



March 7, 2024

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Crook County Planning Department
300 NE 3rd Street, Room 11
Prineville, OR 97754

RE: Application for Modification of C-CU-2337-07
Our File No.: 141868-281985

Dear Planning Commissioners:

Please accept for filing this Permit Modification Request to CUP No. C-CU-2337-07.

Sunshine Behavioral Health Group, LLC (the “Applicant”) has executed an agreement to purchase certain real property located in Crook County, Oregon, described as Map and Taxlot 16142000-00100-2063 (the “Property”), which is currently owned by the Roman Catholic Bishop of the Diocese of Baker, Inc. (the “Owner”). Exhibit I of the attached applicant contains Owner’s authorization for Applicant to file this modification request.

In 2007, the Owner applied for Conditional Use Permit C-CU-2337-07 (the “CUP”) on the Property for a “chapel (church), a Catholic Community Center with camping facilities (retreat and gathering center), and a chancery (business office); and for outright use approval for a Bishop’s manse (replacement residence) in an Exclusive Farm Use zone EFU-3.” The CUP was approved for all uses except the chancery. In total, the existing CUP-approved facilities support eight full-time staff, eight part-time staff, and up to 225 over-night visitors utilizing the conference center and summer camp facilities. Also, there are currently 124 beds on-site spread over the main residence, staff housing, duplex cabins, shop, and an RV park with seven spots. Exhibit C (site plan).

The present application seeks to continue the use of the Property as a community center while amending the approved CUP, most particularly to replace the seven RV spots with cabins and to reduce the number of individuals using the facilities on the Property. Applicant owns and operates a network of substance use disorder (“SUD”) treatment centers. Those centers provide relapse management, engaging outdoor activities, and individualized programs for each patient. Please contact me at the number below to pay the associated application fee and if you have any questions regarding this application.

Sincerely,

D. Adam Smith

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**BEFORE THE CROOK COUNTY
PLANNING DIRECTOR**

In the matter of an Application for a
modification of C-CU-2337-07

APPLICANTS' NARRATIVE
DEMONSTRATING COMPLIANCE WITH
THE APPROVAL CRITERIA

SUBJECT PROPERTY: 14427 SW Alfalfa Rd,
Powell Butte, OR 97753

APPLICANTS: Sunshine Behavioral Health Group, LLC

OWNERS: The Roman Catholic Bishop of the Diocese of Baker

**ATTORNEY
FOR APPLICANTS:** D. Adam Smith
Schwabe, Williamson & Wyatt, P.C.
360 SW Bond Street, Suite 500
Bend, Oregon 97702

PROPOSAL: The Applicants request a modification of C-CU-2337-07
under Crook County Code 18.172.100.

I. INTRODUCTION AND BACKGROUND

Sunshine Behavioral Health Group, LLC (the "Applicant") has executed an agreement to purchase certain real property located in Crook County, Oregon, described as Map and Taxlot 16142000-00100-2063 (the "Property"), which is currently owned by the Roman Catholic Bishop of the Diocese of Baker, Inc. (the "Owner"). Exhibit A (vesting deed). The Property is approximately 37.89 acres in size, and is zoned Exclusive Farm Use Powell Butte Area ("EFU-3").

In 2007, the Owner applied for Conditional Use Permit C-CU-2337-07 (the "CUP") on the Property for a "chapel (church), a Catholic Community Center with camping facilities (retreat and gathering center), and a chancery (business office); and for outright use approval for a Bishop's manse (replacement residence) in an Exclusive Farm Use zone EFU-3." Exhibit B (CUP). The CUP was approved for all uses except the chancery. In total, the existing CUP-approved facilities support eight full-time staff, eight part-time staff, and up to 225 over-night visitors utilizing the conference center and summer camp facilities. Also, there are currently 124 beds on-site spread over the main residence, staff housing, duplex cabins, shop, and an RV park with seven spots. Exhibit C (site plan).

The present application seeks to continue the use of the Property as a community center while amending the approved CUP, most particularly to replace the seven RV spots with cabins and to reduce the number of individuals using the facilities on the Property. Applicant owns and operates a network of substance use disorder ("SUD") treatment centers. Those centers provide

relapse management, engaging outdoor activities, and individualized programs for each patient. The treatment provided at these centers includes the 12 Step methodology. As the 12 Steps were inspired by spiritual ideals, the Applicant's treatment program is spiritual in nature and further continues the implicit community service mission approved by the original CUP. One notable difference, however, is that the Applicant's centers are not expressly religious.

As shown on Exhibit C (site plan) attached hereto, the only physical modification Applicant proposes is replacing the seven existing RV spots with cabins, which will provide more suitable housing considering the center's treatment programs. These modifications and the Applicant's proposed use contemplates fewer residents on-site, with 75 total employees spread across three shifts (with 30 employees typically on site from 6:00 am to 10:00 pm daily), and serving approximately 100 to 130 clients at any one time. Last, and as explained more fully below, the Applicant seeks as part of this modification application several "reasonable modification/accommodations" pursuant to the Federal Fair Housing Amendments Act ("FHAA") and the Americans with Disabilities Act ("ADA").

As demonstrated below, this application meets all applicable approval criteria and the modification to Conditional Use Permit C-CU-2337-07 should be approved.

II. APPLICABLE STANDARDS AND CRITERIA

The Crook County Code

Chapter 18.172.100 – Revocation or Modification of Permit

III. APPLICANT'S RESPONSE TO APPLICABLE STANDARDS AND CRITERIA

The relevant criteria are addressed below.

CCC 18.172.100 Revocation or modification of permit.

(1) The hearing authority may revoke or modify any permit granted under the provisions of this title on any one or more of the following grounds:

* * *

(c) The use for which such permit was granted has ceased to exist or has been suspended for one year or more.

RESPONSE: As described above, the Applicant has executed an agreement to purchase the Property and is proposing an SUD treatment center on the Property. While the Applicant's SUD treatment program includes the 12 Step methodology, a methodology inspired by spiritual ideals, there will be no church activities continuing on the Property rooted in any particular religion. Therefore, part of the use for which the CUP was granted will cease to exist such that a modification is appropriate. This criterion is met.

* * *

(e) The proposed modification will result in a change to the original proposal sought by the permittee or permittee's successor and meets the applicable standards specified in subsection (3) of this section.

RESPONSE: As described above, the Applicant signed a purchase and sale agreement to purchase the Property and is proposing utilizing the existing facilities for an SUD treatment center on the Property, including modifying those facilities to provide temporary housing rather than camping and RV parking. See Exhibit C (site plan). Specifically, the only physical modification¹ the Applicant is proposing is replacing the seven existing RV spots with cabins; this modification will result in about the same number of beds that are currently present on site once accounting for beds in the permitted RVs. The changes to the use characteristics of the Property will be minimal from a land use perspective as both uses are appropriately classified as “community centers.” Notably, although the Catholic Church is not using the facility to run camps for up to 225 participants 365 day a year, the existing CUP allows such an intensity of uses on the property. The Applicant’s proposed uses will be of similar scope and intentions, such that the only quantifiable changes are to the physical structures. Consistent with this criterion, the Applicant demonstrates how this modification application meets the applicable standards specified in CCC 18.172.100(3) below. This criterion is met.

* * *

(3) The hearing authority shall hold a public hearing on any proposed revocation or modification after giving written notice to the permittee and other affected persons as set forth in this title. The hearing on the decision which is subject to the revocation or modification, is subject only to either the standards, criteria and conditions that were applicable when the original permit was issued or in effect at the time of the revocation or modification, whichever is less restrictive. The hearing authority shall render its decision within 45 calendar days after the conclusion of the hearing.

RESPONSE: The CCC in effect in 2007 was less restrictive than the present day Code. At the time, CCC 18.24.020(7) allowed the following as a conditional use in the EFU-3 Zone: “Public and private parks, playgrounds, hunting and fishing preserves and campgrounds, and community centers owned and operated by a governmental agency or nonprofit community organization.” At that time, “community centers” were undefined under the CCC. Accordingly, in 2007, the Owner defined its community center as follows:

“‘Community Center’ is not defined by the CCC. Community centers are typically locations where members of a group of people may gather for learning, activities, social support, and events. In this particular case, the community center will serve as a retreat and gathering place for members of the Catholic Diocese of Baker, which includes much of Eastern Oregon. Currently, there is no such facility to serve the large geographic area encompassed by the diocese.”

¹ Should any additional modifications be required in the future, the Applicant will handle those through separate modification applications.

Exhibit D (CUP application materials). Crook County accepted the definition proposed by the Owner, thereby implicitly interpreting the relevant CCC provisions. Much like the existing community center, the Applicant proposes utilizing the permitted facilities for an SUD treatment center on the Property, and modifying the lodging provided as part of the community center to reflect the differing services provided. *See Exhibit C* (site plan). Although the Applicant proposes modifying the lodging on site by replacing RV spots with cabins, the modification will result in the same, or less, number of beds on site as are currently present. Currently, the following “buildings” contain approximately 124 beds on site: main residence, staff housing, duplex cabins, and RV spots. Exhibit C (Site Plan). As noted above, the Applicant will serve about 100 to 130 clients on site at any one time. Additionally, the SUD treatment center will still serve as a location where individuals suffering from SUD will receive therapy and other clinical treatment.” Therefore, the proposed modification to allow an SUD treatment center meets the definition of a “community center,” as defined by the Owner in the CUP and accepted by the County at that time.

Even though the County Code has been amended since 2007, Applicant’s proposal still falls within the 2007 CUP decision. The current code still allows community centers (with that term still remaining undefined) as conditional uses in the EFU-3 Zone where those centers are “owned by a governmental agency or a nonprofit organization *and operated primarily by and for residents of the local rural community.*” CCC 18.16.010 (Emphasis added). The 2007 County Code did not include a requirement that community centers be operated “primarily by and for residents of the local rural community.” However, project opponents at the time argued that such a limitation should apply based on similar language in ORS 215.283(2)(e) (2007). The County addressed this issue in its 2007 CUP decision and found that the retreat center use would meet this criteria because the center could serve local residents:

“The Community Center element, while not being primarily by and for local residents as required by ORS 215.283(2)(e), may serve local residents in some form and such a use would be allowed outright pursuant to ORS 215.441 as an “activity customarily associated with the practices of the religious activity.”

In addition to citing ORS 215.441, which provides state statutory land use protection for religious activities, the CUP also references federal statutory protections now commonly referred to as the *Religious Land Use and Institutionalized Person Act of 2000* (“RLUIPA”). As noted above, the Applicant’s proposed utilization of the community center facilities will not continue the religious activity which warranted exceptions under both federal and state law governing religious uses. However, the Applicant’s proposed use instead warrants exceptions under different federal law, specifically the FHAA and the ADA noted above. These issues are discussed more fully below in Section V.

In its current form, ORS 215.283(2)(e) allows the following “community center” use in EFU zones:

“(e) Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community. A community center authorized under this paragraph may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of

meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.”

The new language quoted above regarding community centers specifically for veterans does not bar Applicant’s proposal. In 2005, the Oregon legislature through House Bill 2932 created the state Department of Veteran’s Affairs and allowed the new department to operate clinics under the definition of a community center, provided that the clinics did not provide substance abuse treatment services. This bill became effective on January 1, 2006.

In 2007, when Owner’s CUP application was approved, the County Code had not yet been amended to incorporate the language from House Bill 2932. The 2007 CUP also did not address the revisions introduced in House Bill 2932. Presumably, the CUP did not address the new statutory language because it was determined to be inapplicable because the revisions to ORS 215.283(2)(e) apply only to community centers operated by the newly created state Department of Veteran’s Affairs. The community center at issue in the 2007 CUP was a center operated by the Catholic Church and not the Department of Veteran’s Affairs.

Similarly, Applicant’s proposed community center will also not be run by the state Department of Veteran’s Affairs, but by a private entity. Should the County disagree with this interpretation, Applicant submits that its modification request must be processed under the 2007 County Code pursuant to CCC 18.172.100(3). In 2007, CCC 18.24.020(7) did not include language prohibiting substance abuse treatment services in community centers. Therefore, Applicant’s proposal meets the criteria of the less-restrictive County Code in effect at the time the original CUP was approved. As explained in more detail below, using the revisions to ORS 215.283(2)(e) to deny Applicant’s modification request would be a discriminatory zoning practice prohibited by federal law.

Finally, Applicant has requested and the County approved a reasonable accommodation / modification under the ADA and FHAA to the County’s process for rendering a decision on this CUP modification. Exhibit E (Applicant’s ADA/FHAA Request and County’s Approval). This criterion is met.

CCC 18.160.050(5) A community center, or a private park or campground, may be permitted as a conditional use after assurance that the following is to be provided:

(a) Adequate access from principal streets.

RESPONSE: The Property has existing access off Alfalfa Road and additionally has an emergency access road off S Powell Butte Highway. Exhibit C (site plan). Additionally, as discussed in more detail below, the Applicant anticipates providing an updated Transportation Impact Analysis which will show that the center will have adequate access from principal streets. Therefore, this criterion is met.

(b) Adequate offstreet parking.

RESPONSE: In 2007, CCC 18.128 contained no specific community center parking requirements. Regardless, there are currently 153 parking spots located on the Property. As explained above, the proposed facility would be staffed by approximately 75 employees across three shifts, with approximately 30 staff members on site from 6:00 a.m. to 10:00 p.m. daily. Clients receiving services at the Property will not typically utilize off-street parking because the Applicant typically transports clients to and from the facility, with 1-2 daily drives. Therefore, there is more than adequate offstreet parking available on the Property. This criterion is met.

(c) Adequate building and site design provisions to minimize noise and glare from the building and site.

RESPONSE: An updated site plan is attached hereto as Exhibit C. The Applicant will accept a condition of approval requiring it to minimize noise and glare from any new buildings. Therefore, this criterion is met.

IV. UPDATED TIA

A Transportation Impact Analysis prepared by Ferguson & Associates was submitted with the 2007 CUP application. That study assumed “eight full-time and eight part-time Diocesan staff; an office and part-time residence for the Bishop; meeting rooms and conference facilities for up to 225 people; summer camp facilities; and cabins and RV parking for summer camp use.” Exhibit B. Based on those assumptions the traffic study found:

“The combined activities are projected to generate 6 weekday commuter peak hour trips; 112 Friday midday peak hour trips (summer only, less in other seasons); and 197 Saturday afternoon peak hour trips. Because existing traffic volumes on Alfalfa Road are very small, the increase in trips may be noticeable to property owners to the east of the facility. No functional or safety-related traffic problems are anticipated from the forecast traffic volume.”

Exhibit B.

Joe Bessman, PE of Transight Consulting, LLC is currently producing an updated Traffic Impact Analysis (the “TIA”), which will be provided as soon as the analysis is completed.

V. FARM ANALYSIS

A farm impact analysis was prepared by Rand Campbell, Owner of Hopper LLC – Hopper Ranch and Back Forty LLC – Back Forty Hay Farm, and a licensed land use attorney in Oregon. Exhibit F. This study was based on the Applicant’s proposed modifications to the 2007 CUP application. The farm impact analysis concluded that “the proposed modification will likely result in the same, if not less, impacts on surrounding farm uses compared to impacts associated with the current uses permitted under the CUP.”

VI. REQUEST FOR REASONABLE ACCOMMODATION / MODIFICATION UNDER THE FHAA AND ADA

SUD centers often are the subject of impermissibly restrictive zoning laws. However, persons recovering from drug and alcohol addiction are protected from housing discrimination by the Americans with Disabilities Act (“ADA”) and the Federal Fair Housing Amendments Act (“FHAA”). The FHAA and ADA allow local governments to grant reasonable accommodations/modifications to policies, practices, and services when necessary to provide equal housing opportunities to individuals with disabilities.²

State and local governments are prohibited from discriminating *on the basis of disability* through zoning and land use practices.” *Socal Recovery, LLC v. City of Costa Mesa*, 56 F4th 802, 814 (9th Cir 2023), *cert. den sub nom. City of Costa Mesa, California v. SoCal Recovery, LLC*, 144 S Ct 422, 217 L Ed 2d 234 (2023). Indeed, the legislative history of the FHAA indicates that this ban

“is intended to prohibit the application of special requirements through ... conditional or special use permits that have the effect of limiting the ability of [people with disabilities] to live in the residence of their choice in the community.” H.R. Rep. No. 100-711, at 24 (1988). And Title II of the ADA prohibits local governments from enacting zoning laws that discriminate based on disability. *See Bay Area Addiction Rsch. & Treatment, Inc. v. City of Antioch*, 179 F.3d 725, 732 (9th Cir. 1999).”

Id. As discussed below, persons recovering from drug and/or alcohol addiction are defined as “persons with disabilities” under the ADA and FHAA, and a group home constitutes a dwelling under the FHAA.

Given the protections afforded by the ADA and FHAA, Applicant requests three reasonable accommodations / modifications under the FHAA and ADA.

1. Applicant requests a reasonable accommodation / modification from the requirement in the 2007 and 2023 County Codes that a community center be owned and operated by a governmental agency or nonprofit community organization. CCC 18.24.020(7) (2007); CCC 18.16.010 (2024). Applicant is a private entity.

² Under the FHAA, a “reasonable accommodation” is generally understood as a change to a rule, policy, procedure, or service.” 42 U.S.C. § 3601 *et seq.* Courts have further described that “[t]he FHAA requires a reasonable accommodation to zoning rules when necessary to afford a handicapped person the ‘equal opportunity’ to obtain housing.” *See, e.g., Wisconsin Community Services, Inc. v. City of Milwaukee*, 465 F3d 737, 745 (7th Cir 2006).

Differing from the FHAA, Title II of the ADA does not contain specific provisions requiring “reasonable accommodations” or “reasonable modifications.” However, courts regularly defer to the ADA implementing regulations which require “reasonable modifications in policies, practices, or procedures * * *.” *Id.* at 751 (citing 28 CFR § 35.130(b)(7)).

Courts often intertwine the terms “reasonable accommodation” under the FHAA and “reasonable modification” under the ADA. *See, e.g., McGary v. City of Portland*, 386 F3d 1259 (9th Cir 2004). Accordingly, this letter uses the term “reasonable accommodation/modification” throughout.

Reasonable accommodation/modification requests No. 2 and 3 below are offered as alternative arguments should the County disagree with the Applicant on the following issues.

2. If the County uses CCC 18.16.010 (2024) in rendering its decision on this modification application, Applicant requests an exception to the requirement that a community center be operated primarily for and by residents of the local rural community.

In evaluating a CUP modification request, the County's decision "is subject only to either the standards, criteria and conditions that were applicable when the original permit was issued or in effect at the time of the revocation or modification, whichever is less restrictive." CCC 18.172.100(3). As described in more detail above, Applicant takes the position that the County Code in effect in 2007 was less restrictive than the present day code due to the addition of an extra limitation in the 2024 code.

In 2007, the acknowledged County Code allowed the following as a conditional use in the EFU-3 Zone: "Public and private parks, playgrounds, hunting and fishing preserves and campgrounds, and community centers owned and operated by a governmental agency or nonprofit community organization." CCC 18.24.020(7) (2007). The current code has added a requirement that community centers be "operated primarily by and for residents of the local rural community." CCC 18.16.010 (2023). Because the 2007 code has less restrictions on who may own and operate a community center in an EFU-3 Zone, the 2007 code should apply.

However, should the County apply the 2024 code to this modification application, the Applicant seeks a reasonable accommodation under the ADA and FHAA to allow a community center as a conditional use in an EFU-3 Zone where that community center will likely have employees from within and outside of the local rural community and serve members from within and outside of the local rural community. Although the continued use of the permitted community center facilities will employ and provide services to residents of the local rural community, those services and employment opportunities are not contemplated to be restricted to only residents of the local community.

3. To the extent that ORS 215.283(2)(e) is interpreted as prohibiting an SUD treatment center in an EFU zone, Applicant requests an exception to ORS 215.283(2)(e) to allow the existing CUP to be modified to allow the existing community center to be used as an SUD treatment center to provide equal housing opportunities to individuals with disabilities.

In 2005, the state legislature passed House Bill 2932, which created a state Department of Veteran's Affairs and allowed the new agency to operate clinics under the definition of a community center, provided that the clinics did not provide substance abuse treatment services. House Bill 2932 resulted in the language that appears in ORS 215.283(2)(3) today. ORS 215.283(2)(e) allows the following "community center" use in EFU zones:

"(e) Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community. A community center authorized under this paragraph may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies

providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.”

The last sentence of ORS 215.283(2)(e) should be read in conjunction with the preceding sentence regarding community services that may be provided to veterans. This is particularly true given the legislative history of ORS 215.283(2)(e). Additionally, the County Code in 2007 did not contain a definition of “community center” that prohibited community centers from providing direct delivery of substance abuse services. Therefore, Applicant takes the position that ORS 215.283(2)(e) does not bar an SUD treatment center in the EFU-3 Zone because ORS 215.283(2)(e) serves as a limitation only on the services that Veteran’s Affairs clinics can offer.

However, should the County find that ORS 215.283(2)(e) prevents SUD treatment services to be offered in a community center, Applicant requests a reasonable accommodation / modification under the ADA and FHAA to allow SUD treatment services to be provided in a community center, which is allowed as a conditional use in the EFU-3 Zone.

The Applicant further explains the applicable FHAA and ADA analyses below.

1. FHAA and ADA Reasonable Accommodations/Modifications Are Appropriate in this Case

A local government commits discrimination under section 3604(f)(3)(B) of the FHAA if it refuses “to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford [the disabled] equal opportunity to use and enjoy a dwelling.” *Gamble v. City of Escondido*, 104 F3d 300, 307 (9th Cir 1997). A dwelling is defined as “any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.” 42 U.S.C. § 3602(b). Group homes, such as those used for drug and alcohol recovery, are considered “dwellings” under the FHAA. 42 U.S.C. § 3602(b); *Schwarz v. City of Treasure Island*, 544 F3d 1201, 1213–16 (11th Cir. 2008) (defining halfway houses as “dwellings” under the FHAA); *Lakeside Resort Enters., LP v. Bd. of Supervisors of Palmyra Twp.*, 455 F3d 154, 160 (3d Cir. 2006) (defining drug and alcohol treatment centers as “dwellings” under the FHAA); *Pacific Shores v. City of Newport Beach*, 730 F3d at 1157 (defining group homes for individuals recovering from alcohol addiction as “dwellings”).

A state or local government violates the FHAA by failing to grant a reasonable accommodation request if

“(1) [the applicant] suffers from a handicap as defined by the FHAA; (2) the [County] knew or reasonably should have known of [the applicant’s] handicap; and (3) accommodation of the handicap ‘may be necessary’ to afford [the applicant] an equal opportunity to use and enjoy their dwelling.”

McGary v. City of Portland, 386 F3d 1259, 1261–62 (9th Cir 2004) (quoting *Giebeler v. M & B Assocs.*, 343 F3d 1143, 1147 (9th Cir 2003)). These factors are also substantially the same as those described in *Joint Statement of The Department of Housing and Urban Development and the Department of Justice: State and Local Land Use Laws and Practices and the Application of the Fair Housing Act* (the “Joint Statement”), which has been described by other jurisdictions as the best reference document applying the FHAA and ADA to local government’s land use regulations. Exhibit G (Joint Statement). As the factors laid out in *McGary* are substantially the same as those laid out in the Joint Statement, this application uses the *McGary* factors. Each of these factors are addressed below.

As discussed below, Applicant’s request meets the criteria for the County to grant Applicant’s reasonable accommodation requests.

A. FHAA Reasonable Accommodations / Modification Criteria

a. The Applicant’s clients “suffer from a handicap as defined by the FHAA.”

RESPONSE: Applicant is making these accommodation/modification requests on behalf of its current and future residents with disabilities—a practice that is allowed under Ninth Circuit case law. *Socal Recovery, LLC*, 56 F4th at 812, 814 n.22 (9th Cir 2023) (quotations and citations omitted). The FHAA defines handicap as “(1) a physical or mental impairment which substantially limits one or more of such person’s major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment.” 42 U.S.C. § 3602(h). Persons recovering from drug and/or alcohol addiction are defined as “persons with disabilities” under the ADA and FHAA. *See City of Edmonds v. Washington State Bldg. Code Council*, 18 F3d 802, 803, 804 (9th Cir.1994); *Pac. Shores Properties, LLC v. City of Newport Beach*, 730 F3d 1142, 1156–57 (9th Cir. 2013); *Hernandez v. Hughes Missile Systems Co.*, 362 F.3d 564, 568 (9th Cir.2004); 42 U.S.C. § 3602(h); 42 U.S.C. § 12132; 42 U.S.C. § 12102(1). The impairment cannot include “current, illegal use of or addiction to a controlled substance.” 42 U.S.C. § 3602(h). Applicant has policies in place to prevent the people it serves from using controlled substances while in residence in the SUD. Exhibit H. “Sober living homes and other dwellings intended for occupancy by persons recovering from alcoholism and drug addiction are protected from illegal discrimination against the disabled without the need for Appellants to present individualized evidence of the ‘actual disability’ of their residents.” *Socal Recovery*, 56 F4th at 813. Therefore, this criterion is met.

b. The local government “knew or reasonably should have known of” the handicap; and

RESPONSE: As stated in this Application, the County now knows (or reasonably should know) that the Applicant’s proposed facility will serve a population with a disability. As discussed above, this Application concerns utilizing existing facilities on the Property for the Applicant’s SUD treatment center, which is to provide treatment to individuals with SUD. Therefore, this criterion is met.

- c. **The “accommodation of the handicap ‘may be necessary’ to afford the [Applicant] an equal opportunity to use and enjoy their dwelling.”**

RESPONSE: As discussed above, group homes are considered dwellings under the FHAA.

The FHAA “prohibits local governments from applying land use regulations in a manner that will . . . give disabled people less opportunity to live in certain neighborhoods than people without disabilities.” *Oconomowoc Residential Programs, Inc.*, 300 F3d at 784 (citing *Smith & Lee Assoc. v. City of Taylor*, 102 F3d 781, 795 (6th Cir 1996) (internal citation omitted)). The original Fair Housing Act was specifically enacted “to provide, within constitutional limitations, for fair housing throughout the United States.” 42 U.S.C. § 3601. The amendments to the Fair Housing Act, as contained in the FHAA, specifically prohibit discrimination in housing on the basis of disability. 42 U.S.C. § 3604(f).

An accommodation is reasonable under the FHAA “when it imposes no fundamental alterations in the nature of the program or undue financial or administrative burdens.” *Myers v. Highlands at Vista Ridge Homeowners Ass’n, Inc.*, 6:20-CV-00562-MK, 2022 WL 4452414, at *23 (D Or Sept 8, 2022), *report and recommendation adopted*, 6:20-CV-00562-MK, 2022 WL 4447495 (D Or Sept 23, 2022) (quoting *Giebler*, 343 F.3d at 1157 (citations and quotation marks omitted)).

Some burdens “may be more subjective and require . . . [an] . . . appreciat[ion of] the intangible but very real human costs associated with the disability in question.” *Valencia v. City of Springfield, Illinois*, 883 F3d 959, 968 (7th Cir 2018), *citing Wisconsin Cmty. Servs., Inc. v. City of Milwaukee*, 465 F3d 737, 752 (7th Cir 2006). This refers to “those intangible values of community life that are very important if that community is to thrive and is to address the needs of its citizenry.” *Id.* “Whether the requested accommodation is necessary requires a ‘showing that the desired accommodation will affirmatively enhance a disabled plaintiff’s quality of life by ameliorating the effects of the disability.’” *Id.* (citing *Dadian v. Vill. of Wilmette*, 269 F.3d 831, 838 (7th Cir. 2001) (quoting *Bronk v. Ineichen*, 54 F.3d 425, 429 (7th Cir. 1995)). “In other words, [applicants] must show that without the required accommodation they will be denied the equal opportunity to live in a residential neighborhood.” *Oconomowoc Residential Programs v. City of Milwaukee*, 300 F3d 775, 784 (7th Cir 2002). In the context of a zoning waiver, “‘equal opportunity’ means the opportunity to choose to live in a residential neighborhood.” *Id.*

Granting exceptions from the zoning code to allow the existing community center to be used as an SUD treatment center is necessary to provide approximately 100 to 130 individuals suffering from SUD with a treatment center in Central Oregon. Without the accommodation, the Applicant will be unable to provide these necessary services at the existing and approved community center to disabled individuals seeking SUD treatment in a location of their choosing.

Further, Applicant’s request does not fundamentally alter the County’s operations and imposes no undue financial or administrative burdens on the County. The County regularly processes land use permits administratively and is equipped with staff sufficient to review and decide on this application. Approving a CUP modification will not cause the County to bear any administrative or financial burdens. As such, this criterion is met.

B. ADA Reasonable Accommodations / Modification Criteria

Like the FHAA, the ADA “provides a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.” 42 U.S.C. § 12101(b)(1). The definition of a disability under the ADA is substantively identical to that in the FHAA: “[t]he term ‘disability’ means, with respect to an individual – (A) a physical or mental impairment that substantially limits one or more major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment [].” 42 U.S.C. § 12102(1). Under the ADA, the County impermissibly fails to approve a reasonable accommodation/modification when:

“(1) [the applicant] ‘is an individual with a disability’; (2) [the applicant] ‘is otherwise qualified to participate in or receive the benefit of some public entity’s services, programs, or activities’; (3) [the applicant] ‘was either excluded from participation in or denied the benefits of the public entity’s services, programs, or activities, or was otherwise discriminated against by the public entity’; and (4) ‘such exclusion, denial of benefits, or discrimination was by reason of [the applicant’s] disability.’”

McGary, 386 F3d at 1265 (quoting *Thompson v. Davis*, 295 F3d 890, 895 (9th Cir 2002)). Each of these factors are addressed below.

(1) The Applicant “is an individual with a disability;”

RESPONSE: The Applicant incorporates by reference its responses concerning the FHAA set forth above. Additionally, the Applicant notes that it is making this accommodation request on behalf of its current and future residents with disabilities. The ADA defines disability as “(A) a physical or mental impairment that substantially limits one or more major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment [].” 42 U.S.C. § 12102(1). The Applicant’s SUD treatment center will provide treatment for individuals recovering from SUD. Again, persons recovering from drug and/or alcohol addiction are defined as “persons with disabilities” under the ADA. *Hernandez v. Hughes Missile Systems Co.*, 362 F.3d 564, 568 (9th Cir.2004). Therefore, this criterion is met.

(2) The Applicant “is otherwise qualified to participate in or receive the benefit of some public entity’s services, programs, or activities;”

RESPONSE: The Applicant incorporates by reference its responses concerning the FHAA set forth above. SUD treatment centers, such as the Applicant’s proposed facility, are a public concern and regulated by the government to ensure proper execution and care. To ensure the services provided at the Applicant’s facility are available to a greater disabled population, a reasonable accommodation/modification is required so that the Applicant may use the existing community center on the Property as an SUD treatment center in order to provide between 100 and 130 individuals suffering from SUD with a treatment center in Central Oregon. Federal courts have found that individuals with disabilities should be provided an opportunity to choose where to live

despite regulatory restrictions: “[w]hen a zoning authority refuses to reasonably accommodate these small group living facilities, it denies disabled persons an equal opportunity to live in the community of their choice.” *Oconomowoc Residential Programs, Inc.*, 300 F3d at 784 (citing *Erdman*, 84 F3d at 963). This criterion has been met.

(3) The Applicant “was either excluded from participation in or denied the benefits of the public entity’s services, programs, or activities, or was otherwise discriminated against by the public entity;”

RESPONSE: The Applicant incorporates by reference its responses concerning the FHAA set forth above. As with the FHAA, “under the ADA, a public entity must reasonably accommodate a qualified individual with a disability by making changes in rules, policies, practices, or services when needed.” *Oconomowoc Residential Programs, Inc.*, 300 F3d at 784; *see also* 28 C.F.R. § 35.130(b)(7) (stating in regulations interpreting Title II of the ADA, “[a] public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program or activity”). The “‘reasonable accommodation’ provision prohibits the enforcement of zoning ordinances and local housing policies in a manner that denies people with disabilities access to housing on par with that of those who are not disabled.” *Id.* at 783 (quoting *Hovsons, Inc. v. Township of Brick*, 89 F3d 1096, 1104 (3d Cir 1996)). Should the County interpret state law and the County Code to prohibit an SUD in an EFU-3 zone, the County will have denied individuals suffering from SUD the opportunity to choose to live in a neighborhood of their choice. *Id.* at 784. Therefore, this criterion has been met.

(4) “[S]uch exclusion, denial of benefits, or discrimination was by reason of [the applicant’s] disability.”

RESPONSE: The Applicant incorporates by reference its responses concerning the FHAA set forth above. The Applicant’s express purpose in its request to modify the existing community center on the Property is to serve individuals recovering from SUD. The County’s denial of the Applicant’s request would be a direct restriction and exclusion of disabled people’s ability to access the care they need caused by application of zoning laws. This criterion has been met.

