may have "concentrations of persons who generally reside and work in the area" and "supporting public facilities and services". The submitted application explains that NWBTC could not be located on any alternate farmland in the County since the locations would be "too far from the essential services and vendors the applicant relies upon". Additionally, a comment letter from Chris Tendo (see exhibits) states that volunteers that service the proposed use come from many different churches and ministries in the Portland metroplex. A comment letter submitted by Diana Crities states that: "Treatment centers are normally placed in an urban setting for good reason, as they require the infrastructure and planning of an urban environment to handle the complex issues and needs of their patients. [...] Beaver creek is a sleepy hamlet dominated by rural living; it is not a destination, a potential development opportunity, or a service area for large cities." Oregon Health Authority's behavioral health profile for Clackamas County (see exhibit 3), which tracks the levels of behavioral health (including substance abuse) needs in rural and urban areas clearly demonstrates that there is a greater amount of people needing substance abuse treatment in urban areas. As such, based on the record staff can only assume that a majority of the population of the proposed substance abuse treatment program would be coming from the urban area to this rural area of Beaver creek.

**As such, Planning staff finds that the proposed substance abuse recovery treatment program, which would most closely meet the County's definition of a congregate care facility, would constitute an urban use. Therefore, a Goal 14 exception, and the application of OAR 660-004-010(1)(d)(D) and OAR 660-014-0040 would apply to the subject proposal and are addressed in Section D of this staff recommendation.**

**Goal 15: Willamette River Greenway:** To protect, conserve, enhance and maintain the natural scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

The subject property is not located within the Willamette River Greenway. **Goal 15 is not applicable.**

**Goal 16 (Estuarine Resources), Goal 17 (Coastal Shorelands), Goal 18 (Beaches and Dunes) and Goal 19 (Ocean Resources).**

**Goals 16, 17, 18 and 19 are not applicable in Clackamas County.**

## F. Compliance with Clackamas County Comprehensive Plan Policies

**Chapter 2; Citizen Involvement:** The purpose of this Chapter is to promote citizen involvement in the governmental process and in all phases of the planning process.

There is one specific policy in this Chapter applicable to this application.

*Policy 2.A.1; Require provisions for opportunities for citizen participation in preparing and revising local land use plans and ordinances. Insure opportunities for broad representation, not only of property owners and County wide special interests, but also of those within the neighborhood or areas in question.*

The Clackamas County Comprehensive Plan and ZDO have adopted and acknowledged procedures for citizen involvement. This application has been processed consistent with those procedures. Specifically, the County has provided notice to the property owners within ½ mile of the subject property, interested agencies and other interested parties and published public notices in the newspaper consistent with State law and Section 1307 of the ZDO. The Citizen's Planning Organization in the area (Damascus) is inactive. The Planning Commission and Board of County Commissioners will also hold one or more public hearings, as necessary, consistent with Section 1307 of the ZDO. These public mailings, notices and hearings will ensure an opportunity for citizens to participate in the land use process. **This application is consistent with Chapter 2.**

**Chapter 3; Natural Resources and Energy:** The purpose of this Chapter is to provide for the planning, protection and appropriate use of the County's land, water and air resources, mineral and aggregate resources, wildlife habitats, natural hazard areas and energy sources.

This Chapter contains eight (8) Distinct Sections addressing; 1) Water Resources; 2) Agriculture; 3) Forests; 4) Mineral and Aggregate Resources; 5) Wildlife Habitats and Distinctive Resource Areas; 6) Natural Hazards; 7) Energy Sources and Conservation and; 8) Noise and Air Quality. Each of these Sections is addressed below.

The subject property is not located in any of the above-mentioned protected areas and does not contain any land planned or zoned for forest uses. Therefore, the only applicable subsection in this Chapter are in subsection 2) Agriculture.

Agriculture: This section of Chapter 3 contains the following goals for agricultural lands in the county:

- *Preserve agricultural lands.*
- *Maintain the agricultural economic base in Clackamas County and the State of Oregon.*
- *Increase agricultural markets, income and employment by creating conditions that further the growth and expansion of agriculture and attract agriculturally related industries.*
- *Maintain and improve the quality of air, water, and land resources.*
- *Conserve scenic areas, open space and wildlife habitats.*

The applicant is proposing a Goal 3 exception to agricultural resource land.. The subject property is prime agricultural land, per the NRCS, and is classified as 45B and 45C Jory silty clay loam. The proposed use would not involve a farming business or a farm use, per the ORS definition. The proposed use is urban in nature and would not preserve agricultural lands or help maintain the agricultural economic base in Clackamas County. Additionally, the proposed use would not increase agricultural markets, income and employment by creating conditions that further the growth and expansion of agriculture and attract agriculturally related industries. The applicants applied for an exception to Goal 3, per the exception criteria in Goal 2, however, Planning staff finds that the proposed substance abuse recovery treatment program, which would most closely meet the County’s definition of a congregate care facility, would not meet the requirements for a Goal 3 exception per the applicable OARs and the requirements for a Goal exception in Goal 2.

**Therefore, this application is not consistent with Chapter 3.**

**Chapter 4; Land Use:** *This Section of the Comprehensive Plan includes the definitions for urban and rural land use categories, and outlines policies for determining the appropriate Comprehensive Plan land use designation for all lands within the County.*

This Chapter contains three Sections addressing; 1) Urbanization; 2) Urban Growth Concepts; and 3) Land Use Policies for the each Land Use Plan designation. Each Section is addressed below.

1. Urbanization Section. This Section of the Plan outlines polices guiding land use in Immediate Urban Areas, Future Urban Areas, Future Urban Study Areas, Urban Reserve Areas, Rural Reserve Areas and Population Coordination.

The subject property is not within an urban growth boundary, immediate urban area, future urban area, future urban study area or urban reserve area. The subject property is partially located in an area approved for a rural reserve designation. The policies listed in this subsection, however, apply to “*Rural Reserve areas established pursuant to OAR 660, Division 27,*” which requires the reserve areas be acknowledged. The decision designating land in the County as rural reserves has been appealed, and is currently unresolved. As such, the rural reserve areas are not yet considered acknowledged. Therefore, these policies do not yet apply to land in the county.

**The Urbanization policies are not applicable.**

2. Urban Growth Concept Policies. The Urban Growth Concept policies in this Section of the Plan are intended to implement the Region 2040 Growth Concept Plan. The subject property is not located within the boundaries of the Region 2040 Concept Plan identified on Map IV-8 of the Comprehensive Plan.

**The Urban Growth Concept policies are not applicable.**

3. Land Use Plan Designations. The subject property is currently designated Agriculture on the Comprehensive Plan map. The proposed amendment is for a limited use overlay to allow the proposed residential substance abuse recovery treatment program. Since the proposal involves a Goal 3 exception for a limited use overlay, no change to the existing Agricultural land use designation is proposed.

**This Chapter is not applicable to the proposal.**

**Chapter 5; Transportation:** This Chapter outlines policies addressing all modes of transportation.

Based on the submitted application and trip generation estimates the proposed zone change would be consistent with OAR 660-012-0060(1) and would not significantly affect the transportation facility, since it does not exceed the thresholds or triggers for project conditioning or modification as described in OAR 660-012-0060(1)(a)-(c). See the findings for Goal 12 in section E of this staff recommendation. **The proposed Comprehensive Plan amendment and zone change is consistent with Chapter 5.**

**Chapter 6; Housing:** The purpose of the Housing element of the Plan is to, “Provide opportunities for a variety of housing choices, including low and moderate income housing, to meet the needs, desires, and financial capabilities of all Clackamas County residents to the year 2010.” This Chapter includes a variety of policies regarding housing choices, affordable housing, neighborhood quality, urban infill, multifamily residential housing, common wall units, mobile homes and density bonuses for low cost housing and park dedication. Specifically, Policy 6.A.1 is applicable to the proposed Comprehensive Plan Amendment/Zone Change and states:

*6.A Housing Choice Policies*

*6.A.1 Encourage development that will provide a range of choices in housing type, density, and price and rent level throughout the urban areas of the County.*

Chapter 6 focuses on improving housing options and increasing housing density in the urban areas of the County. There are no polices specific to the natural resource lands in the County. **Chapter 6 is not applicable.**

**Chapter 7; Public Facilities and Services:** The goal of the Public Facilities and Services Chapter is to ensure an appropriate level of public facilities and services are necessary to support the land use designations in the Comprehensive Plan, and to provide those facilities and services at the proper time to serve the development in the most cost effective way.

The Public Facilities Section of this Chapter includes policies regarding Sanitary Sewage Treatment, Water, Storm Drainage, Solid Waste and Street Lighting. The policies regarding Sanitary Sewage Treatment and Street Lighting are not applicable because the property is not located within a public sewer or street lighting district.

**There are no policies applicable to this application. Chapter 7 is not applicable.**

**Chapter 8; Economics:** The goal of the Economics element of the Plan is to "Establish a broad-based, stable and growing economy to provide employment opportunities to meet the needs of the County residents." This Chapter contains 4 Sections related to; 1) Existing Industry and Business; 2) New Industry and Business; 3) Coordination; and 4) Target Industries. There are no policies in this Section of the Chapter applicable to this application. **Chapter 8 is not applicable.**

**Chapter 9; Open Space, Parks, and Historic Sites:** The purpose of this Chapter of the Plan is to protect the open space resources of the County, to provide land, facilities and programs which meet the recreation

needs of County residents and visitors, and to preserve the historical, archaeological, and cultural resources of the County. The subject property does not include any lands designated as open space or park land. There are no designated Historic Landmarks, Historic Districts or Historic Corridors on or adjacent to the subject property. **Chapter 9 is not applicable.**

**Chapter 10; Community Plan and Design Plans:** This Chapter of the Comprehensive Plan includes the Mt. Hood Community Design Plan, Kruse Way Design Plan, Sunnyside Village Plan, Clackamas Industrial Area and North Bank of the Clackamas River Design Plan, Clackamas Regional Center Area Design Plan, Sunnyside Corridor Community Plan, and Mcloughlin Corridor Design Plan.

The subject property is not located within the boundary of any Community Plan or Design Plan area. **Chapter 10 is not applicable.**

**Chapter 11; The Planning Process:** *The purpose of this Chapter is to establish a framework for land use decisions that will meet the needs of Clackamas County residents, recognize the County's interrelationships with its cities, surrounding counties, the region, and the state, and insure that changing priorities and circumstances can be met.*

Chapter 11 requires coordination with affected governments and agencies. Notice of this application has been provided to the following agencies and governments for comments; Hamlet of Beavercreek, Clackamas County RFPD #1 and the Department of Land Conservation and Development (DLCD). The subject property is not located within any Urban Growth Management Areas (UGMA) of any nearby or surrounding cities. The property is not located in a designated urban or rural reserve area. Therefore, this application does not affect any other adopted City Comprehensive Plans.

This proposal is a quasi-judicial Comprehensive Plan amendment and public notice was provided consistent with applicable policies of Chapter 11. The Planning Commission and Board of County Commissioners will review this application through one or more public hearings. Notice of the hearings have been published in the local newspaper and advertised consistent with all ZDO notice requirements. The property owners within 1/2 mile of the subject property were notified as required in Section 1307 of the ZDO. DLCD and other agencies and interested parties were notified of the application on October 4th, 2021, 35 days prior to the first scheduled public hearing before the Planning Commission on November 8th, 2021.

**This application has been processed consistent with Chapter 11.**

### **III. RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT OF 2000 (RLUIPA)**

The Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) is a law that prohibits the imposition of burdens on the ability of institutionalized persons to worship as they please and gives churches and other religious institutions a way to avoid discriminatory zoning law restrictions on their property use. Material submitted by the applicant appears to contend that not allowing the proposed faith-based addition treatment center to locate at the proposed site would be a violation of RLUIPA. Should the application for the goal exception be denied, staff expects there will be a need to address RLUIPA

provisions and offers the following initial findings related to the proposal and RLUIPA. It is likely that staff in County Counsel's office will provide additional, more detailed, findings related to RLUIPA.

The first issue to address is whether or not RLUIPA would even apply to the subject proposal, given that the applicant acknowledges that the proposed use is not a church or place of worship and is not accessory to a church that is located on the site. After consultation with County Council and based on review of the law, staff is confident that RLUIPA would apply in this case; RLUIPA specifically refers to "religious exercise," not just religious assembly or churches and staff expects that "religious exercise" could and would be broadly interpreted to include a facility that utilizes religious teachings are part of its treatment program, such as what is proposed.

Since it is likely that RLUIPA would be found to apply to the proposal, the applicants' contentions related to this law are addressed under the three main components of RLUIPA as follows:

1. Equal Terms: Section §2000cc.2(b)(1) of RLUIPA forbids the treatment of religious assembly or institutions on less than equal terms with non-religious assembly or institutions. The applicant does not appear to contend that the proposed faith-based facility is being treated on unequal terms as any similar non-religious uses. Although the applicant does reference boarding schools as a similar use to what is proposed, schools (either boarding or day) are not allowed in the EFU District on high-value farmland and therefore would not be allowed on the subject property either. In addition, the Goal Exception process is available to and includes the same individual assessment and high bar for evidence and analysis for any potential applicant. Therefore, not allowing the proposed facility to locate in on the subject site in the EFU District is not a violation of the "equal terms" provision of RLUIPA.
2. Discrimination: Section §2000cc.2(b)(1) of RLUIPA forbids a government from discriminating against any assembly or institution on the basis of religion or religious denomination. Again, the applicant does not appear to contend that denying the goal exception for the proposed use would constitute discrimination under this provision. For the same reasons noted above, staff concludes that not allowing the proposed facility to locate in on the subject site in the EFU District is not a violation of the "discrimination" provision of RLUIPA.
3. Substantial Burden: Section §2000cc.2(a)(1) of RLUIPA forbids a government from imposing a land use regulation in a manner that imposes a "*substantial burden on the exercise of religion of a person or assembly, unless the government demonstrates that the imposition:*
  - a. *Is in furtherance of a compelling governmental interest; and*
  - b. *Is the least restrictive means of furthering that compelling governmental interest*"

The applicant alludes to RLUIPA and implies that a denial of their application would be a substantial burden, but the applicant does not directly state how their religious practice will be substantially burdened. RLUIPA is very clear that the burden is on the applicant to demonstrate how a particular church or religions institution has been "substantially burdened" by a government's land use decision, noting that "*the government shall bear the burden of persuasion on any element of the claim, except that the plaintiff shall bear the burden of persuasion on whether the law (including a regulation) or government practice that is challenged by the claim substantially burdens the plaintiff's exercise of*

*religion.* (§2000cc-2.(b))[emphasis added]. The applicant has provided no evidence to substantiate a “significant burden” claim; if any such evidence were to be provided, it would need to be very compelling to meet the standards identified in several other cases regarding this provision.

The case cited in the application, *Guru Nanak Sikh Soc. v. County of Sutter* (456 F.3d 978 (9th Cir 2006)), is discussed in *Timberline Baptist Church v. Washington County*, 2011 Ore. App. 437 (2007). *Timberline* relies on *Guru Nanak Sikh Soc.* for the precept that “a land use regulation imposes a substantial burden on religious exercise when it is “‘oppressive’ to a ‘significantly great’ extent” and imposes a ‘significantly great restriction or onus upon such exercise.’” *Timberline* at 449.

Further, both the LUBA (*1000 Friends of Oregon v. Clackamas County*, 2004) and 9th Circuit Court (*International Church of Foursquare Gospel v. City of San Leandro*, 634 F.3d, 9th Cir. 2011) cases have asserted that a “substantial burden” is not one that is based solely on financial or market-based factors. Both cases confirm that the financial ability of a church to acquire property and the existence of market-based constraints that apply equally to religious and non-religious land users have no bearing on whether a jurisdiction has caused a “substantial burden” on a church.

Because there is no evidence to determine whether denial of the goal exception proposal would create a substantial burden on the applicant, staff must conclude that the “substantial burden” provision of RLUPA has not been violated.

In summary, staff finds that, based on the evidence provided by the applicant, denying the goal exception and therefore the ability of the proposed use to locate on the subject site would not constitute a violate RLUIPA.

**PLANNING COMMISSION  
MINUTES**

November 8, 2021

Meeting held via Zoom meeting online

Commissioners present: Tammy Stevens, Gerald Murphy, Thomas Peterson, Louise Lopes, Brian Pasko, Kevin Moss, Michael Wilson, Carrie Pak.

Commissioners absent: Steven Schroedl

Staff present: Melissa Ahrens, Martha Fritzie, Jennifer Hughes, Darcy Renhard.

Commission Chair Stevens called the meeting to order at 6:30 pm.

General public testimony not related to agenda items: none.

Martha Fritzie provided background information for file number Z0208-21-CP, which is a proposed Comprehensive Plan amendment for a goal exception. Goal exceptions are inherently complicated and are very unique under State law. They are always property-specific, so it would not establish any sort of planning or zoning policy that could be generally applied. Usually goal exceptions include a zone change as well as a Comprehensive Plan amendment, but that is not the case with this application. State law does allow for goal exceptions for use only and allows for those to be processed without a corresponding zone change. As far as Staff is aware the County has only processed goal exceptions for a limited use with an associated zone change application. As such, this type of limited use goal exception without a zone change is the first one in current staff's memory within Clackamas County.

There are 19 Statewide Planning Goals, 15 of which apply in Clackamas County. State law allows for this process if there is a proposal that does not comply with whatever the applicable goal or goals are on that specific property, but there are very specific approval criteria for a goal exception outlined in State law. The vast majority of what Melissa Ahrens analyzed and included in the staff report are out of the Oregon Administrative Rules. Under State law (Oregon Administrative Rules), there are three types of Goal Exceptions. The first thing that must be done is to decide which type is appropriate. The first two are the physically developed and the irrevocably committed exceptions. These two are really only applicable if there is something developed on the property or on a nearby property that really makes the subject property unable to be used for what the original Statewide Planning Goal intended. For example, if there is a lot of historic development on a property and it is a use that has pre-dated zoning, then the applicant could potentially apply for a physically developed exception. That is not the case here. What we are looking at tonight is a reasons exception. Reasons exceptions are by far the hardest to get under State law. This is intentional because essentially it is allowing somebody to do something that goes against all of the land use planning goals and rules. It can be allowed, but it requires a demonstration that what is proposed is not only needed, but that it needs to be located in the area and on the specific site where it is being proposed. It also needs to demonstrate that it is the only reasonable place that the use could be located.

There are four main criteria that need to be met for any reasons exception. The first one is the need. The applicant has to identify a sufficient reason for locating the use in this area. There also needs to be an alternatives analysis. State law really dictates the components that need to go into the alternatives analysis, which Melissa Ahrens is prepared to explain later but it consists of analyzing the environmental, economic, social and energy consequences of allowing the particular use on the specific site and whether or not it is, or can be made, compatible with surrounding and adjacent uses. There is a lot of case law that staff have



reviewed that demonstrates what a high bar this is. If a reasons exception is to be approved, all four of the main criteria must be met. Even if it is found to be approvable, the County is required to limit the uses only to those that are proposed in the application. This can easily be done through conditions of approval, which we have done numerous times in the past.

A goal exception is an exception to whatever goals are directly applicable to your property. In this case, the zoning on the property is agriculture, so Goal 3-Agriculture is applicable. Just to make it more complicated, any time you are trying to take a goal exception in the rural area, you must also determine whether or not an exception to Goal 14-Urbanization is also required. Part of that is a determination of whether the use that is proposed is an urban or a rural use, so it is not as simple as what we often review. It's not just as simple as saying what is an urban use or a rural use inside the growth boundary or outside the urban growth boundary. It is also not very neatly prescribed in State law, which means that an ESEE analysis needs to be done and there are factors that need to be looked at. How will public facilities and services be impacted and what public facilities and services might be needed? What will be the impacts be to nearby existing uses? Is the use appropriate for, and limited to, the needs of the rural area to be served? We must also look at the intensity of the use. After looking at these factors, we make a determination of whether the use is urban or rural. If the use is determined to be urban under these factors, then an exception to Goal 14 is also needed in addition to the Goal 3 exception.

Although this seems really complicated, it really comes down to a couple of things. Whether or not a Goal 14 exception is needed does not change a lot about the reasons exception. All four of the criteria for a reasons exception (need, alternatives, consequences, and compatibility) must be met in order to approve the reasons exception.

The distinction about whether or not it needs a Goal 14 exception or not is that State law outlines this criteria. Are you looking at an urban use vs. a non-urban use? The staff report was split out into an analysis of both of those criteria for this reason.

Melissa Ahrens explained that the applicant is proposing the reasons exception to State wide Planning Goal 3 to allow them to keep running a faith-based residential addiction recovery farm. The subject property is located within a rural agricultural area outside the UGB. There is sparse home site development and large acreages with cultivated farmland around the subject property. The property itself is 7.7 acres and is zoned Exclusive Farm Use (EFU). It is owned by Mission Teens and operated by Northwest Bible Training Center, which is a division of Mission Teens. The property is served by an existing well and septic system. The subject property is developed with a single family residence constructed in 1910 with major remodels in 1975 and 2011. The agricultural barn on the property was constructed in 2011 and was permitted as an agricultural building. In 2013 it was converted to an accessory structure through a building permit. There are two other structures on the property. One is a pole barn and the other is a livestock structure with chicken coop and run.

When the County Building Codes Division learned that the accessory building was being used as a residential facility, they were required to deem it as a dangerous building and open a code enforcement file. The violation went before the Code Enforcement Hearings Officer on July 9, 2020. He confirmed the dangerous building determination, as the appropriate inspections and permits had never been obtained for the interior construction that had occurred or for any conversion of the building that would allow for occupancy. He issued an order to vacate the building and to cease operating it as a residential structure.

The applicant and Planning & Zoning staff have had multiple conversations to figure out the right pathway to resolution. The applicant and staff had a pre-application meeting in September of 2020 and submitted the subject application on May 11, 2021. Staff requested additional materials and was able deem the application complete on July 20, 2021.

The proposed use, as indicated in the application materials, is for a faith-based addiction recovery farm. This would be a long term residential addiction recovery program for adults, so there would not be anyone under the age of 18. There are no short-term or overnight guests. There are no large gatherings on the property. The estimated trip count is seven trips per day. There are no new buildings being proposed. Twenty-six staff and residents would be living on the property, mostly in the dormitory (accessory structure). Five staff would live in the existing single family residence on the property. The applicant describes their activities as passive farming.

As part of the analysis that staff performed and the finding in our staff recommendation, we needed to determine which Statewide Planning Goals apply. It is clear that Goal 3 applies, which is also what the applicant is proposing an exception to. This is because the proposed use is not allowed on agricultural resource land per state statute and the County's EFU zoning district. An exception to Statewide Planning goal 3 would be required. After extensive analysis, staff has determined that the proposed use is an urban use, so a Goal 14 exception is also required. Goal 2 sets up the requirements for an exception process, so in the staff recommendation there are findings for both a Goal 3 and a Goal 14 exception.

There is really no clear definition in State Statute to rely on for a distinction on what is or is not a rural or urban use, which is why staff rely on case law for a determination and a guide. Site and use-specific determinations are made on a case by case determination, but major themes for consideration are whether or not it requires an urban level of public facilities and services, would it impact the ability of the UGB to function, would the use serve the needs of the rural community, and would the use draw people from urban areas to total areas? The proposed use relies upon volunteers, staff and services coming from outside of the rural area. Therefore, the use was not deemed to be appropriate for or limited to the needs and requirements of the Beavercreek rural area. The proposed use is not a permitted use in the rural area of the County and there are no other similar facilities that have been permitted on EFU zoned land to County staff's knowledge. As such, staff concluded that the proposed use is an urban use. The applicant is asserting that the proposal is a rural use, but the application contains no evidence addressing inconsistency with Goal 14 implementing statutes and associated case law. Instead, the applicant relies upon the assertion that because the property is zoned EFU and is in a rural zone that the use itself is rural. As previously summarized by Martha, the reasons exception pathways required to meet the four criteria in A through D of the statutes are established Goal 2 and ORS 190.732. Detailed criteria for meeting A through D is set up in OAR 660-004 which references use and goal specific criteria in other sections of the OARs as are referenced in the staff recommendation. The applicant is required to establish a clear and compelling reason that the proposed use needs to be located on the subject property. The application states that the proposed use needs a rural location, however there are no specifications as to why this has to be located on the subject EFU property with agricultural resource lands in order to operate.

The record demonstrates that the Northwest Bible Training Center operated successfully in the Portland metro area for 25 years. Additionally, the agricultural activities described are more akin to hobby gardening or not-for-profit uses that could occur in many different zoning districts and locations within the County. There is also no market analysis provided to demonstrate that the proposed exception site is the only one within that market area where these activities could take place. Based on goal exception statutes and relevant case law, a simple preference for a rural area does not meet the high bar for establishing a need.

The proposed use was not determined to be resource dependent on agricultural land, so these exception criteria were not met. Only three properties were provided as examples in the submitted application, and no explanation was provided as to why these properties did not meet Northwest Bible Training Center's needs. There is only a conclusion in the application that none of the survey results met the applicant's needs. As such, the criteria for the alternative area analysis was not met.

In what is titled the EESE analysis by the applicant, there is some information provided but it does not fully address the requirements of the EESE criteria and statute. The rule clearly states that the analysis needs to address whether adverse impacts are not significantly more adverse than what would typically result from the same proposal being located in other areas requiring a goal exception. In an EESE analysis, each of the four consequences needs to be addressed separately. Given that this criterion was not adequately addressed in the application, staff cannot make an affirmative determination relating to this criterion.

Section D deals with compatibility. In this particular situation for the proposed use, there would be long term residency for up to 31 individuals, with more individuals assumed to be coming and going from the property to provide services necessary to accommodate the significant residential population. The proposed use would be out of character with the surrounding EFU zoned properties, which consist of scattered homesteads and large tracts of cultivated prime agricultural land. The impact that this type of residential facility could have on adjacent agricultural farming operations is unclear. No other similar uses exist on resource land within Clackamas County to staff's knowledge. The submitted application does not provide enough information for staff to find it consistent with the criteria for the compatibility analysis in D.

Because the criteria for a reasons exception in sections A through D are not met by the submitted application, staff was also unable to find consistency with Statewide Planning Goals 2, 3, and 14. Likewise, because the reasons exception criteria were unable to be met, the application is inconsistent with the Clackamas County Comprehensive Plan, Chapter 3 relating to agricultural resources. Therefore, staff is recommending denial of the proposed Comprehensive Plan amendment.

There was a mix of supportive comments and comments in opposition to the proposal. 1000 friends and DLCDC also submitted comment letters. These are included as exhibits.

Commissioner Murphy: the business is listed as a school with the State, so would that limit other agriculture such as marijuana? Melissa answered that staff determined that this does not meet the definition of a school.

Commissioner Wilson: what is passive farming, and what was the violation for that was reported sometime back? Melissa answered that passive farming is small scale farming, more of a hobby farm than a for-profit activity. The violation was for converting the accessory building, which was approved as a shop accessory to the existing home, into a dormitory type facility with a kitchen and bathrooms for multiple people.

Commissioner Pak: would like clarification on the religious component of the application. Melissa explained that Northwest Bible Training Center is a non-denominational, faith-based substance abuse recovery center. Mission Teens is the parent organization, and they operate about 20 of these residential treatment facilities throughout the U.S.

Commissioner Lopes: doesn't the zoning for EFU require active farming, where you actually turn a profit? Also, the violation states that the dormitory is dangerous for anyone to remain in, so are we to assume that the building is now vacant? Melissa explained the farming or agricultural tax deferral status may have

requirements, but as far as the EFU zoning there is no requirement that you make a certain amount of money every year. Passive farming is certainly allowed. The question that we are looking at is really everything else that's going on along with the passive farming. As far as the violation, it is staff's understanding that the building is vacant as it was not constructed or permitted to residential use. The applicant is proposing use of that building as part of the goal exception. They would be housing 26 people in the building. According to our Building Codes Division, they would need a commercial building permit to re-engineer the building and upgrade it so that it met residential standards.

Commissioner Wilson: What is the limitation on the number of people that can reside in a building without it being some type of a commercial facility? Melissa explained this is something that staff struggled with when reviewing this application. The fact that the proposed use is occurring in an accessory building is not allowed, nor are accessory dwelling units allowed in the EFU zone.

Commissioner Lopes: with that number of people on the property, will the well and septic system be adequate? Melissa explained the applicant would have to upgrade the septic system to accommodate that many people, but the State Watermaster determined that the well is sufficient for up to 31 people.

**Les Poole (on behalf of the applicant)**- Mr. Poole became involved in this application because a friend of his went through their program. After the applicant moved onto the property, they found out that they were not zoned for this use. He drove to the site and determined that this was a worthy venture and offered his assistance. While this group was operating in Portland, things changed quite a lot. They couldn't move east and couldn't move out into the Gorge. They determined that they really needed to be in a rural location in Clackamas County. It is well documented that there are advantages for them to be in their current location. Northwest Bible Training would clearly be required to do everything necessary to bring the accessory building up to code and whatever else is necessary for the proposed use.

When the applicant first bought the property, the accessory shop was already there and was probably being used as offices. The applicant did some conversions and started using it as a dormitory. What the applicant is doing on the property really does not have any negative impacts on the surrounding uses. They are below the threshold for traffic, they are not creating smells, and the building setbacks and flag lot design are ideal. About 5 acres of the property is being farmed, but it is not anything that is ever going to be profitable. The farming is very therapeutic for the residents and has helped improve their program. In the EASE analysis, the impacts are so minimal that it is really hard to do. They have people living on the farm and acting very much like a family. This is not in any way a medical treatment facility. There are no violent or sexual offenders there. The police have never been called out to the property, and they aren't making any noise. The program is very rigid and structured. So when you start looking at what the environmental impacts are, then it is truly nil. And they are meeting Goal 10, which is the need for housing. When it comes to meeting Goal 14 requirements, you ask yourself what is the value of life? You can't put a dollar amount on that. The applicant specifically moved to this property because of the unique features and location. Relocating to a piece of property that has these unique features but that is within a narrow corridor outside the growth boundary and yet within reach of the urban services is not a simple endeavor. This property fit perfectly. The applicant attempted to provide comparable examples of locations, but they weren't able to find more than a couple.

What the applicant is doing is not an urban use. The reason that they feel it is a rural use is because they are providing a rural farm experience for the residents. There are not a lot of deliveries, there are no overnight visitors and no visitors past 10 pm. They are fairly self-contained. There are fears that if this is allowed, then the next thing you know these types of facilities are going to be everywhere. This is a unique,

complimentary, long-term program that is not easily duplicated. It requires a very specialized background and involvement. The applicant needed a piece of property that was at least 5 acres, but under 10. They wouldn't dream of taking on something larger than 10 acres, so this property has been ideal. It is an honorable and very well-established entity that, if allowed to continue, will not be significantly impacted financially and people's lives will not be put on hold. They are willing to invest some money into the property to make it work because it really is that ideal.

**Ray Hacke (attorney for the applicant)**- Mr. Hacke is an attorney with the Pacific Justice Institute. They are a non-profit law firm that is devoted to defending religious liberty, including the right to exercise religious freedom in the context of land use. In their former location in Portland, there was a bar across the street and a marijuana dispensary next door. They needed to get away from places that would cause them to fall back into addiction. That led them to go to a place that was as far away from where they were as possible, yet still close enough that they could access emergency services if needed, get rides into town, and that sort of thing. ORS 215.283 delineates several non-farm uses that are permitted in zones devoted to EFU. These non-farm uses include churches, which is under subsection 1A. It also includes residential homes, which include facilities for inpatient drug and alcohol treatment room and board arrangements for a maximum of five unrelated persons. It also includes public or private schools for kindergarten to grade 12, including all buildings essential to the operations of a school primarily for the residents of the rural area in which the school is located. Admittedly, the proposed use does not fit neatly into any of these categories, but the proposed use bears features inherent in all of them.

Oregon's OSHA recognizes that farms, larger ones in particular, frequently have bunk houses for laborers. The farming that is done on this property is not just for themselves, they serve a lot of ministries in the community by providing food to the hungry and the poor. If the County needs to fall back on something, it can treat this as just another form of housing for those who provide this service.

The other law that he would like to fall back on is RLUIPA, which is the federal religious land use and institutionalized persons act. There are two components to that, the first of which is land use. This is primarily what we are talking about here. RLUIPA explicitly protects the use, building, or conversion of real property for the purpose of religious exercise. Religious exercise is defined as broadly as possible, so the treatment that NWBTC provides to the drug and alcohol addicts is religiously based and is therefore a protected form of religious exercise. As for the institutionalized persons aspect, Congress recognized in enacting RLUIPA that religion can play a very big role in the rehabilitation of a person. Some of these people who come through NWBTC property are ex convicts, and some are not. The fact is that it's been proven that religion can play an active role in a person's recovery efforts.

Under Article 6, Section 2 of the US Constitution, Oregon counties lack authority to deny proposed land uses based on State law. If state or county law interfere with, or is contrary to, federal law, then the state or county must yield. RLUIPA requires the county to protect the free exercise of religion to the maximum extent permitted. Both RLUIPA and the US Constitution require this protection, which Mr. Hacke strongly recommends that the Planning Commission keep in mind when making their recommendation. There is no compelling interest for the County to restrict the religious exercises of NWBTC to protect EFU zoned land.

Commissioner Wilson: How does farming affect a reduction to addiction, and what is the success rate for this facility? Also, what does it mean to this facility when they say a reasonably comparable property? Mr. Poole answered that there is a peace and calm with the farming operations that you don't find in the urban environment. It brings people back to where they were before they got lost, and you will hear testimony from others that it has an incredible effect on their psyche. The facility has a very high success rate. A

reasonable comparable property would be something within the proximity of where they are and the right size to have a small residential farm. The residents are at the facility voluntarily, but they do have very strict rules and those rules are enforced. The average resident stays at the facility for about 10 months.

Commissioner Wilson: Mr. Hacke incorporated the operation of a farm as being a religious right, so is it a violation of their religious rights if they are not allowed to operate on a farm? Mr. Hacke replied that the overall operations of farming is a part of what they do and it is part of what teaches them about the Christian work ethic. Taking care of something else and having responsibility is just kind of a vehicle to instill Christian principles. Bible studies are another tool that they use, not just farming. Farming also provides them an opportunity to give to others and demonstrate charity to their neighbors.

Commissioner Peterson: First off, what NWBTC is doing and what they are trying to accomplish deserves applause. His concern, however, is that we are being asked to look at it from a land use perspective. Why wouldn't NWBTC be able to move into the eastern part of the County or Multnomah County as previously stated? Mr. Poole answered that Multnomah County is all being developed all the way to the Sandy River to the east, and the rural part of the County was just impractical because of the housing costs and growth.

Commissioner Peterson asked Mr. Hacke if he is saying that under RLUIPA they are exempt from any state land use regulations. Mr. Hacke said that he means is that there has to be a compelling interest, which the County does not have. The County has not asserted one compelling interest here.

Commissioner Murphy: on the Secretary of State website, it says that NWBTC has not renewed their business license. There is no description of what the business is. When you look up Mission Teens, Inc. it says that they have a religious type of business for non-profit. Mr. Hacke explained that they are not a business, they are more of a ministry. Commissioner Murphy applauded the applicant for their efforts and for their courage in bringing this forward.

Commissioner Pasko: who are the participants of this program and how are they selected? How does the applicant advertise their services and who is their target audience? Christopher Previti replied on behalf of the applicant. There is a very strict application process. They don't take any violent offenders or anyone with sexual crimes. That is just a policy that Mission Teens in general has. There isn't really any advertising done, it is through local churches in the area that they work with. None of the staff are paid, they are all volunteers who just want to help in the community. Most of the applicants are from the State of Oregon. There really is a need for these services in the rural areas, drugs aren't limited by the urban growth boundary.

**Rose Byrne-** Ms. Byrne went to NWBTC in 2006 as an addict. She had three children and was getting ready to go to prison. She had lost her job for the seventh time and lost her home as well as everything else. She shared her life experience after going to NWBTC and how she graduated the program and ended up staying. She was able to get her children back and ended up going to college. She now works in a hospital and has even gone to Greece to help refugees. She thanks God for the changes in her life and asks that the Planning Commission understand that NWBTC needs to be where they are.

**Angel & Trevor Stempert-**There are many pathways to recovery and each person has a way that works for them. Some people need Jesus to change their lives for the better. Ms. Stempert struggled with drugs and alcohol for over 14 years. She is now able to live her life abundantly and to stay sober because she was able to completely remove herself from where her life was before. She wouldn't be alive today if it weren't for NWBTC and the program that they have put into place. She is now getting her Master's degree to be a school counselor. Mr. Stempert has been clean and sober from drugs and alcohol around seven or eight years. Some people need different things to recover, but for him it was Jesus

**Christopher Previti-** Mr. Previti joined NWBTC when they were still in Portland, so he sees the great difference in the two locales. He graduated from the program and recovered from a heroin addiction, then decided to stay on as staff. His predecessors did not check on zoning and things like that before they moved out to Bluhm Road, so since then they have been trying to rectify this. He would argue that most of the qualifications that need to be met are completely compatible with the surrounding areas. What they do is farm when they are not in their 5 ½ hours of Bible study each day. They have never had a neighbor file a complaint in the three years that they have been there. It is very simple out there, it is shared meals, it's Bible classes together, it is working together on farm projects. They learn and teach personal responsibility. These are experiences that can't be duplicated in Oregon City and Portland.

**Zeth Nelson-**Mr. Nelson is the current overseer at NWBTC. He is also a previous resident. Rebuilding your life by rebuilding and caring for something else makes you want to have hope in life again. It makes you want to go back to school and become a productive member of society. He learned discipline at NWBTC that he might not have otherwise ever learned. If this is approved, he can assure the Commission that five years down the road this farm will still look exactly the same as it does today. He has helped numerous neighbors with clean up after the ice storm last year. That's what they do, they help other people and their community.

**Jerry Weggener-** Mr. Weggener is a post in Oregon City. He has been connected to NWBTC for over 20 years and knew them when they were in Portland. NWBTC has been the answer for so many people that have gone through their program. There is a different peace amongst the residents now that they are out in Beavercreek. There is less distraction for them and they seem more focused on recovery and getting on with life. He is really excited to see them in the area. He believes that they are supposed to be where they are. There is a really big and supportive community behind them, so they will have whatever support they need to get through all of the changes and challenges that are before them.

**Daniel McGuigan-**Mr. McGuigan is the resident director and also in charge of the grounds, the maintenance, and all the work projects at NWBTC. He was suicidal when he arrived at NWBTC almost four years ago. From his own personal experience, if they were still located in North Portland he wouldn't be here today. There is a need in this community, and they help a lot of other people with farm training that they can put to use in real life. He explained how working on the farm and being responsible for the animals has transformed him as a person and given him a passion that he did not have before.

**Brandy Henderson-**Ms. Henderson is the neighbor in front of the property. She has been living there since 2002. She actually walked through the accessory building when the previous owners built it. They had bedrooms and it was plumbed when it was built so that the previous owners could let their employees live in it. NWBTC are better neighbors than what she had before, and she is never bothered by traffic or noise. If farming and farm animals are what help some people with recovery, then who are we to say that it's not something that is needed in the community?

**Robert Milliken-** Mr. Milliken is one of the teachers at NWBTC and a pastor and the Remnant Church. It is really a pleasure for him to go out to NWBTC twice a week and have his class. The farming is incredible therapy for these people. He sees things going on at NWBTC that he has not seen in other recovery programs. It has to do with the way that they participate in the farm work and the miracle of watching things grow that you have taken care of. It builds character and makes them good citizens and good neighbors.

**Austin Tanner-**Mr. Tanner has been teaching at NWBTC intermittently for the last 10 years. He has also seen the transformation since they moved out to Bluhm Road. When he was teaching in North Portland the residents were constantly approached by people leaving the bars and people trying to solicit them back into

using drugs. They were in a very difficult place, which is why it was necessary for them to find the place that they did. If this was someone you loved, and they had one opportunity to get themselves together before they ended themselves, what kind of environment would you want them in?

**Tom Montano**-Mr. Montano is a teacher at NWBTC. He hasn't heard anything that he feels cannot eventually be resolved from the standpoint of land use. It is unfortunate that we even need to be dealing with all of this addiction, but the point is that we are. There are many different types of therapies, but until that spiritual battle is detailed and we release the spiritual part of us, you don't see that transformation. He is very excited about the vision that everyone has for this organization and how it will benefit the community and the County.

**David D**- Mr. D has been a friend of the mission for at least 20 years. Their previous location was not somewhere you would even want to walk your dog. You don't want to hang out on a street corner. If a resident went outside to smoke they would be approached by someone from the bar or someone from the marijuana shop next door. Out here they are surrounded by fresh air and beauty. These people aren't doing this for the money. None of the staff are paid. They do this because they love the Lord and their community.

**Jimmy Park** – Mr. Park is one of the teachers at NWBTC. The farm is operated all year round, as there is also a 14 by 50 greenhouse on the site. The use of the facility and the property is diligently used with responsibility. There is a lot of understanding of balancing soil pH and understanding how to rotate crops. They keep beehives, which takes a lot of knowledge and care. But most importantly, all of their residents understand the love of Jesus Christ and have love for each other.

**Bob Howard** – Mr. Howard is also a teacher at NWBTC. He has been teaching there since the spring of 2014, so he remembers their old facilities in North Portland. The new facilities have brought such a change over the residents that it is just incredible. Their program is extremely regimented, so that every moment of the day something is happening. This is a big part of the recovery process. Farming also requires a very regimented schedule, which is part of the reason that they work so well together.

**Jeremy Pollard** – Mr. Pollard lives on Bluhm Road and owns most of the whole west side of Bluhm Road, including directly across from the proposed site. He does support and understand what they are trying to do and is sympathetic with it, but he does have some concerns. The biggest concern is ingress and egress to the site. Bluhm Road is a dead end road running north from Lower Highland. It's the only way in and out of the property. Bluhm Road is about 14 feet wide, and your normal lane of travel is 12 feet wide. According to the National Highway Traffic Safety Administration, your average car is about seven feet wide. He owns an Oregon State registered farm that operates around 70 acres. There is another farm operating to the south, and there are several properties to the north and south of his property as well as the subject property that are operating as farms. There is a blind hill 580 feet upon turning onto the road. There are also two 90 degree turns. There are nine residences, including the subject property. We often meet cars coming on this road, and having substantially more traffic on the road would make things difficult. Farm equipment is often present and can easily be 12 feet wide during heavy farm activity. There are several trips daily with farming equipment, including tractors, implements, and trailers. One of the neighboring farms and I both run cattle up and down the road between fields. These are critical for our operations and agricultural function. Every neighbor has also had at least one person drive up to their house at all hours looking for this facility. It is uncomfortable for the neighbors and they are not excited about having strangers come down long driveways looking for the site. When Mission Teens began to operate, the number of vehicles on Bluhm Road increased significantly. In one day, the largest amount of traffic that he saw was over 70 cars coming and going. He was advised that this was their annual graduation. He has also seen his well volumes drop, and his artesian water has disappeared completely. Other properties relatively close to him have actually had their wells dry



up this summer, so they are all concerned about the consumption. He is also concerned about the electrical infrastructure. Given all of these concerns, he is not comfortable with the proposal before us.

