

From: [Jennifer Bragar](#)
To: [Tony Konkol](#); [Laura Terway](#)
Cc: [Bill Kabeiseman](#); [Ed Sullivan](#)
Subject: FW: Status of Teen Challenge PMMC Day Use
Date: Monday, April 21, 2014 10:46:19 AM

Tony and Laura,

Below is the e-mail response I sent to Mike Reeder regarding his email on April 17, 2014. If you have questions or would like to discuss this approach further, I am available today. Thank you.

Unless expressly stated otherwise, any federal tax advice contained in this communication (including attachments) is not intended to be used, and cannot be used, for the purpose of avoiding federal tax penalties.

This e-mail is for the sole use of the intended recipient(s). It contains information that is confidential and/or legally privileged. If you believe that it has been sent to you in error, please notify the sender by reply e-mail and delete the message. Any disclosure, copying, distribution or use of this information by someone other than the intended recipient is prohibited.

JENNIFER M. BRAGAR

Associate | 503.228.3939 x 3208 Tel | 503.226.0259 Fax | jbragar@gsblaw.com

GARVEY SCHUBERT BARER | 11th Floor | 121 SW Morrison Street | Portland, OR 97204 | ► GSBLaw.com

► land use | condemnation | real estate e-forum: www.northwestlandlawforum.com

From: Jennifer Bragar
Sent: Monday, April 21, 2014 10:47 AM
To: 'Micheal Reeder'
Cc: hodgesc@comcast.net; Dave Oliver; Rodger.Snodgrass@teenchallengepnw.com; garry.wallace@teenchallengepnw.com; rickgivens@gmail.com; Ed Sullivan
Subject: RE: Status of Teen Challenge PMMC Day Use

Mr. Reeder,

I received the information you sent via e-mail on April 17, 2014 regarding the Portland Metro Men's Center property located at 405 Warner Parrott Road. Currently, Portland Metro Men's Center (PMMC) has a current application (Planning files CU 13-01, SP 13-11 and LL 13-04) requesting conditional use approvals for a religious institution and associated Christian recovery program, including dormitory facilities for up to 60 students enrolled in the program.

I am not going to respond to everything in your April 17, 2014 e-mail, but there are a lot of assumptions in the e-mail for which the City disagrees. However, this is not the time to respond to those assumptions.

This e-mail identifies the process that PMMC can undertake for the City to address the information you provide.

The City needs to know what PMMC is applying for. If PMMC claims that it has a nonconforming use, then it needs to apply for a nonconforming use determination under OCMC 17.58.060. The nonconforming use determination will likely be a discretionary determination. PMMC may file the

nonconforming use application and may consolidate the application with the pending application. If the applications are consolidated, then new notice will be required.

If PMMC is arguing Equal Terms, then that argument must be raised with PMMC's current or future applications.

If we do not hear from you, the City will continue to process the current application.

Please contact me if you have questions regarding the foregoing information.

Unless expressly stated otherwise, any federal tax advice contained in this communication (including attachments) is not intended to be used, and cannot be used, for the purpose of avoiding federal tax penalties.

This e-mail is for the sole use of the intended recipient(s). It contains information that is confidential and/or legally privileged. If you believe that it has been sent to you in error, please notify the sender by reply e-mail and delete the message. Any disclosure, copying, distribution or use of this information by someone other than the intended recipient is prohibited.

JENNIFER M. BRAGAR

Associate | 503.228.3939 x 3208 Tel | 503.226.0259 Fax | jbragar@gsblaw.com

GARVEY SCHUBERT BARER | 11th Floor | 121 SW Morrison Street | Portland, OR 97204 | ► GSBLaw.com

► land use | condemnation | real estate e-forum: www.northwestlandlawforum.com

From: Micheal Reeder [<mailto:mreeder@arnoldgallagher.com>]

Sent: Thursday, April 17, 2014 11:54 AM

To: Jennifer Bragar

Cc: hodgesc@comcast.net; Dave Oliver; Rodger.Snodgrass@teenchallengepnw.com; garry.wallace@teenchallengepnw.com; rickgivens@gmail.com; Ed Sullivan

Subject: Status of Teen Challenge PMMC Day Use

Jennifer:

You will remember that the Assemblies of God, Oregon District, Inc. owned the site and church located at 405 Warner Parrott Road in Oregon City until April 29, 2012 when the church disbanded. The Assemblies of God then sold the site to Teen Challenge Pacific Northwest (TC) in mid-2012. After consultation with Laura Terway TC began using the site as a "religious institution" for a religious "day use" for its Portland Metro Men's Center (PMMC) on November 1, 2012.

It was my understanding from our meeting in your office on March 6, 2014 that City staff wanted evidence showing that the site had been used as a church continuously for 20 years prior to closing on April 29, 2012 in order to show that the current day use of the site was a legal, nonconforming use that did not require a CUP (either as part of the current CUP application or as a separate "day use" CUP application).

Staff is in error and I provide you with this email first without sending it directly to the Planning Commission so that you and staff may analyze it and take appropriate remedial

action. I expect City staff to take the position in the new staff report (due Monday) and at the Planning Commission hearing on April 28th that the current day use of the site is a legal, **conforming** use (i.e. outright permitted) pursuant to the RLUIPA Equal Terms provision. I also expect staff to take the position that, setting aside the fact that the current use is a legal, conforming use, that the site has been a “religious institution” for well over 20 years, and therefore, to the extent that such a determination is even necessary, the evidence is overwhelming that the current use is (at the very least) a legal, nonconforming use.

I explain our position as follows:

1. RLUIPA Equal Terms Provision

The RLUIPA Equal Terms provision requires the City to treat the current PMMC day use on equal terms with a similar secular institution or assembly. As you well know, the R-10 district permits outright “Community Centers” and “Neighborhood Centers”. See your attached letter to me dated September 32, 2012 wherein you take the position that the intended use of the site for a the PMMC with **overnight accommodations** (i.e. a dormitory) was not a proper comparator per 9th Circuit case law and therefore TC would need to go through the CUP process. (It should be noted that although we disagree with that conclusion and believe that the Equal Terms provision requires the City to permit the PMMC to operate (even with a residential component), TC made a business decision to seek for a CUP). Implicit in your argument was that the intended use without an overnight accommodation component is a valid comparator to Neighborhood Centers and Community Centers.

Therefore, since the day use of the PMMC is a valid comparator to a Neighborhood and/or Community Center, the Equal Terms provision requires the City to treat the PMMC day use on equal terms as the comparators. Since Neighborhood Centers and Community Centers are permitted in the R-10 zone without the need for a CUP, then the PMMC day use also need not apply for a CUP. Therefore the issue of whether the PMMC day use is a legal, nonconforming use is moot because it is a legal conforming use, permitted outright.

2. Over 20 Years of Continuous Use of the Site as a Church

To the extent that the City needs evidence that the site was used as a church (i.e. “religious institution”) continuously for 20 years prior to the use as the PMMC, I attach three letters that provide overwhelming evidence that the site was used continually as a church (i.e. for more than 20 years prior to its closing in 2012).

Jennifer, please let me know when you have reviewed this information and confirm for me what position you and staff will be taking regarding this issue. Should you have any questions, please feel free to call.

Best,

MICHEAL M. REEDER



T: (541) 484-0188 / F: (541) 484-0536
800 Willamette Street, Suite 800, Eugene, OR 97401
www.arnoldgallagher.com

CONFIDENTIAL: The information contained in this electronic communication is privileged and/or confidential. The information is for the sole use of the intended addressee. If the reader of this communication is not the intended addressee, you are hereby notified that any dissemination, distribution and/or copying of this communication or the information contained in this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone at 541/484-0188 and thereafter, immediately destroy this electronic communication. Thank you.

TAX ADVICE DISCLAIMER: Pursuant to federal law, you are advised that any federal tax advice contained in this communication (including attachments) was not intended or written to be used, and it cannot be used, by you for the purpose of (1) avoiding any penalty that may be imposed by the Internal Revenue Service or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein.



