



Community Development Department

Planning Division Building Safety Division Environmental Soils Division

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STAFF REPORT

The Deschutes County Hearings Officer will hold a public hearing on June 28th, 2016, at 6:00 p.m. in the Barnes and Sawyer Rooms of the Deschutes Services Center, 1300 NW Wall Street, Bend, to consider the following request:

FILE NUMBERS: 247-16-000159-SP / 161-AD

SUBJECT: Administrative Determination and Site Plan Review for a Church in the Exclusive Farm Use Zone.

APPLICANT/OWNER: John and Stephanie Shepherd
71120 Holmes Road
Sisters, OR 97759

LOCATION: The subject property is located at 71120 Holmes Road, Sisters, and is further identified as Tax Lot 103 on Deschutes County Assessor's Map 14-11.

STAFF CONTACT: Will Groves, Senior Planner

I. APPLICABLE CRITERIA:

Title 18 of the Deschutes County Code, County Zoning
Chapter 18.04, Title, Purpose and Definitions
Chapter 18.16, Exclusive Farm Use
Chapter 18.88, Wildlife Area Combining Zone
Chapter 18.116, Supplementary Provisions
Chapter 18.124, Site Plan Review

Title 22 of the Deschutes County Code, the Development Procedures Ordinance

II. BASIC FINDINGS:

A. **LOCATION:** The subject property is located at 71120 Holmes Road, Sisters, and is further identified as Tax Lot 103 on Deschutes County Assessor's Map 14-11.

- B. LOT OF RECORD:** The record indicates the County determined the subject property is a legal lot of record through a 1995 lot-of-record verification (LR-95-44).
- C. ZONING:** The subject property is zoned Exclusive Farm Use–Lower Bridge Subzone (EFU-LB), and is within a Wildlife Area (WA) Combining Zone. The property is designated Agriculture on the Deschutes County Comprehensive Plan map.
- D. PROPOSAL:** The applicants are proposing to use their property as a church. Church use of the property would include:
- Weekly services, primarily conducted in the existing dwelling
 - Church related events, specifically weddings, restricted to mid-May through mid-October
 - Family and marriage counseling
 - Church functions allowed by ORS 215.441¹

The applicant provided the following descriptions and proposed limitations on the use:

The church will have a maximum capacity of 25 persons.

All event associated activities, including amplified music, parking, sanitation, and food preparation would comply with County guidelines. Specifically, amplified music would be off by 10 PM and would not exceed 30 decibels at the property line so as not to disturb nearby cattle or growing pasture grass.

Parking lot would be covered with gravel, and, as demonstrated in our approved Private Park permit, would provide adequate parking spaces, appropriate flow and have six signed handicapped parking spaces. Church staff would perform no food prep for events without appropriate licenses.

A limit of 250 guests will be imposed on church events.

The only areas of the house that would be available for church and event related activities would be the downstairs and two bed rooms upstairs.

¹ 215.441 Use of real property for religious activity; county regulation of real property used for religious activity. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a county shall allow the reasonable use of the real property for activities customarily associated with the **practices of the religious activity, including worship services, religion classes, weddings, funerals, child care and meal programs, but not including private or parochial school education for prekindergarten through grade 12 or higher education.**

(2) A county may:

- (a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or
- (b) Prohibit or restrict the use of real property by a place of worship described in subsection (1) of this section if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

These have already been inspected and approved for activities under 25 persons. The deck would also be available, and has been inspected and permitted for commercial activity.

Staff notes that a clear understanding on the types, intensity, and duration of uses will be vital to any analysis of compliance with the applicable criteria. Questions relating to the scope of the proposed use are raised under applicable criteria below.

- E. SITE DESCRIPTION:** The subject property is approximately 216 acres in size and irregular in shape. It is developed with a single-family dwelling, gazebo and access driveway. The property takes access from Holmes Road, a designated rural collector road, which abuts the property along its northern property boundary. The property contains steep north-facing slopes and has vegetation consisting of juniper trees and native brush and grasses. The developed area consists of approximately two acres located at the highest elevation on the property, approximately 180 feet above Holmes Road, and includes the dwelling, gazebo, a large grassy area and a circular driveway. The Assessor’s records indicate the subject property has no irrigated land.
- F. SURROUNDING LAND USES:** The subject property is surrounded by properties zoned EFU in both public and private ownership. To the north is an approximately 540-acre property engaged in cattle grazing and developed with a guest ranch (Long Hollow Ranch). Other land to the north along Holmes Road is generally engaged in farm use. To the south is a large undeveloped, publicly-owned tract owned and managed by the US Bureau of Land Management (BLM) that consists of juniper woodland. Also to the south is an approximately 80-acre parcel engaged in farm use and developed with a single-family dwelling. Adjacent to and east of the subject property is a 77-acre parcel engaged in farm use and developed with a dwelling. Adjacent to the west are two 40-acre parcels, each of which is developed with a single-family dwelling. Further to the west are two approximately 100-acre parcels engaged in farm use.
- G. SOILS:** According to Natural Resources Conservation Service (NRCS) maps of the area and the soil map included in the County packet, there are five soil units mapped on the subject property:

Map Unit Symbol	Map Unit Name	Rating	Percent
63C	Holmie-Searles complex, 0 to 15 percent slopes	6	54.8%
101E	Redcliff-Lickskillet-Rock outcrop complex, 30 to 50 percent south slopes	6	9.0%
106D	Redslide-Lickskillet complex, 15 to 30 percent north slopes	6	30.0%
138B	Stukel sandy loam, 3 to 8 percent slopes	6	5.8%
141C	Stukel-Deschutes-Rock outcrop complex, 0 to 15 percent slopes	6	0.4%
Totals for Property			100.0%

The proposed church and outdoor church event area are located on soils mapped as 63C, Holmie-Searles complex (0-15% slopes), with a capability class of 6 without irrigation. The property does not presently appear to have any irrigation rights. The applicant had proposed to purchase 3.5 acres of irrigation water from the Three Sisters

Irrigation District. As of the writing of this decision, Staff is uncertain if this purchase has been completed.

H. PUBLIC AGENCY COMMENTS: The Planning Division mailed notice to several public agencies and received the following comments:

1. **Deschutes County Building Division:** The Deschutes County Building Safety Divisions code required Access, Egress, Setbacks, Fire and Life Safety, Fire Fighting Water Supplies, etc. will be specifically addressed during the plan review process for any proposed structures and occupancies. All Building Code required items will be addressed, when a specific structure, occupancy, and type of construction is proposed and submitted for plan review.
2. **County Transportation Planner:** I have reviewed the transmittal materials for 247-16-000159-SP/161-AD for a church in the Exclusive Farm Use (EFU) zone at 71120 Holmes Road, 14-11-00, Tax Lot 103.