**Bob Woods**- Mr. Woods is another farmer on a neighboring property. He does not see much farming going on, and he is curious why nobody has ever met any of these people. They also played pretty heavily on the church card, which he does not think has real bearing. There is a lot more traffic going in and out of there than they are trying to play off.

**Austin Moehnke** – Mr. Pollard covered much of what he had to say. Mr. Moehnke is the farm across from Mr. Pollard, so they actually farm completely around the property that is the subject tonight. He was not even aware of what was going on until a neighbor told him that he had come home to a bottle of booze and a jacket sitting next to his flag pole, and someone indicated that they had escaped from their rehab home. They couldn't quite figure out what the person was talking about, so at the end of the day they found out that this was the rehab home that they were talking about. There are some serious safety concerns, not just with the traffic and people not moving over to the shoulder to let other cars pass, but with farm animals that could hurt someone.

**Amy Manning** – Her biggest concern is the precedent that it sets. A lot of people are watching this in the community, and a lot of people own EFU land or other similarly rural type of land. When we start talking about uses that go far beyond what's allowed, other people are going to start getting ideas about what they can do on their property and will just go ahead and put it in. They will put dormitories in if they want and not even bother with the permits until they are forced to, and then just ask for permission after the fact. Yes, they are doing some very important work, she just doesn't see how it fits on EFU land. When she lived in the City of Portland she had a permit to raise chickens and she had a garden. There are other places that this particular facility could be located.

Mr. Poole said that the applicant is going to place a small, discreet sign at the end of their driveway to help make sure people can find it. Yes, there was a large graduation a couple of years ago, but he is out there regularly and the amount of traffic that NWBTC is generating is nowhere near what he is hearing tonight.

Mr. Previti said that the issue that seems to be of concern was the event with 70 cars. He understands why that would be alarming. Usually they have their graduation at a church, but that year they were forced to have it on the farm property. It is not a thing that they do regularly. As far as not being friendly, they have called neighbors when their cows get loose or their dog wanders onto the property.

The Planning Commission and staff discussed whether to continue the hearing to another night, or to just keep going. Chair Stevens said that Melissa and Martha should finish their rebuttal but that the public testimony portion of the hearing is now closed.

Melissa reiterated that the criteria for a reasons exception is a very high bar, and the applicant must show that the use cannot be reasonably accommodated somewhere else in the urban area, in a different rural area, or in an area that doesn't require goal exceptions, on different rural properties requiring goal exceptions. Where else (what areas in general, not just specific properties) can the proposed use be located? Why can't it be located anywhere else other than the subject property? That is the information staff doesn't have in the application and that we didn't feel meet the requirements of statute. Goal 10-Housing applies to buildable land, which is defined as urbanized lands, so it wouldn't actually be applicable to the subject property. Again, it sounds like Les mentioned only a small piece of property would suit the need of the proposal. That kind of gets back at the alternatives analysis, why can't a smaller rural property that is located

within the UGB or adjacent to the UGB, other than the subject property, accommodate the use? Reasonably accommodate does not mean that it is the perfect program, it means why can't it function as the proposed use somewhere else? That is the information that staff doesn't have anywhere in the application and didn't feel that the current proposal met under the statute. There is a lot of confusion about what the proposed use is as brought up by Mr. Hacke. It's kind of like a church, but kind of like a school, and kind of like a boarding school but has components of a farmworker dwelling. And he states that it also has residential treatment similarities. Staff has determined, based on the definition of all those different uses in statute and in our Zoning and Development Ordinance that the proposed use would not meet them for the reasons that are detailed in the staff recommendation. What staff did find is that the proposed use most closely resembles a congregate housing facility, so for the purposes of the application that is how we are treating it. Not as a church, not as a school, not a boarding school, and not a farm.

Martha emphasized that churches and schools are not allowed on high value farmland to begin with, even though they are allowed in other areas. The subject property is high value farmland, therefore a church or school would not be allowed on this particular property. If what the applicant was talking about were residential houses and room and board situations which have a cap of five people, then we would not be here talking about a goal exception. RLUIPA is a federal law, and it does apply very broadly to religious facilities, religious assembly and it specifically refers to religious exercise. However, RLUIPA absolutely does not mean that religious institutions or other facilities can just do whatever they and that they are exempt from land use. There are three specific provisions in RLUIPA that staff have outlined very briefly on the back two pages of the staff recommendation. One of them deals with the fact that religious institutions or facilities need to be treated on equal terms as other similar facilities that are not affiliated with a religious organization. A school, for example. It also does not allow your land use to discriminate against religious facilities and again, the same rules apply whether or not it is a treatment facility, a farm, religious or not religious. A goal exception would still have to be taken and they would still have to follow the same rules and meet the same high bar. Then we get to the substantial burden provision. Mr. Hacke is right in that a county may not impose a substantial burden on a religious exercise without a compelling government interest, however, RLUIPA is very, very clear that the burden is on the applicant in this case to demonstrate that somehow whatever land use decision has been made creates the substantial burden. The applicant simply did not demonstrate that in this case. Staff is not convinced that protecting high value farmland is not compelling government interests. Unfortunately, this decision does not come down to whether or not this is a worthy venture. There was a bit of conflicting testimony on the compatibility of the use. There is some additional evidence that really need to be put out there if we are going to get to a point where the applicant has demonstrated that the other criteria has been met.

Melissa added that County Engineering staff based their traffic analysis on the number of trips as explained by the applicant in the submitted material. What the applicant submitted did not meet the trip threshold of twenty trips to require a traffic study.

Commissioner Moss: are they proposing a new building that would expand onto the farmland Martha said that it is her understanding that they are not proposing any new buildings, but the reason that she spoke about compelling interest to protect farmland is because it relates to a RLUIPA argument. It doesn't relate to the goal exception.

Commissioner Pasko: some type of flowchart that walks us through how to complete the EESE analysis and helps us understand the Goal exception requirements would be very helpful. Melissa responded that the applicant is required to provide the EESE analysis but that staff can help put something together like the

decision matrix Martha had prepared for them previously on a different goal exception application to assist the PC in their decision making.

Commissioner Pak: where did the code enforcement initiated. It sounds like they purchased a building that was already renovated. Melissa explained that it started when they came into the main lobby at the County trying to get a mechanical or electrical permit of some type for improvements that they had made. Once Code Enforcement found out that people were living in the accessory building, they opened the violation on the property per the legal requirements of their structural code.

Commissioner Murphy: what he heard tonight reiterates how important it is to the citizens that we are actually representing to protect our resources. We can't just let these types of activities happen just because a group comes in and says that they really love it out here in this EFU property.

Mr. Poole requested that the applicant be given time to submit additional documentation. Chair Stevens and Jennifer Hughes clarified that it needs to be written argument, meaning that it has to be in response to evidence that is already in the record. It does not mean submitting new information. The applicant is granted seven days from this hearing to submit any additional argument.

The Planning Commission chose to continue this hearing on November 22<sup>nd</sup> for deliberations and recommendation only. The public testimony is closed.

There being no further business, the meeting was adjourned at 10:37 p.m.

**PLANNING COMMISSION  
DRAFT MINUTES**

November 22, 2021

Meeting held via Zoom meeting online

Commissioners present: Steven Schroedl, Tammy Stevens, Michael Wilson, Louise Lopes, Tom Peterson, Gerald Murphy, Carrie Pak, Brian Pasko, Kevin Moss.

Staff present: Jennifer Hughes, Glen Hamburg, Liz Dance, Melissa Ahrens, Martha Fritzie, Darcy Renhard.

Commission Chair Stevens called the meeting to order at 6:31pm.

General public testimony not related to agenda items:

**Jenna Smith** - Ms. Smith owns property that she has some concerns about. There are serious concerns with the roadway, which she has been trying to inform the County of for two years. The road in front of her property and the right-of-way are not up to County standards. Delivery vehicles frequently turn around there and have caused significant damage to the green space and the creek. She has gone outside at night to find strangers under the trees on her property because they think that it is a public road. There is not appropriate signage and the road is longer than is permissible by County standards. There are multiple things wrong with the construction of the road, but she has not been able to get anyone at the County to help her. She feels that she just keeps hitting dead ends and being routed back to the same people. Oak Lodge Water District surrounds her property on two sides, and there is a railroad on the third side. Her parents used to own the property, but now she owns it and is trying to clear out all of the invasive species. She is asking for a property line adjustment and road modification to help fix these issues. The water district owns the property behind her, but she maintains it. She has a couple of structures on her property and could actually turn the upper portion of her home into rental units if she had additional parking. Commissioner Stevens offered, and Jennifer Hughes agreed, that contacting Jennifer directly would probably be the most helpful place to start.

The Planning Commission moved directly to deliberations on file number Z0208-21-CP, Northwest Bible Training Center, which was continued from November 8<sup>th</sup>.

Commissioner Murphy does not see how the proposed use could possibly fit under our Comprehensive Plan. He looked at Comp Plans from other jurisdictions and found that they align with ours. So do the Statewide Planning Goals. He doesn't see any reason why this use cannot fit on a different property with appropriate zoning. We have farming zones for a reason.

Commissioner Peterson does not think that there is any harm from the Training Center being on this property, and the farm setting is probably beneficial to the recovery process. Unfortunately they don't seem to have done due diligence. It's unfortunate, but it is another example of people not understanding the complexity of land use laws. Even though he is alright with the use itself being on the property, he cannot support approval from a land use standpoint.

Commissioner Pasko said that the first decision is whether this is an urban or rural use. He is struck by how many people testified that they are coming in to the facility from urban areas. The argument that this is a rural use is a stretch. The Training Center existed for a long time without the farming component, so clearly there are other lands where this could exist. Secondly, there was no EASE analysis provided by the applicant, which means that the application does not meet the criteria that the State has asked us to apply.

Commissioner Lopes agrees that the applicant should have done their due diligence. Staff has laid out how the application does not meet the criteria. The Planning Commission is not here to judge the activities of a non-profit, but to determine whether or not the application meets the criteria that we are required to apply.

Commissioner Pak tried to find ways to make this application work. The program itself is a noble cause, but she hopes that they are able to find another property that is more suitable.

Commissioner Wilson does not agree that this meets religious classification. It does not meet the criteria for a goal exception. He is supporting the staff recommendation of denial.

Commissioner Moss said that he tried to take the emotion out of it and go by the facts presented. There are buildings being used without appropriate permits and the applicant did not perform due diligence. That being said, he does not think that it is impacting the surrounding farm uses and finds himself in favor of the application if they can go through the proper process and get the necessary permits.

Commissioner Stevens looked at federal law, which clearly says that the burden of proof lies with the applicant. It is up to the Planning Commission to determine if there is an undue burden in requiring the applicant to find different property. She agrees that there are rules and laws put into place for a reason, and they are created to protect resources and people. However, not all situations or crises can be predicted when the rules are formed. It has been a chain of unfortunate, but not malicious, decisions that brought us here today. She does not believe that approval of this application will change the character of this property, nor will it set any type of new precedent.

Commissioner Pasko thinks that we need to be careful not to confuse making a decision that would prohibit a religious institution versus prohibiting an activity that is supported by a religious institution. They are two very different things. By denying this application, we are not making a statement on the religious practice at all. We are making a statement on the use that is being proposed on this particular piece of property. That being said, we have an obligation to follow the reasons exemption criteria that staff has clearly laid out. He does not believe that the criteria has been met.

Commissioner Pak's primary concern is that we are, in fact, setting a precedent if we approve this application. She feels that the use is an urban and not a rural use, so as much as she appreciates the work that this program is doing she does not support approval of the application.

Commissioner Peterson thinks that approval would send a message that people can just do whatever they want on their property and ask for forgiveness later. What is the point of land use laws if that is the case? It isn't that he doesn't support what they are doing, he just has to look at the criteria that we have been charged with using.

Commissioner Wilson said that they can accomplish the same mission on property that is not EFU. Even if they need to have animals and farming as part of their recovery process, there are other properties where this can be accomplished that is not EFU. The applicant made an error by not performing due diligence in selecting this property. He wishes the applicant the best, but he does not think that this is the appropriate place to put this type of activity.

Commissioner Moss asked if the County was aware of this activity before the applicant came in to get permits. He doesn't see if as them doing something and asking for forgiveness later, they were trying to get

permits and it turned into a much bigger situation. He doesn't think that this will set a precedent, each land use situation that comes before us is unique and needs to be looked at that way.

Commissioner Murphy found other similar farms doing this type of recovery treatment in other counties, but they are not located on EFU property. It can be done on other agricultural properties and not just EFU or high value farmland.

Commissioner Pasko moved that the Planning Commission recommend denial of the application consistent with staff's recommendation on Z0208-21-CP. Commissioner Wilson seconded the motion. (*Ayes=6: Pasko, Wilson, Lopes, Pak, Peterson, Murphy. Nays=2: Stevens, Moss. Abstain=1: Schroedl*). Motion is passed.

7:14 p.m.

Chair Stevens opened the public hearing for file numbers Z0155-21-M, Z0156-21-CP, and Z0157-21-ZAP. This is an application by Heavy Timber Innovations, LLC for a comprehensive plan amendment to change the land use plan designation of the subject property from rural to rural industrial, with a corresponding zone change from rural residential farm forest 5-acre (RRFF-5) to rural industrial. There is an accompanying partition of the subject property resulting in two separate rural industrial zoned parcels.

Glen Hamburg and Liz Dance presented the application. The property is located at 25720 SE Eagle Creek Road. Currently the property is a single parcel of 19.4 acres. The partition would create a 14.4 acre parcel and a 5 acre parcel. The property is about 1.3 miles north of the City of Estacada. The surrounding properties are zoned a combination of RRFF-5 and rural industrial. There is also some rural commercial properties across the street. Highway 211 and 224 run along the property to the west, but there is no direct access from either highway to the subject property. Access to the property is from South Eagle Creek Road. There are no dwellings on the property, and there is no history of the property ever having a dwelling. There is, however, a 28,000 square foot building on the property that has been used for various industrial purposes in the past. It is currently not being used for anything. There are no geologic hazards and the property is not in any regulatory flood hazard area. There is an old log pond in the southern portion of the property, but it has long been overgrown with trees. There is a Tri-Met bus stop for bus number 30, which is the main bus route between the City of Estacada and Clackamas Town Center. There is also a nearby mobile home park that is a non-conforming use. The property has an existing septic drain field and water for the property comes from an existing well that is just below or near the building. There are also two ditches at the north end of the property and at the east along the road, but they are both non-jurisdictional. This means that they are isolated and not being fed by or feeding any other water source. The same applies to the log pond.

The applicant is looking at adding new structures to the 5-acre parcel in the future, but that is not part of the application that we are currently considering. The applicants have explained that the reason they sought this property out is for a cross-laminated timber related industry. This would support some of the existing similar uses inside the City of Estacada. If the BCC were to approve the proposal, the applicant could later come back to the County for land use approval for design review. A design review application would require separate public notice, at which point any neighboring property owners would have another opportunity to weigh in on what was being proposed.

Statewide Planning Goal 5 addresses natural resources, scenic and historic areas and open spaces. The application is consistent with the criteria in Goal 5 because they are not proposing any changes to the County's existing Comprehensive Plan policies. The applicant has no intention of disturbing the log pond or the ditches that are on the property.

Statewide Planning Goal 9 is about economic development and is implemented by OAR 660, division 9. The requirements of Goal 9 actually only apply inside of an urban growth boundary. This property is outside of any urban growth boundary, so Goal 9 does not apply. Staff would just like to point out that even though it does not actually apply, this proposal could provide economic benefit to the area. Goal 10, which applies to housing, likewise only applies inside of urban growth boundaries and therefore does not apply to this property.

The applicant has submitted a traffic impact study that shows the current transportation system is adequate to serve industrial uses on the property. County Transportation Engineering staff concurs.

The County's Comprehensive Plan, Chapter 3 covers natural resources and energy. Policy 351 prevents disturbances of natural wetlands, but the wetlands on this particular property are isolated and not associated with any outside waterways. The applicant doesn't propose any substantial alteration to the flow of waters on these wetlands.

Chapter 4 of the Comp Plan sets out what properties can be zoned for dependent on certain criteria. The property has to be in a non-urban area in order to be zoned rural industrial. It also must be consistent with the rural character, development, and facilities of a rural area. Staff finds that these criteria would be met if the application is approved. Additionally, there are criteria that require that the property either have a historic commitment to industrial uses, have an abandoned or diminished mill site, or that the property be located both in an unincorporated community and have direct access to a road of at least an arterial classification. The property does not meet the third option, but it could possibly meet the second. The applicant is requesting approval under the first criteria, though, as this would give them fewer limitations on what they could do with the property. Glen provided aerial photos and historic land use approvals which clearly indicate that the property has a historic industrial use. Staff finds that the application meets all of the relevant criteria in the Comprehensive Plan.

It is unusual for a partition to come to the Planning Commission as they are traditionally decided at the staff level. When a request for a partition is made concurrent with an application that does come to the Planning Commission, then it is simply bundled and the Planning Commission makes a recommendation on the proposal as a package.

Liz Dance informed the Planning Commission that staff has found the application to meet all of the Zoning Ordinance (ZDO) criteria for a partition. Even though the wetland is non-jurisdictional, it has been delineated and identified per Section 102 of the ZDO as a restricted development area. The proposed zoning would meet the density standard for a partition of two lots. The applicant has provided all of the required information for septic, water, and all roads and access that are required to meet the standards for a partition in the rural industrial zone.

Staff underscored the fact that if the applicant wanted to place additional buildings and a cross laminated timber facility (or any other industrial use), they would need to go through design review prior to any development. This would include septic, water, and transportation review for whatever uses the applicant proposed. Staff have outlined recommended conditions of approval.

**Carlos Callava** - Mr. Callava is a planner with Three J's Consulting, representing Heavy Timber Innovations, LLC. Mr. Callava provided an overview of the applicant's proposal and explained that the applicant intends to reuse the existing building on the site, and to eventually add an additional building on the second property. That has a separate land use process, which is done through design review. He included documents from the

1950's and onward showing the historically industrial uses on the property. In 2002, a comprehensive plan amendment and zone change were approved for the property immediately south of the subject property to be rezoned to rural industrial. The BCC at the time unanimously approved the zone change, citing a clean case for historical commitment and stating that the change would improve upon the lack of industrial properties in the area.

Cut My Timber is one of the two companies that will be located on the properties. They are a mass timber digital fabrication company. They fabricate timber elements using CAD technology and robotics. Carpentry Plus, Inc. is the other company that would be on the property. They design, build, and assemble mass timber elements such as stairs and trusses. Mass timber is a more sustainable alternative to the carbon intensive materials and building systems.

Commissioner Peterson asked if the two businesses were complimentary to each other since they are doing similar types of products. Mr. Callava answered that he believes that they are complimentary.

Commissioner Wilson asked if there was already a building on the 5-acre parcel. Mr. Callava explained that it is some type of storage area.

Commissioner Pak asked how the log pond is going to be used in the future. Mr. Callava said that it is not going to be used, it is just a vestige of the past that is now defunct.

Commissioners Pasko, Wilson and Peterson agree that this application fits very well with the current uses in the area and provided potential economic benefit. The region has a shortage of industrial land, so this is in line with some of the County's goals as well as being a great emerging industry that really complements what we do within the County.

Commissioner Pasko moved to recommend to the Board of County Commissioners, approval of the proposed rezone and partition including conditions of approval 1,2,3 through 9 and 11 as outlined in the staff report associated with Z0155-21-M, Z0156-21-CP, and Z0157-21-ZAP. Commissioner Wilson seconded. (*Ayes=9; Nays=0.*) Motion passes.

The draft minutes from the November 8<sup>th</sup> meeting were approved by acclamation as submitted.

Jennifer provided a schedule review. There are no meetings scheduled through the remainder of 2021.

Commissioner Murphy informed the Planning Commission that the Sandy River Watershed Council is dissolved.

There being no further business, the meeting was adjourned at 8:38 p.m.





**Clackamas County Planning and Zoning Division  
Department of Transportation and Development**

Development Services Building  
150 Beaver Creek Road | Oregon City, OR 97045  
503-742-4500 | zoninginfo@clackamas.us  
www.clackamas.us/planning

**LAND USE APPLICATION**

**DEEMED COMPLETE**

ORIGINAL DATE SUBMITTED:	Z0208-21-CP
FILE NUMBER:	Z0208-21-CP
APPLICATION TYPE:	COMP PLAN ZONE CHANGE

The Planning and Zoning Division staff deemed this application complete for the purposes of Oregon Revised Statutes (ORS) 215.427 on: 7/22/21

Melissa Ahrens

Staff Name

Senior Planner

Title

**Comments:**

**Check one:**

The subject property is located inside an urban growth boundary. The 120-day deadline for final action on the application pursuant to ORS 215.427(1) is:

The subject property is not located inside an urban growth boundary. The 150-day deadline for final action on the application pursuant to ORS 215.427(1) is:



**Clackamas County Planning and Zoning Division  
Department of Transportation and Development**

Development Services Building  
150 Beaver Creek Road | Oregon City, OR 97045  
503-742-4500 | [zoninginfo@clackamas.us](mailto:zoninginfo@clackamas.us)  
[www.clackamas.us/planning](http://www.clackamas.us/planning)

## **NOTICE OF INCOMPLETE APPLICATION**

FILE NUMBER: Z0208-21-CP  
APPLICATION TYPE: Comprehensive Plan Amendment for an exception to statewide planning Goal 3  
STAFF CONTACT: [Mahrens@clackamas.us](mailto:Mahrens@clackamas.us); 503-742-4519  
DATE OF APPLICATION SUBMITTAL: May 11<sup>th</sup>, 2021  
180 DAYS FROM DATE OF APPLICATION SUBMITTAL: November 7<sup>th</sup>, 2021  
DATE DEEMED INCOMPLETE : May 27<sup>th</sup>, 2021, notice emailed to applicant  
DATE OF CERTIFIED MAILING OF THIS NOTICE: June 1<sup>st</sup>, 2021

---

### **MISSING INFORMATION REQUIRED FOR A COMPLETE APPLICATION:**

1. Proposed use description. We are basing our review of the submitted application based on an understanding that the proposed use is a 'faith based addiction recovery farm', however, there are also references to alternate use descriptions in the application, including a 'boarding school' and a 'farm labor dwelling'. Please confirm that the proposed use is a 'faith based addiction recovery center' or submit an alternate use description that you would like your application to be based upon.
2. Findings demonstrating adequate on-site water service. Pursuant to the requirements of Statewide Goal 6, Section 1307.07(C)(1)(c), Chapter 3, and Chapter 4 of the County's Comprehensive Plan, please submit information regarding the status and location of the following:
  - (a) Water service. Please provide water rights information/permits from the state Water Resources Department, if available, or exemption information, if the proposed use is considered exempt by the State. You can contact the watermaster as follows:

*Amy Landvoigt, Oregon Water Resources Department, District 20 Watermaster,  
(503) 312-1743  
10722 SE Hwy 212  
Clackamas, OR 97015*
3. Oregon Administrative Rules Consistency Findings. For a complete application the submitted materials would need to address consistency with the Goal 2 exception process, as required by OAR 197.732(2)(c). Specifically please address the following with qualitative and quantitative evidence sufficient enough to reach a reasonable conclusion about legal consistency with applicable state laws:

- **197.732(2)(c)(A):** *Reasons justify why the state policy embodied in the applicable goals should not apply.* Please refer to Oregon revised Statute (ORS) 660-004-0020(2)(a) for the details about what needs to be included in the findings for this analysis.
  - **197.732(2)(c)(B):** *Areas that do not require a new exception cannot reasonably accommodate the use.* Please refer to ORS 660-004-0020(2)(b) for details about what needs to be included in the findings for this analysis. This should be an analysis of general alternative areas and not just alternate specific sites. For example, the analysis should address why the proposed use cannot be accommodated in the urban area or in an area outside of a natural resource zoning/comprehensive plan designation.
  - **197.732(2)(c)(C):** *The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.* Please refer to ORS 660-004-0020(2)(C) for details about what needs to be included in the findings for this analysis.
  - **197.732(2)(c)(D):** *The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.* Please refer to ORS 660-004-0020(2)(D) for details about what needs to be included in the findings for this analysis.
4. **Statewide Planning Goals Consistency.** Please address consistency with all applicable Statewide Planning Goals, with particular attention paid to the following:
- (a) Addressing Goal 6 regarding air, water, and land resources quality.
  - (b) Addressing Goal 12 regarding transportation. Please consult with Christian Snuffin ([Csnuffin@clackamas.us](mailto:Csnuffin@clackamas.us) or at 503-680-5623) in County Engineering regarding traffic study requirements potentially necessary to demonstrate Goal 12 consistency, as per *transportation planning rule OAR 660-12*).
  - (b) Addressing Goal 14 regarding urbanization and urban uses in rural areas. No exception to Statewide Planning Goal 14, urbanization, was proposed in your application. For a complete application you would need to provide qualitative and quantitative evidence sufficient enough to reach a reasonable conclusion about legal consistency addressing why a Goal 14 exception is not required as part of your proposed use, and specifically address why the proposed use is not an urban use on rural land. Please refer to ORS **660-014-0040**. By definition, all land outside an acknowledged UGB and not the subject of an exception to Goal 14 is "rural" land. When amending its acknowledged comprehensive plan and zone designations for such land, a local government must demonstrate that the new plan and zone designations comply with Goal 14 or adopt an exception to Goal 14. (*Churchill v. Tillamook County, 29 Or LUBA 68 (1995)*).

## **IMPORTANT**

**Your application will be deemed complete, if, within 180 days of the date the application was first submitted, the Planning Division receives one of the following:**

- 1. All of the missing information; or**
- 2. Some of the missing information and written notice from you (the applicant) that no other information will be provided; or**
- 3. Written notice from you (the applicant) that none of the missing information will be provided.**

**If any one of these options is chosen within 180 days of the date of the initial submittal, approval or denial of your application will be subject to the relevant criteria in effect on the date the application was first submitted.**

**NOTICE**

**Your application will be considered Void if, on the 181<sup>st</sup> day after the date the application was first submitted, you have been mailed this notice and have not provided the information requested in Options 1 – 3 above. In this case, no further action will be taken on your application.**

**Applicant or authorized representative, please check one of the following and return this notice to: Clackamas County Planning Division; 150 Beaver Creek Road, Oregon City, Oregon, 97045**

- I am submitting the required information (attached); or.
  
- I am submitting some of the information requested (attached) and no other information will be submitted; or
  
- I will not be submitting the requested information. Please accept the application as submitted for review and decision.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

NOTICE

Your application will be considered Void if, on the 181<sup>st</sup> day after the date the application was first submitted, you have been mailed this notice and have not provided the information requested in Options 1 – 3 above. In this case, no further action will be taken on your application.

Applicant or authorized representative, please check one of the following and return this notice to: Clackamas County Planning Division; 150 Beaver Creek Road, Oregon City, Oregon, 97045

- I am submitting the required information (attached); or.
- I am submitting some of the information requested (attached) and no other information will be submitted; or
- I will not be submitting the requested information. Please accept the application as submitted for review and decision.

  
Signed

07/20/21  
Date

Christopher Previti  
Print Name

NORTHWEST BIBLE TRAINING CENTER  
A DIVISION OF MISSION TEENS, INC.



**Table of Contents**

1. Introduction
2. "About our Founder"
3. Submittals
4. Goal 2 Exception Narrative & EESE Analysis
5. Goal 3 Exception Narrative
6. Goal 3 Comparable Property Search
7. Goal 14 Exception
8. Conclusion
9. Exhibits & Supporting Documents

NORTHWEST BIBLE TRAINING CENTER  
A DIVISION OF MISSION TEENS, INC.  
23172 S. BLUHM ROAD  
BEAVERCREEK, OR. 97004

503-632-1953 [NWBIBLETRAINING@GMAIL.COM](mailto:NWBIBLETRAINING@GMAIL.COM) [WWW.NWBTC.ORG](http://WWW.NWBTC.ORG)

**"PROVIDING HELP FOR THE DESPERATE"**

## Introduction

The NW Bible Training Center, (NWBTC) has provided a unique and highly successful residential recovery program since 1994. Originally located in Portland, Oregon, NWBTC relocated to rural Clackamas County in 2018 to provide outdoor activities essential to their mission, and to escape growing impacts of population growth, increased availability of drugs and alcohol, and a loss of connection to nature. The shortcomings of an urban location required a move to a permanent rural location outside of the UGB; but within close proximity to essential government and private services. The small farm property in the Beavercreek Hamlet has proven to be the ideal solution.

The size, location, and characteristics of the 7.7 acre subject property make it unique for the proposed use. The gently sloped flag lot is further described in the application and photo exhibits. Sole owner and applicant is "Mission Teens"; dba "NW Bible Training Center" 23172 S. Bluhm Rd. Beavercreek, Or. 97004. Existing structures include an updated 2 level residence, large modern accessory building, and small farm buildings clustered on the highest portion of the property.

NWBTC uses its property like a church, however, NWBTC is not, in fact, a church: ORS 215.441 defines churches and other religious assemblies as "non-residential places of worship," and NWBTC's ministry has a residential component. Unlike conventional churches, NWBTC is not open to the public: Traffic will not increase on lightly traveled Bluhm Road. The sole users of the property are its occupants, who live there as they either receive guidance in pursuit of freedom from drug or alcohol addiction or, in the case of NWBTC's staff, provide the guidance. There are no short term or overnight residents, nor would the applicant ever request that overnight residents or camping be allowed. A typical residency is 7-9 months.

NWBTC is seeking relief from ORS.660 statutes and Sections of County Ordinances by meeting the requirements for Goal Exceptions defined in ORS 197.730. The undeveloped portion of the property will remain in farm use; and will not be developed, altered or adversely impacted by the proposal. Existing zoning and Comprehensive Plan designations will not be affected if relief is granted.



**“Reasons” exceptions are justified where there is a need for development at the site in question and where the applicant establishes that reasons justify why the policy embodied in the applicable goals should not apply, the proposed development cannot reasonably locate elsewhere, and the proposed use is compatible with other adjacent uses or can be made compatible through measures designed to reduce impacts.**

Approval of the application would allow the NWBTC to provide desperately needed solution to current social emergencies in Clackamas County, on a continuing basis at their current location.

The owner/ applicant, Mission Teens, Inc., proposes “Reasons” Exceptions to Statewide Planning Goals 2 and 3 and 14, and approval to operate a faith-based “addiction recovery farm” on 7.7 acres of EFU land in the Hamlet of Beavercreek. The residents / occupants are all adults age 18 and older who spend all of their time on a schedule that provides stability and builds a sense of responsibility. They are required to spend several hours daily in study. There are no juvenile children in the program. NWBTC is open to adults, except for violent offenders, or those with a history of sex abuse or other sexual crimes

Aerial photography shows an approved access and egress exists via S. Bluhm Rd., a dead-end, County-owned rural road. The existing two-level residence, accessory building, and two farm buildings are clustered at the end of a long driveway. The structures are located at the highest portion of the gently sloped property.

The subject property is zoned EFU and is in an area of family farms that are a minimum of five acres in size, zoned RRFF-5 and EFU lands, all of which are subject to State Land Use Goal 3, Agriculture. The owner/applicant uses the undeveloped portion of the property exclusively for farm activities allowed under ORS Chapter 660 and the County Zoning & Development Ordinance (ZDO).

The residents grow vegetables, raise chickens, and engage in other farming activities allowed in the zone. No development or encroachment onto the portion of the property currently in farm use is proposed. There is no commercial activity on the property. Surplus produce is seasonally donated to local charities.

The residence is a spacious modern 2 level wood framed structure that features a large common area on the main floor, an outside deck on the

upper floor, a backyard deck with built-in bar-b-que and prep area, and well-manicured grounds that are maintained by the residents.

The existing residence, buildings and infrastructure were constructed to satisfy the need for development on the previously vacant site. Nothing in the proposal, or prosed future improvements will require re-development or significant construction.

## Submittals

The accessory building is a major consideration for the proposed use. The applicant proposes to convert a major portion for use as a dormitory to house up to 26 staff and residents. Improvements to the interior will be required to meet building codes. The owner/applicant has the financial means to cover the costs. The building has numerous access and egress points and appears capable of safely housing a maximum of 26 residents. However, final occupancy is to be determined by the County Fire Marshal and other qualified authorities.

*As stated elsewhere in the application, the maximum number of resident/occupants proposed for both buildings is 31, regardless of the number potentially approved for the proposed dormitory.*

NWBTC is a nonprofit organization that provides a long-term residency that creates stability for individuals suffering from alcohol or drug addiction. Farming and family-oriented activities are paramount for those in recovery. The unique features, size, and location of the property are discussed in a section of the application that addresses the Goal 3 "Reasons" Exception, and corresponding relief from the County Zoning and Development Ordinance (ZDO).

**Goal 6**, Water Resources, is required for all development applications on farmland. The property has an existing well recently tested by Skyles Drilling, Inc., to flow at 13.7 gallons per minute at 36 pounds per square inch (PSI). The system is capable of providing adequate water to accommodate occupants' needs, based on 500 gallons per day per occupant. Initial research and consultation with the County Water Master have been conducted. The proposed use is below the 5,000 gallons per day that would require water rights information/permits. Amy Landvoigt, District 20 Water Master, stated the County may contact her directly to validate the information. The proposed use will not exceed the ½ acre of irrigation allowed. The only portion of the property that is irrigated, or will be, as proposed, is the small lawn surrounding the SFR. NWBTC will install a permanent water meter, allowing the County or itself to check water usage on short notice.

***Compliance with Goal 6 can be met.***

## **Goal 12 Compliance**

Section 1203 and 1006 of the ZDO require feasibility statements for utilities, including electricity, potable water, wastewater disposal, on site surface water handling and retention.

An existing electric service is provided and maintained by PGE, and weekly refuse disposal service is provided by Oregon City Garbage Co.

The existing on-site wastewater disposal system has been inspected, and is capable of handling up to 14 occupants, the maximum occupancy for the residence. An inspection and feasibility study have been performed by a licensed contractor to expand the wastewater system to accommodate a maximum of 31 residents in two buildings. The proposal has been approved by the Planning Department. See Permit # SE048620 (study attached).

There will be no new buildings, driveways, or other construction except for expansion of the on-site wastewater system. Erosion control measures will be in place as required. The project will be complete in approximately five days.

The ZDO requires that fire and emergency services be available. The applicant would not have applied for consideration if the property was not serviced by adequate fire and emergency Services. The Property is located in Clackamas County Fire District 10. The nearest station is located at 22310 S. Beaver Creek Rd, approximately 4.2 miles away.

Essential public safety services and utilities to support the proposed use exist, and on-site systems can be expanded to accommodate the requirements for the maximum proposed occupancy.

Compliance with Goal 12 could be challenging if the proposed use was for a conventional school or church where large gatherings occur. In those cases, traffic dramatically peaks during certain hours. The proposed use generates an average of 7 trips per day, far below the threshold of 20 allowed in Section 1007 of the ZDO. After consulting with Christian Snuffin in the County's engineering department, NWBTC has determined that no traffic study is required.

***Compliance with Goal 12 has been met.***

## NWBTC Goal 2 Exception

Approval of a Goal 2 exception requires compelling evidence that the use of the subject property cannot be duplicated or replaced without a substantial burden. As a provider of life-changing programs, it's essential that the applicant, NWBTC, be allowed to use the property for its mission.

Northwest Bible Training Center ("NWBTC") is a Christian ministry that provides an eight-month, biblically-based residential program for individuals seeking freedom from drug and alcohol addiction. NWBTC purchased the location at 23172 South Bluhm Road (the "Property") because the Property is the most suitable property available for NWBTC to carry out its religious mission – namely, to help drug and alcohol addicts overcome their addictions in an environment far away from such temptations such as bars, liquor stores, and easy access to addictive substances.

The purpose of Goal 2, Planning, is to provide a process. That process is outlined in Section 660 of the Oregon Administrative Rules and the County ZDO – all of which include potential exceptions for unique and compelling circumstances. An exception to OAR 660-004-0010 is required because the rule does not apply to Goal 2.

The following language is copied directly from the Oregon.gov website that includes all of the Statewide Planning Goals:

“The goals express the state's policies on land use and related topics, like citizen involvement, housing, and natural resources. Most goals are accompanied by guidelines, which are suggestions about how a goal may be applied. As noted in Goal 2, guidelines are not mandatory.”

The proposed use is consistent with similar uses allowed in EFU (and non-EFU) farm lands statewide. The applicant is proposing exceptions to Statutes, primarily Administrative Rules. The use as a long-term addiction recovery farm will not adversely impact the air, water or soil quality of the site, or any neighboring property. If those aspects were problematic, the applicant would not request a Goal 2 Exception.

While unique, an exception to Goal 2 is not prohibited by ORS statutes. Relief from certain OAR 600-004 requirements would provide the applicant with a path for approval if adequate evidence is provided. Relief from ORS

statutes requires reasons the proposed use is justified because of a “compelling interest”, and the proposed use “not be in conflict with surrounding property owners”.

The proposed use meets both of those criteria. All neighboring property owners have been contacted, and none has objected. Many view the NWBTC as an asset, and several have signed a petition and/or letters of support. None of the impacts, including traffic and noise, would exceed the levels allowed in the ZDO. The proposed use will not adversely impact surrounding properties, and the peace and quiet the neighborhood currently enjoys. NWBTC provides a structured quiet environment that is critical for the success of those in recovery. NWBTC has a rigid policy in which residents are in their quarters long before 10:00 PM each night.

ORS 197.732(2)(c)(C): requires consideration and possible measures to address the long term Environmental, Economic, Social and Energy consequences resulting from the use, with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a Goal exception(s) other than for the proposed site.

NWBTC proposes a passive use for its property that is not likely to be duplicated or replaced by being located on farmland in areas requiring the same exceptions.

The NWBTC provides a simple program that is ideally suited to the location, infrastructure, and needs of those in recovery. Locating in an area of the County that does not require an exception would be problematic, if not impossible. There is farmland available, but the lot sizes exceed the proposed need, or are too far from essential services and vendors the applicant relies on. Small farm properties in close proximity to Oregon City are in high demand. The EFU zoning of the subject property assures that development or significant changes to the rural character of the neighborhood will not occur in the future.

## **EESE Analysis**

ORS 660-004-0020(2)(C) requires consideration of the environmental, economic, social and energy consequences of the proposed use. Evidence in previously presented in the application supports a conclusion

that the use would create negligible consequences to the environment , The use will not require any environmental for neighboring properties while achieving a slight benefit in energy conservation by allowing use of a portion of the accessory building for dormitory purposes, and making improvements, pending approval of the land use application.

The positive social consequences resulting from an approval of this application are compelling. It would be difficult to produce a better example in which the environmental and energy consequences are negligible, while the economic and social consequences are dramatic and well known.

### **Environmental Consequences of Approval**

The subject property includes a long driveway and existing buildings. Improvements are planned for the interior of the accessory building, pending approval. No new buildings or development will occur if the application is approved. There would be no significant impacts to the existing environment, and no impacts from development or construction would occur. The property is adequate in size to accommodate an increase in the capacity of the on-site wastewater disposal system.

The low neighborhood population density and abundance of well water will meet the proposed need. Construction new infrastructure will not be required except for expansion of the wastewater system. The proposed use will not alter the existing surface water run-off pattern; which currently retains all of those waters on on the applicant's property. The arable portion of the property will continue in passive farm use, and no unpermitted activities are proposed; as noted elsewhere in the application. As stated elsewhere, there are no impacts that require mitigation, nor does the proposed use generate excessive transportation, noise, or other environmental impacts.

### **Economic Consequences of Approval**

The proposed use is intended to be perpetual, providing a secure location for the mission of NWBTC. No commercial activity is proposed, nor would it be allowable under the ZDO or the organization's non-profit 501 C3 tax status. Produce that is not consumed by the residents will be seasonally donated to My Father's Heart Ministries and other fraternal organizations.

Government and private social service providers are currently overwhelmed by a growing need, and there is no solution on the horizon. County and other government records indicate that substance abuse is a common thread in the homeless and prison populations. The lack of a stable environment promotes the spiral of despair that many are living, and contributes to the growing cost for providers.

Recovery is a process that isn't the same for all addicts. Some are able to receive short term housed treatment complimented with long term support. Others lack an environment (social setting) in which they are in a long-term program that provides a safe and secure home environment, far from the temptations and associations that have plagued them in the past.

The cost for Clackamas County Corrections to accommodate the housing and other requirements of one inmate exceeds \$100,000 annually. Recidivism is a major contributor to that cost. Many inmates are non-violent substance abusers who could be rehabilitated in a different setting, and at a much lower cost.

Conventional treatment programs are higher in cost vary in scope. Service levels differ, creating a wide cost basis. Cost for treatments ranges from \$6,000 to \$15,000 per month in government or private facility.

Due to generous support from a variety of donors, and careful financial management, the 2022 projected cost for NWBTC to house and provide other necessities will be \$1,050.00 monthly per individual. Staff and those in recovery will live on the premises long term. Completion of the program for graduates is typically 6-7 months long.

Embedded in the application is an assumption that the decision makers are aware of the enormity of the social tragedy public services, churches, and non-profit entities such as NWBTC are charged with.

The need for "Affordable Housing" is defined in ORS 456 and is extensively addressed in the "Regional Housing Needs Analysis" performed as a requirement for HB-2003, approved by the 2019 Legislature. House Bill 2003 provides the necessary steps toward helping Oregon reach its housing supply needs while providing local jurisdictions the resources they need to accommodate future growth. The analysis verifies the increasing need for affordable housing in statewide. Explosive population growth has



contributed heavily to the lack of housing in local rural communities.

The proposed use will provide safe modern and affordable home for up to 31 individuals; which includes staff and those in recovery.

Privately owned farmland typically qualifies for a status in which property taxes are deferred. As a non-profit organization, the owner/applicant is exempted from property taxes. That status would exist if the NWBTC was located on a similar 5-10 acre farm property within the County. The current AVR value is \$745,609. A July 2021 Account Summary provided by the County Assessor's office is attached as an exhibit.