PORTLAND OFFICE

eleventh floor

121 sw morrison street

portland, oregon 97204-3141

TEL 503 228 3939 FAX 503 226 0259

OTHER OFFICES

beijing, china

new york, new york

seattle, washington

washington, d.c.

GSBLAW.COM

G A R V E Y S C H U B E R T B A R E R

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

Please reply to JENNIFER BRAGAR

jbragar@gsblaw.com

TELEPHONE 503 553 3208

September 13, 2012

Michael M. Reeder
Arnold Gallagher
800 U.S. Bank Center
800 Willamette Street
Eugene, OR 97401

Re: Oregon City's Further Response to Teen Challenge International Pacific Northwest
Centers' Letters Requesting RLUIPA Consideration

Dear Mr. Reeder:

This firm serves as the City Attorney to the City of Oregon City ("City"). This letter responds to Teen Challenge International Pacific Northwest Centers' ("Teen Challenge") August 14, 2012, letter requesting waiver of the application requirements that would otherwise apply to a proposal to house between 30-35 students receiving pastoral counseling to aid in recovery from addiction. As we understand the situation, Teen Challenge proposes a dormitory use in the existing church building ("Intended Use"). The property is located at 405 Warner Parrott Road in Oregon City, Tax lot: 3-2E-06CA-01700 ("Subject Property") in the City's R-10 zone.

Teen Challenge seeks a waiver pursuant to the "Equal Terms" provision of the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), 42 U.S.C. 2000cc-(b)(1). Teen Challenge asserts that the Intended Use qualifies as a religious assembly use that is comparable with other assembly uses allowed outright in the R-10 zone and, therefore, Teen Challenge need not apply for or receive a conditional use permit prior to using the Subject Property as intended. For the following reasons, the City disagrees with Teen Challenge's contention and concludes that applying the RLUIPA elements established in *Centro Familiar Christiano Buenas Nuevas v. City of Yuma*, 651 F.3d 1163 (9th Cir. 2011), the Oregon City Municipal Code ("OCMC") does not classify the Intended Use on less than equal terms than comparable secular activities within the R-10 zone. Under the City Code the Intended Use requires a conditional use permit.



Analysis of the applicability of the Equal Terms provision of RLUIPA is subject to the Ninth Circuit's test because the Ninth Circuit includes Oregon.

The Equal Terms provision of RLUIPA provides:

"No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution."

In *Centro Familiar Christiano Buenas Nuevas v. City of Yuma, supra*, at 1173, the court concluded a

"[c]ity violates the equal terms provision only when a church is treated on a less than equal basis with a secular comparator, similarly situated with respect to an accepted zoning criteria. The burden is not on the church to show a similarly *situated* secular assembly, but on the city to show that the treatment received by the church should not be deemed unequal, where it appears to be unequal on the face of the ordinance."

The courts have not decided an Equal Terms case that involves an application for a use similar to the Intended Use - a residential facility for 30-35 students. Instead, the City must meet the Ninth Circuit's requirement to show that the Intended Use is not treated on a less than equal basis with a secular comparator, similarly situated with respect to accepted zoning criteria. Teen Challenge contends that its Intended Use qualifies as a religious assembly or institution that is most comparable to community centers and neighborhood centers that are permitted uses in the R-10 zone. As the City stated in its August 8, 2012, letter to Teen Challenge, the primary characteristics of the Intended Use are significantly different from a community or neighborhood center most particularly with regard to overnight accommodations. Rather, the most "similarly situated" secular comparator to the Intended Use is a group home serving over fifteen people that requires a conditional use permit.¹

Oregon City's treatment of neighborhood centers and community centers

As Teen Challenge described, the City Code does not contain a definition of community center or neighborhood center. However, the American Planning Association, "A Planners Dictionary" utilized by the City does contain a definition of community center. This dictionary defines community center as,

"A building to be used as a place of meeting, recreation, or social activity and not operated for profit and in which neither alcoholic beverages or meals are normally dispensed or consumed. (*Hartford, Conn.*). A place, structure, area, or other facility used for and providing religious, fraternal, or recreational programs generally open to the public and designed to accommodate and service significant segments of the community. May also be referred to as a convention center or civic center. (*Mankato, Minn.*)"

¹ As described in the City's August 8, 2012 response to Teen Challenge, at pages 2-3, Oregon's Special Residence statutes, ORS 197.660 *et seq.* provide useful context for City's to review group home applications for over fifteen people through its conditional use process.



Further, this dictionary defines neighborhood facility,

"A facility intended to serve or accommodate the needs of a specific segment of a community or area. (*Fort Wayne, Ind.*)"

The City interprets these terms, as described in its August 8, 2012, letter consistently with these definitions to exclude the provision of overnight accommodations.

The City has only one recognized community center or neighborhood center within its boundaries. The Pioneer Community Senior Center is a day use, City-owned community center. The Pioneer Community Senior Center operates programs targeted to the senior community, and as described in Clackamas County's HUD CDBG grant application, the center is the base for a nutritional outreach program. See Attachment 1. This community center does not include overnight accommodations. Thus, Oregon City's operation of community centers and neighborhood centers align with the Planners Dictionary definitions described above because the one recognized center serves a specific segment of the community in a facility for recreation and social activity. Therefore, community centers and neighborhood centers are not secular comparators to the Intended Use that are similarly situated with respect to accepted zoning criteria because community and neighborhood centers do not include overnight accommodation.

The City concludes that the Intended Use is comparable to secular assemblies described in the conditional use section of the City Code and Oregon City Municipal Code 17.08.030 and subject to the same accepted zoning criteria.

Under OCMC17.08.030.J, the code lists a secular comparator to the Intended Use that is similarly situated with respect to the accepted zoning criteria in its listing of a "group home for over fifteen people." The use of R-10 property by an organization to house more than fifteen people, regardless of whether the organization operating the home is religious or secular, is a conditional use under OCMC 17.08.030.J. Based on this analysis, and in light of this comparable use, Teen Challenge's Intended Use would be treated equally to any other group home where over fifteen people reside in the R-10 zone, through the conditional use review process.

Conditional uses in the R-10 zone are all subject to the same zoning criteria found in OCMC 17.56.010, namely that the applications will be reviewed to consider the adequacy of transportation systems, public facilities, and services existing or planned for the area. As Teen Challenge has pointed out, that consideration will necessarily take into account the residential nature of the facility, as well as the number of residents intended to be housed.

To date, the City does not have any conditionally approved group homes with over fifteen residents. However, in 2007, the City approved a conditional use permit for the House of Hope to operate a boarding school for three to five girls undergoing live-in residential counseling. The Staff Report in support of approval contains a detailed analysis of the conditional use criteria that are considered in a conditional use process. See pages 5-6 of the attached Staff Report and Notice of Decision for CU 07-04, Attachment 2. As described therein, the application did not require upgrades to



any of the infrastructure for the home to be used as the boarding school and did not have traffic impacts because of the small number of girls that would be residing at the property. In contrast, Teen Challenge described that its Intended Use may have a greater impact on public infrastructure and utilities resulting from operation of a commercial kitchen, additional plumbing fixtures, and an increase in traffic. The Intended Use would be subject to the same zoning criteria as similarly situated secular assemblies that involve overnight accommodation for residents.

Though the Ninth Circuit Equal Terms test is similar to the Third Circuit's test, the Ninth Circuit is focused on the applicable zoning criteria, not the regulatory purpose.

Teen Challenges' letter focuses on the Third Circuit's Equal Terms test to consider whether a religious assembly is treated less well than secular assemblies or institutions that are similarly situated as to the regulatory purpose. *Lighthouse Institute for Evangelism, Inc. v. City of Long Branch*, 510 F3d 253, 266 (3rd Cir. 2007). Based on its reliance of the Third Circuit holding, Teen Challenge's August 14, 2012, letter focuses on the residential zoning and contends that its Intended Use is residential in nature and thereby achieves the regulatory purpose of the zone district.