The most recent edition of the Institute of Traffic Engineers (ITE) Trip Generation Handbook indicates a church (Land Use 560) generates an average of 9.11 weekday trips per 1,000 square feet. John Shepherd intends to use his 6,000-square-foot home as a church. Staff assumes only the ground floor would be used, therefore staff bases all of its calculations on that size. (The applicant states the church will accommodate 25 members at any one service; however, it is County practice to base traffic assessments on building size rather than numbers of attendees or employees. This is because a church or business can vary in size of attendance at a service or number of employees without any further County review whereas changing the size of a building often requires County approval.) The applicant also includes an outdoor gazebo and lawn of 1.61 acres as being locations where church activities will occur and which will be used if services exceed 25 attendees. Staff did not include those locations in its transportation assessments. The church could be expected to generate approximately 27 weekday trips (9.11 X 3). Deschutes County Code (DCC) at 18.116.310(C)(3)(a) states no traffic analysis is required for any use that will generate less than 50 new weekday trips. The proposed land use will not meet the minimum threshold for additional traffic analysis.

The applicant states the gazebo and lawn area will be used when attendance exceeds 25 at any one service, but does not indicate if there will be adequate parking spaces for the overflow. Also if the County bases its transportation assessment on size of building rather than number of attendees, then the criteria under County Code for church is one space per 50 square feet. This would mean a total of 60 parking spaces (3000/50). The applicant has also indicated church-related events would be limited to 250 persons. The burden of proof needs to address if there adequate all-weather surfaces for parking.

The applicant asserts there is 200 feet of sight distance in each direction where the driveway connects to Holmes Road. Holmes Road is a rural, 55 mph facility, and the Association of American of State Highway and Traffic Officials (AASHTO) Greenbook calls for 610 feet of intersection sight distance and 495 feet of stopping sight distance. The applicant should contact Mike Martin at the Road Department (541-322-7150) to assess the actual sight distance and

determine if there are ways (removing trees or trimming vegetation, for example) to increase the sight distance from the driveway. The applicant references the County's traffic regulations are limited to weekday use. That is partially correct. The traffic impact analysis thresholds are tied to weekday traffic generation; however, sight distance requirements apply regardless of the day of the week.

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$3,852 per p.m. peak hour trip. The ITE manual indicates a church will generate 0.55 trips per p.m. peak hour per 1,000 square feet; therefore the church would generate 1.65 p.m. peak hour trips (0.55 X 3). The applicable SDC would be \$6,356 (\$3,852 X 1.65).

3. **Deschutes County Environmental Soils:** The septic system has been authorized for this use or essentially the same use under septic authorization notice 247-15-002329 (see below). The proposal for the church is not significantly different from the septic authorization; therefore, the septic system should be adequate to serve the proposal.

Authorization to change the use of this residence to include events around a park is granted with the installation of an effluent filter sized to accommodate at least 750 gallons per day flow. During events approximately 40-50 guests will be allowed to use the restrooms in the residence in association with an event. Additionally portable toilets are brought in for the events. No food preparation or food service for events is to take place in the residence. The events could potentially increase the peak flows approximately 100 gallons. Because these commercial events can create surge flows the effluent filter is required in the outlet of the septic tank. The existing system consists of a 1500 gallon septic tank with approximately 400' of drainfield down slope to the east of the residence. The drainfield appears to be functioning normally as a serial system with indications of normal ponding in the first trench. There was no evidence of surfacing sewage, all setbacks are being met and there is sufficient area for a complete replacement system. This authorization with the installation of an effluent filter does not guarantee the continuous or satisfactory operation of the onsite system. Should this system fail a repair permit is required and the flow characteristics will have to be evaluated and addressed at the time of system repair.

4. **Deschutes County Environmental Health:** OAR 333-061-0020 (154) defines a public water system as a system for the provision of water to the public for human consumption, if the system supplies water to 10 or more individuals per day at least 60 days per year. The proposal meets the criteria as a Transient Non-Community public water system.

The water system requires an initial plan review and well evaluation by the Oregon Drinking Water Program. If the water well is approvable for public use, it will be added to the inventory and assigned a water system number. Routine water system survey will be conducted every 5 years and routine water quality monitoring will be needed quarterly for coliform bacteria and annually for nitrate. Fees: Plan Review - \$825, Surveys every 5 yrs. - \$450, Routine water testing – approx. \$250/yr.

5. **The following agencies did not respond or had no comments:** Cloverdale Fire Department, State Fire Marshall, Deschutes County Assessor, Deschutes

County Road Department, Oregon Department of Fish and Wildlife (ODFW), and Oregon Department of Agriculture.

- I. **PUBLIC COMMENTS:** The Planning Division mailed notice of the conditional use application to all property owners within 750 feet of the subject property. No response to this mailed notice has been received as of the writing of this staff report.
- J. **REVIEW PERIOD:** These applications were submitted on March 18, 2016. The County sent an incomplete letter dated April 13, 2016. The applications were accepted as complete on April 15, 2015. The 150th day on which the County must take final action on this application is September 12, 2016. As of the writing of this staff report, the applicant has not documented compliance with the posted notice requirements of Section 22.23.030(B) of Title 22.
- K. **LAND USE HISTORY:** In July of 2001, the applicant's predecessor, Darlene Woods, received conditional use approval to establish a farm-related dwelling on the subject property and to site the dwelling more than 300 feet from a public or private road in the WA Zone (CU-00-65). Subsequently Ms. Woods applied to modify the conditional use application (MA-01-9) to modify her farm management plan and to move the dwelling location. The modified application was approved by an administrative decision. The approval was based in part on findings that the property was currently engaged in farm use consisting of cattle grazing, Ms. Woods' submission of a farm management plan, and her submission of a wildlife management plan which stated, among other provisions, that human activity would be limited to the southeast corner of the plateau at the top of the property and that there would be very little vehicular usage of the access driveway. The farm dwelling approval was conditioned on implementation of the farm management plan. A Hearings Officer dismissed an appeal of the decision (A-01-15).

In 2013 the applicant was denied conditional use approval (CU-13-13 and MA-13-3) to establish a private park on the subject property to be called "Shepherdsfield Park." The park would host weddings, wedding receptions, special events and recreational activities. Denial was based on several issues, including that the application did not include a site plan review application.

On December 18, 2014 staff issued an administrative approval of a modification (247-14-000401-MC) to the existing dwelling conditional use decision (CU-00-65/ MA-01-9). A Wildlife Management Plan (WMP) is required because the dwelling was not located near a pre-existing road or driveway in the Metolius Winter Deer Range [see DCC 18.88.060 (B)(1)]. The modification wholly removed the Wildlife Management Plan (WMP) required under the previous decision and replaced it with six conditions of approval designed to protect and enhance deer habitat on the property. This decision was appealed to the Board of County Commissioners (Board) under file number 247-14-000454-A. The Board affirmed the decision with modifications. The Board's decision was not appealed to LUBA.

On February 3, 2015 staff issued an administrative approval of a conditional permit and site plan review (247-14-000228-CU 229-SP) to establish a private park on an EFU-zoned parcel east of Sisters for the purpose of hosting weddings, wedding receptions, special events, and recreational activities. By Order 2015-011, dated February 4, 2015, the Board initiated review of this application under DCC 22.28.050 through a *de novo* hearing. The Board affirmed the administrative approval and included additional

findings. The Board's approval was appealed to LUBA (LUBA No. 2015-034), where the decision was reversed on August 17, 2015. On appeal to the Court of Appeals (276 Or App 282 2016), the Court affirmed LUBA's reversal on February 3, 2016.