The property tax exempt status would have a minor economic impact on revenue that is primarily dedicated to public safety and schools. That reduction is an acceptable impact, given the proposed use provides a cost effective program with an exponential return on investment of several hundred thousand dollars annually.

## **Social Consequences of Approval**

The social benefits of the proposed use as an addiction recovery farm are far-reaching and self-evident. As lives are guided away from addiction and dependence, smiles appear where frowns once seemed permanent. Improved health brings the desire and ability to be productive. The unique environment and farm setting of the NWBTC has been a life changing experience for many. For some it's been a lifesaving experience. Short term programs are not the solution for all who struggle with addiction. NWBTC fills a desperately needed niche at a time when the need continues to grow.

The social and economic consequences of the applicant's proposal share many similarities which are well known. Support for that statement is readily available from County and State government records accessible on the internet. The most impactful economic aspect of the proposed use is that lives will be dramatically improved, and in some cases, saved. It is extremely difficult to quantify the exact economic value of a life turned around, and the benefit of ending their pain and suffering, and that of their families; especially their children.

Concurrently, public and private costs for correctional housing, treatment and recidivism will be reduced. Removing 20 or more individuals from dependency at any given time, and guiding a high majority of them to a healthier productive life is the goal for the NWBTC. Quantifying all of the positive economic consequences of an approval must be measured against the negative economic consequences resulting from a denial of the application.

The social consequences resulting from an approval are compelling. It would be difficult to produce a better example of an application in which the environmental and energy consequences are minimal, while the economic and social consequences are dramatic and difficult to even quantify.

## **Energy Consequences of Approval**

As stated elsewhere in the application, approval will not generate commercial activity, nor will the proposed use result in generation of traffic volume that exceeds the 20 trips allowed per day, or other County standards for the zoning district. There are no significant impacts to water features, (Goal 6).

A minor savings in electrical energy use will result if the application is approved. The proposed dormitory setting has a small footprint for each individual, and common areas for food preparation, dining and studying. Meals are prepared in amounts sufficient to serve groups, not one or two individuals. Residents and the staff remain on the property the majority of their time, engaged in studying, farm activities, day to day maintenance, and enjoying the idealistic setting. Were the NWBTC to be located elsewhere, on EFU or non-EFU land near Oregon City, the energy usage and proposed electric conservation benefits would be similar.

Existing buildings are well insulated and were constructed to meet 2011 standards. The property is in a moderate weather zone, away from the Cascade foothills or effects of the Columbia River Gorge. Energy use expected to be typical for the square footage of the 2 buildings.

The slightly elevated location of the buildings and their roof features are favorable for installation of a passive solar system. The applicant is dedicated to providing one in the future. An energy savings of up to 15%

savings would result. At this time the commitment by NWBTC to solar is contingent on approval of the application. The applicant is also committed to participating in PGE's Green Future Choice Renewable Power program.

The location is ideal for the intended purpose. Minimal trips (approximately 7 per day) will be generated, unlike a property open to the general public. The number of trips generated by the use, and need for public services are below allowable County standards.

As further discussed in the application, the Religious Land Use and Institutionalized Persons Act ("RLUIPA") provides a pathway that the County may use to provide relief. "RLUIPA" explicitly protects "***the use, building, or conversion of real property*** for the purpose of religious exercise[.]" 42 U.S.C. § 2000cc-5(7)(B) (emphasis added). The treatment that NWBTC provides to drug and alcohol addicts is religiously based and thus a protected form of religious exercise. 42 U.S.C. § 2000cc-5(7)(A) [defining "religious exercise" to include "***any*** exercise of religion, whether or not compelled by, or central to, a system of belief" (emphasis added)]. Furthermore, pursuant to the U.S. Constitution's Supremacy Clause [see U.S. Const. art. VI, cl. 2] and RLUIPA, Oregon's statutes and administrative regulations, as well as the County's ordinances, must yield to RLUIPA where the two conflict.

## NWBTC Goal 3 Exception

Goal 3, Agricultural Lands, is a primary consideration for an approval. This section of the application provides the evidence that justifies a “Reasons” exception from certain requirements of Goal 3. The applicant is seeking relief from OAR 660-033-0120 and corresponding ordinances in Section 401 of the County Comprehensive Plan which include allowable uses on farmland. While meeting many requirements of Goal 3 and the ZDO, the proposed use is not allowed under ORS.660.030 and County Code Section 401.

A local government may adopt an exception to goals in certain circumstances. The intent of the exception process is to provide “necessary flexibility” in the application of Statewide Planning Goals. OAR 660-004-0000(3). ORS 197.732(2) allows for approving a goal exception if “reasons justify why the state policy embodied in the applicable goals should not apply” and certain additional standards are met.

**Goal 3** requires counties to identify farmland, designate it as such on the comprehensive plan maps, and zone it for farm use. An EFU zone places restrictions on developments that are unrelated to agriculture in order to minimize uses that conflict with farming.

The owner/applicant is currently engaging in passive farming activities, using the undeveloped portion of the property for growing vegetables, raising chickens, and other allowed farm activities. The application does not include construction of new buildings or encroachment onto the undeveloped portion of the property currently in farm use. No impacts to the parcel’s arable lands or neighboring properties will occur if the exception is approved.

**Goal 10** considerations are relevant to the proposed use for housing. Goal 10 provides accommodations for a variety of residential uses on rural property. ORS 660-008-005 and the County ZDO provide conditions for rural housing in farm zones, and for Affordable Housing statewide. (See EESE Analysis in Goal 2 Exception)

Addiction and homelessness are interconnected. Clackamas County is currently operating under three emergency declarations, including one for housing. There is sufficient evidence in the public record to show the County has limited resources to address a situation that is worsening.

The tragic situation in the County is growing faster than ever, and the costs are drawing government resources away from other critical needs. Growing public homeless and substance abuse emergencies require innovative solutions. That has been exemplified by the creation of an ordinance that led to construction of the Veteran's Village in the Clackamas Industrial Area. Although a non-conforming use, the Village has been quietly operating for 2 years. The need is great; impacts are negligible while the benefits are substantial and well documented.

The cost and tragic consequences of recidivism are difficult to determine. The long-term residency provided by NWBTC at its unique rural property is a safe, accessible location that, for practical purposes, does not conflict with approved uses for EFU zoned lands in the district. No objections have been raised by affected neighbors to the permanent operation of the NWBTC, provided that current use does not change. A petition in favor of the use and letters of support are included in the application.

In 2019, NWBTC began partnering with the County's probation department as a resource for "low level" parolees, providing life-changing recovery experience and long-term support. Approval of the application would allow that relationship to reignite. NWBTC's work with local charities would continue. NWBTC provides a safe experience for both men and women. Applicants with a history of violence or sexual offenses are not accepted.

NWBTC provides a residential recovery farm experience that requires a rural tax lot between 5 and 10 acres in size, located outside the UGB, and in a fire protection district that is staffed 24 hours a day.

Churches are listed as an allowable use in Section 1 of ORS 215. OAR 660-033-0120 and 660-33-0130 prohibit the establishment of a church on high-value farmland; however, NWBTC does not meet the rigid definition of a church. Oregon law allows a number of uses that are not necessarily religious in areas zoned EFU that are similar to NWBTC's proposed use for its property. See ORS 215.283, subsections 2(o) [concerning residential homes], subsection (2)(u) [concerning room and board arrangements for unrelated persons], and 2(aa) [concerning buildings essential to the operation of a public or private school, including dormitories].

The NWBTC includes many features of a school. The program requires all residents in recovery spend five hours daily in study. NWBTC provides individuals with drug or alcohol dependence residential care and treatment

in one or more buildings on the Property. ORS 215.283(2)(aa) permits private elementary and secondary schools to have “all buildings essential to the operation of a school.” Such buildings may include dormitories or other sleeping quarters, which are commonly found at boarding schools in rural communities. Boarding schools are permitted on lands zoned EFU. See *Kirpal Light Satsang v. Douglas Cnty.*, 96 Or. App. 207 (1989) [upholding a petitioner’s right to construct a boarding school in a farm-forest zone]. NWBTC uses the Property essentially as a boarding school, albeit one for adults rather than children.

NWBTC does use the Property, to some degree, for farming. As Oregon’s Occupational Safety and Health Administration (“OSHA”) recognizes, farms – larger ones in particular – frequently have bunkhouses for the laborers they employ. Oregon OSHA, *Agricultural Labor Housing (ALH) Interpretations: Questions and Answers* 1, 2 (June 26, 2008, revised July 20, 2018). The County can thus treat the Property as a farm that has housing for those who serve it.

## **Conclusion**

Approval for a “Reasons” exception requires the applicant provide compelling evidence that the subject property cannot be replicated elsewhere without a substantial burden. The applicant has provided such evidence – i.e., “reasons” – to substantiate meeting the requirements for exceptions to Statewide Planning Goal 3, relief from ORS Chapter 197, and related ordinances in Section 401 of the ZDO.

***The conditions for a Goal 3 Exception have been met.***

## NWBTC Goal 14 Exception

While unique, the proposed use is compatible with the surrounding uses: NWBTC's residents do engage in residential family farm activities that are currently allowed under the ZDO. The proposal use will not require expanding the footprint of any existing buildings or impact the undeveloped portion of the property. The undeveloped portion will remain in passive farm use.

Some of the considerations and evidence for goal compliance are substantially similar to those presented in NWBTC's narrative for the Goal 2 Exception. The proposed use(s) are analogous, or at least substantially similar, to uses that Oregon law already allows in rural areas.

*NWBTC would not have proceeded with the application if there were traffic, noise, or other impacts that exceeded those already allowed in the ZDO.*

The proposed use is subject to Subsection (c) [Concerning Goal 14]

The County asks why NWBTC's "proposed use is not an urban use on rural land." That question is easily answered using ORS 215.283, which concerns nonfarm uses that Oregon law permits in areas zoned for exclusive farm use ("EFU") – i.e., lands that meet the definition of "rural":

Access to the Property is strictly controlled, and shall remain so after approval. The long private driveway provides security and seclusion. The only people using the Property, should the County grant NWBTC's application, will be the Property's occupants, who live there as they either receive guidance in pursuit of freedom from drug or alcohol addiction or, in the case of NWBTC's staff, provide such guidance. Occasional visitors, such as spouses or other family of individuals receiving treatment from NWBTC, would be welcome during very limited hours. The fact that NWBTC will be closed to the general public is a strong indicator that it will not contribute to the urbanization of the rural zone in which the Property is located.

ORS 215.283(2)(o) allows "residential homes as defined in ORS 197.660, in existing dwellings." Given that there is already an existing dwelling on the Property that serves as a residential home for NWBTC's staff – and, for the time being, its clients – the use of the residential home on the Property

will not contribute to the urbanization of the rural area in which the Property is located. The applicant seeks approval for use of the accessory building for residential purposes. The maximum number of occupants in the proposed use would be 31 for both buildings, as noted elsewhere in the application.

On a related note, ORS 215.283(2)(o) defines “residential homes” to include facilities for in-patient drug and alcohol treatment [see ORS 197.660(2) and 443.400(11)-12)]. This is exactly what NWBTC would be using the Property for.

ORS 215.283(1)(a) allows churches on rural lands. NWBTC admittedly uses its Property like a church – i.e., to carry out a religious mission. Unlike a church, however, NWBTC is not open to the general public, meaning there will not be a traffic increase on Bluhm Road, or impacts that an overnight or short-term facility would create.

ORS 215.283(2)(aa) permits “public or private schools for kindergarten through grade 12, **including all buildings essential to the operation of a school**” (emphasis added) to exist on lands zoned EFU. Such buildings may include dormitories or other sleeping quarters, which are commonly found at boarding schools in rural communities. Boarding schools are permitted on lands zoned EFU. See *Kirpal Light Satsang v. Douglas Cnty.*, 96 Or. App. 207 (1989) [upholding a petitioner’s right to construct a boarding school in a farm-forest zone]. NWBTC would use the Property much like a boarding school, albeit for adults.

In addition, NWBTC does use the Property to some degree for farming – a use that is certainly allowed on lands zoned EFU, As Oregon’s Occupational Safety and Health Administration (“OSHA”) recognizes, farms – larger ones in particular – frequently have bunkhouses for the laborers they employ. Oregon OSHA, *Agricultural Labor Housing (ALH)*

There uses proposed by the applicant are consistent with the goal of preserving the rural character of Beaver Creek.

***The conditions for a Goal 14 Exception have been met***



## RLUIPA Considerations

*Mintz v. Roman Catholic Bishop*, 424 F. Supp. 2d 309 (D. Mass. 2006) is a case in which a Catholic diocese in a Massachusetts town wanted to construct a new parish center in an area zoned for residential use. Because the diocese's plans did not conform to local zoning requirements, the diocese submitted to the town a legal brief arguing that RLUIPA prohibited enforcement of the bylaw against the diocese. After seeking an opinion from its own counsel, the town agreed that no compelling government interest would justify enforcement, and thus approved the diocese's plans.

*Mintz* supports the proposition that the County can -- and, more importantly, should -- factor RLUIPA into its decision-making process for land uses by religious organizations. RLUIPA is a federal law to which local laws must yield, both by the terms of RLUIPA itself and the U.S. Constitution's Supremacy Clause (art. VI, cl. 2). A federal court need not compel the County to comply with RLUIPA if the County applies RLUIPA when granting the application -- in other words, the applicant would have no need of a legal remedy if the County applies RLUPA in the decision making process, rather than exclusively as a potential legal remedy after the final land use decision occurs.

Under RLUIPA, the County may only substantially burden the free exercise of religion where it has a compelling interest in doing so -- and even then, the County may not burden religious exercise more than is necessary to serve that interest. *Corp. of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints v. City of West Linn*, 338 Or. 453, 462 (2005) [stating that where a land use regulation would substantially burden an organization's exercise of religion, "the land use regulation **must yield, unless the record shows that it furthers a compelling governmental interest** and does so in the **least restrictive manner possible**" (emphasis added)].

The County should note that the U.S. Court of Appeals for the Ninth Circuit, whose decisions are binding on Oregon and its 38 counties, has declared that there is no compelling government interest in preserving farmland -- even what Oregon has deemed "high value farmland" -- for farm use. See *Guru Nanak Sikh Society v. Cnty. of Sutter*, 456 F.3d 978, 992 (9<sup>th</sup> Cir. 2006) (hereinafter *Guru Nanak*). In fact, both *Guru Nanak*, which

concerned a Sikh congregation that wanted to establish a temple in an agricultural zone, and *Intl. Church of the Foursquare Gospel v. City of San Leandro*, 634 F.3d 1037 (9th Cir. 2011) (hereinafter *ICFG*), in which an overcrowded church sought to move to a more suitable location in an industrial zone, both make clear that a county cannot exclude religious land uses from a particular zone entirely. See *Guru Nanak*, 456 F.3d at 994 [noting RLUIPA's purpose of preventing "governmental entities nationwide (from) purposefully excluding unwanted religious groups by denying them use permits through discretionary and subjective standards and processes"] and *ICFG*, 634 F.3d at 1048 [quoting *Cottonwood Christian Ctr. v. Cypress Redevelopment Agency*, 218 F. Supp. 2d 1203, 1222 (C.D. Cal. 2002) (hereinafter *Cottonwood*), which states that "if revenue generation were a compelling state interest, municipalities could exclude all religious institutions from their cities"]].

Under Article VI, cl. 2 of the U.S. Constitution – aka the "Supremacy Clause" – Oregon counties lack authority to deny proposed land uses based on state law where doing so would conflict with RLUIPA. See *Central Oregon Landwatch v. Deschutes Cnty.*, 2018 Or. LUBA WL 6974980 at \*5 (Dec. 14, 2018), *aff'd*, 296 Or. App. 903 (2019). Ergo, generally speaking, pursuant to the Supremacy Clause, the County Code must yield to RLUIPA where the two conflict, meaning RLUIPA gives the County a pathway to allow NWBTC to use the Property to carry out its religious mission.

## Conclusion

The mission of NWBTC requires a parcel of farmland land less than 10 acres in a rural zoned area of five-acre minimum sized lot, located outside of the UGB, on a quiet street with adequate property setbacks from neighbors. Ideal for safety and practical purposes, the location is a 15-minute drive from the intersection of S. Beaver Creek Rd. and Hwy 213. Access to numerous public services and clients in desperate need is heavily reliant on the proximity to Oregon City.

Relocating NWBTC isn't feasible without severe financial and operational hardship to NWBTC's future operations. Very few small farm properties are available that offer the square footage, amenities, close proximity to an urban area, and private setting safely buffered from the temptations of the city. The cost for a replacement property, should NWBTC find one, has risen dramatically during the past two years, a time when the humanitarian crisis has exploded.

The need for housing (Goal 10); and for long term drug and alcohol treatment are at an all-time high in the County. Combined public and private resources are struggling to address the need. NWBTC provides a successful critical niche that cannot be provided by other means in these desperate times.

The application, while challenging, includes compelling evidence for an approval of the goal exceptions and proposed use. Testimonials, including those from neighboring property owners, provide strong support for the NWBTC and its mission. Accordingly, the County should approve NWBTC's application.

Submitted by Chris Previti and Susan Campbell  
Co-Directors, NWBTC Beaver Creek, OR

Contributors: Les Poole Gladstone, Or.  
Ray Hacke, Attny Pacific Justice Institute

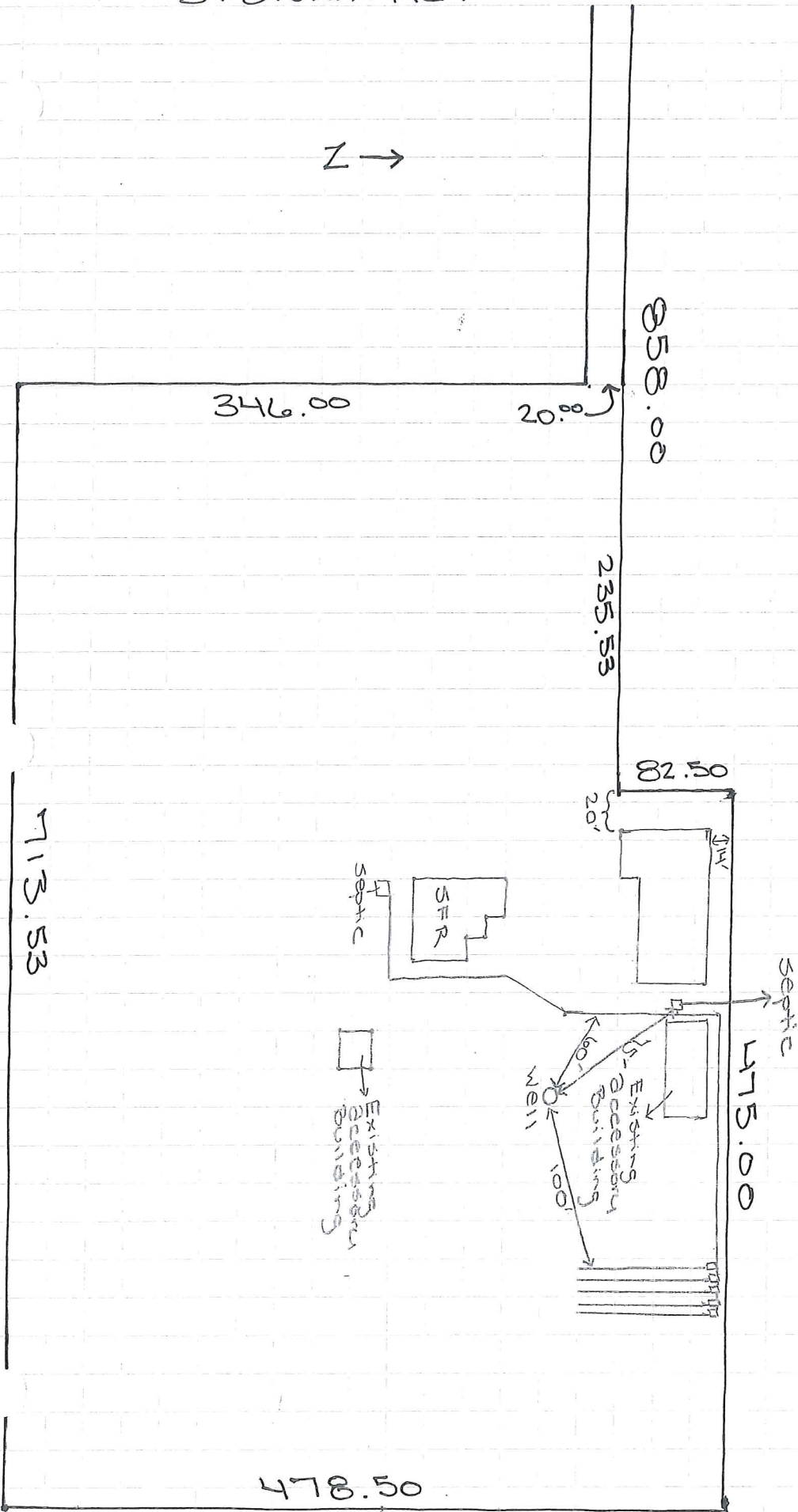
Rev July, 2021

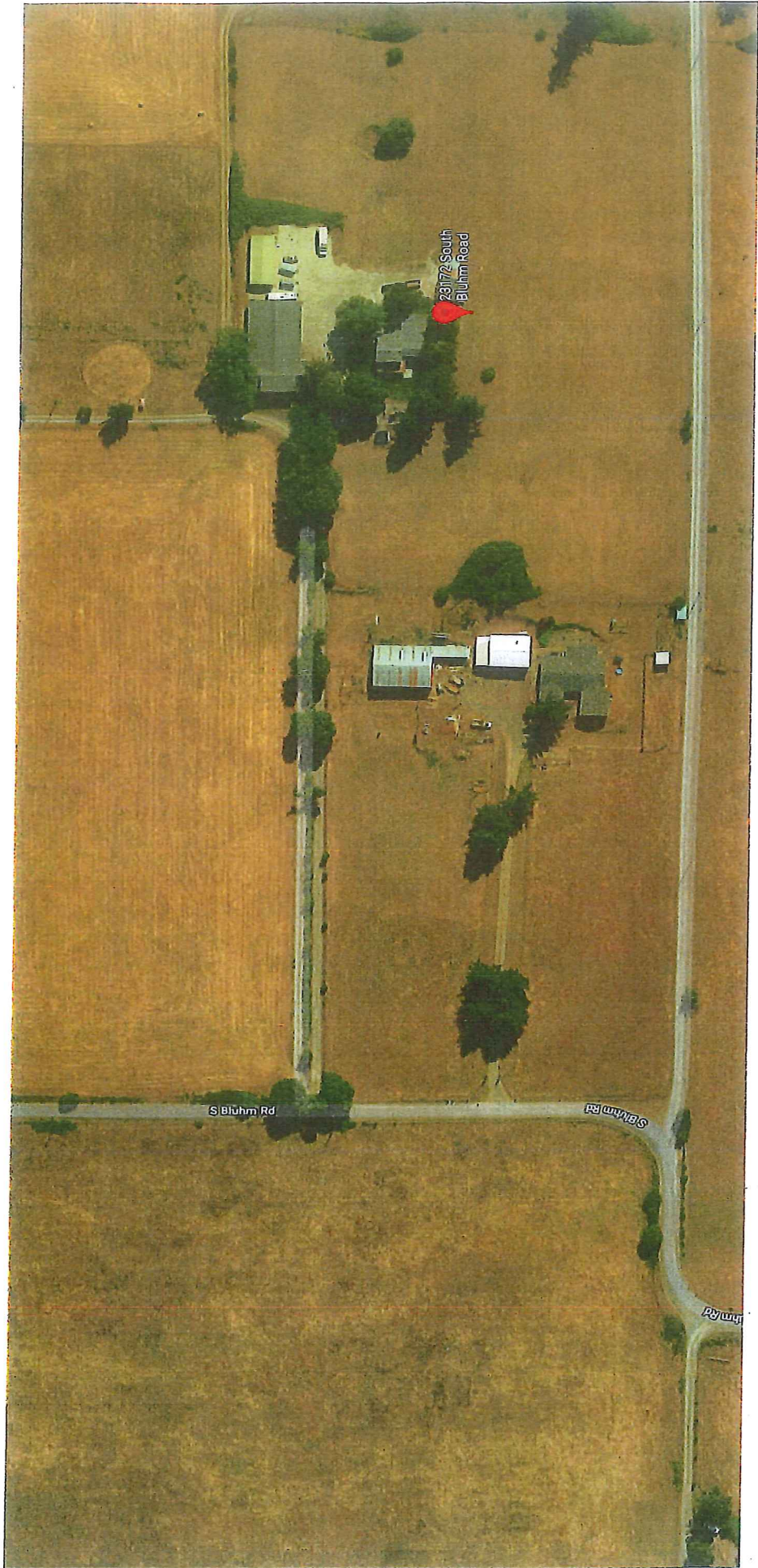
## Exhibits

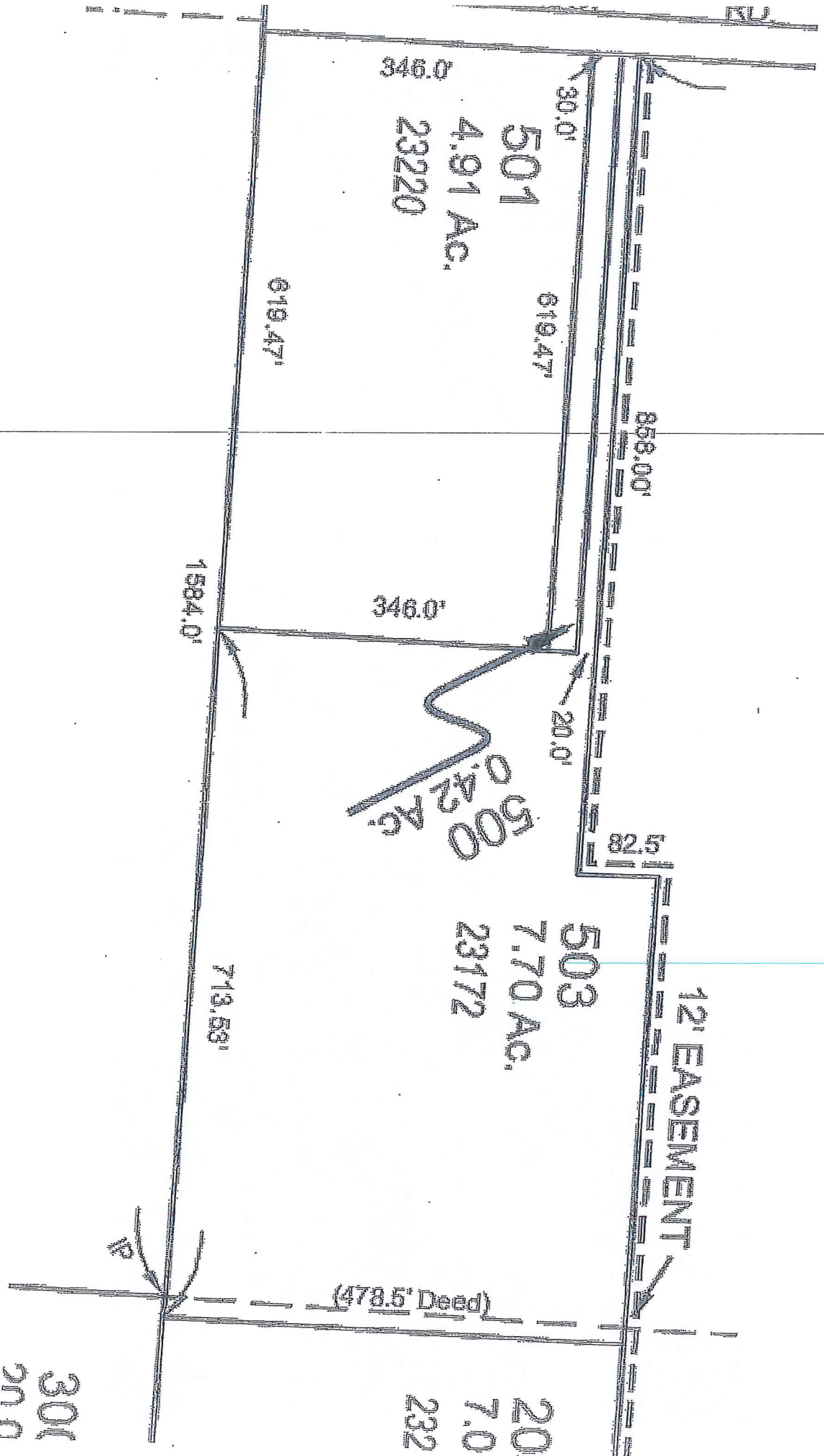
- A. Plot Map / Aerial View
- B. Petition & Letters of Support
- C. Comparable Property Listings
- D. Skyles Drilling Flow Test & Drinking Water Report
- E. Clackamas County Approval for Proposed Septic System
- F. Environmental Management Systems Site Evaluation
- G. Assessors' Summary for E&E analysis

S. Bluhm Rd.

Z →







NORTHWEST BIBLE TRAINING CENTER  
A DIVISION OF MISSION TEENS, INC.



I own property near the Northwest Bible Training Center, and do not object to their continued operation as they currently are in Beavercreek. My property and livability have not experience negative impacts such as noise or excessive traffic from their activities I support the Northwest Bible Training Center's ability to continue to operate as they have in the past.

Name

Address

Susan Skird

23162 S. Bluhm Rd  
Beavercreek, or 97004

Chris Matson

23162 S. Bluhm Rd.  
Beavercreek, OR 97004

Patrick Hansen

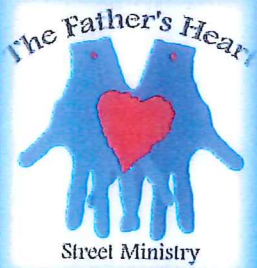
23220 S. Bluhm Rd  
Beavercreek OR 97004

NORTHWEST BIBLE TRAINING CENTER  
A DIVISION OF MISSION TEENS, INC.  
23172 S. BLUHM ROAD  
BEAVERCREEK, OR 97004

503-632-1953 [NWBIBLETRAINING@GMAIL.COM](mailto:NWBIBLETRAINING@GMAIL.COM) [WWW.NWBTC.ORG](http://WWW.NWBTC.ORG)

"PROVIDING HELP FOR THE DESPERATE"





# The Father's Heart Street Ministry

---

November 20, 2019

To Whom it May Concern,

We have worked with Northwest Bible Training Center for years and were ecstatic to hear they had moved to Clackamas County. They provide a wonderful facility and program to meet the needs of the same community of people that we work with. They are one of the solutions to ending homelessness in our county by providing a wonderful facility to help people find shelter, meals and a place to make significant life changes. A place like this in our own county is imperative.

Not only does NBTC offer a wonderful program to help people make significant changes, they have helped us serve breakfast to the homeless community in our county, supplied our ministry with food and hygiene products. They continue to partner with us to meet a great need of one the most vulnerable communities of Clackamas County.

Sincerely,

Robin Schmidt, Executive Director  
The Father's Heart Street Ministry

**"I was hungry  
and you gave me  
something to eat,  
  
I was thirsty  
and you gave me  
something to drink,  
  
I was a stranger  
and you invited me in,  
  
I was cold  
and you clothed me, ...**

Matthew 25:35

---

**His Hands Extended in Love**  
www.tfhstreetministry.com  
503-722-9780



Susan Shird <[hiker4summit@gmail.com](mailto:hiker4summit@gmail.com)>

To whom it may concern,

My name is Susan and my significant other is Christopher. We live at 23162 South Bluhm Rd.

Our neighbors at 23172 are friendly good neighbors, very respectful and are always willing to help us out when we need it. We haven't had ANY problems or concerns since they moved in and we're hopeful that we can continue having them as neighbors. If you have any questions please call me at 503-899-0646.

Sincerely Susan Shird  
23162 south Bluhm road  
Beavercreek, Oregon 97004

NORTHWEST BIBLE TRAINING CENTER  
A DIVISION OF MISSION TEENS, INC.



November 2019

To whom it may concern:

For about five years I lived on the streets in Clackamas County. Under bridges, in homeless shelters and in homeless camps. I would walk the streets high out of my mind trying to find ways to feed my addiction. I would steal and rob from anyone, dig through dumpsters to find things to cash in so I could buy drugs. I had no respect for authority, others and other's belongings. I was arrested more times than I can count and spent time both in Clackamas County Jail and Multnomah County Jail. I left destruction wherever I went. I was a meth addict. I thieve and a poor excuse for a brother, son and uncle. My family only had their prayers left to help me.

Over five years ago I entered Northwest Bible Training Center and have been a graduate staff member for almost four years now. Finding help that was Free and supplied all my needs as well as changing my bad habits was an answer to prayer for both me and my family. I am now an active member of society and give back by helping those in need of help. I have done street ministry in Oregon City reaching out to the homeless. My joy comes from others receiving the help that I received.

Jonathan Terpea

NORTHWEST BIBLE TRAINING CENTER  
A DIVISION OF MISSION TEENS, INC.  
23172 S. BLUHM ROAD  
BEAVER CREEK, OR. 97004

503-632-1953 [NWBIBLETRAINING@GMAIL.COM](mailto:NWBIBLETRAINING@GMAIL.COM) [WWW.NWBTC.ORG](http://WWW.NWBTC.ORG)

“PROVIDING HELP FOR THE DESPERATE”

## Statement of Support

Jim Thwing <jt@lakebiblechurch.com>

Tue 11/19/2019 9:44 AM

To: Susan Campbell <susannwmbtc@hotmail.com>

Lake Bible Church has supported Northwest Bible Training Center since 1996. During that year, Ron Post, founder of NW Medical Teams and a member of "Lake" urged our support of this most excellent ministry. Ron was certain that the mission of NW Bible Training Center of bringing severely addicted folk back from the brink of certain death by teaching the gospel of Jesus Christ was the most effective remedy for any addicted person.

During the period of 1996 to the present, Lake Bible Church has supported NW Bible Training financially and through the provision of able Bible teachers without a single instance of hesitation. The Center has been successfully led both by the national organization, Mission Teens, the local organization internally by those who have served tirelessly in their leadership roles. Hundreds of addicted affected folk have been successfully restored to sobriety and provided with a successful road map for living lives dedicated to Jesus Christ.

Today, we continue to trust in the leadership of NW Bible Training both nationally and locally and consider NW Bible Training Center one of our best and most favored mission outreaches.

I am writing this perspective from a background of 20 years service in the United States Army primarily as a member of the Judge Advocate General's Corps having retired in my last duty as a Military Judge. I have served as the Business Administrator at Lake Bible Church for 24 years. I have been an active practicing Oregon Lawyer since 1973.

Jim Thwing  
Mission Director  
Lake Bible Church

November 19, 2019

Reference letter for NW Bible Training Center

To whom it may concern:

Nearly everyone knows someone whose life has been devastated by drugs and/or alcohol. Job losses, broken marriages, loss of child custody, accidents, crime – it's painful to see families endure such strife and hardship.

When a program arises that helps these individuals overcome their addictions and begin building successful lives again, we are all grateful. Instead of being burdens on government and society, these people can once again become tax-paying, law-abiding citizens who contribute positively to their community.

One of these programs is the NW Bible Training Center at 23172 S. Bluhm Road in Beavercreek. Our family has supported NW Bible Training Center for many years because of its very effective program to solve life-controlling problems like drug or alcohol addiction.

I have complete confidence that the NW Bible Training Center is an asset to the community of Beavercreek. It is an organization that cares for its property, provides plenty of supervision for its residents and is a considerate neighbor.

It would be a waste to deny the use of this rural property as a location for bettering the lives of people who so desperately need it.

Please consider all avenues for allowing NW Bible Training Center to continue its successful program in its Clackamas County setting.

Sincerely,



Brent Schafer  
Clackamas County resident  
1400 SW Schaeffer Road,  
West Linn, OR 97068

## North West Bible letter

Tracy Keegan <tracykeegan@comcast.net>

Thu 11/14/2019 12:39 PM

To: Susan Campbell <susannwmbtc@hotmail.com>

To Whom this may concern,

I am writing this letter to endorse North West Bible Training Center located in Beavercreek Oregon, a non-profit Christian based Recovery and Rehabilitation Center.

I have been blessed with a successful real estate career for the past 30 years. I am also a volunteer with "Prison Ministries" and have performed ministry work for the women in Clackamas County Jail for the past 5 years. As a realtor and ministry facilitator I see a great desire and need for safe housing by all.

Susan Campbell of North West Bible Training Center, joined our ministry team approximately 6 months ago. She is a tremendous asset to our team bring to the table not only her strength as a Christian leader and teacher but also the connection to Northwest Bible Training Center. Prior to Susan joining our team we struggled to help the incarcerated women in finding safe Christian housing upon being released and when they needed it most. North West Bible Training Center, located on a 7 acre farm, tucked in a private country setting with goats and chicken and beautiful territorial views, now gives these women a vision of HOPE for a new life and fruitful future. Their eyes light up with the possibility of being given another chance that includes sober living, a long term recovery program with mentorship, a safe environment, a warm bed, food, clothing, a shower, structure, education in personal development and the ability to grow closer to the Lord....

I respect the fact that a Christian based rehabilitation and recovery program is not for every person and at the same time recognize the need and desire as it being the perfect program for many. Personally I have seen remarkable results from North West Bible Training Center and pray for as many people as possible to have the opportunity to utilize this resource available for Christian recovery.

At this time I earnestly present my plea and ask for the State of Oregon and its representatives to evaluate, North West Bible Teaching Center, for the approval of being recognized by the State of Oregon as a certified Christian Rehabilitation and Recovery Center. The need is great and the State and Community reward will be even greater.

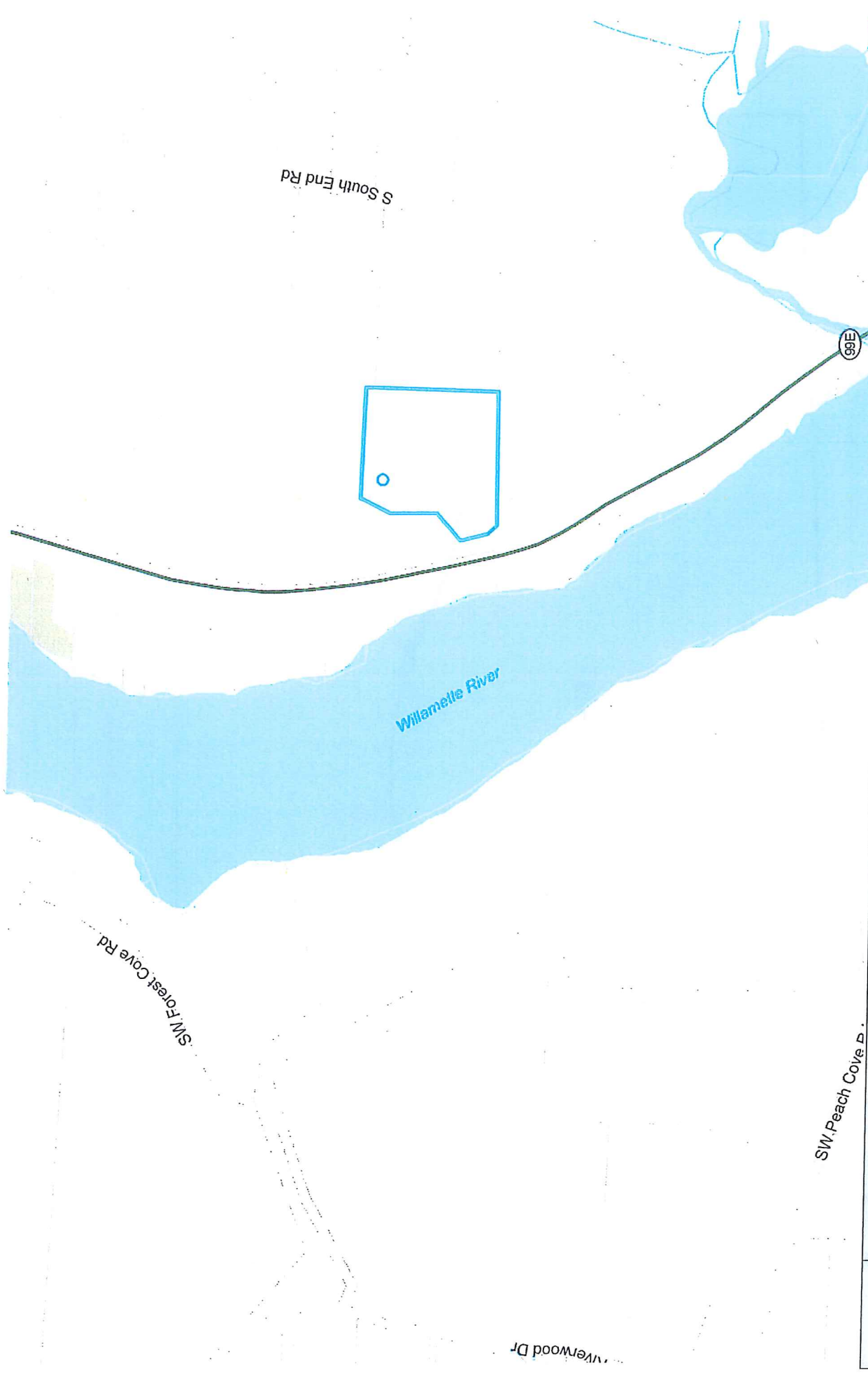
Thank you for your consideration and time today. God Bless you all.