However, this interpretation relies too much on the Third Circuit test, and not enough on the Ninth Circuit test that focuses on a comparison of a secular comparator that is similarly situated with respect to zoning criteria. *Centro Familiar Christiano Buenas Nuevas v. City of Yuma*, *supra*. at 1173. The City rejects the Third Circuit test in favor of the governing Ninth Circuit test. In Oregon City, the zoning criteria at issue are the conditional use standards in OCMC 17.56.030. The conditional uses listed in OCMC 17.08.030 and governed by the conditional use standards address the scale of development independent of an applicant's religious affiliation by providing a mechanism to address neutral concerns about the impacts of conditional use development in the R-10 zone. The City has a significant governmental interest to plan for specific land uses to be confined to R-10 districts; thus, the City has zoned its land to include single-family residential zones that do not permit dormitory uses outright. The City offers some flexibility to allow conditional uses within the R-10 zone, but reviews such proposals under the conditional use criteria in OCMC 17.56.030, to ensure that nursing homes, assisted living facilities, and group homes over fifteen people, as well as other listed conditional uses, do not transform residential neighborhoods into high density dormitory dominated neighborhoods.

Note, that even under a regulatory purposes' gloss, the Third Circuit's discussion in *Lighthouse* emphasized that it did not intend to exempt religious entities from obtaining land use review. The Third Circuit rejected any test that would result in allowing outright a large church with a thousand members in the same neighborhood where a town already allows a local, ten-member book club to meet in a senior center. *Id.* at 268. Instead, the Third Circuit ruled that "a plaintiff under the Equal Terms Provision must identify a better-treated secular comparator that is similarly situated in regard to the *objectives* of the challenged regulation." *Id.* (emphasis in original).

As stated above, the conditional use standards provide the City an opportunity to review whether City-wide and site-specific infrastructure is adequate for the Intended Use. In this way, the City's zoning code is set up to reflect the concern raised by the Third Circuit and its intent to protect against the development of a high-intensity religious use by comparing it to a less-intense ten person book club.



Teen Challenges' August 14, 2012, letter does just that by trying to compare a 30-35 person live-in residential counseling facility to a day-use community or neighborhood center. In Oregon City, the threshold for conditional use review of the Intended Use, as well as any group home, nursing home, or assisted care facility is met when the proposal exceeds fifteen people. It is at that level of development that the City identified its concern that the scale of development requires additional oversight through application of the conditional use criteria, notwithstanding whether the applicant for the use involves a religious assembly.

Conclusion

Under the Ninth Circuit's test, applicable to Oregon City, the City is tasked with comparing the Intended Use with a secular comparator, similarly situated with respect to an accepted zoning criterion. Here, the most similarly situated comparator is a group home subject to the conditional use criteria to allow the City to ensure the adequacy of the public roads, sewers, and other public facilities and services. Contrary to Teen Challenge's assertion, the City Code does not create unequal treatment of religious uses when the Intended Use is compared to similar secular uses, similarly situated with respect to accepted zoning criteria. Notwithstanding that the Intended Use is characterized as a religious use, the Intended Use is most comparable to a group homes that house over fifteen people in the R-10 zone. Therefore, the Intended Use proposed by Teen Challenge on the Subject Property is subject to the conditional use review process.

Thank you for your attention to this matter.

Sincerely,

GARVEY SCHUBERT BARER

By


Jennifer Bragar

JB:jlw

Enclosures:

Attachment 1: Excerpt of 1978 Clackamas County HUD Grant
Attachment 2: Staff Report and Notice of Decision for CU 07-04

cc: Chris Hodges
Client

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT COMMUNITY DEVELOPMENT PROGRAM				1. NAME OF APPLICANT Clackamas County, OR		2. APPLICATION NO.		3. <input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> AMENDMENT	
				ENTITLEMENT APPLICANTS ONLY 4. PROGRAM YEAR: FROM: 7/15/78 TO: 7/15/79					
ACTIVITY DESCRIPTION	RELATED SHORT- TERM OBJECTIVE	CENSUS TRACT/ ENUMER- ATION DISTRICT	ENVIRONMENTAL REVIEW STATUS	RELATED BUDGET LINE ITEM	ESTIMATED COST (\$000)				
					BLOCK GRANT FUNDS			OTHER FUNDS	
					PROGRAM YEAR	SUBSEQUENT YEAR	TOTAL	AMOUNT	SOURCE
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
(4) <u>Clearance, Demolition, Rehab.</u>	See Three Year Summary 1979 Objectives/Work Program	Community Wide	Assessment	4	5,000	35,000	5,000		
(5) <u>Rehabilitation Loans & Grants</u>		Community Wide	Assessment	5	195,000		195,000	25,000 160,000 10,000	AAA CSA FEA
(6) <u>Special Projects for the Elderly and Handicapped</u>				6	1,000,000		1,000,000		
A. Miawaukie Senior Multi-Purpose Center		208,209 210,211 212,215*	Assessment		650,000		650,000		
B. Oregon City Senior Center		224,225**	Certification		350,000		350,000	320,000 90,000 58,000 11,000	CDBG76 Land do- nated State Office of Elderly & Aging Senior Citizens
C. Gladstone Senior Center							129,000		
*Loaves and Fishes Nutrition Program Outreach									
**Nutrition program outreach to surrounding urban area and census tracts 239,234,242,243.									
1Preliminary Allocation									
GRAND TOTAL					\$	\$	\$	\$	

HUD-7015.1 (11-75)

CITY OF OREGON CITY
TYPE III – CONDITIONAL USE PERMIT
320 WARNER MILNE ROAD OREGON CITY, OREGON 97045
Tel 657-0891 Fax 657-7892



STAFF REPORT and RECOMMENDATION
October 1, 2007

Complete: August 23, 2007
120-Day: December 21, 2007

FILE NO.: CU 07-04

APPLICATION TYPE: Type III
Planning Commission Hearing Date: October 8, 2007

APPLICANT/OWNER: House of Hope
c/o Troy Wagner
P.O. Box 33114
Oregon City, OR 97045

REQUEST: The applicant is requesting approval of a Conditional Use permit to operate as a residential boarding school for 3 to 5 girls.

LOCATION: 206 Holmes, Oregon City, Oregon 97045
Clackamas County Map 3-2E-06AC, Tax Lot 1700
Zoned "R-10" Dwelling District

REVIEWER: Christina Robertson-Gardiner – Associate Planner, City of Oregon City

RECOMMENDATION: Approval with Conditions.

Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the city commission, except upon appeal. Applications evaluated through this process include conditional use permits, preliminary planned unit development plans, variances, code interpretations, similar use determinations and those rezonings upon annexation under Section 17.06.050 for which discretion is provided. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission or the historic review board hearing is published and mailed to the applicant, recognized neighborhood association and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission or the historic review board, all issues are addressed. The decision of the planning commission or historic review board is appealable to the city commission, on the record. The city commission decision on appeal from the historic review board or the planning commission is the city's final decision and is appealable to LUBA within twenty-one days of when it becomes final.

IF YOU HAVE ANY QUESTIONS ABOUT THIS DECISION, PLEASE CONTACT THE PLANNING DIVISION OFFICE AT (503) 657-0891.

DECISION CRITERIA: Chapter 17.08 R-10 SINGLE FAMILY DWELLING DISTRICT
Chapter 17.50 ADMINISTRATION AND PROCEDURES
Chapter 17.56 CONDITIONAL USES

I. BACKGROUND

The applicant, House of Hope, is requesting approval of a Conditional Use permit to operate as a residential boarding school for 3 to 5 girls. The applicant has provided the following information about their program:

House of Hope Portland is a non-denominational Christian program for struggling boys and girls between the ages of 13 to 17. The mission of House of Hope is "to restore hurting families by allowing God to bring healing to the physical, spiritual and emotional needs of troubled teenagers and their families." At House of Hope Portland, this is accomplished through a multi-pronged approach: individual counseling, family counseling, schooling and living skills training.

In September 2006, House of Hope Portland began as a non-residential counseling program to temporarily meet the needs of the community. 4 teens and their families have received treatment in the first 7 months of the program. House of Hope: Portland works closely with both the family and the teen to ensure they are receiving the care and support they need for mutual progress to occur.