III. CONCLUSIONARY FINDINGS:

OREGON REVISED STATUTES

A. CHAPTER 215 — COUNTY PLANNING; ZONING; HOUSING CODES

1. Section 215.441 Use of real property for religious activity; county regulation of real property used for religious activity.

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

FINDING: A church is allowed on the subject property under DCC 18.16.025(C), as described below. Staff reads this provision to say that, if a church use is allowed, specified accessory church uses must also be allowed. Staff believes the proposed use includes worship services, weddings, and funerals, but not child care and meal programs. This proposal does not include private or parochial school education for prekindergarten through grade 12 or higher education. Staff recommends the Hearing Officer request additional information to verify that all proposed church uses and events fall within the scope of allowed uses and condition any approval to preclude events not within the scope of ORS 215.441(1).

(2) ***A county may:***

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

FINDING: Staff believes that this provision authorizes the County to require the proposed church use to comply with the site and design review provisions of DCC 18.116 and 18.124, discussed in detail below.

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

FINDING: Staff believes that this provision requires the applicant demonstrate that the level of service of public facilities identified below are adequate for the use. Staff addresses each facility topic below.

Transportation: Staff reads the Deschutes Transportation Planner comment, quoted above, to indicate that traffic safety issues exist with regard to sight distance for the access driveway. Staff recommends the Hearings Officer request additional information to confirm that this issue has been adequately addressed prior to any findings of compliance with this requirement.

Water Supply: Staff reads the Deschutes County Environmental Health comment, quoted above, to indicate that a permit is required. Staff recommends the Hearings Officer require that the applicant document that the required permit has been obtained or that no such permit is required prior to initiation of the use, as a condition of any approval.

Sewer: Staff reads the Deschutes County Environmental Soils comment, quoted above, to indicate that the existing system is adequate for the use and that no additional permits are required.

Storm Drain Systems: No new impervious areas are included in the proposal and no stormwater drainage problems have been identified for the existing site. Staff believes that any stormwater on site will continue to infiltrate to groundwater on the large, predominantly undeveloped property.

- (3) ***Notwithstanding any other provision of this section, a county may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations.***

FINDING: This proposal does not include private or parochial school education for prekindergarten through grade 12 or higher education.

OREGON ADMINISTRATIVE RULES

A. DIVISION 33 - AGRICULTURAL LAND

1. Section 660-033-0130 - Use of real property for religious activity; county regulation of real property Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

The following requirements apply to uses specified, and as listed in the table adopted by OAR 660-033-0120. For each section of this rule, the corresponding section number is shown in the table. Where no numerical reference is indicated on the table, this rule does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the table, as authorized by law.

FINDING: Church use is listed in the table adopted by OAR 660-033-0120 as “2,*18(a)” for “HV Farmland” and “R2” for “Other”. The table adopted by OAR 660-033-0120 includes the following notations:

R Use may be allowed, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns.

**** Use not allowed.***

Numerical references for specific uses shown on the table refer to the corresponding section of OAR 660-033-0130. Where no numerical reference is noted for a use on the table, this rule does not establish criteria for the use.

Staff believes the church site and the subject property do not constitute High Value "HV" Farmland and, thus are subject to the "R2" requirement. The "R" code specifies that the use may be allowed, after required review. The use requires notice and the opportunity for a hearing. Staff believes that the noticed, scheduled public hearing on this matter meets these requirements.

The "R2" code is also a numerical reference to sections specified in OAR 660-033-0130. OAR 660-033-0130(2) requires:

- (2)(a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.***
- (b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010.***
- (c) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule.***

Staff finds that the subject property is over 9 miles from the closest urban growth boundary (Redmond) and that the proposal will comply with these requirements.

Staff notes that the table adopted by OAR 660-033-0120 also states that, "Counties may prescribe additional limitations and requirements to meet local concerns."

TITLE 18 OF THE DESCHUTES COUNTY CODE, COUNTY ZONING.

A. CHAPTER 18.16, EXCLUSIVE FARM USE ZONES.

1. Section 18.16.025. Uses Permitted Subject to the Special Provisions Under DCC Section 18.16.038 or DCC Section 18.16.042 and a Review Under DCC Chapter 18.124 where applicable.

C. Churches and cemeteries in conjunction with churches consistent with ORS 215.441 and OAR 660-033-0130(2) on non-high value farmland.

FINDING: The applicant is proposing a church. Compliance with ORS 215.441 and OAR 660-033-0130(2) are discussed above. DCC 18.04.030 defines "church" as:

"Church" means an institution that has nonprofit status as a church established with the Internal Revenue Service.

The applicant has stated that the proposed church is both licensed with the State of Oregon and registered with the IRS as a 501 (C) (3), meeting this definition.

Staff notes that no special provisions under DCC Section 18.16.038 or DCC Section 18.16.042 apply to church use. Staff believes that review under DCC Chapter 18.124 is applicable and relevant criteria are discussed below.

3. Section 18.16.070. Yards

- A. ***The front yard shall be a minimum of: 40 feet from a property line fronting on a local street, 60 feet from a property line fronting on a collector street, and 100 feet from a property line fronting on an arterial street.***
- B. ***Each side yard shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on property with side yards adjacent to property currently employed in farm use, and receiving special assessment for farm use, the side yard shall be a minimum of 100 feet.***
- C. ***Rear yards shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on property with a rear yard adjacent to property currently employed in farm use, and receiving special assessment for farm use, the rear yard shall be a minimum of 100 feet.***
- D. ***In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.***

FINDING: No new structures are proposed and all existing structures associated with proposed use are located over 100 feet from any property line, complying with these criteria.

4. Section 18.16.060, Dimensional Standards

E. Building height. No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed under DCC 18.120.040.

FINDING: No new structures are proposed.

5. Section 18.16.080, Stream Setbacks

To permit better light, air, vision, stream pollution control, protection of fish and wildlife areas and preservation of natural scenic amenities and vistas along streams and lakes, the following setbacks shall apply:

- A. ***All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet, measured at right angles to the ordinary high water mark. In those cases where practical difficulties preclude the location of the facilities at a distance of 100 feet and the County Sanitarian finds that a closer location will not endanger health, the Planning Director or Hearings Body may permit the location of these facilities closer to the stream or lake, but in no case closer than 25 feet.***
- B. ***All structures, buildings or similar permanent fixtures shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet measured at right angles to the ordinary high water mark.***

FINDING: No new structures are proposed. No rivers or streams are located near the subject property.

1. Section 18.16.090, Rimrock Setback

Notwithstanding the provisions of DCC 18.16.070, setbacks from rimrock shall be as provided in DCC 18.116.160 or 18.84.090, whichever is applicable.

FINDING: No new structures are proposed. No "rimrock", as defined in DCC 18.04.030, exists on the subject property.

B. CHAPTER 18.88, WILDLIFE AREA COMBINING ZONE

1. Section 18.88.030, Uses Permitted Outright.

In a zone with which the WA Zone is combined, the uses permitted outright shall be those permitted outright by the underlying zone.

FINDING: The subject property is located within a WA Zone established to protect the Metolius Deer Winter Range. The proposed church use is allowed outright subject to certain provisions as discussed above, as opposed to conditionally, in the EFU zone.