Respectfully,

**Tracy Keegan**

Real Estate Broker, GRI, CRS

Premiere Property Group, LLC

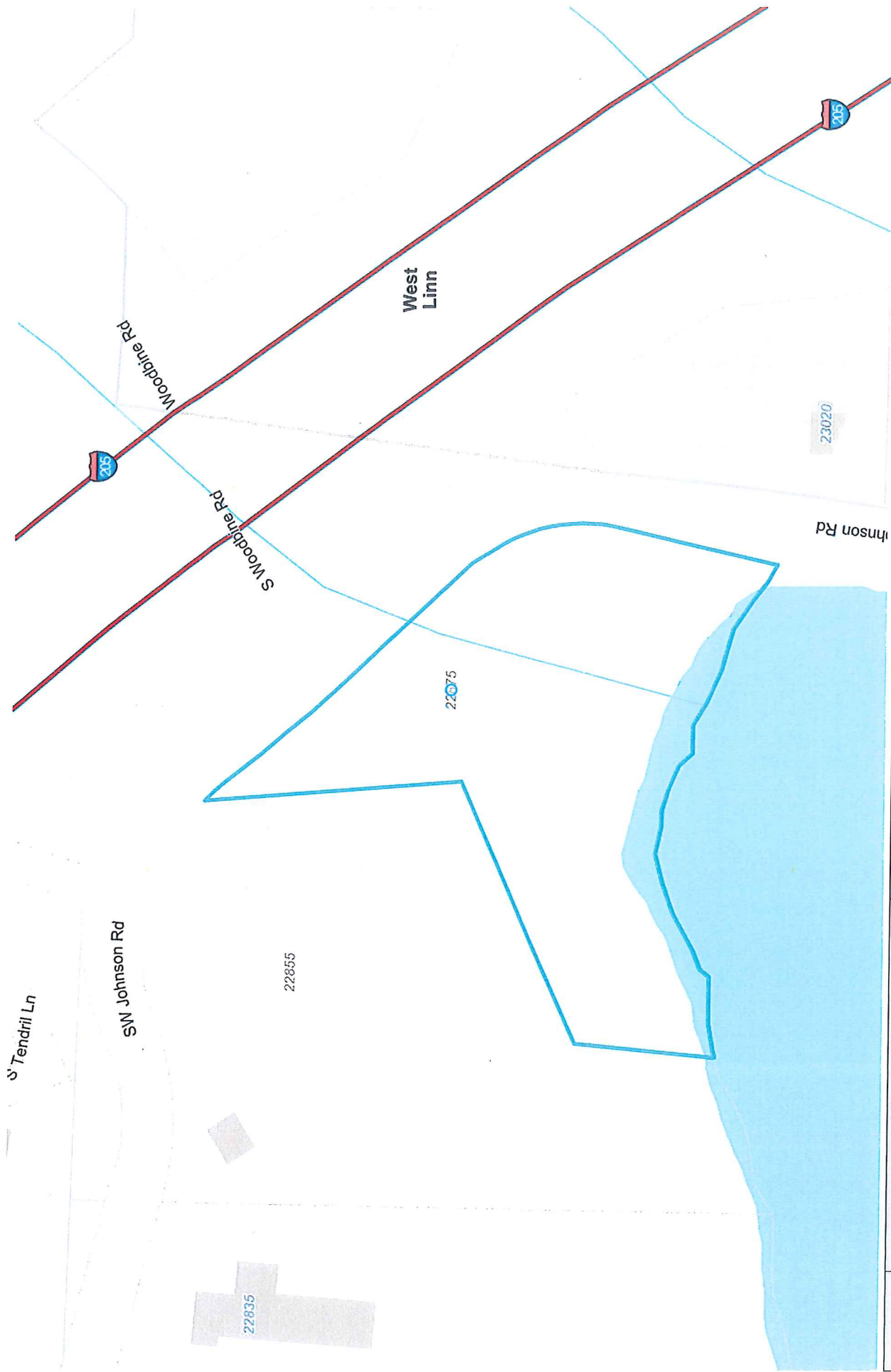


DATE	PROPERTIES OUTSIDE UGB	5-10 AC MIN LOT	BLDG SQ FT	ZONING	RES CAP	PRICE	NOTES
4/28/2021	20909 S. South End Rd. Oregon City 97045	8.09 acres	5844 sq ft	RRFF5	14	\$1,650,000	6 BEDROOMS, 5 BATH

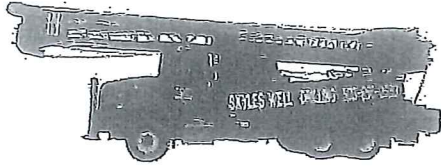


DATE	PROPERTIES OUTSIDE UGB	5-10 AC MIN LOT	BLDG SQ FT	ZONING	RES CAP	PRICE	NOTES
5/10/2021	15645 S. TIGER ROSE RD. OREGON CITY 97045	8.59 acres	2475 sq ft	RRFF5	8	\$995,000	4 BEDROOMS 4 BATH





DATE	PROPERTIES OUTSIDE UGB	5-10 AC MIN LOT	BLDG SQ FT	ZONING	RES CAP	PRICE	NOTES
4/5/2021	22875 SW JOHNSON RD. WEST LINN, OR	5.87 ACRES	4683 SQ FT	RRFF5	13	\$1,399,000	5 BEDROOMS 4.5 BATHS



Since 1948

## Skyles Drilling, Inc.

21912 S. Beaver Creek Rd.

Oregon City, Oregon 97045

503-656-2683 info@skyleswelldrilling.com

January 23, 2020

Northwest Bible Training Center  
Attention: Chris Previti  
23172 S Bluhm Rd  
Beavercreek, OR 97004

### RE: TWO HOUR FLOW TEST RESULTS

We certify that the well serving *23172 S Bluhm Rd, Beavercreek* pumps *13.7 gallons per minute* at *\*36 psi* after a continuous two hour pumping period.

DESCRIPTION: This 6" diameter well, located SE of the house, has a wellhead covered with dirt below grade level with a standard sanitary well seal and no vent tube. The pressure control equipment, located in a storage shed, has two blue 86 gallon Amtrol Well-X-Trol pressure tanks, model #WX-252, a Pumptrol SquareD pressure switch and 1-1/2" diameter PVC water supply pipe.

NOTES: \*No pressure gauge was available on the system. Pressure was measured with our portable gauge.

The flow (clear & odorless) and pressure were consistent throughout the test. The water supply system functioned as designed.

Regards,

*Kirk Wood*

Kirk Wood  
General Manager

·KJW/mae



**Burlington, WA Corporate Laboratory (a)**  
1620 S Walnut St - Burlington, WA 98233 - 800.755.9295 • 360.757.1400

**Bellingham, WA Microbiology (b)**  
835 Orchard Dr Ste 4 - Bellingham, WA 98225 - 360.715.1212

**Portland, OR Microbiology/Chemistry (c)**  
9150 SW Pioneer Ct Ste W - Wilsonville, OR 97070 - 503.682.7802

**Corvallis, OR Microbiology/Chemistry (d)**  
1109 NE Circle Blvd, Ste 130 - Corvallis, OR 97330 - 541.753.4946

**Bend, OR Microbiology (e)**  
28332 Empire Blvd Ste 4 - Bend, OR 97701 - 541.639.8425



## Drinking Water Report

Client Name: **Skyles Well Drilling**  
21912 S Beaver Creek Road  
Oregon City, OR 97045

Reference Number: **20-02615**

Report Date: **1/29/20**

Approved By: **ajw,jal**

Authorized by:

Thanh B Phan  
Lab Manager, Portland

Project: **23172 Northwest Bible**  
Field ID: **Outside Faucet**  
Sample Description: **23172 S Bluhm Rd**  
Sample Date: **1/23/20 10:30**

Lab Number: **OR100063-05091**

Date Received: **1/23/20**

Sampled By: **Denny Collins**

Sampler Phone:

CAS Number	Analyte	Result	MCL	Pass <sup>A</sup>	Lab QL	Units	Analyzed
	TOTAL COLIFORM	Absent		Pass	c	P/A	per 100m 1/24/20
	E. Coli	Absent		Pass	c	Y/N	per 100m 1/24/20
7440-38-2	ARSENIC	ND	0.010	Pass	a	0.001	mg/L 1/28/20
14797-55-8	NITRATE-N	3.40	10	Pass	c	0.005	mg/L 1/24/20

ation:

L = Maximum Contaminant Level, maximum permissible level of a contaminant in water established by EPA; Federal Action Levels are 0.015 mg/L for Lead and 1.3 mg/L for Copper. Sodium has a recommended limit of 20 mg/L. A blank MCL value indicates a level is not currently established.  
 QL = Quantitation Limit is the lower calibration concentration.  
 ND = Not detected above the listed specified reporting limit (QL).

CAS Number = Chemical Abstract Service Number is a unique identifier of the chemical tested.

PASS<sup>A</sup>, indicates that the parameter tested meets EPA, State, or local jurisdiction MCL.

<sup>A</sup> in front of the parameter name indicates it is not NELAP accredited but it is accredited through OR DEQ or USEPA Region 10.

These test results meet all the requirements of NELAC, unless otherwise stated in writing, and relate only to these samples.  
 If you have any questions concerning this report contact Thanh B Phan at the above phone number.



Dan Johnson  
Director

Department of Transportation and Development  
Development Services Building  
150 Beaver Creek Road | Oregon City, OR 97045

### AUTHORIZATION NOTICE

Permit Number:	SE048620	Applied:	11/16/2020
Description:	AUTHORIZATION NOTICE FOR NW BIBLE TRAINING CENTER		
Permit Status:	Plan Check	Insp Area:	West
Site Address:	23172 S BLUHM RD BEAVERCREEK, OR 97004	Acres:	7.70
Parcel:	33E31 00503	Completed By:	Shelby Wonsley
Applicant:	MISSION-TEENS INC - 23172 S BLUHM RD BEAVERCREEK, OR 97004 - NWBIBLETRAINING@GMAIL.COM	County Fee:	\$0.00
Applicant Phone:	503-406-0239	DEQ Surcharge:	\$100.00
Contractor:	LIL STINKY ENVIRONMENTAL SERVICE - 19631 KOLAR DR OREGON CITY OR 97045 - CHRIS@LILSTINKY.COM	Total Fees:	\$355.00
Contractor Phone:	503-829-8458	Total Payments:	\$355.00
Owner:	MISSION-TEENS INC	Balance Due:	\$0.00

---

Structure Type:	Other	Water Supply:	Private Well
# Bedrooms:		Projected Daily Gallons:	



DAN JOHNSON  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT  
DEVELOPMENT SERVICES BUILDING  
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

March 11, 2021

Lil Stinky Environmental  
19631 Kolar Drive  
Oregon City, OR 97045

IMPORTANT DOCUMENT – PLEASE READ CAREFULLY  
This is not a septic construction permit.

**Site:** Township 3S Range 3E Section 31 Tax Lot 00503  
23172 S Bluhm Road, Beavercreek, Oregon 97004

**Application Number:** SE004221

**Results:** Approved

To whom it may concern:

Onsite Wastewater Systems program staff have completed an evaluation at the property referenced above. The site that was prepared for this evaluation was found suitable for an Onsite Wastewater treatment system. A detailed report of this investigation is enclosed. Current minimum design standards for a 3200 gallons per day single family residence and bible training facility are also included. This office can provide updated standards (fees may apply) for alternative developments or updated minimum standards as required by rule. This Site Evaluation approval is solely to be used in applying for a Septic construction permit, and in no way grants land use approval for the current or proposed uses on the property. A signed Land Use Compatibility Statement (LUCS) will be required before a septic construction permit may be issued pursuant to this Site Evaluation approval. If you have any questions, feel free to contact me at 503-502-8163 or at [hnielsen@clackamas.us](mailto:hnielsen@clackamas.us).

Sincerely,

Heather Nielsen, WWS, RG  
Soil Scientist

Enclosures:  
General Site Evaluation Information  
Construction Detail Sheet  
Minimum Setback Requirements  
Field Sheet

CC: Lil Stinky Environmental, via email ([chris@lilstinky.com](mailto:chris@lilstinky.com))  
Christopher Previti, via email ([nwbibletraining@gmail.com](mailto:nwbibletraining@gmail.com))

phone: 503-742-4740

fax: 503-742-4550

[www.clackamas.us/septic](http://www.clackamas.us/septic)



# FIELD SHEET SEPTIC AND ONSITE WASTEWATER SYSTEMS



Owner MISSION TEENS INC

SEO 04221

Township 3S Range 3E Section 31

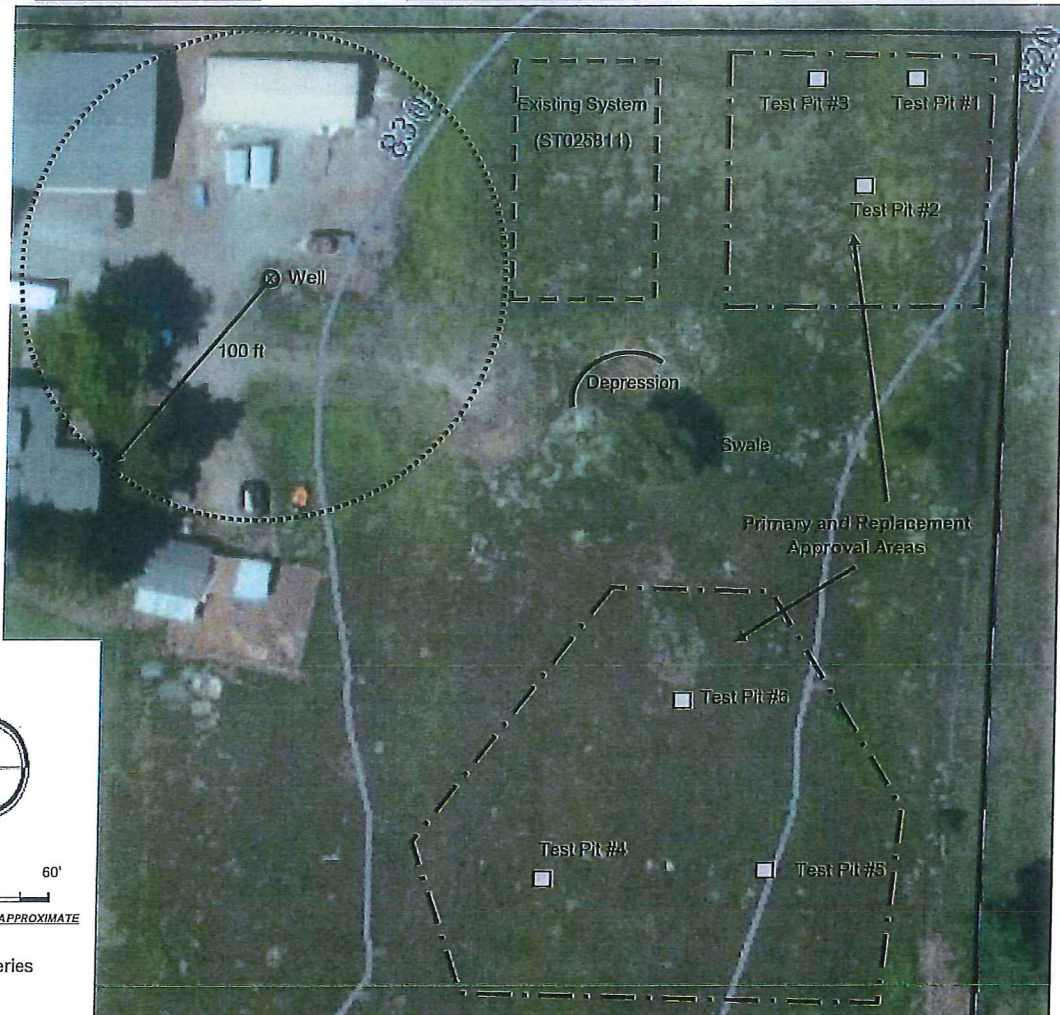
Tax Lot 00503

Acreage 7.70

Soil Scientist H. NIELSEN, WWS

Weather 60° F; Partly Cloudy

Date 3/4/2021



1" = 60'

MEASUREMENTS ARE APPROXIMATE

Jory soil series



Approved for Standard Denied due to NA

Proposed Facility 3200 gpd Bible Training Facility Septic/Dosing/Holding Tank Capacity 6500 gallons

Leach lines per 150gpd 125 lineal feet Total required 2670 Drain field Distribution Serial

Burial Depth 30 Max 24 Min Groundwater Interceptor NA Depth Gravel Water Supply Private Well

Comments: Due to space, an ATT (Treatment Standard 1) may be used to reduce the drainfield sizing to 50ft/150gpd.

*This Site Evaluation approval is solely to be used in applying for a Septic construction permit, and in no way grants land use approval for the current or proposed uses on the property. A signed Land Use Compatibility Statement (LUCS) will be required before a septic construction permit may be issued pursuant to this Site Evaluation approval.*

**Test Pit 1 Slope: 5% E**

**N: 45.27088**

**W: -122.48133**

Depth	Texture	Color	Redox/Conc	Consistency (Moist)	Structure	Roots	H2O, ESD, Conditions associated with saturation, etc.
0-11	sicl	5YR 3/3	None	fr	2mgr	3 vf-f	
11-24	sicl	5YR 3/4	None	fr	2msbk	1 f	
24-33	sicl	5YR 4/4	None	fr	2mabk	None	
33-55	sic-sicl GR + CB	5YR 5/6	MNM cD2	fi	2coabk	None	Weathered rock

**Test Pit 2 Slope: 4%**

**N: 45.27071**

**W: -122.48137**

0-12	sicl	5YR 3/3	None	fr	2mgr	3 vf-f	
12-24	sicl	5YR 3/4	None	fr	2msbk	1 f	
24-32	sicl	5YR 4/4	None	fr	2mabk	None	
32-55	sic-sicl GR + CB	5YR 5/6	MNM cD2	fi	2coabk	None	Weathered rock Water in bottom of pit

**Test Pit 3 Slope: 5%**

**N: 45.27085**

**W: -122.48148**

0-12	sicl	5YR 3/3	None	fr	2mgr	3 vf-f	
12-24	sicl	5YR 3/4	None	fr	2msbk	1 f	
24-31	sicl	5YR 4/4	None	fr	2mabk	None	
31-58	sic-sicl GR + CB	5YR 5/6	MNM mP2-3	fi	2coabk	None	Weathered rock Water in bottom of pit

**Test Pit 4 Slope: 4% E**

**N: 45.26997**

**W: -122.48190**

0-11	sicl	5YR 3/3	None	fr	2mgr	3 vf-f	
11-24	sicl	5YR 3/4	None	fr	2msbk	1 f	
24-30	sicl	5YR 4/4	MNM cD1-2	fr	2mabk	None	
30-58	sic-sicl GR	5YR 5/6	MNM mP2-3	fi	2coabk	None	

**Test Pit 5 Slope: 4%**

**N: 45.26996**

**W: -122.48148**

0-13	sicl	5YR 3/3	None	fr	2mgr	3 vf-f	
13-23	sicl	5YR 3/4	None	fr	2msbk	1 f	Some charcoal in layer
23-33	sicl	5YR 4/4	MNM cD1-2	fr	2mabk	None	
33-59	sic-sicl	5YR 5/6	MNM mP2-3	fi	2coabk	None	

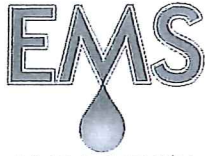
**Test Pit 6 Slope: 5%**

**N: 45.27023**

**W: -122.48157**

0-14	sicl	5YR 3/3	None	fr	2mgr	3 vf-f	
14-29	sicl	5YR 3/4	None	fr	2msbk	1 f	
29-37	sicl	5YR 4/4	None	fr	2mabk	None	
37-58	sic-sicl	5YR 5/6	MNM mP2-3	fi	2coabk	None	Water in bottom of pit

updated



ENVIRONMENTAL  
MANAGEMENT  
SYSTEMS, INC.

OR: 503-353-9691  
FAX: 503-353-9695  
WA: 360-735-1109

www.envmgtsys.com  
4080 SE International Way  
Suite B-112  
Milwaukie, OR 97222

31 December 2020  
Report # 20-0195

NW Bible Training Center  
23172 S Bluhm Road  
Beavercreek, OR 97004

REGARDING: Preliminary Site Evaluation,  
23172 S Bluhm Road, Beavercreek, OR 97004  
T: 3S, R: 3E, Sec: 31, TL: 503, 7.7 acres

Mr. Chris Previti,

As requested, Environmental Management Systems Inc. (EMS) has performed the following services and provides this report for your use.

**PROJECT DESCRIPTION:**

The client's goal is to develop the subject property as a religious facility and rehabilitation center for 31 occupants. The existing system is undersized and must be upgraded for the proposed use of the site. On 23 December 2020, EMS conducted a preliminary site evaluation to determine the current state of the existing onsite wastewater treatment system and evaluate feasibility of upgrading, as well as assess other issues related to development. This report outlines our findings and recommendations. Given that this is a preliminary evaluation, it is intended for internal planning only and is not suitable for submittal to agencies for permitting purposes, site alteration or for construction of any kind. Further work is required to develop the amount of detail needed.

**SUMMARY:**

Upgrading the existing system appears feasible. There appears to be space for a standard gravity system in the field in the southeast corner of the property, however test pits will need to be evaluated to a depth of 60" to confirm the soils are suitable for standard system. 2067 lineal feet of initial drainfield will be required for a standard system. Using a treatment system, such as a recirculating gravel filter (RGF) or alternative treatment technology (ATT) would allow for a small drainfield footprint. Following treatment, 827 lineal feet of initial and reserve drainfield is required. It appears the existing drainfield could be expanded by adding new lines to the east. The soil on the site was found to be silt loam and silty clay loam, however test pits will need to be evaluated by Clackamas County for feasibility approval. Proposed test pit locations are shown on the enclosed site plan and have been flagged on site.

**METHODS:** The following methods were used in this phase:

Observation x Measurement x Staking     Soil Evaluation x  
Sampling x Inspection     Laser Elevations     Total Station      
Gov Records x Interview x Aerial Photo x Soil Survey x  
Geologic Maps x Wetland Inventories x LIDAR x Other (specify)



**LIMITATIONS:** This is a preliminary report only, using hand measurements and observations. More extensive work and investigation will be needed to fully develop the required level of detail for permit and construction approvals.

## **FINDINGS:**

### **Existing Uses for the Property.**

The property is currently developed with a Single Family Residence currently being used as the administrative center and dwelling for the full time staff. The large garage/shop combination building to the north of the residence has been modified, with the shop being used as a religious multipurpose area and the garage area being converted into the proposed living area for those receiving Bible training for life-controlling issues such as drugs and alcohol. The living area has two open bay sleeping areas, one for men and one for women, each with their own dedicated bathroom facilities. There is also a laundry facility and the possibility for a large communal kitchen (as permitting allows). The worship and treatment facility are currently not in use, pending regulatory approval. The barn building to the east of the treatment center has two uses, half being used as a storage area for foodstuffs and other items and the other half being a garage area for farm equipment.

### **Availability of Public Sewer & Water**

Public sewer and water are unavailable.

### **Current Utilities on Site**

The site has electricity services, a private well, and an existing onsite wastewater disposal system that appears to be functioning adequately but is undersized for the proposed use.

### **Zoning**

The site is zoned as EFU (Exclusive Farm Use) by Clackamas County.

### **Topography**

The site is situated on a small mostly flat elevated area that is generally surrounded by Abernethy Creek and its tributaries. Elevations on site are between 800 and 840 feet with generally gentle slopes throughout. There is an apparently manmade escarpment less than six feet high to the east of the parking lot that separates the parking area from the lower elevation field. There is also a concave depression near the center-east of the property that has been used as a burn pile. Surface water was observed in this area during the site evaluation, which may require a setback to the drainfield.

### **Geology / Site Stability**

Underlying geology of the site consists of volcanic rock (basalt) of the Boring Volcanic Field group (Madin, 2004<sup>1</sup>). During the site evaluation, no indicators of instability were observed on the site.

### **Vegetation**

Vegetation at the site is a typical mix of plants found in the farmlands of the Willamette Valley region of Oregon, including various grasses, fir trees, Evergreen Blackberry and Himalayan

---

<sup>1</sup> Madin, I.P., 2004, Preliminary digital geologic compilation map of the Greater Portland Urban Area, Oregon: Portland, Oreg., Oregon Dept. of Geology and Mineral Industries Open-File Report O-04-02, scale 1:24,000.

Blackberry. The majority of the site consists of open pasture-like agricultural fields, which is dominated by grass, with the few trees mostly being located around the residence and worship hall/treatment center.

### **Soils**

The soil on site is mapped as 45B and 45C – Jory silty clay loam with 2-8% slopes and 8-15% slopes, respectively. Soils were evaluated in the eastern part of the site, which based on topography appears to be the most favorable location for expanding the onsite wastewater treatment system. Six auger holes were dug to 18 inches, three in the northeast corner in the proposed drainfield expansion area and three in the southeast corner in the proposed future repair area. No evidence of saturation or redoximorphic features were observed, though there was standing water at the deepest few inches of the auger hole for proposed test pit 2. Soil texture was determined by feel using the NRCS method and found to be silt loam in the upper 6-8 inches underlain by silty clay loam.

### **Wetlands / Surface Water**

The closest surface water to the site is Abernethy Creek approximately 1.5 miles to the east. Abernethy Creek is a tributary of the Willamette River. No wetlands are mapped on the site by the National Wetland Inventory (US Fish & Wildlife Service). A small pond was observed in the center-east of the site to the southeast of the existing drainfield. This may be considered a jurisdictional wetland by Oregon Department of State Lands; however, our understanding is no development is proposed in this area.

### **Local water well information**

The well is located near the center of the property, roughly between the single family residence and the worship/treatment facility. The drainfield must be setback 100 feet from the well, and tanks, treatment systems, and distribution units must be setback 50 feet from the well.

### **CONCLUSIONS:**

1. Expansion of the onsite wastewater treatment system appears feasible. The soil on the site was found to be silty clay loam which is generally good for soil absorption systems.
2. The estimated sewage flow for a boarding house is 80 gallons per day per person. Assuming a maximum capacity of 31 residents, the peak daily sewage flow is estimated to be 2480 gallons per day. The minimum septic tank volume required is 5,000 gallons. A standard drainfield would need to be 2067 linear feet to manage 2480 gallons per day. A equal amount of area must be reserved for future repair. Utilizing a pretreatment system such as a recirculating gravel filter or AdvanTex recirculating textile filter would decrease the number of linear feet needed to only 827 feet.
3. A concave depression containing surface water was observed in the center of the site to the southeast of the existing drainfield. This water feature does not appear to be a wetland and our understanding is no development is proposed in that area. Clackamas County may require a setback between it and the drainfield.

**RECOMMENDATIONS:** The following additional steps or services appear to be needed:

1. Test Pits. Auger holes are not sufficient for permitting. Test pits will need to be dug with a backhoe for Clackamas County to evaluate and determine feasibility of the site. A Site Evaluation Application must be submitted to the county once the pits are dug.
2. Conceptual Wastewater Treatment System Design. A Conceptual Design should be prepared for feasibility studies and planning purposes.

3. Onsite Wastewater Treatment System Design. A final onsite wastewater treatment system design will need to be prepared for permitting and construction.
4. Operation, Monitoring & Maintenance. Operation, Monitoring, & Maintenance (OM&M) is required by a certified maintenance provider for all systems including a treatment system (sand filter, gravel filter, or alternative treatment technology). Depending on the type of system designed, a signed OM&M agreement will be required prior to permit issuance.

**DISCLOSURE:** The information and statements in this report are true and accurate to the best of our knowledge. Neither Environmental Management Systems, Inc., nor the undersigned have any economic interests in the project.

To carry out the above listed recommendations, please contact us for an Agreement for Professional Services. Thank you for your business, and we look forward to assisting you to achieve your development objectives. If you have any questions, please contact Emma Eichhorn at 503-353-9691.

Sincerely,



Emma Eichhorn, REHS  
ENVIRONMENTAL MANAGEMENT SYSTEMS, Inc.

**Enclosed:**

Site Plan  
Tax Lot Map  
LIDAR Map  
NRCS Soil Map  
NWI Wetlands Map

23172 S. BLUHM ROAD  
BEAVERCREEK, OR 97004

S. BLUHM ROAD

GRAVEL DRIVEWAY  
AND PARKING

EXISTING  
1000GAL  
SEPTIC TANK

WAREHOUSE

SHED

WELL HOUSE

EXISTING  
1000GAL  
SEPTIC TANK

SFR

CHICKEN  
COOP

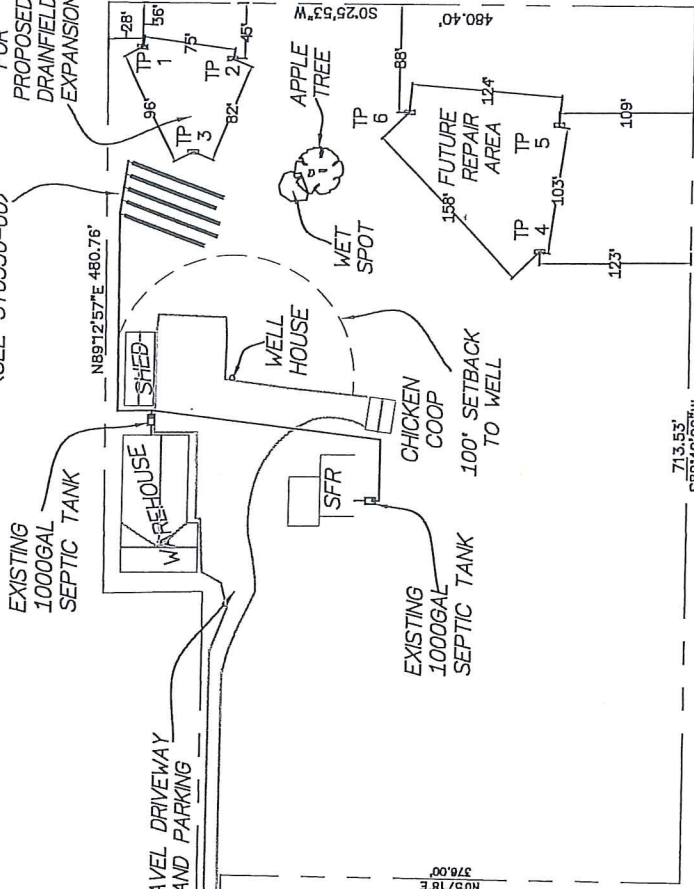
100' SETBACK  
TO WELL

WET SPOT

APPLE  
TREE

FOR  
PROPOSED  
DRAINFIELD  
EXPANSION

5 EXISTING ROCK AND PIPE  
DRAINFIELD TRENCHES  
TOTALING 385 FEET  
(SEE ST0550-00)



SCALE: 1" = 150'

NW Bible Training Center

T. J. S., R. 3E, Sec 31, TL 503

12/28/2020

Site Plan - Test Pits

CREATED BY

DRAWN BY



ENVIRONMENTAL  
MANAGEMENT  
SYSTEMS, INC

© ALL RIGHTS RESERVED  
OR: 503-353-9691  
FAX: 503-353-9695  
4000 SE International Way  
Suite B112  
Milwaukie, OR 97222



IF THIS BAR DOES NOT MEASURE  
1" THEN DRAWING IS NOT TO  
SCALE

THIS DOCUMENT IS NOT A SURVEY. LOCATIONS  
OF SITE FEATURES ARE APPROXIMATE.



Tami Little, County Assessor  
 Department of Assessment and Taxation

Development Services Building  
 150 Beavercreek Road, Oregon City, OR 97045

October 31, 2020

MISSION-TEENS INC  
 23172 S BLUHM RD  
 BEAVERCREEK OR 97004

Dear Exempt Property Owner:

The following information describes your property which is exempt from taxation by the Oregon Revised Statute referenced. This letter is your notice of value on the exempt property for the 2019-2020 tax year. If you have any questions, please feel free to contact Meka Olsen at 503/655-8671, extension 7638.

**2020 Value Notice on Exempt Property**

<i>Account</i>	<i>Map</i>	<i>Acres</i>	<i>Section 31 Township</i>	<i>Assessed Value</i>	
00922336	33E31 00503		3S Range 3E TAX LOT	<i>Market Land</i>	745,609
MISSION-TEENS INC			00503	<i>Market Building</i>	240,704
23172 S BLUHM RD			<i>Religious Property - ORS 307.140</i>		
BEAVERCREEK					
				<i>Market Total</i>	920,680
					1,161,384





**NOTICE OF PUBLIC HEARINGS BEFORE THE PLANNING COMMISSION AND THE BOARD OF COUNTY COMMISSIONERS ON A PROPOSAL IN YOUR AREA**

**Date of Mailing of this Notice:** October 4th, 2021

**Notice Sent To:** Applicant, applicable cities/special districts/government agencies, and property owners within 1/2 mile of subject property

*Please note that the Planning Commission hearing for this land use application will be held virtually using the Zoom platform. The Board of County Commissioners hearing for this land use application will be publically accessible in person and may also be available virtually via the Zoom platform, please check the links below for updated information about how to access the hearings.*

**PLANNING COMMISSION HEARING:**

**Hearing Date & Time:**

Monday, November 8th, 2021, at 6:30pm

**How to Attend:**

One week prior to the hearing, a Zoom link to the public hearing and details on how to observe and testify online or by telephone will be available on our website: <https://www.clackamas.us/planning/planning-commission>

**BOARD OF COUNTY COMMISSIONERS HEARING:**

**Hearing Date & Time:**

Wednesday, December 1<sup>st</sup>, 2021, at 9:30am

**How To Attend:**

In Person: At the Board of County Commissioners Hearing Room  
**2051 Kaen Road, Oregon City, 97045.**

If available on Zoom: One week prior to the hearing, a Zoom link to the public hearing and details on how to observe and testify online or by telephone will be available on our website:  
[www.clackamas.us/meetings/bcc/landuse](http://www.clackamas.us/meetings/bcc/landuse)

**Planning File Number:** Z0208-21-CP

**Applicant:** Mission Teens Inc., North West Bible Training Center (NWBTC)

**Proposal:** The Clackamas County Planning Commission (PC) and the Board of County Commissioners (BCC) will hold public hearings to consider a proposed Comprehensive Plan Amendment for an exception to Statewide Planning Goal 3, pursuant to ORS 660, for use of the property, including an existing residence and accessory buildings, as an addiction recovery farm. The use would include long term (8-10 month) residential addiction recovery treatment for adults, with up to 26 staff and residents living in a dormitory on the property. The subject property is 7.7 acres in size and is located outside of the Portland Metropolitan Urban Growth Boundary at 23172 S Bluhm Rd.

**Subject Tax Lot:** T3S, R3E, Section 31 Tax Lot 503.

**Property Owners:** Mission Teens Inc.

**Area of Subject Tax Lots:** Approximately 7.7 acres

**Current Zoning:** Exclusive Farm Use (EFU)

**Approval Criteria:** Clackamas County Zoning and Development Ordinance Sections 1307; Clackamas County Comprehensive Plan; Statewide Planning Goals; Oregon Administrative Rules Chapter 660.

***NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.***

Exhibit 1  
Z0208-21-CP

Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at 503-742-4545 or email [DRenhard@clackamas.us](mailto:DRenhard@clackamas.us).

503-742-4696: ¿Traducción e interpretación? |Требуется ли вам устный или письменный перевод? |翻译或口译? |Cán Biên dịch hoặc Phiên dịch? |번역 또는 통역?

### HOW TO OBTAIN ADDITIONAL INFORMATION

**Staff Contact:** Melissa Ahrens (Tel: 503-742-4519, Email: [mahrens@clackamas.us](mailto:mahrens@clackamas.us))

A copy of the entire application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for review. Hard copies of documents will be provided at reasonable cost. You may inspect or obtain these materials by:

1. Emailing or calling the staff contact (see above);
2. Visiting the Planning & Zoning Division (at the address shown at the top of the first this notice) during regular business hours, which are Monday through Thursday, 8AM to 4PM, Friday 8AM to 3PM.
3. Going to the Clackamas County web page: <http://www.clackamas.us/planning/zdoproposed.html>

#### Community Planning Organization for Your Area:

The following recognized Community Planning Organization (CPO) has been notified of this application and may develop a recommendation. You are welcome to contact the CPO and attend their meeting on this matter, if one is planned. If this CPO currently is inactive and you are interested in becoming involved in land use planning in your area, please contact the Citizen Involvement Office at 503-655-8552. **CPO: Beavercreek Hamlet**

---

### HOW TO SUBMIT TESTIMONY AND ACCESS THE HEARINGS FOR THIS APPLICATION

- All interested parties are invited to attend the hearings, remotely online or by telephone for the Planning Commission hearing, and in person for the Board of County Commissioners Hearing, and will be provided with an opportunity to testify orally, if they so choose. Audience members will be invited to express their desire to provide testimony at the beginning of the hearing. Specific instructions for the virtual Planning Commission Hearing will be available online at <http://www.clackamas.us/planning/zdoproposed.html>. Specific instructions for the in person Board of County Commissioners Hearing will be available online at [www.clackamas.us/meetings/bcc/landuse](http://www.clackamas.us/meetings/bcc/landuse).
  - Written testimony received by October 30th, 2021, will be considered by staff prior to the issuance of the staff report and recommendation on this application. However, written testimony will continue to be accepted until the record closes, which may occur as soon as the conclusion of the Board of County Commissioners' hearing.
  - Written testimony may be submitted by email, fax, or regular mail. Please include the case file numbers (Z0208-21-CP) on all correspondence and address written testimony to the staff contact who is handling this matter (Melissa Ahrens).
  - Testimony, arguments, and evidence must be directed toward the approval criteria identified on the first page of this notice. Failure to raise an issue in person at the hearing or by letter prior to the close of the record, or failure to provide statements or evidence sufficient to afford the Board of County Commissioners and the parties involved an opportunity to respond to the issue, precludes an appeal to the Oregon Land Use Board of Appeals based on that issue.
  - Written notice of the Board of County Commissioners' decision will be mailed to you **if you submit a written request and provide a valid mailing address.**
- 

### PROCEDURE FOR THE CONDUCT OF THE HEARING

The following procedural rules have been established to allow orderly public hearings:

1. The length of time given to individuals speaking for or against an item will be determined by the Chair presiding over the hearing prior to the item being considered.
2. A spokesperson representing each side of an issue is encouraged.
3. Prior to the conclusion of the hearing, any participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application. The Planning Commission or the Board of County Commissioners may either continue the hearing or leave the record open for additional written evidence, arguments or testimony.
4. The Planning Commission will make a recommendation to the Board of County Commissioners on the application. The Board of County Commissioners is the final decision-maker for Clackamas County on this matter.



**NOTICE OF PUBLIC HEARINGS  
SCHEDULED ON A PROPOSED CLACKAMAS COUNTY COMPREHENSIVE PLAN  
AMENDMENT FOR AN EXCEPTION TO STATEWIDE PLANNING GOALS 2 AND 3  
ON AN EXCLUSIVE FARM USE (EFU) ZONED PROPERTY TO ALLOW FOR AN  
ADDICTION RECOVERY PROGRAM USE**

The Clackamas County Planning Commission (PC) and the Board of County Commissioners (BCC) will hold public hearings to consider a proposed Comprehensive Plan Amendment for an exception to Statewide Planning Goal 3, pursuant to ORS 660, for use of the property, including an existing residence and accessory buildings, as an addiction recovery farm. The use would include long term (8-10 month) residential addiction recovery treatment for adults, with up to 26 staff and residents living in a dormitory on the property. The subject property is 7.7 acres in size and is located outside of the Portland Metropolitan Urban Growth Boundary at 23172 S Bluhm Rd. (Tax Lot 33E31 00503).

The proposal, which is in File No. Z0208-21-CP is available at:  
<http://www.clackamas.us/planning/zdoproposed.html>. The public may review and comment on the proposed amendments before and/or at the public hearings.

**Planning Commission Public Hearing**  
6:30 p.m., Monday, November 8th, 2021

**Board of Commissioners Public Hearing**  
9:30 a.m., Wednesday, December 1st, 2021

Please note that the Planning Commission hearing for this land use application will be held virtually using the Zoom platform and Zoom access information is provided below. The Board of County Commissioners hearing for this land use application will be publically accessible in person and potentially also available virtually via the Zoom platform, please check the links below for updated information about how to access the hearings.