In some cases, a teen's issues are too deep to be dealt with while living at home. Some times it is simply unsafe for the teen to return home, as in cases of negative peer influences, running away, self-mutilation or suicidal depression. In these cases, residential treatment allows the teen and family to heal together while the teen remains in a safe, loving, structured Christian environment. Currently, House of Hope: Portland is looking for its first residential treatment facility. It will house between 3 and 5 girls.

The applicant has additionally submitted a daily schedule (Exhibit 3) identifying the times and activities for the girls to be living on site. According to the applicant, outside visitors are only allowed with proper approval and are supervised at all times.

The ^{at} subject site is currently occupied by a single-family residence on a 24, 829 square foot lot. The 1940s era home is situated at the front of the oversized lot near Holmes Lane and has both an attached two-car garage and a detached three-car garage in the rear with an additional gravel parking area for 3-5 cars. There are currently no street improvements on the site.

II. FACTS

1. **Location.** The site is located on the south side of Holmes Land between McCarver Avenue and Cherry Avenue and is identified as Clackamas County Map 3-2E 06AC TL 1700.
2. **Surrounding Zoning and Land Uses.** The subject site is zoned R-10 Single-Family Dwelling District. The properties to the north, south, east and west of the site are zoned R-10 Single-Family Dwelling District. Surrounding the site are single-family lots of sizes that range from 10,000 to 24,000 square feet. To the Southeast of the property along AV Davis and Linn Avenue is the Oregon City Evangelical Church (TL s 6400,600,500 &400). Also owned by the

Oregon City Evangelical Church is 155 A.V. Davis. This property was not included in their 2005 Conditional Use Review. The Oregon City Transportation System Plan identifies this section of Holmes Lane as a neighborhood collector.

3. **Public Comment.** The subject site was posted, the hearing was advertised in the Clackamas Review and notice of this proposal was sent to property owners within three hundred feet of the subject property and various City departments and other agencies requesting written comments and identifying the night and location of the hearing to present testimony. A memo has been prepared by Bill Kabeiseman, Assistant City Attorney responding to concerns relating to city's ability to enforce CC &R's on the property. Additionally, Carrie Richter, Assistant City Attorney, will be available at the October 8, 2007 hearing to answer any questions the Planning Commission may have regarding the submitted public comments.

Rivercrest Neighborhood Association Steering Committee, c/o Patty Brown PO Box 1223
The Steering Committee submitted minutes from their meeting with the applicant and notified staff that they do not object to the application.

Nancy K. Miller, 180 McCarver Avenue. Mrs. Miller, a resident of the neighborhood for 37 years raised concerns with the amount of non-single family use in the area and the associated security issues relating to the intended uses of the site.

Glenda Durham, PO Box 1006. Ms. Durham, representing an unidentified number of clients, raises issues relating to the appropriateness of the Conditional Use and to ongoing court action regarding the ability to enforce the CC&Rs of the Rivercrest Addition in Oregon City.

Linda Lord, 142 Holmes Lane. Ms. Lord is not in favor of the application and has identified concerns relating to noticing, licensing, social service agencies being allowed in a residential zone, traffic, noise, and the deed restriction on property.

Cheryl Hooper, 818 Linn Avenue. Ms. Hooper has concerns with the application and sees the proposal as more of a correctional institution than a boarding school.

Erlyn and Lesley Krueger, 631 Charman Street. The Krueger's are uncomfortable with the proposed use being in a residential district.

Bob Krueger, 130 Telford Road. Mr. Krueger opposes the proposed use to be allowed through the Conditional Use process.

Mardel Lewis and Catherine West, 203 Cherry. Ms. West and Mr. Lewis are concerned that the proposed use does not meet the CC&Rs of the subdivision as well as having concerns over safety, traffic and property values.

Bill and Eileen Johnson, 886 Linn Avenue. The Johnsons' concerns relate to safety, compatibility of the use in the neighborhood as well as the need for more landscaping and property security.

III. CONDITIONAL USE PERMIT FINDINGS:

OREGON CITY ZONING CODE

Chapter 17.08: R-10 Single-Family Dwelling District

17.08.010 Designated.

This residential district allows for areas of single-family homes on lot sizes of at least ten thousand square feet. (Prior code §11-3-2(part))

17.08.020 Permitted uses.

Permitted uses in the R-10 district are:

- A. Single-family detached residential units;
- B. Publicly-owned parks, playgrounds, playfields and community or neighborhood centers;
- C. Home occupations;
- D. Farms, commercial or truck gardening and horticultural nurseries on a lot not less than twenty thousand square feet in area (retail sales of materials grown on site is permitted);
- E. Temporary real estate offices in model homes located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;
- F. Accessory uses, buildings and dwellings;
- G. Family day care provider, subject to the provisions of Section 17.54.050.

Finding: *Not Applicable.* The applicant has not proposed a permitted use.

17.08.030 Conditional uses.

The following conditional uses are permitted in this district when authorized by and in accordance with the standards contained in Chapter 17.56:

- A. Golf courses, except miniature golf courses, driving ranges or similar commercial enterprises;
- B. Uses listed in Section 17.56.030. (Prior code §11-3-2(B))

Finding: *Complies.* Section 17.56.030 identifies "Schools" as a use requiring a Conditional Use Permit.

17.08.040 Dimensional standards.

Dimensional standards in the R-10 district are:

- A. Minimum lot areas, ten thousand square feet;
- B. Minimum lot width, sixty-five feet;
- C. Minimum lot depth, eighty feet;
- D. Maximum building height, two and one-half stories, not to exceed thirty-five feet;
- E. Minimum required setbacks:
 - 1. Front yard, twenty feet minimum depth,
 - 2. Attached and detached garage, twenty feet minimum depth from the public right-of-way where access is taken, except for alleys. Garages on an alley shall be setback a minimum of five feet in residential areas.

3. Interior side yard, ten feet minimum width for at least one side yard; eight feet minimum width for the other side yard,
 4. Corner side yard, fifteen feet minimum width,
 5. Rear yard, twenty feet minimum depth,
 6. Solar balance point, setback and height standards may be modified subject to the provisions of Section 17.54.070. (Ord. 91-1020 §2(part), 1991; prior code §11-3-2(C))
- F. Garage Standards: See Section 17.20 – Residential Design Standards
- G. Maximum Building Coverage: See Section 17.20 – Residential Design Standards.

Finding: *Complies.* The existing single family residence on the 24,829 square foot lot meets all of the setbacks of the R-10 District.

Chapter 17.56 Conditional Uses

17.56.010 Permit--Authorization--Standards--Conditions.

The planning commission may allow a conditional use, provided that the applicant provides evidence substantiating that all the requirements of this title relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

1. *The use is listed as a conditional use in the underlying district;*

Finding: *Complies.* Section 17.56.030 identifies "Schools" as a use requiring a Conditional Use Permit. There has been some public comments submitted to the city questioning the nature of the proposed use as a school. Based on the information provided by the applicant, Staff has classified this use as a private boarding school. The students are minors between the ages of 13 and 17 and are being sent to the House of Hope by their parents where they will be provided with in home schooling. The applicant has indicated that they are pursuing the local and state licensing required to operate a school of this nature parallel to this Land Use process.

This Conditional Use is examining the impacts the proposal may have on the abutting single-family residential neighborhood and identify specific conditions of approval that may mitigate any potential impacts to the neighborhood.

2. *The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;*

Finding: *Complies with Conditions.* The subject site is a 24,829 square foot lot. The applicant is proposing to utilize the site for a boarding school for 3-5 girls. The purpose of the program is to provide in-house counseling and tutoring program for at risk girls with outside tutors and councilors who would come to the house at various points in the day/week. Once a week, parents of the students would come to the house to visit. The applicant has submitted a daily schedule in their submission packet which illustrates the controls the applicant plans to place on the girl's activities.

The applicant has also indicated that there would generally be no more than four or five cars at the site at any time. There is a two-car attached and three-car detached garage onsite as well as space for parking up to 5 cars either in the front driveway or in the rear parking area behind the house.