2. Section 18.88.040, Uses Permitted Conditionally.

- A. ***Except as provided in DCC 18.88.040(B), in a zone with which the WA Zone is combined, the conditional uses permitted shall be those permitted conditionally by the underlying zone subject to the provisions of the Comprehensive Plan, DCC 18.128 and other applicable sections of this title.***

- B. The following uses are not permitted in that portion of the WA Zone designated as deer winter ranges, significant elk habitat or antelope range:**
- 1. Golf course, not included in a destination resort;**
 - 2. Commercial dog kennel;**
 - 3. Church;**
 - 4. Public or private school;**
 - 5. Bed and breakfast inn;**
 - 6. Dude ranch;**
 - 7. Playground, recreation facility or community center owned and operated by a government agency or a nonprofit community organization;**
 - 8. Timeshare unit;**
 - 9. Veterinary clinic;**
 - 10. Fishing lodge.**

FINDING: The subject property is located within a WA Zone established to protect the Metolius Deer Winter Range. Staff believes that the prohibition on church use in WA zones is specific to those zones where church use is a conditional use. In this case, the proposed church is in an EFU Zone where the use is an outright use subject to certain provisions as discussed above.

2. Section 18.88.060, Siting Standards

- A. Setbacks shall be those described in the underlying zone with which the WA Zone is combined.**
- B. The footprint, including decks and porches, for new dwellings shall be located entirely within 300 feet of public roads, private roads or recorded easements for vehicular access existing as of August 5, 1992 unless it can be found that:**
- 1. Habitat values (i.e., browse, forage, cover, access to water) and migration corridors are afforded equal or greater protection through a different development pattern; or,**
 - 2. The siting within 300 feet of such roads or easements for vehicular access would force the dwelling to be located on irrigated land, in which case, the dwelling shall be located to provide the least possible impact on wildlife habitat considering browse, forage, cover, access to water and migration corridors, and minimizing length of new access roads and driveways; or,**
 - 3. The dwelling is set back no more than 50 feet from the edge of a driveway that existed as of August 5, 1992.**

FINDING: No new dwelling is included in this proposal. These criteria do not apply.

3. Section 18.88.070. Fence Standards.

The following fencing provisions shall apply as a condition of approval for any new fences constructed as a part of development of a property in conjunction with a conditional use permit or site plan review.

- A. New fences in the Wildlife Area Combining Zone shall be designed to permit wildlife passage. The following standards and guidelines**

shall apply unless an alternative fence design which provides equivalent wildlife passage is approved by the County after consultation with the Oregon Department of Fish and Wildlife:

1. The distance between the ground and the bottom strand or board of the fence shall be at least 15 inches.
2. The height of the fence shall not exceed 48 inches above ground level.
3. Smooth wire and wooden fences that allow passage of wildlife are preferred. Woven wire fences are discouraged.

B Exemptions:

1. Fences encompassing less than 10,000 square feet which surround or are adjacent to residences or structures are exempt from the above fencing standards.
2. Corrals used for working livestock.

FINDING: No new fencing is included as part of this proposal.

C. CHAPTER 18.116, SUPPLEMENTARY PROVISIONS

1. Section 18.116.020, Clear Vision Areas.

A. In all zones, a clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding three and one-half feet in height, measured from the top of the curb or, where no curb exists, from the established street centerline grade, except that trees exceeding this height may be located in this area provided all branches and foliage are removed to a height of eight feet above the grade.

B. A clear vision area shall consist of a triangular area on the corner of a lot at the intersection of two streets or a street and a railroad. Two sides of the triangle are sections of the lot lines adjoining the street or railroad measured from the corner to a distance specified in DCC 18.116.020(B)(1) and (2). Where lot lines have rounded corners, the specified distance is measured from a point determined by the extension of the lot lines to a point of intersection. The third side of the triangle is the line connecting the ends of the measured sections of the street lot lines. The following measurements shall establish clear vision areas within the County:

1. In an agricultural, forestry or industrial zone, the minimum distance shall be 30 feet or at intersections including an alley, 10 feet.
2. In all other zones, the minimum distance shall be in relationship to street and road right of way widths as follows:

Right-of-Way Width	Clear Vision
80 feet or more	20 feet
60 feet	30 feet
50 feet and less	40 feet

FINDING: No new structures are proposed. The proposed church and associated church events will not impact a clear vision area at the intersection of two streets or a street and a railroad.

2. Section 18.116.030, Off-street Parking and Loading.

- A. Compliance. No building or other permit shall be issued until plans and evidence are presented to show how the off-street parking and loading requirements are to be met and that property is and will be available for exclusive use as off-street parking and loading. The subsequent use of the property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by DCC Title 18.**

FINDING: Staff believes that the applicant has partially demonstrated, through plans and evidence, how the off street parking and loading requirements are to be met and that property is and will be available for exclusive use as off-street parking and loading. Staff believes the applicant intends Exhibit H to show the proposed layout of the parking area. The number of required spaces and access to those spaces is discussed in detail below. Staff recommends as a condition of any approval, that subsequent use of the property for which this permit is issued shall require the unqualified continuance and availability of the amount of parking and loading space required by DCC Title 18.

- B. Off-Street Loading. Every use for which a building is erected or structurally altered to the extent of increasing the floor area to equal a minimum floor area required to provide loading space and which will require the receipt or distribution of materials or merchandise by truck or similar vehicle, shall provide off-street loading space on the basis of minimum requirements as follows:**

FINDING: Staff finds that this proposal does not include a “use for which a building is erected or structurally altered” and that DCC 18.116.030(B) does not apply to this proposal.

- C. Off-Street Parking. Off-street parking spaces shall be provided and maintained as set forth in DCC 18.116.030 for all uses in all zoning districts. Such off-street parking spaces shall be provided at the time a new building is hereafter erected or enlarged or the use of a building existing on the effective date of DCC Title 18 is changed.**

FINDING: The Board confirmed the administrative decision findings for this criterion, quoted below, for this criterion in 247-14-000229-SP:

DCC 18.116.030(C) first requires that, “Off-street parking spaces shall be provided and maintained as set forth in DCC 18.116.030 for all uses in all zoning districts.” Staff finds that provision of parking spaces is plainly required under this section. The second portion of this criterion states, “Such off-street parking spaces shall be provided at the time a new building is hereafter erected or enlarged or the use of a building existing on the effective date of DCC Title 18 is changed.” Staff finds that the second sentence of the criterion specifies the timing for the provision of parking for certain specified uses, but does not negate

the requirement that parking be “provided and maintained as set forth in DCC 18.116.030 for all uses”.

Staff recommends, as a condition of approval, that all required parking shall be in place prior to initiation of the use.

D. Number of Spaces Required. Off-street parking shall be provided as follows:

1. Residential.

Use	Requirements
One, two and three family dwellings	2 spaces per dwelling unit

...

4. Places Of Public Assembly.

Use	Requirements
Church	1 space per 4 seats or 8 feet of bench length in the main auditorium or 1 space for each 50 sq. ft. of floor area used for assembly

...

9. Other uses not specifically listed above shall be provided with adequate parking as required by the Planning Director or Hearings Body. The above list shall be used as a guide for determining requirements for said other uses.