**PLANNING COMMISSION HEARING ACCESS:**

One week prior to the hearing, a Zoom link to the public hearing and details on how to observe and testify online or by telephone will be available on our website: <https://www.clackamas.us/planning/planning-commission>

**BOARD OF COUNTY COMMISSIONERS HEARING ACCESS:**

In Person: At the Board of County Commissioners Hearing Room, **2051 Kaen Road, Oregon City, 97045.**

If available on Zoom: One week prior to the hearing, a Zoom link to the public hearing and details on how to observe and testify online or by telephone will be available on our website:

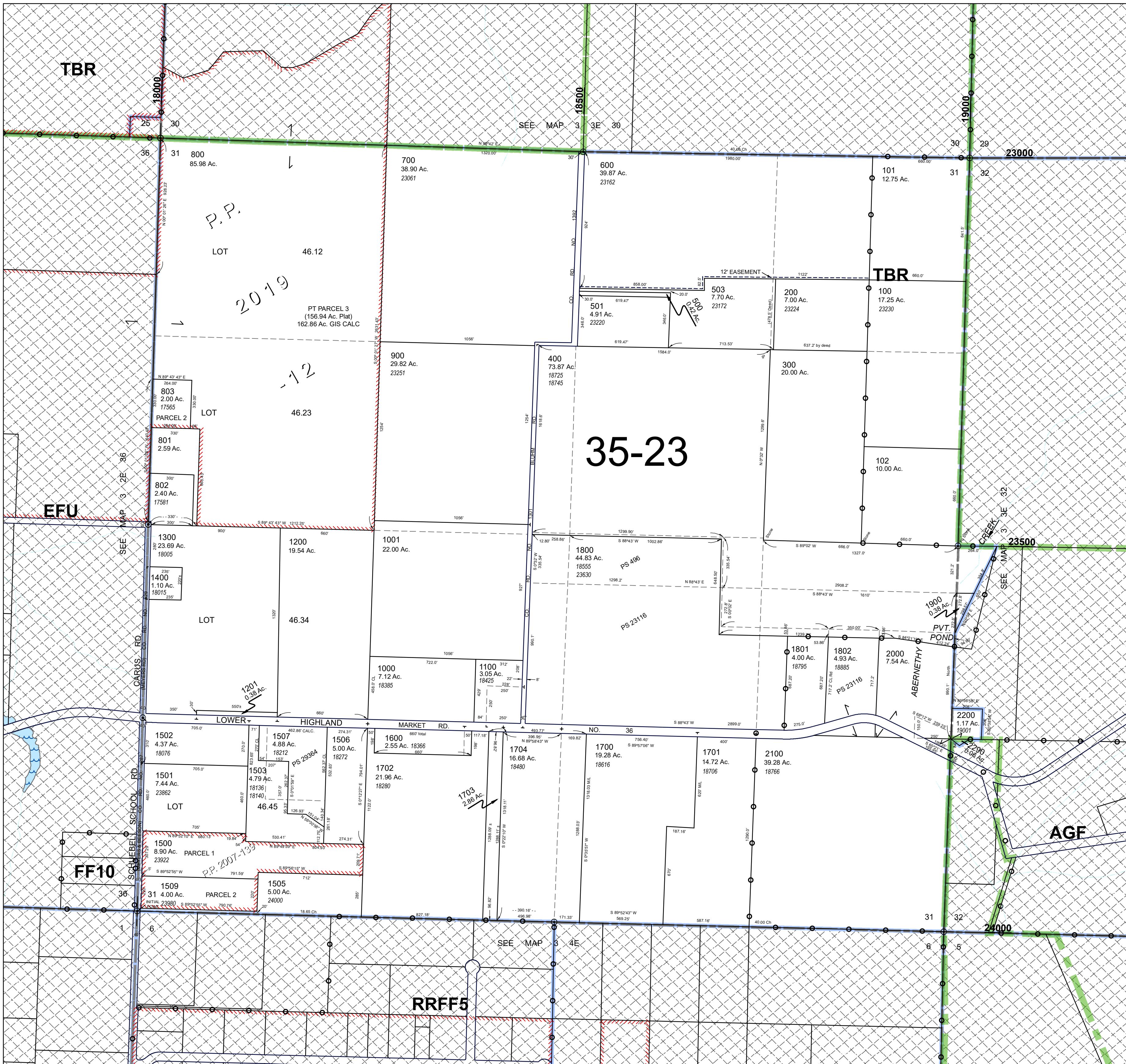
[www.clackamas.us/meetings/bcc/landuse](http://www.clackamas.us/meetings/bcc/landuse)

For more information: Melissa Ahrens, 503-742-4519, [mahrens@clackamas.us](mailto:mahrens@clackamas.us)

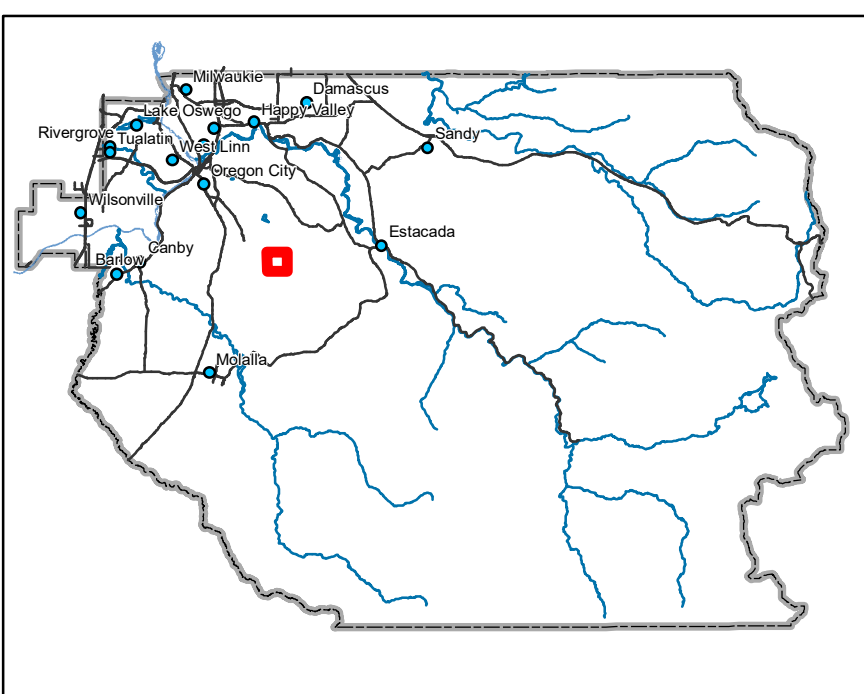
SECTION 31 T.3S. R.3E. W.M.  
CLACKAMAS COUNTY  
1" = 400'

Cancelled Taxlots

- 201
- 490
- 502
- 1002
- 1504
- 1508
- 1890



- Parcel Boundary
- - - Private Road ROW
- - - Historical Boundary
- +— Railroad Boundary
- █ TaxCodeLines
- ▭ Map Index
- WaterLines
- Land Use Zoning
- ▨ Plats
- Water
- ⊙ Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- - - DLC Line
- - - Meander Line
- - - PLSS Section Line
- ⊗ Historic Corridor 40'
- ⊗ Historic Corridor 20'

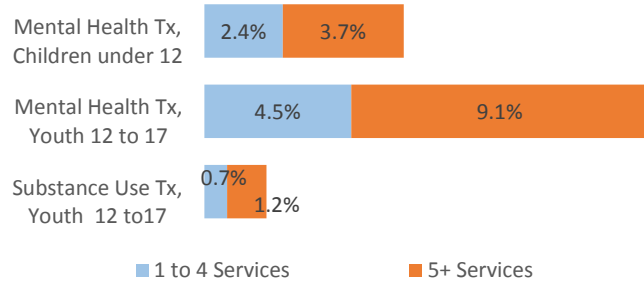


THIS MAP IS FOR ASSESSMENT PURPOSES ONLY

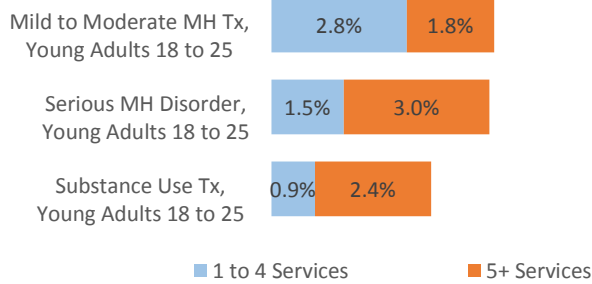
Exhibit 2  
Z0208-21-CP

3/18/2019

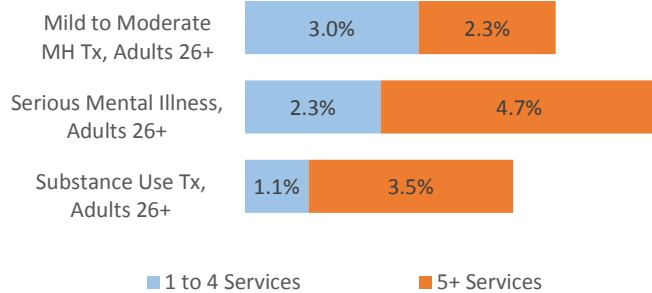
**OHP Youth Receiving Treatment**



**OHP Young Adults Receiving Treatment**



**OHP Adults Receiving Treatment**



**Population Statistics**

	County	Oregon
Population	391,525	3,962,710
Growth Rate	5.8%	4.1%
Poverty Rate (all ages)	9.7%	16.7%
Poverty Rate (ages 5 to 17)	11.2%	20.1%
Unemployment Rate	5.2%	5.7%
Percent on Medicaid	23.6%	31.8%

**Identified Mental Health (MH) or Substance Use (SU) Conditions, Medicaid Population**

Children under 12 with MH Condition	28.7 %	27.7 %
Youth (12 to 17) with MH Condition	36.0%	33.9%
Youth (12 to 17) Identified SU Condition	6.3 %	7.5 %
Young Adults (18 to 25) with Mild to Moderate MH Condition	28.6%	26.7%
Young Adults (18 to 25) with Serious MH Condition	8.4%	8.3%
Young Adults (18 to 25) with SU Condition	18.8 %	20.2 %
Adults (26 and older) with Mild to Moderate MH Condition	30.6%	27.6%
Adults (26 and older) with Serious MH Condition	14.9%	14.0%
Adults (26 and older) with SU Condition	7.6%	7.6%

**Count of Persons Admitted to Oregon State Hospital**

Civil Commitments	38	470
Aid & Assist	19	674
Guilty Except for Insanity	14	299

**Per Capita Public Funding**

OHP Funding	\$85.42	\$140.91
Other Medicaid Funding	\$39.17	\$53.97
State and Local Investments	\$34.87	\$55.00
Total Per Capita Public Behavioral Health Funding	\$159.46	\$249.88

**CCO Plan(s)**

FamilyCare, Health Share of Oregon, Willamette Valley Community Care Organization

Exhibit 3  
Z0208-21-CP

**OHP Members by Age Group**

	County		Rural Counties		Urban Counties		Oregon	
	Count	Pct of Tot	Count	Pct of Tot	Count	Pct of Tot	Count	Pct of Tot
<b>Total OHP Members</b>	94,898	100.0%	333,746	100.0%	942,350	100.0%	1,260,860	100.0%
Children under 12	24,995	26.3%	88,096	26.4%	248,928	26.4%	332,485	26.4%
Youth 12 to 17	11,255	11.9%	36,749	11.0%	104,346	11.1%	139,345	11.1%
Young Adults 18 to 25	12,270	12.9%	42,947	12.9%	120,278	12.8%	160,710	12.7%
Adults 26-64	34,865	36.7%	120,858	36.2%	355,602	37.7%	471,265	37.4%
Older Adults 65+	11,513	12.1%	45,096	13.5%	113,196	12.0%	157,055	12.5%

**OHP Members by Eligibility Group**

	County		Rural Counties		Urban Counties		Oregon	
	Count	Pct of Tot	Count	Pct of Tot	Count	Pct of Tot	Count	Pct of Tot
Non-Disabled	86,251	90.9%	298,717	89.5%	856,624	90.9%	1,182,363	93.8%
Persons with Disabilities	6,520	6.9%	27,739	8.3%	68,621	7.3%	93,002	7.4%
Child Welfare Children	2,127	2.2%	7,290	2.2%	17,105	1.8%	24,025	1.9%

**OHP Members by Gender**

	County		Rural Counties		Urban Counties		Oregon	
	Count	Pct of Tot	Count	Pct of Tot	Count	Pct of Tot	Count	Pct of Tot
Male	44,293	46.7%	156,824	47.0%	447,705	47.5%	597,721	47.4%
Female	50,605	53.3%	176,922	53.0%	494,645	52.5%	663,139	52.6%

**OHP Members by Race Ethnicity**

	County		Rural Counties		Urban Counties		Oregon	
	Count	Pct of Tot	Count	Pct of Tot	Count	Pct of Tot	Count	Pct of Tot
White	55,513	58.5%	206,256	61.8%	487,240	51.7%	683,056	54.2%
Asian	2,245	2.4%	1,733	0.5%	28,340	3.0%	29,986	2.4%
African American	1,513	1.6%	2,172	0.7%	35,365	3.8%	37,376	3.0%
Native American	739	0.8%	9,601	2.9%	10,094	1.1%	19,294	1.5%
Pacific Islander	296	0.3%	806	0.2%	4,376	0.5%	5,140	0.4%
Hispanic	11,102	11.7%	40,539	12.1%	139,441	14.8%	178,885	14.2%
Unknown	23,490	24.8%	72,639	21.8%	237,494	25.2%	307,123	24.4%

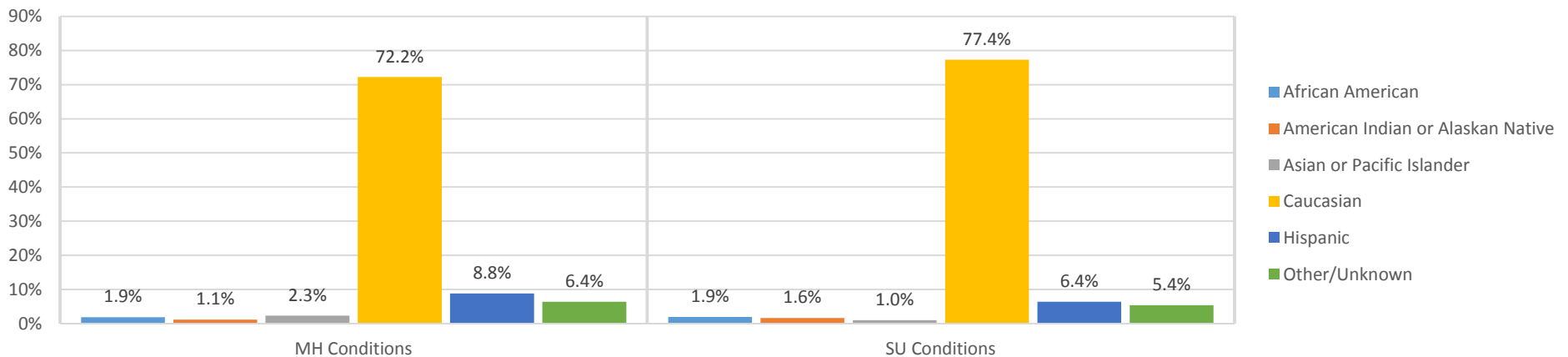
**Count of Mental Health Service Recipients & Penetration Rates by Age Group**

	Early ID		Community Residential		Community Treatment		Crisis		Inpatient		Recovery Services		Total	
	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%
<b>Total</b>	8,696	9.2%	143	0.2%	9,594	10.1%	1,278	1.3%	433	0.5%	462	0.5%	12,428	13.1%
12 and under	1,415	5.7%		0.0%	1,572	6.3%	54	0.2%	3	0.0%	80	0.3%	1,902	7.6%
13 to 17	1,422	12.6%		0.0%	1,534	13.6%	215	1.9%	47	0.4%	106	0.9%	1,855	16.5%
18 to 24	945	7.7%	13	0.1%	1,059	8.6%	196	1.6%	48	0.4%	44	0.4%	1,433	11.7%
25 to 64	4,686	13.4%	117	0.3%	5,227	15.0%	774	2.2%	230	0.7%	218	0.6%	6,829	19.6%
65 and older	228	2.0%	13	0.1%	202	1.8%	39	0.3%	105	0.9%	14	0.1%	409	3.6%

**Count of Substance Use Disorder Service Recipients & Penetration Rates by Age Group**

	Early ID		Community Residential		Community Treatment		Crisis		Inpatient		Recovery Services		Total	
	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%
<b>Total</b>	1,315	1.4%	315	0.3%	2,438	2.6%	282	0.3%	137	0.1%	-	0.0%	2,825	3.0%
12 and under	1	0.0%	11	0.0%	2	0.0%		0.0%	1	0.0%	-	0.0%	15	0.1%
13 to 17	158	1.4%	59	0.5%	198	1.8%		0.0%		0.0%	-	0.0%	253	2.2%
18 to 24	208	1.7%	60	0.5%	360	2.9%	53	0.4%	12	0.1%	-	0.0%	423	3.4%
25 to 64	943	2.7%	185	0.5%	1,857	5.3%	229	0.7%	120	0.3%	-	0.0%	2,111	6.1%
65 and older	5	0.0%		0.0%	21	0.2%		0.0%	4	0.0%	-	0.0%	23	0.2%

Race Ethnicity Comparison of Identified MH and SU Conditions



**Medicaid, State and Local Behavioral Health Funding**

	County		Rural Counties		Urban Counties		Oregon	
	Funds	Per Capita	Funds	Per Capita	Funds	Per Capita	Funds	Per Capita
CCO OHP Mental Health	\$22,348,336	\$57.08	\$124,759,414	\$87.45	\$273,596,362	\$107.88	\$398,355,776	\$100.53
CCO OHP Substance Use	\$7,417,734	\$18.95	\$40,485,483	\$28.38	\$63,813,444	\$25.16	\$104,298,926	\$26.32
Open Card Mental Health	\$2,072,632	\$5.29	\$7,914,376	\$9.14	\$24,945,272	\$8.06	\$32,859,648	\$8.29
Open Card Substance Use	\$1,606,976	\$4.10	\$6,387,653	\$7.37	\$16,503,037	\$5.33	\$22,890,690	\$5.78
<b>Total OHP Funding</b>	<b>\$33,445,678</b>	<b>\$85.42</b>	<b>\$179,546,926</b>	<b>\$132.34</b>	<b>\$378,858,114</b>	<b>\$146.43</b>	<b>\$558,405,040</b>	<b>\$140.91</b>

Adult MH Residential	\$4,497,785	\$11.20	\$19,598,155	\$22.73	\$57,399,278	\$18.13	\$76,997,433	\$19.11
Psychotropic Medications	\$10,658,223	\$26.55	\$35,522,176	\$41.20	\$98,608,025	\$31.14	\$134,130,201	\$33.29
Medication Assisted Treatment	\$570,286	\$1.42	\$1,865,699	\$2.16	\$4,436,088	\$1.40	\$6,301,787	\$1.56
<b>Total Other Medicaid Funding</b>	<b>\$15,726,294</b>	<b>\$39.17</b>	<b>\$56,986,029</b>	<b>\$66.09</b>	<b>\$160,443,391</b>	<b>\$50.66</b>	<b>\$217,429,420</b>	<b>\$53.97</b>

**State and Local Investments (Non-Medicaid Funding)**

Other AMH BH Funding	\$12,388,924	\$31.64	\$48,225,641	\$55.93	\$116,928,482	\$36.92	\$165,154,122	\$40.99
Beer and Wine Tax	\$351,482	\$0.90	\$512,538	\$0.59	\$2,847,660	\$0.90	\$3,360,198	\$0.85
Local Funding for BH Disorders	\$912,103	\$2.33	\$18,426,645	\$21.37	\$33,743,376	\$10.66	\$52,170,021	\$13.17
<b>Total Non-Medicaid Funding</b>	<b>\$13,652,509</b>	<b>\$34.87</b>	<b>\$67,164,824</b>	<b>\$77.90</b>	<b>\$153,519,518</b>	<b>\$48.47</b>	<b>\$220,684,342</b>	<b>\$55.00</b>

<b>Total Behavioral Health Funding</b>	<b>\$62,824,481</b>	<b>\$159.46</b>	<b>\$303,697,780</b>	<b>\$276.33</b>	<b>\$692,821,023</b>	<b>\$245.57</b>	<b>\$996,518,803</b>	<b>\$249.88</b>
--	---------------------	-----------------	----------------------	-----------------	----------------------	-----------------	----------------------	-----------------

<b>Adult and Youth Psychiatric Admits and Residential Care</b>							
	Count	Per 10,000 Population			Count	Per 10,000 Population	
		County	Oregon			County	Oregon
<b>Adults 18 and Older</b>				<b>OHP Adults 18 and Older</b>			
<b>Oregon State Hospital</b>				<b>Residential Services</b>			
Civil Commitments	38	0.9	1.5	Adult Foster Homes	45	1.1	3.1
Aid & Assist	19	0.5	2.2	Residential Treatment	103	2.6	4.1
Guilty Except for Insanity	14	0.3	1.0	Secure Residential	11	0.3	1.2
OHP Psychiatric Hospital	487	12.1	17.8	Supported Housing	134	3.3	4.1
				Supportive Housing	600	14.9	16.9
<b>Children Under 18</b>				<b>OHP Children Under 18</b>			
OHP Psychiatric Hospital	61	0.2	5.5	SCIP/SAIP/STS	3	0.0	0.4
				Subacute/PRTS/PDTS	68	0.2	14.9

**Page 1. Treatment Charts**

OHP Youth Receiving Treatment

Percent of youth on Medicaid that received treatment services for a mental health or substance use disorder. Includes data for: children under 12 years of age that received mental health treatment, youth 12 to 17 years that received mental health treatment and youth 12 to 17 that received treatment for a substance use disorder. Numerator = count of individuals receiving one or more treatment services; Denominator = count of individuals on Medicaid in CY 2015. Treatment includes a range of therapeutic services including: individual and family counseling, inpatient, outpatient and residential treatment. Individuals that only received screening, assessment or medication without additional therapeutic services are not included as receiving treatment.

OHP Young Adults Receiving Treatment

Percent of young adults 18 to 25 years on Medicaid that received treatment services for a mental health or substance use disorder. Includes data for: treatment for persons with a mild or moderate mental health disorder, treatment for persons with a severe persistent mental health disorder and treatment for a substance use disorder. Numerator = count of individuals receiving one or more treatment services; Denominator = count of individuals on Medicaid in CY 2015. Treatment includes a range of therapeutic services including: individual and family counseling, inpatient, outpatient and residential treatment. Individuals that only received screening, assessment or medication without additional therapeutic services are not included as receiving treatment.

OHP Adults Receiving Treatment

Percent of adults 26 and older on Medicaid that received treatment services for a mental health or substance use disorder. Includes data for: treatment for persons with a mild or moderate mental health disorder, treatment for persons with a serious mental health disorder and treatment for a substance use disorder. Numerator = count of individuals receiving one or more treatment services; Denominator = count of individuals on Medicaid in CY 2015. Treatment includes a range of therapeutic services including: individual and family counseling, inpatient, outpatient and residential treatment. Individuals that only received screening, assessment or medication without additional therapeutic services are not included as receiving treatment.

**Page 1. Population Statistics**

Population

U.S. Census annual population estimates 2014

Growth rate

Percent change in population from 2010 to estimated 2014 population (American Community Survey)

Poverty Rate (All Ages)

Percent of persons living at or below the Federal Poverty Level (American Community Survey)

Poverty Rate (Ages 5 to 17)

Percent of children 5 to 17 years old living in a family that is at or below the Federal Poverty Level (American Community Survey)

Unemployment Rate

Seasonally adjusted rate of unemployment (Oregon Employment Department)

Percent on Medicaid

Percent of the county population that are enrolled or eligible for the Oregon Health Plan in 2015

**Page 1. Estimates of Mental Health or Substance Use Disorders, Medicaid Population**

Mental Health Disorder, Children under 12, and Youth 12 to 17

Estimates of the percent of Medicaid youth under 18 that may have a mental health disorder are based on modified specifications derived from a measure developed by the Washington State Department of Social and Health Services. Mental health service need is identified by the occurrence of any of the following conditions: receipt of any mental health service; receipt of any service from a mental health provider type; any diagnosis of mental health disorder (not restricted to primary); or receipt of any psychotropic medication.

Substance Use Disorders, Youth 12 to 17 and Adults 18 to 25

Estimates of substance use disorders for Medicaid persons 12 to 25 are based on modified specifications derived from a measure developed by the Washington State Department of Social and Health Services. Substance use disorder treatment need is identified by the occurrence of any of the following: diagnosis of a drug or alcohol use disorder in any health service event; receipt of a substance use disorder service included in a specified set of procedure, DRG, or revenue related codes; receipt of a prescription for a specified set of drugs; receipt of screening or brief intervention (SBIRT) services; or receipt of medically managed detox services. Substate estimates of the prevalence of alcohol or illicit drug abuse or dependence from the National Survey on Drug Use and Health. Estimates were then weighted to be consistent with the substate estimates of alcohol or drug dependence or abuse from the National Survey on Drug Use and Health.

Mild to Moderate Mental Health Disorder, Adults 18 and Older

Estimates of the percent of adults 18 and older that may have a mild to moderate mental health disorder are based on modified specifications derived from a measure developed by the Washington State Department of Social and Health Services. Mental health service need is identified by the occurrence of any of the following conditions: receipt of any mental health service; receipt of any service from a mental health provider type; any diagnosis of mental health disorder that is not one of the specified serious disorders (not restricted to primary); or receipt of any psychotropic medication. The categories of persons with a mild to moderate versus serious mental health disorder are exclusive groups. Persons in the mild to moderate mental health disorder category did not have any of the serious mental health diagnoses in their medical record in 2015.



Serious Mental Health Disorder,  
Adults 18 and Older

Estimates of the percent of adults 18 and older that may have a serious mental health disorder are based on modified specifications derived from a measure developed by the Washington State Department of Social and Health Services. Mental health service need is identified by the occurrence of any of the following conditions: receipt of any mental health service; receipt of any service from a mental health provider type; any diagnosis of serious mental health disorders (not restricted to primary); or receipt of any psychotropic medication. The categories of persons with a mild to moderate versus serious mental health disorder are exclusive. A person that has any of the serious mental health diagnoses in 2015 is placed in the serious mental health disorder category.

Substance Use Disorders, Adults 26  
and Older

Estimate of the percent of adult Medicaid population, ages 26 and older, that may have a substance use disorder. Estimates are based on modified specifications derived from a measure developed by the Washington State Department of Social and Health Services. Substance use disorder treatment need is identified by the occurrence of any of the following: diagnosis of a drug or alcohol use disorder in any health service event; receipt of a substance use disorder service included in a specified set of procedure, DRG, or revenue related codes; receipt of a prescription for a specified set of drugs; receipt of screening or brief intervention (SBIRT) services; or receipt of medically managed detox services.

**Page 1. Count of Persons Admitted to Oregon State Hospital (Oregon Patient Resident/Care System)**

Civil Commitments

Count of persons in the State Hospital with a civil commitment

Aid and Assist

Count of persons in the State Hospital under an aid and assist

Guilty Except for Insanity

Count of persons in the State Hospital that are guilty except for insanity

**Page 1. Per Capita Funding**

OHP Funding

The total capitation for behavioral health (OHA Actuarial Unit) plus the fees paid for services to persons on an open card per county population (Decision Support & Surveillance Utilization Review System)

Other Medicaid Funding

Additional costs for behavioral health related services including adult mental health residential treatment, psychotropic medications and medication assisted treatment for substance use disorders per county population (Decision Support & Surveillance Utilization Review System)

State and Local Investments

The total of the County Financial Agreement, and direct funding of mental health and/or substance use disorder services in the county (AMH Fiscal Unit), plus beer and wine tax and other local funding for behavioral health disorders per county population (survey of CMHPs)

Total per Capita Behavioral Health  
Funding

Total OHP, other Medicaid and state and local funds provided for behavioral health disorders per county population

**Page 2. OHP Members by Age Group (Decision Support & Surveillance Utilization Review System)**

Provides count of persons on Medicaid in calendar year 2015 broken out by five age groups and percent of the total OHP members (Numerator = count of persons in the age group; Denominator = Total OHP members all ages). Persons are counted in only one age group. Table includes comparisons to rural counties, urban counties and Oregon.

**Page 2. OHP Members by Eligibility Group** (Decision Support & Surveillance Utilization Review System)

Provides count of persons on Medicaid in calendar year 2015 broken out by persons with disabilities, children involved in the Child Welfare system and non-disabled persons and percent of the total OHP members (Numerator = count of persons in the eligibility group; Denominator = Total OHP members all ages). Persons are counted in only one eligibility group. Table includes comparisons to rural counties, urban counties and Oregon.

**Page 2. OHP Members by Gender** (Decision Support & Surveillance Utilization Review System)

Provides count of persons on Medicaid in calendar year 2015 broken out by male and female gender and percent of the total OHP members (Numerator = count of persons by gender; Denominator = Total OHP members all ages). Table includes comparisons to rural counties, urban counties and Oregon.

**Page 2. OHP Members by Race Ethnicity** (Decision Support & Surveillance Utilization Review System)

Provides count of persons on Medicaid in calendar year 2015 broken out by race ethnicity group and percent of the total OHP members (Numerator = count of persons by race ethnicity; Denominator = Total OHP members all ages). Persons are counted in only one race ethnicity group. Table includes comparisons to rural counties, urban counties and Oregon.

**Page 3. Count of Mental Health Service Recipients & Penetration Rates by Age Group** (Decision Support & Surveillance Utilization Review System)

Provides count of persons that received mental health services by type of service and percentage of Medicaid persons that received a service (Numerator = unique count of persons that received a service; Denominator = count of OHP members from page 2). Total column counts persons once, even if they received services in multiple service categories.

Early ID	Assessment and evaluation
Community residential	Adult, youth and child residential treatment (long- and short-term)
Community treatment	Outpatient treatment such as therapy, case management, intensive rehab services and wraparound services
Crisis	Crisis services, emergency department visits
Inpatient	Psychiatric hospital services
Recovery services	Peer delivered services, supported employment, respite

**Page 3. Count of Substance Use Disorder Service Recipients & Penetration Rates by Age Group** (Decision Support & Surveillance Utilization Review System)

Provides count of persons that received substance use disorder services by type of service and percentage of Medicaid persons that received a service (Numerator = unique count of persons that received a service; Denominator = count of OHP members from page 2). Total column counts persons once, even if they received services in multiple service categories.

Early ID	SBIRT, screening, assesement
Community residential	Adult and youth residential treatment (long- and short-term)

Community treatment	Outpatient treatment such as group, family and individual counseling, methadone maintenance, and DUII treatment
Crisis	Detox services, emergency department visits
Inpatient	Inpatient detox
Recovery services	Self help / peer delivered services,

**Page 3. Race Ethnicity Comparison of Mental Health and Substance Use Disorders**

Each chart shows the race ethnicity breakout of the persons that may have a mental health or substance use disorder (Numerator = count of Medicaid persons that may have a mental health/substance use disorder by race ethnicity category; Denominator = total count of Medicaid persons that may have a mental health/substance use disorder)

**Page 4. Medicaid, State and Local Behavioral Health Funding**

**Medicaid, State and Local Behavioral Health Funding** (OHA Actuarial Unit, Decision Support & Surveillance Utilization Review System, AMH Fiscal Unit, Survey of CMHPs)

CCO OHP Mental Health	Total funds for persons enrolled in a CCO including: mental health services, ACT/Supported Employment, children's wraparound (MH), CANS, other non-inpatient mental health, substance abuse and residential substance abuse treatment. Per Capita costs = Total funds / County population. Table provides comparison data for rural counties, urban counties and Oregon
CCO OHP Substance Use	
Open Card Mental Health	Total paid amount for mental health / substance use disorder services provided to Open Card persons (not enrolled in a CCO). Per Capita costs = Total funds / County population. Table provides comparison data for rural counties, urban counties and Oregon
Open Card Substance Use	
Adult MH Residential	Costs for adult mental health residential services to persons on Medicaid (enrolled in CCO or Open Card). Per Capita costs = Total funds / County population. Table provides comparison data for rural counties, urban counties and Oregon
Psychotropic Medications	Costs for psychotropic medications (711 drugs) for persons on Medicaid (enrolled in CCO or Open Card). Per Capita costs = Total funds / County population. Table provides comparison data for rural counties, urban counties and Oregon
Medication Assisted Treatment	Costs for prescription medications to treat an addiction disorder for persons on Medicaid (enrolled in CCO or Open Card). Per Capita costs = Total funds / County population. Table provides comparison data for rural counties, urban counties and Oregon
Other AMH BH Funding	Total of the County Financial Agreement, and direct funding of mental health and/or substance use disorder services in the county (AMH Fiscal Unit) through state general and other funds. Per Capita costs = Total funds / County population. Table provides comparison data for rural counties, urban counties and Oregon

Beer and Wine Tax

Total beer and wine tax dedicated to behavioral health disorders per county population (survey of CMHPs). Per Capita costs = Total funds / County population. Table provides comparison data for rural counties, urban counties and Oregon

Local Funding for BH Disorders

Total local funding for behavioral health disorders per county population (survey of CMHPs) Per Capita costs = Total funds / County population. Table provides comparison data for rural counties, urban counties and Oregon

**Page 4. Adult and Youth Psychiatric Admits and Residential Care**

Adults Age 18 and Older Oregon State Hospital

Count of persons, rate of persons per 10,000 population in the county and rate of persons per 10,000 population in Oregon. Data is broken out by persons in the State Hospital: with a civil commitment; under an aid and assist; and guilty except for insanity

Psychiatric Hospital Admits (Adults and Children)

Count of persons admitted to a psychiatric hospital, rate of persons per 10,000 population in the county and rate of persons per 10,000 population in Oregon. Data is broken out by: adults 18 and older and children under 18.

Adults 18 and Older Residential Services

Count of adults in residential treatment, rate of persons per 10,000 population in the county and rate of persons per 10,000 population in Oregon. Data is broken out by persons in: adult foster homes, secure residential, supported housing, supportive housing and other residential treatment programs

Guilty Except for Insanity

Count of youth in residential treatment, rate of persons per 10,000 population in the county and rate of persons per 10,000 population in Oregon. Data is broken out by youth in: secure child and adolescent inpatient programs (SCIP/SAIP), secure treatment services (STS), subacute, psychiatric residential and psychiatric day treatment services (PRTS/PDTS)

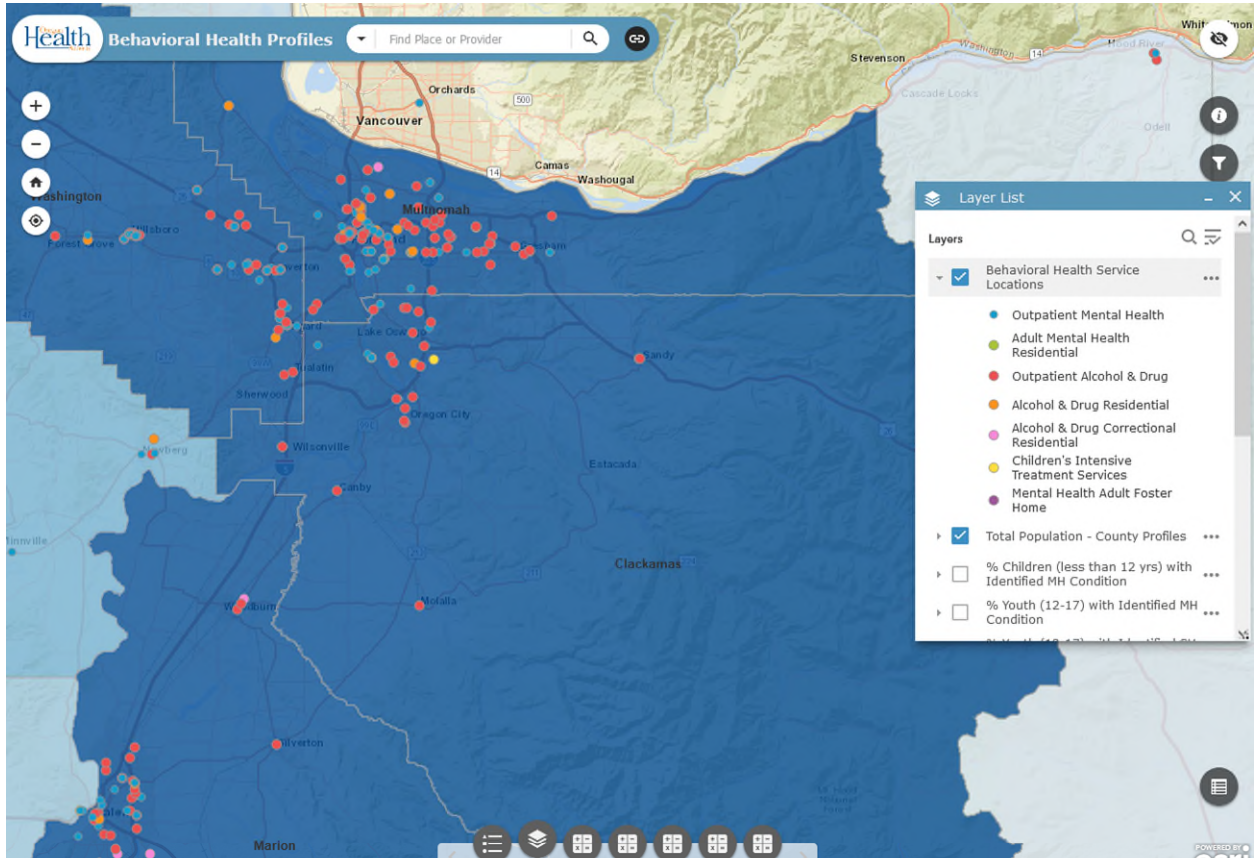


Exhibit 4  
Z0208-21-CP

Date: October 26,2021

To: Clackamas County Planning

From: David Brent

Re: Permits for 23172 S Bluhm Rd

I am a farmer in the Beavercreek - Redland - Oregon City Area. I have visited the site in question at 23172 S Bluhm Rd.

It is my opinion that the people operating this property are a positive thing and that any building or operating permits needed for their work should be granted. They are serving their community by helping people get back on their feet and teaching them about work and agriculture. The property is well kept and their no trouble to their neighbors.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read 'David Brent', with a long horizontal flourish extending to the right.

David Brent  
18725 S Henrici Rd  
Redland, OR

Exhibit 5 Z0208-21-CP
--------------------------

**File Case number: Z0208-21-CP**

**Melissa Ahrens (Tel: 503-742-4519, Email: mahrens@clackamas.us)**

*From: Octavian & Lisa Popescu  
19435 S Lower Highland Rd  
Beavercreek, OR 97004  
503-473-4533*

Please provide a written notice of the Board of County Commissioners' decision to  
o.popescu@comcast.net

We, Octavian & Lisa Popescu, strongly oppose a Comprehensive Plan Amendment for an exception to Statewide Planning Goal 3 for applicant Mission Teens Inc., North West Bible Training Center. Our argument includes excessive traffic for the area, no sewer system to handle this many people, prime example of people ignoring the laws and an overall inappropriate location for such business.

According to rehabnow.org this facility is already offering Intensive Outpatient program (½ day to full day programs), Aftercare Outpatient (½ day to full day), Aftercare Support (a year or longer), Inpatient Care (1 month long), Intervention and Outpatient Programs. This amendment appears to be requesting additional provisions. This business which is currently operating is not listed as a licenced facility through the oregon.gov website under Oregon Substance Use Disorders Service Directory. This facility is located on an unstriped, very narrow road. Bluhm road also has a blind hill with two 90 degree corners. Farm machinery such as tractors and farm implements regularly travel on Bluhm Road to function working farms. With a facility like this (people coming and going, instructors, support staff, etc) this adds to an enormous amount of traffic for this small single laned road that serves neighbors with working farms. From a safety standpoint Firetrucks and Ambulances would have a difficult time navigating down the road--also, this property has a very narrow gravel/dirt single lane driveway which does not allow two vehicles to pass.

This amount of people would require an upgrade to the current sewage system. Since people would be staying overnight in addition to daytime programs showers, restrooms, cooking areas would all have to accommodate these needs. A facility like this would be best placed in a public sewer system in addition to a public water source (not well). Water bodies are present nearby such as the Abernathy Creek and various ponds that are fed through springs in the area. We must protect our working farm land in addition to water sources to prevent sewage contamination in the nearby area.

A few years back there was reprepresentation from this group that expressed interest in establishing this type of business on the property (this is sourced from Hamlet meeting, dated 10/21/2021). It was brought to their attention at that time that this type of facility could not operate on Exclusive Farm Use zoning. Mission Teens/ North West Bible Training Center

Page 1 of 2

Exhibit 6  
Z0208-21-CP

ignored this information and began making improvements to the property with no permits or legal authorization to do so. It is also questionable that they are a true non for profit group. According to the website reference earlier (rehabnow.org) they accept insurance and self pay. There is no reference to this property having a unique setting "farm" or that it would be incorporated into the recovery process. This layering amendment is not appropriate for a drug recovery addiction location.

Beavercreek, Oregon is not an appropriate location for a drug addiction recovery facility. As far as I am aware there is no exception similar to this in Clackamas County. Our Exclusive Farm Use must be protected and it must be recognized that many of our side roads and farming areas are not appropriate for the scope of business that this facility offers. This would set a bad precedent for future considerations. This type of business should be located in a city setting with different zoning uses.

Best Regards,



Octavian & Lisa Popescu

o.popescu@comcast.net

18433 S Gomez Highway Rd

503-443-4333

Beavercreek, OR 97004

18433 S Gomez Highway Rd

From: Octavian & Lisa Popescu

Message subject: (re: 203-145-4218) Email: octavian@clackamas.gov

File Size: 11KB Date: 2020-03-16



10-22-2021

Regarding: Z0208-21-CP

To Melissa Ahrens, Planning Commission, Board of County Commissioners,

My name is Chris Tendo. I have been volunteering at North West Bible Training Center for about 25 years (Since 1996 or about 6 months after it first opened on Greeley Street in North Portland). This group has been mostly helping people come out of drug and alcohol addictions through their faith in Christ. Over these twenty five years we have seen many success stories of people finding freedom and a worthwhile lifestyle. We have seen people leave and have to come back because they had fallen back into their bad habits. We have seen many people leave the program, sometimes for valid reasons.

I have lead a Bible teaching and interactive discussion session regularly, usually once a week. I also have donated financially to this charity. During my time with this ministry, I have found it to exercise strong leadership with the participants. The Bible studies are orderly and very engaging. I personally enjoy coming to these studies and having the interaction with the residents.

The residents have responsibilities to fulfill around the premises. They are expected to be positive influences to all around them. Most all who stay in the program, get to the point where they expect to see genuine progress in their walk with God and regarding their previous addictions.

It has been also great to see volunteers from many different churches and ministries in the Portland Metroplex.

Thankyou, Chris Tendo (971-506-0570)



Exhibit 7  
Z0208-21-CP

**Ahrens, Melissa**

---

**From:** Kevin Bowman <kmbowman1@yahoo.com>  
**Sent:** Tuesday, October 26, 2021 1:14 PM  
**To:** Ahrens, Melissa  
**Subject:** testimony for case file Z0208-21-cp

**Warning: External email. Be cautious opening attachments and links.**

---

Testimony for Case File Z0208-21-CP

To whom it may concern;

My name is Kevin Bowman and I wish to convey to this planning commission my desire for you to please find agreement to allow for the requested zoning change which would approve the use of this property ongoing for the purpose requested. I believe strongly that NWBTC is providing very needed services with their organization in helping many people to receive the help needed for them to change their lives by allowing them to transition from their societal problems into being productive in our society as model citizens.

I am writing this because I am one who volunteers once per week to teach there and so I have hands on being part of this organization in observing and knowing the staff as well as those whose lives are being helped here.

I am personally aware that there are proven results for this specific organization, using their methodology to help people that reach out to them.

This organization is not using public funding for anything they do which creates no financial burden to the public.

Due to the structured educational environment with complete accountability of those in the program this campus does not have much, if any, impact on the neighborhood with traffic flow.

The very nature of this program is dependent on the specific need to remove residents from mainstream public to get maximum results. This physical location more than allows for this to happen. I believe that there is a great lack of understanding in the thoughts of many of the neighborhood about this and it has caused unneeded concerns.

I simply ask that this land use be allowed to let NWBTC help people.

Sincerely;

**Kevin Bowman**

E-mail: kmbowman1@yahoo.com  
21400 S. Lewellen Rd.  
Beavercreek, OR 97004  
941-228-2950

Exhibit 8  
Z0208-21-CP

The information contained in this electronic e-mail transmission and any attachments are intended only for the use of the individual or entity to whom or to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient, or the employee or agent responsible for delivering this communication to the intended recipient, you are hereby notified that any dissemination, distribution, copying or disclosure of this communication and any attachment is strictly prohibited.

## Ahrens, Melissa

---

**From:** Bob Howard <bobhoward@usa.com>  
**Sent:** Wednesday, October 27, 2021 7:01 AM  
**To:** Ahrens, Melissa  
**Subject:** Written testimony regarding case Z0208-21-CP

**Warning: External email. Be cautious opening attachments and links.**

---

---

To: Melissa Ahrens  
Subject: Case Z0208-21-CP  
From: Robert (Bob) Howard  
Date: October 27, 2021

Melissa,

I've been a teacher at North West Bible Training Center since May, 2015 and it's my pleasure to share my testimony with you regarding what I've observed over these past 6 1/2 years.

One of the benefits of being there each Thursday morning is that the progress of individual residents is quite obvious. When you see someone daily you sometimes don't pick up on changes right away. But seeing someone weekly ... that's a different matter! I've taught many classes where a certain resident had come on board within the prior couple of days ... and the state they were in was (in my uneducated opinion) "terrible."

Then came the following Thursday ... and what a difference! And as Thursday follows Thursday, a gradual change is totally obvious. They usually start as someone who could barely keep their eyes open. Yet after a while they are awake, alert, involved with the topic and asking excellent questions. And they clearly get better and better as Thursdays come and go.