Staff finds that the proposed use of a boarding school for 3 to 5 girls is appropriate for the general area as it will have no more impact on the neighborhood than the potential intensity of any single family residence. Moreover, the Conditional Use process will provide an avenue for future neighborhood concerns of noise, parking and other nuisances to be addressed, which are not regulated in other single-family residences.

3. The site and proposed development are timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use;

Finding: Complies with Conditions.

Traffic/Transportation –

The anticipated traffic trips generated by the proposed use are no greater than that of the typical single-family residence. Parental visits and outside tutors are at a level of normal weekly single-family activity. As conditioned, all parking for the House of Hope shall be provided onsite and will not be allowed to spill into the neighboring streets

Sanitary Sewer – The existing home is not proposed to be altered for the conditional use.

Water – The existing home is not proposed to be altered for the conditional use.

Storm Drainage – The existing home is not proposed to be altered for the conditional use.

Fire – The existing home is not proposed to be altered for the conditional use.

Finding: Complies with Conditions.

4. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or precludes the use of surrounding properties for the primary uses listed in the underlying district;

Finding: Complies with Conditions.

The applicant has contended and staff agrees that the proposed use will have no more affect on a neighborhood than a single-family residence. Neighborhood comments, however, do not agree with this statement. While the Land Use Committee of the Neighborhood Association does not opposes the application, numerous neighbors have submitted comments that strenuously appose the proposed use in their neighborhood. They contend that the proposed use will bring safety concerns from not only the girls but friends associated with the students that may come to the area to visit. They do not see the proposed use as compatible with a single-family neighborhood. No mitigation measures have been identified in the public comments that could alleviate their concerns. Therefore, staff is recommending the Planning Commission approve the use but require the applicant, to submit an application to show compliance with the Conditional Use approval under OCMC 17.56 within one year of the Conditional Use approval. This will be processed as a Type II Administrative procedure, which is appealable to the City Commission.

5. The proposal satisfies the goals and policies of the city comprehensive plan which apply to the proposed use.

Comprehensive Plan Policies

Section 6 – Quality of Air, Water and Land Resources

Goal 6.4 Noise: Prevent excessive noise that may jeopardize the health, welfare and safety of the citizens or degrade the quality of life.

Policy 6.4.1: Provide for noise abatement features such as sound-walls, soil berms, vegetation and setbacks to buffer neighborhoods from vehicular noise and industrial noises.

Policy 6.4.2: Encourage land-use patterns along high-traffic corridors that minimize noise impacts from motorized traffic through building location, design, size and scale.

Finding: Complies. The proposed use as conditioned is not anticipated to created an impact greater than that of a single family residence.

Section 10 – Housing

Goal 10.1 Diverse Housing Opportunities. Provide for the planning, development and preservation of a variety of housing types and lot sizes to provide for needed affordable housing.

Policy 10.1.1: Maintain the existing residential housing stock in established older neighborhoods by maintaining existing comprehensive plan and zoning designations where appropriate.

Finding: Complies. The applicant has proposed a boarding school in the R-10 Single Family Dwelling District, a conditional use. The applicant does not propose to alter the building in a manner that it cannot be returned as a single-family residence if the Conditional Use is removed from the site. Oregon City has moat of the schools located in residential zone districts. The proposed use is compatible with the adjacent residential character of the neighborhood. It is appropriate to maintain the existing comprehensive plan and zoning designations for this site.

B. Permits for conditional uses shall stipulate restrictions or conditions which may include, but are not limited to, a definite time limit to meet such conditions, provisions for a front, side or rear yard greater than the minimum dimensional standards of the zoning ordinance, suitable landscaping, off-street parking, and any other reasonable restriction, condition or safeguard that would uphold the spirit and intent of the zoning ordinance, and mitigate adverse effect upon the neighborhood properties by reason of the use, extension, construction or alteration allowed as set forth in the findings of the planning commission.

Finding: Complies. The applicant has not requested any restriction, condition or safeguard beyond what is normally required by the city to uphold the spirit and intent of the zoning ordinance and mitigate adverse effect upon neighborhood properties. Staff has recommended conditions of approval that would appear to be appropriate to ensure compliance with the Oregon City Municipal Code.

C. Any conditional use shall meet the dimensional standards of the zone in which it is to be located pursuant to subsection B of this section unless otherwise indicated, as well as the minimum conditions listed below.

Finding: Complies. The applicant has indicated that the dimensional standards of the zone will be met.

D. In the case of a use existing prior to the effective date of the ordinance codified in this title and classified in this title as a conditional use, any change of use expansion of lot area or expansion of structure shall conform with the requirements for conditional use.

Finding: Not Applicable. There is no pre-existing Conditional Use on the parcel.

E. The planning commission may specifically permit, upon approval of a conditional use, further expansion to a specified maximum designated by the planning commission without the need to return for additional review. (Ord. 91-1025 §1, 1991; prior code §11-6-1)

Finding: Not applicable. The applicant has not proposed a phased Conditional Use approval.

17.56.020 Permit--Application.

Finding: Complies. The applicant has properly filed the Conditional Use request and a public hearing will be held before the Planning Commission.

17.56.040 Criteria and standards for conditional uses.

In addition to the standards listed herein in Section 17.56.010, which are to be considered in the approval of all conditional uses and the standards of the zone in which the conditional use is located, the following additional standards shall be applicable:

A. Building Openings. The city may limit or prohibit building openings within fifty feet of residential property in a residential zone if the openings will cause glare, excessive noise or excessive traffic which would adversely affect adjacent residential property as set forth in the findings of the planning commission.

Finding: Not Applicable. There are no new building openings proposed within fifty feet of residential property.

B. Additional Street Right-of-Way. The dedication of additional right-of-way may be required where the city plan indicates need for increased width and where the street is inadequate for its use; or where the nature of the proposed development warrants increased street width.

Finding: Complies. Holmes Lane in this section is identified as a Neighborhood Collector in the Oregon City Transportation System Plan, which requires a right-of-way (ROW) width of 52 to 81 feet. Currently, Holmes Lane has a 60-foot ROW width along the site's frontage. As this use is not anticipated, nor conditioned, to be of more impact than a single-family residence, no street improvements are being proposed at this time. This criterion will be revisited if the applicant chooses to expand the Conditional Use or request approval for a land partition.

17.56.060 Revocation of conditional use permits.

Finding: Complies with Conditions. The applicant has requested a Conditional Use Permit approval for a Boarding School for 3-5 girls. Neighbors have submitted comments questioning the level of impact the school will have on the neighborhood. Their concerns can be addressed by having the Applicant, submit an application to show compliance with the Conditional Use approval under OCMC 17.56 within one year of the Conditional Use approval. This will be processed as a Type II Administrative procedure. No fees are to be assessed to the applicant for this process

17.56.070 Periodic review of conditional use permits.

Finding: *Not Applicable.* The site has not been identified as needing a periodic review of a previously issued permit.

CONCLUSION AND DECISION:

Based on the analysis and findings as described above, the House of Hope can meet the requirements as described in the Oregon City Municipal Code for Conditional Use Permit by complying with the Conditions of Approval provided in this report.

Therefore, staff recommends approval of files CU 07-04 with conditions, based upon the findings and Exhibits contained in this staff report.

EXHIBITS:

1. Vicinity Map
2. Birds eye view of the site (acquired by staff from OC Web map)
3. House of Hope Land Use Application
4. Public Comments
5. September 26, 2007 Letter form Bill Kabeiseman

Recommended Conditions of Approval

Planning Files: CU 07-04

1. Within one year of the Conditional Use approval, the Applicant shall submit an application to show compliance with the Conditional Use approval under OCMC 17.56. This will be processed as a Type II Administrative procedure. No fees are to be assessed to the applicant for this process.
2. The applicant shall create a good neighbor agreement with the Rivercrest Neighborhood Association. This agreement will contain, at a minimum, the following items:
 - a. A primary contact person for both organizations to facilitate timely communications.
 - b. A yearly meeting with the Rivercrest Neighborhood Association and owners within 300 feet of the subject property is encouraged to discuss any concerns they may have with the use.
 - c. An information sheet to be provided to all teachers, volunteers, councilors, visitors parents, and students of the House of Hope indicating that the House of Hope is a Conditional Use within a Single-Family Residential District. The letter shall also explain that the Neighborhood will be monitoring issues such as parking, noise and visitors as part of the Conditional Use approval.
 - d. If the Neighborhood Association or the Applicant fails to work together in good faith, to complete the agreement within 90 days of a final city decision, the agreement will no longer be required as part of the Conditional Use Approval.
3. All parking for the House of Hope shall be located onsite.