FINDING: The existing dwelling unit requires 2 spaces. The applicant has proposed a maximum church use of 25 persons. However the application also contemplates church services (exclusive from events) that might go beyond 25 persons that could occur outside. While the church is not constrained by bench length or auditorium size, staff finds guidance in the requirement for one parking space per 4 seats indicates that a minimum of 7 parking spaces would be required to serve a 25 person church use.

However, the Board concluded in 247-14-000229-SP that 18 weddings per year on the subject property with up to 250 guests also required permanent developed parking spaces for that use. Staff believes that the proposed church event use is similar in scope to the proposed private park event use previously proposed and likewise requires permanent parking.

Staff believes the church event use falls under (D)(9), “other uses not specifically listed”. Following the Board decision in 247-14-000229-SP, staff recommends using the listed uses, “as a guide for determining requirements for said other uses.” Specifically, that this use is somewhat similar to the use “church”, in that church use typically includes weddings. DCC 18.116.030(D)(4) requires 1 space per 4 seats for church use. As such, Staff finds that a minimum of 63 spaces ($250 / 4 = 62.5$) should be provided for the church event use and two spaces for the dwelling, for a total of 65 spaces.

Staff believes that the 65 spaces would be adequate to address church event use and would be more than adequate to address the regular church service and residential use of the property.

E. General Provisions. Off-Street Parking.

- 1. More Than One Use on One or More Parcels. In the event several uses occupy a single structure or parcel of land, the total requirement for off-street parking shall be the sum of requirements of the several uses computed separately.**

FINDING: The total requirement for off-street parking equals the sum of the requirements of the several uses (church use including events and residential) computed separately.

- 2. Joint Use of Facilities. The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap at any point of time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.**

FINDING: No joint use facilities are proposed.

- 3. Location of Parking Facilities. Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located on the same parcel or another parcel not farther than 500 feet from the building or use they are intended to serve, measured in a straight line from the building in a commercial or industrial zone. Such parking shall be located in a safe and functional manner as determined during site plan approval. The burden of proving the existence of such off-premise parking arrangements rests upon the applicant.**

FINDING: All parking is located on the subject parcel.

- 4. Use of Parking Facilities. Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.**

FINDING: Staff recommends a condition of any approval requiring that required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.

- 5. Parking, Front Yard. Required parking and loading spaces for multi-family dwellings or commercial and industrial uses shall not be located in a required front yard, except in the Sunriver UUC Business Park (BP) District and the La Pine**

UUC Business Park (LPBP) District and the La Pine UUC Industrial District (LPI), but such space may be located within a required side or rear yard.

FINDING: No parking in a required front yard is proposed.

F. Development and Maintenance Standards for Off-Street Parking Areas. Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows:

1. Except for parking to serve residential uses, an off-street parking area for more than five vehicles shall be effectively screened by a sight obscuring fence when adjacent to residential uses, unless effectively screened or buffered by landscaping or structures.

FINDING: The proposed parking is located over 400 feet from any property line. Staff believes that vegetation and topography will effectively screen the parking area from any adjacent residential use.

2. Any lighting used to illuminate off-street parking areas shall be so arranged that it will not project light rays directly upon any adjoining property in a residential zone.

FINDING: No adjoining property is in a residential zone. This criterion does not apply.

3. Groups of more than two parking spaces shall be located and designed to prevent the need to back vehicles into a street or right of way other than an alley.

FINDING: Parking spaces are located and designed to prevent the need to back vehicles into a street or right-of-way.

4. Areas used for standing and maneuvering of vehicles shall be paved surfaces adequately maintained for all weather use and so drained as to contain any flow of water on the site. An exception may be made to the paving requirements by the Planning Director or Hearings Body upon finding that:

a. A high water table in the area necessitates a permeable surface to reduce surface water runoff problems; or

b. The subject use is located outside of an unincorporated community and the proposed surfacing will be maintained in a manner which will not create dust problems for neighboring properties; or

c. The subject use will be in a Rural Industrial Zone or an Industrial District in an unincorporated community and dust control measures will occur on a continuous basis which will mitigate any adverse impacts on surrounding properties.

FINDING: It appears from the application materials that the applicant is requesting an exception to the paving required under this criterion. The applicant proposes to gravel the parking area, complying with the requirement for an all weather surface in areas used for standing of vehicles. The applicant does not clearly describe the proposed surface for the long driveway that accesses the parking area from Holmes Road. Staff recommends the Hearings request additional information from the applicant to determine if all areas used for standing and maneuvering of vehicles will be improved with all weather surfaces (at least gravel) and require those surface improvements as a condition of approval or find that the applicant qualifies for an exception under (b). Staff believes that the parking area and access driveway are located far from adjacent property and stormwater drainage will continue to be directed to groundwater infiltration in natural and landscaped open space. Although it is not proposed in this case, staff notes that the Board concluded that cinder was not an all weather surface under 247-14-000228-CU and 229-SP.

5. *Access aisles shall be of sufficient width for all vehicular turning and maneuvering.*

FINDING: Table 1 at the end of Chapter 18.116 requires, at a minimum, a twenty-four-foot-wide surface for two-way traffic and 12-foot-wide surface for one-way traffic. The applicant has proposed a minimum of a thirty-two-foot-wide surface for two-way traffic and 16-foot-wide surface for one-way traffic. Staff finds that the proposed parking area includes travel surfaces of sufficient width for all vehicular turning and maneuvering.

6. *Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will accommodate and serve the traffic anticipated. Service drives shall be clearly and permanently marked and defined through the use of rails, fences, walls or other barriers or markers. Service drives to drive in establishments shall be designed to avoid backing movements or other maneuvering within a street other than an alley.*

FINDING: No service drives are proposed.

7. *Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right of way line and a straight line joining said lines through points 30 feet from their intersection.*

FINDING: No service drives are proposed.

8. *Parking spaces along the outer boundaries of a parking area shall be contained by a curb or bumper rail placed to prevent a motor vehicle from extending over an adjacent property line or a street right of way.*

FINDING: The proposed parking is located over 400 feet from any property line or a street right of way. Staff finds that no curbs or bumper rails are required to prevent a motor vehicle from extending over an adjacent property line or a street right of way.

- G. Off-Street Parking Lot Design. All off-street parking lots shall be designed subject to County standards for stalls and aisles as set forth in the following drawings and table:**

(SEE TABLE 1 AT END OF CHAPTER 18.116)

- 1. For one row of stalls use "C" + "D" as minimum bay width.**
- 2. Public alley width may be included as part of dimension "D," but all parking stalls must be on private property, off the public right of way.**
- 3. For estimating available parking area, use 300-325 square feet per vehicle for stall, aisle and access areas.**
- 4. For large parking lots exceeding 20 stalls, alternate rows may be designed for compact cars provided that the compact stalls do not exceed 30 percent of the total required stalls. A compact stall shall be eight feet in width and 17 feet in length with appropriate aisle width.**

FINDING: The applicant has proposed nine-foot-wide by twenty-foot-deep head-in parking spaces. The applicant has proposed a minimum of a thirty-two-foot-wide surface for two-way traffic and 16-foot-wide surface for one-way traffic. The proposed spaces comply with County standards for stalls and aisles as set forth Table 1.