And then comes the graduation banquet in the fall. Here we can see what's been accomplished over the year, hear individual testimonies, and come away even more amazed at how God has used this ministry to turn lives around.

I've been so blessed to be able to play a very small role in all of this ... praise God for directing me there.

Thank you,

Bob

Exhibit 9  
Z0208-21-CP

Melissa Ahrens  
mahrens@clackamas.us  
Re: Z0208-21-CP

Diana Crites



October 27, 2021

To Whom It May Concern,

My name is Diana Crites. My family and I live on Ridge Rd. I am a homeowner and resident of Beavercreek. I'm also an administrator of the Beavercreek Forum on Facebook. These roles provide me with insight into our community and a substantial investment in its future. I am incredibly concerned about Northwest Bible Training Center's operation in Beavercreek and wholeheartedly oppose their application for a land-use exception that would allow their business expansion. Allowing this exception would set a dangerous precedent, and it would be detrimental not just for Bluhm Road homeowners but also for the entire Beavercreek community.

Good actors operate above board: transparent, within the law, and with respect to their surroundings. Northwest Bible Training Center are bad actors. They are operating illegally on land zoned for farming only. Having been previously warned against their operation by the Hamlet board, they nevertheless callously moved forward with their plans -- and were, in fact, only stopped when planners reported them for code violations. Now they ask for an exception to land use laws that they wasted no time violating in the first place.

According to Clackamas County, Northwest Bible Training Center is operating a church without land use approval, however Northwest Bible Training Center states they *are not* a church when it suits them -- such as regarding zoning -- but that *they are* a church when it benefits them, such as avoiding property taxes. They attempted to unlawfully convert an accessory structure into a multi-person dormitory without permits, despite agreeing to zone restrictions as part of the land purchase. Their application includes a list of three neighbors supposedly in support of their operation, however, at least two of

Exhibit 10 Z0208-21-CP
---------------------------

them are not residents of Beavercreek. I've personally heard from Bluhm Road neighbors who are adamantly opposed to this business. Northwest Bible Training Center has also stated to the community that they offer only long-term in-patient treatment -- while simultaneously advertising services that include both half-day treatment and outpatient services. They are not licensed through the state to conduct this type of business. Instead of being granted an exception by the County, they should be held accountable and fined retroactive to their infractions.


Granting Northwest Bible Training Center's proposed land use exception would set a dangerous precedent for Clackamas County. From my understanding, such an overlay has never been permitted within the County. Allowing its use, in this case, would chart a dangerous course for other groups to purchase -- and likewise make wildly inappropriate use of -- land explicitly zoned for farming. Instead of housing livestock, their barn will house close to thirty addicts in an unregulated environment, setting in action a path for other questionable groups to follow. What would stop the Northwest Muslim Training Center for Sexual Addiction, for example, from purchasing the next Beavercreek property to set up shop? Or the L. Ron Hubbard Training Center for Pornography Addiction? Opening the door to one opens the door to all.

This proposed expansion is terrible news for Bluhm Road residents and all of Beavercreek. Bluhm Road is an unstriped, very narrow country road: when two cars meet, they have to slow and allow one to pass carefully. It's also lined by farms, which means tractors and farm implements regularly traverse Bluhm Road as well. This facility has brought in ancillary traffic -- residents report that the facility is responsible for *90% of traffic* -- which will only increase as they add capacity. Septic systems, wells, and aquifers will also be sorely affected, with Bluhm Road homeowners already reporting negative impacts. Property owners also note that strangers are driving up their private driveways and peering in windows, seeking the treatment facility.

Additionally, home values will be negatively impacted from their proximity to an addiction treatment center, penalizing homeowners who bought in good faith from an area zoned expressly for farming. Treatment centers are normally placed in an urban setting for good reason, as they require the infrastructure and planning of an urban environment to handle the complex issues and needs of their patients. Beavercreek will not benefit from the traffic, crime, and infrastructure degradation that would follow approving this overlay exception.

Since moving into our area in 2018, Northwest Bible Training Center immediately set out to erode the fabric of our community. This proposed overlay expansion must be refused because Northwest Bible Training Center are bad actors, because it would set a dangerous precedence for Clackamas County, and because Bluhm Road residents deserve better. Beaver creek is a sleepy hamlet dominated by rural living; it is not a destination, a potential development opportunity, or a service area for large cities. Please preserve the integrity of our community and vote against this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Diana L. Crites". The signature is stylized and somewhat cursive, with a prominent initial "D" and "C".

Diana L. Crites

## Ahrens, Melissa

---

**From:** Peg Moore <pegmoore51@yahoo.com>  
**Sent:** Thursday, October 28, 2021 6:50 PM  
**To:** Ahrens, Melissa  
**Subject:** Case file # ZO208-21-CP

Warning: External email. Be cautious opening attachments and links.

Re: case file # ZO208-21-CP

To whom it may concern,

I am corresponding with hearing members to show our support for Northwest Bible Training Center.

We have observed members of NWBTC for the last six years. One Sunday each month residents attend our church in Oregon City (Connection Church). They have always been RESPECTFUL and friendly.

On one occasion I went to the farm to drop off some items and the director gave me a tour. I was impressed with the fact they all work to help supply some of their needs. I noticed some cleaning and others caring for the chickens and vegetable garden. The environment was organized and well kept. Attending to tasks on a daily basis teaches RESPONSIBILITY and PERSEVERANCE.

The program offered is eight to ten months long which promotes a higher success rate than a 30-90 day program. We have attended a graduation and listened to heartfelt stories of graduates. We noticed their GRATITUDE, HUMILITY, and INTEGRITY they gained as a result of the influence of NWBTC. It is a voluntary choice to join the program and we have seen life changes where they have become positive members of society.

We sincerely hope you will allow this program to continue to produce productive citizens.

Respectfully, David and Peg Moore  
Molalla, Oregon

Sent from my iPad

Exhibit 11 ZO208-21-CP
---------------------------



To: Clackamas County Board of Commissioners  
From: Sandra Nelson, Beaverton, Oregon  
Re: Northwest Bible Training Center (case number Z0208-21-CP)  
Date: October 29, 2021

Dear County Commissioners,

I am writing to express my support for Northwest Bible Training Center's hope to stay on the property in Beavercreek. As I understand it, mistakes were made by NWBTC when they first purchased the property—misunderstandings about zoning issues? I also know that they want to do the right thing, honoring those in authority, whose work is to serve and protect both people and land.

About seven years ago I became acquainted with NWBTC when they were located in N. Portland in not the best housing and environment for people who were trying to make major changes in their lives. But they persevered in spite of their surroundings. When they bought the land in Beavercreek, it was like a breath of fresh air for them, both literally and figuratively. Not only were they better able to serve the needs of the residents, but they have shown generous hospitality to others through invitations to special celebration events, several of which I have been privileged to attend. Ever since they moved on to the property, I have seen them make improvements to the property and to the land, trying to be responsible and more self-sufficient. They provide a tremendous service to the community in their efforts to serve people who struggle with addiction issues and homelessness, which are of great concern to all Oregonians. They do this with grace, understanding, and strict rules, which benefit the residents and their neighbors. I wish there were many more such places throughout all of our counties. NWBTC has been a light to many, not just to their residents.

I ask you, the Board of County Commissioners, to encourage such service and do whatever is necessary to enable NWBTC to continue to offer hope and healing to their residents and community.

Thank you for your consideration.

Sandra Nelson

Exhibit 12 Z0208-21-CP
---------------------------

10-29-21

William A. "Al" Scott  
2107 SE Waldron Rd.  
Milwaukie, OR 97222

Melissa Ahrens  
[mahrens@clackamas.us](mailto:mahrens@clackamas.us)

Re: Northwest Bible Training Center division of Mission Teens, Inc.

Dear Planning Commission and Board of Commissioners:

I understand that there has been a problem in regards to farmland zoning and permitting with Northwest Bible Training Center and their 7.7 acre parcel.

I may not know and understand all the county's ordinances. However, I do understand about our county's problem with homelessness and abuse problems. I have seen homelessness and drug problems in my Oak Grove neighborhood. I was involved in the county's Neighborhood Livability Project in Oak Grove with DA Bill Stewart and Officer Sara McClurg.

The work of Northwest Bible Training Center (NWBTC) helps address the addiction problems and the associated homeless and crime problems that are associated with addictions.

I ask that you please assist and work with NWBTC to continue their effort in helping to address two of the most important needs in our community. Please work with them in meeting the county requirements or a variance, as they are a true asset to our county and community.

Sincerely

Al Scott

Exhibit 13 Z0208-21-CP
---------------------------

## Ahrens, Melissa

---

**From:** Trisha Achenbach <Ourbellehaven@outlook.com>  
**Sent:** Friday, October 29, 2021 9:57 PM  
**To:** Ahrens, Melissa  
**Subject:** FILE NUMBER 20208-21-CP

Warning: External email. Be cautious opening attachments and links.

I am writing on behalf of NW Bible Training Center, a Ministry we have had the privilege and joy of working with for almost 20 hrs.

Initially we were Supporters of this very necessary Center, then Counselors, Teachers and eventually personal friends of the previous and current AEDS.

NW Bible Training Center has provided safe, comfortable, respectful and experienced help for people dealing with life controlling problems for many years, long before this Nation realized the extent of its Opioid Crisis.

NW Bible Training Center provided Peer-based Counseling long before it was nationally recognized as one of the most effective treatment protocols.

This is not to diminish "educationally trained" Counselors, but to be told: "I know what you're going through. I have been there. We can help you." is a Lifeline to hurting, broken people. That is the heart of NW Bible Training Center. Whether or not a prospective Resident can or cannot pay they are welcomed, given a hygiene kit, taken to "The Store" to pick out clothing, given a bed, food, respect, acceptance and assistance to move beyond their broken, hurtful past and/or addictive lifestyles.

Residents enter into a regimen of morning group, classes, counseling, work projects and evening Chapel. This strict regimen quickly eliminates men and women who are not committed to changing their lives.

Residents also enjoy Thanksgiving and Christmas, many for the first time in years, and 4th of July BBQs, field trips to ZOO Lights, and the beach.

Work projects provide discipline, exercise and allow them to contribute to the beauty and function of their Center. The Residents are so proud of what they have accomplished in Beaver Creek! They have improved the property immensely. For 15 yrs my husband and I have had countless numbers Residents here at our home working our own property. We have never had a negative experience! Instead we have come to know serious, committed men and women bravely leaving behind their life controlling issues, sometimes family, spouses & children, and bravely facing the future.

Additionally NW Bible Training Center works to provide exit strategies for each Resident to secure their success. My husband and I have stayed in contact with many Residents after their Graduation. We've been to Weddings, Baby Showers and celebrated milestone successes in many lives. Most recently four former Residents, who graduated years ago, spoke and provided music at my Husband's Funeral.

Beautiful Dorms and a Library/Classrooms/Dining Room/Chapel Fellowship Hall awaits them - Achenbach Hall - dedicated to my Husband.

I sincerely hope NW Bible Training Center will be allowed to continue their extremely necessary work in Clackamas County. It's a travesty how many prospective Residents have had to be turned away, especially knowing the increasing numbers of opioid-related deaths in our own Cities.

To force them to relocate would be an injustice to the countless numbers of men and women desperately needing help. Most sincerely,

Trisha Achenbach

Exhibit 14  
Z0208-21-CP

## Ahrens, Melissa

---

**From:** Snuffin, Christian  
**Sent:** Tuesday, October 19, 2021 12:19 PM  
**To:** Ahrens, Melissa  
**Subject:** RE: Z0208-21 CP amendment

Hi Melissa,

I have reviewed the applicant's submittal for the subject CP amendment at 23172 S Bluhm Rd. The applicant's trip generation estimate – seven trips per day – appears low. It can be expected that trips will be generated not just by staff, but also by service and delivery vehicles, as well as visitors. This could result in two to three times more daily trips than that reported by the applicant. Note that a trip is defined as either originating or terminating at the site, so a delivery vehicle accessing the site is equal to two trips.

The number of trips will certainly increase on Bluhm Rd, and at the intersection of Bluhm and Lower Highland, over current levels. However, even with significantly more vehicle trips than estimated by the applicant, the *peak hour* trip generation is not expected to exceed 20 trips, which is the County standard threshold indicating the need to provide a traffic impact study. As noted by the applicant, I told them that they would not need to provide a TIS.

The lack of need for a TIS does not automatically prove that the TPR (OAR 660-012-0060) criteria are met, and the applicant did not provide sufficient information supporting their assertion that the criteria are met, specifically with regard to the question of significant effect. That being said, there are no known safety or operational issues on roadways and intersections in the vicinity, and the proposed amendment would not add sufficient trips to significantly degrade either safety or operations. It appears that amendment will not result in a significant effect per OAR 660-012-0060.

Please feel free to contact me if there are any questions.

Christian Snuffin, PE, PTOE | Senior Traffic Engineer  
Transportation Safety | Clackamas County Department of Transportation and Development  
150 Beaver Creek Road | Oregon City, OR 97045 | 📞 503-680-5623

Exhibit 15 Z0208-21-CP
---------------------------

## Ahrens, Melissa

---

**From:** Farin Melissa C <MELISSA.C.FARIN@dhsoha.state.or.us>  
**Sent:** Friday, October 29, 2021 10:14 AM  
**To:** Ahrens, Melissa  
**Cc:** Farin Melissa C  
**Subject:** RE: DLCD Land Use Application Exception for an addiction and recovery farm: Clackamas County

**Warning: External email. Be cautious opening attachments and links.**

---

**SECURE EMAIL DELIVERY:** This email message was securely transmitted from a sender at Oregon DHS OHA ([dhsoha.state.or.us](https://dhsoha.state.or.us)) to your email system using Transport Layered Security (TLS).

Melissa,

I'm sorry, I thought there was a specific passage speaking to "faith-based" programs, but I am unable to find it. HSD decided, prior to my starting in this role 7 years ago, that faith-based residential is not "treatment" and therefore these programs are not licensed. Here are applicable ORS.

Statutory references:

**ORS 443.405 (10)** Exclusions from definition of "residential facility." For purposes of ORS 443.400 to 443.455 and 443.991, "residential facility" does not include: A place providing care and treatment on less than a 24-hour basis

**ORS 443.400 (4)** "Residential care" means services such as supervision; protection; assistance while bathing, dressing, grooming or eating; management of money; transportation; recreation; and the providing of room and board.

**ORS 443.400 (12)** "Treatment" means a planned, individualized program of medical, psychological or rehabilitative procedures, experiences and activities designed to relieve or minimize mental, emotional, physical or other symptoms or social, educational or vocational disabilities resulting from or related to the mental or emotional disturbance, physical disability or alcohol or drug problem.

-----  
*Additional definitions:*

**ORS 443.400 (9)** "Residential treatment facility" means a facility that provides, for six or more individuals with mental, emotional or behavioral disturbances or alcohol or drug dependence, residential care and treatment in one or more buildings on contiguous properties.

**ORS 443.400 (4)** "Residential care" means services such as supervision; protection; assistance while bathing, dressing, grooming or eating; management of money; transportation; recreation; and the providing of room and board.

**ORS 430.306 (9)** "Treatment facility" includes outpatient facilities, inpatient facilities and other facilities the authority determines suitable and that provide services that meet minimum standards established under ORS 430.357, any of which may provide diagnosis and evaluation, medical care, detoxification, social services or rehabilitation for alcoholics or drug-dependent persons and which operate in the form of a general hospital, a state hospital, a foster home, a hostel, a clinic or other suitable form approved by the authority. [1973 c.682 §1a (enacted in lieu of 430.305); 1977 c.856 §2; 1979 c.744 §24; 1987 c.61 §1; 2001 c.900 §136; 2009 c.595 §480; 2011 c.673 §18; 2015 c.730 §1]

Exhibit 16  
Z0208-21-CP

**ORS 430.450 (11)** “Treatment facility” means detoxification centers, outpatient clinics, residential care facilities, hospitals and such other facilities determined to be suitable by the authority as meeting minimum standards under ORS 430.357, any of which may provide diagnosis and evaluation, medical care, detoxification, social services or rehabilitation. [1977 c.871 §2; 1979 c.744 §26; 2001 c.900 §139; 2009 c.595 §499; 2011 c.673 §33]

**ORS 430.357** Minimum standards; rules.

(1) The Oregon Health Authority shall adopt rules to implement ORS 430.338 to 430.380 and to establish minimum standards for alcohol and drug prevention and treatment programs in accordance with the rules, policies, priorities and standards of the Alcohol and Drug Policy Commission under ORS 430.242.

(2) All standards and guidelines adopted by the authority to implement programs authorized under ORS 430.338 to 430.380 shall be adopted as rules pursuant to ORS chapter 183 regardless of whether they come within the definition of rule in ORS 183.310 (9). [Formerly 430.360; 1985 c.565 §70; 1987 c.53 §5; 2009 c.595 §486; 2011 c.673 §23]

**430.242** [2011 c.673 §2; 2012 c.37 §63; 2013 c.623 §19; 2015 c.405 §2; 2018 c.44 §4; 2019 c.54 §2; renumbered 430.223 in 2019]

**430.223 Comprehensive addiction, prevention, treatment and recovery plan; rules.** (1) For purposes of this section, “program” means a state, local or tribal alcohol and drug abuse prevention and treatment program.

(2) The Alcohol and Drug Policy Commission established under ORS 430.221 shall develop a comprehensive addiction, prevention, treatment and recovery plan for this state. The plan must include, but is not limited to, recommendations regarding:

- (a) Capacity, type and utilization of programs;
- (b) Methods to assess the effectiveness and performance of programs;
- (c) The best use of existing programs;
- (d) Budget policy priorities for participating state agencies;
- (e) Standards for licensing programs;
- (f) Minimum standards for contracting for, providing and coordinating alcohol and drug abuse prevention and treatment services among programs that use federal, private or state funds administered by the state; and
- (g) The most effective and efficient use of participating state agency resources to support programs.

(3) The commission shall review and update the plan developed under subsection (2) of this section no later than July 1 of each even-numbered year, beginning July 1, 2020.

(4) The commission may:

- (a) Conduct studies related to the duties of the commission in collaboration with other state agencies;
- (b) Apply for and receive gifts and grants for public and private sources; and
- (c) Use funds received by the commission to carry out the purposes of ORS 430.220 and 430.221 and this section.

(5) All state and local agencies shall assist the commission in developing the comprehensive addiction, prevention, treatment and recovery plan.

(6) The commission may adopt rules to carry out its duties under this section. [Formerly 430.242]

**ORS 430.395 (5)** As used in this section, “regional center” means a community residential treatment facility including intensive residential and outpatient care for adolescents with drug and alcohol dependencies. [1989 c.997 §1; 2009 c.595 §493; 2011 c.673 §29]

**Melissa Farin, LPC (she/her)**

Licensing and Certification Compliance Specialist  
Oregon Health Authority – Health Systems Division

Cell: 503-410-2343

[melissa.c.farin@state.or.us](mailto:melissa.c.farin@state.or.us)



Hello Melissa,

On October 27th, 2021, at The Hamlet of Beaver Creek's Zoom-held Town Hall Meeting, the following planning file was brought before the Board.

File #            Z0208-21-CP

Applicant        MISSION TEENS INC., NORTH WEST BIBLE TRAINING CENTER  
                      23172 S BLUHM ROAD  
                      BEAVERCREEK, OR 97004

Description     7.7 acres zoned EFU. Requesting Comprehensive Plan Amendment for an exception to statewide planning Goal 3 for use of the property (including an existing residence & accessory buildings) as an addiction recovery farm. The use would include long term (8-10 month) residential addiction recovery treatment for adults, with up to 26 staff & residents living in a dormitory on the property

After the membership reviewed the planning file, there were many comments, concerns, questions and testimony raised around this application. Below are the comments directly from the meeting minutes.

- a. Tammy Stevens has excused herself from the meeting due to her conflict of interest. Bill assumed Chair responsibilities of the meeting for this section. Bill provided an overview of the property and emphasized that zone maintenance for EFU will not change. The applicant wants to have a limited use for this property. The application is dedicated to farming. They are currently operating the Bible Training Center. Bill provided an overview of the reason why this land use is currently in effect.
- b. Member testimony:
  - i. Christopher Previti was able to provide testimony. The land is being used for farming and an 8 month curriculum. There are 5.5 hours per day dedicated to bible-based study. Farm life provides therapeutic benefits. This curriculum is a non-profit. They desire to remodel the existing structures. There is a strict registry process into the curriculum with no "serious offenders". Members have expressed admiration for

Message Phone 503-632-8370

Exhibit 17 Z0208-21-CP
---------------------------



# *The Hamlet of* **BEAVERCREEK**

PO Box 587 • Beaver Creek • Oregon • 97004

the careful selection of the property and there is not a lot of traffic or wastewater. Their activities are allowed within their zoning.

- ii. Major concerns were raised around setting precedence, paying the appropriate taxes, and ancillary traffic safety. There was an urge to preserve the integrity of the Beaver Creek Hamlet.
  - iii. Testimony was provided from an attendee that went through the program. One of the main advantages to the location is that it's not in the middle of Portland surrounded by related problems. They claim they "did not know what they were moving into". New managers are trying to correct this issue. This program changed this member's life.
  - iv. This member's biggest concern is potentially setting a precedent which would allow everyone with EFU to open this kind of establishment. They claimed people are being treated for health problems and that the staff should be licensed.
  - v. Dirk is the Chair of the Planning Commission and is participating with no official capacity. He believes this organization should not be hosted in a farm use location. He questions the capacity limits. Religious land use has a federal level protection and suggests putting that in writing. He suggests structuring a good neighbor agreement. He reminds the attendees that the overlay is applicant-specific.
  - vi. A teacher at the bible center provided testimony. They asked Christopher Previti to provide more details around the history.
  - vii. The organization has two goals: Bible study and farming. The property is zoned EFU. There may be rules that allow this. Farms are allowed to erect farm worker residences. This member does not see something out of line with this use of EFU zoning.
  - viii. Do participants drive in and out daily? Have there been any calls to the facility for law enforcement? This member provided testimony that living in a farm area builds character.
  - ix. Christopher confirmed that occupants don't have vehicles. There hasn't been a law enforcement call in their 3 active years. Previous directors bought the property.
  - x. A teacher at the bible center provided testimony that this facility is not for people to get out of drugs. They stress the rigorous application process.
- c. All comments, recordings, and chat messages will be forwarded to the planner.

Chat comments were also recorded:

Message Phone 503-632-8370





*The Hamlet of*  
**BEAVERCREEK**  
PO Box 587 • Beaver Creek • Oregon • 97004

20:21:58 From Jeff Shaffer to Everyone:  
Exclusive Farm Unit

20:23:22 From Awbrey Carter to Hosts and panelists:  
Continue to run? So they are currently running it?

20:24:31 From Dirk Schlagenhauser to Everyone:  
Is the applicant speaking tonight?

20:24:39 From Amy Manning to Everyone:  
Does that limited use run with the land?

20:26:00 From Megan Friedow to Everyone:  
Want to? They have been operating as such regardless & did numerous unpermitted projects regardless of zoning & intended to do so until they were discovered.

20:26:15 From Christopher Previti to Hosts and panelists:  
I am here

20:26:33 From Christopher Previti to Hosts and panelists:  
I am the director of Northwest Bible

20:26:56 From Amy Manning to Everyone:  
When/if they sell will the new owners inherit the ability to run this type of facility?

20:27:27 From Elizabeth Graser-Lindsey to Hosts and panelists:  
Will limited use disappear if owners sell?

20:27:41 From Les Poole to Hosts and panelists:  
I am waiting to speak on behalf of the applicant. There have been a few misstatements about what they are doing.

20:28:07 From Awbrey Carter to Hosts and panelists:  
How did they get the building permits approved? I'm fairly certain you would have to pull permits to build the buildings that they already built. How was this not caught sooner?

20:28:56 From Bruce Betzer to Everyone:  
Who lives in the dormitories if there are no overnight stays?

20:29:02 From Amy Manning to Everyone:  
Are you licensed through the State of Oregon to run an in-home addiction treatment center? k

20:29:59 From Bruce Betzer to Everyone:  
As a religious organization, do you still have to pay property taxes equal to the rest of us?

20:30:50 From Amy Manning to Everyone:  
So you don't do interventions or group therapy?

20:32:22 From Theresa Reynolds to Hosts and panelists:  
Are you one denomination or are you open to all?

20:32:44 From Awbrey Carter to Hosts and panelists:  
What stops this facility from becoming a full-blown drug re-hab center? This may be how it is now, but that could easily change

20:35:26 From Jeff Shaffer to Everyone:  
Bruce had a good question. Are there actual dorms on the site being upgrade for use, even if no overnight stays are allowed by clients?

20:36:46 From Awbrey Carter to Hosts and panelists:  
All emotion aside. This is farmland. Because this facility is there, that is farmland that is not being farmed.

20:37:40 From Daniel Williams to Everyone:  
It sounds like they do have 8 month stays it is not short term housing or a bunch of daily trips. People commit to an 8 month program and stay there for 8 months at a time. That is what I understood him say anyway.

20:40:21 From Christopher Previti to Hosts and panelists:  
I am having trouble finding one true statement in what is being said

20:40:58 From Christopher Previti to Everyone:  
I do not believe I heard one true thing is what is being said

20:41:02 From Les Poole to Hosts and panelists:  
The only way they could operate is on a very small lot. There would be no way anyone would propose the use on lots larger than 5 or 10 acres.

20:41:15 From Jimmy Park to Everyone:  
I agree

20:41:33 From Awbrey Carter to Hosts and panelists:  
Well said Diana!!!

20:41:44 From Hasuike Kiyoshi to Everyone:  
I live by the facility I agree with Diane.

20:41:52 From Diana Crites to Everyone:  
I submitted my comments. Thank you so much.

20:41:55 From Les Poole to Hosts and panelists:  
The panelist just stated many things that are not supported by facts.

20:42:22 From Awbrey Carter to Hosts and panelists:  
Thank you Diana for advocating for your community!

20:43:09 From Christopher Previti to Everyone:  
Aren't you concerned that someone will fact check your speech?

20:43:30 From Jessica Sernach, Corresponding Secretary to Everyone:  
I am lowering hands of people that have spoken once. Please re-raise if you want to speak again

20:44:31 From Les Poole to Hosts and panelists:  
Their Center isn't an outpatient center. The calms of excessive traffic are specious. The owner will pay for a simple traffic study on Bluhm rd.

20:45:03 From Awbrey Carter to Hosts and panelists:  
It has always been zoned EFU. That was fully disclosed at sale.

20:45:57 From Theresa Reynolds to Hosts and panelists:  
I'm proud of you Seth!

20:46:13 From Hasuike Kiyoshi to Everyone:  
I dont doubt the facility does good. I just doubt how the facility went about being established.

20:47:56 From Megan Friedow to Everyone:  
Residents? Thought they didn't stay there? I agree with these programs whole heartedly, I currently have a nephew in a similar program, but they are legally operating within their zoning & didn't establish without knowing their zoning & continuing to do so & cut corners until they were reported. Disappointing & bad precedence for their neighboring community & neighbors.

20:48:21 From Les Poole to Hosts and panelists:  
It's not a medical facility. Where is that coming from? The application is for a small recovery farm.

20:50:13 From Les Poole to Hosts and panelists:  
There are no overnight or short term participants. No kids. The program is 8-10 months. Some stay longer. A short term facility would not be appropriate.

20:52:10 From Awbrey Carter to Hosts and panelists:  
It's harder to undo something like this once it has been done

20:56:40 From Les Poole to Hosts and panelists:  
All special uses or approvals end when a property is sold. The zoning never changes. The concerns about traffic or big impacts are unfounded. Those would never occur. The building in question isn't a barn. Please visit the location.

Message Phone 503-632-8370



*The Hamlet of*  
**BEAVERCREEK**  
PO Box 587 • Beaver Creek • Oregon • 97004

20:56:45 From Awbrey Carter to Hosts and panelists:  
What farm in the area houses their farm workers in 30 person bunk houses?

21:01:43 From Dirk Schlagenhauser to Everyone:  
can Christopher address the capacity of the facility?

21:01:43 From Lisa Popescu to Hosts and panelists:  
I am strongly opposed and filed my written testimony

21:02:28 From Christopher Previti to Everyone:  
There are two buildings on the property which were here when we purchased. The total of both buildings will be 31.

21:02:40 From Christopher Previti to Everyone:  
That is staff and residents

21:03:18 From Dirk Schlagenhauser to Everyone:  
ok so each building is allowed 16?

21:03:36 From Christopher Previti to Everyone:  
Everyone please feel free to contact me and come out to see the property and what goes on here before forming an opinion.

21:03:55 From Amy Manning to Everyone:  
You guys will need to clear up the confusion between the services that are offered in the advertising and what you are describing here and in the application.

21:03:59 From Amy Manning to Everyone:  
<https://www.rehab.com/mission-teens-northwest-bible-training-center/7037658-r>

21:03:59 From Christopher Previti to Everyone:  
Well the dorm building is larger than the single family residence

21:04:27 From Christopher Previti to Everyone:  
REHAB.com is not correct and we did not give permission for them to put us on their website

21:05:21 From Les Poole to Hosts and panelists:  
Yes, the building is larger than the house n. That's common in the zone.

21:05:36 From Jimmy Park to Everyone:  
TY

21:06:38 From Amy Manning to Everyone:  
There are other websites out there. :)

21:08:27 From Jeff Shaffer to Everyone:  
Brian's great!

21:10:44 From Hasuike Kiyoshi to Everyone:  
so 26 residents and now 31

21:12:03 From Megan Friedow to Everyone:  
Brian Nava is amazing! ( & not just because he is family).

Jessica Sernach  
Secretary/Corresponding Secretary  
The Hamlet of Beaver Creek  
[sernachj@gmail.com](mailto:sernachj@gmail.com)  
541-905-0294



# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

Community Services Division

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)

November 1, 2021

Melissa Ahrens and Martha Fritzie  
Clackamas County Planning and Zoning Division  
Department of Transportation and Development  
150 Beaver Creek Road  
Oregon City, OR 97045

SENT VIA Email



Re: Clackamas County File Z0208-21 (DLCD File No. 005-21); Notice for proposed Comprehensive Plan Amendment for an Exception to Statewide Planning Goals 3 and 14, for use of property, including an existing residence and accessory buildings, as an "Addiction Recovery Farm".

Mrs. Ahrens and Fritzie,

Thank you for the opportunity to review and comment on the subject land use proposal for an "Addiction Recovery Farm" on an approximately 7.7-acre property zoned for Exclusive Farm Use (EFU) and located outside the Portland Metro Urban Growth Boundary. It is our understanding that the use would include long term (8-10 month) residential addiction recovery treatment for adults, with up to 31 staff and residents living in a dormitory on the subject property. Please include these comments in the record for this plan amendment and the proceedings of the November 8, 2021, Planning Commission Hearing.

#### Legal Standards for Taking an Exception to Goal 3 and Goal 14:

The opportunities to justify an exception to statewide planning goals are set forth at Oregon Revised Statute ([ORS 197.732](#)) and Statewide Planning Goal 2 (*Land Use Planning*). The policies established in state statute and Goal 2 are interpreted and carried out in administrative rule. [OAR 660, Division 4](#) identifies three opportunities to take an exception to Goal 3. Our review of the proposal indicates that a "reasons" exception pursuant to OAR 660-004-0020 and 0022 is most applicable. This type of exception allows a county to consider whether there are "reasons" to justify why the state policy embodied in applicable goals, statute and rule should not apply. Any exception proposal must be found to satisfy the legal standards included in OAR 660, Division 4.

[OAR 660, Division 14](#) identifies two opportunities to justify a goal 14 exception. . OAR 660-014-0040 sets forth the tests for a "reasons" exception to goal 14. This administrative rule includes tests similar to the "reasons" provisions noted above. However, the applicant must also demonstrate that the use cannot be accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities.

#### Application:

It is not entirely clear to the department what the Applicant is requesting or how their proposal relates to the different residential treatment homes and facilities defined in ORS 443.400. The Applicant

Exhibit 18  
Z0208-21-CP

Clackamas County (PAPA 005-21)  
November 1, 2021  
Page 2 of 2

appears to be requesting relief from certain requirements under OAR 660, Division 4. The exceptions process is not applicable to Statewide Goal 2 "Land Use Planning" as appears to be noted in the application. Instead, as noted above, the text of Goal 2 serves to help implement the relevant statute and shape the exceptions process.

If the applicant is requesting a "reasons" exception to Statewide Planning Goal 3 for a use that is not allowed under the Goal, all the applicable criteria in OAR 660-004 must be addressed, including OAR 660-004-0020 and 660-004-0022. If the applicant is requesting a "reasons" exception to statewide planning Goal 14, all the applicable criteria in OAR 660-014-0040 must be addressed. Substantial evidence must be present in the record to support findings documenting the satisfaction of all these criteria.

Thank you for your consideration of the department's comments. Please send us a copy of the Planning Commission's recommendation.

Please feel free to contact Anne Debbaut, Regional Representative at: [anne.debbaut@state.or.us](mailto:anne.debbaut@state.or.us) or 503.804.0902 if you have further questions or concerns.

Regards,

A handwritten signature in blue ink that reads "Gordon W. Howard".

**Gordon Howard**  
**Community Services Division Manager**

cc: Hilary Foote, Jon Jinings, Gordon Howard, Anne Debbaut, DLCD (*email*)

BEFORE THE COMPLIANCE HEARINGS OFFICER  
CLACKAMAS COUNTY, OREGON

COUNTY OF CLACKAMAS,

Petitioner,

v.

Mission Teens, Inc.,  
d/b/a Northwest Bible Training Center,  
Susan Price Campbell,  
Christopher Previti,

Respondents.

File No(s): V0037919

FINAL ORDER

**I. STATEMENT OF THE CASE**

As Compliance Hearings Officer for Clackamas County, I held hearings on July 9, 2020, at approximately 11:00 a.m. and on July 28, 2020 at approximately 9:00 a.m. in the matter of Mission Teens, Inc., d/b/a Northwest Bible Training Center (NWBTC), Susan Price Campbell, and Christopher Previti (Respondents) at the County's Development Services Building located at 150 Beaver Creek Road in Oregon City. The Compliance Hearings Officer has jurisdiction to hear the matter pursuant to Clackamas County Code, § 2.07.020. Jeffrey Munns, Assistant County Counsel, represented the County. Several County employees appeared and provided witness testimony on behalf of the County, including: Diane Bautista, Code Compliance Specialist; Cheryl Bell, Deputy Director of Development; Melissa Ahrens, County Senior Planner; and, Matt Rozzell, County Building Codes Administrator. Ray Hacke, attorney at law, appeared on Respondents' behalf, providing legal argument. Susan Price Campbell, Christopher Previti, and Les Poole appeared and provided witness testimony on behalf of Respondents. The witnesses declared by oath or affirmation the truthfulness of their testimony. The Compliance Hearings Officer did not receive any written or oral ex parte communication on a fact in issue during the pendency of the proceedings.

The County presented evidence in support of its Complaint, including a Statement of Proof, Exhibits marked A through P, witness testimony, and a written memorandum written in reply submitted within seven days of the hearing. The Respondents provided legal argument and submitted a written memorandum at the hearing contending that the Dangerous Building Notice issued in this matter should be vacated, and certain other relief provided. The Compliance Hearings Officer made an audio record of the hearing, keeping the record open for an additional seven days to permit the County to submit its written reply to Respondents' memorandum. There were no objections and I received the evidence offered, including the County's written reply to Respondents' memorandum, a record of which I incorporate in the decision in this matter. The record is on file with the County.

**II. ISSUE**

Whether the Dangerous Building Notice and Notice to Vacate that the Building Official for Clackamas County posted on January 8, 2020 should be upheld.

### III. FINDINGS OF FACT

1. The Respondents (Mission Teens, Inc., D/B/A Northwest Bible Training Center, Susan Price Campbell, and Christopher Previti's) mailing address is 23172 S Bluhm Rd., Beavercreek, OR 97004-8700. Respondents reside and/or own property located at 23172 S Bluhm Rd., Beavercreek, OR 97004-8700, also known as T35, R3E, Section 31, Tax Lot 503, within Clackamas County (the "Property"). The Property is approximately 7.7 acres and zoned Exclusive Farm Use (EFU). The Property is designated high-value farmland, is improved with a single-family residence, and is also improved with an accessory structure that is the subject of the Dangerous Building violation asserted by the County. (Exhibits A, B, F)
2. On July 9, 2019, County Planning staff received a letter from Northwest Bible Training Center (NWBTC) seeking approval for a conditional use that requires special consideration noting that, although the Property is zoned as farmland, churches are a permitted use under state law. Ms. Ahrens, County Senior Planner, responded by email on July 9, 2019 stating that state law prohibits establishment of a church on high-value farmland such as the Property. Ms. Ahrens informed Respondents in her email that the only procedure available to site a church on high-value farmland is to apply for an exception to the applicable goals under Statewide Goal 2, citing *Corp. of Presiding Bishop v. Klamath County, 34 Or LUBA 131 (1998)*. (Exhibits A, B)
3. Ms. Ahrens stated that if Respondents obtain an exception, then they could seek a conditional use permit to operate NWBTC from the Property. Ms. Ahrens agrees that the process for obtaining an exception is complicated and confusing, noting also that County Planning Department staff are willing to meet with Respondents. Ms. Ahrens also noted that Respondents submitted paperwork for a pre-application conference, although Respondents have not scheduled one. Ms. Ahrens agrees that there is no path to obtain a conditional use permit for NWBTC to operate from the Property under its current zoning. Ms. Ahrens further agrees that, without a change in zoning, such an application for a conditional use permit would be denied.
4. On July 10, 2019, County Code Enforcement received a complaint made by Ms. Bell, the County's Deputy Director of Development. Ms. Bell alleged that an accessory structure was converted into additional habitable living space on the Property with a seven-person dormitory with bathrooms and a kitchen without permits, and also that NWBTC was operating on the Property without land use approval. Ms. Bell explained that one of her staff members working at the counter with a contractor brought the file to her because the paperwork and pictures from the contractor did not match the County's permit record for the accessory structure. (Exhibit C)
5. On July 11, 2019, Ms. Bautista, County Code Compliance Specialist, sent correspondence to the Respondents regarding the conversion of an accessory structure to living space. Ms. Bautista notes in her letter that an accessory structure on the Property may have been converted into habitable space without the benefit of permits, in violation of the County's Building Code. Ms. Bautista also notes in her letter that there may be multiple dwellings on the Property without land use approval, in violation of Title 12, Section 401 of the County's Zoning and Development

Ordinance. Ms. Bautista further notes that NWBTC may be operating from the Property without land use approval, also in violation of Title 12, Section 401 of the County's Zoning and Development Ordinance. (Exhibit D)

6. Ms. Bautista obtained information and photographs from NWBTC's Facebook pages showing that an extensive amount of work has been performed on the accessory structure located on the Property, without County permits. Ms. Bautista testified that the accessory structure is now called Achenbach Hall and includes a sanctuary, offices, library, kitchen, staff room, and dormitory. The photographs show on-going construction, various habitable living spaces such as: offices, meeting rooms, dormitory, kitchen, bathrooms with several toilets, shower facilities, etc. The photographs also show numerous people (more than a dozen) within the structure, and show that several of the sleeping areas are being utilized while construction is ongoing in various areas of the structure. (Exhibit E)
7. Ms. Bautista testified that staff research of County permit history for the accessory structure on the Property shows:
  - The structure was originally permitted in 2011 as an agriculturally exempt building. (Exhibit F)
  - The structure was legally converted to a workshop in 2013. (Exhibit G)
  - On October 9, 2013, the County issued electrical permit E0483013 for a panel and four circuits. This permit expired without approved final inspections. (Exhibit H)
  - On July 17, 2013, the County issued plumbing permit P0136013 for rain drains, two hose bibs, three sinks, one tub/shower, and one toilet. This permit expired without approved final inspections. (Exhibit I)
  - Ms. Bautista further testified that there is no permit for a waterline for the accessory structure on the Property, or an approved septic.
8. On October 30, 2019, Ms. Bautista sent a violation letter to the Respondents with a deadline of November 30, 2019 to cease the unauthorized use and obtain required permits for the accessory structure. Specifically, to return the structure to its approved permitted status (i.e. a workshop without kitchen, laundry, and other unpermitted improvements related to making the structure habitable) and/or obtain permits and approved inspections. Ms. Bautista's letter directs Respondents to the County's Planning and Zoning Department for information regarding a Comprehensive Plan Amendment to apply for an exception to the applicable goals under Statewide Goal 2 to operate NWBTC from the Property. (Exhibit J)
9. On November 19, 2019, the County received a request for an extension to the November 30, 2019 deadline. The County agreed to the extension provided that the converted workshop structure remained unoccupied. (Exhibit K)
10. On January 8, 2020, Ms. Bautista conducted an on-site inspection of the Property together with County Code Building Official Matt Rozzell. They posted the accessory structure as a Dangerous Building pursuant to §9.01.100 (C), (D), (E), (F), (G), (J), (K), and (L), requiring that the structure be vacated. Specifically, in his capacity as

Building Official for the County, Mr. Rozzell determined the structure on the Property a Dangerous Building for the following reasons:

- Pursuant to §9.01.100(C) The use of habitable space and commercial activities has not been approved. This accessory structure has been modified to include dormitories and public gathering areas. This structure is being occupied in a manner contrary to the manner in which it was approved and such use creates a life or fire safety hazard, health hazard, and/or environmental hazard to the structures occupants or adjacent property owners.
- Pursuant to §9.01.100(D) The structure has a plumbing and sanitation system that has not been approved by the County. Inadequate and unpermitted septic and plumbing systems create a health hazard.
- Pursuant to §9.01.100(E) The construction of habitable space and commercial uses including dormitories and public gathering areas without permits creates a significant structural, life or fire safety hazard, health hazard, and/or environmental hazard to the structures occupants or adjacent property owners.
- Pursuant to §9.01.100(F) The lack of an approved fire sprinkler system creates an immediate threat to life or safety per the Oregon Fire Code.
- Pursuant to §9.01.100(G) The installation of electrical, plumbing, heating, ventilation, air conditioning and/or other permanently installed systems without permits is determined to be unsafe or otherwise in violation of any applicable code or ordinance.
- Pursuant to §9.01.100(J) The structure has not received septic approval and poses an environmental hazard where the continued use of the building will cause the environmental hazard to worsen.
- Pursuant to §9.01.100(K) The structure has no permitted waterline and lacks an approved, potable water supply.
- Pursuant to §9.01.100(L) The structure lacks a functioning connection to an approved and fully operational septic facility for the current use.  
(Exhibit K)

11. Mr. Rozzell's Dangerous Building Notice required that the structure be vacated by midnight, January 11, 2020. Further, the notice required Respondents to either obtain permits within 60 days for construction and utilities, or continue securing the structure in a way that would not pose a threat to others. Mr. Rozzell took several photographs of the interior and exterior of the structure during the January 8, 2020 on-site inspection of the Property. On January 13, 2020, County staff conducted a second site inspection of the structure again taking several photographs and reporting that the postings remained in place and the structure vacant. These photographs show that the structure has been converted to habitable use, with a sanctuary, offices, library, kitchen, staff room, dormitory, bedrooms, bathrooms and shower facilities. (Exhibits M, N)
12. Mr. Rozzell testified concerning the Dangerous Building Notice. Mr. Rozzell noted that in 2013 the County approved the structure on the Property for use as a workshop, but the permits issued did not receive final approved inspections. Mr. Rozzell testified that the structure is not approved for occupancy or any use other than as a workshop. Mr. Rozzell noted that there was no approved water, plumbing, or septic service for the structure, and that the existing approved septic on the Property was for the original single-family residence. Mr. Rozzell testified that he conducted a permit review for the Property and the structure and reviewed the Facebook photographs of the structure in making his determination. Mr. Rozzell noted that there was framing work that was performed without inspections or calculations concerning loads, that there were no approved fire sprinklers or alarms,



no electrical inspections, no plumbing inspections, and no inspection for any HVAC or of the kitchen, including any exhaust hood, among other things.