VI. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the County approve the present modification application.

EXHIBIT LIST

- Exhibit A. Vesting Deed
- Exhibit B. CUP C-CU-2337-07
- Exhibit C. 2007 Site Plan
- Exhibit D. CUP C-CU-2337-07 Application Materials

Exhibit E. Applicant's ADA/FHAA Request and County's Approval
Exhibit F. Farm Impact Analysis
Exhibit G. Joint Statement
Exhibit H. Sunshine Behavioral Health's Policies
Exhibit I. Owner's Authorization Form

SCANNED

JUN 22 2006

Crook County Official Records 2006-212322
DEED-D 06/22/06 11:08 AM
Cnt=1 Stn=6 CCOUNTER
\$10.00 \$11.00 \$5.00 \$10.00 \$36.00

After recording return to:
THE ROMAN CATHOLIC BISHOP OF THE DIOCESE OF BAKER, INC
PO BOX 5999
BEND OR 97708



I, Deanna Berman, County Clerk for Crook County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Deanna Berman



Until a change is requested all tax statements shall be sent to the following address:
SAME AS ABOVE

WARRANTY DEED -- STATUTORY FORM

THE GARY B. ANDERSEN and JOYCE L. ANDERSEN, husband and wife, Grantor, conveys and warrants to ROMAN CATHOLIC BISHOP OF THE DIOCESE OF BAKER, INC., Grantee, the following described real property, free of encumbrances except as specifically set forth herein, to wit:

SEE EXHIBIT A WHICH IS MADE A PART HEREOF BY THIS REFERENCE

Tax Account No(s): 2063
Map/Tax Lot No(s): 1614-20-100

This property is free from encumbrances, EXCEPT: All those items of record, if any, as of the date of this deed, including any real property taxes due, but not yet payable.

The true consideration for this conveyance is \$1,175,000.00.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY UNDER ORS 197.352.

Dated this 19 day of June, 2006.

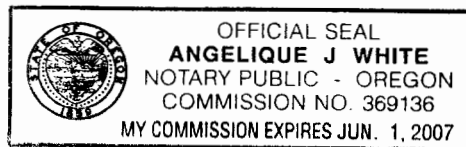
Gary B. Andersen
GARY B. ANDERSEN

Joyce L. Andersen
JOYCE L. ANDERSEN

STATE OF OREGON, COUNTY OF DESCHUTES) SS.

This instrument was acknowledged before me on June 19, 2006 by GARY B. ANDERSEN and JOYCE L. ANDERSEN.

Angeliqe J White
(Notary Public for Oregon)
My commission expires 6/1/07



TITLE NO. 0077582
ESCROW NO. 12-0079606

AMERITITLE 77582

EXHIBIT A

Located in CROOK COUNTY, OREGON:

The Northeast quarter of the Northeast quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 20 in Township 16 South, Range 14 East of the Willamette Meridian.

LESS the following described tract: Beginning at a point which is 28.93 feet South and 19.83 feet West of the Northeast corner of said Section 20, thence South 0°20' East 200 feet, thence North 77°35' West 498.84 feet, thence North 03°14' East 120 feet, thence South 86°46' East 480 feet to the point of beginning.

A parcel of land lying in the Northeast quarter of the Northeast quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 20 in Township 16 South, Range 14 East of the Willamette Meridian, Crook County, Oregon, and being a portion of the following described property: That tract of land which was conveyed by that certain deed to State of Oregon, by and through its State Highway Commission, recorded in Book 66, page 361 of Crook County Record of Deeds. The said parcel being described as follows: Beginning on the East line of said property at a point which is 88.93 feet South and 19.48 feet West of the Northeast corner of said Section 20; thence along the boundary lines of said State property as follows: South 00°20' East 140 feet; North 77°35' West 498.84 feet; North 03°14' East 120 feet and South 86°46' East 130 feet; thence at right angles to the North line of said State property South 03°14' West 20 feet; thence South 80°20' East 355.97 feet to the point of beginning.

CROOK COUNTY

BEFORE THE PLANNING COMMISSION

IN THE MATTER OF AN APPLICATION
FOR CONDITIONAL USE APPROVAL IN
AN EXCLUSIVE FARM USE ZONE EFU-3

NO. C-CU-2337-07
FINAL DECISION

APPLICANT/OWNER: Robert F. Vasa, Bishop
Roman Catholic Bishop
of the Diocese of Baker, Inc.
PO Box 5999
Bend OR 97708

AGENT: Karen Swirsky
David Evans and Associates Inc.
320 SW Upper Terrace Drive Suite 200
Bend OR 97702

ATTORNEY: Jeff Wilson
Miller Nash LLP
446 NW Third Street Suite 230
Prineville OR 97754

PROPERTY LOCATION: 14427 SW Alfalfa Road, Powell Butte
(T 16 S R 14 EWM Sec 20 TL 100)

PROPOSAL: An application for conditional use approval for a chapel (church), a Catholic Community Center with camping facilities (retreat and gathering center), and a chancery (business office); and for outright use approval for a Bishop's manse (replacement residence) in an Exclusive Farm Use zone EFU-3.

FINAL DECISION: APPLICATION IS APPROVED IN PART AND DENIED IN PART: THE APPLICATION IS APPROVED FOR ALL USES PROPOSED EXCEPT THE CHANCERY BY A VOTE OF 4-3; THE APPLICATION FOR THE CHANCERY IS DENIED BY A VOTE OF 4-3.

THE ABOVE ENTITLED MATTER came before the Crook County Planning Commission at its regularly scheduled meetings of July 25, 2007, August 15, 2007, September 26, 2007, October 23, 2007, and November 14, 2007.

LEGAL CRITERIA

CROOK COUNTY CODE: The property is zoned Exclusive Farm Use EFU-3. A church is permitted as a conditional use in the EFU-3 zone under CCC 18.24.020(3) (Although a Church is an outright permitted use in an EFU Zone under ORS 214.283(1)(b) the Crook County Code has not been amended to reflect this change in State law) . A community center owned and operated by a nonprofit community organization, or a private park or campground, is permitted as a conditional use in this zone in accordance with CCC 18.24.020(7) .

CCC 18.24.040 states that a conditional use may be permitted in the EFU-3 zone where the county finds that the use will not:

(1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

CCC 18.160.050(4) contains additional requirements for churches. It states that:

(a) [A church] may be authorized as a conditional use only after consideration of the following factors:

- (i) Sufficient area provided for the building, required yards, and offstreet parking (related structures and uses such as a manse,...or parish house are considered separate principal uses and additional lot area shall be required therefore).
- (ii) Location of the site relative to the service area.
- (iii) Probable growth and needs therefore.
- (iv) Site location relative to land uses in the vicinity.
- (v) Adequacy of access to and from principal streets, together with the probable effect

on the traffic volumes of abutting and nearby streets.

- (b) Such uses or related buildings shall be at least 30 feet from a side or rear lot line.
- (c) Such (a use) may be built to exceed the height limitations of the zone in which it is located to a maximum height of 50 feet if the total floor area of the building does not exceed the area of the site, and if the yard dimensions in each case are equal to at least two-thirds of the height of the principal structure.

Under CCC 18.160.050(5), a community center, or a private park or campground, may be permitted as a conditional use after assurance that the following is to be provided:

- (a) Adequate access from principal streets.
- (b) Adequate offstreet parking.
- (c) Adequate building and site design provisions to minimize noise and glare from the building and site.

CCC 18.128 contains requirements for parking. A church is required to have one space per six seats or eight feet of bench length in the main auditorium (sanctuary), or one space for each 75 feet of floor space in a main auditorium not containing fixed seats. There are no specific requirements for community centers.

CCC 18.160.050(14) contains requirements for recreation vehicle (RV) parks. It states that current state standards must be followed in addition to the requirements of this section.

A replacement residence may be permitted as an outright use in accordance with CCC 18.156.010(4).

CCC 18.24.100(1) states that in an EFU-3 zone, a minimum setback of 100 feet must be maintained between a residence or habitable structure and a property line.

In accordance with CCC 18.24.100(2)(a), minimum setbacks of 30 feet from a property line fronting on a major collector right-of-way (*Alfalpa Road is a major collector*); 20 feet from a side property line, and 25 feet from a rear property line must be

maintained for an accessory (non-habitable) structure.

COMPREHENSIVE PLAN: Pages 40-47 of the Crook County-Prineville Area Comprehensive Plan contain policies for agricultural areas of the County.

OREGON REVISED STATUTES: ORS 215.283(1) permits churches in EFU zones as an outright use. ORS 215.283(2) allows the County to approve private parks and campgrounds, and community centers as a conditional use in EFU zones. ORS 215.441(1-2) requires the County to permit activities customarily associated with churches, excluding parochial schools if allowed under state laws and rules and local zoning ordinances and regulations.

TRANSPORTATION IMPACT ANALYSIS

A TIP for the proposed church/community center was completed by Ferguson & Associates, PO Box 1336, Bend, OR 97709 on April 30, 2007, and submitted to Crook County on May 1, 2007.

The study focuses on the weekday commuter peak hour (4-6 p.m.); the Friday midday peak hour (12-2 p.m.); and the Saturday afternoon peak hour (2-6 p.m.). Traffic counts were conducted at the intersection of the Powell Butte Highway and Alfalfa Road for 15 minute intervals during these time periods.

The study also forecasts the traffic impact of four large area developments: Brasada Ranch, Pronghorn Resort, Hidden Canyon, and Remington Ranch.

The analysis was conducted for the years 2007 and 2012 for conditions with and without the proposed church/community center. The study addresses key transportation issues such as roadway capacity, site distance, traffic signal warrants, left-turn lane warrants, and site access.

The study is based upon the *Crook County Transportation Impact Analysis Requirements (TIA Requirements)*.

The study assumes eight full-time and eight part-time Diocesan staff; an office and part-time residence for the Bishop; meeting rooms and conference facilities for up to 225 people; summer camp facilities; and cabins and RV parking for summer camp use. The planned functions of the facility will include offices for Diocesan operations; retreats and meetings for parishioners; and

youth and family summer camps.

The proposed chancery offices would be occupied on most weekdays throughout the year. Retreats and meetings will occur throughout the year, with the peak event that will attract more than 200 people occurring on a Saturday. The summer camp will operate during the summer months only.

TRAFFIC STUDY RECOMMENDATIONS AND CONCLUSIONS:

The combined activities are projected to generate 6 weekday commuter peak hour trips; 112 Friday midday peak hour trips (summer only, less in other seasons); and 197 Saturday afternoon peak hour trips. Because existing traffic volumes on Alfalfa Road are very small, the increase in trips may be noticeable to property owners to the east of the facility. No functional or safety-related traffic problems are anticipated from the forecast traffic volume.

All studied intersections were forecast to meet Crook County Level of Service (LOS) standards in both the years 2007 and 2010 for each peak hour time period, both with and without the proposed church/community center. No mitigation measures will be required through 2012 if the proposal is approved.

The Crook County Roadmaster stated (July 25, 2007) that her review of the TIP submitted by the applicant indicates that the additional traffic impact of the proposed church and community center falls below the 10 percent threshold.

Therefore, no mitigation will be required at the intersection of Alfalfa Road with the Powell Butte Highway, and review of additional intersections will not be required.

REVIEW COMMITTEE MEETING

A Review Committee meeting regarding the proposal was held at 11:00 a.m. on Tuesday, August 14, 2007. The Crook County Roadmaster, a representative of Crook County Fire and Rescue, and a representative of the applicant were present, in addition to Planning staff.

ACCESS: The Roadmaster and the representative of Crook County Fire and Rescue indicated that an emergency access to the property from the Powell Butte Highway should be placed in the

northwestern corner of the property. They indicated that this would provide for better access in cases of emergency, as the access could be used if Alfalfa Road becomes blocked. Also, it would provide easier access for emergency vehicles coming from Deschutes County under the Fire Department's reciprocal aid agreement.

The existing access to Alfalfa Road is to be closed, and a new primary entrance put in to the south. The emergency access to the Powell Butte Highway is to be gated with a Knox Box, for emergency use only. It would be connected to the main retreat complex by an all-weather graveled drive to be approved by Fire and Rescue.

The applicant's representatives indicated they are in general agreement with this. However, they indicated that the proposed drive will probably require removal of some irrigation water, as well as requiring the removal of some existing trees they wish to keep.

The Roadmaster also indicated that a right turn lane will be needed on Alfalfa Road adjacent to the proposed new primary entrance to the property. It would be on the applicant's property. She indicated that it can be a condition of approval.

EXISTING PROPERTY CHARACTERISTICS

ACREAGE: The property measures 37.89 acres.

CURRENT USE OF THE PROPERTY: A residence, barn, and several outbuildings are located on the property. Lowland pasture occupies the western portion of the property. The remainder of the property is unused at this time.

AREA LAND USE: Area land uses include large agricultural parcels, BLM lands, and nonfarm residences on lands zoned Exclusive Farm Use EFU-3. The Powell Butte View Estates subdivision, and adjacent parcels zoned Rural Residential R-5, are located within one-half mile to the east. The Brasada Ranch destination resort is located within one mile to the east.

Lands to the north and south of the property are largely irrigated, with a number of pivots. Lands beyond a short distance to the east and west are hilly, and covered by junipers and other native vegetation.

Parcels zoned EFU-3 within one mile of the property include 15 parcels measuring less than 40 acres, including 12 with residences (including the subject property). There are 12 parcels measuring between 40 and 80 acres, including 8 with residences. There are 5 parcels measuring 80 acres or larger, including the Brasada Ranch destination resort.

There is a potential for up to three additional nonfarm residences on vacant parcels measuring less than 40 acres, eight additional nonfarm residences if vacant parcels measuring 40-80 acres are partitioned, eight additional nonfarm residences if parcels measuring 40-80 acres with one residence are partitioned, and eight additional nonfarm residences if parcels measuring 80 acres or larger, not including Brasada Ranch, are partitioned to the maximum extent permitted. Combining all of the above, there is a possibility for up to 27 additional nonfarm residences on EFU-3 lands within one mile. This total includes lot-of-record residences.

SUMMARY OF POTENTIAL NONFARM RESIDENCES WITHIN ONE MILE

	<u>No. Residences</u>
Vacant parcels < 40 acres	3
Vacant parcels 40-80 acres	8
Parcels 40-80 acres w/one residence	8
Parcels > 80 acres	8
Total	27

This total does not include potential residences on lands zoned R-5, or potential destination resort residences. It also does not include potential residences resulting from Measure 37 claims.

There is a possibility of additional churches or community centers being developed within one mile, but this cannot be adequately quantified, as almost any of the parcels in the study area, presently developed or not, might be used for this purpose, and the demand is very uncertain.

FARM DEFERRAL: The property is not under farm deferral.

IRRIGATION: The property has 33.0 acres of irrigation water rights from Central Oregon Irrigation District (COID). COID indicates that water must be removed permanently from any area being developed prior to development. They require that an electronic AutoCAD site plan be submitted to them for water rights removal determination.

COID states that a waste channel runs close to the western edge of the property.

Tail water runoff is the responsibility of the property developer.

All irrigation conveyances must not be encroached upon without written permission, and must be shown on all plans.

Irrigation water must not be used for human consumption. All irrigation district fees must be paid.

TOPOGRAPHY: The eastern two-thirds of the property slopes downward from east to west, with moderately steep slopes on the eastern edge of the western third of the property. The western third of the property has a slight down-slope from east to west.

VEGETATION: Junipers and other native vegetation are present on the eastern two-thirds of the property, primarily on and adjacent to the slopes on the property. Grasses are predominant on other parts of the property, especially the western one-third.

WEEDS: The Crook County Weedmaster indicates that there are no noxious weeds on the property.

WILDLIFE: The property is not in a critical wildlife area, according to the Prineville representative of ODFW.

SURFACE WATER: A pond is located near the center of the property.

FLOOD ZONE: A portion of the lower western one-third of the property, where development is not to take place, is within Flood Zone A, a 100 year flood zone where minimum elevations have not been set.

The remainder of the property, including all of the area to be developed, is in Flood Zone X, outside the 500 year Flood Zone.

All structures are to be located a minimum of 15 feet above the area in Flood Zone A, and will not be at any risk from flood.

WETLANDS: There are no designated wetlands on the property.

DESCRIPTION OF PROPOSAL

The approved facilities are to include a retreat and gathering place for the Roman Catholic Diocese of Baker, which includes a number of Central and Eastern Oregon counties. It will be used for retreats, educational programs, and religious activities.

They are also to include a chapel (church), and a manse (Bishop's residence) which is to replace the existing residence on the property.

A chancery (business office for the entire diocese) was proposed to be placed on the property, but has been denied.

Facilities are to be constructed in two phases. Phase 1 is to include:

- Chapel
- Retreat center (in existing barn to be renovated) and playing field
- Manse (Bishop's residence), to replace the existing residence. (It is to include a small separate unit for junior clergy and staff.)
- Staff house (no kitchen)
- Five bunkhouses (overnight accommodations, no kitchens)
- Bathhouse (restroom/shower building)
- Campfire circle
- RV camping area (12 spaces)
- Pole barn (existing)
- Improved hiking trail

- *(The chancery, which has been denied, was proposed to be a part of Phase 1.)*

The Bishop's manse is to be occupied on a part-time basis by the Bishop, and sometimes by other clergy and staff.

The retreat center is to include kitchen and dining facilities. All meals for retreat and conference attendees and summer camp participants will be prepared and served there.

The RV camping area will have full hook-ups, and will be used by retreat and conference attendees.

The chapel will be used for services for conference and retreat and summer camp participants, and for staff. Services will be conducted by clergy in residence, or by those participating in activities. It will not be a parish church for Powell Butte residents.

The above structures will be constructed in a farm and ranch style which reflects the traditional architecture of the Powell Butte area.

The facility will serve Catholic Church members from throughout Central and Eastern Oregon, rather than specifically serving the Powell Butte Community.

Phase 2 is to consist of a parish church, with parish hall and associated parking; and another building with parking.

It will be oriented to serving church members in the Powell Butte area.

PROPOSED INFRASTRUCTURE

ACCESS: The property is adjacent to Alfalfa Road on the east. The existing access to the property from Alfalfa Road has 3-4 foot walls on either side which limit intersection sight distance and stopping sight distance when measured from 15 feet from the edge of the roadway. The applicant's traffic engineer states that the entrance meets guidelines when measured from 5 feet from the roadway, but he states that both intersection and stopping sight distance can be met by moving the entrance 150 feet to the south. The applicant's agent states that the walls are to be removed, and the access will be moved approximately 150 feet to the south

to improve intersection and stopping sight distance.

The new access is proposed to be in the southeast corner of the property.

An emergency access to the Powell Butte Highway is to be constructed in the northeastern corner of the property. It is to be connected with the retreat facilities by a 20 foot wide secondary access road.

Alfalfa Road connects to the Powell Butte Highway to the north of the property.

UTILITIES: Electricity is to be provided by Central Electric Coop. Land line telephone service is to be provided by QWest.

DOMESTIC WATER: The applicant proposes to obtain domestic water from the Avion Water Company.

SEWAGE: Sewage disposal is to be by septic systems on the property. An existing septic system in the southern part of the property is to be expanded to serve the proposed Phase 1 development, and a second system will be developed on the north side of the property to serve the proposed parish church in Phase 2.

PARKING: Three asphalt parking areas with capacities of 72, 64, and 40 parking spaces respectively, are to be provided in connection with Phase 1. Additional parking is to be provided in connection with the parish church and the additional structure proposed for Phase 2.

FIRE: The proposed facility is in the Powell Butte Fire District. Sprinklers are to be used for fire protection.

The representative of Fire and Rescue submitted the following written requirements:

(1) Fire Department approved access roads and safety precautions are to be in place at the time combustible materials are brought to the site.

(2) The required water supply for fire suppression shall be 1250 gallons per minute at 20 psi residual pressure. This flow requirement is based on Type V-B building

construction not to exceed 8126 square feet.

(3) A reduction of fire flow may be allowed for this project if an approved fire suppression system is installed. No commodities, furniture, goods, merchandise, wares, materials, or possessions shall be stored or used within this structure until the fire sprinkler or suppression system is completed, tested, and operational, unless otherwise approved by the Code Official and the Building Official.

(4) The minimum amount of fire hydrants needed shall be 5, spaced no more than 300 feet from the most remote portion of the building measured by an approved fire access route around the exterior of the facility or building. Fire hydrants shall be provided where required by the Fire Code Official.

(5) Fire hydrants shall be located along the route of the fire apparatus access roadway, and spacing of the hydrants shall not exceed 180 feet.

(6) A 3 foot clear space shall be maintained around the circumference of each fire hydrant. When exposed to vehicle damage, concrete curbing, sidewalks, or 4 inch concrete-filled bollards placed 3 feet from hydrants shall be used to protect hydrants. Hydrants shall be painted in appropriate colors with markings.

(7) Approved numbers and addresses are to be placed on all new and existing buildings so as to be plainly visible from the street or road in front of the property. Numbers are to be a minimum 4 inches high with a minimum stroke width of 0.5 inch, and are to contrast with their background and be visible at night. A residence or foster home located off street frontage is to have a visible approved reflective address sign posted at its driveway entrance. (Signs are available through the Building Department).

(8) Streets and roads are to be identified with approved signs. Signs are to be of approved size, and weather-resistant construction.

(9) Approved signs or other approved notices shall be provided for fire apparatus access roads to identify them or prohibit their obstruction. Such signs or notices shall be

legible at all times. Fire land curbs shall be painted bright red with white letters. The stroke shall be 1 inch with letters 6 inches high to read "No Parking Fire Lane". Signs shall be placed 50 feet apart.

(10) Fire apparatus access roads are to be placed within 150 feet of all exterior walls of the first floor of all buildings. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet, designed with a uniform all-weather driving surface to support the gross imposed vehicle weight (GVW) of 75,000 lbs., and a vertical clearance of not less than 13 feet 6 inches. Turning radius shall not be less than 45 feet, and gradient shall not exceed 10 percent, unless the authorities having jurisdiction approve a variance. Dead-end access roads in excess of 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus. A 96 foot diameter cul-de-sac, a 120 foot hammerhead, or other means for the turning around of fire apparatus may be approved.

(11) A key box (Knox Box) is required to be installed at an approved location. An application for the Knox Box is available through the Knox Company at knoxbox.com.

(12) Fire extinguisher rating and travel distance shall be in accordance with the Oregon Structural Code OFC 906.3.

(13) Dumpsters and containers with an individual capacity of 1.5 cubic yards or more shall not be stored in buildings, or placed within 5 feet of combustible walls, openings, or combustible roof eaves unless the area is protected by an approved automatic fire sprinkler system.

(14) Aboveground gas meters, regulators, and piping exposed to vehicular damage due to proximity to alleys, driveways, or parking areas shall be protected in an approved manner.

(15) Installation and maintenance of fire alarm systems shall be in accordance with Section 907 and NFPA 72.

(16) Fire extinguishing systems shall be installed in accordance with the Building and Fire Codes. Fire hose threads used in connection with fire extinguishing systems shall be national standard hose thread. Fire sprinkler systems shall be installed in accordance with

2007 OFC, OSSC, and NFPA 13.

(17) Plans for Fire Department Connection (FDC) and Indicating Shutoff Valves (WIV or PIV) for fire suppression systems shall be submitted to the Fire Department for approval prior to construction.

(18) Approved fire suppression equipment systems shall be provided for the protection of commercial-type food heat-processing equipment when grease-laden vapors are present. A portable fire extinguisher shall be provided within 30 feet travel distance of commercial cooking equipment, and any cooking equipment involving vegetable or animal oils or fats shall be protected by a Class K rated portable extinguisher as required in 2007 OFC Section 904.11.8.

(19) Smoke detectors shall be in compliance with Oregon State Laws and the Oregon Structural Code, OFC 907.2.10.

Fire flows are reduced 50% due to the use of NFPA sprinkler systems. Water storage is 1250 gpm x 120 minutes = 150,000 gallons. This is only for the chancery, chapel and retreat center separated as deemed by the Crook County Building Department. As shown in the Master Plan as one building, the fire flow would be 3700 gpm for three hours = 337,500 gallon storage.

The staff housing and bunk houses will need to be sprinkled with at least an NFPA 13R system. This is due to the R classification and the Fire Department response time. The Bishop's residence will not need sprinklers due to the R3 occupancy.

IRRIGATION: The irrigation water on the property is to be kept, and most of the irrigated land will be leased for agricultural use.

The Central Oregon Irrigation District (COID) indicates that an irrigation plan will be required for the property, but that it can be required as a condition of approval.

STAFF ANALYSIS

(1) Will the proposed use force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or

forest use?

The one-mile area study conducted by Planning staff indicates that there is potential for no more than 27 additional nonfarm residences on EFU land in this area, excluding destination resort residences and Measure 37 claims. In any case, the proposed community center will serve Catholic Church members from throughout Central and Eastern Oregon, rather than serving the local community specifically. Therefore, it is unlikely to spur much additional residential development in the area. At most, some of the chancery office staff (8 full-time and 8 part-time employees) may wish to live nearby. However, without the chancery office there would be even less impact.

The proposed Phase 2 parish church will serve the local Catholic community, but can be expected to meet the needs of residents who will move to Powell Butte for other reasons, rather than attract people there. It will probably have no more than two or three paid employees.

There may be a potential for other, similar facilities to locate in the area, but this would be very difficult to quantify.

(2) Will the proposed use significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use?

The proposed use is in close proximity to irrigated agricultural operations on the north and east. It is separated from those to the north by the Powell Butte Highway.

The proposed use is to include one residence, which will be occupied by the Bishop, and occasionally other clergy and staff, on a part-time basis. The chancery office staff consisting of up to eight full-time and eight part-time employees was proposed to work on the property during the week, but not live there. However, without the chancery primary occupancy will occur on weekends throughout the year, and throughout the week during the summer months, as a result of retreats and conferences, and summer camp activities.

As the above activities will involve very little permanent residency, they are no likely to seriously conflict with area agricultural operations.

There may be more impacts from the proposed Phase 2 parish church, but it can be expected to occur primarily on Sundays, and will primarily involve traffic impacts. The parish church should result in no more than one or two permanent residents on the property.

Irrigated pasture is located in the western part of the property, but no structures or activities are proposed for that area. It could potentially be used for grazing while the proposed facilities are in operation in the eastern part of the property. Therefore, no agricultural land will necessarily be taken out of production by the proposed uses.

(3) Is the proposed facility to have adequate access?

The Transportation Impact Study (TIP) submitted by the applicant's representative projects that no transportation improvements will be required to accommodate the proposed church/retreat center. However, it does not address the transportation impacts of the parish church proposed as a part of Phase 2.

(4) Is the proposed facility to have adequate off-street parking?

The applicant proposes three asphalt parking areas, with a total capacity of 176 parking spaces, as a part of Phase 1. Additional parking is proposed for Phase 2. There will also be parking for 12 RV's as a part of Phase 1.

The County Code sets forth parking requirements for churches, but not for community centers or campgrounds. The proposed chapel will be relatively small, and will serve activity participants and staff. The parking needs of the parish church proposed in Phase 2 will be significant.

(5) Are the proposed site design provisions adequate to minimize noise and glare from the site?

Noise will probably only be an issue during daylight hours at summer camps. The primary source of noise is likely to be the proposed sports field, which is not in close proximity to residences on other parcels.

There is no potential for significant glare from the site.

(7) Will a Flood Hazard Permit be required?

A flood hazard area is located on the western part of the property, where no structures or activities are proposed. As a result of the topography of the property, the proposed structures and activities will be located at a significantly higher elevation than the flood zone, and will be at no risk from flooding.

TESTIMONY

WRITTEN TESTIMONY

PROPONENT TESTIMONY: The applicant submitted written testimony in support of the proposal. He quoted ORS 215.441 concerning the reasonable use of church property for activities customarily associated with religious practice. He made the case that all of the facilities applied for are in this category.

The applicant's attorney submitted written testimony. He stated that the present application is different from the Timberline Baptist Church case, and argued that denial of the proposed uses would impose a substantial burden on the religious practices of the diocese.

He also submitted written testimony stating that Commissioner Arlene Curths should recuse herself because she had indicated bias against rural development by signing a petition requesting a moratorium of destination resort development.

The applicant's representatives submitted written testimony stating that the applicant is in favor of providing an emergency access from the property to the Powell Butte Highway, and questioning whether the 10 feet additional road right-of-way requested by the Roadmaster can be provided in the form of an easement. They submitted a revised site plan showing the proposed emergency access.

OPPONENT TESTIMONY: One letter was received in opposition to the proposal. The writer stated that he is concerned about impacts on traffic and area agriculture. He stated that the proposal will take irrigated land out of production.

ISSUES RAISED BY 1000 FRIENDS OF OREGON

The Central Oregon Advocate for 1000 Friends of Oregon (July 25, 2007), called attention to a 2002 LUBA decision (42 Or LUBA 204) which held that the term "church" in ORS 215.283.(1)(b) should be interpreted to exclude residences and other housing, and retreat facilities. In the same decision LUBA held that local ordinances cannot expand on the uses allowable under the above ORS subsection.

In the present case, however, the proposed retreat and gathering center with camping facilities is proposed to be approved as a community center/private park rather than as a church, in accordance with Subsection 18.160.050(5), which specifically permits these as conditional uses in the EFU-3 zone. Only the chapel is proposed to be approved as a church.

Under the above decision, the Bishop's manse cannot be approved as a use in conjunction with a church, as initially proposed by Planning staff. However, the manse is to replace an existing residence on the property, and can be approved on that basis under CCC 18.156.010(4).

In the same communication, the 1000 Friends Advocate stated that the proposal cannot be approved because it represents an urban level of development, and an exception to Goal 3 (Agricultural Lands) has not been requested. She also stated that location of the facility in the proposed location is not essential to serve the area as required by the conditional use standard under CCC 18.160.050, and will have adverse impacts on agriculture and on the livability, value, and appropriate development of surrounding properties, and the surrounding area compared to the impact of development which is permitted outright. She stated that it will therefore not be consistent with the Comprehensive Plan, and with the objectives of the Zoning Ordinance and other applicable county policies and regulations, as required by CCC 18.160.020. In an earlier communication of July 24, 2007, the 1000 Friends Central Oregon Advocate called attention to ORS 215.283(2)(e). This statute indicates that the following are permitted: "Community centers owned by a governmental agency or a nonprofit community organization and operated *primarily by and for residents of the local rural community.*"

The Advocate pointed out that the facility is to serve the entire Roman Catholic community of Central and Eastern Oregon, and will not be operated primarily by and for residents of the local rural

community (Powell Butte).

The Advocate also stated that the proposed church (chapel) is not necessary, as the Powell Butte community is adequately served by nearby churches of the same denomination. However, churches in EFU zones are addressed by ORS 215.283(b), and ORS 215.441(1-2). Neither of these statutes states that a church must be necessary to serve the local community in order to be approved.

VERBAL TESTIMONY

OFFICIAL TESTIMONY: Crook County Attorney Dave Gordon stated that an important question is whether adverse county action on the proposal would place an undue burden on religious practice. He said that legal precedent indicates that land use laws in themselves are not a burden on religion, and that the question of whether the facility will serve the local area is legitimate. He said that a church is an outright use in an agricultural zone under state statutes.

Gordon stated that the decision on whether or not to recuse herself is up to Commissioner Curths. He said that her participation in the discussion on the issue may influence other commissioners, even if her vote is not decisive.

PROPONENT TESTIMONY: A representative of the applicant stated that the diocese looks upon the proposal as a single unit. She said that the Diocese of Baker includes 19 counties in Oregon, and is looking for a central location in the area it serves. She said that the proposed chancery was to be an administrative center for the diocese.

She discussed the ORS regulations pertaining to churches, and to private parks and campgrounds, in agricultural zones. She said that the applicant is not seeking approval for a parish church at this time, as the approved chapel is to mainly serve summer camp and retreat participants on the property.

Another representative of the applicant reiterated that the chapel is not a parish church.

Another representative testified that the chancery for the diocese is presently in Bend, while the cathedral is in Baker City. She said that this is the only diocese in the United States where the chancery is so far from the cathedral.

Another representative discussed provision for open space on the site. He stated that lighting will be directed downward as to not impact adjacent properties, and that the buildings will be designed to resemble traditional farm and ranch structures in the Powell Butte area. He also addressed the phasing of the project.

The applicant's attorney reiterated his request that Commissioner Curths recuse herself. He said that her failure to do so could jeopardize the Commission decision on appeal. He discussed the Bechtold 2002 LUBA case, and the Federal Freedom of Religion Act. He said that only the chapel is being applied for as a church. He also discussed the relevance of RLUIPA to the application.

