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MEMORANDUM

TO: Marion County Hearings Officer

FROM: Marion County Planning Division/Ryan Dyar/Alyssa Schrems

SUBJECT: Conditional Use 21-004/Youth With a Mission

DATE: March 22, 2021

The Marion County Planning Division has reviewed the above-referenced application and offers the following comments:

FACTS:

1. The property is 31.72 acres and is designated Rural Residential in the Marion County Comprehensive Plan. The purpose of this designation and the corresponding AR (Acreage Residential) zone is to allow for the creation of acreage home sites at a density that maintains the character and environmental quality of the County's rural residential areas.
2. The subject property is located at 7085 Battle Creek Road SE, on the west side of Battle Creek Road, approximately 2,000 feet south of its intersection Fir Tree Drive SE. The property is comprised of 8 different tax lots, T8S R 3W S25 Tax Lots 100, 300, 400, 500, 600, 700, 800, and 1001. The entirety of the property is located in a Marion County Sensitive Groundwater Overlay zone. Portions of the property are located in a mapped FEMA 100-year floodplain, and portions are located in a Geologically Hazardous Areas Overlay zone. Zone Change/Comprehensive Plan Change/Conditional Use/Lot Line Adjustment Case #01-2 established the property's existing configuration and validated the property as legal for the purposes of land use.
3. Properties to the west and north are zoned SA (Special Agriculture) and AR (Acreage Residential). These properties are not being used for commercial agriculture and are developed as large-acreage home sites. Properties to the south and east are zoned AR and are developed with home sites.
4. The applicant is requesting permission to expand the existing Youth with a Mission campus through approval of an updated conditional use master plan. Expansions of religious organizations and related conference facilities occupying over 20,000 square feet in total area may be approved as a conditional use provided the criteria in MCC (Marion County Code) 17.128.040 are met.

5. Approval to operate a church related school and conference facility on the property was originally granted in 1980 through CU 80-35. Expansions were approved through CU 81-15, CU 84-56, CU 90-114, ADJ 99-1, and ZC/CP/CU/LLA 01-02. The applicant submitted a similar proposal in 2017, CU 17-23; however, this application was withdrawn following an initial approval by the Planning Director and appeal to the Hearings Officer.

COMMENTS:

6. Marion County Septic commented that the customer will be replacing damaged septic tanks under a county onsite permit, and that any additional work to the septic system will need to be done under a State of Oregon Dept. of Environmental Quality WPCF Permit (per customer’s septic consultant Chris Cotton with Cascade Earth Sciences).

Marion County Building Division commented that building permits are required for any new construction.

Turner Fire District provided comments related to various aspects of the existing site and proposed improvements that would need to come into compliance with the requirements of the 2019 Oregon Fire Code.

Marion County Land Development and Engineering provided the following conditions, requirements, and advisory:

ENGINEERING CONDITION

Condition A – Prior to issuance of building permits for each particular phase of development, contribute a proportional share toward an identified county Intersection Traffic Control and Modernization project for Delaney Road involving Battle Creek Road and Parrish Gap Road intersections that is identified in Table 8-6 of the Marion County Rural Transportation System Plan, in an amount to be commensurate with the anticipated amount of traffic distribution generated based on that particular phase of development.

ENGINEERING REQUIREMENTS

- B. Driveways must meet sight distance, design, spacing, and safety standards. The following numbered sub-requirements pertain to access:
- 1) At the time of application for building permits an Access Permit will be required.
 - 2) Any new access or modification to an existing access to Battle Creek Road will need to be reviewed and approved for meeting PW Engineering standards.
 - 3) Natural and ornamental roadside vegetation may not impede adequate Intersection Sight Distance from the Battle Creek Road driveway connections.
- C. Stormwater detention is required for development / redevelopment of 0.5-acre or more. Water quality treatment is not required.

- D. Submission of a detailed civil-engineered Master Site Plan, including grading elements for review and approval is required prior to application for building permits.
- E. The subject property is within the unincorporated area of Marion County and will be assessed Transportation System Development Charges (SDCs).
- F. Utility work within the Battle Creek Road right-of-way requires permits from MCPW Engineering.

ENGINEERING ADVISORY

- G. DEQ is the regulatory authority for cumulative ground disturbances of 1.0-acre or more.

Oregon Water Resources Department provided comments related to declining groundwater in the area and their concerns about the ability of Youth With a Mission to legally access the amount of water needed for the proposed use. They also proposed conditions that should be required if the proposal is approved.