March 28, 2014

To whom it may concern,

My name is Michael Durant and I am writing this letter on behalf of the Teen Challenge Center located at 405 Warnerparrot RD. in Oregon City.

The location in Oregon City 405 Warnerparrot RD. has a significant meaning to me as I attended church at this location for approx. 32 years. I have lived in the Oregon City area for all of my life. My family started attending Oregon City Assembly of God in October of 1978. At that time I was 7 years old. Dr. J.W. Jepson was our pastor. Dr. Jepson pastored OCAG until moving to another ministry in 1985. He was replaced by Pastor Eugene Slape who pastored the church for a few years. During my high school years (around 1988) a new and younger pastor named Larry Rogers was elected as the pastor. He pastored the church until sometime around 1996.

In the mid 90's Pastor Wayne Wilson came from Goshen Oregon to pastor Oregon City Assembly of God. Pastor Wayne pastored the church for about ten years before moving on to another ministry. He was replaced by Zach Lucas.

During Zach Lucas's time as pastor of the church, the church name was changed to River of Life Christian Center. Legally it was Oregon City Assembly of God doing business under the name River of Life Christian Center. I was a board member of the church at this time. In 2008 I became the associate pastor of River of Life Christian Center. In the summer of 2010 I left my position at River of Life to pursue other ministry opportunities. However my parents, my sister and my brother-laws-family still attended the church.

In the fall of 2010 Zach Lucas resigned as the pastor at River of Life Christian Center. He was replaced by Pastor Alan Kern.

Alan Kern had a difficult time pastoring the church as it was in significant financial trouble. He was only pastor for 6-7 months before resigning.

After Alan Kern resigned Pastor Randy Robertson a former missionary and former Sr. Pastor of another church served as the pastor at River of Life Christian Center. Pastor Randy is known for turning churches around in Oregon. He had a tough time as the finances of the church were at a critical point.

AS the finances became worse Pastor Randy contacted The Oregon Ministry Network (Oregon District of the Assemblies of God) who stepped in to evaluate the financial condition of the church. The decision at that point was made to close the church.

I was asked to attend a meeting with the board and the members at that time. It was announced the church was to close. When everyone left the doors were locked. That was April of 2012. It was a very sad day as the church that started all the way back in 1941 and was a church over 71 years was now closed.

The building sat vacant for a few months before Teen Challenge purchased the building. The church existed at that location from the mid 1960's until it closed and became the new Teen Challenge Center.

I still serve in ministry and not only minister to others in the community but also at Teen Challenge in Oregon City. I hold ministerial credentials from the General Counsel of the Assemblies of God.

The work God started there is still continuing just under a new name and a new sign.

Sincerely,



Rev Michael Durant
22875 S. Tonya CT.
Beavercreek, OR 97004

To whom it may concern.

I understand there is some question as to how long Oregon City Assembly of God has been in operation.

They started in 1946 with Grace Butler.

However the property at 405 Warner Parrotte Rd was acquired in 1962. Pastor Donald Caves was the Pastor at that time. He came in 1956 and was there until 1964 when Kenneth Namar came. I also started coming in 1964, I was there when Pastor Caves was there. My husband and his family have attended there since about 1955.

Pastor Namar left in 1979. That's when J.W. Gipson came. He was there until 1985. That's when he left and Rev. Joantain was an interim pastor until later in 1985 when Pastor Slope

came. He was there until 1987 when
Larry Rogers came. He pastored until
1992. Pastor Gordon Meyers filled
in until Pastor Wayne Wilson
came. He was there from 1993
until 2005. After he left we had
a couple of people fill in for 6 weeks,
Pastor Don Jacobson & a deacon Bill
~~Dutton~~. Then pastor Zack Lucas came
in 2005. He was with us until 2010.

At that time we had different speakers
come and fill in until Alex Kern came
in 2010. He was there until 2012.

That is the year Oregon City Assembly
of God Church closed its doors.

I can't remember the month they
closed seems it was late summer.

I hope this is helpful

Ed & Evelyn Brubaker

Mike Parent said you needed this info.

If you have any questions please
feel free to call me. my # is
503-799-3710

I can tell you the church was
never closed until Alan Kern left.

It has been in operation from
1946 - 2012 total, and from
1962 - 2012 at 405 Warner Parrate Rd.

Reilyn

I do have the complete list of pastors
from 1946 - 2012



oregon ministry network
of the assemblies of god

Developing Effective Leaders :: Building Healthy Churches and Ministries

March 31, 2014

City of Oregon City
625 Center Street
Oregon City, OR 97045

To whom it may concern:

On May 4, 1962 the property located at 405 WARNER PARROTT ROAD was deeded to both the Assemblies of God, Oregon District, Inc. and the local church also known as Assembly of God of Oregon City. The congregation operated continuously as a local church without interruption until the last service was held on April 29, 2012.

Shortly thereafter, the Assemblies of God, Oregon District was pleased to enter into negotiations with Teen Challenge Pacific Northwest. We extended a reasonable period of due diligence. Our organizations share common origins in the Assemblies of God U.S.A. denomination and we were delighted to have ministry continue in this location.

If you have questions about this matter, we would be delighted to help.

Sincerely,

Rev. Michael J. Gerlicher, CPA
Director of Finance

Cc: Garry Wallace, Executive Director
Portland Metro Men's Center

From: [Jennifer Bragar](#)
To: [Laura Terway](#)
Subject: FW: Status of Teen Challenge PMMC Day Use
Date: Thursday, April 17, 2014 12:28:52 PM

See below for a complete record. Thank you.

Unless expressly stated otherwise, any federal tax advice contained in this communication (including attachments) is not intended to be used, and cannot be used, for the purpose of avoiding federal tax penalties.

This e-mail is for the sole use of the intended recipient(s). It contains information that is confidential and/or legally privileged. If you believe that it has been sent to you in error, please notify the sender by reply e-mail and delete the message. Any disclosure, copying, distribution or use of this information by someone other than the intended recipient is prohibited.

JENNIFER M. BRAGAR

Associate | 503.228.3939 x 3208 Tel | 503.226.0259 Fax | jbragar@gsblaw.com

GARVEY SCHUBERT BARER | 11th Floor | 121 SW Morrison Street | Portland, OR 97204 | ► GSBLaw.com

► land use | condemnation | real estate e-forum: www.northwestlandlawforum.com

From: Micheal Reeder [mailto:mreeder@arnoldgallagher.com]
Sent: Thursday, April 17, 2014 11:58 AM
To: Jennifer Bragar
Cc: hodgesc@comcast.net; Dave Oliver; Rodger.Snodgrass@teenchallengepnw.com;
garry.wallace@teenchallengepnw.com; rickgivens@gmail.com; Ed Sullivan
Subject: RE: Status of Teen Challenge PMMC Day Use

Your letter that I attached and referred to in my last email is dated September 13, 2012 (not September 32, 2012). I am pretty sure September has never had 32 days!

MICHEAL M. REEDER



T: (541) 484-0188 / F: (541) 484-0536
800 Willamette Street, Suite 800, Eugene, OR 97401
www.arnoldgallagher.com

CONFIDENTIAL: The information contained in this electronic communication is privileged and/or confidential. The information is for the sole use of the intended addressee. If the reader of this communication is not the intended addressee, you are hereby notified that any dissemination, distribution and/or copying of this communication or the information contained in this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone at 541/484-0188 and thereafter, immediately destroy this electronic communication. Thank you.