The applicant discussed the service area of the Diocese, the retreat system, youth camps, the proposed number of employees, and the search for alternative sites. He discussed the purpose and functioning of the proposed chancery, the roles and specific work of the employees at the chancery, and intended use of the facilities by Catholic and other groups.

Two other persons testified in support of the application. One stated she supports the application as it is consistent with the rural area and is a quiet use of the property.

OPPONENT TESTIMONY: The owner of a neighboring parcel testified against the proposal. He said that the applicant had told him that the chapel would not be built for ten years, and that there would be only one week of summer camp per year. He said that the proposal will have a serious impact on his cattle. He said that the Brasada destination resort is causing more traffic in the area, and the present proposal will worsen traffic problems. He said that it does not seem fair to the farmer and rancher.

Another person testified in opposition. She said that she owns over 132 acres on the west side of the property. She said that she supports the church, but not the rest of the proposal. She said that it will affect her farm operation and increase traffic. She said that she is concerned about the proposed RV park. She said that she does not want children on her property, and wants the applicant to be required to put up an eight-foot fence if the proposal is approved.

Another person testified against the proposal. She said that she bought property in the area with her sisters four years ago in order to farm it, and the proposal will interfere with their farm operation.

Another person stated that she is against the proposal because of the extensive amount of uses on the property, including playgrounds, cabins, and the chancery.

Another person stated that she is opposed to the business element of the chancery, and is also concerned about lighting and the effect the proposal will have on residents and livestock in the area.

Another person stated that he has no objection to a church, but is opposed to the rest of the proposal because of its possible effect on traffic and the agricultural nature of the area, particularly if large events are held.

COMMISSION-STAFF DISCUSSION

At the beginning of the hearing Commissioner Curths responded to the bias challenge and stated that she interprets planning law impartially, regardless of her personal feelings, and will not recuse herself. Commissioner Weberg said that he did not recuse himself in a similar situation.

Commissioner Kambak indicated that she observed a lot of traffic during the Commission site visit. She stated that the property is not a good place for a summer camp and retreat center, because children attending functions will be in danger from traffic. She said that safety has not been adequately discussed.

County Attorney Gordon discussed his legal opinion that a chapel and manse could be related to religious practice. However he indicated that the Commission should consider this issue as well as whether the chancery could be considered related to religious practice as it is a business office which may not have to be located in proximity to religious facilities.

Commissioner Wells stated that the Commission is not in a position to decide whether the chancery is related to religious practice, but that that determination should be left up to the religious denomination concerned.

Kambak said that the facilities will not primarily serve local residents. She said that some diocesan functions will continue to take place in Baker City and in Bend if the proposal is approved.

Wells said that the Powell Butte Community Church has a business office.

Curths said that the Catholic Dictionary defines a chancery as a business office, which is a use not allowed on EFU land. She said that the other uses can be allowed in a farm zone.

Wells said that there is no agreement on what constitutes religious practice, and that the Commission should not dictate what a religion should do.

Kambak said that the County Code permits some things and not others. She said that testimony indicates that religious services will not be held in the chapel every week. She said that the County has other nonresource lands which could be used for the proposed uses, and that area farmers have legitimate concerns. She said that the manse is permissible as a replacement residence, but that she is not comfortable with the retreat center in the proposed location. She said that the area is not safe because of traffic, and children should not be there. She said that the entire proposal does not have to be approved as a unit. She said that the Commission must think of the needs of Crook County.

Commissioner McDermott stated her opinion that, if religious activity is permitted on the site, the chancery cannot be denied. She said that the chancery will generate a low level of activity. She stated that the term "community" is not necessarily restricted to the immediate area of the proposed use. She said that there has been heavy traffic in the area for 45 years. She added that traffic generated by the Lord's Acre Sale does not create a problem because it is well managed, and that traffic generated by retreat center activities can also be managed.

Gordon stated that a church is an outright use, and anything which is a part of religious practice is also an outright use. He said that a key question is whether not allowing the chancery would constitute a "significant burden" on religion.

Commissioner Payne said that apparently no other location has been found which is better. He said that traffic and other impacts have been addressed, and he is in favor of approval.

Kambak said that she has seen better parcels, on nonirrigated land. She said no evidence about other locations has been submitted. Payne said that testimony about an extensive search has been submitted, and denial would be a significant burden on religion.

Weberg stated that the motion for approval must reflect the Commission discussion. He stated that most churches have a business office, and he does not see how the chancery can be denied. He stated that he does not think this is the right place for the facility, but that no other place has been found.

DECISION

Curths moved for denial in part and approval in part, as follows:

"I move that we approve and deny in part C-CU-2337-07, the Roman Catholic Church application so that the chancery offices are denied and the remainder is approved for the following reasons:

The Chapel is an outright permitted use in the EFU as a Church under ORS 215.283.1(b).

That the retreat and community center and campground are conditional uses under ORS 215.283(2) (e) and the Crook County Code § 18.24.020(7).

That the applicant has shown compliance with regard to State law and the Crook County Code for the retreat, community center and campground elements based on testimony and substantial evidence in the record. The applicant has provided a traffic impact analysis for total buildout; the road master has limited the access to minimize impacts; the large open field on subject property provides buffer exceeding the 100 ft separation of dwellings in an EFU zone.

The Community Center element, while not being primarily by and for local residents as required by ORS 215.283(2) (e), may serve local residents in some form and such a use would be allowed outright pursuant to ORS 215.441 as an "activity customarily associated with the practices of the religious activity".

That the Chancery, an administration and business office of the Diocese, is not an outright or conditional use in the EFU zone or an "activity customarily associated with the practices of the religious activity" under ORS 215.441. Furthermore, the administration and business offices are not allowed in the EFU zone pursuant to ORS 215.283 or ORS 215.441 under the *Bechtold* case.

Additionally the administration and business offices do not

constitute a "religious institution", "religious assembly", or "religious exercise", and therefore there is no substantial burden on the Roman Catholic Church under State or Federal law that require their approval under RLUIPA.

This approval is based upon the submitted site plan minus the location of the chancery, with the requirement that no structural uses are to be allowed within the open space area along the western side of the property, except for the construction of the emergency access point along the Bend - Powell Butte Highway."

McDermott seconded the motion. It was approved by a 4-3 vote of the Commission.

CONDITIONS AND REQUIREMENTS

The subject application is hereby **APPROVED**, subject to the following **CONDITIONS** and **REQUIREMENTS**:

- (1) The staff analysis is hereby incorporated in the decision.
- (2) Development is to be in accordance with the final site plan submitted by the applicant, except that the chancery is not to be included.
- (3) The necessary building permits are to be obtained prior to any construction.
- (4) DEQ requirements for a sewage system are to be adhered to.
- (5) Domestic water is to be obtained from Avion Water Company.
- (6) All requirements of the Crook County Roadmaster are to be adhered to.

Dated this 14th Day of November, 2007

W.R. Gowen, COMMISSION CHAIRMAN

Gordon Moore, COMMISSION
SECRETARY

NOTICE TO APPLICANTS

Building permits are to be obtained no earlier than 8:00 a.m. on Tuesday, **November 27, 2007**, and no later than 5:00 p.m. on **November 14, 2011**. This permit is to expire at 5:00 p.m. on **November 14, 2011** unless building permits are force, or reasonable construction has taken place. An extension must be applied for prior to the above expiration date and time.

NOTICE TO PERSONS PROVIDING TESTIMONY

The above approval may be appealed in writing to the Crook County Court no later than 5:00 p.m. on Monday, **November 26, 2007** on payment of an appeal fee of \$1850.00 + 20% of the initial application fee. The appellant must also provide transcripts of the relevant meeting tapes at the appellant's expense. Cassette tape dubbing is available at \$5.00 per tape.

Appeals must be submitted to the Crook County Planning Department, 300 NE Third Street, Prineville, Oregon; and must be received, together with the appeal fee and advance deposit, by the Planning Department no later than the above time and date.

Diocese of Baker

Cascade View Retreat Center

Three Year Retreat Center Operating Cost Summary for Kerygma

<u>Expense</u>	<u>2017</u>		<u>2018</u>		<u>2019</u>		<u>3 Yr Avg</u>
Licenses & Registrations	\$	584	\$	577	\$	607	\$ 589.33
Supplies*	\$	13,669	\$	19,685	\$	17,955	\$ 17,103.00
Prop/Liab Insurance	\$	12,314	\$	12,855	\$	15,251	\$ 13,473.33
Rep/Maint-Bldgs & Land	\$	6,409	\$	6,536	\$	6,082	\$ 6,342.33
Rep/Maint-Equipment	\$	3,387	\$	3,386	\$	5,710	\$ 4,161.00
Telephone**	\$	1,273	\$	1,312	\$	1,432	\$ 1,339.00
Utilities-Garbage	\$	594	\$	2,185	\$	1,931	\$ 1,570.00
Utilities-Gas/Electric	\$	17,318	\$	13,869	\$	14,750	\$ 15,312.33
Utilities-Water	\$	11,265	\$	13,427	\$	11,111	\$ 11,934.33
Utilities-Internet	\$	1,103	\$	1,457	\$	1,319	\$ 1,293.00
Utilities-Fire Alarm Serv	\$	504	\$	504	\$	504	\$ 504.00
Total	\$	68,420	\$	75,793	\$	76,652	\$ 73,622

*Supplies: No food was included in this number as that is a variable cost directly linked with individual events held. This is basically for fuel for the mowers, miscellaneous supplies like work gloves, pillows, mattress covers cleaning and products, etc.

**Telephone: This expense is for the required land lines we must keep active for fire alarm system

MASTERPLAN

ROMAN CATHOLIC DIOCESE OF BAKER
PROJECT LOCATION SEC. 20, T. 16 S., R. 14 E.
CROOK COUNTY, OREGON

DAVID EVANS AND ASSOCIATES INC.
ARCHITECTS
220 W. OREGON STREET (457) 282-7814
220 W. OREGON STREET (457) 282-7814

DATE	NOV 07
SCALE	AS SHOWN
SHEET	4 OF 6
DESIGN	
GEODATA	
SITE PLAN SHEET(S) 4-18-2007	



ARCHITECT:
DAVID EVANS AND ASSOCIATES, INC.
220 W. OREGON STREET, SUITE 200
CROOK COUNTY, OREGON 97631
OFFICE: (457) 282-7814
FAX: (457) 282-7814
EMAIL: david@evansandassociates.com

GENERAL CONTRACTOR:
DAVID EVANS AND ASSOCIATES, INC.
220 W. OREGON STREET, SUITE 200
CROOK COUNTY, OREGON 97631
OFFICE: (457) 282-7814
FAX: (457) 282-7814
EMAIL: david@evansandassociates.com

REAL PROPERTY DESCRIPTION:
TAX LOT NO. SEC. 20, T. 16 S., R. 14 E., 1/4 C. 1/4, 1/4 AC. TRACT 180
PROPERTY ZONE: RU-1, CROOK COUNTY, OREGON
BUILDING OCCUPANCY (UB): CHURCH CAMPUS MASTERPLAN

UTILITIES:
WATER: ON-SITE DOMESTIC WELL
SEWER: ON-SITE SEWER TREATMENT PLANT
GAS: CROOK COUNTY NATURAL GAS
ELECTRIC: CROOK COUNTY ELECTRIC CO-OP
TELEPHONE: CROOK COUNTY SCHOOL DISTRICT
FIBER: CROOK COUNTY FIBER OPTIC NETWORK

SITE AREA:
TOTAL: 27.88 ACRES
P.L. 1: BUILDING AREA (2.00 AC)
P.L. 2: PARKING AREA (10.00 AC)
P.L. 3: SERVICE ROAD (2.00 AC)
P.L. 4: LANDSCAPE BUFFER (1.00 AC)
P.L. 5: PASTURE (12.88 AC)

SITE LOCATIONS:
* ALL FIGURES ARE BY FIELD MEASUREMENT

FACILITY KEY	REQD.	PROPOSED
A COMMUNITY CENTER (EXISTING)	84	84
B CHAPEL	8	8
C ADMINISTRATIVE OFFICE	20	20
D SUPPORT BUILDING (EXISTING)	2	2
E STAFF HOUSING	12	12
F AMPHITHEATER	80	80
G BANK HOUSE (S)	-	-
H BATH-HOUSE/RESTROOM	-	-
I PASTOR'S HOUSE (FUTURE)	-	-
J PASTOR'S OFFICE (FUTURE)	-	-
K PASTOR'S CHURCH (FUTURE)	-	-
TOTAL	186	205

OWNER / DEVELOPER:
ROMAN CATHOLIC DIOCESE OF BAKER, OREGON
220 W. OREGON STREET, SUITE 200
CROOK COUNTY, OREGON 97631
OFFICE: (457) 282-7814
FAX: (457) 282-7814
EMAIL: david@evansandassociates.com

ENGINEERING / SURVEYING / PLANNING:
DAVID EVANS AND ASSOCIATES, INC.
220 W. OREGON STREET, SUITE 200
CROOK COUNTY, OREGON 97631
OFFICE: (457) 282-7814
FAX: (457) 282-7814
EMAIL: david@evansandassociates.com

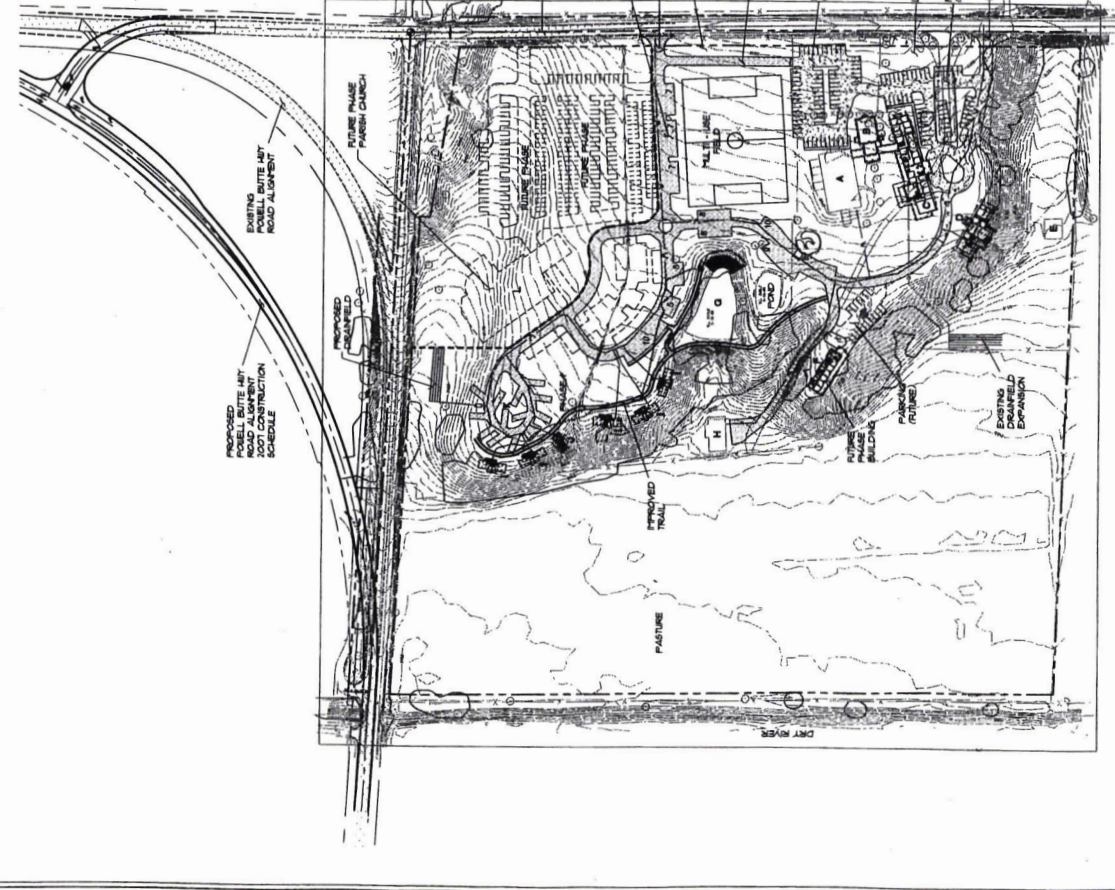


Figure 2
Ferguson & Associates, Inc.

Site Plan
Catholic Retreat Center - Powell Butte, Oregon

#00886
April 30, 2007



ALFALFA RD.

24' x 36'
Existing Pole Barn
Structure

30' from property line



NORTH
SCALE: 1" = 200'

SITE PLAN



Crook County Planning Department

300 N.E. Third Street, Room 11
Prineville, OR 97754
Phone: 541-447-8156

C-CU- 2337-07

Administrative \$600.00
Non-residential \$1,000.00

Conditional Use Application

NOTICE TO ALL APPLICANTS

The Crook County Planning Department is required to review all applications for accuracy and to determine whether the staff and/or Planning Commission have the information needed to make a decision. County Ordinances allow the County 30-days to determine whether the application is complete. If the Planning Department determines that your application is incomplete, you will be requested in writing to provide the missing information and a decision on your application will be postponed until the information is received. State law requires that all information to support an application be available for public inspection at our office 20 days before a Public Hearing. Any information submitted after this date may require a postponement of the hearing date if necessary. Please make sure your application is complete. ***THE BURDEN OF PROOF LIES ON THE OWNER AND/OR REPRESENTATIVE***

OWNER-

Last Name: Roman Catholic Bishop of the Diocese of Baker, Inc.,
First Name: Attention: Robert F. Vasa, Bishop
Mailing address: PO Box 5999
City: Bend **State:** Oregon **Zip:** 97708
Daytime phone: (541) 388-4004

AGENT-

Last Name: Swirsky **First Name:** Karen
Mailing address: David Evans and Associates, Inc., 320 SW Upper Terrace Dr, Ste 200
City: Bend **State:** Oregon **Zip:** 97702
Daytime phone: (541) 389-7614 **Cell Phone:** ()
Email: cls@deainc.com

(MUST SIGN THE ATTACHED LETTER OF AUTHORIZATION)

I hereby make application to the Crook County Planning Commission for a Conditional Use Permit to secure authorization for: Catholic Community Center on land zone EFU-3 in Crook County.

LOCATION OF PROPERTY

Township 16 South, Range 14 East, Section(s) 20 Tax Lot(s) 100 Zoning EFU-3
Physical address of subject property: 14427 SW Alfalfa Road, Powell Butte

TAX LOT CARD

A copy of the "Tax Lot Card" with history from the Crook County Assessor's Office

SERVICES AND IMPROVEMENTS

1. **Water** will be supplied by:
 Community system (need sign-off) Other (specify) Future Avion WD
 Existing Individual Well Proposed Individual Well
 Shared well

Authorized Water Community System

Authorized Signature: Not applicable at this time Date: _____
(or) a signed authorized letter must be attached to this application. (No exceptions)

2. **Sewage Disposal**-Will be disposed by:
 Septic system: Copy of Septic Approval

Sewage Disposal Authorized Signature: _____ Date: _____
(or) a signed authorized letter must be attached to this application. (No exceptions)

3. Located in Fire Protection District: Yes or No
4. Utility Services, public and private:
 Power, Company name Central Electric Cooperative
 Phone, Company name Qwest
 Other, Cascade Natural Gas

ROADS

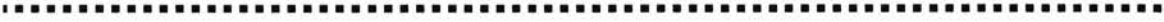
Access to property: County Public *Private State (check one only)
Existing _____ and/or Proposed _____

* **Note:** If private easement, provide **legal recorded documentation.**

I propose to meet the standards governing conditional uses, as established by Title 18, Chapter 18.160 – Conditional Uses, and as shown on the plans and specifications

submitted with this application, or I have submitted a specific request for any variances thereto.

******NOTE****:** A copy of the Warranty Deed indicating the current property owner must be attached with this application.

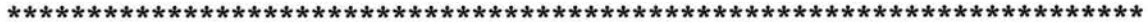


The following material must be submitted with this application, as required by Section 9.020 of the Zoning Ordinance:

1. Detailed plot plan showing:

- (a) Property dimensions including outline of property;
- (b) Direction of North;
- (c) **All** roads existing and proposed, include road names;
- (d) Access (driveway) existing & proposed, include circulation patterns, parking, loading and unloading areas (if applicable) **and** any easements to or on the property;
- (e) Size and location of all **existing & proposed** structures. Intended use of each structure.
- (f) Location of **water supply**, well, or cistern with distance to the septic system **and** dwelling.
- (g) Location of **septic system** with drain field and *replacement drain field* areas. (For assistance with location contact 447-8155: Crook County Environmental Health Department).
- (h) Location of **water right** and/or irrigation canal/ditch on property, if applicable with distance from all structures.
- (i) Location of creeks, streams, ponds, springs, or other drainage ways with distance to all structures.
- (j) Distance from **all** structures to **all** property lines.
- (k) Location of any **rimrock** on the property.

The "Site Plan" or "Plot Plan" must be submitted on 8 1/2 x 11 paper.



APPLICANT/OWNERS:

Roman Catholic Bishop of the Diocese of Baker, Inc.
Attention: Robert F. Vasa, Bishop
PO Box 5999
Bend, Oregon 97708
541-388-4004

ENGINEERING/SURVEYING/PLANNING:

David Evans and Associates, Inc.
Attention: Dave Olsen, LA, or Karen Swirsky, AICP
320 NW Upper Terrace Drive, Suite 200
Bend, Oregon 97702
541-389-7614
dpo@deainc.com or kls@deainc.com

ARCHITECT:

DKA Architecture and Design, PC
Attention: John Kvapil, Principal
780 NW York Drive, Suite 201
Bend, Oregon 97701
541-383-1898

REQUEST:

The Applicant requesting a Conditional Use Permit for a Catholic Community Center on land zone EFU-3 in Crook County.

PROJECT DESCRIPTION:

The proposed Catholic Community Center is intended as a retreat and gathering place for the Roman Catholic Diocese of Baker. The Baker Diocese includes the counties of Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco and Wheeler, with a total area of 66,825 square miles. There is currently no place for the Diocese to hold retreats and other events important to the Catholic community of eastern and central Oregon. The Community Center will offer the members of the Baker Diocese a place for retreats, educational programs, and church-related events such as weddings, holiday observations, and services.

As proposed, Catholic Diocese of Baker Community Center includes the following elements:

Phase I:

- Chancery (administrative building)
- Chapel
- Retreat Center (in existing barn to be renovated) and playfield
- Manse (Bishop's Residence, replacement of existing dwelling)
- Staff house (no kitchen)
- Five bunk houses (for overnight accommodation, no kitchens)
- Bathhouse (restroom/shower building)

- Campfire circle
- Recreational vehicle camping area (12 spaces)
- Pole barn (two existing)

Phase 2 (Future):

- Parish Church, Parish Hall, and associated parking

FINDINGS OF FACT

A. LOCATION

The property is located at the southwest corner of Powell Butte Highway and Alfalfa Road. The physical address of the property is 14427 SW Alfalfa Road, Powell Butte, Oregon. The Crook County Assessor's map identifies this property as 16-14-20, Tax Lot 100.

B. ZONE AND PLAN DESIGNATION

The subject property is zoned EFU-3 on the County's zoning and plan maps.

C. SITE DESCRIPTION

The subject property is 37.89 acres in size. The property is roughly square in shape and is located southwest of the junction of Powell Butte Highway and Alfalfa Road. The subject property consists of lowland pasture along the western portion, with a steep bluff separating the pasture from the upland portions of the site. There are western junipers across the property, mainly along the bluff. There is an existing house, constructed in 1920, along with a newer barn and several outbuildings.

D. SURROUNDING ZONING AND LAND USE

All adjoining properties are located within the EFU-3 zone in Crook County. Land uses are a mix of larger agricultural parcels, government owned rangeland, and smaller hobby farms. Brasada Ranch Resort is located several miles east of the property. The City of Prineville is approximately 12 miles east, Redmond is around 7 miles west, and Bend about 18 miles southwest of the property.

E. APPLICABLE CRITERIA

Oregon Revised Statutes (ORS)

ORS 215.283(1) permits churches and cemeteries in conjunction with churches in exclusive farm use zones. ORS 215.283(2) allows the following nonfarm uses to be established in the exclusive farm use zone, subject to the approval of the governing body:

- *Private parks [...] and campgrounds.*
- *Community centers owned by a [...] nonprofit community organization and operated primarily by and for residents of the local rural community.*

ORS 215.441(1-2) describes the use of real property for religious activity; and how counties may regulate of property used for religious activity, as follows:

- (1) *If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential*

place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a county shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including worship services, religion classes, weddings, funerals, child care and meal programs, but not including private or parochial school education for prekindergarten through grade 12 or higher education. (emphasis added)

The subject proposal is for a Catholic Diocese Community Center, which functions as a retreat for church-related activities, including a chapel, meeting room, outdoor gathering spaces, and other uses customarily associated with such facilities.

Because the Baker Diocese serves a very large geographic region, the facility must necessarily include overnight accommodations for attendees. These are simple and basic, including RV camping and bunkhouses¹.

Other uses that are customarily associated with Catholic Diocese retreats include a manse or house for the Bishop and a staff house. The staff house is set apart from both the Chancery and the overnight bunkhouses, with individual rooms appropriate for staff or clergy. No kitchen facilities are proposed for the staff house. Both staff and overnight guests are expected to eat at the Retreat Center as part of the retreat experience.

(2) A county may:

(a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or restrict the use of real property by a place of worship described in subsection (1) of this section if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

Crook County requires a conditional use permit for churches in order to determine that the proposal is in conformance to these criteria. These criteria are addressed in the following sections of this Burden of Proof.

Crook County Comprehensive Plan

Crook County Comprehensive Plan provides a framework for land use decisions by setting out the goals and policies of the community so that decisions are consistent with the physical characteristics, goals, and resources of the County. The Comprehensive Plan does not provide applicable approval criteria, but is implemented through the County's Zoning Ordinance, which establishes the applicable approval criteria for specific applications.

Chapter 3 of the Crook County Comprehensive Plan, under the section entitled Agriculture, includes the following findings:

10. *The provisions of ORS 215 also recognize and set forth certain non-farm uses which may be conditionally carried out with little or no conflict with area agricultural uses. Such uses may be established separately or in conjunction with farm use, are primarily commercially, industrially, or recreationally oriented, and in many cases may*

¹ The proposed bunkhouses are hostel-like facilities with two rooms, each with sleeping accommodations for 8 people and a bathroom. No kitchens are proposed in the bunkhouses

provide a means for secondary economic benefits to an agricultural enterprise. ORS 215.213.

This finding in the Comprehensive Plan indicates that Crook County realizes and anticipated that some appropriate nonfarm uses can be established without conflict with agricultural uses. Applicant will demonstrate in this Burden of Proof that the proposed Diocese Community Center is compatible with agricultural uses in the surrounding area.

Crook County Code

The Crook County Code (CCC) establishes zoning districts and regulates uses for specific land use districts. Only select provisions of the CCC and only select provisions of the following Chapters of the CCC apply to this application. The applicable provisions are listed below:

- Chapter 18.24 Exclusive Farm Use Zone, EFU-3
- Chapter 18.160 Conditional Uses

Chapter 18.24 Exclusive Farm Use Zone, EFU-3 (Powell Butte Area)

18.24.020 Conditional uses permitted.

In an EFU-3 zone, the following use and their accessory uses are permitted when authorized in accordance with the requirements of Chapter 18.160 CCC and this chapter.

(3) Churches.

The Applicant proposes a chapel and plans for a church in the future. The Applicant also proposes uses that are "*customarily associated with the practices of the religious activity*" (ORS 215.441(1-2)). A Catholic Community Center customarily includes housing for the Bishop and other staff and clerics, as well as a chancery (administrative offices to manage the retreat facility and Diocese), and overnight accommodations. An existing dwelling will be replaced with the Bishop's Manse, and a small unit suitable for clerics and staff will be constructed as part of this project.

(7) Public and private parks, playgrounds, hunting and fishing preserves and campgrounds, and community centers owned and operated by a governmental agency or a nonprofit community organization. (emphasis added)

The Applicant proposes a campus-style retreat which will include uses conditionally allowed under this criteria. The Applicant proposes a private park, campground, and community center, as follows:

Park: According to the Crook County Code (18.08.030 P), park "*means a tract of land set apart and devoted for the purposes of pleasure, recreation, ornament, light and air for the general public or, in the case of a private development, for invited guest or controlled access use. Park facilities include picnic area, trails, play field, parking area, restrooms and washrooms facilities, boating facilities and associated areas that are for recreational marine craft including the incidental sale of fuel, but excluding sale or storage of marine craft.*"

The Applicant proposes a private park intended for members of the Catholic Diocese of Baker, with a playfield, parking area, and restrooms.

Campground: According to the Crook County Code (18.08.030 C), campground "*means an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not intended for residential purposes. A camping site may be occupied by a tent, travel trailer or*

recreational vehicle. Campgrounds do not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations."

The Applicant proposes a campground with 12 slips for recreational vehicles (RVs) with full hook-ups. There will also be five bunkhouses for overnight accommodation. The proposed bunkhouses are hostel-like facilities with two bathrooms and two sleeping rooms each. Each bunkhouse includes bunks for 16 people. No kitchens are proposed in the bunkhouses.

A bathhouse/restroom building will be provided for use by people camping or RV-ing and for day visitors. The road and RV pads will be surfaced with gravel. No intensive recreational uses are proposed as part of the campground. A campfire circle and trails will be constructed as part of the Community Center, providing an outdoor place for retreat-related events and worship.

Community Center: "Community Center" is not defined by the CCC. Community centers are typically locations where members of a group of people may gather for learning, activities, social support, and events. In this particular case, the community center will serve as a retreat and gathering place for members of the Catholic Diocese of Baker, which includes much of Eastern Oregon. Currently, there is no such facility to serve the large geographic area encompassed by the Diocese.

14. Single-family residential dwelling not in conformance with farm use subject to CCC 18.24.080.

There is an existing single-family dwelling on the property. The house was constructed in 1920, and is therefore a non-conforming use. The house is not habitable without significant renovation. The Applicant intends to demolish the existing dwelling and replace it with the Bishop's Manse.

18.24.040 Limitations of specific conditional uses.

In addition to the general standards and conditions that may be attached to the approval of a conditional use as provided by Chapter 18.160 CCC, the following limitations shall apply to a conditional use permitted in CCC 18.24.020. A use allowed under CCC 18.24.020 may be approved where the county finds that the use will not:

- (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or**

According to the data provided by Crook County GIS Service Center, there are 41 parcels within one mile of the subject property that are zoned EFU. Of these, 12 parcels (29%) are smaller than 20 acres and are most likely to be hobby farms rather than income-producing agricultural businesses. In other words, the area is well-settled with residents and has been for some time. It is probable that any changes to farm practices that could potentially result from the presence of year-round residents in the area will have already occurred.

- (2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.**

An applicant for a use allowed under CCC 18.24.020 may demonstrate that the standards under subsections (1) and (2) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective. (Ord. 18 § 3.030(4), 2003).

The proposed Catholic Community Center on the subject property will not increase the cost of farm practices on surrounding lands. Members of the Catholic Community would be attending the Center because of its quiet agricultural setting. Most residents of the Baker Diocese are familiar with agricultural practices in central and eastern Oregon and will expect similar uses to surround the Center. The Diocese will alert the Catholic Community that the Center is located in an area of active agriculture and to expect the presence of farm equipment on the roads, the sounds of harvesting and crop maintenance equipment, and the other environmental factors that are typical of Central Oregon agricultural practices. Most users of the Center, and the administrators of the Center itself, will be drawn from the rural counties of the Diocese and will be very familiar with the circumstances of rural farm and ranch life.

It is this rural atmosphere that makes the site attractive for the kind of retreat experiences the Diocese envisions. Thus any adjacent farm practices will not be adversely affected by the presence of the Diocese and any such farm practices will not adversely impact on the work of the Diocese.

18.24.080 Limitations on nonfarm residential uses.

The county may approve a nonfarm residential dwelling upon a finding that the proposed dwelling:

The CCC defines a dwelling as meaning "one or more rooms in a building designed for occupancy by one family and having not more than one cooking facility." As defined by the County, the Applicant does not propose any additional nonfarm residential dwellings on the property. There is an existing dwelling on the property that will be removed and replaced with the Bishop's Manse. This dwelling was built in 1920 and is therefore a nonconforming use. The house is in serious disrepair. Other buildings that are designed for staff or visitor accommodation will not include cooking facilities.

- (1) *Accepted Farm or Forest Practices. Will not seriously interfere with or force a significant change in accepted farm or forest practices, as defined in ORS 215.203(2)(C), on nearby or adjacent lands devoted to farm or forest use, including but not limited to increasing the costs of accepted farm or forest practices on nearby lands devoted to farm use.***

This application is for a Conditional Use Permit for a nonfarm use in the EFU-3 zone. The proposed Catholic Community Center will not materially alter the stability of the overall land use pattern of the area, as defined in Oregon Revised Statutes 215.203(2)(c), for the following reasons:

According to the data provided by Crook County GIS Service Center, there are 41 parcels within one mile of the subject property that are zoned EFU. Of these, 12 parcels (29%) are smaller than 20 acres and are most likely to be hobby farms rather than income-producing agricultural businesses. In other words, the area is well-settled with residents and has been for some time. It is probable that any changes to farm practices that could potentially result from the presence of year-round residents in the area will have already occurred.