1000 Friends of Marion County commented that they requested denial of the application on the grounds that the proposed expansion was an urban rather than a rural use and therefore inconsistent with the purpose and intent of the Acreage Residential zone. They also provided comments related to the evidence provided by Oregon Water Resources Department.

Rural Battle Creek Neighborhood Association, Inc. commented that they request denial of the application on the grounds that the proposed expansion is inconsistent with the Rural Residential Development section of the Marion County Comprehensive Plan and various standards in Title 17 of the Marion County Code.

All other commenting agencies stated no objection to the proposal.

STAFF FINDINGS AND ANALYSIS:

- 7. In order to approve a conditional use in the AR zone, the applicant must show compliance with the criteria set forth in MCC.128.040 (A) – (F).

A. The conditional use as described by the applicant will be in harmony with the purpose and intent of the zone.

As described in MCC (Marion County Code) 17.128.010, the purpose of the AR (Acreage Residential) zone is to provide a set of regulations that effectively provide land to “meet the housing needs of a segment of the population desiring the advantages of a rural home site”. It is also the intent that those lands are provided in such a manner that the environmental and public service capacity is not exceeded, and the rural character of the area is not compromised.

Through inclusion as a permitted use in MCC 17.128.020, religious organizations are undoubtedly an anticipated use in the AR zone. Even larger religious organizations with residential and conference space are anticipated as a conditional use, and therefore do not inherently compromise the harmony and intent of the zone. Therefore, the answer to MCC 17.128.40 (a) depends not on the use per se, but whether the expansion will compromise the surrounding environmental and public service capacities or

threaten the area's rural character. These questions are best answered by looking to the additional conditional use criteria, MCC 17.128.40 (B) – (F). If it is found that the proposal is compliant with the criteria in (B) – (F), then 7(A) is satisfied.

B. The use will not increase traffic beyond the capacity of existing roads.

The Rural Battle Creek Neighborhood Association commented that the proposal will increase vehicular and pedestrian traffic along Battle Creek Rd. SE and expressed safety concerns related to these increases.

The applicant submitted a Transportation Impact Study authored by DKS Associates. The study analysis recommends multiple mitigation actions. The study concludes that when these mitigation actions are completed, the proposed expansion will not have a significant impact on the surrounding transportation system.

Marion County Land Development and Engineering provided a condition of approval that must be satisfied prior to approval of building permits. Based on the evidence submitted, the criterion in 7(B) is satisfied, subject to condition recommended by Marion County Land Development and Engineering.

C. Adequate fire protection and other rural services are, or will be, available when the use is established.

The subject property is located in the jurisdiction of Turner Fire District. The district submitted comments to the record regarding how existing and proposed facilities would need to comply with the Oregon Fire Code and the Marion County Fire Code Applications Guide. The applicant noted in their application that they have reached out to Turner Fire District to consult them regarding the proposed improvements and that the proposal will upgrade facilities to provide better safety infrastructure.

The subject property is currently served by a septic system permitted by a Marion County Onsite Permit. Marion County Septic commented that any expansion of the system would require a Water Pollution Controls Facilities (WPCF) permit with Department of Environmental Quality (DEQ). Applicants submitted a report from Cascade Earth Sciences (CES) that states that DEQ has “performed a site evaluation for the site and found the soils suitable for the installation of an onsite wastewater treatment system with projected flows of up to 24,400 gallons per day based on 461 occupants and 90 day-users” (applicant labeled exhibit 106, page 1). CES states in their report that they have worked with Applicants to develop a conceptual design to serve the proposed facilities. DEQ issued a site evaluation on December 7, 2020, outlining the design and construction requirements that applicants must comply with. DEQ did not submit any comments expressing concern with the proposal. Compliance with DEQ installation requirements can be made a condition of approval. Based on the evidence in the record, sufficient septic services will be available at the time of development.

The subject property is served by a Public Water System that is served by two exempt use wells, and is located in a Marion County designated Sensitive Groundwater Overlay and the Oregon Water Resources designated South Salem Groundwater Limited Area. Public Water Systems serve multiple water users and any limitations in water usage apply to all users of the system together. Comments received from surrounding property owners expressed concerns about water usage associated with the applicant's proposed expansion. Oregon Water Resources Department (OWRD) expressed concern in their comments that the applicant comprehends the total amount of water the Youth With a Mission facilities are able to cumulatively use on a daily basis while remaining compliant with Oregon Revised Statute (ORS) 537.545. The Hydrogeology Review states in Table 2 that between 2012 and 2017, the median amount of water used at the Youth With a Mission Facilities was 14.01 acre feet per year. This equals

approximately 4,565,171 gallons annually. Assuming the usage was relatively consistent throughout the year, the daily usage is roughly 12,507 gallons, which is under the amount exempted in ORS 537.545. With the projected growth, however, the Hydrogeology Review estimates an increase to 47.91 acre feet per year, which corresponds to approximately 42,771 gallons per day. Correspondence with the OWRD concludes that the total amount allowed under the statute would be 22.4 acre feet per year, or 20,000 gallons per day (15,000 gallons for residential use, 5,000 gallons for commercial use). Any usage above 15,000 gallons for residential use and 5,000 gallons per day for commercial use would require the applicant to obtain a water right with OWRD.