TAX ADVICE DISCLAIMER: Pursuant to federal law, you are advised that any federal tax advice contained in this communication (including attachments) was not intended or written to be used, and it cannot be used, by you for the purpose of (1) avoiding any penalty that may be imposed by the Internal Revenue Service or (2) promoting, marketing or recommending to another party any transaction or

matter addressed herein.

From: Micheal Reeder
Sent: Thursday, April 17, 2014 11:54 AM
To: Jennifer Bragar (JBragar@gsblaw.com)
Cc: Chris Hodges (hodgesc@comcast.net); Dave Oliver; Rodger.Snodgrass@teenchallengepnw.com; garry.wallace@teenchallengepnw.com; Rick Givens (rickgivens@gmail.com); 'Ed Sullivan'
Subject: Status of Teen Challenge PMMC Day Use

Jennifer:

You will remember that the Assemblies of God, Oregon District, Inc. owned the site and church located at 405 Warner Parrott Road in Oregon City until April 29, 2012 when the church disbanded. The Assemblies of God then sold the site to Teen Challenge Pacific Northwest (TC) in mid-2012. After consultation with Laura Terway TC began using the site as a “religious institution” for a religious “day use” for its Portland Metro Men’s Center (PMMC) on November 1, 2012.

It was my understanding from our meeting in your office on March 6, 2014 that City staff wanted evidence showing that the site had been used as a church continuously for 20 years prior to closing on April 29, 2012 in order to show that the current day use of the site was a legal, nonconforming use that did not require a CUP (either as part of the current CUP application or as a separate “day use” CUP application).

Staff is in error and I provide you with this email first without sending it directly to the Planning Commission so that you and staff may analyze it and take appropriate remedial action. I expect City staff to take the position in the new staff report (due Monday) and at the Planning Commission hearing on April 28th that the current day use of the site is a legal, **conforming** use (i.e. outright permitted) pursuant to the RLUIPA Equal Terms provision. I also expect staff to take the position that, setting aside the fact that the current use is a legal, conforming use, that the site has been a “religious institution” for well over 20 years, and therefore, to the extent that such a determination is even necessary, the evidence is overwhelming that the current use is (at the very least) a legal, nonconforming use.

I explain our position as follows:

1. RLUIPA Equal Terms Provision

The RLUIPA Equal Terms provision requires the City to treat the current PMMC day use on equal terms with a similar secular institution or assembly. As you well know, the R-10 district permits outright “Community Centers” and “Neighborhood Centers”. See your attached letter to me dated September 32, 2012 wherein you take the position that the intended use of the site for a the PMMC with **overnight accommodations** (i.e. a dormitory) was not a proper comparator per 9th Circuit case law and therefore TC would need to go through the CUP process. (It should be noted that although we disagree with

that conclusion and believe that the Equal Terms provision requires the City to permit the PMMC to operate (even with a residential component), TC made a business decision to seek for a CUP). Implicit in your argument was that the intended use without an overnight accommodation component is a valid comparator to Neighborhood Centers and Community Centers.

Therefore, since the day use of the PMMC is a valid comparator to a Neighborhood and/or Community Center, the Equal Terms provision requires the City to treat the PMMC day use on equal terms as the comparators. Since Neighborhood Centers and Community Centers are permitted in the R-10 zone without the need for a CUP, then the PMMC day use also need not apply for a CUP. Therefore the issue of whether the PMMC day use is a legal, nonconforming use is moot because it is a legal conforming use, permitted outright.

2. Over 20 Years of Continuous Use of the Site as a Church

To the extent that the City needs evidence that the site was used as a church (i.e. "religious institution") continuously for 20 years prior to the use as the PMMC, I attach three letters that provide overwhelming evidence that the site was used continually as a church (i.e. for more than 20 years prior to its closing in 2012).

Jennifer, please let me know when you have reviewed this information and confirm for me what position you and staff will be taking regarding this issue. Should you have any questions, please feel free to call.

Best,

MICHEAL M. REEDER



T: (541) 484-0188 / F: (541) 484-0536
800 Willamette Street, Suite 800, Eugene, OR 97401
www.arnoldgallagher.com

CONFIDENTIAL: The information contained in this electronic communication is privileged and/or confidential. The information is for the sole use of the intended addressee. If the reader of this communication is not the intended addressee, you are hereby notified that any dissemination, distribution and/or copying of this communication or the information contained in this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone at 541/484-0188 and thereafter, immediately destroy this electronic communication. Thank you.

TAX ADVICE DISCLAIMER: Pursuant to federal law, you are advised that any federal tax advice contained in this communication (including attachments) was not intended or written to be used, and it cannot be used, by you for the purpose of (1) avoiding any penalty that may be imposed by the Internal Revenue Service or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein.

From: [Jennifer Bragar](#)
To: [Micheal Reeder](#)
Cc: hodgesc@comcast.net; [Dave Oliver](#); Rodger.Snodgrass@teenchallengepnw.com; garry.wallace@teenchallengepnw.com; rickgivens@gmail.com; [Pete Miller](#); [Laura Terway](#)
Subject: RE: Portland Metro Men's Center April 28 Hearing
Date: Thursday, April 17, 2014 9:50:38 AM

Mike,

Thank you for the update.

Unless expressly stated otherwise, any federal tax advice contained in this communication (including attachments) is not intended to be used, and cannot be used, for the purpose of avoiding federal tax penalties.

This e-mail is for the sole use of the intended recipient(s). It contains information that is confidential and/or legally privileged. If you believe that it has been sent to you in error, please notify the sender by reply e-mail and delete the message. Any disclosure, copying, distribution or use of this information by someone other than the intended recipient is prohibited.

JENNIFER M. BRAGAR

Associate | 503.228.3939 x 3208 Tel | 503.226.0259 Fax | jbragar@gsblaw.com

GARVEY SCHUBERT BARER | 11th Floor | 121 SW Morrison Street | Portland, OR 97204 | ► GSBLaw.com
► land use | condemnation | real estate e-forum: www.northwestlandlawforum.com

From: Micheal Reeder [mailto:mreeder@arnoldgallagher.com]
Sent: Thursday, April 17, 2014 9:46 AM
To: Jennifer Bragar
Cc: hodgesc@comcast.net; [Dave Oliver](#); Rodger.Snodgrass@teenchallengepnw.com; garry.wallace@teenchallengepnw.com; rickgivens@gmail.com; [Pete Miller](#); lterway@ci.oregon-city.or.us
Subject: RE: Portland Metro Men's Center April 28 Hearing

Jennifer:

Thanks for the voicemail and email message. The applicant has no intention of asking for an extension at this time. We have information that will show conclusively that the current use is a legal, nonconforming use and that the application meets the standard for adequate sanitary sewer service pursuant to OCC17.56.010.A.3. We intend to provide some or all of that information on or before next Monday. Please let me know if you have any questions.

Best,

MICHEAL M. REEDER



T: (541) 484-0188 / F: (541) 484-0536
800 Willamette Street, Suite 800, Eugene, OR 97401
www.arnoldgallagher.com

CONFIDENTIAL: The information contained in this electronic communication is privileged and/or confidential. The information is for the sole use of the intended addressee. If the reader of this communication is not the intended addressee, you are hereby notified that any dissemination, distribution and/or copying of this communication or the information contained in this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone at 541/484-0188 and thereafter, immediately destroy this electronic communication. Thank you.

TAX ADVICE DISCLAIMER: Pursuant to federal law, you are advised that any federal tax advice contained in this communication (including attachments) was not intended or written to be used, and it cannot be used, by you for the purpose of (1) avoiding any penalty that may be imposed by the Internal Revenue Service or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein.

From: Jennifer Bragar [<mailto:JBragar@gsblaw.com>]
Sent: Thursday, April 17, 2014 8:47 AM
To: Micheal Reeder
Subject: RE: Portland Metro Men's Center April 28 Hearing

Mike,

I am following-up on the voicemail message I left for you yesterday about the PMMC Planning Commission hearing scheduled for April 28. The agenda is going to be sent out on Monday and the City can include information to alert the public if a further continuance is considered by the applicant. Please let me know if there is information the applicant would like included on the agenda and I will send it on to Laura for consideration. Thank you.