- (2) *Land Use Pattern. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, the county shall consider the cumulative impacts of new nonfarm dwellings on other lots or parcels in the area. If the application involves the creation of a new parcel for the nonfarm dwelling, the***

county shall consider whether creation of the parcel will lead to the creation of other nonfarm parcels, to the detriment of agriculture in the nonfarm parcels, to the detriment of agriculture in the area. To address this standard, the applicant shall:

- (a) *Identify a study area representative of the surrounding agricultural area including adjacent and nearby land zoned for exclusive farm use. Nearby lands zoned for rural residential or other urban or nonresource uses shall not be included;*

At the County's direction, the Applicant considered a study area of approximately one mile radius surrounding the subject property. The Applicant requested and received a summary of properties surrounding the subject parcel. This information, in addition to additional research into soil types and water rights, was used to analyze the potential effects of the proposed Catholic Community Center on existing land use in the area.

- (b) *Identify the types and sizes of all farm and nonfarm uses and the stability of the existing land use pattern within the identified study area; and*

Table 1 summarizes the EFU-3 parcels within the one-mile study area.

Table 1: Study Area Parcel Summary

Tax Map	Size (acre)	Distance from Site
16-14-000000900	4,552.15	0.25 mi NW
16-14-080000101	39.08	1 mi N
16-14-080000200	40.00	1 mi N
16-14-090000700	78.78	1 mi NE
16-14-160000100	303.68	0.2 mi NE
16-14-160000101	94.66	0.5 mi NE
16-14-160000102	19.28	0.17 mi NE
16-14-160000200	23.00	0.22 mi NE
16-14-160000201	3.87	0.5 mi NE
16-14-160000202	9.27	60 feet NE
16-14-160000203	4.80	0.18 mi NE
16-14-160000204	4.80	0.12 mi NE
16-14-160001301	4.68	0.47 mi NE
16-14-170000100	39.10	0.67 mi N
16-14-170000200	119.10	0.45 mi N
16-14-170000300	10.87	0.29 mi NW
16-14-170000301	68.23	80 feet NW
16-14-170000400	75.02	60 feet N
16-14-200000100	37.89	Subject property
16-14-200000200	4.41	Adjacent S
16-14-200000201	43.70	0.2 mi S
16-14-200000202	31.22	Adjacent S
16-14-200000300	38.44	0.46 mi S
16-14-200000400	132.00	Adjacent W
16-14-200000401	38.16	0.22 mi W
16-14-200000402	12.08	0.22 mi SW
16-14-200000403	14.52	0.45 mi SW
16-14-200000404	118.19	0.22 mi SW
16-14-200000600	153.62	0.45 mi W
16-14-210000200	31.88	60 feet E
16-14-210000201	6.63	60 feet E
16-14-210000300	34.85	70 feet SE

Table 1 continued

16-14-210000400	317.00	0.23 mi SE
16-14-210000500	4.25	0.18 mi E
16-14-280000100	222.50	0.94 mi SE
16-14-280000200	14.43	1.1 mi SE
16-14-280000201	64.03	0.67 mi SE
16-14-280000300	37.61	1 mi SE
16-14-290000100	39.26	0.67 mi S
16-14-290000200	157.66	0.67 mi W
16-14-290000300	40.00	1 mi S

- (c) ***Explain how the introduction of the proposed nonfarm dwelling will not materially alter the stability of the land use pattern in the identified study area.***

The applicant's evidence shall be sufficient to enable the county to make findings on these as well as other applicable requirements.

The land use pattern in Crook County as a whole is changing, as the area is one of the fastest growing counties in Oregon. At one time, the area was entirely agricultural (pasture, crops, and dry land grazing). Crook County has recently approved the Brasada Ranch Resort, several miles to the east of the subject property. The Eagle Crest/Brasada Ranch destination resort has agreed to provide funds for property acquisition and reconstruction of the Powell Butte Highway curve located to the north of the subject parcel.

However, in spite of the rapid growth in Central Oregon, the area of the subject property appears to have remained fairly stable. Of the 41 parcels identified in the study area, 28 (68%) have dwellings on them, and nine of these have more than one dwelling. Twenty-one dwellings were constructed in or before 1985, including one property that has two dwellings, both constructed before 1985. One dwelling was constructed between 1985 and 1993. Nine additional dwellings have been constructed since 1993. In other words, the area is well-settled with residents and has been for some time. Any changes to farm practices that could potentially result from the presence of year-round residents will have already occurred.

In comparing the 1995 aerial to the 2005 aerial, it does not appear that land use has changed in the ten years between photographs. Some of the parcels have gone from flood irrigation to pivot irrigation, but there does not appear to be a significant change in the amount of farm land. The area appears to have a fairly stable land use pattern, in spite of the rapid population growth of Central Oregon. Because the proposed use is well-buffered from the surrounding uses, and because there is an existing population of people already living in the area, the proposed use will not limit or alter existing agricultural practices in the area.

(3) *Unsuitability for Agriculture.*

- (a) ***The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm use in conjunction with other land. A lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not***

“generally unsuitable.” A lot or parcel is presumed to be suitable if it is composed predominantly of Class I – VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use.

The subject property has two soil types. It is approximately 49% Ayersbutte gravelly ashy sandy loam, 0-3% slopes and 51% Era ashy sandy loam 0-3% slopes. Properties abutting the subject property have these same soils in addition to other soils. The Ayersbutte soil has a capability subclass of 6s (non-irrigated) and 4s (irrigated). The Era soil has a capability subclass of 6s (non-irrigated) and 3c (irrigated).

The development proposed on the subject property will occur on the Ayersbutte soil. With irrigation this soil has a capability rating of 4s. A class 4s soil has severe limitations restricting the choice of plants and require careful management. The capability subclass of “s” signifies root zone limitations. The Ayersbutte soil has a cemented pan at approximately 26 inches below the surface and rock at the surface that make it unsuitable for mechanical preparation and planting. The soil will support rangeland vegetation.

The higher quality soils (Era ashy sandy loam) are located in the southwestern portion of the site, below the bluff that divides the property, and will be retained in pasture uses.

(b) If the parcel is under forest assessment....

The parcel is not under forest assessment.

(4) Other Conditions Deemed Necessary. Complies with such other conditions as the county considers necessary.

The Applicant is willing to comply with reasonable conditions imposed by the County.

(5) Creation of Lot. The dwelling will be sited on a lot or parcel created before January 1, 1983, or on a lot or parcel created after January 1, 1993, pursuant to CCC 18.24.070(4) or 18.20.070(4).

The parcel was created in 1958 and therefore meets this criteria.

(6) Disqualification from Farm Deferral. Prior to final approval of a building permit for a use governed by this section, the entire lot or parcel upon which the nonfarm dwelling will be located must be disqualified for farm assessments pursuant to ORS 215.236. (Ord. 18 § 3.030(8), 2003)

The Applicant understands and agrees to this condition.

18.24.100 Yards.

In an EFU-3 zone, the minimum yard setback requirements shall be as follows:

(1) In the exclusive farm use zone (EFU) the minimum setback of a residence or habitable structure from a property line shall be 100 feet.

The proposed Bishop’s Manse will be set back more than 100 feet from any property line; the manse will be approximately 300 feet from the eastern property boundary, 150 feet from the southern boundary, 850 feet from the western boundary, and 1100 feet from the northern boundary.

- (a) *If a parcel in the EFU zone is nonbuildable as a result of the habitable structure setback requirements, the commission may consider a conditional use application from the landowner to adjust the setback requirements to make the parcel buildable.*

No set back adjustments are needed or requested.

- (2) *The minimum setbacks for all accessory structures are:*
- (a) *Front yard setbacks shall be 20 feet for property fronting on a local minor collector or marginal access street, 30 feet from a property line fronting on a major collector ROW, and 80 feet from an arterial ROW unless other provisions for combining accesses are provided and approved by the county.*
- (b) *Each side yard shall be a minimum of 20 feet, except on corner lots or parcels where the side yard on the street side shall be a minimum of 30 feet.*
- (c) *Rear yards shall be a minimum of 25 feet. (Ord. 18 § 3.030(10), 2003)*

No accessory building will be closer than 150 feet to the northern boundary (side yard), 400 feet to the western boundary (rear yard), or 150 feet to the eastern boundary (front yard). An existing pole barn out-building, which will be utilized as a support building for the Community Center, is located about 25 feet from the southern property boundary (side yard).

CHAPTER 18.160 CONDITIONAL USES

18.160.020 General criteria.

In judging whether or not a conditional use proposal shall be approved or denied, the commission shall weigh the proposal's appropriateness and desirability or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

- (1) *The proposal will be consistent with the comprehensive plan and the objectives of the zoning ordinance and other applicable policies and regulations of the county.*

As discussed above, the Crook County Comprehensive Plan anticipates that some uses other than farm uses will take place on EFU land. The Crook County Comprehensive Plan provides a framework for land use decisions by setting out the goals and policies of the community so that decisions are consistent with the physical characteristics, goals, and resources of the County. The Comprehensive Plan does not provide applicable approval criteria, but is implemented through the County's Zoning Ordinance, which establishes the applicable approval criteria for specific applications. Chapter 3 of the Crook County Comprehensive Plan, under the section entitled Agriculture, includes the following findings:

- 11. The provisions of ORS 215 also recognize and set forth certain non-farm uses which may be conditionally carried out with little or no conflict with area agricultural uses. Such uses may be established separately or in conjunction with farm use, are primarily commercially, industrially, or recreationally oriented, and in many cases may provide a means for secondary economic benefits to an agricultural enterprise. ORS 215.213.*

This finding in the Comprehensive Plan indicates that Crook County realizes and anticipated that some appropriate nonfarm uses can be established without conflict with agricultural uses.

- (2) ***Taking into account location, size, design and operation characteristics, the proposal will have minimal adverse impact on the (a) livability, (b) value and (c) appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.***

The proposed project layout takes advantage of the site topography to minimize visual impacts on surrounding area through extensive setbacks and buffering. The barn, a prominent and familiar local landmark, will be complemented by adjoining buildings which will echo features traditionally associated with buildings typically found in rural settings.

A Traffic Impact Analysis has been completed by Ferguson & Associates, Inc. for Phase 1 of the Community Center. A full copy of that analysis is submitted with this Burden of Proof. In summary, the analysis showed that the proposed Community Center is forecast to generate 6 (six) evening peak hour trips, 112 Friday mid-day peak hour trips (during the summer only; other seasons will be less), and 197 Saturday evening peak hour trips. Because existing traffic volumes are very small on Alfalfa Road, the increase in trips may be noticeable to the adjacent property owner to the east of the proposed Community Center. However, there are no functional or safety-related traffic problems anticipated from the forecast traffic increase.

All of the intersections in the study area were forecast to meet the Crook County level of service standards for the year 2007 and the year 2012 for conditions, both with and without the proposed project.

The existing access to the property off of Alfalfa Road has a 3-4 foot high wall on either side of the driveway. Since the walls limit both intersection sight distance and stopping sight distance, they will be removed. In addition, the site access will be moved approximately 150 feet south of the existing driveway to improve intersection and stopping sight distance.

- (3) ***The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants.***

The proposed Diocese of Baker Catholic Community Center has been designed to reflect the scale and style of historic farm and ranch buildings of Central Oregon and the Powell Butte area. The Retreat Center will be located in an existing barn that will be renovated and is in character with many similar existing and historic farm structures in the immediate area. The chancery will be one story, reflecting similar farm out-buildings common to the area. The manse will incorporate a variety of gabled roof forms and covered porch areas that recall ranch houses of the early 20th Century. The chapel will include a curved masonry apse that reflects the shape of farm silos common to farms in the region. Other buildings, such as the staff house, bathhouse, and bunk houses will all be modeled on similarly scaled buildings common to regional farm and ranch complexes.

The Applicant plans to try to salvage the siding from the existing house to reuse on one of the proposed buildings. The buildings will use construction materials common to historic farm and ranch buildings in the region, such as board and batten and lapped siding, double hung windows, stepped fascias and composition shingle and metal roofs. Trim elements will be similar to historic farm buildings in the region.

The buildings will be clustered around the central core area, which includes the Retreat Center, chapel, and Chancery. Other buildings will be located more remotely from the central core, both to reflect the precedent of historic farmsteads and to preserve sight lines through the site from surrounding properties.

Large landscaped open areas, sports fields and overall landscape design reflect traditional ranch properties in the region. To the extent possible, existing trees and vegetation at the edge of the bluff at the western edge of the property will be retained to preserve the historic appearance of the site.

(4) The proposal will preserve assets of particular interest to the county.

Objective III(2) of the Crook County Comprehensive Plan is: *"To conserve natural resources constituting important physical, social, aesthetic and economic assets through the development and adoption of realistic land use and development policies intended to achieve an economic-environmental balance, minimize public costs, and maximize energy conservation."*

The proposed project retains significant open space and farmable soils, while at the same time creating an attractive physical development that will attract visitors to the Crook County area. Because the Baker Diocese serves a very large geographic area, visitors from these areas will be coming into Crook County from a considerable distance away, and will likely take advantage of other attractions in the area during their visit. Therefore, the project provides an economic benefit along with preserving the open space and agricultural assets of the County.

(5) The applicant has a bona fide intent and capability to develop and use the land as proposed and has some appropriate purpose for submitting the proposal, and is not motivated solely by such purposes as the alteration of property values for speculative purposes. (Ord. 18 § 6.020, 2003)

The Applicant is the Catholic Diocese of Baker, which has had a long term goal of better serving its large geographic area with a community center and church. The Diocese has invested considerably in the purchase and planning studies of the property. The Diocese has no other intentions or plans for the subject property.

18.160.030 General conditions.

In addition to the standards and conditions set forth in a specific zone, this chapter, and other applicable regulations, in permitting a new conditional use or the alteration of an existing conditional use, the commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the county as a whole. These conditions may include the following:

(1) Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.

The Applicant plans a low intensity use for the site. Outdoor lighting will be limited to that necessary for safety and security. No unusual or excessive noise will be generated.

(2) Establishing a special yard or other open space or lot area or dimension.

The proposal exceeds all setbacks and lot dimension criteria. In addition, approximately half of the property will be retained in open space and pasture.

(3) Limiting the height, size or location of a building or other structure.

The tallest structure proposed would be the church (future phase). The future Phase 2 church and parish hall may be as tall as 45 feet. All other proposed structures will be less than 30 feet in height.

(4) Designating the size, number, location and nature of vehicle access points.

The Applicant is proposing two accesses off of Alfalfa Road to provide circulation and fire safety.

(5) Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.

The Applicant does not propose any street improvements.

(6) Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or loading area.

The proposed parking areas are shown on the site plan. The lots will be graveled and screened with landscaping.

(7) Limiting or otherwise designating the number, size, location, height and lighting of signs.

Any signage will be limited to modest monument signs at the entrances on Alfalfa Road.

(8) Limiting the location and intensity of outdoor lighting and requiring its shielding.

Outdoor lighting will be limited to that necessary for safety and security.

(9) Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.

Extensive landscaping is proposed, as can be seen in the attached plans.

(10) Designating the size, height, location and materials for a fence.

The frontage along Alfalfa Road may be fenced. If so, an appropriate farm or ranch-style fencing will be used, in keeping with the architecture of the project and project area. The Applicant may reuse the existing rail fencing.

(11) Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.

Most of the trees on the site are western junipers located along the bluff that runs diagonally through the site from the southeastern corner to the northwest. The majority of these trees will be retained in place. An existing pond will also be retained.

(12) Other conditions necessary to permit the development of the county in conformity with the intent and purpose of this title and the policies of the comprehensive plan. (Ord. 18 § 6.030, 2003)

The Applicant believes that the proposed Community Center is well planned and will be an overall benefit to the County, meeting the intents and purposes of the CCC and the Crook County Comprehensive Plan.

18.160.050 Standards governing conditional uses.

A conditional use shall comply with the standards of the zones in which it is located and with the standards and conditions set forth in this section.

(4) Church, Hospital, Nursing Home, Convalescent Home, Retirement Home.

(a) Such uses may be authorized as a conditional use only after consideration of the following factors:

(i) Sufficient area provided for the building, required yards and off-street parking (related structures and uses such as a manse, parochial school or parish house are considered separate principal uses and additional lot area shall be required therefore). (emphasis added)

The subject parcel is 37.89 acres, which provides a generous amount of space to situate the proposed uses. Off-street parking requirements for the proposed Phase I uses were calculated as shown on the Site Plan. Ample area remains for parking the Phase II church.

(ii) Location of the site relative to the service area.

The service area for the Baker Diocese includes the counties of Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco and Wheeler, with a total area of 66,825 square miles. The Community Center could potentially be located anywhere within this service area. However, the proposed location is within a 45 minute drive of Bend and Redmond, which constitute the highest density of Diocese members in the service area.

(iii) Probable growth and needs therefore.

The planning for the proposed Community Center anticipates growth in the Diocese and provides for a future church location.

(iv) Site location relative to land uses in the vicinity.

The site is located in an area of farm use. However, the property is removed from adjacent uses by the Powell Butte Highway on the north and Alfalfa Road on the east. In addition, land uses to the west are buffered from the development by the open space and pasture that will be retained. The low intensity of the proposed use is expected to be compatible with surrounding agricultural and hobby farm uses.

(v) Adequacy of access to and from principal streets together with the probable effect on the traffic volumes of abutting and nearby streets.

A Traffic Impact Analysis has been completed by Ferguson & Associates, Inc. for Phase 1 of the Community Center. A full copy of that analysis is submitted with this Burden of Proof. In summary, the analysis showed that the proposed Community Center is forecast to generate 6 (six) evening peak hour trips, 112 Friday mid-day peak hour trips (during the summer only; other seasons will be less), and 197 Saturday evening peak hour trips. Because existing traffic volumes are very small on Alfalfa Road, the increase in trips may be noticeable to the adjacent property owner to the east of the proposed Community Center. However, there are no functional or safety-related traffic problems anticipated from the forecast traffic increase.

All of the intersections in the study area were forecast to meet the Crook County level of service standards for the year 2007 and the year 2012 for conditions, both with and without the proposed project.

The existing access to the property off of Alfalfa Road has a 3-4 foot high wall on either side of the driveway. Since the walls limit both intersection sight distance and stopping sight distance, they will be removed. In addition, the site access will be moved approximately 150 feet south of the existing driveway to improve intersection and stopping sight distance.

- (b) ***Such uses or related buildings shall be at least 30 feet from a side or rear lot line.***

The only structure on the property that is less than 30 feet from a side or rear lot line is an existing pole barn that is approximately 25 feet from the southern side yard.

- (c) ***Such uses may be built to exceed the height limitations of the zone in which it is located to a maximum height of 50 feet if the total floor area of the building does not exceed the area of the site and if the yard dimensions in each case are equal to at least two-thirds of the height of the principal structure.***

The tallest structure proposed would be the church (future phase). The church may be as tall as 45 feet. All other proposed structures will be less than 30 feet in height.



DAVID EVANS
AND ASSOCIATES INC.

April 24, 2007

Bill Zelenka, Planning Director
Crook County Planning Department
300 N.E. Third Street, Room 11
Prineville, OR 97754

**SUBJECT: FLOOD CERTIFICATION – ROMAN CATHOLIC DIOCESE OF BAKER
PROJECT – CROOK COUNTY APN 16-14-20, TAX LOT 100**

Dear Mr. Zelenka:

I have reviewed the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) (#41013C0375 B – Panel 375 of 850) that covers the project site. It indicates Zone A 100-year flood mapping across a portion of the westerly side of the project's 40 acre parcel.

On April 23, 2007, I performed a site visit and discussed the operation of the Central Oregon Irrigation District's Central Oregon Canal with the Central Oregon Irrigation District's water master. I observed the existing dry river channel (at the westerly edge of the property) and the topography of the project parcel (increasing steeply to the east).

The proposed project as shown on the Mater Plan prepared by David Evans and Associates, Inc. (dated 4/20/07) indicates all proposed development and structures being constructed on the "bluff" at the east side of the property. The proposed structures are located outside of the Zone A area shown on the FRIMA FIRM and are a minimum of 15-feet above the adjacent pasture and Zone A area located at the west side of the property.

We certify that this proposed development (as shown on the subject map dated April 23, 2007) is located outside of and significantly above the 100-year flood plain.

Should you have any questions on this matter, please call me.

Sincerely,

DAVID EVANS AND ASSOCIATES, INC.

Kevin L. Crew, P.E.
Senior Associate



Initials: KLCR

Project Number: DKAA00000001

1 Mile Study of 1614200000100

ID	MAPTAXLOT
1	1614000000900
2	1614080000101
3	1614080000200
4	1614090000700
5	1614160000100
6	1614160000101
7	1614160000102
8	1614160000200
9	1614160000201
10	1614160000202
11	1614160000203
12	1614160000204
13	1614160001301
14	1614170000100
15	1614170000200
16	1614170000300
17	1614170000301
18	1614170000400
19	1614200000100
20	1614200000200
21	1614200000201
22	1614200000202
23	1614200000300
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26	1614200000402
27	1614200000403
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32	1614210000300
33	1614210000400
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39	1614290000100
40	1614290000200
41	1614290000300



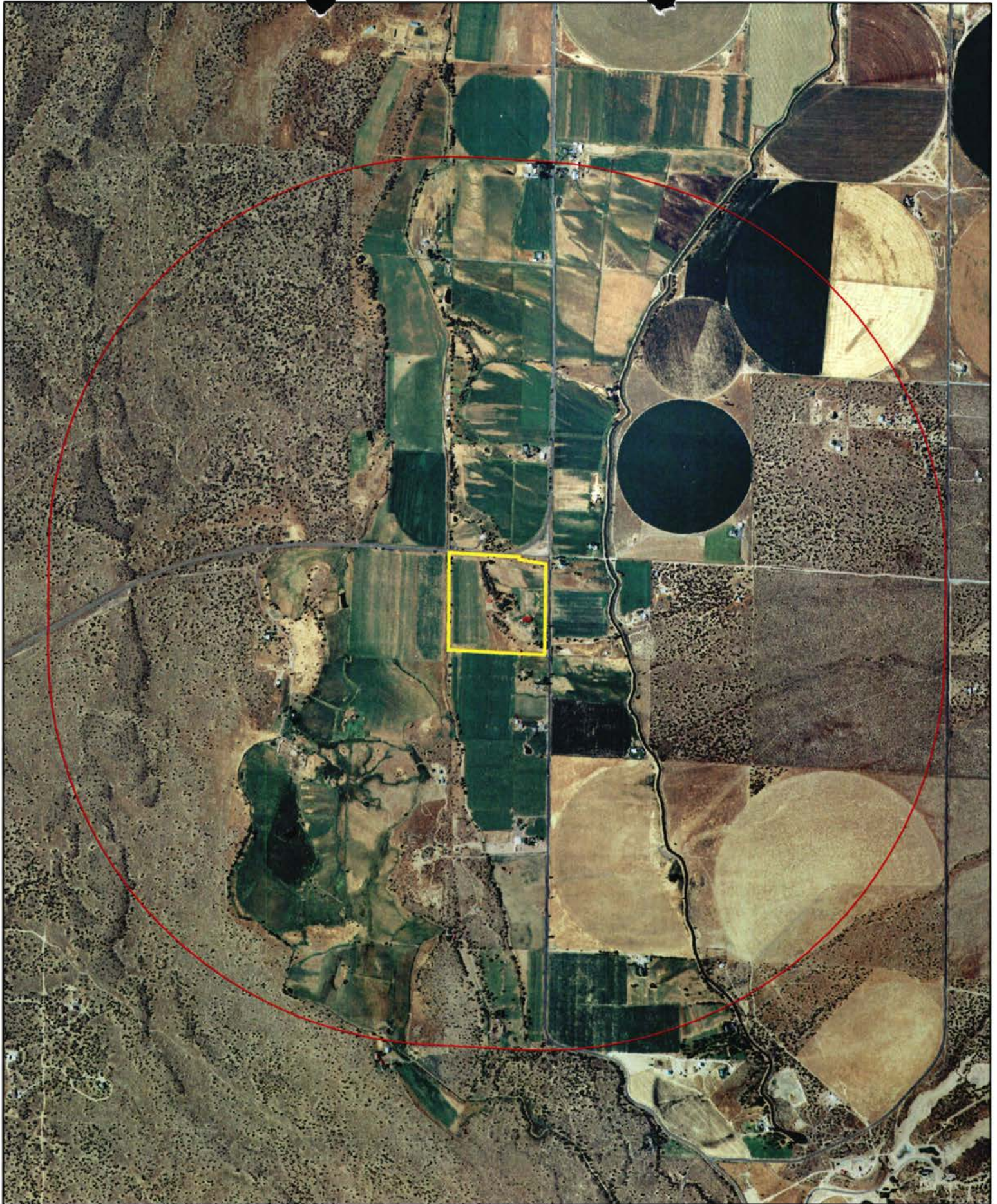
DISCLAIMER:
CROOK COUNTY MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER MATTER. THE COUNTY IS NOT RESPONSIBLE FOR POSSIBLE ERRORS, OMISSIONS, MISUSE, OR MISINTERPRETATION. THE INFORMATION ON THIS MAP IS PREPARED FOR REFERENCE PURPOSES ONLY AND SHOULD NOT BE USED, AND IS NOT INTENDED, FOR SURVEY OR ENGINEERING PURPOSES. NO REPRESENTATION IS MADE CONCERNING THE LEGAL STATUS OF ANY APPARENT ROUTE OF ACCESS IDENTIFIED IN DIGITAL OR HARDCOPY MAPPING OF GEOSPATIAL INFORMATION OR DATA. PLEASE NOTIFY CROOK COUNTY GIS OF ANY ERRORS 541-416-3930.

Legend

- Buffer_1Mile
- Target
- Effected
- DEER RANGE**
- RANGE_TYPE**
- Critical Winter Range
- Winter Range
- ANTELOPE RANGE
- ELK RANGE
- Improved

Exhibit D
Page 20 of 60

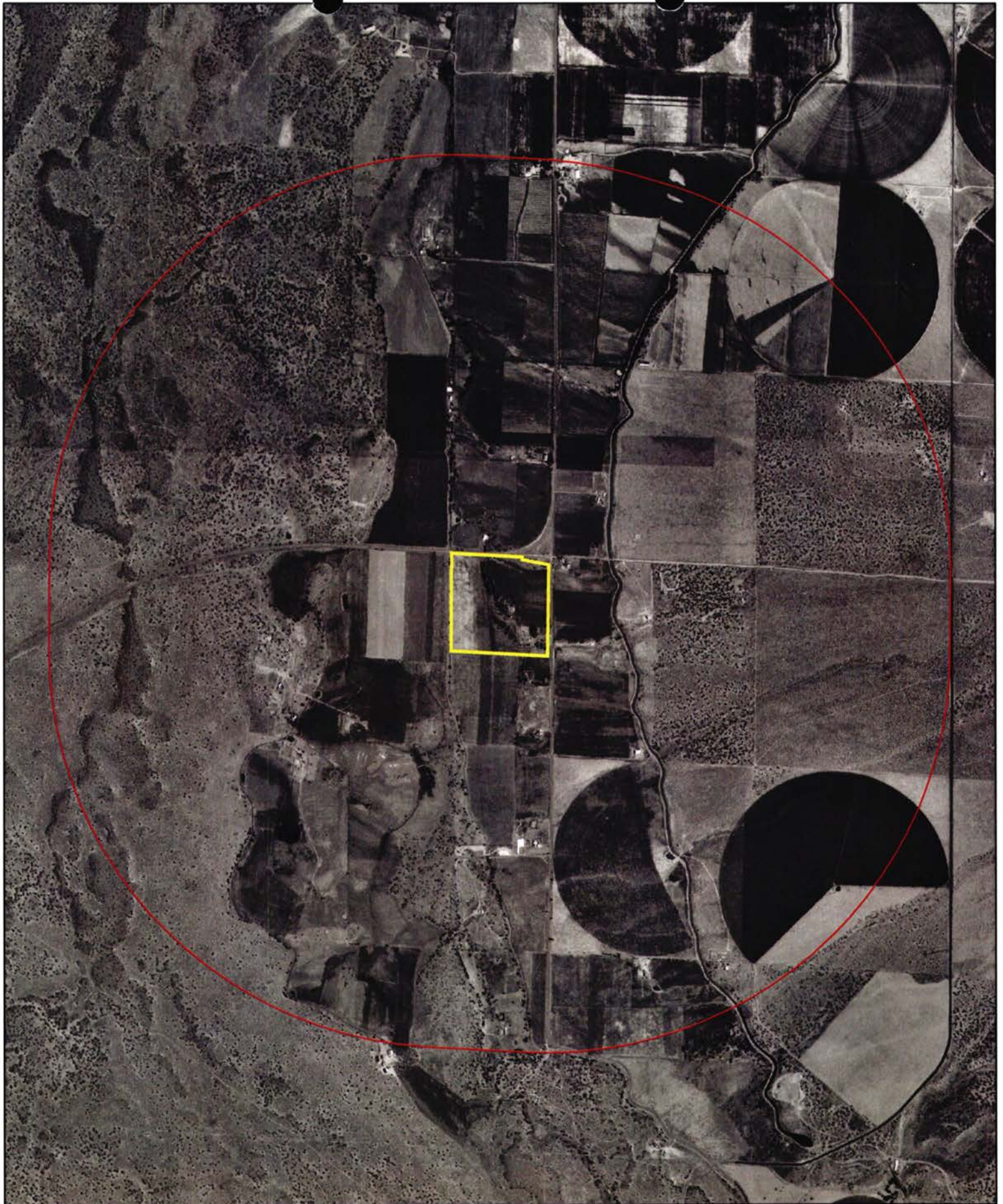




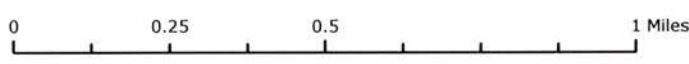
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 **1_MileBuffer**
 **Target**



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 **1_MileBuffer**
 **Target**

Effected lots: basic information

MAPTAXLOT Name	Address	City	State	Acres	Improved	ID
1614000000900	UNITED STATES	PRINEVILLE	OR	4552.15		1
1614080000101	SCHINKEL FAMILY FARMS LLC	POWELL BUTTE	OR	39.08	Y	2
1614080000200	KNUTZ LARRY	POWELL BUTTE	OR	40		3
1614090000700	HOLLAND MICHAEL W	POWELL BUTTE	OR	78.78		4
1614160000100	LUNDQUIST LYNNWOOD	POWELL BUTTE	OR	303.68	Y	5
1614160000101	AUDIA-GORDON DEVELOPMENT LLC	BEND	OR	94.66	Y	6
1614160000102	PROCTOR FREEMAN A	POWELL BUTTE	OR	19.28	Y	7
1614160000200	BOVEE ALAN F	POWELL BUTTE	OR	23	Y	8
1614160000201	BOVEE ALAN F	POWELL BUTTE	OR	3.87		9
1614160000202	TIMMERMAN GARY L REVOCABLE LIV	POWELL BUTTE	OR	9.27	Y	10
1614160000203	MUCK DOUGLAS T SR CO-TRUSTEE	REDMOND	OR	4.8	Y	11
1614160000204	MUCK DOUGLAS T SR CO-TRUSTEE	REDMOND	OR	4.37	Y	12
1614160001301				4.66		13
1614170000100	SCHINKEL FAMILY FARMS LLC	POWELL BUTTE	OR	39.1	Y	14
1614170000200	KNUTZ LARRY	POWELL BUTTE	OR	119.1	Y	15
1614170000300	LIVINGSTON JOHN C TRUSTEE	BEND	OR	10.87		16
1614170000301	KING CHARLES R	POWELL BUTTE	OR	68.23	Y	17
1614170000400	SKIDGEL DAVID W TRUST	POWELL BUTTE	OR	75.02	Y	18
1614200000100	THE ROMAN CATHOLIC BISHOP OF T	BEND	OR	37.89	Y	19

Thursday, April 12, 2007

MAPTAXLOT	Name	Address	City	State	Acres	Improved	ID
1614200000200	DUNAWAY JAMES C	14629 SW ALFALFA RD	POWELL BUTTE	OR	4.41	Y	20
1614200000201	AVILA CLARENCE J	15295 SW ALFALFA RD	POWELL BUTTE	OR	43.7	Y	21
1614200000202	BURGESS TORCHY D	14813 SW ALFALFA RD	POWELL BUTTE	OR	31.22	Y	22
1614200000300	GOODWIN ROBERT	16041 SW ALFALFA RD	POWELL BUTTE	OR	38.44	Y	23
1614200000400	MILLER PATTH L	8055 SE WOLF CREEK RD	PAULINA	OR	132	Y	24
1614200000401	MILLIN GARY R	14221 SW MILLER TRAIL	POWELL BUTTE	OR	40.31	Y	25
1614200000402	PETERSON P THOMAS	PO BOX 166	POWELL BUTTE	OR	12.08	Y	26
1614200000403	BAXTER DON	PO BOX 5683	BEND	OR	14.52	Y	27
1614200000404	MILLIN GARY	14221 SW MILLER TRAIL	POWELL BUTTE	OR	118.19	Y	28
1614200000600	UNITED STATES		PRINEVILLE	OR	153.62		29
1614210000200	MARSHALL CARL A	14112 SW ALFALFA RD	POWELL BUTTE	OR	31.88		30
1614210000201	REED ELLA L	14138 SW ALFALFA RD	POWELL BUTTE	OR	6.63	Y	31
1614210000300	BLACK HORSE SADDLERY	14908 SW ALFALFA RD	POWELL BUTTE	OR	34.85	Y	32
1614210000400	BRASADA RANCH INC	PO BOX 1215	REDMOND	OR	317	Y	33
1614210000500	WENDT GUY ALLEN JR	14908 SW ALFALFA RD	POWELL BUTTE	OR	4.25		34
1614280000100	BRASADA RANCH INC	PO BOX 1215	REDMOND	OR	222.5	Y	35
1614280000200	CLARK DENNIS L	16090 SW ALFALFA RD	POWELL BUTTE	OR	14.43	Y	36
1614280000201	STELLE GARY REVOCABLE LIVING T	PO BOX 38	POWELL BUTTE	OR	64.03	Y	37
1614280000300	UNITED STATES		PRINEVILLE	OR	38.61		38
1614290000100	LUCAS PETER	16065 SW ALFALFA RD	POWELL BUTTE	OR	39.26		39

FORM B

STATEMENT OF UNDERSTANDING

I wish to develop the property described as Township 16 South, Range 14 East WM, Section 20 Tax lot(s) 100 in a way that requires permits from Crook County, including land use approval, a septic site evaluation and/or septic permits, and building and supplemental construction permits.