13. Mr. Rozzell further testified that he based his Dangerous Building determination on his review of County records for the Property and the structure, and the associated Facebook photographs of the changes made to the structure and the use of the structure. Mr. Rozzell stated that he did not find it necessary to make an on-site inspection of the structure prior to making his determination because construction was already covered (i.e. by sheetrock) and there was nothing to see. Mr. Rozzell stated that on January 8, 2020 he was present on the Property and posted the structure as a Dangerous Building, reporting that the County Fire Marshall also had concerns regarding numerous code, fire, life, and safety issues presented. Mr. Rozzell noted a septic odor present while on-site. Mr. Rozzell asserts that the lack of permits and approved final inspections makes the structure a Dangerous Building, as does the lack of specifically approved fire sprinklers, as well as many safety concerns. Mr. Rozzell agrees that the County will not issue permits to improve the structure for use as the NWBTC residential facility without a conditional use permit. Mr. Rozzell indicated he understood that obtaining land use approval for the Property would require Respondents to obtain an exception, but he did not know if Respondents had applied for an exception.
14. Mr. Rozzell explained that the permits issued by the County for the structure were to alter it from an agriculturally exempt building to a shop, and that these permits did not receive final approved inspections. Mr. Rozzell stated that it is the Property owner's responsibility to complete the permits, and that clearing these old permits would not fix the problems. Mr. Rozzell pointed to other issues with the structure, including: that it is not approved for sleeping areas; that the site plan only shows one approved septic (for the approved single-family residence); that any additional septic would require additional approvals; that the structure has been altered to become a commercial structure and has no land use approval. Mr. Rozzell agreed that obtaining architectural plans for the structure would be a good first step toward fixing it, but also stated that there needs to be an approved use for the structure, such as a conditional use permit or its already approved use as a workshop. Mr. Rozzell explained that the issue is obtaining an approved use for the structure, not whether the structure can be fixed. Mr. Rozzell further explained that the requirement in the Dangerous Building Notice to obtain permits for construction and utilities was to return the structure to its previous approved condition and use as a workshop.
15. On February 5, 2020, electrical permit E0070420 was taken out through the County's on-line permit system for the installation of three exit signs in the structure on the Property. County Building Department staff locked the permit in the morning so that the permit has not been issued and no inspections have taken place. County staff noted, however, that photographs submitted by NWBTC in their appeal package show that the exit signs were installed within the structure in violation of the Dangerous Building Posting. (Exhibit O)
16. On February 6, 2020, the County received an appeal from NWBTC for the Dangerous Building designation. In its appeal, NWBTC describes itself as: "a Christian ministry

that provides an eight-month, biblically based residential program for individuals seeking freedom from drug and alcohol addiction.” The appeal notes that the Dangerous Building designation concerns a former workshop and garage on the Property that has been converted into a structure that includes a sanctuary for religious worship services and Bible study classes; an office; kitchen and laundry facilities; a small upstairs library; upstairs bedrooms for NWBTC staff; and dormitory-style residences – one for men, one for women – containing beds, wardrobes, restrooms, and shower facilities designed to serve up to 40 program participants. (Exhibit P)

17. NWBTC states that it has operated a residential drug and alcohol treatment center in Portland since 1994, but for various reasons sought to relocate its facility to a rural location. NWBTC purchased the Property in August 2018 and moved to this new location soon thereafter. NWBTC is aware that the Property is zoned EFU and designated high-value farmland, and reports engaging in certain farming activities. NWBTC asserts, however, that Biblical training is NWBTC’s primary use of the Property. NWBTC contends that it has had no problems with its neighbors, and is engaged in work beneficial to the County. NWBTC points to its work with the County’s probation department, reporting that this agency has routinely sent formerly incarcerated individuals with histories of drug and alcohol problems to NWBTC for assistance. (Exhibit P)
18. NWBTC does not dispute that it converted an accessory structure on its Property from a workshop/garage into a building containing a kitchen, religious worship sanctuary, and dormitory-style residences without obtaining related permits required by the County. NWBTC contends, however, that it would be able to meet the County’s Building Code requirements with respect to the improvements it has made to the accessory structure if the County would issue the permits. NWBTC points to efforts it has made to address some of the issues in the Dangerous Building Notice, including installing three lighted “Exit” signs and other safety features, obtaining a well report with water and flow testing, and a septic inspection by a septic contractor service. NWBTC asserts that the improvements it has made to the structure can be brought to code, but the County’s requirement that it obtain land use approval in advance of issuing the permits for the improvements prevents it from doing so. (Exhibit P)
19. Ms. Campbell and Mr. Previti are currently co-directors of NWBTC, in their respective acting roles since approximately July 2019. They describe NWBTC as a religiously based non-profit operating a residential center providing 5.5 hours per day of bible study and training for individuals with histories of drug and alcohol problems who reside on the Property, working and receiving training. They assert, however, that NWBTC is not a drug and alcohol rehabilitation center and that, while NWBTC has a religious mission, it is not a church either. They are working to fix the problems with the accessory structure and are aware that a previous owner and/or previous director for NWBTC performed substantial work without permits or inspections. They report that there is a second septic tank on the Property serving the accessory structure and assert they’ve never had a problem with it, and want to make the structure safe.

20. Mr. Poole testified on behalf of Respondents, stating that he is a land use consultant with more than 20 years' experience with Clackamas County and the land use application process. Mr. Poole testified that he is assisting Respondents in their efforts to find a path to resolution of the land use issue. Mr. Poole is advising Respondents through the pre-application conference in order to clarify the matter and find a solution to resolve the dangerous building notice matter. Mr. Poole testified that he was surprised at the quality of the construction and materials used improving the accessory structure. (Testimony)
21. In its appeal, NWBTC asserts that the Dangerous Building determination was made without a prior inspection of the structure. NWBTC asserts that it has every intention of bringing the Property into full compliance with the County Code, but points to the County's refusal to issue required permits to fix the structure and make it safe as a facility for NWBTC's operations.

#### **IV. DISCUSSION**

The Compliance Hearings Officer has jurisdiction and authority to enforce the County Code for the Abatement of Dangerous Buildings, the County Building Code Ordinance, the County Zoning and Development Ordinance, and certain other matters.<sup>1</sup> The County has the burden of proving the Dangerous Building determination by a preponderance of the substantial evidence in the record.<sup>2</sup> I find that the evidence presented is reliable, probative and substantial evidence upon which to base a determination in this matter.

##### **A. Dangerous Buildings**

Section 9.01 of the Clackamas County Uniform Code for the Abatement of Dangerous Buildings applies to:

"All buildings or portions thereof, which are determined after inspection by the building official to be dangerous. As defined in this chapter [dangerous buildings are] hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in Section 9.01.100 of this chapter."

Section 9.01.100 provides specific guidance for determining whether a structure is a dangerous building. In this case, Building Inspector Matt Rozzell cited the following eight specific subsections, providing the associated reasons:

- Pursuant to §9.01.100(C) The use of habitable space and commercial activities has not been approved. This accessory structure has been modified to include dormitories and public gathering areas. This structure is being occupied in a manner contrary to the manner in which it was approved and such use creates a life or fire safety hazard, health hazard, and/or environmental hazard to the structures occupants or adjacent property owners.
- Pursuant to §9.01.100(D) The structure has a plumbing and sanitation system that has not been approved by the County. Inadequate and unpermitted septic and plumbing systems create a health hazard.

---

<sup>1</sup> See Clackamas County Code § 2.07.020.

<sup>2</sup> See Clackamas County Compliance Hearings Officer Rules of Procedure § 11.2 (November 3, 2005)

- Pursuant to §9.01.100(E) The construction of habitable space and commercial uses including dormitories and public gathering areas without permits creates a significant structural, life or fire safety hazard, health hazard, and/or environmental hazard to the structures occupants or adjacent property owners.
- Pursuant to §9.01.100(F) The lack of an approved fire sprinkler system creates an immediate threat to life or safety per the Oregon Fire Code.
- Pursuant to §9.01.100(G) The installation of electrical, plumbing, heating, ventilation, air conditioning and/or other permanently installed systems without permits is determined to be unsafe or otherwise in violation of any applicable code or ordinance.
- Pursuant to §9.01.100(J) The structure has not received septic approval and poses an environmental hazard where the continued use of the building will cause the environmental hazard to worsen.
- Pursuant to §9.01.100(K) The structure has no permitted waterline and lacks an approved, potable water supply.
- Pursuant to §9.01.100(L) The structure lacks a functioning connection to an approved and fully operational septic facility for the current use.

The Respondents did not obtain any permits or approval for the conversion of the accessory structure on the Property into a facility to house the NWBTC. Specifically, Respondents altered a structure that is only approved as a workshop or garage to a commercial-type facility with habitable living space, dormitories, public gathering areas, and related improvements, without obtaining any permits or approvals for the construction, the change in use, or the occupancy of the structure. The related improvements include a water line and septic system that are not permitted and/or approved, in addition to installation of various electrical, plumbing, heating, ventilation, air conditioning and/or other permanently installed systems without permits or approved inspections. There is no record of permits or plans or inspections for structural changes made to the building, nor an approved fire sprinkler system or other safety inspection approvals required for obtaining a certificate of occupancy.

As the County's Building Official, Mr. Rozzell posted the accessory structure on the Property with a Dangerous Building Notice, ordering that the building be vacated and requiring Respondents to either obtain permits to repair the structure, or continue securing the structure.<sup>3</sup> Mr. Rozzell based this determination on his review of County records for the Property and the accessory structure, associated Facebook photographs of the changes made to the structure, and descriptions of the actual use of the structure. Complicating matters for Respondents, the County will only issue permits to repair the structure to its approved use, which remains as a workshop. The County will not issue permits or approved inspections related to Respondents' efforts to use the accessory structure as a facility to house NWBTC (an unapproved use turning the building into a commercial

---

<sup>3</sup> Section §9.01.130 requires: "The following standards shall be followed by the building official (and by the board of appeals if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure:

- A. Any building declared a dangerous building under this chapter shall be made to comply with one of the following:
  1. The building shall be repaired in accordance with the current building code or other current code applicable to the type of substandard conditions requiring repair; or
  2. The building shall be demolished at the option of the building owner; or
  3. If the building does not constitute an immediate danger to the life, limb, property or safety of the public it may be vacated, secured, and maintained against entry.
- B. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated.

structure with habitable space) until such time as Respondents obtain a conditional use permit.

I find that Respondents' appeal raises no real issue concerning the validity of the Dangerous Building Notice. The conversion of the structure to habitable living space without permits or land use approvals, alone, is sufficient basis for the Dangerous Building determination made by Mr. Rozzell in his capacity as Building Official of Clackamas County. The preponderance of the evidence presented supports each of the eight subsections he cited as reasons for the determination, and these conditions remain. Here, an agriculturally-exempt building (a barn) received some initial permits (without approved final inspections) for conversion to a workshop with four electrical circuits, a toilet, some sinks, and a shower/tub. Significant additional work was performed on this structure without the benefit of permits or approved final inspections, creating numerous life and fire safety hazards, health hazards, and environmental hazards, yet NWBTC has used the structure as habitable space while this work was on-going. Respondents' actions in using this structure as habitable space for participants in NWBTC's program endangered the safety of the participants, the individuals working with or for NWBTC, and adjacent property owners.

Respondents are reminded that it is unlawful for anyone to enter or remain in the accessory structure without obtaining the prior written permission of the building official or an authorized representative. It is concerning that Respondents allowed entry into the structure in order to install the lighted exit signs, apparently in violation of this requirement.

## **B. Clackamas County Zoning and Development Ordinance**

Respondents assert that the Religious Land Use and Institutionalized Persons Act (RLUIPA)<sup>4</sup> applies to their appeal of the Dangerous Building Notice. RLUIPA is a United States federal law that protects individuals, houses of worship, and other religious institutions from discrimination in zoning and land use laws.

Respondents' Property lies within an area zoned Exclusive Farm Use (EFU) designated as "high-value farmland." Clackamas County Zoning and Development Ordinance Section 401 sets forth the allowed uses for the EFU zone.<sup>5</sup> Section 401.06 prohibits uses of structures and land not specifically permitted. A residential treatment facility such as that operated by NWBTC is not an allowable use. A church may be allowed in an EFU zone pursuant to a Conditional Use Permit, but not on property designated "high-value farmland."<sup>6</sup> Thus, as stated in Ms. Ahren's July 9, 2019 correspondence, in order to obtain a CUP Respondents would first need to apply for an exception to the applicable Statewide Goal 2.<sup>7</sup> As pointed out by the County, Respondents have not done so.

Respondents argue that applying for the exception is futile because the Property does not meet certain requirements. Specifically, Respondents state that the Property is used in

---

<sup>4</sup> The Religious Land Use and Institutionalized Persons Act (RLUIPA), Pub.L. 106-274, codified as 42 U.S.C. § 2000cc et seq.

<sup>5</sup> Section 401 mirrors applicable state law. See ORS 215.283.

<sup>6</sup> See ORS 215.283(1)(a); OAR 660-033-0120 and OAR 660-33-0130.

<sup>7</sup> See *Corp. of Presiding Bishop v. Klamath County*, 34 Or LUBA 131 (1998).

part for farming, including growing fruits and vegetables and maintaining beehives, goats, and chickens, to feed residents on the Property and donate to local charities. Thus, Respondents argue that even if NWBTC applied for an exception to the Goal, the County would arguably have to reject the application because the Property is not: "...physically developed to the extent that it is no longer available for the uses allowed by the goal."<sup>8</sup> Therefore, Respondents contend that NWBTC should be able to look to RLUIPA<sup>9</sup> for relief to challenge the County's ZDO through this appeal of the County's Dangerous Building Notice. Respondents point to RLUIPA's provisions as giving churches and other religious institutions a way to avoid zoning restrictions on their property use. In essence, Respondents are arguing that the County's ZDO prohibiting the use of the accessory structure as a facility from which to operate NWBTC substantially burdens Respondents' free exercise of religion.

The County disputes the effort to bring a RLUIPA challenge to the County's ZDO through this appeal of a Dangerous Building Notice. The County points out that Respondents have failed to seek the required exception to Goal 2 as part of their conditional land use permit application. The County asserts that an appeal of a denial of the Respondents' CUP application and request for the exception is the proper forum for this issue. To restate: the County argues that the CUP application process must be completed before a RLUIPA challenge is ripe. The County cites the 2011 9<sup>th</sup> Circuit case of *Guatay Christian Fellowship v. County of San Diego*, 670 F.3d 957, in which the Court held a claim that government regulations violated RLUIPA was not ripe until the government entity charged with implementing the regulations had reached a final decision regarding the application of the regulations to the property at issue. *Id.* at 976-979. Respondents' appeal and the County's response address several other related arguments as well, including: whether the County's ZDO places a substantial burden on Respondents, and what this means; whether there is a compelling government interest and the least restrictive means; and whether the County has acted in good faith.

I agree with the County's argument that this issue is not ripe for consideration. Respondents have not submitted their land use application, so there is no final decision to be reviewed. I considered the arguments Respondents have made that such application would be futile. However, these are speculations concerning what would be the County's final decision on an application that has not yet been submitted for a land use exception. RLUIPA may apply to the final land use decision-making process of the County with respect to Respondents' CUP application, but it does not apply to this appeal of the County's Dangerous Building Notice.

## V. CONCLUSION

The County met its burden of proving the validity Dangerous Building Notice and related Notice to Vacate by a preponderance of the substantial evidence in the whole record. Respondents' appeal is denied.

---

<sup>8</sup> The Religious Land Use and Institutionalized Persons Act (RLUIPA), Pub.L. 106-274, codified as 42 U.S.C. § 2000cc et seq., is a United States federal law that protects individuals, houses of worship, and other religious institutions from discrimination in zoning and land use laws.

## VI. FINAL ORDER

The following is ORDERED in this matter:

1. The structure on Respondents' Property must remain vacated and Respondents must continue to secure the structure in a way that does not continue to pose a threat to others, consistent with the January 8, 2020 Dangerous Building Notice issued by County Building Official Matt Rozzell. ***Pursuant to that notice it is unlawful for anyone to enter or remain in the building without obtaining the prior written permission of the building official or an authorized representative.***
2. The Respondents are enjoined from operating a residential drug and alcohol treatment facility on their Property until such time as they have obtained a CUP and all necessary permits and approvals.

Respectfully Submitted,

Dated: August 7, 2020



Carl D. Cox  
Compliance Hearings Officer  
14725 NE 20<sup>th</sup> St. #D-5  
Bellevue, WA 98007  
Tel: (503) 504-1770  
Fax: (425) 615-7202

## NOTICES

This FINAL ORDER is effective ten calendar days after the date the Compliance Hearings Officer signs it unless, within that time, the Compliance Hearings Officer receives a written objection to the order. Such an objection shall be conveyed to the Compliance Hearings Officer at the address listed above or shall be sent by facsimile transmission to the number listed above. Such an objection shall state what changes the objector requests that the Compliance Hearings Officer make to the order and why such changes should be made, based on the applicable law and substantial evidence in the records. Absent compelling circumstances described and substantiated in an objection, the Compliance Hearings Officer shall consider and decide such objections without a public hearing. The County and/or the Respondent may file a timely objection.

Fines and costs imposed herein are a debt owed to the County, pursuant to ORS 30.460, and may be collected in the same manner as any other debt allowed by law. If fines and costs are not paid within 60 days after payment is ordered, the County may file and record the order for payment in the County Clerk Lien Records. The County may also institute appropriate suit or legal action in any court of competent jurisdiction to enforce any provisions of any order of the Compliance Hearings Officer. See Clackamas County Code § 2.07.110.

Any aggrieved party may file a writ of review as provided in ORS 34.010-34.100 to seek judicial review of the final order of a Compliance Hearings Officer, unless the Compliance Hearings Officer makes a land use decision, in which case the decision may be reviewed by the Oregon Land Use Board of Appeals pursuant to ORS Chapter 197. See Clackamas County Code § 2.07.130.

## CERTIFICATE OF SERVICE

I, Carl D. Cox, certify that on this day I sent a true and accurate copy of the foregoing FINAL ORDER by US Mail, first class postage pre-paid, in a properly addressed and sealed envelope, to the following person(s) at the address shown, the last known address in the County files:

Mission Teens, Inc.  
D/B/A Northwest Bible Training Center  
Susan Price Campbell  
Christopher Previti  
23172 S Bluhm Rd  
Beavercreek, OR 97004-8700

Ray D. Hacke  
Attorney at Law  
Pacific Justice Institute  
PO Box 5229  
Salem, OR 97304

Diane Bautista  
Code Compliance Specialist  
150 Beavercreek Rd.  
Oregon City, OR 97045

Jeffrey D. Munns  
Assistant County Counsel  
2051 Kaen Rd.  
Oregon City, OR 97045

Dated: August 7, 2020.



Carl D. Cox, Attorney at Law



---

**From:** NWBTC a division of Mission Teens, Inc [<mailto:nwbibletraining@gmail.com>]  
**Sent:** Monday, August 24, 2020 10:15 AM  
**To:** Ahrens, Melissa <[MAhrens@clackamas.us](mailto:MAhrens@clackamas.us)>  
**Subject:** Pre App Conference

---

Warning: External email. Be cautious opening attachments and links.

---

Melissa,

I hope this email finds you well. We spent some time hopefully clearing up any confusion as to what we do here at NWBTC. I have attached a document that should answer your questions along with a site plan and floor plan. We do have some questions on how we can distribute materials such as photos and information to the meeting attendees as it appears everything will be via Zoom.

Thank you,

Chris Previti

--

**Susan Campbell & Christopher Previti**  
**Directors**  
**Northwest Bible Training Center**  
**a division of Mission Teens, Inc.**  
**23172 S. Bluhm Rd.**  
**Beavercreek, OR 97004**  
**503-632-1953**  
**503-462-9418 (cell - Susan)**  
**503-406-0239 (cell - Chris)**

---

[Spam Email](#)

[Phishing Email](#)

## Who We Are & What We Do at NWBTC

Northwest Bible Training Center is a Christian non-denominational 8-10-month discipleship-training curriculum. During this time, we offer practical, encouraging, and faith-based solutions for anyone with life-controlling problems through Biblical teachings. We are a nonprofit ministry running completely off outside donations receiving no government funding and all our staff are unpaid volunteer missionaries. We do not charge for any of our services. We are not a church and were not listed as one in our 24 years in Multnomah County. We do not hold services for the public, and our Bible studies are for those who live on property. We intend to hold these Bible studies and our prayer meetings in the Multi-purpose Room in our Accessory Building pending county approval for occupancy (See Floorplan). There are 5 ½ hours of Bible study and 4 hours of farm work/chores every day. Below is a breakdown of our daily schedule to outline exactly what happens each day:

7:00am	WAKE-UP
7:30am	PRAYER
8:00am	BREAKFAST
8:30am	DAILY CHORES
9:00am	DEVOTIONS
9:40am	BIBLE CLASS
10:40am	BIBLE CLASS
11:40am	READING & COUNSELING
12:45pm	LUNCH
1:30pm	WORK CHORES
4:00pm	FREE TIME
6:00pm	DINNER
6:30pm	DAILY CHORES
7:30pm	DEVOTIONS
9:00pm	SNACKS
10:30pm	LIGHTS OUT

Although NWBTC may resemble a long-term drug and alcohol treatment center in the fact that most of our residents have dealt with those issues, we have never identified as such. We use the Bible as our main method of change in conjunction with the benefits of working the land and working with animals. We are a congregate family with like-minded beliefs living, learning, and working the land together. There are no independent units, all meals are eaten together, and everyone does their part in farming the land. We are not a medical facility, but we do escort our residents to all their necessary medical appointments. Our goal is to have an occupancy of approximately 40 person which we have adequate space for, but this will obviously depend on our Fire Marshalls decisions.

Since 1969, over 24,000 have entered Mission Teens Centers. We have 20 centers in the United States. The Oregon Center was started in 1994 in North Portland. In our annual review approximately 89% of the graduates and 40% of the non-graduates that report back to us are doing well. Many graduates have gone into Christian ministry or missionary work. Many have stayed on and work as staff at one of the Mission Teens centers.

## How We Intend to Use the Land & the Buildings

Northwest Bible Training Center is located on 7.7 acres in an EFU zone. The undeveloped portion of the land is used for farming. We raise goats, chickens, and honeybees along with large gardens, fruit trees, grape arbors, and a 50ft greenhouse. The food we grow not only feeds our residents, but we also have the blessing of donating to other local Clackamas County ministries. The benefits of working the land has been a crucial component of our curriculum. The 1973 amendment to lock up EFU zones more tightly is there to protect the states farmland and to keep the land in agriculture which is exactly what we are using it for. NWBTC will never develop any portion of the property's farmland. (See Plot Plan showing farming activities)

There are four structures on our property:

Existing Accessory Building "Pole Barn" – Used for storage of large farm equipment and canned food.

Existing Accessory Building "Chicken Coop" – Contains a large coop holding 48 chickens with a large connected outdoor chicken run, a pen housing 3 goats with a large outdoor goat run, and two storage rooms for animal and gardening equipment.

Single Family Residence – 5 staff bedrooms, 3 bathrooms.

Existing Accessory Building "Sanctuary" (known to the county as "Shop Building") – First Floor: One large multi-purpose room to be used for Bible classes and prayer meetings, 3 staff offices for file storage, kitchen, library, a men's dormitory style bedroom w/ accompanying bathroom, a women's dormitory-style bedroom w/ accompanying bathroom, and a laundry room. Second Floor: 3 staff bedrooms and 2 lounges.

(See Floorplan)



Floor Plan of Sanctuary Building  
 (Known to county as "shop building")

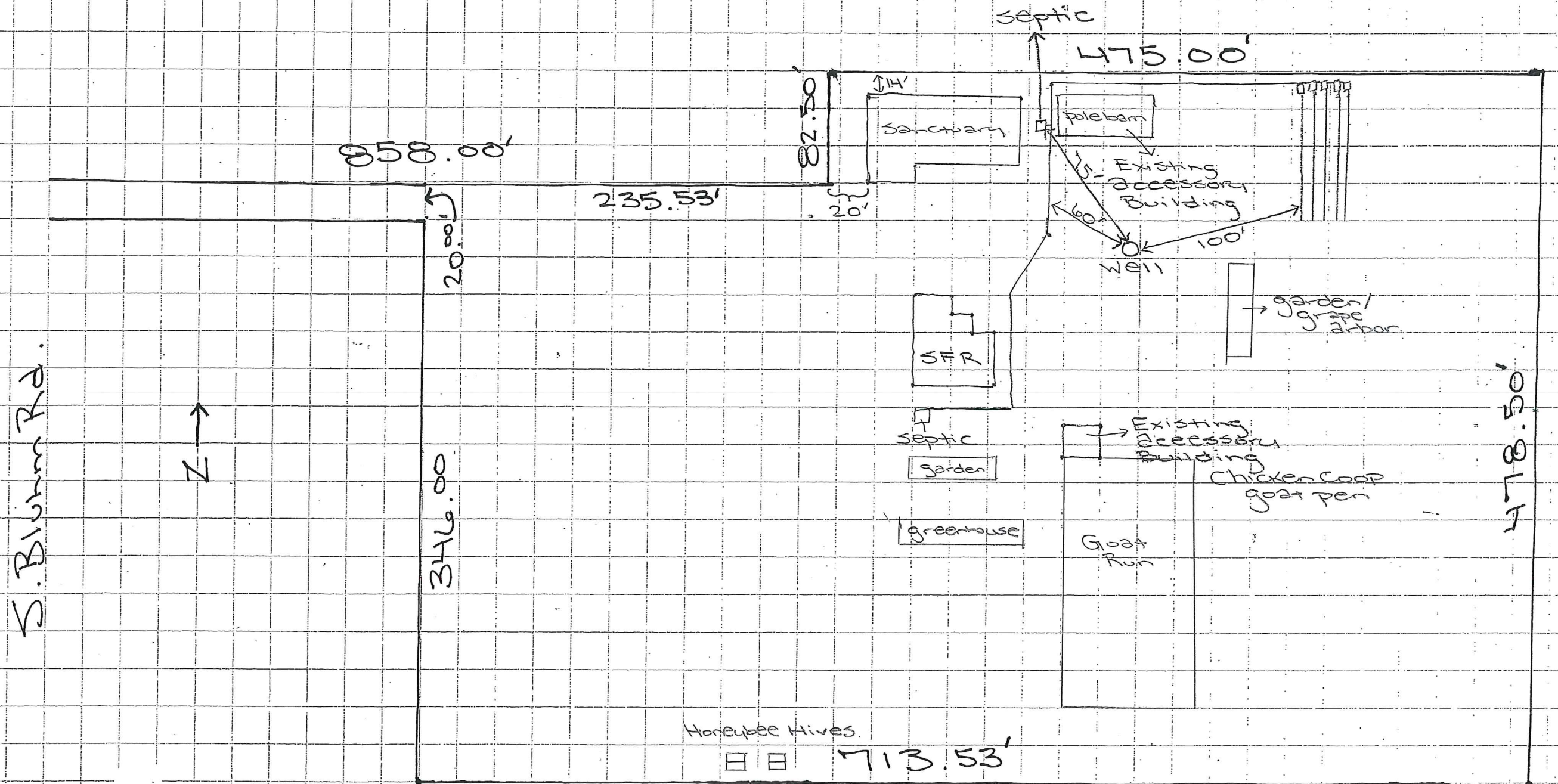
23172 S. Blum Rd.  
 Beavercreek, OR 97004

# Plot Plan

23172 S. Bluhm Rd  
Beaver Creek, OR 97004

Township: 35  
Range: 3E  
Section: 31  
Tax Lot: 503  
Total Land: 7.70 Ac.

Scale: 1/4" = 25ft.



**Ahrens, Melissa**

---

**From:** Susan Hansen <foxglovefarm@inbox.com>  
**Sent:** Thursday, November 4, 2021 1:40 PM  
**To:** Ahrens, Melissa  
**Subject:** Z0208-21-CP Please Deny

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Warning: External email. Be cautious opening attachments and links.**

---

Dear Clackamas County Planning Commission and BCC,

I embrace all the stated reasons for denial of Z0208-21-CP as listed in the excellent, detailed Staff Report. It should be crystal clear that this attempt to thwart land use rules (to approve a use that was illegally established) would be challenged by DLCD and other land use protection groups if Clackamas County unwisely allowed it to pass.

As a tax paying rural Clackamas County resident, I resent that this "mission" operated illegally for years by violating zoning and health and safety codes. It was told to cease operations in August 2020, yet to this day this property is receiving a property tax exemption for a "mission" it has legally been ordered not to conduct.

Thanks again to Clackamas County's skilled planning staff for the very well reasoned report and for properly recommending denial. This proposed urban use is not allowed in EFU zones. Please deny.

Susan Hansen  
PO Box 50  
Molalla Oregon 97038

Exhibit 21  
Z0208-21-CP

**Ahrens, Melissa**

---

**From:** Harlan Shober <harlan\_shober@msn.com>  
**Sent:** Monday, November 8, 2021 11:33 AM  
**To:** Ahrens, Melissa  
**Subject:** Land Use Case Z0208-21-CP

Warning: External email. Be cautious opening attachments and links.

Clackamas County Planning Commission and BCC:

Please follow the County's Planning Staff report and deny the exemption to EFU land use standards sought in Z0208-21-CP. It's an inappropriate use that has, to my understanding, been operating in violation of County standards for some time.

Please deny.

Regards,

Harlan Shober





November 8, 2021

**Clackamas County Planning & Zoning Division**

Melissa Ahrens, Senior Planner  
150 Beaver Creek Rd  
Oregon City, OR 97045

(submitted via email to mahrens@clackamas.us)

Re: Public Comment on Z0208-21-CP (Addiction Recovery Facility Proposal)

The following comments are submitted by 1000 Friends of Oregon. 1000 Friends of Oregon is a nonprofit membership organization that works with Oregonians to support livable urban and rural communities; protect family farms, forests and natural areas; and provide transportation and housing choices. We have members in all parts of Oregon, including Clackamas County.

1000 Friends of Oregon believes that approving Z0208-21-CP (the "Application") would violate state land use laws intended to protect agricultural land from urban development like the proposed addiction recovery facility. Thus, 1000 Friends agrees with County planning staff that the proposed comprehensive plan amendment and goal exceptions should be denied. In particular, 1000 Friends of Oregon wants to reiterate that:

- 1) **The Proposed Congregate Housing Facility is an Urban Use.** 1000 Friends of Oregon agrees with staff that the use proposed in the Application is not a residential treatment home or facility and that it should be considered a congregate housing facility. The proposed congregate housing facility should be considered "urban" for purposes of Goals 3 and 14 because: a) it would draw residents and staff from urban areas to a use prohibited in rural areas; and b) an addiction recovery facility would not serve needs or requirements of a rural area. Thus, the applicant's assertion that the proposed use is "rural" is incorrect and 1000 Friends urges the Planning Commission to adopt staff's findings in Sections A and D of the staff report.
- 2) **The Application Does Not Justify a Reasons Exception to Goals 3 and 14.** To approve the proposed exceptions to Goals 3 and 14, the application must demonstrate consistency with the requirements of OAR 660-014-0040 for urban development on undeveloped rural land. 1000 Friends of Oregon agrees with staff that the Application does not meet the goal exception requirements of OAR 660-014-0040 for the following reasons:

Exhibit 23 Z0208-21-CP
---------------------------

- OAR 660-014-0040(2) requires a showing that the proposal is dependent upon adjacent or nearby natural resources. Staff is correct that the passive farming and general preference for a rural area proposed in the Application do not demonstrate why EFU land is needed or how the proposal is dependent on agricultural resource land. Thus, the Application fails to satisfy OAR 660-014-0040(2).
- OAR 660-014-0040(3)(a) requires a showing that the proposal cannot be reasonably accommodated in existing urban growth boundaries or by expanding urban growth boundaries (UGBs). Staff is correct that the passive farming proposed in the Application would likely be allowed in urbanized zoning districts and that the applicant failed to provide any analysis of potential alternative locations within the UGB to accommodate the proposal. Without any showing that the proposal cannot be located within a UGB, the Application fails to satisfy OAR 660-014-0040(3)(a).
- OAR 660-014-0040(3)(b) requires the Application to show that long-term environmental, economic, social, and energy consequences from the proposal would not be significantly more adverse than those that would result from locating the proposal on other undeveloped rural lands. While staff concluded that the applicant did not provide enough information to evaluate compliance with this requirement, 1000 Friends believes that using prime, high-value agricultural land at the project site for an addiction recovery center, rather than farming, would necessarily have environmental and economic consequences worse than those that would occur on non-prime agricultural land. Even if the applicant submits more information, the Application will fail to satisfy OAR 660-014-0040(3)(b).
- OAR 660-014-0040(3)(c) requires the Application to show that the proposed use would be compatible with other adjacent uses or be compatible through measures to mitigate impacts on other uses. In this case, the subject site is surrounded by EFU properties currently used for agriculture and the proposed addiction recovery center would be completely out of character with these agricultural uses. Further, the dozens of staff and residents that would occupy the proposed facility will require trips to and from the property for reasons such as visiting family, traveling for recreation opportunities, and re-supplying the facility, which will likely generate more vehicle traffic than surrounding farm operations. While staff states that it did not have sufficient



information to evaluate compliance with OAR 660-014-0040(3)(c), 1000 Friends believes that the proposal is unable to show compatibility with surrounding uses.

**3) The Application Fails to Demonstrate Consistency with Applicable Statewide Planning Goals and Comprehensive Plan Policies.** Finally, 1000 Friends agrees with staff that the Application fails to show consistency with Goal 2 (Land Use Planning and Goal Exceptions), Goal 3 (Agricultural Land), Goal 14 (Urbanization), Chapter 3 (Natural Resources and Energy), and Chapter 4 (Land Use). 1000 Friends urges the Planning Commission to adopt staff’s findings in Sections E and F of the staff report.

Sincerely,

Dan Lawler  
Rural Lands Staff Attorney  
1000 Friends of Oregon  
(503) 497-1000x138  
dan@friends.org

1000 Friends of Oregon is a 501(c)(3) non-profit organization founded by Governor Tom McCall shortly after the Legislature passed Senate Bill 100, which created the land use planning rules that shape Oregon’s communities. Since its founding in 1974, 1000 Friends has served Oregon by defending Oregon’s land use system—a system of rules that creates livable communities, protects family farms and forestlands, and conserves the natural resources and scenic areas that make Oregon such an extraordinary place to live. 1000 Friends accomplishes this mission by monitoring local and statewide land use issues, enforcing state land use laws, and working with state agencies and the Legislature to uphold the integrity of the land use system.



# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

Community Services Division

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)

November 8, 2021

Melissa Ahrens and Martha Fritzie  
Clackamas County Planning and Zoning Division  
Department of Transportation and Development  
150 Beaver Creek Road  
Oregon City, OR 97045

SENT VIA Email



Re: Clackamas County File Z0208-21 (DLCD File No. 005-21); Proposed Comprehensive Plan Amendment for an Exception to Statewide Planning Goals 3 and 14, for use of property, including an existing residence and accessory buildings, as an "Addiction Recovery Farm"; **Additional comments following the Staff Report, dated November 1, 2021.**

Mrs. Ahrens and Fritzie,

Thank you for the opportunity to review and comment on the subject land use proposal for an "Addiction Recovery Farm" on an approximately 7.7-acre property zoned for Exclusive Farm Use (EFU) and located outside the Portland Metro Urban Growth Boundary. It is our understanding that the use would include long term (8-10 month) residential addiction recovery treatment for adults, with up to 31 staff and residents living in a dormitory on the subject property. Please include these additional comments in the record for this plan amendment and the proceedings of the November 8, 2021, Planning Commission Hearing.

We support staff's conclusion that inadequate evidence was provided to satisfy the decision criteria.

We also noted in the staff report, dated November 1, 2021, that page 16 states, "...staff find that the criteria for reviewing the proposed exceptions to Goal 3 and 14 are the Division 14 rules at OAR 660-014-0040." This statement appears to misinterpret the Goal 3 exception requirements. In our November 1, 2021 Comment Letter, we noted in the section, "Legal Standards for Taking an Exception to Goal 3 and Goal 14" (emphasis added):

["OAR 660, Division 4"](#) identifies three opportunities to take an exception to Goal 3. Our review of the proposal indicates that a "reasons" exception pursuant to OAR 660-004-0020 and 0022 is most applicable. This type of exception allows a county to consider whether there are "reasons" to justify why the state policy embodied in applicable goals, statute and rule should not apply. **Any exception proposal must be found to satisfy the legal standards included in OAR 660, Division 4.**

OAR 660-004-0010(3) unequivocally states that an exception for one goal does not suffice for an exception to a different goal: "(3) An exception to one goal or goal requirement does not assure compliance with any other applicable goals or goal requirements for the proposed uses at the exception site. Therefore, an exception to exclude certain lands from the requirements of one or more statewide goals or goal requirements does not exempt a local government from the requirements of any other

Exhibit 24  
Z0208-21-CP

Clackamas County (PAPA 005-21)  
November 8, 2021  
Page 2 of 2

*goal(s) for which an exception was not taken."* The Goal 3 exception needs to be evaluated under OAR 660-004-0020 and OAR 660-004-022. The exception to Goal 14 needs to be evaluated under OAR 660-014-0040. The Court of Appeals decision in VINCEP v Yamhill County (2007) lays out this premise well. Substantial evidence must be present in the record to support findings documenting the satisfaction of all these criteria.

Thank you for your consideration of the department's comments. Please send us a copy of the Planning Commission's recommendation.

Please feel free to contact Anne Debbaut, Regional Representative at: [anne.debbaut@state.or.us](mailto:anne.debbaut@state.or.us) or 503.804.0902 if you have further questions or concerns.

Regards,



**Gordon Howard**  
**Community Services Division Manager**

cc: Hilary Foote, Jon Jinings, Gordon Howard, Anne Debbaut, DLCD (*email*)

November 15, 2021

Attn: Clackamas County Planning Division

Re: Nov 8, 2021 NWBTC Planning Commission Hearing

The following is our response to the opportunity to provide additional information for the land use application and questions.

Concerns were raised about traffic impacts and safety on Bluhm Rd. The proposed use generates far fewer than 20 trips allowed during daily peak times. The applicant will conduct a basic traffic count that also records the speed and time of all vehicles. Bluhm Rd has areas where the brush and grasses are blocking portions of the right-of-way, or the view. Those conditions can be easily addressed.

The applicant's inclusion of Goal 10 was in consideration of the Staff determination that the use is urban. Applicant agrees with the staff's assessment that Goal 10 does not apply.

Regarding Goal 14, NWBTC submitted an application that did not include an Exception. County Staff later determined that Goal 14 applies. During the hearing Staff presented support for their determination the NWBTC was an urban use that most resembles "congregate housing". Included in the slideshow was an image referred to by Mr. Poole that clearly depicts the sharp contrast between urban and rural uses.

Many of the requirements presented in the Staff recommendation for denial would not had the County not decided Goal 14 applies. The applicant believes the need for a Goal 14 Exception is unwarranted, During recent deliberations Mr. Poole asked, "What's missing in all of the complex discussion before answering his own question: **"A lack of impacts."** That lack, and a lack of need for urban services is clear evidence that the NWBTC is compatible with the existing neighborhood and uses allowed in the zone.

A substantial argument can be made that NWBTC operating a small recovery farm is a rural use. The existing farmland, regardless of its features, will not be affected by the use; nor will the zoning be changed.

Exhibit 25 Z0208-21-CP
---------------------------

*None of the uses or activities that will occur on the property after an approval that are prohibited in the zone.* It is an example of why, when justified, the applicant has an option to not respond to some criteria.

The County asserts that "congregate" housing is an urban use and therefore violates Goal 14. The County is, respectfully, incorrect: First of all, it is unclear what the County means by "congregate"; using the plain meaning of the term, it means "formed by collecting; collective." See <https://www.dictionary.com/browse/congregate>. Applying this meaning, Oregon law already allows congregate housing -- i.e., housing for multiple persons living under one roof or on one tract of land -- in areas zoned for exclusive farm use:

- ORS 215.283(2)(aa) permits private elementary and secondary schools to have "all buildings essential to the operation of a school." Such buildings may include dormitories or other sleeping quarters, which are commonly found at boarding schools in rural communities. Boarding schools are permitted on lands zoned EFU. See *Kirpal Light Satsang v. Douglas Cnty.*, 96 Or. App. 207 (1989) [upholding a petitioner's right to construct a boarding school in a farm-forest zone];
- Oregon's Occupational Safety and Health Administration ("OSHA") recognizes that farms – larger ones in particular – frequently have bunkhouses for the laborers they employ. Oregon OSHA, *Agricultural Labor Housing (ALH) Interpretations: Questions and Answers* 1, 2 (June 26, 2008, revised July 20, 2018);
- ORS 215.283(1)(s) allows for "[f]ire services facilities providing rural fire protection services." Firefighters typically live, at least part-time, in the facilities from which they serve their communities. *Wallace v. Green Thumb, Inc.*, 61 Or. App. 695, 697 (1983); and
- ORS 215.283(2)(o) allows for "[r]esidential homes as defined in ORS 197.660, in existing dwellings," which include facilities for in-patient drug and alcohol treatment [see ORS 197.660(2) and 443.400(11)-12)].