3. Section 18.116.031. Bicycle Parking.

New development and any construction, renovation or alteration of an existing use requiring a site plan review under DCC Title 18 for which planning approval is applied for after the effective date of Ordinance 93-005 shall comply with the provisions of DCC 18.116.031.

- A. Number and Type of Bicycle Parking Spaces Required.**

- 1. General Minimum Standard.**
 - a. All uses that require off-street motor vehicle parking shall, except as specifically noted, provide one bicycle parking space for every five required motor vehicle parking spaces.**
 - c. When the proposed use is located outside of an unincorporated community, a destination resort, and a rural commercial zone, exceptions to the bicycle parking standards may be authorized by the Planning Director or Hearings Body if the applicant demonstrates one or more of the following:**
 - i The proposed use is in a location accessed by roads with no bikeways and bicycle use by customers or employees is unlikely.**
 - ii. The proposed use generates less than 50 vehicle trips per day.**

- iii. **No existing buildings on the site will accommodate bicycle parking and no new buildings are proposed.**
- iv. **The size, weight, or dimensions of the goods sold at the site makes transporting them by bicycle impractical or unlikely.**
- v. **The use of the site requires equipment that makes it unlikely that a bicycle would be used to access the site. Representative examples would include, but not be limited to, paintball parks, golf courses, shooting ranges, etc.**

FINDING: The church is located outside of an unincorporated community, a destination resort, or a rural commercial zone. An exception to the bicycle parking standards is warranted since the use of the site (church use and church events in a park-like setting), requires equipment (formal attire, catering equipment) that makes it unlikely that a bicycle would be used to access the site. Staff believes that an exception to the bicycle parking is appropriate for this use.

C. CHAPTER 18.124, SITE PLAN REVIEW

1. Section 18.124.030. Approval Required.

- A. **No building, grading, parking, land use, sign or other required permit shall be issued for a use subject to DCC 18.124.030, nor shall such a use be commenced, enlarged, altered or changed until a final site plan is approved according to DCC Title 22, the Uniform Development Procedures Ordinance.**
- B. **The provisions of DCC 18.124.030 shall apply to the following:**
 - 1. **All conditional use permits where a site plan is a condition of approval;**
 - 2. **Multiple family dwellings with more than three units;**
 - 3. **All commercial uses that require parking facilities;**
 - 4. **All industrial uses;**
 - 5. **All other uses that serve the general public or that otherwise require parking facilities, including, but not limited to, landfills, schools, utility facilities, churches, community buildings, cemeteries, mausoleums, crematories, airports, parks and recreation facilities and livestock sales yards; and**
 - 6. **As specified for Flood Plain Zones (FP) and Surface Mining Impact Area Combining Zones (SMIA).**

FINDING: The site is a church that requires parking facilities. The provisions of this chapter apply.

2. Section 18.124.060. Approval Criteria.

Approval of a site plan shall be based on the following criteria:

- A. **The proposed development shall relate harmoniously to the natural environment and existing development, minimizing visual impacts**

and preserving natural features including views and topographical features.

FINDING: Staff separates the analysis under this section into off-site and on-site impacts.

OFF-SITE

The subject property is surrounded by properties zoned EFU in both public and private ownership. To the north is an approximately 540-acre property engaged in cattle grazing and developed with a guest ranch (Long Hollow Ranch). Other land to the north along Holmes Road is generally engaged in farm use. To the south is a large undeveloped, publicly-owned tract owned and managed by the US Bureau of Land Management (BLM) that consists of juniper woodland. Also to the south is an approximately 80-acre parcel engaged in farm use and developed with a single-family dwelling. Adjacent to and east of the subject property is a 77-acre parcel engaged in farm use and developed with a dwelling. Adjacent to the west are two 40-acre parcels, each of which is developed with a single-family dwelling. Further to the west are two approximately 100-acre parcels engaged in farm use.

Staff believes that the proposed church and church event use would be visually screened by distance, topography, and vegetation so as not be disharmonious with surrounding farm, open space, recreational, or residential use. However, the proposed use of amplified sound could be disharmonious with surrounding residential and recreational use. The applicant has proposed a limit of 30 decibels from amplified sound as measured at any property line. In addition the applicant has proposed that any use of amplified sound will end by 10 p.m. Staff finds that these limitations are sufficient to prevent off-site noise impacts, as 30 decibels is the typical background noise level found in quiet rural environments.

Staff incorporates herein by reference analysis provided in 247-14-000228-CU and 247-14-000229-SP documenting that no adverse impact to off-site livestock are anticipated from the use of amplified music at the site.

Staff does not anticipate adverse impacts to the off-site natural environment, topography, or visual resources. Staff notes that no such adverse impacts have been identified in the record.

ON-SITE

No new structures or earthmoving are included in this proposal. Therefore, staff finds this proposal minimizes on-site visual impacts and preserves views and topographical features.

Staff divides the remaining findings under this criterion into those pertaining to the natural environment and those pertaining to existing development.

NATURAL ENVIRONMENT

The natural environment on the property consists of juniper scrub woodland in the mapped Tumalo Winter Deer Range. During review of the private park proposal under 247-14-000228-CU and 229-SP, it was established that outdoor gatherings of up to 250 persons would potentially adversely impact the Tumalo Winter Deer Range, identified by the County as a Goal 5 resource. In that decision, outdoor events were limited by a condition of approval requiring outdoor events to occur outside the period identified by ODFW for winter deer forage. Specifically, a condition required that the private park would only be open to event participants

one weekend day per week beginning on May 15 of each year and ending on October 15. The applicant has proposed limiting outdoor church events to mid-May through mid-October, presumably in recognition of the Tumalo Winter Deer Range forage period. Staff recommends a condition of any approval limiting outdoor church events to only occur in the period beginning on May 15 of each year and ending on October 15.

Staff believes that destruction or conversion of natural habitat would also potentially be disharmonious with the natural environment of the property, as it could adversely impact forage areas in the Tumalo Winter Deer Range. However, no church related development or activities are proposed in areas currently in natural vegetation. Staff recommends a condition of any approval precluding conversion or clearing of naturally vegetated areas for church use.

Recommended findings regarding the Wildlife Management Plan are included in the Existing Development section below, as this plan was required in association with the farm related dwelling.

EXISTING DEVELOPMENT

Existing development of the property consists of residential and agricultural use. Existing structures include a dwelling, barn, and gazebo. The existing farm-related dwelling was approved under County File Nos. MA-01-9/CU-00-65 and included a Farm Management Plan (FMP) and Wildlife Management Plan (WMP).

Residential Use

Staff finds that the church and church event uses will only occur at the discretion of the applicants/residents, are of limited duration, and involve no significant changes to the residence. Therefore, the proposed church use would not preclude or significantly interfere with residential use of the property. Staff believes that compatibility analysis between the church and residential use is complicated by the fact that the exact scope of church uses is unclear at this time. Staff recommends the Hearings Office evaluate this issue in light of any clarification on the scope of church use provided in the record.