Unless expressly stated otherwise, any federal tax advice contained in this communication (including attachments) is not intended to be used, and cannot be used, for the purpose of avoiding federal tax penalties.

This e-mail is for the sole use of the intended recipient(s). It contains information that is confidential and/or legally privileged. If you believe that it has been sent to you in error, please notify the sender by reply e-mail and delete the message. Any disclosure, copying, distribution or use of this information by someone other than the intended recipient is prohibited.

JENNIFER M. BRAGAR

Associate | 503.228.3939 x 3208 Tel | 503.226.0259 Fax | jbragar@gsblaw.com

GARVEY SCHUBERT BARER | 11th Floor | 121 SW Morrison Street | Portland, OR 97204 | ► GSBLaw.com

► land use | condemnation | real estate e-forum: www.northwestlandlawforum.com

From: Laura Terway
To: ["patart949@gmail.com"](mailto:patart949@gmail.com)
Subject: Portland Metro Men's Center
Date: Wednesday, March 12, 2014 12:19:00 PM

Patricia,

The Portland Metro Men's Center was continued until April 28th, 2014. One week prior to the meeting, the agenda and all supporting documentation will be posted on the City website [here](#).



Laura Terway, AICP
Planner
Planning Division
PO Box 3040
221 Molalla Avenue, Suite 200
Oregon City, Oregon 97045
Phone: 503.496.1553
Fax: 503.722.3880
Iterway@orcify.org

Please note the Planning Division is available from 8am - 5pm Monday - Thursday and by appointment on Friday.



Please consider the environment before printing

PUBLIC RECORDS LAW DISCLOSURE: This e-mail is subject to the State Retention Schedule and may be made available to the public.

PUBLIC COMMENT

Portland Metro Men's Center
File CU 13-01, SP 13-11 and LL 13-04
Planning Commission Hearing February 10, 2014

Name: Pat Ramsour
Address: 124 Randall Street
City, State, Zip: Oregon City, OR 97045
Representing: myself, an older citizen at same address since 1952.

COMMENTS:

Most of my neighbors and myself were unaware that Portland Metro Men's Center were operating their recovery program at the former church site on Warner - Parrott Rd until their request for a building permit to allow a dormitory with 60 male alcohol and drug addicts to live here for treatment.

Every person is entitled to improve their lives with recovery from addictions, but if 60 men are living here, allowed to use our public areas each day after their counseling and work hours are over, I feel the Chapin Park area and my street will not remain safe for local families.

Mr. Rick Livens has stated that the men have until 10:00 p.m. until they must enter their facility for the night. At times I return home after dark, leave my car, walk to my door, unlock and enter my home and I need to feel the safety I now have. Being an older concerned citizen, I hope the Planning Commissioners will make the right choice regarding the requested permit. I appreciate their concerns at Feb. 24th meeting.

Thank you All.

From: [Micheal Reeder](#)
To: [Jennifer Bragar](#)
Cc: [Laura Terway](#); [Aleta Froman-Goodrich](#)
Subject: RE: Portland Metro Men's Center Sewer Capacity Follow-up
Date: Tuesday, March 25, 2014 3:23:52 PM

Thanks Jennifer. I have passed this information along to my client and Pete Miller of KPFF.

MICHEAL M. REEDER



T: (541) 484-0188 / F: (541) 484-0536
800 Willamette Street, Suite 800, Eugene, OR 97401
www.arnoldgallagher.com

CONFIDENTIAL: The information contained in this electronic communication is privileged and/or confidential. The information is for the sole use of the intended addressee. If the reader of this communication is not the intended addressee, you are hereby notified that any dissemination, distribution and/or copying of this communication or the information contained in this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone at 541/484-0188 and thereafter, immediately destroy this electronic communication. Thank you.

TAX ADVICE DISCLAIMER: Pursuant to federal law, you are advised that any federal tax advice contained in this communication (including attachments) was not intended or written to be used, and it cannot be used, by you for the purpose of (1) avoiding any penalty that may be imposed by the Internal Revenue Service or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein.

From: Jennifer Bragar [mailto:JBragar@gsblaw.com]
Sent: Monday, March 24, 2014 4:02 PM
To: Micheal Reeder
Cc: Laura Terway; Aleta Froman-Goodrich
Subject: Portland Metro Men's Center Sewer Capacity Follow-up

Mike,

I am following-up on the March 6, 2014 meeting between Oregon City staff and the Portland Metro Men's Center (PMMC) team to discuss sewer capacity issues for the 405 Warner Parrott Road proposal, as well as your conversation with Ed Sullivan on March 21st. As you know, the sewer system in that area is over capacity and in order to tie into the public sewer system on Warner Parrott Road in a way that does not present a public health risk, the City staff estimated that pipe replacement would be required before allowing additional flow into the public system. City staff estimated the cost of the capital improvement to be \$1.3 million.

During the meeting PMMC contemplated whether an easement through neighboring properties to connect the proposed project to the public sewer system on Hartke Loop might address the sewer

capacity problems associated with the site. PMMC requested that City staff consider this option.

Based on information it has gathered for PMMC's proposed relocation of the sewer connection, the relocation may reduce the amount of pipe upsizing required. However, even with the reduction of replacement pipe, the capital improvement project is still estimated at \$515,400. City staff is still exploring solutions for a less expensive fix.

If PMMC is interested in further consideration of this approach, its project engineer should contact Aleta Froman-Goodrich of the City's engineering staff. Thank you.

Unless expressly stated otherwise, any federal tax advice contained in this communication (including attachments) is not intended to be used, and cannot be used, for the purpose of avoiding federal tax penalties.

This e-mail is for the sole use of the intended recipient(s). It contains information that is confidential and/or legally privileged. If you believe that it has been sent to you in error, please notify the sender by reply e-mail and delete the message. Any disclosure, copying, distribution or use of this information by someone other than the intended recipient is prohibited.

JENNIFER M. BRAGAR

Associate | 503.228.3939 x 3208 Tel | 503.226.0259 Fax | jbragar@gsblaw.com

GARVEY SCHUBERT BARER | 11th Floor | 121 SW Morrison Street | Portland, OR 97204 | ► GSBLaw.com

► land use | condemnation | real estate e-forum: www.northwestlandlawforum.com

From: [Mic James Miller](#)
To: [Laura Terway](#)
Subject: Re: Portland Mens Center update
Date: Thursday, April 17, 2014 4:28:31 PM

Thank you for the info Laura. We will be watching for updates.

Sent from my phone.

On Apr 16, 2014, at 9:54 AM, Laura Terway <literway@ci.oregon-city.or.us> wrote:

Mic and Jen,

The Portland Metro Men's Center is scheduled to be on the April 28, 2014 Planning Commission agenda. The agenda should be posted on the City [website](#) on Monday with additional details as to how the applicant would like to proceed. We have not received direction from the applicant at this point.

<image001.jpg>

Laura Terway, AICP
Planner
Planning Division
PO Box 3040
221 Molalla Avenue, Suite 200
Oregon City, Oregon 97045
Phone: 503.496.1553
Fax: 503.722.3880
literway@city.org

Please note the Planning Division is available from 8am - 5pm Monday - Thursday and by appointment on Friday.



Please consider the environment before printing

PUBLIC RECORDS LAW DISCLOSURE: This e-mail is subject to the State Retention Schedule and may be made available to the public.

-----Original Message-----

From: Mic James Miller [<mailto:mjm472@yahoo.com>]
Sent: Tuesday, April 15, 2014 11:29 AM
To: Laura Terway
Subject: Portland Mens Center update

On Warner Parrott Rd.

Hello,

I am researching buying a home within the immediate area of this proposed project. I looked on the Ore City site and found there to be no definite answers or approval of the proposed plan. Is there anything in the works for a definite judgement?

Thank you for your time.
Mic and Jen Miller
5024772578

Sent from my phone.