OWRD notes in comments submitted via email on March 8, 2021, that “if the source of the water is the basalt aquifer any permit issued will be limited in the amount of water allowable and the permit will be for only five years. If a permit is issued it may or may not be approved again in five years. If any adverse impacts to the aquifer are displayed the permit will not be renewed”. OWRD also notes that “there is no guarantee that a right can be issued and the review of a new application currently takes approximately one year”. Based on these facts, the applicant has not established that adequate water services are or will be available when the use is established. While there is a possibility that the applicant could obtain a water right, there is no evidence in the record to support that it is likely to happen. Due to the length of time to obtain a water right, the limited duration of the right (5 years), and the possibility that it could be revoked if adverse impacts to the aquifer are observed, the weight of the evidence and circumstances do not support that adequate water services are or will be available when the use is established. If a water right is obtained and subsequently revoked, applicant has not demonstrated how the proposed expansion could continue to be supported by the site. If this is found to be met, staff recommends including a condition of approval requiring applicants to comply with conditions of approval submitted by OWRD.

Based on the above analysis, criteria 7(C) is not met. The applicants shall have an opportunity at the hearing to address this further.

D. The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.

The applicant submitted a Geotechnical Review authored by Redmond Geotechnical Services that indicated soil and slope stability was not a concern for the proposed development. No evidence was provided that the proposed use will have a significant adverse impact on soil or slope stability.

Some concern was raised that the proposed septic systems on site could fail and negatively impact water quality; however, no evidence regarding a specific cause was submitted as part of the record. Concern was also raised the increase in impervious services resulting from development might have an impact on storm water discharge and the watershed; however no evidence was submitted as part of the record that this would occur.

The subject property is located in the South Salem Groundwater Limited Area, as identified by OWRD. The applicant provided evidence in the form of a Hydrogeology Review that the use can be supported by drawing 20,000 gallons per day without negatively impacting the aquifer. In the peer review completed by Russ Bunker with Wood Environment & Infrastructure Solutions, Inc, dated 3/26/2019, it was concluded that future usage at 20,000 gallons per day would increase water usage of the available groundwater recharge to 22 percent which is below the County cut-off threshold of 90 percent. Based on this review, it was found that this increase in usage would not negatively impact the surrounding groundwater. The peer review concluded by recommending that a noted mismatch in well log records be reconciled with OWRD and Oregon Drinking Water Services (DWS).

Comments submitted by OWRD via email on March 9, 2021 and attributed to T. Brown, Hydrogeologist, state that monitored wells MARI 18140 and MARI 17924 have both shown an overall declining trend, with noted year to year variability. OWRD does not attribute the cause of the overall declining trend to any specific or general use, but does note that the trend has been observed for several years.

As noted above, the Hydrogeology Review concludes that groundwater will not be adversely impacted, however the peer review does state that if additional information not available at the time the peer review was completed becomes available then the peer review may need to be updated. No analysis or discussion of the declining water trend in the area was included as part of the peer review. Based on the facts above, the applicant has not satisfied via the record that there will be no adverse impact on the watershed if allowed to increase the population at the site. The applicant will have a chance to address this concern at the hearing. If criterion 7(D) is found to be met, staff recommends that a condition of approval be included that the well discrepancy be clarified with OWRD and DWS.

E. Any noise associated with the use will not have a significant adverse impact on nearby land uses.

The Rural Battle Creek Neighborhood Association submitted comments that neighbors have been adversely impacted by outside group activities occurring at the ropes course on the property. They also expressed concern that the proposed sports field might increase this type of noise.

In their application, the applicant discussed that the primary noise associated with the proposal would stem from outdoor group activities and maintenance of the property. They commented that the noise associated with maintenance would be loudest, but similar to the noise produced by the maintenance of neighboring properties. The applicant suggests that the property is large enough that sound dissipates sufficiently before reaching neighboring properties, and that the noises generated by the proposed uses would be in compliance with the Marion County Noise Ordinance. The applicant also submitted their staff handbook as evidence that they enforce quiet hours on the property.