Agricultural Use

Prior Approvals

The existing farm-related dwelling was approved in conjunction with a Farm Management Plan (FMP). The prior approval (MA-01-9/CU-00-65), granted to the applicant's predecessor, required that the property be "...currently employed in farm use, as evidenced by a farm management plan...". In CU-00-65/MA-01-9 the following findings were made regarding farm use of the property:

The applicant has proposed to modify the submitted application for a conditional use permit (CU-00-65) to allow the establishment of a farm-related dwelling on an approximate 216 acre, unirrigated, non-high value parcel. The applicant proposes to modify CU-00-65 by proposing a new homesite location and modifying the farm management plan. The modified application indicates that the property currently supports 24 head of cattle, has perimeter fencing and watering troughs. The applicant has submitted financial documents, photographs, soils and irrigation maps, a site plan and burden of proof statement

in support of this application, which are incorporated herein by reference. According to the modified farm management plan and business plan, and verified by staff during a visit to the property on May 31, 2001, the subject property currently supports 24 head of cattle, has perimeter fencing along the boundary of the subject property, watering troughs for livestock that are filled with water that according to the applicant will be hauled onto the property until such time a well is installed and electricity provided to the property. The applicant also indicates that they intend to obtain water rights from Squaw Creek Irrigation District. In addition, the applicant indicates that they propose to incorporate approximately 30 hogs into the livestock operation following occupancy of the proposed farm dwelling. The applicant's plot plan depicts the location of areas that are used for livestock grazing. Based on the above findings and the applicant's burden of proof statement, staff finds this criterion to be satisfied.

Staff believes that there is nothing in the farm-related dwelling approval that requires the applicant to continue the prior owner's agricultural operations or to complete the future activities described in the FMP. The present criterion requires that the proposed development relate harmoniously to existing development. Since neither the previous cattle operation nor the contemplated hog operation is "existing" on the property, Staff finds there is no requirement under this criterion that the church be harmonious with those farm uses.

Current Farm Use

At the time of the Board's decision in 247-14-000229-SP, the agricultural use of the property included approximately 2 acres used to raise poultry for-profit and small-scale livestock grazing (limited to a single ewe at the time of application). Staff recommends the Hearings Officer request additional information to confirm the present extent of farm use on the property. Staff finds that these farm uses are conducted outside of the proposed church use area and that they would not be precluded or significantly interfered with by the church use.

Staff believes that compatibility analysis between the church and farm use is complicated by the fact that the exact scope of church uses is unclear at this time. Staff recommends the Hearings Office evaluate this issue in light of any clarification on the scope of church use provided in the record.

Future Farm Use

At the time of the Board's decision in 247-14-000229-SP, the applicant indicated that 3.5 acres of Three Sisters Irrigation District water rights were being obtained and would be applied to the existing lawn area (0.9 acres) and a new fenced grazing area in the southeast corner of the property. The grazing area would encompass approximately 17 acres that would include 2.5 acres of future irrigation. No fewer than 10 head of cattle will be kept in this grazing area during the months of park operation.

During winter months, the cattle would be penned and hayed in an area adjacent to the applicant's barn. During the spring, the cattle would graze other areas of the property, but not the dwelling area. The applicant also had proposed an indoor/outdoor penned chicken operation on the property, to be located within the existing barn area.

Staff recommends the Hearings Officer request additional information to confirm the present extent of farm use on the property and determine if these farm improvements are complete or planned.

Again, Staff believes that compatibility analysis between the church and farm use is complicated by the fact that the exact scope of church uses is unclear at this time. Staff recommends the Hearings Office evaluate this issue in light of any clarification on the scope of church use provided in the record.

Wildlife Management Plan

The Wildlife Management Plan (WMP) approved under (MA-01-9/CU-00-65) and modified under 247-14-000401-MC includes required actions on the part of the land owner as part of the dwelling location approval. To the extent that the church use could somehow preclude or significantly interfere with the land owner's ability to complete those required actions, the church use proposal would not relate harmoniously with the residential use of the subject property (which is approved outright subject to certain provisions as discussed above based on compliance with the Wildlife Management Plan, as modified).

Staff notes the WMP conditions, as modified, primarily focus on required activities located outside the proposed church use area of the property, with the exclusion of condition #3 of 247-14-000401-MC. This condition requires:

3. A vegetative buffer shall be maintained by the property owner at all times around the existing house to provide visual screening and forage opportunities for deer. This buffer shall consist of various screening trees, including Junipers and Aspen, various shrubs, garden and lawn, all located within 500 feet of the dwelling and as configured in the record figure labeled "Google Maps Aerial Photo - 2014". This vegetation shall be maintained, kept alive, or be replaced in-kind within one year in the event of disease or death of the vegetation.

Staff believes that nothing in the present proposal precludes compliance with the WMP. Staff recommends the following condition of any approval to ensure that church use of the property is not disharmonious with the residential use of the property, which includes compliance with the WMP:

The land owner shall comply with the Wildlife Management Plan (WMP) for the subject property. Where the final WMP for the subject property includes required actions that conflict with church operations, the required actions of that WMP shall take precedence and the operations of the church use shall be curtailed to the extent necessary to allow full compliance with the WMP.

- B. The landscape and existing topography shall be preserved to the greatest extent possible, considering development constraints and suitability of the landscape and topography. Preserved trees and shrubs shall be protected.***

FINDING: No new structures or topographical changes are included in this proposal. The existing structures and lawn area were developed in association with residential use of the property and are not part of this proposal. Staff believes that the previously-cleared,

approximately 1-acre parking area preserves the existing landscape to the greatest extent possible, considering development constraints (required parking needed to accommodate the proposed use). No removal of vegetation outside the church use area is proposed for the church use.

- C. *The site plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transition from public to private spaces.***

FINDING: Transitions from public to private spaces occur at the driveway entering the property, the long vegetated drive to the park site, and in the existing dwelling, which will be partially used in support of the private park.

Safety – Structural

Staff understands the Deschutes County Building Division comment, quoted above and incorporated herein by reference, to identify required electrical, fire safety, and perhaps structural requirements. Staff recommends that, as a condition of approval, the applicant shall provide written documentation from the Building Division that the on-site structures and electrical systems are suitable for the proposed use, prior to initiation of the use.

Safety- Fire

As of the writing of this staff report, no response to a request for comment has been received from fire agencies. Staff recommends the Hearings Officer request additional information on this topic prior to any finding compliance with this criterion.

- D. *When appropriate, the site plan shall provide for the special needs of disabled persons, such as ramps for wheelchairs and Braille signs.***

FINDING: The County Building Division will notify the applicant of any accessibility requirements.

- E. *The location and number of points of access to the site, interior circulation patterns, separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures shall be harmonious with proposed and neighboring buildings and structures.***

FINDING: The site plan provides a single point of access to the site via the driveway from Holmes Road. Interior circulation includes a driveway circling the lawn area and accessing the barn, park vehicle parking area, and existing dwelling. Given the significant setback between the church and church event use area, property lines, and adjacent uses, Staff finds that there will be no conflict with off-site uses regarding access and circulation. Staff believes the proposed site plan will result in access and circulation that is harmonious with on- and off-site development.

- F. *Surface drainage systems shall be designed to prevent adverse impacts on neighboring properties, streets or surface and subsurface water quality.***

FINDING: Storm water drainage will continue to be directed to undeveloped juniper scrub woodland. Staff finds this will prevent adverse impacts on neighboring properties, streets or surface and subsurface water quality.