The four examples of congregate housing cited above do not change the character of a given area from rural to urban. Oregon law recognizes this. Because NWBTC's use of the property at 23172 South Bluhm Road is consistent with what is allowed in areas designated for exclusive farm use,

we request the Commission find NWBTC's proposed use of the property is not an urban use.

ORS 197.732(2)(c)(D) addresses the need compatibility, and a requirement to provide mitigation for impacts. All of the activities in the proposal are compatible with those allowed in the zone. NWBTC has not proposed a mitigation plan because their recovery farm generates impacts that are below all allowable levels; attested to by the closest neighbor who lives directly in front of the applicant's flag lot.

ORS 197.732(2)(c)(B) and ORS 660-004-0020(2)(b) require justification for why the proposed use cannot be accommodated without a Goal Exception, or why the use cannot be accommodated in urban areas. County argues that the program operated for many years in Portland, but fails to acknowledge that NBTC made a careful move away from the increased presence of bars, nude dancing, illegal drugs alcohol, and homeless people on their doorstep. Those conditions skyrocketed during the last decade.

NWBTC is not a conventional treatment or medical center. It's a volunteer family- oriented experience with an exceptional success record. Misconceptions about the proposed use have been ongoing. NWBTC has proposed a minor blending of decision criteria that best fits the use. Blending of specific criteria has been approved in the past for uses including the County's Veteran Village, located in an Industrial zone where residential uses are banned, and the Coffee Creek Correctional Facility in Wilsonville.

The proposed use requires a quiet, discreet and permanent location that is beyond access to the temptations of urban environment, outside of the UGB. A large farming tract, or forest zoning would not be suitable. A location under 5 acres in size would not be suitable, and the likelihood of locating one inside or close to the UGB would be nearly impossible. County repeatedly argued that the use could easily be accommodated inside the UGB. The small EFU zoned parcel cannot be duplicated within the area NWBTC must be located.

ORS 197.732(2)(c)(C): requires an EESE evaluation the long term environmental, economic, social and energy consequences resulting from the use. The growing impacts of the substance abuse problem in Oregon,



and lack of significant impacts from the proposed use created a challenging scenario for the applicant. Determining the benefits of lives saved or turned around is difficult to quantify. The stories from the residents and past graduates provided during the Beavercreek CPO meeting and initial date of the Planning Commission hearing is compelling evidence that the positive long term social and economic consequences of the use far outweigh any potential negative impacts. Negligible environmental or energy consequences would result from an approval. The proposal does not negatively affect the valuable farmland, or the lives and property in the Beavercreek Hamlet. There would be no measurable impact if the NWBTC was located in areas requiring a goal exception other than the proposed site; providing the proximity to the UGB and basic services were not significantly altered. NWBTC primarily serves the local population, and is located within reasonable access to Oregon City. The applicant has a relationship with the County that would be renewed if an approval is granted.

The County argued on November 8 that NWBTC has not demonstrated that it will be substantially burdened by the denial of its rezoning application. A case from the U.S. Court of Appeals For the Ninth Circuit (the “Ninth Circuit”), *Intl. Church of the Foursquare Gospel v. City of San Leandro*, 634 F.3d 1037 (9th Cir. 2011) (*ICFG*), is on point here: *ICFG* involved a church that, like NWBTC, needed a new location more suitable to its needs. *Id.* at 1039. *ICFG* found a suitable location in an industrial zone that did not allow assembly uses, religious or otherwise. *Id.* The church attempted to address that problem by applying to its city’s planning commission for a rezoning that would allow for assembly uses. *Id.* at 1041. Although the city approved the church’s rezoning application, it did so in a manner that excluded the church from its chosen new location. *Id.* at 1042.

The Ninth Circuit ultimately held that the city’s decision to exclude the church from locating in the industrial zone violated the Religious Land Use and Institutionalized Persons Act (“RLUIPA”). Quoting a decision from one of its sister appellate courts, the Ninth Circuit held that forcing a religious organization that had already found a suitable location from which to operate to relocate can – and often does – substantially burden the organization’s free exercise of religion:

“[T]he denial of a church’s rezoning application was a substantial burden even though the church ‘could have searched around for other parcels of land (though a lot more effort would have been involved in such a search than, as the City would have it, or [the church] could

have continued filing applications with the City, but in either case there would have been delay, uncertainty and expense. ... That the burden would make it insuperable **would not make it insubstantial.**”

*ICFG*, 634 F.3d at 1045 (emphasis added) [quoting *Sts. Constantine and Helen Greek Orthodox Church v. City of New Berlin*, 396 F.3d 895, 901 (7th Cir. 2005)].

The Ninth Circuit further held that “the City’s claimed need to preserve properties for industrial use” did not qualify as a “compelling interest” for purposes of RLUIPA. *ICFG*, 634 F.3d at 1048. The same can be said of the County’s – and the State of Oregon’s – asserted interest in preserving what is arguably the most desirable farmland for farming pursuant to the State’s Goal 3. *Guru Nanak Sikh Society v. County of Sutter*, 456 F.3d 978, 992 (9th Cir. 2005).

A religious organization – be it a church or an addiction recovery farm like NWBTC – “**cannot function without a physical space adequate to their needs and consistent with their theological requirements.**” *ICFG*, 634 F.3d at 1047 (emphasis added) [quoting *Vietnamese Buddhism Study Temple in America v. City of Garden Grove*, 460 F. Supp. 2d 1165, 1171 (C.D. Cal. 2006) (*Vietnamese Buddhism*)]. NWBTC has found such a space at 23172 South Bluhm Road in Beavercreek: It is far away from the big-city temptations of drugs and alcohol that literally came to NWBTC’s doorstep at its former location in Portland, making it possible for NWBTC to greatly limit the likelihood of relapses for the recovering addicts that NWBTC serves while they devote themselves to prayer, Bible study, and other religious activities. The property also provides a space where NWBTC can use farming to instill biblical principles of discipline and responsibility – the proverbial “Christian work ethic,” if you will. See Ephesians 4:28 [“Anyone who has been stealing must steal no longer, **but must work, doing something useful with their own hands, that they may have something to share with those in need**” (emphasis added)]. Because “[t]he right to build, buy, or rent such a space is an indispensable adjunct of the right to assemble for religious purposes,” the Planning Commission should recommend approval of the application. *ICFG*, 634 F.3d 1047 (emphasis added) [quoting *Vietnamese Buddhism*, 460 F. Supp. 2d at 1171].

Clackamas County has re-affirmed the Homeless Emergency in response to the growing need. Concurrently, Governor Brown’s Executive Order 18-01 declaring a Substance abuse as a Public Health Crisis is still in effect. Oregon ranks 4<sup>th</sup> nationally in number of substance abusers per capita, and 4<sup>th</sup> in the number of homeless. *Oregon ranks 1<sup>st</sup> in the number of unsheltered homeless.* The most recent count in the County found 1,166

people on the streets.

Locating a suitable property for its amended mission, and moving to the Beavercreek area was a daunting and necessary journey. A denial of the application would create an undue burden on the NWBTC as an entity, and for those who are current residents. We request the Planning Commission recommend an approval of the application.

Chris Previti & Susan Campell  
Co-Directors NWBTC



# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

Community Services Division

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)

November 22, 2021

Melissa Ahrens and Martha Fritzie  
Clackamas County Planning and Zoning Division  
Department of Transportation and Development  
150 Beavercreek Road  
Oregon City, OR 97045

SENT VIA Email



Re: Clackamas County File Z0208-21 (DLCD File No. 005-21); Proposed Comprehensive Plan Amendment for an Exception to Statewide Planning Goals 3 and 14, for use of property, including an existing residence and accessory buildings, as an "Addiction Recovery Farm"; **Amended November 18, 2022 additional comments following the Staff Report, dated November 1, 2021.**

Mss. Ahrens and Fritzie,

Thank you for the opportunity to comment on the above referenced land use proposal for an "Addiction Recovery Farm" at 23172 S. Bluhm Rd, Beavercreek, OR 97004, located outside the Portland Metro urban growth boundary (UGB) on land zoned Exclusive Farm Use (EFU). Please enter this letter into the record of your decision and the proceedings of the December 8, 2021, Board of County Commission hearing, and any subsequent proceeding on this request.

Staff pointed out in the November 1, 2021 staff report that the proposal is similar to a use allowed in Oregon Revised Statute (ORS) 215.283(2)(o) that permits the siting of a 'residential home', as defined in ORS 197.660. Such a 'residential home' must be in an existing dwelling and is subject to certain criteria. ORS 197.660 defines a residential home as including a 'residential treatment home' which is a facility that provides residential care and treatment for five or fewer individuals with mental, emotional, or behavioral disturbances or alcohol or drug dependence. The proposal appears to include residential addiction recovery treatment for adults, with up to 31 staff and residents. Therefore, the proposal exceeds the occupancy allowed under state statute and the applicant is seeking an exception to Statewide Planning Goal 3 (Agricultural Lands) and Goal 14 (Urbanization).

The notice provided to the Department of Land Conservation and Development (the department) includes narrative submitted by the applicant indicating that they believe the Religious Land Use and Institutionalized Persons Act (RLUIPA) supersedes state and local land-use regulations in this case. However, it is unclear from the narrative provided exactly which aspects of the subject review the applicant believes are inconsistent with RLUIPA. The applicant does allude to one section of the RLUIPA in their narrative: §2(a)(1) "substantial burdens", which we address in more detail below.

### **Substantial Burden on the Exercise of Religion**

This is a three-part test for the county. First, there must be a determination that the applicable regulations impose "a substantial burden on the religious exercise of a person, including a religious assembly or institution." If that determination is made to the affirmative, the county must then decide whether the burden "is in furtherance of a compelling governmental interest" and, if so, "is the least restrictive means of furthering that compelling governmental interest."

Exhibit 26  
Z0208-21-CP

**Substantial Burden.** Regarding whether there is a “substantial burden” in this case, §2(a)(2) “scope of application,” specifies the “substantial burden” subsection applies in any of three circumstances. Subparagraph (C) contains the only criterion pertinent to this request, and it states that §2(a)(1) applies when:

*...the substantial burden is imposed in the implementation of a land use regulation or system of land use regulations, under which a government makes, or has in place formal or informal procedures or practices that permit the government to make, individualized assessments of the proposed uses for the property involved.*

The prohibition of a Residential Home serving more than five people on this property is not based on an “individualized assessment” of the proposed use. Such a use would be prohibited on property zoned for Exclusive Farm Use regardless of appearance, denomination, or any other attribute. These are general prohibitions for development of such a use on farmland and are laws of general applicability, not individualized assessments. The county does not substantially burden the free exercise of religion by limiting service of ‘residential treatment homes’ within the EFU zone to five or fewer adults. Indeed, state land use laws and the county ordinance do not differentiate between residential treatment homes that are secular in nature and those that are faith-based.

The property was recently acquired by the applicant and after the current farm zone restrictions were in place (1994). There should not have been a reasonable expectation at the time of acquisition that the property could be employed for the proposed use and serve more than 5 individuals.

The Applicant has the option under existing regulations to request review for a residential treatment home serving up to five adults which would not require an exception to Oregon’s Statewide Planning Goals. A person desiring to implement a use which does not comply with the requirements of one or more applicable statewide goals may request an exception to that Goal through the process described at Oregon Administrative Rule (OAR) 660-004. The intent of the exceptions process is to allow necessary flexibility in the application of the Statewide Planning Goals. The regulations contained in OAR 660-004 are broadly applicable to any case where a use does not comply with the requirements of a particular Goal regardless of whether the use is faith-based or secular in nature. The application must completely address all of the relevant exception criteria for exceptions to Goal 3 and Goal 14.

A request for an exception is necessarily a unique case requiring the individualized assessment contemplated in the RLUIPA provisions. But first, the application must apply the criteria for granting an exception in a neutral manner, as with any other application, secular or faith-based. If the application can satisfy the exception criteria on this basis, then there is no need to consider RLUIPA as part of these proceedings. A demonstration of compliance with the applicable criteria in OAR 660-004 is, in the context of RLUIPA, the equivalent of the least restrictive means of furthering the State’s compelling governmental interest.

However, if the application cannot satisfy these exception criteria, which constitute the individualized assessment, then the County must further consider the impact of RLUIPA on this application. The determination must be made as to whether denial of the application constitutes a substantial burden on religious exercise. This is a fact-based inquiry that should consider whether there are alternative

methods by which the religious institution can accomplish its objectives and exercise its religious activities that do not require an exception.

**Compelling Government Interest.** If the county finds that the regulations constitute a substantial burden on the exercise of religion, then the decision must address whether the regulation furthers a compelling government interest. The state of Oregon has a compelling and longstanding interest in the protection of agricultural land, which dates at least to the 1963 establishment by the legislature of EFU zoning. That interest is further demonstrated by the 1973 enactment by the legislature of the state Agricultural Land Use Policy (ORS 215.243), which commits the state to preserve agricultural land and contain urban development within urban growth boundaries. In response to this policy, the Land Conservation and Development Commission (LCDC) adopted statewide Goal 3, the basis for the rule that prohibits the proposed use on the proposed site. Evidence of the compelling nature of farmland protection is also contained in the U.S. Farmland Protection Act, 7 U.S.C. Section 4201 et. seq.

In addition to farmland protection, the state has a compelling interest in containing urban development. Placement of uses serving primarily an urban population or at an urban intensity of development outside the developed area burdens public facilities, transportation, and raises the cost of providing services. Introduction of urban uses into rural environments also has the potential to negatively impact farm and forest operations and the resource economies that depend on large tracts of land devoted to such uses. The compelling nature of this state interest is contained not only in the Agricultural Land Use Policy at ORS 215.243, but also statewide Goal 14 and the urbanization policies of the *Clackamas County Comprehensive Plan*.

**Least Restrictive Means.** The state's interest in protecting farmland is accomplished by prohibiting or limiting a number of uses in the entire EFU zone. The state's interest in containing urban development within UGBs is achieved by prohibiting urban uses outside UGBs, including those developed at an urban density or intensity, requiring urban services, or serving urban populations.

Residential homes are not entirely prohibited in areas zoned EFU. Instead, the use is limited by means of a cap on the number of adults to be served at the facility which limits the scope of the activity, the potential for conflicts and the potential burden on public services. The restrictions limiting service at "residential treatment homes" located in areas zoned EFU to five or fewer adults apply equally to secular and faith-based treatment programs. Such restrictions were in place at the time the applicant acquired the property. The applicant has the option to request review for a "residential treatment home" serving up to five adults which would not require an exception to Oregon's Statewide Planning Goals.

In the case where reasons exist sufficient to waive certain limitations established by the state to achieve the Statewide Planning Goals, as determined through the process described at OAR 660-004, it is up to the county granting the exception to determine the least restrictive ways to further the compelling government interest based upon the facts of the application for Goals 3 and 14 exceptions. The Department recommends that the applicant be directed to provide findings that the least restrictive means to further the compelling government interest justify the applicant's proposal. Upon submittal of such findings, the department requests the opportunity to review and provide comments on these proposed findings.

Clackamas County (PAPA 005-21)

November 22, 2021

Page 4 of 4

Thank you for your consideration of the department's comments. Please feel free to contact Anne Debbaut, Regional Representative at: [anne.debbaut@state.or.us](mailto:anne.debbaut@state.or.us) or 503.804.0902 if you have further questions or concerns.

Regards,



**Gordon Howard**

**Community Services Division Manager**

cc: Hilary Foote, Jon Jinings, Gordon Howard, Steve Shipsey, Anne Debbaut, DLCD (*email*)

**Stephen L. Madkour**  
County Counsel

**Kathleen Rastetter**  
**Scott C. Ciecko**  
**Amanda Keller**  
**Nathan K. Boderman**  
**Shawn Lillegren**  
**Jeffrey D. Munns**  
**Andrew R. Naylor**  
**Andrew Narus**  
**Sarah Foreman**  
Assistants

MEMORANDUM

TO: Melissa Ahrens, Senior Planner  
Martha Fritzie, Principal Planner  
Jennifer Hughes, Planning Director

FROM: Nate Boderman, Assistant County Counsel  
Alyx Peterson, Land Use Intern

DATE: November 30, 2021

RE: Z0208-21-CP



The Planning and Zoning Division has asked the Office of County Counsel to comment on the issues below. Please include this memorandum in the record of the above-reference file.

- Whether the use described by the Applicant in this matter qualifies as “religious exercise” such that the Religious Land Use and Institutionalized Persons Act (“RLUIPA”) would apply.
- Whether RLUIPA applies in the context of an application such as this, where the request involves an exception to a statewide planning goal.
- Since RLUIPA generally prohibits land use regulations that “substantially burden” religious exercise, provide a brief summary on how the substantial burden test is applied.
- Whether the county may waive its land use regulations in order to avoid a RLUIPA claim.

**Introduction**

As it applies to this matter, RLUIPA is a federal law that prohibits the government from doing two things: (1) imposing or implementing land use regulations in a manner that substantially burdens the religious exercise of a religious assembly or institution, unless the government demonstrates that the regulation is “in furtherance of a compelling governmental interest” and “the least restrictive means” of furthering that interest, and (2) imposing or implementing land use regulations that do not treat religious groups on equal terms with secular groups, discriminate against them, or exclude or unreasonably limit them within the government’s jurisdiction. *See* 42 USC § 2000cc-(a)(1).

Exhibit 27  
Z0208-21-CP



The application in the file identified above highlight competing interests involving the applicant's desire to use their property for religious exercise and the county's interest in administering comprehensive and reasonable zoning regulations in the unincorporated areas of the county. The basis of applicant's RLUIPA argument appears to implicate the "substantial burden" prong of the rule. We do not read applicant's arguments to allege any violation under the second prong of the rule, outlined above, which generally involves a government discriminating, treating religious assemblies on less than equal terms with secular groups, or excluding or unreasonably limiting them within the government's jurisdiction. Accordingly, the discussion below will focus primarily around the applicability of RLUIPA and the "substantial burden" analysis.

### **Religious Exercise**

RLUIPA prohibits governments from implementing and applying land use regulations that substantially burden the religious exercise of an individual or a group. When interpreting the RLUIPA statute, it is, by its own terms, to be construed as broadly as possible in favor of religious exercise. 42 USC § 2000cc-3(g). The term *religious exercise* includes the "use, building, or conversion of real property for the purpose of religious exercise when it is held by persons or entities that use or intend to use the property for that purpose." 42 USC §2000cc-5(7)(B). The term also includes any "religious exercise...whether or not compelled by, or central to, a system of religious belief." 42 USC §2000cc-5(7)(A). Prior to the passage of RLUIPA, an inquiry into whether the religious exercise allegedly burdened by a zoning decision was integral to a believer's faith would have been more commonplace. *Midrash Sephardi, Inc. v. Town of Surfside*, 366 F.3d 1214, 1226 (11th Cir.2004) (citing cases). However, RLUIPA's broad definition of religious exercise eliminates any such independent inquiry.

Oregon courts have yet to weigh in on the specific question of whether or not a rehabilitation program is religious exercise, but other jurisdictions have. For example, the Court in *Men of Destiny Ministries, Inc. v. Osceola County*, 2006 WL 3219321, found that the "ministry to men with drug and alcohol problems, which is clearly motivated by the religious beliefs of [Property Owner] (among others) and utilizes religious teaching as part of its methods, constitutes a religious exercise for purposes of the RLUIPA." The United States Department of Justice settled a lawsuit in 2009 with the local government in Nashville, TN on grounds that included RLUIPA. <https://www.justice.gov/opa/pr/justice-department-settles-allegations-disability-and-religious-discrimination-against>. The DOJ recognized Teen Challenge, a Christian substance abuse treatment program, as religious exercise. While these decisions are not binding on Oregon, they signal that the applicant's proposed use should be characterized as religious exercise for purposes of applying RLUIPA.

### **Goal Exceptions**

Goal exceptions are a land use decision and would potentially be subject to the RLUIPA analysis. See *Young v. Jackson County*, 49 Or LUBA 327 (2005). The goal exception process is not, however, on its face a substantial burden. *Young* states that while "the exceptions process is probably generally more burdensome than is the usual conditional use process" it is "however...a process that is commonplace in Oregon's land use system and does not, in and of

itself, cause ‘undue’ delay.” *Young* at 338. It is unclear whether the applicant means to imply that the Goal exception process is a substantial burden on its religious exercise, thereby violating RLUIPA. If so, it is reasonably clear under the facts and holding of the *Young* case that simply requiring the applicant to submit to the process seeking approval of an exception does not constitute a substantial burden, and therefore does not violate RLUIPA.

### **Substantial Burden**

As noted above, 42 USC § 2000cc-(a)(1) generally prohibits government from imposing land use regulations that impose a substantial burden on the religious exercise of a person or institution. While the applicant’s arguments involving RLUIPA are not arbitrary, they are confusing in that they do not specify what it is about the imposition or implementation of state law or county code that imposes a substantial burden on the applicant’s religious exercise. The applicant makes reference to RLUIPA and cites case law that the applicant believes to be relevant to this issue, but does not specify what substantial burden the county has imposed on them. This makes for a complicated analysis, as the applicant bears the burden of demonstrating in the first place that there is a substantial burden. *See Young* at 342-343.

The Oregon Land Use Board of Appeals (LUBA), as well as Oregon appellate courts, have considered RLUIPA on several occasions, and there are a number of decisions that help define what is meant by the concept of “substantial burden.” *Timberline Baptist Church v. Wash. Cnty.*, 211 Or. App. 437, 449-50, 154 P.3d 759, 765-66 (2007), states that a land use regulation imposes a substantial burden on religious exercise for the purpose of RLUIPA “only if it ‘pressures’ or ‘forces’ a choice between following religious precepts and forfeiting certain benefits, on the one hand, and abandoning one or more of those precepts in order to obtain the benefits, on the other.” *Citing Corp. of Presiding Bishop v. City of West Linn*, 338 Ore. 453, 111 P.3d 1123 (2005); *See also Guru Nanak Sikh Soc. v. County of Sutter*, 456 F.3d 978, 988-89 (9th Cir 2006) (a land use regulation imposes a substantial burden on religious exercise when it is “‘oppressive’ to a ‘significantly great’ extent” and imposes a “‘significantly great restriction or onus upon such exercise’”) (quoting *San Jose Christian College v. Morgan Hill*, 360 F.3d 1024, 1034 (9th Cir 2004)); *Midrash Sephardi, Inc.*, 366 F.3d at 1227 (determining that a “substantial burden” on religious exercise is more than an inconvenience and is “akin to significant pressure which directly coerces the religious adherent to conform his or her behavior accordingly,” that is, pressure to forgo religious precepts or pressure that mandates religious conduct); *Civil Lib. for Urban Believers v. City of Chicago*, 342 F.3d 752, 761 (7th Cir 2003), *cert den*, 541 U.S. 1096, 124 S. Ct. 2816, 159 L. Ed. 2d 262 (2004) (holding that, in context of RLUIPA’s broad definition of religious exercise, a land use regulation that imposes a substantial burden on religious exercise is one that renders that exercise “effectively impracticable”).

Again, in this case, the applicant alludes to RLUIPA and associated case law and seems to conclude that a denial of their application would be a substantial burden on their religious exercise, but they do not demonstrate how application of state and county land use controls renders their religious exercise “effectively impractical,” to use a phrase cited above. For example, the applicant offers no alternative site analysis or evidence of how moving to another property would substantially burden their religious exercise. The inconvenience of finding alternative property, or the fact that property elsewhere is more expensive or less suitable than a

particular site is not a sufficient demonstration of a “substantial burden” under RLUIPA.<sup>1</sup> When an applicant cannot demonstrate a substantial burden in the first place, the government is not required to assert a government interest or show that the regulations are the least restrictive means of achieving that interest. *See Corp. of Presiding Bishop v. City of West Linn*, 338 Ore. 453 at 467-68 (2005) (stating that where there is not a substantial burden established there is no need to reach the question of the government interest or whether or not the regulation is the least restrictive).

Even if the applicant sufficiently demonstrates a “substantial burden” in this case, the government may still impose the regulation so long as it is “in furtherance of a compelling governmental interest” and “the least restrictive means” of furthering that interest. The Department of Land Conservation and Development submitted testimony dated November 18, 2021, which includes a useful discussion of the compelling governmental interests related to the protection of agricultural land and the containment of urban development.<sup>2</sup>

A negative inference of 42 USC § 2000cc-(b)(3) shows that local governments can, within its jurisdiction, put limitations in place as long as it does not totally exclude such assemblies. *1000 Friends of Oregon v. Clackamas County*, 46 Or LUBA 375, 409 (2004). Whatever the relationship between the general rule and the discrimination and exclusion provisions of 42 USC § 2000cc-(b), that language does not suggest that Congress intended RLUIPA to require local governments to allow churches in all zones within its jurisdiction, or to prohibit local governments from excluding churches from some zoning districts.

### **Waiver of Land Use Regulation**

Where an applicant demonstrates that the government is substantially burdening its religious exercise and the government cannot demonstrate that there is a compelling government interest supporting the need for the policy or practice, or that the policy or practice is the least restrictive means of achieving that end, the government may avoid potential liability if it is able to eliminate or modify the policy or practice that result in the substantial burden. 42 USC § 2000cc-3(e) states that “A government may avoid the preemptive force of any provision of this

---

<sup>1</sup> *See Timberline Baptist* at 455-456, citing *Christian Methodist Episcopal Church v. Montgomery*, [CV22322, 2007 U.D. Dist. LEXIS 5133, 2007 WL 172496, at \\*8-9 \(DSC Jan 18, 2007\)](#), “The Fourth Circuit held that the College failed to establish the first element of a free exercise claim; it did not prove that the zoning laws burdened its exercise of religion. The Court determined that the county’s zoning provisions did not absolutely prohibit operation of private or parochial schools because the provisions permitted such a school to be located in either commercial or industrial zones without any special exception. Additionally, with a special exception, such schools could locate within residential zones. The College did not show that conformance to the county’s zoning regulations would impair any aspect of its free exercise of religion.”

<sup>2</sup> Applicants cite *Guru Nanak Sikh Soc. v. County of Sutter* (456 F.3d 978 (9th Cir 2006)), which is discussed in *Timberline Baptist*, in support of its argument that preserving farmland is not a compelling state interest. Nowhere in that case does the court adopt such a position. Instead, the court decided against the county because the county failed to properly assert the compelling interest. The county in that case conceded its failure, and while on its face the decision may appear to support the applicant’s position, the case actually reads as a tactical failure on the county’s part as opposed to a decision on the merits of what is, or is not, a compelling governmental interest. *See Guru Nanak Sikh Soc.* at 992.

Act by changing the policy or practice that results in a substantial burden on religious exercise, by retaining the policy or practice and exempting the substantially burdened religious exercise, by providing exemptions from the policy or practice for applications that substantially burden religious exercise, or by any other means that eliminates the substantial burden.” However, the applicant would have to make the initial showing that its religious exercise is being substantially burdened, that the county is not treating them on equal terms, or that they are being discriminated against. *Central Oregon Landwatch v. Deschutes County*, 294 Ore. App. 317 (2018), makes clear that a government cannot merely cite RLUIPA and then waive their code to avoid potential litigation. This case states that “LUBA remanded the county’s decision, concluding that the county *could not rely on the mere threat of RLUIPA litigation* and must, on remand, *adopt an analysis that does not rely on that mere threat* or that evaluates whether the existing Goal 5 program is inconsistent with RLUIPA.” *Central Oregon Landwatch* at 318 (Emphasis added). In effect, the county would need to concede that the county’s policies or practices violate RLUIPA before the county could waive the application of any of its land use regulations in favor the applicant. Moreover, the Ninth Circuit has held that a municipality could not simply disregard its zoning code to avoid a RLUIPA violation before finding that there had been or would be an actual violation if the regulation were enforced as written. *See League of Residential Neighborhood Advocates v. City of Los Angeles*, 498 F.3d 1052, 1057 (9th Cir. 2007) (holding that the city “impermissibly circumvented the procedural and substantive limitations” of its code when it entered into a “Settlement Agreement” granting a religious group the “right to use property in a residential neighborhood for congregational worship without going through the necessary [conditional use] procedures and issuing the requisite factual findings”). *Residential Neighborhood Advocates* remains good law in the Ninth Circuit.

The applicant appears to raise two separate points in the context of its argument that the county should waive applicable land use regulations in this case. First, it directs the county to language in the U.S. Constitution and RLUIPA to the effect that RLUIPA preempts conflicting state law. Second, it directs the county to the District of Massachusetts’ decision in *Mintz v. Roman Catholic Bishop*, 424 F.Supp.2d 309 (D. Mass. 2006), where a local government’s waiver of its regulation was upheld.

With respect to the first argument, staff does not dispute the fact that, if a local law conflicts with RLUIPA, RLUIPA controls and the local law yields. The question is not *whether* preemption occurs in such cases, but rather *when* the county can acknowledge that preemption. In *Residential Neighborhood Advocates*, the city entered into a settlement agreement with a religious group that allowed the group to engage in a conditional use (congregational worship) without first undergoing the requisite CUP procedures in the city code (notice and an opportunity for opponents to be heard). The Ninth Circuit held that agreement was unenforceable for two reasons. First, governments may not contract away their right to exercise the police power in the future. *See Residential Neighborhood Advocates*, 498 F.3d at 1057. Second, governments cannot contract away their obligation to enforce the substantive and procedural requirements of their codes. *See Residential Neighborhood Advocates* at 1057. The Ninth Circuit relied on California statute and case law for these propositions. *See Residential Neighborhood Advocates* at 1056–57. Article I, section 21 of the Oregon Constitution prevents the state from contracting away its police power, *see Moro v. State*, 357 Or. 167, 195 (2015), and it seems reasonably settled that the same principal applies to local governments as well. *See David L. Callies & Malcolm Grant*,

Exactions, Impact Fees & Dedications § VI.A.X (Am. Bar. Assn 1995) (“It is black letter law in the United States that local governments may not contract away the police power, particularly in the context of zoning decisions.”). Assuming the same restrictions apply to Oregon municipalities, an agreement by the county to not enforce applicable land use regulations, or a decision that effectively achieves the same result, in this case would similarly be unenforceable. Again, staff is not disputing the fact that RLUIPA preempts applicable land use regulations so long as those regulations are found in violation of RLUIPA. Rather, the point is that, under *Residential Neighborhood Advocates*, the county is not authorized to acknowledge that preemption has occurred unless and until a court decrees, or the governing body finds, that a violation has or will occur.

The applicant’s reliance on *Mintz* is misplaced for two reasons. First, the county is bound by the Ninth Circuit’s interpretation of federal law, not the District of Massachusetts’. Thus, if *Mintz* and *Residential Neighborhood Advocates* are in direct conflict, the county should follow the latter opinion. Second, the local government in *Mintz* waived the relevant provision of its code (in order to issue a building permit) because it was concerned that the provision imposed a “substantial burden” on a religious group. As noted, RLUIPA allows local governments to “retain [their] policy or practice and exempt [a] substantially burdened religious exercise.” 42 USC § 2000cc-3(e). However, its language is permissive: “A government *may* avoid the preemptive force of any provision of this chapter by changing . . . .” 42 USC § 2000cc-3(e). Nothing *requires* the government to do so, in lieu of litigating the matter.

Moreover, some scholars have proposed that, under a correct reading of *Residential Neighborhood Advocates*, an agreement to waive a regulation, absent a court decree that a violation has occurred, is only valid if the government itself makes an explicit finding that its regulation violates RLUIPA. *See* Brian W. Blaesser & Alan C. Weinstein, *Federal Land Use Law & Litigation* § 7:35 (2019 ed.). This would explain the outcome in *Mintz*, where such a finding was made. *See Mintz*, 424 F.Supp.2d at 328. As noted above, the county would need to find that there has been or will be an actual violation of RLUIPA before the county could waive the application of any of its land use regulations in favor the applicant.

### **Other Case Law Cited by Applicant**

Applicant cites *Int'l Church of the Foursquare Gospel v. City of San Leandro*, 634 F.3d 1037, 1049 (9th Cir. 2011), for the proposition that “that the city’s decision to exclude the church from locating in the industrial zone violated RLUIPA. Supplemental Letter, 4. This was actually a case involving an appeal of a motion for summary judgement that the district court had granted for the city and the 9th Circuit overturned and remanded. The court stated that “Even if we assume without deciding that the City's interest is compelling, we believe there is a genuine issue of material fact as to whether the City used the least restrictive means to achieve its interest. While the City may prefer to preserve the Catalina property for industrial use, the City presents no evidence that it could not achieve the same goals by using other property within its jurisdiction for that purpose.” *Int'l Church of the Foursquare Gospel* at 1049. It was not that there is no government interest in preserving property for industrial use, just that it was unlikely that that interest alone was compelling enough and that the city did not make a showing that it was the least restrictive way in which to achieve that purpose.

As it relates to the substantial burden analysis, this case involved a situation where there were no other suitable sites to locate the church as shown by the testimony of a realtor and a former city manager. *Int'l Church of the Foursquare Gospel* at 1045. This case also involved the church's assertion that the city improperly scrutinized the church's core religious beliefs. *Int'l Church of the Foursquare Gospel* at 1047. Neither of these issues are a concern here. There has been no discussion by the applicant of alternative sites, as they have offered none; the applicant is in no way barred from attempting to site this use in an alternative location with a more compatible zoning designation. Likewise, the county is not alleging that applicant's proposed use is not legitimate religious exercise. While the Court in this case did note that "a burden need not be found insuperable to be held substantial," citing *Westchester Day Sch. v. Vill. of Mamaroneck*, 504 F.3d 338, 349 (2d Cir. 2007), a denial of a religious institution's application where that religious institution "has no ready alternatives," or where the alternatives "require substantial 'delay, uncertainty, and expense,'" is only indicative of a potential burden on religious exercise that might violate RLUIPA. *Church of the Foursquare Gospel* at 1047. As discussed above, the applicant in this case has not demonstrated how application of state and county land use controls renders their religious exercise "effectively impractical" and offers no alternative site analysis or evidence of how moving to another property would substantially burden their religious exercise.



---

**Continuation of Planning Commission public hearing for  
Comprehensive Plan Amendment, Z0208-21-CP**

---

**File Number:** Z0208-21-CP

**Staff Contact:** Melissa Ahrens, Planning and Zoning Division, 503-742-4519,  
mahrens@clackamas.us

**Planning Commission Continued Hearing Date:** November 22nd, 2021

**Planning Commission Original Hearing Date:** November 8th, 2021

---

**PROPOSAL:**

A proposed Comprehensive Plan Amendment for an exception to Statewide Planning Goal 3, pursuant to ORS 660, for use of the property, including an existing residence and accessory buildings, as an addiction recovery farm. The use would include long term (8-10 month) residential addiction recovery treatment for adults, with up to 31 staff and residents living in a dormitory and in an existing dwelling on the property. The subject property is 7.7 acres in size and is located outside of the Portland Metropolitan Urban Growth Boundary at 23172 S Bluhm Rd.

**Planning Commission Meeting Continuation:**

- At the November 8<sup>th</sup>, 2021 Planning Commission meeting the public hearing was closed, and the meeting was continued for Planning Commission deliberation and decision.
  - Planning Commissioners directed staff to prepare a decision matrix table to assist them in their decision making at the continued November 22<sup>nd</sup> hearing. The decision matrix table is included as *Attachment 1* and limited to information already part of the record, either in the Planning Commission packet or as part of the November 8<sup>th</sup>, 2021 meeting.
  - The Planning Commission also left the written record open for seven days for the applicants to submit a rebuttal, which also is limited to information already in the record. Any such rebuttal received from the applicants will be included as *Attachment 2*.
- 

**STAFF RECOMMENDATION:**

Staff recommends **DENIAL** of Z0208-21-CP, as detailed in the Planning Commission staff report. Specifically, staff found the proposed Comprehensive Plan amendment unable to meet the criteria for a Goal 3 exception (for agricultural protection) and a Goal 14 exception (which staff found was also required because the proposed use was found to be an “urban” use). As a result the proposal was also inconsistent with Ch. 3 of the Comprehensive Plan.

Exhibit 28  
Z0208-21-CP

## Decision Matrix: Proposed Reasons Exception to Statewide Planning Goal 3, Agriculture

File Nos./ Application name: \_\_\_\_\_

Step	Statewide Planning Goal / OAR	Standard (generally)	Notes	
<p>Because the proposed use not allowed on resource (agriculture) land, an exception to Goal 3 (Agriculture) is required.</p> <p>Because the proposed use will be on resource land, the first step is to determine of an exception to Goal 14 (Urbanization) is <u>also</u> required.</p>				
1.	Determine if proposed use is “urban” or “rural?”	Goal 14 OAR 660-014-0040	<p>Factors to consider may include:</p> <ul style="list-style-type: none"> <li>• Public facilities &amp; services</li> <li>• Potential impacts to nearby UGB</li> <li>• Use appropriate for, but limited to, needs of rural area to be served</li> <li>• Whether it draws people from urban areas to rural areas</li> <li>• Intensity of use, particularly compared to acknowledged rural uses allowed in the county’s resource lands.</li> </ul> <p>Note: the above list includes <i>factors</i> to consider based on LUBA case law.</p>	
<p><b>Decision #1: Is the proposed use “URBAN” or “RURAL”?</b></p> <p><b>If URBAN, then an exception to Goal 14 and Goal 3 is needed:</b>  ALL non-highlighted criteria, PLUS orange-highlighted criteria and blue-highlighted criteria listed in 2(A–D) must be met</p> <p><b>If RURAL, then an exception only to Goal 3 is needed:</b>  ALL non-highlighted criteria, PLUS blue-highlighted criteria for Goal 3 exception in 2(A-D) must be met</p>				



## Decision Matrix: Proposed Reasons Exception to Statewide Planning Goal 3, Agriculture

File Nos./ Application name: \_\_\_\_\_

Step		Statewide Planning Goal / OAR		Standard (generally)	Notes
2A.	Need/ Reason	Goal 3 & Goal 14	OAR 660-004-0020(2)(a)	Demonstration of the need for the specific use and why it requires a location on resource land must include facts and evidence sufficient to support the conclusion.	
		Goal 3	OAR 660-004-0022(1)	There is a demonstrated need for the proposed use based on one or more of the requirements of Statewide Planning Goals 3 through 19, AND  (A) The use is dependent on a resource that can only reasonably be obtained at or near the subject site. A market analysis must be provided demonstrating this need and that this is the only site on which the use could locate ; OR  (B) The use has special features that necessitate its location on or near the specific proposed site.	
		Goal 14	OAR 660-014-0040(2)	Proposed use is necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.	

## Decision Matrix: Proposed Reasons Exception to Statewide Planning Goal 3, Agriculture

File Nos./ Application name: \_\_\_\_\_

Step		Statewide Planning Goal / OAR		Standard (generally)	Notes
2B.	Alternative areas	Goal 3 & Goal 14	OAR 660-004-0020(2)(b)	<p>Must demonstrate that “areas that do not require a new exception cannot reasonably accommodate the use.”</p> <p>Must demonstrate and justify what specific siting needs are, including general/market location and specific site requirement.</p> <p>Must include a map or description of location of possible alternative areas.</p> <p>“Reasonable accommodation” can include economic factors but may not rely solely on them, but is not based simply on a preference for the subject site or the fact that a site is not listed for sale.</p> <p>The following areas <b>MUST</b> be considered:</p>	
			Goal 3	OAR 660-004-0020(2)(b)(B)(i)	1. Non-resource land that would not require an exception for the use
			(ii)	2. Other resource lands that are already committed to non-resource uses	
			(iii)	3. Areas inside an urban growth boundary	
		Goal 14	OAR 660-014-0040(3)(a)	1. Areas inside (or through an expansion of) an urban growth boundary or in existing rural communities	

## Decision Matrix: Proposed Reasons Exception to Statewide Planning Goal 3, Agriculture

File Nos./ Application name: \_\_\_\_\_

Step		Statewide Planning Goal / OAR		Standard (generally)	Notes
2C.	Consequences (EASE analysis)	Goal 3 & Goal 14	660-004-0020(2)(c)	<p>An analysis of the long-term environmental, economic, social, and energy consequences (EASE) resulting from proposed use must be completed and find that impacts will not be significantly more adverse than would typically result from the same proposal located in other areas that would also require a goal exception.</p> <p>Must describe the characteristics of each alternative area considered, typical advantages and disadvantages of using the area for a use not allowed by the Goal; and typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts.</p>	
		Goal 3	660-004-0020(2)(c)	<p>Must include the reasons why the consequences of the use at the chosen site are not significantly more adverse including (but not limited to):</p> <ul style="list-style-type: none"> <li>• The facts use to determine which resource land is least productive</li> <li>• Ability to sustain resources near proposed use</li> <li>• Long-term economic impact on general area caused by removal of land from resource base</li> </ul> <p>Other possible impacts include effects on the water table, on cost of improving roads and costs to special service districts.</p>	
		Goal 14	660-014-0040(3)(b)	<p>Must consider:</p> <p>(A) Whether the amount of land for the proposed urban development is appropriate, and</p> <p>(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.</p>	

## Decision Matrix: Proposed Reasons Exception to Statewide Planning Goal 3, Agriculture

File Nos./ Application name: \_\_\_\_\_

Step		Statewide Planning Goal / OAR		Standard (generally)	Notes
2D.	Compatibility	Goal 3 & Goal 14	660-004-0020 (2)(d)	<p>The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.</p> <p>“Compatible” is not intended to mean that there is no interference or adverse impacts at all.</p>	
		Goal 3	660-004-0020(2)(d)	<p>Must describe how proposed use will be rendered compatible with adjacent land use.</p> <p>Must demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices.</p>	
		Goal 14	660-014-0040(3)(c)	<p>Must consider:</p> <p>(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and</p> <p>(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.</p>	

## Decision Matrix: Proposed Reasons Exception to Statewide Planning Goal 3, Agriculture

File Nos./ Application name: \_\_\_\_\_

Step	Statewide Planning Goal / OAR	Standard (generally)	Notes
<p><b>Decision #2: Recommend APPROVAL or DENIAL to the BCC?</b></p> <p><b>If URBAN, did the proposal meet ALL the criteria (including orange-highlighted and blue-highlighted criteria) listed in 2(A–D)?</b>  <b>If YES, then recommend APPROVAL to BCC</b>  <b>If NO, then recommend DENIAL to BCC</b></p> <p><b>If RURAL, did the proposal meet ALL the Goal 3 criteria (including blue-highlighted criteria) listed in 2(A–D)?</b>  <b>If YES, then recommend APPROVAL to BCC</b>  <b>If NO, then recommend DENIAL to BCC</b></p>			