The applicant will have the opportunity to discuss the noises generated by the proposed uses in more detail; however, based on the evidence provided, the propose use appears to be in compliance with the criteria in 7(E).

F. The use will not have a significant adverse impact on potential water impoundments identified in the Comprehensive Plan, and not create significant conflicts with operations included in the Comprehensive Plan inventory of significant mineral and aggregate sites.

No evidence has been provided that there are water impoundments or significant mineral or aggregate sites on the property. Therefore, the criteria in 7(F) do not apply.

8. In addition to the decision criteria listed above, other concerns about the proposed expansion were raised by interested parties.

New uses and undeveloped land: The Rural Battle Creek Neighborhood Association provided comments that the proposal includes new uses on undevelopment lands. The association expressed concern that the proposed development is inconsistent with the provisions in Marion County Rural Residential Policy #15. The goal states that development should be clustered to preserve significant blocks of open space. The comments discuss the buffer service currently provided by the undeveloped land between Battle Creek Rd. SE and existing uses. Concerns were raised that the proposed RV spaces are not a previously approved use. It should be noted that a staff review of the site plan approved through CU 81-15 shows RV spaces as an approved use on the property. The comments also discuss the

proposed sports court in the application and state that this is a new use. The applicant should have the opportunity to discuss how these uses are consistent with previous approvals granted by Marion County to operate a church related school and conference facility.

The intensity of use: This concern focused on the proposed density of long term residents and the ability to adequately provide services to support those residents at a scale that maintained the rural character of the area. 1000 Friends of Marion County commented that the long-term resident density was greater than that of the City of Turner and City of Aurora; 1000 Friends of Marion County also commented that these cities were required to install urban services to accommodate their population. The Rural Battle Creek Neighborhood Association raised similar concerns about proposed densities and maintaining harmony with the purpose and intent of the AR zone. The applicant should have to opportunity to discuss how the expansion is rural in nature and why urban services would not be required to support the expansion of the use.

Maximum Occupancy during special events: Comments were submitted by the Rural Battle Creek Neighborhood Association that the failure to incorporate maximum occupancy counts is a deficiency that impacts the findings of the 2020 Oregon Department of Environmental Quality (DEQ) site evaluation and the 2020 DKS Transportation Impact Study. The applicant should have an opportunity to discuss the total number of individuals that might be on the premises during special events and to discuss how these findings alter the conclusions of the supplemental analysis submitted with the application, if at all.

CONCLUSION:

9. Based on the above evidence, the applicant's request does not appear to meet all applicable criteria for expanding the existing religious facility and the Planning Division recommends the request be denied.
10. If approved, Planning recommends the following conditions be placed upon the approval:
 - A. The applicant shall obtain approval for all required permits from the Marion County Building Inspection Division.
 - B. The applicant shall obtain a WPCF permit with DEQ.
 - C. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use until the following condition has been satisfied:

Condition A – Prior to issuance of building permits for each particular phase of development, contribute a proportional share toward an identified county Intersection Traffic Control and Modernization project for Delaney Road involving Battle Creek Road and Parrish Gap Road intersections that is identified in Table 8-6 of the Marion County Rural Transportation System Plan, in an amount to be commensurate with the anticipated amount of traffic distribution generated based on that particular phase of development.
 - D. Prior to issuance of building permits, applicants shall comply with requirements of the Oregon Water Resources Department.
 - E. Prior to issuance of building permits, applicants shall demonstrate that they have obtained a water right with the Oregon Water Resources Department. If the Oregon Water Resources Department revokes the water right, the applicants shall notify Marion County Planning.

Revocation of the water right may result in revocation or modification of the conditional use permit.

- F. Applicant shall provide proof to the satisfaction of the Planning Director that the record discrepancies regarding the Public Water System be reconciled with Oregon Water Resources Department and with Oregon Drinking Water Services.
- G. In accordance with the requirements listed in Marion County Code 17.178, the applicant shall obtain flood plain permits through Marion County Planning for any development proposed in a mapped flood hazard area.

OTHER PERMITS, FEES, AND RESTRICTIONS: This approval does not remove or affect covenants or restrictions imposed on the subject property by deed or other instrument. The proposed use may require permits and/or fees from other local, State or Federal agencies. This decision does not take the place of, or relieve the responsibility for, obtaining other permits or satisfying any restrictions or conditions thereon. The applicant is advised of the following:

- H. The applicants should contact the Turner Rural Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.
- I. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in the comments section above, that may be required.