- G. Areas, structures and facilities for storage, machinery and equipment services (mail, refuse, utility wires, and the like), loading and parking and similar accessory structures shall be designed, located and buffered or screened to minimize adverse impacts on the site and neighboring properties.**

FINDING: No new structures or facilities regulated under this criterion are proposed. The parking area will be screened by existing vegetation, minimizing adverse impacts on the site and neighboring properties.

- H. All aboveground utility installations shall be located to minimize adverse visual impacts on the site and neighboring properties.**

FINDING: No new aboveground utility installations are proposed.

- I. Specific criteria are outlined for each zone and shall be a required part of the site plan (e.g. lot setbacks, etc.)**

FINDING: Specific zoning standards for the site have been addressed above.

- J. All exterior lighting shall be shielded so that direct light does not project off-site.**

FINDING: A condition of approval requires that any exterior lighting in association with this project comply with the Deschutes County Covered Outdoor Lighting Ordinance per Section 15.10 of Title 15 of the Deschutes County Code (DCC).

- K. Transportation access to the site shall be adequate for the use.**
- 1. Where applicable, issues including, but not limited to, sight distance, turn and acceleration/deceleration lanes, right-of-way, roadway surfacing and widening, and bicycle and pedestrian connections, shall be identified.**
 - 2. Mitigation for transportation-related impacts shall be required.**
 - 3. Mitigation shall meet applicable County standards in DCC 17.16 and DCC 17.48, applicable Oregon Department of Transportation (ODOT) mobility and access standards, and applicable American Association of State Highway and Transportation Officials (AASHTO) standards.**

FINDING: Staff reads the Deschutes Transportation Planner comment, quoted above, to indicate that traffic safety issues exist with regard to sight distance for the access driveway. Staff recommends the Hearings Officer request additional information to confirm that this issue has been adequately addressed prior to any findings of compliance with this requirement.

2. Section 18.124.070. Required Minimum Standards.

B. Required Landscaped Areas.

1. **The following landscape requirements are established for multi-family, commercial and industrial developments, subject to site plan approval:**
 - a. **A minimum of 15 percent of the lot area shall be landscaped.**
 - b. **All areas subject to the final site plan and not otherwise improved shall be landscaped.**

FINDING: Staff finds the proposed park is not a multi-family, commercial², or industrial development and is not subject to the provisions of 18.124.070(B).

2. **In addition to the requirement of DCC 18.124.070(B)(1)(a), the following landscape requirements shall apply to parking and loading areas:**
 - a. **A parking or loading area shall be required to be improved with defined landscaped areas totaling no less than 25 square feet per parking space.**

FINDING: The 65 required parking spaces require 1,625 square feet of landscaping under this criterion. The proposed parking is wholly surrounded with natural landscaping³ and will comply with this criterion.

- b. **In addition to the landscaping required by DCC 18.124.070(B)(2)(a), a parking or loading area shall be separated from any lot line adjacent to a roadway by a landscaped strip at least 10 feet in width, and from any other lot line by a landscaped strip at least five feet in width.**
- c. **A landscaped strip separating a parking or loading area from a street shall contain:**
 - i. **Trees spaced as appropriate to the species, not to exceed 35 feet apart on the average.**
 - ii. **Low shrubs not to reach a height greater than three feet zero inches, spaced no more than eight feet apart on the average.**
 - iii. **Vegetative ground cover.**

FINDING: The proposed parking area is located over 400 feet from any property line and is separated from those lot lines by extensive natural and introduced landscaping.

- d. **Landscaping in a parking or loading area shall be located in defined landscaped areas which are**

² DCC 18.04.030 - "Commercial use" means the use of land primarily for the retail sale of products or services, including offices. It does not include factories, warehouses, freight terminals or wholesale distribution centers.

³ DCC 18.04.030 - "Landscaping" means trees, grass, bushes, shrubs, flowers, and garden areas, and incidental arrangements of fountains, patios, decks, street furniture and ornamental concrete or stonework and artificial plants, bushes or flowers.

- uniformly distributed throughout the parking or loading area.*
- e. The landscaping in a parking area shall have a width of not less than five feet.*
 - f. Provision shall be made for watering planting areas where such care is required.*
 - g. Required landscaping shall be continuously maintained and kept alive and attractive.*
 - h. Maximum height of tree species shall be considered when planting under overhead utility lines.*

FINDING: The proposed parking area is wholly surrounded with natural landscaping and will comply with these criteria.

C. Nonmotorized Access.

- 1. Bicycle Parking.** *The development shall provide the number and type of bicycle parking facilities as required in DCC 18.116.031 and 18.116.035. The location and design of bicycle parking facilities shall be indicated on the site plan.*

FINDING: As discussed above, staff believes that no bicycle parking is required for this use under DCC 18.116.031.

2. Pedestrian Access and Circulation:

- a.** *Internal pedestrian circulation shall be provided in new commercial, office and multi-family residential developments through the clustering of buildings, construction of hard surface pedestrian walkways, and similar techniques.*

FINDING: The proposed church is not a new commercial, office, or multi-family residential development. This criterion does not apply.

- b.** *Pedestrian walkways shall connect building entrances to one another and from building entrances to public streets and existing or planned transit facilities. On site walkways shall connect with walkways, sidewalks, bikeways, and other pedestrian or bicycle connections on adjacent properties planned or used for commercial, multi family, public or park use.*
- c.** *Walkways shall be at least five feet in paved unobstructed width. Walkways which border parking spaces shall be at least seven feet wide unless concrete bumpers or curbing and landscaping or other similar improvements are provided which prevent parked vehicles from obstructing the walkway. Walkways shall be as direct as possible.*
- d.** *Driveway crossings by walkways shall be minimized. Where the walkway system crosses driveways, parking areas and loading areas, the walkway must be clearly identifiable through the use of elevation*

changes, speed bumps, a different paving material or other similar method.

- e. *To comply with the Americans with Disabilities Act, the primary building entrance and any walkway that connects a transit stop to building entrances shall have a maximum slope of five percent. Walkways up to eight percent slope are permitted, but are treated as ramps with special standards for railings and landings*

FINDING: Staff believes that (b) through (e) apply to any use subject to site plan review. The applicant did not show pedestrian walkways at the proposed park. Staff follows the Hearings Officer decision in CU-14-7 where the Hearings Officer found that, "...these criteria have limited application to the applicants' proposal inasmuch as there is only one commercial use proposed for the subject property, and there will be a single building entrance for that use. Therefore, I find there is no need to apply these criteria to require particular pedestrian circulation or walkways on the property." Staff finds that there is no need to provide pedestrian walkways in this case as 1) there is only a single building entrance, 2) it is very unlikely that anyone would access the site on foot, and 3) there are no existing or planned transit facilities in the area.

IV. RECOMMENDATION:

Staff has identified several Code sections under which additional information is required to document compliance with those sections. Staff recommends the Hearings Officer request additional information on those topics prior to any approval of this application and also recommends the Hearings Officer impose those recommended conditions of approval identified in this Staff Report.

Dated this 21st day of June, 2016

Mailed this 21st day of June, 201