I understand that State law does not allow Crook County to issue a septic or building permit before the County has determined that the proposed development complies with all County land use regulations.

In addition, in making this request, I understand and agree that:

1. No other permits will be issued until the land use permit has been granted.
2. The land use permit may not be granted if the required approval criteria are not met.
3. If the land use permit is not granted, the other permits applied for will not be issued.
4. If the land use permit is not granted, no refund will be given for any land use, site evaluation, plan review or permit fees already paid.

Print Name: Roman Catholic Bishop of the Diocese of Baker, Inc., Attn: Robert F. Vasa, Bishop

Mailing address: PO Box 5999

City: Bend State: Oregon Zip: 97708

Applicant: Robert F Vasa Date: 4-24-07
(Original Signature)

Property Owner: Robert F Vasa Date: 4-24-07
(Original Signature)



LETTER OF AUTHORIZATION

Let it be known that

Karen Swirsky, AICP

(print name)

Has been retained to act as my authorized agent to perform all acts for development on my property noted below: These acts include: Pre-application conference, filing applications and/or other required documents relative to all "**Land Use**" applications.

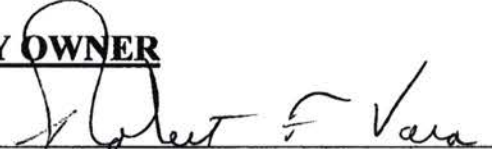
Physical address of property: 14427 SW Alfalfa Road, Powell Butte, OR

And described in the records of CROOK COUNTY as:

Township 16 South, Range 14 East, Section 20 Tax lot 100

The costs of the above actions, which are not satisfied by the agent, are the responsibility of the undersigned property owner.

PROPERTY OWNER

Signature:  Date: 4-24-07

Print Name: Roman Catholic Bishop of the Diocese of Baker, Inc., Attn: Robert F. Vasa, Bishop

Mailing address: PO Box 5999

City: Bend State: Oregon Zip: 97708

AGENT

Signature:  Date: 5/1/07

Print Name: Karen Swirsky, AICP

Mailing address: David Evans and Assoc., Inc., 320 SW Upper Terrace Dr., Ste 200

City: Bend State: Oregon Zip: 97702



LETTER OF AUTHORIZATION

Let it be known that

Karen Swirsky, AICP
(print name)

Has been retained to act as my authorized agent to perform all acts for development on my property noted below: These acts include: Pre-application conference, filing applications and/or other required documents relative to all "**Land Use**" applications.

Physical address of property: 14427 SW Alfalfa Road, Powell Butte, OR
And described in the records of CROOK COUNTY as:

Township 16 South, Range 14 East, Section 20 Tax lot 100

The costs of the above actions, which are not satisfied by the agent, are the responsibility of the undersigned property owner.

PROPERTY OWNER

Signature: *Robert F Vasa* Date: 4-24-07
Print Name: Roman Catholic Bishop of the Diocese of Baker, Inc., Attn: Robert F. Vasa, Bishop
Mailing address: PO Box 5999
City: Bend State: Oregon Zip: 97708

AGENT

Signature: *Karen Swirsky* Date: 5-1-07
Print Name: Karen Swirsky, AICP
Mailing address: David Evans and Assoc., Inc., 320 SW Upper Terrace Dr., Ste 200
City: Bend State: Oregon Zip: 97702

MAPTAXLOT	Name	Address	City	State	Acres	Improved	ID
1614290000200	LUNDY DWAIN C	16073 SW ALFALFA RD	POWELL BUTTE	OR	157.66	Y	40
1614290000300	UNITED STATES		PRINEVILLE	OR	40		41

AREA

<u>AUTO ID</u>	<u>MAPTAXLOT</u>	<u>ACRES IN BUFFER</u>
1	161400000900	436.76
2	161408000101	1.78
3	161408000200	0.3
4	161409000700	0.27
5	161416000100	194.4
6	161416000101	89.49
7	161416000102	17.81
8	161416000200	22.94
9	161416000201	4.04
10	161416000202	8.93
11	161416000203	4.92
12	161416000204	4.37
13	1614160001301	4.66
14	1614170000100	39.11
15	1614170000200	115.46
16	1614170000300	10.19
17	1614170000301	64.37
18	1614170000400	71.95
19	1614200000100	37.3
20	1614200000200	4.46
21	1614200000201	41.84
22	1614200000202	30.95
23	1614200000300	36.84
24	1614200000400	127.3

<u>AUTO ID</u>	<u>MAPTAXLOT</u>	<u>ACRES IN BUFFER</u>
25	1614200000401	40.26
26	1614200000402	12.36
27	1614200000403	14.58
28	1614200000404	119.37
29	1614200000600	151.07
30	1614210000200	30.99
31	1614210000201	6.57
32	1614210000300	33.68
33	1614210000400	255.89
34	1614210000500	5.08
35	1614280000100	3.31
36	1614280000200	5.88
37	1614280000201	55.04
39	1614290000100	38.19
40	1614290000200	78.4
41	1614290000300	0.28

Improvements

MAPTAXLOT	ACCOUNT	YEAR BUILT	EFF YEAR BUILT	TYPE	CONDITION
1614080000101	15188	0	1900	DWELL	AV
1614090000700	15661	0	2000	SHEDGP	AV
1614090000700	15661	0	2000	SHEDGP	AV
1614090000700	15661	1999	1999	MHOME	AV
1614160000100	15933	0	2004	MISC	AV
1614160000100	15933	0	2003	SHEDGP	AV
1614160000100	15933	0	1999	CONCAP	AV
1614160000100	15933	1996	1996	DWELL	AV
1614160000100	15933	1996	1996	ATTGAR	AV
1614160000100	15933	2000	2000	MACHINE	AV
1614160000100	15933	2000	2000	UTLSHED	AV
1614160000100	15933	2001	2001	LEANTO	AV
1614160000100	73204	1995	1995	MHOME	AV
1614160000101	15660	0	1900	MACHINE	AV
1614160000101	15660	1930	1930	DWELL	AV
1614160000102	15934	0	2000	HOTTUB	AV
1614160000102	15934	0	2000	MISC	AV
1614160000102	15934	2000	2000	DWELL	AV
1614160000102	15934	2000	2000	ATTGAR	AV
1614160000102	15934	2000	2000	SHEDGP	AV
1614160000102	15934	2000	2000	SHEDGP	AV
1614160000200	2052	0	1995	MISC	AV
1614160000200	2052	1972	1972	DWELL	AV
1614160000200	2052	1972	1972	ATTGAR	AV
1614160000200	2052	1972	1972	DETGAR	AV
1614160000200	2052	1993	1993	CARPTDE	AV
1614160000202	2054	0	1979	BARBQ	AV
1614160000202	2054	0	1979	HOTTUB	AV

MAPTAXLOT	ACCOUNT	YEAR BUILT	EFF YEAR BUILT	TYPE	CONDITION
1614160000202	2054	0	1979	CONCAP	AV
1614160000202	2054	1975	1975	ATTGAR	AV
1614160000202	2054	1975	1975	DWELL	AV
1614160000202	2054	2000	2000	SHEDGP	AV
1614160000203	2055	2005	2005	FLATBAR	AV
1614160000203	2055	2005	2005	FLATBAR	AV
1614160000204	2056	0	1990	MACHINE	AV
1614160000204	2056	0	1990	DETGAR	AV
1614170000100	15189	0	1930	MACHINE	AV
1614170000100	15189	0	1959	SHEDGP	AV
1614170000100	15189	0	1959	LEANTO	AV
1614170000100	15189	0	1930	MACHINE	AV
1614170000100	15189	0	1930	UTLSHED	AV
1614170000100	15189	1929	1929	DWELL	AV
1614170000100	15189	1929	1929	UTLSHED	AV
1614170000100	15189	1998	1998	ATTGAR	AV
1614170000100	15189	1998	1998	CONCAP	AV
1614170000100	15189	1998	1998	FENCERE	AV
1614170000100	15189	1999	1999	SHEDGP	AV
1614170000100	15189	2002	2002	HAYCOV	AV
1614170000100	73020	1998	1998	MHOME	AV
1614170000200	2059	0	1999	MACHINE	AV
1614170000200	2059	0	1930	UTLSHED	AV
1614170000200	2059	0	1930	SHEDGP	AV
1614170000200	2059	0	1939	FEEDBAR	AV
1614170000200	2059	0	1930	SHEDGP	AV
1614170000200	2059	1971	1971	DWELL	AV
1614170000200	73143	1999	1999	MHOME	AV
1614170000200	73143	2000	2000	UTLSHED	AV
1614170000200	73143	2000	2000	DETGAR	AV

MAPTAXLOT	ACCOUNT	YEAR BUILT	EFF YEAR BUILT	TYPE	CONDITION
1614170000301	2061	0	2004	MISC	AV
1614170000301	2061	0	1969	SHEDGP	AV
1614170000301	2061	1973	1973	DWELL	AV
1614170000301	2061	1988	1988	SHEDGP	AV
1614170000400	2062	0	1989	SHEDGP	AV
1614170000400	2062	0	1999	MACHINE	AV
1614170000400	2062	0	1930	SHED	AV
1614170000400	2062	1978	1985	DWELL	AV
1614170000400	2062	1978	1978	ATTGAR	AV
1614170000400	2062	1997	1997	HAYCOV	AV
1614170000400	2062	2002	2002	LEANTO	AV
1614170000400	70172	1976	1976	MHOME	AV
1614200000100	2063	1920	1920	DWELL	F
1614200000100	2063	2001	2001	LEANTO	AV
1614200000100	2063	2001	2001	LEANTO	AV
1614200000100	2063	2001	2001	FLATBAR	AV
1614200000100	2063	2002	2002	FENCERE	AV
1614200000100	2063	2002	2002	CONCAP	AV
1614200000100	2063	2002	2002	PAV	AV
1614200000100	2063	2002	2002	RETAIN	AV
1614200000100	2063	2002	2002	HAYCOV	AV
1614200000100	2063	2002	2002	CONCAP	AV
1614200000100	2063	2003	2003	SHEDGP	AV
1614200000200	2064	0	1930	UTLSHED	AV
1614200000200	2064	1920	1920	DWELL	AV
1614200000200	2064	2002	2002	LEANTO	AV
1614200000200	2064	2002	2002	UTLSHED	AV
1614200000200	2064	2002	2002	DETGAR	AV
1614200000201	2065	0	1979	ARENA	AV
1614200000201	2065	0	1979	SHEDGP	AV

MAPTAXLOT	ACCOUNT	YEAR BUILT	EFF YEAR BUILT	TYPE	CONDITION
1614200000201	2065	0	1930	UTLSHED	AV
1614200000201	2065	0	1930	UTLSHED	AV
1614200000201	2065	0	2004	MISC	AV
1614200000201	2065	0	1979	HAYCOV	AV
1614200000201	70677	1985	1985	MHOME	AV
1614200000201	71009	1978	1978	MHOME	AV
1614200000202	12884	0	1979	SHEDGP	AV
1614200000202	12884	0	1979	SHEDGP	AV
1614200000202	12884	0	1999	ATTCP	AV
1614200000202	12884	0	1979	MISC	AV
1614200000202	12884	1979	1979	DWELL	AV
1614200000202	12884	1993	1993	ATTGAR	AV
1614200000300	2066	0	1996	SHED	AV
1614200000300	2066	0	1996	MISC	AV
1614200000300	2066	0	1996	LEANTO	AV
1614200000300	2066	0	1996	FEEDBAR	AV
1614200000300	2066	0	1996	MISC	AV
1614200000300	2066	0	1996	MISC	AV
1614200000300	2066	1996	1996	MISC	AV
1614200000300	72139	1984	1984	MHOME	AV
1614200000300	73029	1996	1996	MHOME	AV
1614200000400	2067	0	1920	DWELL	AV
1614200000400	2067	1920	1920	DWELL	AV
1614200000401	14253	1994	1994	DWELL	AV
1614200000401	14253	1994	1994	ATTGAR	AV
1614200000402	16559	2004	2004	SHEDGP	AV
1614200000402	16559	2004	2004	LEANTO	AV
1614200000402	16559	2004	2004	DWELL	AV
1614200000402	16559	2004	2004	ATTGAR	AV
1614200000402	16559	2004	2004	SHEDGP	AV

MAPTAXLOT	ACCOUNT	YEAR BUILT	EFF YEAR BUILT	TYPE	CONDITION
161420000403	16560	2005	2005	MISC	AV
161420000403	16560	2005	2005	MISC	AV
161420000403	16560	2005	2005	DWELL	AV
161420000403	16560	2005	2005	MISC	AV
161420000403	16560	2005	2005	MISC	AV
161420000403	16560	2005	2005	ATTGAR	AV
161420000403	16560	2005	2005	MISC	AV
161420000403	73526	2005	2005	MHOME	AV
161420000404	17317	0	1920	MACHINE	AV
161420000404	17317	0	1939	MISC	AV
161420000404	17317	0	1920	MACHINE	AV
161420000404	17317	0	1970	SHEDGP	AV
161420000404	17317	1920	1920	DWELL	AV
161420000404	70037	1975	1975	MHOME	AV
1614210000200	2072	1994	1994	MHOME	AV
1614210000200	2072	1995	1995	SHEDGP	AV
1614210000200	2072	1995	1995	LEANTO	AV
1614210000201	2073	0	1920	SHEDGP	AV
1614210000201	2073	0	1920	FEEDBAR	AV
1614210000201	2073	0	1920	LEANTO	AV
1614210000201	2073	0	1920	UTLSHED	AV
1614210000201	2073	1920	1920	ATTGAR	AV
1614210000201	2073	1920	1920	DWELL	AV
1614210000300	2074	0	1995	LEANTO	AV
1614210000300	2074	1995	1995	DWELL	AV
1614210000400	2075	0	2004	MISC	AV
1614280000100	14983	0	1930	MACHINE	AV
1614280000100	14983	1944	1944	DWELL	AV
1614280000200	2142	0	1979	CONCAP	AV
1614280000200	2142	0	1979	DETGAR	AV

MAPTAXLOT	ACCOUNT	YEAR BUILT	EFF YEAR BUILT	TYPE	CONDITION
1614280000200	2142	1979	1979	DWELL	AV
1614280000200	2142	2002	2002	ATTCP	AV
1614280000200	2142	2002	2002	SHEDGP	AV
1614280000201	2143	1968	1994	DWELL	AV
1614280000201	2143	1997	1997	SHEDGP	AV
1614290000100	2147	0	1972	SHEDGP	AV
1614290000100	2147	0	2004	MISC	AV
1614290000100	2147	0	1972	MACHINE	AV
1614290000100	2147	1972	1972	MHOME	AV
1614290000200	2148	0	2004	MISC	AV
1614290000200	2148	1989	1989	DWELL	AV
1614290000200	2148	1989	1989	MISC	AV
1614290000200	2148	1989	2004	HOTTUB	AV
1614290000200	2148	1989	1939	CONCAP	AV
1614290000200	2148	1989	1989	SHED	AV
1614290000200	2148	1993	1993	SHEDGP	AV
1614290000200	2148	1995	1995	ATTCP	AV
1614290000200	2148	1995	1995	FEEDBAR	AV
1614290000200	72483	1993	1993	MHOME	AV
1614290000200	72483	1994	1994	CONCAP	AV
1614290000200	72483	1994	1994	MISC	AV

21 homes ^{or} before 1985
 (2 on same prop)
 1 btm 85-93
 13 homes on avg (or 1993)

38 dwellings / m home
 8 w/ more than one
 i.e. dwell + m home

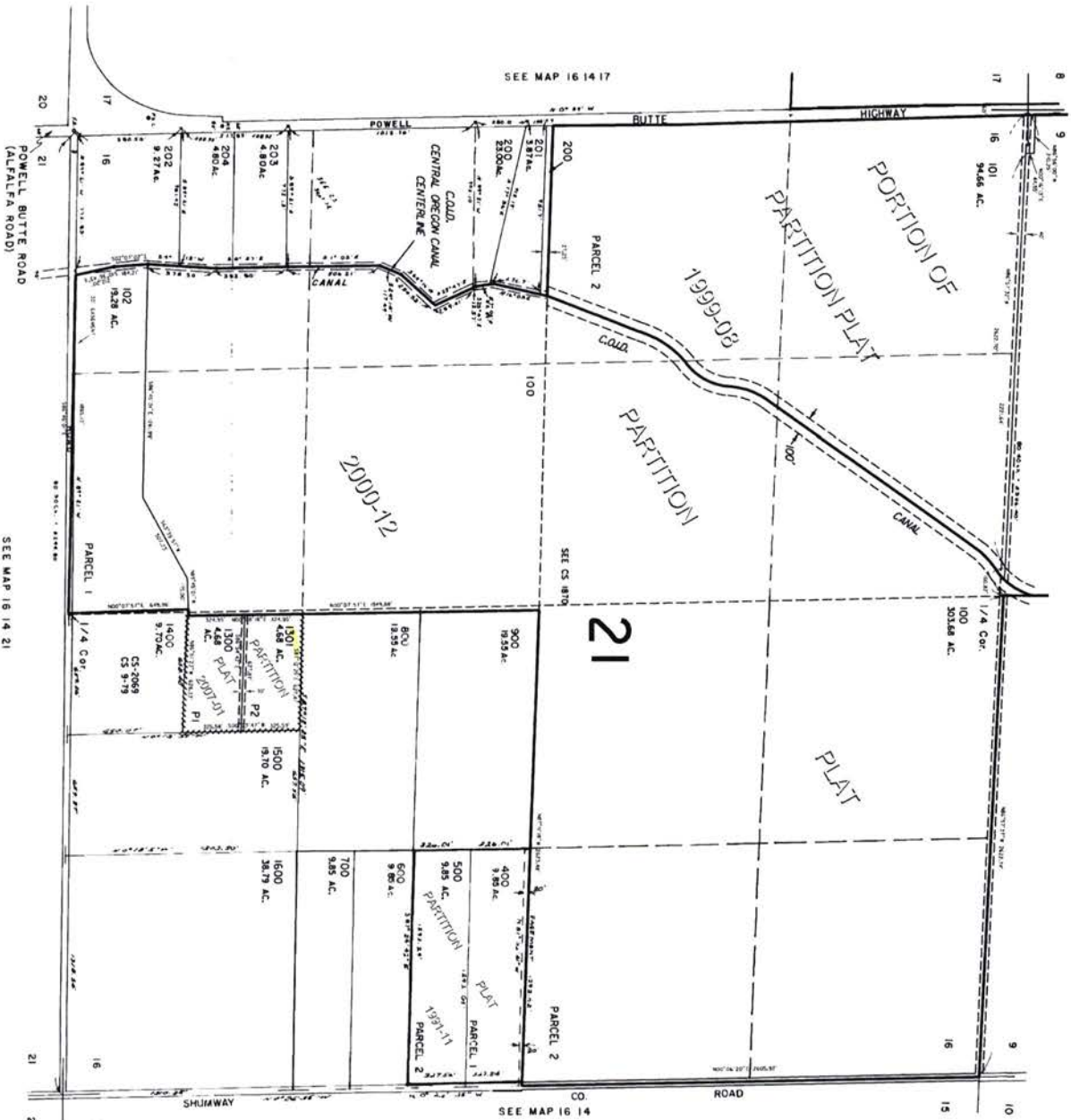
Property Class

<u>MAPTAXLOT</u>	<u>Description</u>	<u>PROP CLASS</u>
161400000900	EXEMPT FED VACANT	970
161408000101	Farm Zone EFU Improved	551
161408000200	Farm Zone EFU Unimp	550
161409000700	Farm EFU Manufactured Struc	559
161416000100	Farm Zone EFU Improved	551
161416000101	Farm Zone EFU Improved	551
161416000102	Res Improved	101
161416000200	Farm Zone EFU Improved	551
161416000201	Farm Zone EFU Unimp	550
161416000202	Farm Zone EFU Improved	551
161416000203	Tract Land Perm FU Disq Imp	471
161416000204	Tract Land Perm FU Disq Imp	471
161417000100	Farm Zone EFU Improved	551
161417000200	Farm Zone EFU Improved	551
161417000300	Farm Zone EFU Unimp	550
161417000301	Farm Zone EFU Improved	551
161417000400	Farm Zone EFU Improved	551
161420000100	EXEMPT CHURCH IMP	911
161420000200	Farm Zone EFU Improved	551
161420000201	Farm Zone EFU Improved	551
161420000202	Farm Zone EFU Improved	551
161420000300	Farm Zone EFU Improved	551
161420000400	Farm Zone EFU Improved	551
161420000401	Farm Zone EFU Improved	551
161420000402	Tract Land Perm FU Disq Imp	471
161420000403	Tract Land Perm FU Disq Imp	471
161420000404	Farm Zone EFU Improved	551
161420000600	EXEMPT FED VACANT	970
1614210000200	Farm EFU Manufactured Struc	559
1614210000201	Farm Zone EFU Improved	551
1614210000300	Farm Zone EFU Improved	551
1614210000400	Farm Zone EFU Improved	551
1614210000500	Farm Zone EFU Unimp	550
1614280000100	Farm Zone EFU Improved	551
1614280000200	Farm Zone EFU Improved	551
1614280000201	Farm Zone EFU Improved	551

MAPTAXLOT	Description	PROP CLASS
1614280000300	EXEMPT FED VACANT	970
1614290000100	Farm EFU Manufactured Struc	559
1614290000200	Farm Zone EFU Improved	551
1614290000300	EXEMPT FED VACANT	970

zones

MAPTAXLOT	Zone
161400000900	EFU3
1614080000101	EFU3
1614080000200	EFU3
1614090000700	EFU3
1614160000100	EFU3
1614160000101	EFU3
1614160000102	EFU3
1614160000200	EFU3
1614160000201	EFU3
1614160000202	EFU3
1614160000203	EFU3
1614160000204	EFU3
1614160001301	R5
1614170000100	EFU3
1614170000200	EFU3
1614170000300	EFU3
1614170000301	EFU3
1614170000400	EFU3
1614200000100	EFU3
1614200000200	EFU3
1614200000201	EFU3
1614200000202	EFU3
1614200000300	EFU3
1614200000400	EFU3
1614200000401	EFU3
1614200000402	EFU3
1614200000403	EFU3
1614200000404	EFU3
1614200000600	EFU3
1614210000200	EFU3
1614210000201	EFU3
1614210000300	EFU3
1614210000400	EFU3
1614210000500	EFU3
1614280000100	EFU3
1614280000200	EFU3
1614280000201	EFU3
1614280000300	EFU3
1614290000100	EFU3
1614290000200	EFU3
1614290000300	EFU3



CRONK COUNTY
1" = 400'

SEE MAP 16 14 9

SEE MAP 16 14 21

CANCELLED NO.
300
1000
1100
1200

Revised
1/24/2007, EB
16 14 16

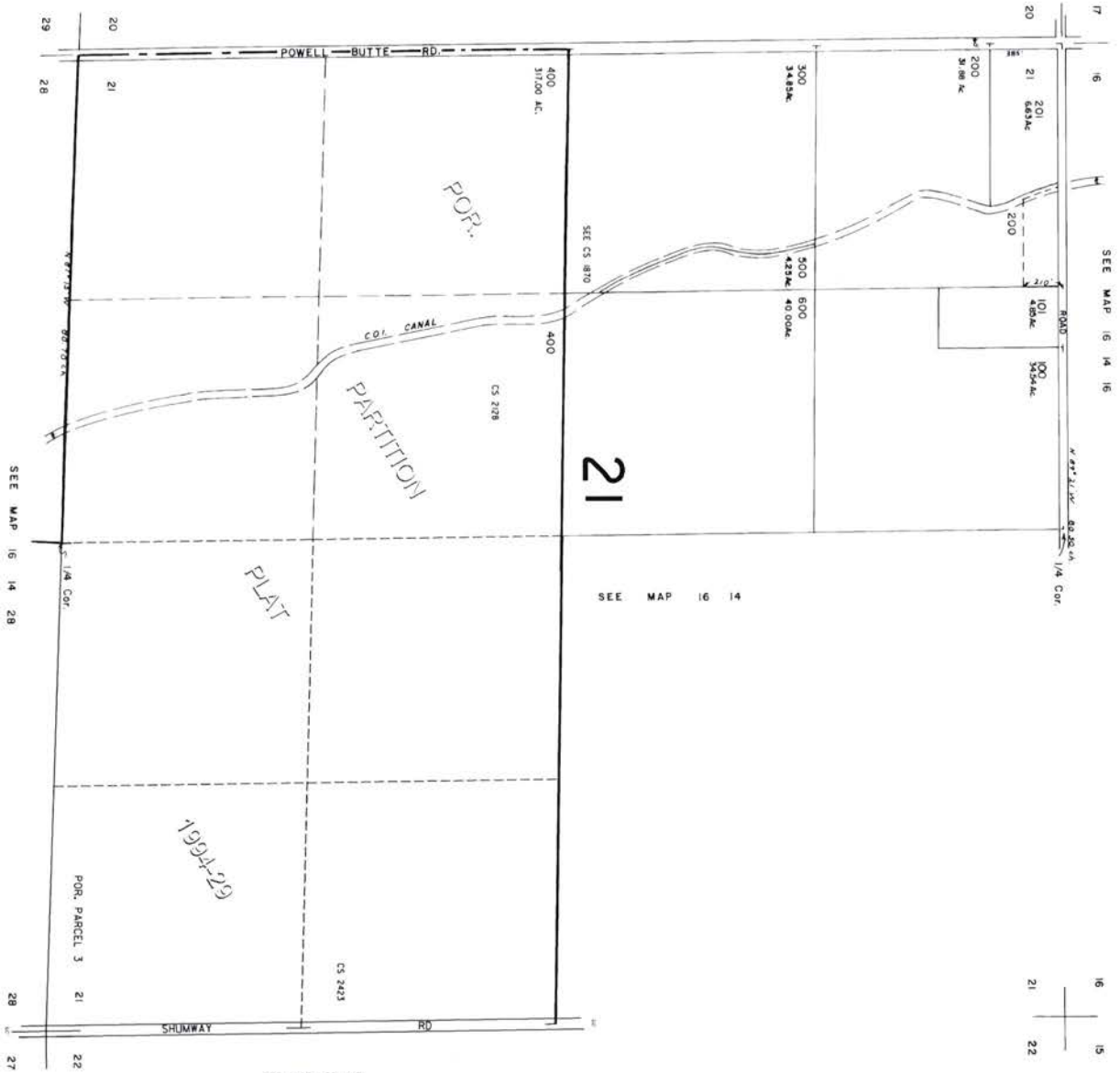
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

SECTION 21 T.16S. R.14E. W.M.
CROOK COUNTY
T. = 400'

16 14 21



SEE MAP 16 14 20



SEE MAP 16 14 16

SEE MAP 16 14

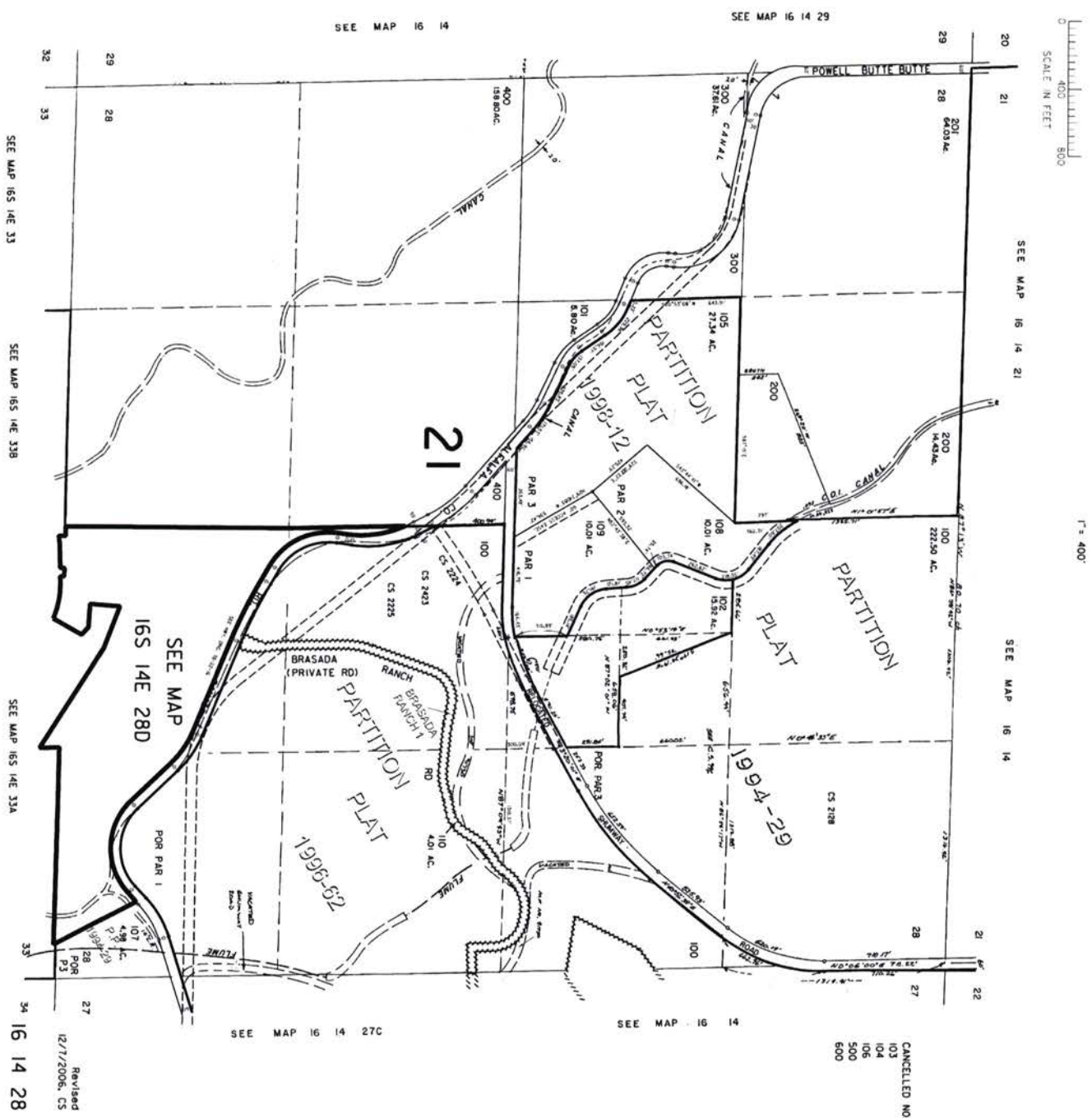
SEE MAP 16 14 28

SEE MAP 16S 14E



CANCELLED NO.
102

Revised
7/7/2006, DBJ
16 14 21



1" = 400'

CANCELLED NO.
 103
 104
 106
 500
 500

Revised
 12/17/2006, CS
 16 14 28



Western Title
153 SW 5th St
Redmond, OR 97756

Attn: Angelique J. White

Date: June 1, 2006
Escrow Number:
Escrow Officer:
Title Number: 0077582
Title Officer: Hope Bridges
Your Reference: 12-0079606

PRELIMINARY TITLE REPORT FOR:

REPORT NO. 1

Property Address:
14427 SW Alfalfa Road
Powell Butte, OR 97753

Policy or Policies to be issued:

OWNER'S STANDARD COVERAGE

Liability	Premium
\$1,175,000.00	\$2,362.50

Proposed Insured: The Roman Catholic Bishop of the Diocese of Baker Inc

We are prepared to issue First American Title Insurance Company of Oregon policies, in the form and amounts above, insuring the title to the land described as follows:

Located in CROOK COUNTY, OREGON:

See EXHIBIT "A" attached hereto

READ AND APPROVED

and dated as of May 16, 2006 at 8:00 A.M., title is vested in:

GARY B. ANDERSEN and JOYCE L. ANDERSEN, husband and wife

The estate or interest in the land described or referred to in this Commitment and covered herein is:

FEE SIMPLE

Schedule B of the policy(ies) to be issued will contain the following general and special exceptions unless removed prior to issuance:

GENERAL EXCEPTIONS:

1. *Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.*
2. *Facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.*
3. *Easements, or claims of easement, not shown by the public records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.*
4. *Discrepancies, conflicts in boundary lines, shortage in area, encroachments or other facts which a correct survey would disclose.*
5. *Any lien, or right to a lien, for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the public records.*
6. *Unpatented mining claims whether or not shown by the public records.*

SPECIAL EXCEPTIONS:

7. As disclosed by the tax roll, the premises herein described have been zoned or classified for farm use. At any time that said land is disqualified for such use, the property will be subject to additional taxes or penalties and interest.
8. Reservations contained in Patents from the United States of America and in Deeds from the State of Oregon.
9. Any liens and assessments that may result from the herein described property being within the boundaries of the Central Oregon Irrigation District. (541) 548-4306
Central Oregon Irrigation Search Fee - \$25.00
10. Existing rights of way for roads, highways, irrigation ditches, canals and pole lines.

11. Deed of Trust, subject to the terms and provisions thereof, given to secure an indebtedness with interest thereon:

Dated: July 23, 2002
 Recorded: July 29, 2002
 Microfilm No.: 172708 (Records of Crook County, Oregon)
 Amount: \$275,000.00
 Grantor: Gary B. Andersen and Joyce L. Andersen
 Trustee: AmeriTitle
 Beneficiary: Washington Mutual Bank, a Washington corporation

12. A Line of Credit Deed of Trust, subject to the terms and provisions thereof, given to secure an indebtedness with interest thereon:

Dated: May 29, 2003
Recorded: June 2, 2003
Microfilm No.: 180594 (Records of Crook County, Oregon)
Amount: \$225,000.00
Grantor: Gary B. Andersen and Joyce L. Andersen, husband and wife
Trustee: AmeriTitle
Beneficiary: Bank of the Cascades

A Modification, subject to the terms and provisions thereof:

Recorded: July 12, 2004
Microfilm No.: 191919 (Records of Crook County, Oregon)

13. This Preliminary Report for title insurance, due to the nature of the transaction, is subject to amendment or modification by the Regional Underwriter for First American Title Insurance Company of Oregon. No final policy of title insurance will be issued until written authorization is received. Any directed changes or additions will be disclosed by a Supplemental Report.

End of Exceptions

NOTE: The following deed(s) affecting said land were recorded within Twenty-four (24) months of the date of this report: NONE. The current vesting has remained unchanged throughout this period.

NOTE: Per the Corporation Division of the State of Oregon the following is provided for informational purposes:

The Roman Catholic Bishop of the Diocese of Baker, Inc. is a Registered Non-Profit Organization filed August 26, 1903.
The Registered Agent is Robert F. Vasa
President is Robert F. Vasa
Secretary is Matthew M. Crotty

NOTE: Taxes for fiscal year 2005-2006 are paid in full as follows:

Code No.: 1
Map No.: 1614-20
Tax Lot: 100
Reference No.: 2063
Amount: \$3272.17

NOTE: We found no judgments from our search on The Roman Catholic Bishop of the Diocese of Baker, Inc.

This report is for the exclusive use of the parties herein shown and is preliminary to the issuance of a title insurance policy and shall become void unless a policy is issued and the full premium paid.

NOTE: Any map or sketch enclosed as an attachment herewith is furnished for information purposes only to assist in property location with reference to streets and other parcels. No representation is made as to accuracy and the company assumes no liability for any loss occurring by reason of reliance thereon.

AmeriTitle

Hope Bridges

By: Hope Bridges
Title Officer

hb:tj

END

"Superior Service with Commitment and Respect for Customers and Employees"

EXHIBIT A

Located in CROOK COUNTY, OREGON:

The Northeast quarter of the Northeast quarter (NE¼NE¼) of Section 20 in Township 16 South, Range 14 East of the Willamette Meridian.

LESS the following described tract: Beginning at a point which is 28.93 feet South and 19.83 feet West of the Northeast corner of said Section 20, thence South 0°20' East 200 feet, thence North 77°35' West 498.84 feet, thence North 03°14' East 120 feet, thence South 86°46' East 480 feet to the point of beginning.

A parcel of land lying in the Northeast quarter of the Northeast quarter (NE¼NE¼) of Section 20 in Township 16 South, Range 14 East of the Willamette Meridian, Crook County, Oregon, and being a portion of the following described property: That tract of land which was conveyed by that certain deed to State of Oregon, by and through its State Highway Commission, recorded in Book 66, page 361 of Crook County Record of Dceds. The said parcel being described as follows: Beginning on the East line of said property at a point which is 88.93 feet South and 19.48 feet West of the Northeast corner of said Section 20; thence along the boundary lines of said State property as follows: South 00°20' East 140 feet; North 77°35' West 498.84 feet; North 03°14' East 120 feet and South 86°46' East 130 feet; thence at right angles to the North line of said State property South 03°14' West 20 feet; thence South 80°20' East 355.97 feet to the point of beginning.



First American Title Insurance Company of Oregon SCHEDULE OF EXCLUSIONS FROM COVERAGE

ALTA LOAN POLICY (10/17/92)

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy); or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
 - (ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
 - (iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (a) to timely record the instrument of transfer; or
 - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

ALTA OWNER'S POLICY (10/17/92)

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
 - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (a) to timely record the instrument of transfer; or
 - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

SCHEDULE OF STANDARD EXCEPTIONS

The ALTA standard policy form will contain in Schedule B the following standard exceptions to coverage:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, encumbrances, or claims thereof, not shown by the public records, unpatented mining claims, reservations or exceptions in patents or in acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
5. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose.

NOTE: A SPECIMEN COPY OF THE POLICY FORM (OR FORMS) WILL BE FURNISHED UPON REQUEST.



Knights of Columbus
1 Columbus Plaza
New Haven, CT 06510

Date: October 26, 2006
Escrow Number: CT79419
Escrow Officer: Kellie Cobb
Title Number: 0079419
Title Officer: Deborah Rauscher

PRELIMINARY TITLE REPORT FOR:

14427 SW Alfalfa Road
Powell Butte OR 97753

REPORT NO. 1

Policy or Policies to be issued:

ALTA RESIDENTIAL EXTENDED (LENDER ONLY)
ALTA 9, 8.1 and 116 INDORSEMENTS
SURVEY ELIMINATION

<u>Liability</u>	<u>Premium</u>
\$825,000.00	\$1,929.38 (ST)
	\$100.00
	\$50.00

We are prepared to issue ALTA (10/17/92) title insurance policy(ies) of **First American Title Insurance Company of Oregon**, in the usual form and amounts above, insuring the title to the land described as follows:

Located in CROOK COUNTY, OREGON:

See EXHIBIT "A" attached hereto

and dated as of October 17, 2006 at 8:00 A.M., title is vested in:

THE ROMAN CATHOLIC BISHOP of the DIOCESE of BAKER, INC.

The estate or interest in the land described or referred to in this Commitment and covered herein is:

FEE SIMPLE

Schedule B of the policy(ies) to be issued will contain the following general and special exceptions unless removed prior to issuance:

GENERAL EXCEPTIONS:

1. *Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.*
2. *Facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.*
3. *Easements, or claims of easement, not shown by the public records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.*
4. *Discrepancies, conflicts in boundary lines, shortage in area, encroachments or other facts which a correct survey would disclose.*
5. *Any lien, or right to a lien, for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the public records.*
6. *Unpatented mining claims whether or not shown by the public records.*

SPECIAL EXCEPTIONS:

7. Taxes, including the current fiscal year, not assessed because of Church exemption. If the exempt status is terminated under the Statutes prior to the date on which the assessment roll become the tax roll in the year in which said taxes were assessed, the manner in which property is assessed may change with change in ownership.
8. Reservations contained in Patents from the United States of America and in Deeds from the State of Oregon.
9. Any liens and assessments that may result from the herein described property being within the boundaries of the Central Oregon Irrigation District.
10. Existing rights of way for roads, highways, irrigation ditches, canals and pole lines.
11. Any right, interest or claim which may exist or arise by reason of the following facts disclosed by an inspection of said land.
 - a. The fact that a brick/ rock wall may be encroaching onto Alfalfa Road.
12. Parties in possession or claim the right to possession other than the vestee herein and that there are no existing leases or tenancies.
13. Statutory liens for labor or material, including liens for contributions due to the State of Oregon for unemployment compensation and for workers' compensation, which have now gained or hereafter may gain priority over the lien of the insured mortgage, which liens do not now appear of record.

NOTE: The above exceptions 12 & 13 will be deleted with the proper AmeriTitle affidavits. If this loan is new construction, please contact your title officer.

End of Exceptions

NOTE: The following deed affecting said land were recorded within Twenty-four (24) months of the date of this report:

Grantor:	Gary B. Andersen and Joyce L. Andersen, husband and wife
Grantee:	The Roman Catholic Bishop of the Diocese of Baker, Inc.
Recorded:	June 22, 2006
Microfilm No.:	2006-212322 (Records of Crook County, Oregon)

NOTE: We found no judgments from our search on The Roman Catholic Bishop of the Diocese of Baker, Inc.

This report is for the exclusive use of the parties herein shown and is preliminary to the issuance of a title insurance policy and shall become void unless a policy is issued and the full premium paid.

AmeriTitle

By: 
 Deborah Rauscher
 Title Officer

dr:kb

cc: The Roman Catholic Bishop of the Diocese of Baker Inc
 PO Box 5999
 Bend, OR 97708

END

"Superior Service with Commitment and Respect for Customers and Employees"

EXHIBIT "A"

Located in CROOK COUNTY, OREGON:

The Northeast quarter of the Northeast quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 20 in Township 16 South, Range 14 East of the Willamette Meridian.

LESS the following described tract: Beginning at a point which is 28.93 feet South and 19.83 feet West of the Northeast corner of said Section 20, thence South 0°20' East 200 feet, thence North 77°35' West 498.84 feet, thence North 03°14' East 120 feet, thence South 86°46' East 480 feet to the point of beginning.

A parcel of land lying in the Northeast quarter of the Northeast quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 20 in Township 16 South, Range 14 East of the Willamette Meridian, Crook County, Oregon, and being a portion of the following described property: That tract of land which was conveyed by that certain deed to State of Oregon, by and through its State Highway Commission, recorded in Book 66, page 361 of Crook County Record of Deeds. The said parcel being described as follows: Beginning on the East line of said property at a point which is 88.93 feet South and 19.48 feet West of the Northeast corner of said Section 20; thence along the boundary lines of said State property as follows: South 00°20' East 140 feet; North 77°35' West 498.84 feet; North 03°14' East 120 feet and South 86°46' East 130 feet; thence at right angles to the North line of said State property South 03°14' West 20 feet; thence South 80°20' East 355.97 feet to the point of beginning.

**AFFIDAVIT AND INDEMNITY CONSTRUCTION
(Existing Construction)**

Escrow No. _____

WHEREAS the undersigned Affiant (if more than one, herein collectively called the Affiant) is the owner of the land (the Land) described in that certain Commitment for Title Insurance issued by ~~AMERITITLE AND FIRST AMERICAN (the Company) under NO. _____ (the Commitment), for an ALTA Owner's and/or Loan Policy of title insurance (the Policy or Policies),~~

AND WHEREAS, the Proposed Insured(s) under said Commitment is/are requesting the Company to issue its Policy or Policies with Extended Coverage, and to delete therefrom the General Exceptions for rights or claims of parties in possession and unrecorded lien rights,

AND WHEREAS the Affiant acknowledges that the Company would refrain from issuing said Policy or Policies without showing said General Exceptions in the absence of the representations, agreements and undertakings contained herein.

Nothing contained herein shall be construed so as to obligate the Company to issue said Policy or Policies without showing said General Exceptions. However, should the Company do so, it may do so in part in reliance upon the undertakings of the undersigned Affiant and the issuance of the Policy or Policies shall be the consideration for the undertakings contained herein.

NOW THEREFORE the Affiant, being first duly sworn, deposes and says that

1. Said Land has been owned and/or occupied by the Affiant for _____ years and the Affiant's enjoyment thereof has been peaceable and undisturbed.
2. There are no oral or written leases, tenancies or other occupancies, nor any rights of first refusal or options to purchase said land, except (attach list, if necessary, and attached copies of any written agreements; if none, state "NONE"):
3. There are no contracts for the making of repairs or for new construction on said Land, nor are there any unpaid bills or claims for labor or services performed or material furnished or delivered during the last twelve (12) months for alterations, repair work or new construction on said Land, including site preparation, soil tests, site surveys, demolition, etc., except (if none, state "NONE"):

The Affiant hereby agrees (1) to indemnify, protect, defend and save harmless the Company from and against any and all loss, costs, damages, and attorney's fees it may suffer, expend or incur under or by reason, or in consequence of or growing out of any such matters not identified herein, and (2) to defend at the Affiant's own costs and charges in behalf of and for the protection of the Company and of any parties insured or who may be insured against loss by it under said Policy or Policies (but without prejudice to the right of the Company to defend at the expense of the Affiant if it so elects) any and every suit, action or proceeding in which any such matters may be asserted or attempted to be asserted, established or enforced with respect to said land.

IN WITNESS HEREOF, the undersigned has/have executed this agreement this _____ day of _____,

Dated: _____

SIGNED: _____

SIGNED: _____

State of _____ County of _____

This instrument was acknowledged before me on _____ by _____

(Notary Public for _____)

SURVEY AFFIDAVIT

Property described in Preliminary Title Report # _____

The undersigned, as ~~Owner~~ of the described property, hereby warrants that I/we are not aware of any survey problems such as an encroachment of fences, driveways or other improvements from adjoining property onto the above property.

The undersigned further represent that they are not aware of any boundary disputes with owners of adjoining property.

The undersigned further represent that they have no knowledge of any recorded easements or rights of interests by others to the above property nor are they aware of any encroachment of improvements onto easements affecting this property.

If there are any exceptions to the above, please itemize. If there are no exceptions, please so indicate:

It is understood that this Affidavit is being executed to induce AMERITITLE to provide survey coverage to the proposed lender and that if survey problems arise which would have been known to the undersigned, AMERITITLE may pursue all legal remedies available to AMERITITLE against the parties signing this Affidavit to recover any losses sustained by AMERITITLE by reason of the deletion of the survey exception on the aforesaid Mortgagee's Policy of Title Insurance.

State of _____
County of _____

This instrument was acknowledged before me on _____

(Notary Public for _____)

My commission expires _____

OFFICIAL RECORD OF DESCRIPTIONS OF REAL PROPERTIES
OFFICE OF COUNTY ASSESSOR CROOK COUNTY, OREGON

16-14-20 100

CODE NO. 1

MAP NO. 20 16 14	TAX LOT NO. 1	SECTION 20	TOWNSHIP 16 S.	RANGE 14	E.W.M.	AERIAL PHOTO
ACCOUNT NUMBER		ADDITION		CITY		
LOT NO.	BLOCK NO.					

INDENT EACH NEW COURSE TO THIS POINT

2063

LEGAL DESCRIPTION

EFU 3

DATE OF ENTRY	DEED RECORD		ACRES REMAINING
	VOLUME	PAGE	
1-1-58	70	491	40.00
	74	158	
			37.89
9/21/81			
DC 05-08-96	MF#127218		
WD 05-08-96	MF#127219		
WD 052199	MF148682		
BS 8-02-02	MF172707		
well 12-04-03	MF185994		
WD 6/22/06	MF212322		

NE 1/4 NE 1/4

Whitsett, Lyle & Wilma M.

Less Road

Code changed to 11

V#4326

Whitsett, Lyle

O'Neil, Tim

ANDERSEN, GARY & JENSEN, JOY

Andersen, Gary B. & Joyce L. etux

The Roman Catholic Bishop of the Diocese of Baker, Inc.

63365

Control No

155.00

Fee

STATE OF OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

PERMIT NO 07R-44-00

New Construction

Repair major

Other

Permit Issued To Gary and Joy Jensen Andersen 16

(Property Owner's Name)

(Township)

14

(Range)

20

(Section)

100

(Tax Lot / Acct No)

Crack

(County)

14427 SW Alpa Rd

(Road Location)

(City)

ON-SITE SEWAGE DISPOSAL SYSTEM

(Issued by - Signature)

10/30/00

(Date Issued)

RUSSELL F. HANSON, R.S.

PERMITS ARE NOT TRANSFERABLE

ALL WORK TO CONFORM TO OREGON ADMINISTRATIVE RULES, CHAPTER 340 WORK SHALL BE DONE BY PROPERTY OWNER OR BY LICENSED SEWAGE DISPOSAL SERVICE (MAKE NO CHANGES IN LOCATION OR SPECIFICATIONS WITHOUT WRITTEN APPROVAL)

SPECIFICATIONS

EXPIRATION DATE 10/30/01

TYPE OF SYSTEM STD Serial

Tank Volume 1,500 5 bedroom 1000 4 Bedroom Gallons

Design Sewage Flow 450/525 Gallons/Day

Disposal Trenches Seepage Bed(s) Square Feet

Maximum Depth 28 inches Minimum Depth 24 inches 300/350 Linear Feet

Equal Loop Serial Pressurized Minimum Distance Between Trenches 8ft of soil

Total Rock Depth 12 inches Below Pipe 6 inches Above Pipe 2 inches Rake Sidewall

Special Conditions (Follow Attached Plot Plan) Cover top gravel w/ filter fabric

PRE-COVER INSPECTION REQUIRED - CONTACT 447-8155

CERTIFICATE OF SATISFACTORY COMPLETION

As-Built Drawing with Reference Locations

Installer B+M Exca

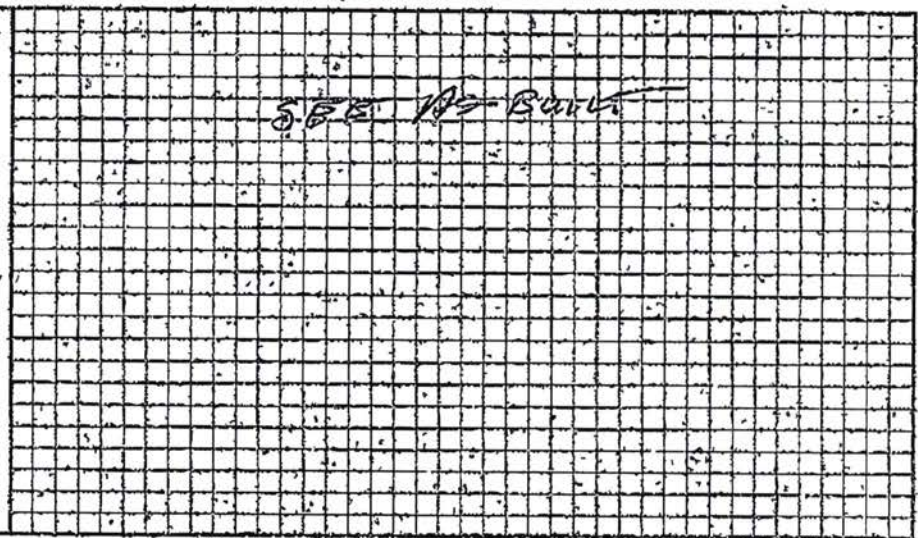
SEE AS-BUILT

Final Insp Date 12-22-00

Inspected By RF Hanson

Issued by Operation of Law

Pre-cover inspection waived pursuant to OAR 340, Division 71



In accordance with Oregon Revised Statute 454.665, this Certificate is issued as evidence of satisfactory completion of an on-site sewage disposal system at the location identified above

Issuance of this Certificate does not constitute a warranty or guarantee that this on-site disposal system will function indefinitely without failure

(Authorized Signature) [Signature]

(Title) Superintendent

(Date) 12/22/00

(Office) [Signature]

DEC-22-00 08:48 AM

IND. M. EXCAVATING

541 47 8888

P. 02

FINAL INSPECTION REQUEST AND NOTICE

(Date Received)

Pursuant to the requirements within ORS 454.665, OAR 340-71-170 and OAR 340-71-175, the system installer and/or the permittee must notify the Department of Environmental Quality (or its authorized Agent) when the construction, alteration or repair of a system for which a permit was issued is completed (except for the backfilling or covering of the installation). The Department (or Agent) has 7 days to perform an inspection of the completed construction after the official notice date, unless the Department (or Agent) elects to waive the inspection and authorizes the system to be backfilled earlier. Receipt and acceptance of this completed form by the Department (or Agent) establishes the official notice date of your request for the pre-cover inspection. Please complete all four sections of the form and return it to the office that issued the permit. Forms that are determined to be incomplete will be returned.

SECTION 1:

MATERIALS LIST

Owner's Name Anderson Permit Number 07R-14-00
Township 16 Range 14 Section 20 Tax Lot 100

SECTION 2:

- | QUANTITY/SIZE | TYPE/MANUFACTURER |
|---|-------------------|
| <u>1</u> Septic Tank | <u>Precast</u> |
| <u>2</u> Septic tank riser | <u>ORPUCO</u> |
| <input checked="" type="checkbox"/> <u>0</u> Distribution box | |
| <u>3</u> Drop Box(es) | |
| <input checked="" type="checkbox"/> <u>0</u> 3" or 4" perforated drainfield pipe (lineal footage) | |
| <u>4</u> 3" or 4" solid header pipe | |
| <u>3034</u> or ABS schedule 40 <u>185'</u> | |
| <input checked="" type="checkbox"/> <u>0</u> Filter fabric | |
| <u>1</u> 4" Rubber couplers | |
| <input checked="" type="checkbox"/> <u>0</u> 4" Drainfield pipe tees | |
| <input checked="" type="checkbox"/> <u>0</u> Clean out tees | |
| <u>1</u> 4" 90° elbows | |
| <u>3</u> 4" 45° elbows | |
| <input checked="" type="checkbox"/> <u>0</u> 4" Plugs | |
| <input checked="" type="checkbox"/> <u>0</u> 4" 22.5 elbows | |
| <input checked="" type="checkbox"/> <u>0</u> 4" caps | |
| <input checked="" type="checkbox"/> <u>0</u> Drain rock | |

Other Notes: Septic tank

Received Time Dec. 22. 8:38AM

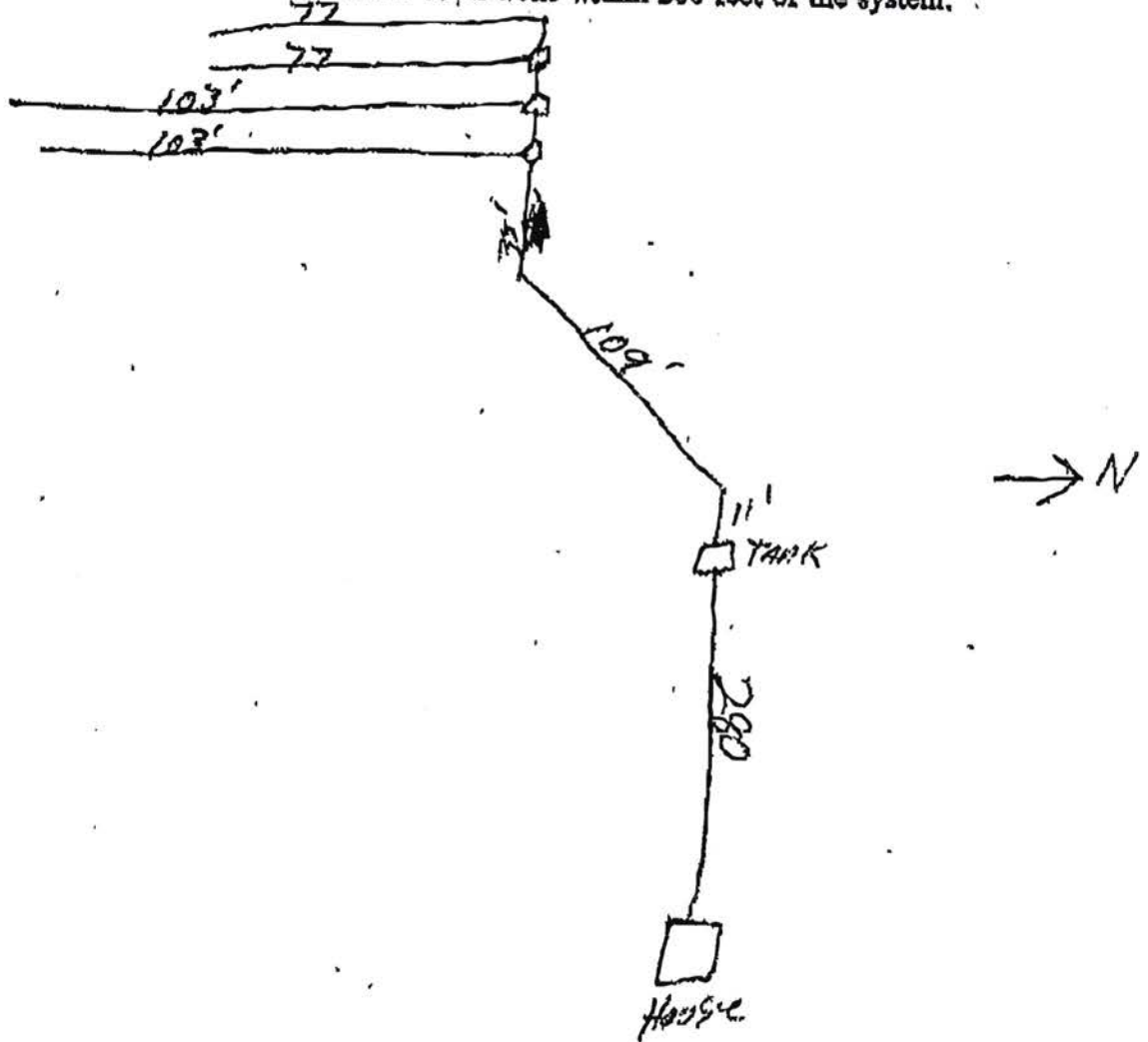
Property Owner Anderson

Permit Number 072-4400

County Crook

SECTION 3:

AS-BUILT PLAN OF THE CONSTRUCTED SYSTEM. Indicate the direction of NORTH and show the locations of all wells within 200 feet of the system.



SECTION 4:

CONSTRUCTION WAS PERFORMED BY:

Property Owner (Permittee)

Sewage Disposal Service Business: B&M Excavating LLC

(Print Full Business Name)

119498
(License Number)

I certify the information provided in this notice is correct, and that the construction of this system was in accordance with the permit and the rules regulating the construction of on-site sewage disposal systems (OAR Chapter 340, Divisions 71 and 73).

[Signature]

(System-Installer's Signature)

Owner

(Title)

12-22-00
(Date)

Received Time Dec. 22, 8:38AM

SEPTIC TANK

CERTIFICATION OF WATERTIGHTNESS

Installer Name B.M. Excavating PHONE# 417-1301
Permit Number 07R-44-00

Location of septic tank: Twp. 16 S, Rge. 14 E., Sec. 20 Tax Lot 100

Date of Water Test: 12-21-00 19

I hereby certify that I conducted a water test on the septic tank located at the above referenced property and found that the tank meets watertightness requirements as described in OAR 340-73-025.

[Signature]
Signature

****Watertightness Test:** Fill tank to a point at least two (2) inches above the point of riser connection to the top of the tank. During the test, there shall be no more than a one (1) gallon leakage over a 24 hour period. (Approximately 2 inch drop in water level)

**** IMPORTANT:** Contact tank manufacturer for amount of backfill required around tank to prevent damage during water test.

Received Time Dec. 22. 8:38AM

5/5

Crook County Planning Departmen
300 NE 3RD ST
Prineville, OR, 97754
541-416-3905

RECEIPT

Date

Inv. num

First name

Last name

File no

Amount

Type of payment

Check_Number

Received by

101-40-341-4185 Conditional Use	\$1,000.00
101-40-341-4192 Land Partition	\$0.00
101-40-341-4194 Subdivision	\$0.00
101-40341-4188 Zoning	\$0.00
101-40-341-4189 County Appeal	\$0.00
101-40-341-4180 Variance	\$0.00
101-40-341-4181 Temporary Use	\$0.00
101-40-341-4195 Text Amendment	\$0.00
101-40-341-4182 Comp Plan Amend	\$0.00
101-40-341-4183 Site Plan Review	\$0.00
101-40-341-4190 Road Approach	\$0.00
101-40-341-4196 Road Vacation	\$0.00
101-40-341-4191 Lot of Record	\$0.00
101-40-341-2110 Program Supplies	\$0.00
101-40-341-4186 Copies, Misc Revenue	\$0.00
101-40-341-4197 Map Amendment	\$0.00
350-00-334-3455 GIS State Grants	\$0.00
350-003-41-4101 GIS application fees	\$0.00
350-101-3-38-3850 Intergovernmental Fee	\$0.00
350-101-347-4715 Other Community Re	\$0.00
350-101-341-4101 GIS Data, Maps	\$0.00

Notes

Condition Use

Daily Report





February 7, 2024

D. Adam Smith
Admitted in Oregon and Colorado
D: 541-749-1759
asmith@schwabe.com

VIA E-MAIL

Will Van Vactor
Community Development Director
Crook County, Oregon
Will.VanVactor@crookcountyor.gov

RE: Request for Modification to County's Permitting Process for Substance Use
Disorder Treatment Center at 14427 SW Alfalfa Rd, Powell Butte, OR 97753
Our File No.: 141868-281985

Dear Will:

As you know, our firm represents Sunshine Behavioral Health Group, LLC ("Applicant"), who intends to apply for a modification of an approved conditional use permit (C-CU-2337-07) for property located at 14427 SW Alfalfa Rd, Powell Butte, Oregon 97753 (the "Property") to allow a substance use disorder ("SUD") treatment center at the Property. Based on the recommendations of County staff, Applicant is bifurcating its CUP application and the request described herein for a reasonable accommodation/modification to the County's process for rendering a permit decision on that application.

For context, Applicant is proposing to use the existing facilities at the Catholic Diocese of Baker's Cascade View Retreat Center to provide treatment to no more than 100 individuals suffering from SUD. The existing CUP for the Property, approved in 2007, assumes eight full-time and eight part-time Diocesan staff, an office and part-time residence for the bishop, meeting rooms and conference centers for up to 225 people, summer camp facilities, and cabins and RV parking for summer camp use. Applicant intends to modify these facilities to provide temporary housing for no more than 100 people as opposed to providing camping and RV facilities. Applicant's proposed use of the Property will be less intensive on any given day than the previous facility and impacts will be spread out over the course of the year, as opposed to being concentrated under the existing use.

With this background in mind, Applicant submits this request for a reasonable accommodation/modification to the approval process to modify a CUP. SUD centers often face community opposition based on the neighboring community's concerns about the residents living in the facilities. However, as we previously discussed, persons recovering from drug and alcohol addiction are protected from housing discrimination by the Americans with Disabilities Act ("ADA") and the Federal Fair Housing Amendments Act ("FHAA"). The FHAA and ADA allow local governments to grant reasonable accommodations/modifications to policies, practices, and

services when necessary to provide equal housing opportunities to individuals with disabilities.¹ Given the protections afforded by the ADA and FHAA, Applicant requests a reasonable accommodation/modification to the County's process for rendering a decision on our upcoming application. Instead of the typical method of processing such an application, which we understand requires Planning Commission approval, Applicant requests that the County process its application administratively, with any appeal of that administrative decision then being heard by the County Court.

1. The County Should Grant Applicant's Request for a Reasonable Accommodation / Modification under the FHAA and ADA.

Crook County Code ("CCC") requires the County to "hold a public hearing on any proposed * * * modification after giving notice to the permittee and other affected persons." CCC 18.172.100(3). Applicant requests a reasonable accommodation/modification to allow an administrative approval of a modification to the existing CUP for the property. Pursuant to CCC 18.172.015(1), most land use decisions issued by Crook County are first decided by the Community Development Director with any appeal then going before the Planning Commission. The process outlined in CCC 18.172.100 is an exception to that general rule. Nonetheless, in this case that exceptional process could result in neighboring landowners introducing extraneous information that could ultimately lead to a discriminatory decision not based on applicable approval criteria, thereby exposing the County to ADA/FHAA litigation. For example, in Malheur County, neighbors used the conditional use permitting process to keep a residential home for disabled occupants from operating by erroneously arguing that the permit applicant was opening a home for sex offenders. *Rise, Inc. v. Malheur County*, 2012 US Dist LEXIS 449944 at * (D Or, Feb 13, 2012). The conditional use permit was eventually denied by the Malheur County planning commission, and the plaintiff in the matter sued the County under the ADA and FHAA. The fact pattern in *Rise, Inc. v. Malheur County* is readily distinguishable, but the case nonetheless provides an illustration of the limitations of the traditional land use system to address ADA and FHAA issues.

Differing from employment law or with regard to government facilities, many local governments struggle with the interplay between federal FHAA/ADA requirements and local land use

¹ Under the FHAA, a "reasonable accommodation" is generally understood as a change to a rule, policy, procedure, or service." 42 U.S.C. § 3601 *et seq.* Courts have further described that "[t]he FHAA requires a reasonable accommodation to zoning rules when necessary to afford a handicapped person the 'equal opportunity' to obtain housing." *See, e.g., Wisconsin Community Services, Inc. v. City of Milwaukee*, 465 F3d 737, 745 (7th Cir 2006).

Differing from the FHAA, Title II of the ADA does not contain specific provisions requiring "reasonable accommodations" or "reasonable modifications." However, courts regularly defer to the ADA implementing regulations which require "reasonable modifications in policies, practices, or procedures * * *." *Id.* at 751 (citing 28 CFR § 35.130(b)(7)).

Courts often intertwine the terms "reasonable accommodation" under the FHAA and "reasonable modification" under the ADA. *See, e.g., McGary v. City of Portland*, 386 F3d 1259 (9th Cir 2004). Accordingly, this letter uses the term "reasonable accommodation/modification" throughout.

provisions, and case law can be hard to find with courts often even confusing the two aforementioned federal statutes. Specifically because the FHAA/ADA case law is so varied, the federal government has promulgated several advisory documents. We recommend reviewing the *Joint Statement of the Department of Housing and Urban Development and the Department of Justice: State and Local Land Use Laws and Practices and the Application of the Fair Housing Act*, November 10, 2016 (“Joint Statement”). Questions 22 and 24 of the above-cited Joint Statement directly address the process issues raised in this letter:

Question 22: “Where a local land use or zoning code contains specific procedures for seeking a departure from the general rule, courts have decided that the procedures should ordinarily be followed. If no procedure is specified, or if the procedure is unreasonably burdensome or intrusive or involves significant delays, a request for a reasonable accommodation may, nevertheless be made in some other way * * *.”

Question 24: “A local government has an obligation to provide prompt responses to reasonable accommodation requests, whether or not a formal reasonable accommodation procedure exists. A local government’s undue delay in responding to a reasonable accommodation request may be deemed a failure to provide a reasonable accommodation.”

In this particular case, a Planning Commission proceeding on Applicant’s land use application could lead to an “undue delay” because any appeal of the Planning Commission’s decision would then go before the County Court. Even if many land use applications are appropriately adjudicated by the Planning Commission, exceptions should be made for those applications that are truly unique. Applicant’s anticipated application is one such example because it is, in essence, a request to set aside certain CCC provisions in a manner contemplated by federal ADA and FHAA statutes to ensure that some of our community’s most disenfranchised members receive the services they desperately need. Rather than being adjudicated by Planning Commissioners whose purview is purposely narrow, the inherent policy choices invoked by Applicant’s upcoming application are best answered directly by Crook County staff and then the County’s duly elected officials.

A. FHAA Reasonable Accommodations/Modification Are Appropriate in this Case

A local government commits discrimination under section 3604(f)(3)(B) of the FHAA if it refuses “to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford [the disabled] equal opportunity to use and enjoy a dwelling.” *Gamble v. City of Escondido*, 104 F3d 300, 307 (9th Cir 1997). A dwelling is defined as “any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.” 42 U.S.C. § 3602(b). Group homes, such as those used for drug and alcohol recovery, are considered “dwellings” under the FHAA. 42 U.S.C. § 3602(b); *Schwarz v. City of Treasure Island*, 544 F3d 1201, 1213–16 (11th Cir. 2008) (defining halfway houses as “dwellings” under the FHAA); *Lakeside Resort Enters., LP v. Bd. of Supervisors of Palmyra Twp.*, 455 F3d 154, 160 (3d Cir. 2006) (defining drug and alcohol treatment centers as “dwellings” under the FHAA); *Pacific*

Shores v. City of Newport Beach, 730 F3d at 1157 (defining group homes for individuals recovering from alcohol addiction as “dwellings”).

A state or local government violates the FHAA by failing to grant a reasonable accommodation request if

“(1) [the applicant] suffers from a handicap as defined by the FHAA; (2) the [County] knew or reasonably should have known of [the applicant’s] handicap; and (3) accommodation of the handicap ‘may be necessary’ to afford [the applicant] an equal opportunity to use and enjoy their dwelling.”

McGary v. City of Portland, 386 F3d 1259, 1261–62 (9th Cir 2004) (quoting *Giebler v. M & B Assocs.*, 343 F3d 1143, 1147 (9th Cir 2003)).

As discussed below, Applicant’s request meets the criteria for the County to grant Applicant’s reasonable accommodation request.

(1) The Applicant’s clients suffer from a handicap as defined by the FHAA.

Applicant is making this accommodation/modification request on behalf of its current and future residents with disabilities. Persons recovering from drug and/or alcohol addiction are defined as “persons with disabilities” under the ADA and FHAA. *See City of Edmonds v. Washington State Bldg. Code Council*, 18 F3d 802, 803, 804 (9th Cir.1994); *Pac. Shores Properties, LLC v. City of Newport Beach*, 730 F3d 1142, 1156–57 (9th Cir. 2013); *Hernandez v. Hughes Missile Systems Co.*, 362 F.3d 564, 568 (9th Cir.2004); 42 U.S.C. § 3602(h); 42 U.S.C. § 12132. Therefore, this criterion is met.

(2) The local government knew or reasonably should have known of the handicap.

Based on this correspondence and the forthcoming application, the County now knows (or reasonably should know) that the Applicant’s proposed facility will serve a population with a disability. This application concerns utilizing existing facilities on the Property for the Applicant’s SUD treatment center. Therefore, this criterion is met.

(3) The accommodation of the handicap may be necessary to afford the Applicant an equal opportunity to use and enjoy their dwelling.

As discussed above, group homes are considered dwellings under the FHAA.

An accommodation is reasonable under the FHAA “when it imposes no fundamental alterations in the nature of the program or undue financial or administrative burdens.” *Myers v. Highlands at Vista Ridge Homeowners Ass’n, Inc.*, 6:20-CV-00562-MK, 2022 WL 4452414, at *23 (D Or Sept

8, 2022), *report and recommendation adopted*, 6:20-CV-00562-MK, 2022 WL 4447495 (D Or Sept 23, 2022) (quoting *Giebeler*, 343 F.3d at 1157 (citations and quotation marks omitted)).

Some burdens “may be more subjective and require . . . [an] . . . appreciati[on of] the intangible but very real human costs associated with the disability in question.” *Valencia v. City of Springfield, Illinois*, 883 F3d 959, 968 (7th Cir 2018), *citing Wisconsin Cmty. Servs., Inc. v. City of Milwaukee*, 465 F3d 737, 752 (7th Cir 2006). This refers to “those intangible values of community life that are very important if that community is to thrive and is to address the needs of its citizenry.” *Id.* “Whether the requested accommodation is necessary requires a ‘showing that the desired accommodation will affirmatively enhance a disabled plaintiff’s quality of life by ameliorating the effects of the disability.’” *Id.* (citing *Dadian v. Vill. of Wilmette*, 269 F.3d 831, 838 (7th Cir. 2001) (quoting *Bronk v. Ineichen*, 54 F.3d 425, 429 (7th Cir. 1995)). “In other words, [applicants] must show that without the required accommodation they will be denied the equal opportunity to live in a residential neighborhood.” *Oconomowoc Residential Programs v. City of Milwaukee*, 300 F3d 775, 784 (7th Cir 2002). In the context of a zoning waiver, “‘equal opportunity’ means the opportunity to choose to live in a residential neighborhood.” *Id.*

Allowing Applicant’s modification application to be considered administratively is necessary to provide individuals suffering from SUD with a treatment center in Central Oregon, and Crook County in particular. Without the accommodation, the upcoming application is at greater risk of being inappropriately denied. Although presumably experts in CCC provisions and land use matters germane to Crook County, it is unlikely that the Planning Commission equally understands the authority granted to the County by the ADA and FHAA or the County’s obligation to comply with those federal laws. If the upcoming application is denied, then Applicant will clearly be unable to provide necessary services at the existing and approved community center to disabled individuals seeking SUD treatment in a location of their choosing.

Further, Applicant’s request does not fundamentally alter the County’s operations and imposes no undue financial or administrative burdens on the County. As previously noted, the County regularly processes land use permits administratively and is equipped with staff sufficient to review and decide on this application. Additionally, the County Court regularly hears land use appeals and is well-equipped to do so in this instance. Therefore, no administrative or financial burden would exist as a result of Applicant’s reasonable accommodation/modification request. As such, this criterion is met.

B. An ADA Reasonable Accommodation/Modification is Appropriate in This Case.

Like the FHAA, the ADA “provides a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.” 42 U.S.C. § 12101(b)(1). The definition of a disability under the ADA is substantively identical to that in the FHAA: “[t]he term ‘disability’ means, with respect to an individual – (A) a physical or mental impairment that substantially limits one or more major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment [].” 42 U.S.C. § 12102(1). Under

the ADA, the County impermissibly fails to approve a reasonable accommodation/modification when

(1) [the applicant] “is an individual with a disability”; (2) [the applicant] “is otherwise qualified to participate in or receive the benefit of some public entity’s services, programs, or activities”; (3) [the applicant] “was either excluded from participation in or denied the benefits of the public entity’s services, programs, or activities, or was otherwise discriminated against by the public entity”; and (4) “such exclusion, denial of benefits, or discrimination was by reason of [the applicant’s] disability.”

McGary, 386 F3d at 1265 (quoting *Thompson v. Davis*, 295 F3d 890, 895 (9th Cir 2002)). Each of these factors are addressed below.

(1) The Applicant is an individual with a disability.

Persons recovering from drug and/or alcohol addiction are defined as “persons with disabilities” under the ADA. *Hernandez v. Hughes Missile Systems Co.*, 362 F.3d 564, 568 (9th Cir. 2004). Therefore, this criterion is met.

(2) The Applicant is otherwise qualified to participate in or receive the benefit of some public entity’s services, programs, or activities.

SUD treatment centers, such as the Applicant’s proposed facility, are a public concern and regulated by the government to ensure proper execution and care. Any property owner in Crook County may submit a land use application to improve their property. Therefore, Applicant is qualified to participate in or receive the benefit of the County’s services.

(3) The Applicant was either excluded from participation in or denied the benefits of the public entity’s services, programs, or activities, or was otherwise discriminated against by the public entity. Such exclusion, denial of benefits, or discrimination was by reason of the Applicant’s disability.

As with the FHAA, “under the ADA, a public entity must reasonably accommodate a qualified individual with a disability by making changes in rules, policies, practices, or services when needed.” *Oconomowoc Residential Programs, Inc.*, 300 F3d at 784; *see also* 28 C.F.R. § 35.130(b)(7) (stating in regulations interpreting Title II of the ADA, “[a] public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program or activity”). The “‘reasonable accommodation’ provision prohibits the enforcement of zoning ordinances and local housing policies in a manner that denies people with disabilities access to housing on par with that of those who are not disabled.” *Id.* at 783 (quoting *Hovsons, Inc. v.*

Crook County
February 7, 2024

Township of Brick, 89 F3d 1096, 1104 (3d Cir 1996)). As discussed above, insisting that Applicant's upcoming application be decided by the Planning Commission increases the risk of the application being inappropriately denied because such a forum provides an opportunity for opposing parties to provide overtly discriminatory testimony as occurred in *Rise, Inc. v. Malheur County*. Additionally, it can be presumed that the Planning Commission lacks the understanding of the County's obligations under the ADA and FHAA. Should discriminatory information form the basis of the County's denial of the upcoming application, the County will have denied individuals suffering from SUD the opportunity to choose to live in a neighborhood of their choice. *Oconomowoc Residential Programs*, 300 F3d at 784.

CONCLUSION

For the reasons states above and pursuant to the FHAA and ADA, the County should grant Applicant's request for a reasonable accommodation/modification altering the process the County uses to consider the upcoming application to modify an existing conditional use permit for the subject Property.

Thank you for considering our request. We look forward to continuing to work with the County to provide necessary substance use disorder treatment at the uniquely situated Property.

Sincerely,



D. Adam Smith

Crook County Counsel's Office

Mailing Address: 300 NE Third St., Prineville, OR 97754
Physical Address: 305 NE 3rd St., Prineville, OR 97754

• Phone: 541-416-3919
• Fax: 541-447-6705



February 23, 2024

Via USPS and email to asmith@schwabe.com

Adam Smith
Schwabe, Williamson & Wyatt
360 SW Bond Street, Ste. 500
Bend, OR 97702

Re: *Sunshine Behavioral Health Group, LLC's Procedural Accommodation Request*

Our file: Comm. Dev. 77

Dear Adam:

The Crook County Court considered your procedural accommodation request for the conditional use modification application of Sunshine Behavioral Health Group, LLC and existing permit C-CU-2337-07, relating to property located at 14427 SW Alfalfa Rd, Powell Butte, Oregon 97753 (the "request"). After a review of the documentation provided, the County Court approved the request to except the initial public hearing requirement of Crook County Code 18.172.100 for this application as a reasonable accommodation under the Fair Housing Amendments Act and Title II of the Americans with Disabilities Act.

The County Court has directed the Planning Director to process the application under CCC 18.172.060, with the assistance of County Counsel. Moreover, the County Court has directed that the County Court will act as the reviewing authority of the Planning Director's decision on the application, with any subsequent request for a hearing to be heard *de novo*.

Please proceed with your client when ready and contact Planning Director Will Van Vactor should you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Eisler", written over a horizontal line.

John Eisler
Crook County Asst. Counsel

CC: County Court
Planning Director

March 1, 2024

Crook County Community Development
300 NE 3rd St, Room 12
Prineville, OR 97754
plan@crookcountyor.gov

Re: Application for a Modification of C-CU-2337-07; Farm Impacts Analysis

Dear Commissioners,

I own and manage a hay farm in Tumalo and a cattle ranch in Grant County and I am also a land use attorney. Ranching has always been an integral part of my life. I studied agricultural sciences at Oregon State University, and I lived and worked on ranches and farms throughout my life. Based on my experience with farms and ranches in Oregon, I provide this letter discussing the potential impacts that the proposed modification application may have on farm uses occurring in the surrounding area.

Sunshine Behavioral Health, LLC (the "Applicant") is proposing to modify Conditional Use Permit C-CU-2337-07 (the "CUP") approved for the subject property in 2007. The subject property is approximately 37.89 acres in size, it is zoned Exclusive Farm Use Powell Butte Area (EFU-3), and it is identified as Map and Taxlot 16142000-00100-2063. This farm impacts analysis addresses the potential impacts that the proposed modification of the CUP may have on farm uses occurring on other properties in the surrounding area. Based on a review of the subject property and surrounding area, as well as my experience with local farms and ranches, the proposed modification will likely result in the same, if not less, impacts on surrounding farm uses.

Area Land Uses

A study of all properties in the area surrounding the subject property was performed with a focus on properties within one mile of the subject property. The subject property is within the Exclusive Farm Use EFU-3 Zone applicable to the Powell Butte Area. The majority of the land surrounding the subject property is also zoned EFU-3, primarily consisting of farm and ranch tracts. A number of smaller residential properties, zoned R10 and R5, are located to the east of the subject property. Brassada Ranch destination resort is located approximately 1.2 miles to the southeast. Large tracts of BLM land lie to the west and south of the subject property.

Farm uses occurring in the area primarily consist of hay and grain crop production and livestock production. Private farm parcels in the area range in size from approximately 5 acres to 310 acres. Most of the farm parcels are developed with dwellings and other structures typically associated with farm uses.

Potential Impacts to Farm Uses

The potential impacts of any proposed nonfarm use within the EFU zone could include (1) visual impacts, such as outdoor lighting or glare, (2) auditory impacts, such as increased noise or outdoor music, (3) traffic impacts, such as increased traffic that impacts movement of farm equipment or dust from increased use of unpaved roads, (4) trespass onto farmlands, typically due to an increase number of people in the area and the increased potential that people may drive or walk onto nearby farmlands either accidentally or intentionally, as well as the potential for garbage to trespass onto farmlands, and

(5) complaints against farm practices, such as complaints against herbicide or pesticide use on nearby farmlands, or complaints against smoke, dust, or smells generated by farm uses.

Proposed modifications to the use of the subject property

The existing Conditional Use Permit C-CU-2337-07 associated with the subject property was approved in 2007. The CUP approved a number of uses, structures, and facilities on the subject property, such as a chapel (church), a Catholic Community Center with camping facilities (retreat and gathering center), and a Bishop's manse (replacement dwelling). The existing conference center and summer camp facilities approved under the CUP currently support eight full-time staff, eight part-time staff, and up to 225 over-night visitors. Currently, the existing structures and facilities include a main residence, staff housing, duplex cabins, a shop, and a seven-space RV park.

Under the proposed modification of the CUP, the applicant would use the existing facilities to operate a substance use disorder ("SUD") treatment center on the subject property. The SUD treatment center will support 75 total employees spread across three shifts (with 30 employees typically on site from 6:00 am to 10:00 pm daily) and serve approximately 100 to 130 clients at any one time. Additionally, the applicant proposes to replace the seven RV spaces in the existing RV park with small cabins.

Farm Impacts of the Proposed Modification

The existing facilities and proposed nonfarm uses will be concentrated in the center and on the north and east sides of the property. This layout provides an exceptionally large buffer space between surrounding farmland and areas of the subject property where nonfarm uses will occur. The buffer space in this case is sufficiently large to even accommodate additional structures in the future if the property owner elected to pursue additional permits allowing the nonfarm uses to expand. Continuing to concentrate nonfarm uses in a manner preserving this buffer space will continue to reduce potential impacts to surrounding farm uses.

The only physical alteration to the subject property contemplated at this time will be the replacement of a seven-space RV park with small cabins. Replacing the RV spaces with cabins, if anything, will reduce the traffic impact on surrounding farm uses because farm-related traffic will not be impacted by slow moving RVs traveling to and from the subject property. Replacing the RV spaces with cabins will also reduce the visual impacts associated with the property since the cabins will be similar in appearance to other structures typically found in the EFU zone and will not be bright white like most RVs. There are no other visual impacts that are likely to result from the proposed modification.

The Applicant is proposing a SUD treatment facility which will be a place for its clients to receive therapy and other clinical treatment. As such, the proposed use will not introduce loud noises or outdoor music to the area. Therefore, the proposed modification is not likely to result in auditory impacts to surrounding farm uses.

The proposed modification will reduce the total number of individuals using the facilities on the subject property. Treatment center clients will typically reside at the property for approximately one to three months. During their treatment, clients will stay at the property each day and night, with occasional group trips away from the subject property. The Applicant will transport clients to and from the subject property in groups using its own vehicles which will further reduce the traffic associated with the proposed modification. Due to less individuals using the subject property facilities and the Applicant

arranging transportation of its clients in groups, the proposed modification is likely to result in less traffic impact to surrounding farm uses than the traffic impacts associated with the current use.

Under the proposed modification, there is little to no chance that the proposed use will result in trespass onto farmland. As noted above, the Applicant will transport clients to and from the subject property which will reduce the chances that visitors would mistakenly drive onto nearby farm properties. Additionally, the facility will be easy for drivers to find since it is clearly visible from Alfalfa Road, the property has a dedicated right turn lane, and the entrance to the property will be clearly marked. Likewise, there is little to no chance that treatment center clients will trespass onto nearby farmland since the clients will be under close supervision of staff at all times.

For these reasons the proposed modification will likely result in the same, if not less, impacts on surrounding farm uses compared to impacts associated with the current uses permitted under the CUP. If you have any questions, please feel free to contact me.

Sincerely,



Rand Campbell

Hopper LLC – Hopper Ranch

Back Forty LLC – Back Forty Hay Farm

randcampbelllaw@gmail.com



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY



U.S. DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION

Washington, D.C.
November 10, 2016

**JOINT STATEMENT OF THE DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT AND THE DEPARTMENT OF JUSTICE**

**STATE AND LOCAL LAND USE LAWS AND PRACTICES AND THE APPLICATION
OF THE FAIR HOUSING ACT**

INTRODUCTION

The Department of Justice (“DOJ”) and the Department of Housing and Urban Development (“HUD”) are jointly responsible for enforcing the Federal Fair Housing Act (“the Act”),¹ which prohibits discrimination in housing on the basis of race, color, religion, sex, disability, familial status (children under 18 living with a parent or guardian), or national origin.² The Act prohibits housing-related policies and practices that exclude or otherwise discriminate against individuals because of protected characteristics.

The regulation of land use and zoning is traditionally reserved to state and local governments, except to the extent that it conflicts with requirements imposed by the Fair Housing Act or other federal laws. This Joint Statement provides an overview of the Fair Housing Act’s requirements relating to state and local land use practices and zoning laws, including conduct related to group homes. It updates and expands upon DOJ’s and HUD’s Joint

¹ The Fair Housing Act is codified at 42 U.S.C. §§ 3601–19.

² The Act uses the term “handicap” instead of “disability.” Both terms have the same legal meaning. *See Bragdon v. Abbott*, 524 U.S. 624, 631 (1998) (noting that the definition of “disability” in the Americans with Disabilities Act

Statement on Group Homes, Local Land Use, and the Fair Housing Act, issued on August 18, 1999. The first section of the Joint Statement, Questions 1–6, describes generally the Act’s requirements as they pertain to land use and zoning. The second and third sections, Questions 7–25, discuss more specifically how the Act applies to land use and zoning laws affecting housing for persons with disabilities, including guidance on regulating group homes and the requirement to provide reasonable accommodations. The fourth section, Questions 26–27, addresses HUD’s and DOJ’s enforcement of the Act in the land use and zoning context.

This Joint Statement focuses on the Fair Housing Act, not on other federal civil rights laws that prohibit state and local governments from adopting or implementing land use and zoning practices that discriminate based on a protected characteristic, such as Title II of the Americans with Disabilities Act (“ADA”),³ Section 504 of the Rehabilitation Act of 1973 (“Section 504”),⁴ and Title VI of the Civil Rights Act of 1964.⁵ In addition, the Joint Statement does not address a state or local government’s duty to affirmatively further fair housing, even though state and local governments that receive HUD assistance are subject to this duty. For additional information provided by DOJ and HUD regarding these issues, see the list of resources provided in the answer to Question 27.

Questions and Answers on the Fair Housing Act and State and Local Land Use Laws and Zoning

1. How does the Fair Housing Act apply to state and local land use and zoning?

The Fair Housing Act prohibits a broad range of housing practices that discriminate against individuals on the basis of race, color, religion, sex, disability, familial status, or national origin (commonly referred to as protected characteristics). As established by the Supremacy Clause of the U.S. Constitution, federal laws such as the Fair Housing Act take precedence over conflicting state and local laws. The Fair Housing Act thus prohibits state and local land use and zoning laws, policies, and practices that discriminate based on a characteristic protected under the Act. Prohibited practices as defined in the Act include making unavailable or denying housing because of a protected characteristic. Housing includes not only buildings intended for occupancy as residences, but also vacant land that may be developed into residences.

is drawn almost verbatim “from the definition of ‘handicap’ contained in the Fair Housing Amendments Act of 1988”). This document uses the term “disability,” which is more generally accepted.

³ 42 U.S.C. §12132.

⁴ 29 U.S.C. § 794.

⁵ 42 U.S.C. § 2000d.

2. What types of land use and zoning laws or practices violate the Fair Housing Act?

Examples of state and local land use and zoning laws or practices that may violate the Act include:

- Prohibiting or restricting the development of housing based on the belief that the residents will be members of a particular protected class, such as race, disability, or familial status, by, for example, placing a moratorium on the development of multifamily housing because of concerns that the residents will include members of a particular protected class.
- Imposing restrictions or additional conditions on group housing for persons with disabilities that are not imposed on families or other groups of unrelated individuals, by, for example, requiring an occupancy permit for persons with disabilities to live in a single-family home while not requiring a permit for other residents of single-family homes.
- Imposing restrictions on housing because of alleged public safety concerns that are based on stereotypes about the residents' or anticipated residents' membership in a protected class, by, for example, requiring a proposed development to provide additional security measures based on a belief that persons of a particular protected class are more likely to engage in criminal activity.
- Enforcing otherwise neutral laws or policies differently because of the residents' protected characteristics, by, for example, citing individuals who are members of a particular protected class for violating code requirements for property upkeep while not citing other residents for similar violations.
- Refusing to provide reasonable accommodations to land use or zoning policies when such accommodations may be necessary to allow persons with disabilities to have an equal opportunity to use and enjoy the housing, by, for example, denying a request to modify a setback requirement so an accessible sidewalk or ramp can be provided for one or more persons with mobility disabilities.

3. When does a land use or zoning practice constitute intentional discrimination in violation of the Fair Housing Act?

Intentional discrimination is also referred to as disparate treatment, meaning that the action treats a person or group of persons differently because of race, color, religion, sex, disability, familial status, or national origin. A land use or zoning practice may be intentionally discriminatory even if there is no personal bias or animus on the part of individual government officials. For example, municipal zoning practices or decisions that reflect acquiescence to community bias may be intentionally discriminatory, even if the officials themselves do not personally share such bias. (See Q&A 5.) Intentional discrimination does not require that the

decision-makers were hostile toward members of a particular protected class. Decisions motivated by a purported desire to benefit a particular group can also violate the Act if they result in differential treatment because of a protected characteristic.

A land use or zoning practice may be discriminatory on its face. For example, a law that requires persons with disabilities to request permits to live in single-family zones while not requiring persons without disabilities to request such permits violates the Act because it treats persons with disabilities differently based on their disability. Even a law that is seemingly neutral will still violate the Act if enacted with discriminatory intent. In that instance, the analysis of whether there is intentional discrimination will be based on a variety of factors, all of which need not be satisfied. These factors include, but are not limited to: (1) the “impact” of the municipal practice, such as whether an ordinance disproportionately impacts minority residents compared to white residents or whether the practice perpetuates segregation in a neighborhood or particular geographic area; (2) the “historical background” of the action, such as whether there is a history of segregation or discriminatory conduct by the municipality; (3) the “specific sequence of events,” such as whether the city adopted an ordinance or took action only after significant, racially-motivated community opposition to a housing development or changed course after learning that a development would include non-white residents; (4) departures from the “normal procedural sequence,” such as whether a municipality deviated from normal application or zoning requirements; (5) “substantive departures,” such as whether the factors usually considered important suggest that a state or local government should have reached a different result; and (6) the “legislative or administrative history,” such as any statements by members of the state or local decision-making body.⁶

4. Can state and local land use and zoning laws or practices violate the Fair Housing Act if the state or locality did not intend to discriminate against persons on a prohibited basis?

Yes. Even absent a discriminatory intent, state or local governments may be liable under the Act for any land use or zoning law or practice that has an unjustified discriminatory effect because of a protected characteristic. In 2015, the United States Supreme Court affirmed this interpretation of the Act in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*⁷ The Court stated that “[t]hese unlawful practices include zoning laws and other housing restrictions that function unfairly to exclude minorities from certain neighborhoods without any sufficient justification.”⁸

⁶ *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265–68 (1977).

⁷ ___ U.S. ___, 135 S. Ct. 2507 (2015).

⁸ *Id.* at 2521–22.

A land use or zoning practice results in a discriminatory effect if it caused or predictably will cause a disparate impact on a group of persons or if it creates, increases, reinforces, or perpetuates segregated housing patterns because of a protected characteristic. A state or local government still has the opportunity to show that the practice is necessary to achieve one or more of its substantial, legitimate, nondiscriminatory interests. These interests must be supported by evidence and may not be hypothetical or speculative. If these interests could not be served by another practice that has a less discriminatory effect, then the practice does not violate the Act. The standard for evaluating housing-related practices with a discriminatory effect are set forth in HUD's Discriminatory Effects Rule, 24 C.F.R. § 100.500.

Examples of land use practices that violate the Fair Housing Act under a discriminatory effects standard include minimum floor space or lot size requirements that increase the size and cost of housing if such an increase has the effect of excluding persons from a locality or neighborhood because of their membership in a protected class, without a legally sufficient justification. Similarly, prohibiting low-income or multifamily housing may have a discriminatory effect on persons because of their membership in a protected class and, if so, would violate the Act absent a legally sufficient justification.

5. Does a state or local government violate the Fair Housing Act if it considers the fears or prejudices of community members when enacting or applying its zoning or land use laws respecting housing?

When enacting or applying zoning or land use laws, state and local governments may not act because of the fears, prejudices, stereotypes, or unsubstantiated assumptions that community members may have about current or prospective residents because of the residents' protected characteristics. Doing so violates the Act, even if the officials themselves do not personally share such bias. For example, a city may not deny zoning approval for a low-income housing development that meets all zoning and land use requirements because the development may house residents of a particular protected class or classes whose presence, the community fears, will increase crime and lower property values in the surrounding neighborhood. Similarly, a local government may not block a group home or deny a requested reasonable accommodation in response to neighbors' stereotypical fears or prejudices about persons with disabilities or a particular type of disability. Of course, a city council or zoning board is not bound by everything that is said by every person who speaks at a public hearing. It is the record as a whole that will be determinative.

6. Can state and local governments violate the Fair Housing Act if they adopt or implement restrictions against children?

Yes. State and local governments may not impose restrictions on where families with children may reside unless the restrictions are consistent with the “housing for older persons” exemption of the Act. The most common types of housing for older persons that may qualify for this exemption are: (1) housing intended for, and solely occupied by, persons 62 years of age or older; and (2) housing in which 80% of the occupied units have at least one person who is 55 years of age or older that publishes and adheres to policies and procedures demonstrating the intent to house older persons. These types of housing must meet all requirements of the exemption, including complying with HUD regulations applicable to such housing, such as verification procedures regarding the age of the occupants. A state or local government that zones an area to exclude families with children under 18 years of age must continually ensure that housing in that zone meets all requirements of the exemption. If all of the housing in that zone does not continue to meet all such requirements, that state or local government violates the Act.

**Questions and Answers on the Fair Housing Act and
Local Land Use and Zoning Regulation of Group Homes**

7. Who qualifies as a person with a disability under the Fair Housing Act?

The Fair Housing Act defines a person with a disability to include (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such an impairment.

The term “physical or mental impairment” includes, but is not limited to, diseases and conditions such as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, HIV infection, developmental disabilities, mental illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance), and alcoholism.

The term “major life activity” includes activities such as seeing, hearing, walking, breathing, performing manual tasks, caring for one’s self, learning, speaking, and working. This list of major life activities is not exhaustive.

Being regarded as having a disability means that the individual is treated as if he or she has a disability even though the individual may not have an impairment or may not have an impairment that substantially limits one or more major life activities. For example, if a landlord

refuses to rent to a person because the landlord believes the prospective tenant has a disability, then the landlord violates the Act's prohibition on discrimination on the basis of disability, even if the prospective tenant does not actually have a physical or mental impairment that substantially limits one or more major life activities.

Having a record of a disability means the individual has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

8. What is a group home within the meaning of the Fair Housing Act?

The term "group home" does not have a specific legal meaning; land use and zoning officials and the courts, however, have referred to some residences for persons with disabilities as group homes. The Fair Housing Act prohibits discrimination on the basis of disability, and persons with disabilities have the same Fair Housing Act protections whether or not their housing is considered a group home. A household where two or more persons with disabilities choose to live together, as a matter of association, may not be subjected to requirements or conditions that are not imposed on households consisting of persons without disabilities.

In this Statement, the term "group home" refers to a dwelling that is or will be occupied by unrelated persons with disabilities. Sometimes group homes serve individuals with a particular type of disability, and sometimes they serve individuals with a variety of disabilities. Some group homes provide residents with in-home support services of varying types, while others do not. The provision of support services is not required for a group home to be protected under the Fair Housing Act. Group homes, as discussed in this Statement, may be opened by individuals or by organizations, both for-profit and not-for-profit. Sometimes it is the group home operator or developer, rather than the individuals who live or are expected to live in the home, who interacts with a state or local government agency about developing or operating the group home, and sometimes there is no interaction among residents or operators and state or local governments.

In this Statement, the term "group home" includes homes occupied by persons in recovery from alcohol or substance abuse, who are persons with disabilities under the Act. Although a group home for persons in recovery may commonly be called a "sober home," the term does not have a specific legal meaning, and the Act treats persons with disabilities who reside in such homes no differently than persons with disabilities who reside in other types of group homes. Like other group homes, homes for persons in recovery are sometimes operated by individuals or organizations, both for-profit and not-for-profit, and support services or supervision are sometimes, but not always, provided. The Act does not require a person who resides in a home for persons in recovery to have participated in or be currently participating in a

substance abuse treatment program to be considered a person with a disability. The fact that a resident of a group home may currently be illegally using a controlled substance does not deprive the other residents of the protection of the Fair Housing Act.

9. In what ways does the Fair Housing Act apply to group homes?

The Fair Housing Act prohibits discrimination on the basis of disability, and persons with disabilities have the same Fair Housing Act protections whether or not their housing is considered a group home. State and local governments may not discriminate against persons with disabilities who live in group homes. Persons with disabilities who live in or seek to live in group homes are sometimes subjected to unlawful discrimination in a number of ways, including those discussed in the preceding Section of this Joint Statement. Discrimination may be intentional; for example, a locality might pass an ordinance prohibiting group homes in single-family neighborhoods or prohibiting group homes for persons with certain disabilities. These ordinances are facially discriminatory, in violation of the Act. In addition, as discussed more fully in Q&A 10 below, a state or local government may violate the Act by refusing to grant a reasonable accommodation to its zoning or land use ordinance when the requested accommodation may be necessary for persons with disabilities to have an equal opportunity to use and enjoy a dwelling. For example, if a locality refuses to waive an ordinance that limits the number of unrelated persons who may live in a single-family home where such a waiver may be necessary for persons with disabilities to have an equal opportunity to use and enjoy a dwelling, the locality violates the Act unless the locality can prove that the waiver would impose an undue financial and administrative burden on the local government or fundamentally alter the essential nature of the locality's zoning scheme. Furthermore, a state or local government may violate the Act by enacting an ordinance that has an unjustified discriminatory effect on persons with disabilities who seek to live in a group home in the community. Unlawful actions concerning group homes are discussed in more detail throughout this Statement.

10. What is a reasonable accommodation under the Fair Housing Act?

The Fair Housing Act makes it unlawful to refuse to make “reasonable accommodations” to rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling. A “reasonable accommodation” is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others may sometimes deny them an equal opportunity to use and enjoy a dwelling.

Even if a zoning ordinance imposes on group homes the same restrictions that it imposes on housing for other groups of unrelated persons, a local government may be required, in individual cases and when requested to do so, to grant a reasonable accommodation to a group home for persons with disabilities. What constitutes a reasonable accommodation is a case-by-case determination based on an individualized assessment. This topic is discussed in detail in Q&As 20–25 and in the HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act.

11. Does the Fair Housing Act protect persons with disabilities who pose a “direct threat” to others?

The Act does not allow for the exclusion of individuals based upon fear, speculation, or stereotype about a particular disability or persons with disabilities in general. Nevertheless, the Act does not protect an individual whose tenancy would constitute a “direct threat” to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others unless the threat or risk to property can be eliminated or significantly reduced by reasonable accommodation. A determination that an individual poses a direct threat must rely on an individualized assessment that is based on reliable objective evidence (for example, current conduct or a recent history of overt acts). The assessment must consider: (1) the nature, duration, and severity of the risk of injury; (2) the probability that injury will actually occur; and (3) whether there are any reasonable accommodations that will eliminate or significantly reduce the direct threat. See Q&A 10 for a general discussion of reasonable accommodations. Consequently, in evaluating an individual’s recent history of overt acts, a state or local government must take into account whether the individual has received intervening treatment or medication that has eliminated or significantly reduced the direct threat (in other words, significant risk of substantial harm). In such a situation, the state or local government may request that the individual show how the circumstances have changed so that he or she no longer poses a direct threat. Any such request must be reasonable and limited to information necessary to assess whether circumstances have changed. Additionally, in such a situation, a state or local government may obtain satisfactory and reasonable assurances that the individual will not pose a direct threat during the tenancy. The state or local government must have reliable, objective evidence that the tenancy of a person with a disability poses a direct threat before excluding him or her from housing on that basis, and, in making that assessment, the state or local government may not ignore evidence showing that the individual’s tenancy would no longer pose a direct threat. Moreover, the fact that one individual may pose a direct threat does not mean that another individual with the same disability or other individuals in a group home may be denied housing.

12. Can a state or local government enact laws that specifically limit group homes for individuals with specific types of disabilities?

No. Just as it would be illegal to enact a law for the purpose of excluding or limiting group homes for individuals with disabilities, it is illegal under the Act for local land use and zoning laws to exclude or limit group homes for individuals with specific types of disabilities. For example, a government may not limit group homes for persons with mental illness to certain neighborhoods. The fact that the state or local government complies with the Act with regard to group homes for persons with some types of disabilities will not justify discrimination against individuals with another type of disability, such as mental illness.

13. Can a state or local government limit the number of individuals who reside in a group home in a residential neighborhood?

Neutral laws that govern groups of unrelated persons who live together do not violate the Act so long as (1) those laws do not intentionally discriminate against persons on the basis of disability (or other protected class), (2) those laws do not have an unjustified discriminatory effect on the basis of disability (or other protected class), and (3) state and local governments make reasonable accommodations when such accommodations may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling.

Local zoning and land use laws that treat groups of unrelated persons with disabilities less favorably than similar groups of unrelated persons without disabilities violate the Fair Housing Act. For example, suppose a city's zoning ordinance defines a "family" to include up to a certain number of unrelated persons living together as a household unit, and gives such a group of unrelated persons the right to live in any zoning district without special permission from the city. If that ordinance also prohibits a group home having the same number of persons with disabilities in a certain district or requires it to seek a use permit, the ordinance would violate the Fair Housing Act. The ordinance violates the Act because it treats persons with disabilities less favorably than families and unrelated persons without disabilities.

A local government may generally restrict the ability of groups of unrelated persons to live together without violating the Act as long as the restrictions are imposed on all such groups, including a group defined as a family. Thus, if the definition of a family includes up to a certain number of unrelated individuals, an ordinance would not, on its face, violate the Act if a group home for persons with disabilities with more than the permitted number for a family were not allowed to locate in a single-family-zoned neighborhood because any group of unrelated people without disabilities of that number would also be disallowed. A facially neutral ordinance, however, still may violate the Act if it is intentionally discriminatory (that is, enacted with discriminatory intent or applied in a discriminatory manner), or if it has an unjustified

discriminatory effect on persons with disabilities. For example, an ordinance that limits the number of unrelated persons who may constitute a family may violate the Act if it is enacted for the purpose of limiting the number of persons with disabilities who may live in a group home, or if it has the unjustified discriminatory effect of excluding or limiting group homes in the jurisdiction. Governments may also violate the Act if they enforce such restrictions more strictly against group homes than against groups of the same number of unrelated persons without disabilities who live together in housing. In addition, as discussed in detail below, because the Act prohibits the denial of reasonable accommodations to rules and policies for persons with disabilities, a group home that provides housing for a number of persons with disabilities that exceeds the number allowed under the family definition has the right to seek an exception or waiver. If the criteria for a reasonable accommodation are met, the permit must be given in that instance, but the ordinance would not be invalid.⁹

14. How does the Supreme Court’s ruling in *Olmstead* apply to the Fair Housing Act?

In *Olmstead v. L.C.*,¹⁰ the Supreme Court ruled that the Americans with Disabilities Act (ADA) prohibits the unjustified segregation of persons with disabilities in institutional settings where necessary services could reasonably be provided in integrated, community-based settings. An integrated setting is one that enables individuals with disabilities to live and interact with individuals without disabilities to the fullest extent possible. By contrast, a segregated setting includes congregate settings populated exclusively or primarily by individuals with disabilities. Although *Olmstead* did not interpret the Fair Housing Act, the objectives of the Fair Housing Act and the ADA, as interpreted in *Olmstead*, are consistent. The Fair Housing Act ensures that persons with disabilities have an equal opportunity to choose the housing where they wish to live. The ADA and *Olmstead* ensure that persons with disabilities also have the option to live and receive services in the most integrated setting appropriate to their needs. The integration mandate of the ADA and *Olmstead* can be implemented without impairing the rights protected by the Fair Housing Act. For example, state and local governments that provide or fund housing, health care, or support services must comply with the integration mandate by providing these programs, services, and activities in the most integrated setting appropriate to the needs of individuals with disabilities. State and local governments may comply with this requirement by adopting standards for the housing, health care, or support services they provide or fund that are reasonable, individualized, and specifically tailored to enable individuals with disabilities to live and interact with individuals without disabilities to the fullest extent possible. Local governments should be aware that ordinances and policies that impose additional restrictions on housing or residential services for persons with disabilities that are not imposed on housing or

⁹ Laws that limit the number of occupants per unit do not violate the Act as long as they are reasonable, are applied to all occupants, and do not operate to discriminate on the basis of disability, familial status, or other characteristics protected by the Act.

¹⁰ 527 U.S. 581 (1999).

residential services for persons without disabilities are likely to violate the Act. In addition, a locality would violate the Act and the integration mandate of the ADA and *Olmstead* if it required group homes to be concentrated in certain areas of the jurisdiction by, for example, restricting them from being located in other areas.

15. Can a state or local government impose spacing requirements on the location of group homes for persons with disabilities?

A “spacing” or “dispersal” requirement generally refers to a requirement that a group home for persons with disabilities must not be located within a specific distance of another group home. Sometimes a spacing requirement is designed so it applies only to group homes and sometimes a spacing requirement is framed more generally and applies to group homes and other types of uses such as boarding houses, student housing, or even certain types of businesses. In a community where a certain number of unrelated persons are permitted by local ordinance to reside together in a home, it would violate the Act for the local ordinance to impose a spacing requirement on group homes that do not exceed that permitted number of residents because the spacing requirement would be a condition imposed on persons with disabilities that is not imposed on persons without disabilities. In situations where a group home seeks a reasonable accommodation to exceed the number of unrelated persons who are permitted by local ordinance to reside together, the Fair Housing Act does not prevent state or local governments from taking into account concerns about the over-concentration of group homes that are located in close proximity to each other. Sometimes compliance with the integration mandate of the ADA and *Olmstead* requires government agencies responsible for licensing or providing housing for persons with disabilities to consider the location of other group homes when determining what housing will best meet the needs of the persons being served. Some courts, however, have found that spacing requirements violate the Fair Housing Act because they deny persons with disabilities an equal opportunity to choose where they will live. Because an across-the-board spacing requirement may discriminate against persons with disabilities in some residential areas, any standards that state or local governments adopt should evaluate the location of group homes for persons with disabilities on a case-by-case basis.

Where a jurisdiction has imposed a spacing requirement on the location of group homes for persons with disabilities, courts may analyze whether the requirement violates the Act under an intent, effects, or reasonable accommodation theory. In cases alleging intentional discrimination, courts look to a number of factors, including the effect of the requirement on housing for persons with disabilities; the jurisdiction’s intent behind the spacing requirement; the existence, size, and location of group homes in a given area; and whether there are methods other than a spacing requirement for accomplishing the jurisdiction’s stated purpose. A spacing requirement enacted with discriminatory intent, such as for the purpose of appeasing neighbors’ stereotypical fears about living near persons with disabilities, violates the Act. Further, a neutral

spacing requirement that applies to all housing for groups of unrelated persons may have an unjustified discriminatory effect on persons with disabilities, thus violating the Act. Jurisdictions must also consider, in compliance with the Act, requests for reasonable accommodations to any spacing requirements.

16. Can a state or local government impose health and safety regulations on group home operators?

Operators of group homes for persons with disabilities are subject to applicable state and local regulations addressing health and safety concerns unless those regulations are inconsistent with the Fair Housing Act or other federal law. Licensing and other regulatory requirements that may apply to some group homes must also be consistent with the Fair Housing Act. Such regulations must not be based on stereotypes about persons with disabilities or specific types of disabilities. State or local zoning and land use ordinances may not, consistent with the Fair Housing Act, require individuals with disabilities to receive medical, support, or other services or supervision that they do not need or want as a condition for allowing a group home to operate. State and local governments' enforcement of neutral requirements regarding safety, licensing, and other regulatory requirements governing group homes do not violate the Fair Housing Act so long as the ordinances are enforced in a neutral manner, they do not specifically target group homes, and they do not have an unjustified discriminatory effect on persons with disabilities who wish to reside in group homes.

Governments must also consider requests for reasonable accommodations to licensing and regulatory requirements and procedures, and grant them where they may be necessary to afford individuals with disabilities an equal opportunity to use and enjoy a dwelling, as required by the Act.

17. Can a state or local government address suspected criminal activity or fraud and abuse at group homes for persons with disabilities?

The Fair Housing Act does not prevent state and local governments from taking nondiscriminatory action in response to criminal activity, insurance fraud, Medicaid fraud, neglect or abuse of residents, or other illegal conduct occurring at group homes, including reporting complaints to the appropriate state or federal regulatory agency. States and localities must ensure that actions to enforce criminal or other laws are not taken to target group homes and are applied equally, regardless of whether the residents of housing are persons with disabilities. For example, persons with disabilities residing in group homes are entitled to the same constitutional protections against unreasonable search and seizure as those without disabilities.

18. Does the Fair Housing Act permit a state or local government to implement strategies to integrate group homes for persons with disabilities in particular neighborhoods where they are not currently located?

Yes. Some strategies a state or local government could use to further the integration of group housing for persons with disabilities, consistent with the Act, include affirmative marketing or offering incentives. For example, jurisdictions may engage in affirmative marketing or offer variances to providers of housing for persons with disabilities to locate future homes in neighborhoods where group homes for persons with disabilities are not currently located. But jurisdictions may not offer incentives for a discriminatory purpose or that have an unjustified discriminatory effect because of a protected characteristic.

19. Can a local government consider the fears or prejudices of neighbors in deciding whether a group home can be located in a particular neighborhood?

In the same way a local government would violate the law if it rejected low-income housing in a community because of neighbors' fears that such housing would be occupied by racial minorities (see Q&A 5), a local government violates the law if it blocks a group home or denies a reasonable accommodation request because of neighbors' stereotypical fears or prejudices about persons with disabilities. This is so even if the individual government decision-makers themselves do not have biases against persons with disabilities.

Not all community opposition to requests by group homes is necessarily discriminatory. For example, when a group home seeks a reasonable accommodation to operate in an area and the area has limited on-street parking to serve existing residents, it is not a violation of the Fair Housing Act for neighbors and local government officials to raise concerns that the group home may create more demand for on-street parking than would a typical family and to ask the provider to respond. A valid unaddressed concern about inadequate parking facilities could justify denying the requested accommodation, if a similar dwelling that is not a group home or similarly situated use would ordinarily be denied a permit because of such parking concerns. If, however, the group home shows that the home will not create a need for more parking spaces than other dwellings or similarly-situated uses located nearby, or submits a plan to provide any needed off-street parking, then parking concerns would not support a decision to deny the home a permit.

Questions and Answers on the Fair Housing Act and Reasonable Accommodation Requests to Local Zoning and Land Use Laws

20. When does a state or local government violate the Fair Housing Act by failing to grant a request for a reasonable accommodation?

A state or local government violates the Fair Housing Act by failing to grant a reasonable accommodation request if (1) the persons requesting the accommodation or, in the case of a group home, persons residing in or expected to reside in the group home are persons with a disability under the Act; (2) the state or local government knows or should reasonably be expected to know of their disabilities; (3) an accommodation in the land use or zoning ordinance or other rules, policies, practices, or services of the state or locality was requested by or on behalf of persons with disabilities; (4) the requested accommodation may be necessary to afford one or more persons with a disability an equal opportunity to use and enjoy the dwelling; (5) the state or local government refused to grant, failed to act on, or unreasonably delayed the accommodation request; and (6) the state or local government cannot show that granting the accommodation would impose an undue financial and administrative burden on the local government or that it would fundamentally alter the local government's zoning scheme. A requested accommodation may be necessary if there is an identifiable relationship between the requested accommodation and the group home residents' disability. Further information is provided in Q&A 10 above and the HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act.

21. Can a local government deny a group home's request for a reasonable accommodation without violating the Fair Housing Act?

Yes, a local government may deny a group home's request for a reasonable accommodation if the request was not made by or on behalf of persons with disabilities (by, for example, the group home developer or operator) or if there is no disability-related need for the requested accommodation because there is no relationship between the requested accommodation and the disabilities of the residents or proposed residents.

In addition, a group home's request for a reasonable accommodation may be denied by a local government if providing the accommodation is not reasonable—in other words, if it would impose an undue financial and administrative burden on the local government or it would fundamentally alter the local government's zoning scheme. The determination of undue financial and administrative burden must be decided on a case-by-case basis involving various factors, such as the nature and extent of the administrative burden and the cost of the requested accommodation to the local government, the financial resources of the local government, and the benefits that the accommodation would provide to the persons with disabilities who will reside in the group home.

When a local government refuses an accommodation request because it would pose an undue financial and administrative burden, the local government should discuss with the requester whether there is an alternative accommodation that would effectively address the disability-related needs of the group home's residents without imposing an undue financial and administrative burden. This discussion is called an "interactive process." If an alternative accommodation would effectively meet the disability-related needs of the residents of the group home and is reasonable (that is, it would not impose an undue financial and administrative burden or fundamentally alter the local government's zoning scheme), the local government must grant the alternative accommodation. An interactive process in which the group home and the local government discuss the disability-related need for the requested accommodation and possible alternative accommodations is both required under the Act and helpful to all concerned, because it often results in an effective accommodation for the group home that does not pose an undue financial and administrative burden or fundamental alteration for the local government.

22. What is the procedure for requesting a reasonable accommodation?

The reasonable accommodation must actually be requested by or on behalf of the individuals with disabilities who reside or are expected to reside in the group home. When the request is made, it is not necessary for the specific individuals who would be expected to live in the group home to be identified. The Act does not require that a request be made in a particular manner or at a particular time. The group home does not need to mention the Fair Housing Act or use the words "reasonable accommodation" when making a reasonable accommodation request. The group home must, however, make the request in a manner that a reasonable person would understand to be a disability-related request for an exception, change, or adjustment to a rule, policy, practice, or service. When making a request for an exception, change, or adjustment to a local land use or zoning regulation or policy, the group home should explain what type of accommodation is being requested and, if the need for the accommodation is not readily apparent or known by the local government, explain the relationship between the accommodation and the disabilities of the group home residents.

A request for a reasonable accommodation can be made either orally or in writing. It is often helpful for both the group home and the local government if the reasonable accommodation request is made in writing. This will help prevent misunderstandings regarding what is being requested or whether or when the request was made.

Where a local land use or zoning code contains specific procedures for seeking a departure from the general rule, courts have decided that these procedures should ordinarily be followed. If no procedure is specified, or if the procedure is unreasonably burdensome or intrusive or involves significant delays, a request for a reasonable accommodation may,

nevertheless, be made in some other way, and a local government is obligated to grant it if the requested accommodation meets the criteria discussed in Q&A 20, above.

Whether or not the local land use or zoning code contains a specific procedure for requesting a reasonable accommodation or other exception to a zoning regulation, if local government officials have previously made statements or otherwise indicated that an application for a reasonable accommodation would not receive fair consideration, or if the procedure itself is discriminatory, then persons with disabilities living in a group home, and/or its operator, have the right to file a Fair Housing Act complaint in court to request an order for a reasonable accommodation to the local zoning regulations.

23. Does the Fair Housing Act require local governments to adopt formal reasonable accommodation procedures?

The Act does not require a local government to adopt formal procedures for processing requests for reasonable accommodations to local land use or zoning codes. DOJ and HUD nevertheless strongly encourage local governments to adopt formal procedures for identifying and processing reasonable accommodation requests and provide training for government officials and staff as to application of the procedures. Procedures for reviewing and acting on reasonable accommodation requests will help state and local governments meet their obligations under the Act to respond to reasonable accommodation requests and implement reasonable accommodations promptly. Local governments are also encouraged to ensure that the procedures to request a reasonable accommodation or other exception to local zoning regulations are well known throughout the community by, for example, posting them at a readily accessible location and in a digital format accessible to persons with disabilities on the government's website. If a jurisdiction chooses to adopt formal procedures for reasonable accommodation requests, the procedures cannot be onerous or require information beyond what is necessary to show that the individual has a disability and that the requested accommodation is related to that disability. For example, in most cases, an individual's medical record or detailed information about the nature of a person's disability is not necessary for this inquiry. In addition, officials and staff must be aware that any procedures for requesting a reasonable accommodation must also be flexible to accommodate the needs of the individual making a request, including accepting and considering requests that are not made through the official procedure. The adoption of a reasonable accommodation procedure, however, will not cure a zoning ordinance that treats group homes differently than other residential housing with the same number of unrelated persons.

24. What if a local government fails to act promptly on a reasonable accommodation request?

A local government has an obligation to provide prompt responses to reasonable accommodation requests, whether or not a formal reasonable accommodation procedure exists. A local government's undue delay in responding to a reasonable accommodation request may be deemed a failure to provide a reasonable accommodation.

25. Can a local government enforce its zoning code against a group home that violates the zoning code but has not requested a reasonable accommodation?

The Fair Housing Act does not prohibit a local government from enforcing its zoning code against a group home that has violated the local zoning code, as long as that code is not discriminatory or enforced in a discriminatory manner. If, however, the group home requests a reasonable accommodation when faced with enforcement by the locality, the locality still must consider the reasonable accommodation request. A request for a reasonable accommodation may be made at any time, so at that point, the local government must consider whether there is a relationship between the disabilities of the residents of the group home and the need for the requested accommodation. If so, the locality must grant the requested accommodation unless doing so would pose a fundamental alteration to the local government's zoning scheme or an undue financial and administrative burden to the local government.

**Questions and Answers on Fair Housing Act Enforcement of
Complaints Involving Land Use and Zoning**

26. How are Fair Housing Act complaints involving state and local land use laws and practices handled by HUD and DOJ?

The Act gives HUD the power to receive, investigate, and conciliate complaints of discrimination, including complaints that a state or local government has discriminated in exercising its land use and zoning powers. HUD may not issue a charge of discrimination pertaining to "the legality of any State or local zoning or other land use law or ordinance." Rather, after investigating, HUD refers matters it believes may be meritorious to DOJ, which, in its discretion, may decide to bring suit against the state or locality within 18 months after the practice at issue occurred or terminated. DOJ may also bring suit by exercising its authority to initiate litigation alleging a pattern or practice of discrimination or a denial of rights to a group of persons which raises an issue of general public importance.

If HUD determines that there is no reasonable cause to believe that there may be a violation, it will close an investigation without referring the matter to DOJ. But a HUD or DOJ

decision not to proceed with a land use or zoning matter does not foreclose private plaintiffs from pursuing a claim.

Litigation can be an expensive, time-consuming, and uncertain process for all parties. HUD and DOJ encourage parties to land use disputes to explore reasonable alternatives to litigation, including alternative dispute resolution procedures, like mediation or conciliation of the HUD complaint. HUD attempts to conciliate all complaints under the Act that it receives, including those involving land use or zoning laws. In addition, it is DOJ's policy to offer prospective state or local governments the opportunity to engage in pre-suit settlement negotiations, except in the most unusual circumstances.

27. How can I find more information?

For more information on reasonable accommodations and reasonable modifications under the Fair Housing Act:

- HUD/DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act, available at <https://www.justice.gov/crt/fair-housing-policy-statements-and-guidance-0> or <http://www.hud.gov/offices/fheo/library/huddojstatement.pdf>.
- HUD/DOJ Joint Statement on Reasonable Modifications under the Fair Housing Act, available at <https://www.justice.gov/crt/fair-housing-policy-statements-and-guidance-0> or http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf.

For more information on state and local governments' obligations under Section 504:

- HUD website at http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504.

For more information on state and local governments' obligations under the ADA and *Olmstead*:

- U.S. Department of Justice website, www.ADA.gov, or call the ADA information line at (800) 514-0301 (voice) or (800) 514-0383 (TTY).
- Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and *Olmstead v. L.C.*, available at http://www.ada.gov./olmstead/q&a_olmstead.htm.
- Statement of the Department of Housing and Urban Development on the Role of Housing in Accomplishing the Goals of *Olmstead*, available at <http://portal.hud.gov/hudportal/documents/huddoc?id=OlmsteadGuidnc060413.pdf>.

For more information on the requirement to affirmatively further fair housing:

- Affirmatively Furthering Fair Housing, 80 Fed. Reg. 42,272 (July 16, 2015) (to be codified at 24 C.F.R. pts. 5, 91, 92, 570, 574, 576, and 903).
- U.S. Department of Housing and Urban Development, Version 1, Affirmatively Furthering Fair Housing Rule Guidebook (2015), *available at* <https://www.hudexchange.info/resources/documents/AFFH-Rule-Guidebook.pdf>.
- Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Vol. 1, Fair Housing Planning Guide (1996), *available at* <http://www.hud.gov/offices/fheo/images/fhpg.pdf>.

For more information on nuisance and crime-free ordinances:

- Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others Who Require Police or Emergency Services (Sept. 13, 2016), *available at* <http://portal.hud.gov/hudportal/documents/huddoc?id=FinalNuisanceOrdGdnce.pdf>.



Section 6 – Admissions	Policy - 12	Est: 8/2014	Rev: 03/2022
Pre-Admission Assessment		Approved By: Exec. Leadership Board	

Policy: A standardized Pre-Admission Assessment is conducted utilizing established admission and eligibility criteria to evaluate and individual's appropriateness for admission. This assessment is conducted by Intake Coordinators before admission to any program.

Procedure:

1. The Admissions Coordinator will administer and complete the initial assessment form called the “Pre-Intake Assessment” with all individuals requesting admission.
2. Questions are included in the assessment which may elicit areas of concern, i.e., "red flags". Should any "red flags" be identified, the intake coordinator will refer the form to the Admissions Director, who will determine whether further consultation is needed in the initial screening of the individual. The intake coordinator will confer with the Admissions Manager as needed to determine what admission or referral arrangements need to be made.
3. The Pre-Intake Assessment and any other available information will be reviewed by the Admissions Manager to determine if a release of information signed by the potential client is needed to obtain more information from his/her physician or psychiatrist.
4. The Admissions Manager will utilize ASAM criteria to determine the appropriate level of substance abuse care the client will require based off the following the ASAM 6 Dimensions:
 - a. Dimension 1: Acute Intoxication and/or Withdrawal Potential - Past and current experiences of substance use and withdrawal.
 - b. Dimension 2: Biomedical Conditions and Complications - Physical health history and current condition
 - c. Dimension 3: Emotional, Behavioral, or Cognitive Conditions and Complications - Thoughts, emotions, mental health needs, and behavioral health history
 - d. Dimension 4: Readiness to Change - Readiness and interest in changing
 - e. Dimension 5: Relapse, Continued Use, or Continued Problem Potential - Likelihood of relapse or continued use or continued behavioral health problems
 - f. Dimension 6: Recovery and Living Environment - Relationship between recovery and living environment (people, places, and things)
5. If the person is admitted into the residential component, all information, including medication needs, will be documented in the client's admission file, and forwarded to the clinical and medical team.
6. In most cases, clients with legal problems will not be prevented from admission. However, each case will be evaluated on an individual basis to determine that the situation will not significantly interfere with a client's treatment and will not violate any laws.
7. Willow Springs provides direct or referral services to the disabled based upon ability to participate in the treatment regimen of the desired level of care. Each case will be assessed and evaluated on an individual basis.
8. If no areas of concern are noted, or the individual is deemed appropriate for admission, an admission appointment will be scheduled.
9. If a client is deemed ineligible, the individual will be informed as to the reason(s) and be provided referrals.



Section 6 – Admissions	Policy - 1	Est: 8/2014	Rev: 03/2022
Admission Criteria		Approved By: Exec. Leadership Board	

Policy: Sunshine Behavioral Health screens all potential participants for program eligibility prior to admission. Admission and readmission criteria for determining the participant’s eligibility and suitability for services are written and reviewed. All participants admitted meet the admission criteria which will be documented in the participant’s file. Participants are considered for program services without regard to race, religion, gender, sexual preference, mental or physical disability, national origin, or cultural background/identification. Should a client be found inappropriate for admission (see Ineligibility Criteria) an appropriate adareferral shall be made.

- Admission is open to adults (18+ years of age) in need of services for alcohol and/or drug related problems and not in need of medical treatment for a life-threatening illness or condition. Physically disabled clients will be assessed and accepted on a case-by-case basis. Involvement with alcohol and/or other drugs shall be the primary reason for admission for each client. The request for admission must be voluntary.
- Persons in need of medical detoxification services shall not be permanently excluded. Their needs may necessitate detoxification until medical clearance for admission to the residential program
- Individuals with HIV/AIDS are not excluded.
- If an individual needs a higher level of care and supervision than the program can provide, referral information for suitable facilities will be given.
- Sunshine Behavioral Health accepts clients referred by the courts and will provide full disclosures to law enforcement authorities, probation ofi ficer, social workers, and police if a specific violation of court order or law is violated. Clients who are referred by the courts are asked to sign a consent form granting permission for staff to make disclosures to law probation officers and court officials when needed.
- Sunshine Behavioral Health functions in compliance with section 504 of the Federal Rehabilitation Act of 1973, Title IV of the Federal Civil Rights Act of 1964, Federal Age Discrimination Act of 1973, and subsequent state and local laws and regulations implementing such statutes.
- Sunshine Behavioral Health shall consider the whole person and takes a “multi-dimensional” approach, and recognizes the many different areas of life that make up who the clients are, and how these life areas, or “dimensions,” contain different risks and needs, as well as strengths and resources per ASAM guidelines.
 - a. Clients will be admitted to the appropriate level of care based on the ASAM criteria’s assessment dimensions and be reassessed after admission to confirm.
- Sunshine Behavioral Health provides a spectrum of services and correlating housing per level of care.
 - a. This approach to treatment, or continuum of care, ensures that patients receive adequate care upon admission and are smoothly transitioned to a higher or lower level of care as needed



Crook County Community Development
 300 NE 3rd Street, Prineville, OR 97754
 Phone: (541) 447-3211 Fax: (541) 416-2139
 Email: bld@co.crook.or.us Website: www.co.crook.or.us

AUTHORIZATION FORM

Let it be known that Adam Smith (Attorney with Schwabe Williamson & Wyatt)
 (Print name clearly)

has been retained to act as my authorized agent to perform all acts for development on my property noted below. These acts include: Pre-application conference, filing applications, and/or other required documents relative to all permit applications in regards to this project.

Physical address of property: 14427 SW Alfalfa Rd, Powell Butte, OR 97753 and described in the records of
 CROOK COUNTY, Oregon as map/tax number: 16142000-00100-2063

The costs of the above actions, which are not satisfied by the agent, are the responsibility of the undersigned property owner.

PROPERTY OWNER (Please print clearly)

Printed Name: The Roman Catholic Bishop of the Diocese of Baker, Inc. Date: 27 February 2024

Signature: [Handwritten Signature]

Mailing Address: 641 SW Umatilla Ave

City: Redmond State: OR Zip: 97756

Phone: (541)388-4004

eMail: hope@dioceseofbaker.org

Individual Corporation Limited Liability Corporation Trust

IMPORTANT NOTE: If the property is owned by an entity, include the names of all the authorized signers.
 If a Corporation: Provide the name of the President, or other authorized signor (s).
 If a LLC: Provide the names of ALL members and managers.
 If a Trust: Provide the name of the current Trustee (s).

In addition, if you are a corporation, you will need to include a copy of the bylaws, an operating agreement if you are an LLC, or Certificate of Trust if you are a trust that verifies authority to sign on behalf of the entity

APPROVED AGENT

Printed Name: Adam Smith (Attorney with Schwabe Williamson & Wyatt) Date: _____

Signature: [Handwritten Signature] Digitally signed by Adam Smith
 Date: 2024.02.27 12:41:38 -08'00'

Mailing Address: 360 SW Bond Street Suite 500

City: Bend State: OR Zip: 97702

Phone: 541-749-1759

eMail: ASmith@Schwabe.com