



Date: October 6, 2024

To: Crook County Court

From: Dave and AJ Pickhardt  
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Crook County

OCT 08 2024

Community Development

Re: Appeal Record Number 217-24-000047-PLNG Sunshine Behavioral Health

Crook County Court and members of the planning commission; please accept this letter of appeal in response to the request for a land use action and sale of the property currently owned by The Roman Catholic Bishop of the Diocese of Baker (Diocese) to the applicant Sunshine Behavioral Health (Sunshine).

For the record we share a property line next door to the Diocese property. Our family has owned the property since 1971. We are very familiar with the Conditional Use Permit (CUP) process that was completed for the Diocese and we have significant concerns about the current request as it further expands the initial CUP and stretches the request to further violate the EFU-3 zoning of the Diocese property.

The intent and request of Sunshine is to establish a substance abuse facility on the property that is currently zoned Exclusive Farm Use (EFU) with a Conditional Use Permit (CUP) that was written by Crook County to the Diocese in 2007. The current CUP was approved and at the time the approval came after significant concern raised by those living in the Powell Butte community. We are again revisiting those concerns from 2007. The issue is Sunshine has stated they only have one requested change to the existing CUP and that is to remove the RV Park and replace the RV park with additional cabins. The Sunshine request as stated is significantly different than the initial CUP approved for the Diocese. If approved, the new CUP would be further removed from the allowed EFU-3 zoning in place for the property. Sunshine's application incorrectly states they do not intend to operate outside of the existing CUP established for the Diocese in 2007. Sunshine's intended and stated use pushes the property further from its intended EFU zoning and creates a new land use that is even less compatible to the current property and community.

There are multiple concerns and reasons the Crook County Court should not approve or entertain any request by Sunshine to purchase the property. A list of the concerns that will be addressed in detail is below:

- Intended use is not in any way compatible with EFU-3 zoning
- Intended use is not what the original CUP was intended to accomplish for the Diocese
- Incorrect and false use of the term "community center" by Sunshine to play on words and definition to meet their intended use

- The property use is in direct conflict with the state of Oregon's goals for planning and housing
- The existing CUP and the infrastructure built was questionable with the Diocese's use of the facility- the intended use by Sunshine far exceeds the infrastructure capabilities of the existing property
- The initial CUP for the "community center" was a stretch and was done under the cover of religion- the new CUP request and intended use strays even further and does more to unwind and go against the intent of EFU-3 zoned property
- Sunshine is attempting to use the ADA and FHAA laws as a way to invoke fear of lawsuit, using the laws purely to circumvent the current zoning to achieve their goal of purchasing the property and running a for profit drug and alcohol addiction center

Oregon's land use laws are established to protect the property in the state we all live. Exclusive Farm Use zoning was established in Oregon to ensure farmland was preserved and used to support agriculture in Oregon. The intent and past practice of our state has been to hold strong to the EFU zoned property.

The need for this appeal is exactly why the planners and leaders in our local government must be very thoughtful in their decisions and not make poor decisions that pose a potential long term negative outcome. When the Diocese was approved for their project many of us involved at the time did not support the project and saw the crack in the dam with the 2007 CUP approval for the retreat center.

The 2007 approval was for a chapel, a Catholic Community Center, camping facilities, retreat and gathering center and a chancery. The chancery was not approved, and the Diocese has offices (chancery) in Redmond. The 2007 CUP was for a "community center". The Diocese stated the following:

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

To my knowledge the Diocese has never pushed the capacity limit of the CUP. They have not traditionally kept up on the agriculture part of the property by failing to use the irrigation for pasture as their pasture is consistently not irrigated. The issue is, Sunshine in their application uses the existing CUP and states they will not exceed and not come close to the approved numbers for people (225) in the Diocese's initial and approved request. That Diocese request stated the use could be staff of 16 and up to 225 overnight visitors. The clear difference that Sunshine does not want to discuss is the issue of events, camps, and

retreats, and religious use that has been the exclusive use under the “community center” approval received by the Diocese. That approval was for overnight quest not residents.

Sunshine will house up to 130 clients for short term 30 day treatment periods and 30 staff members working at the facility- not overnight guest as was the request in the original CUP by the Diocese. The county approved the initial CUP for overnight visitors on-site for events and camps. The Diocese was not approved for this many people to full-time or part-time at the facility. Sunshine states they do not intend to do anything different than the Diocese’s CUP except to convert the RV spaces to additional cabins for people to live. Clearly, this was not the intent Crook County approved in 2007 and further distances the property use for EFU-3 and poses a significant threat to the existing infrastructure and agriculture capabilities of the property.

Sunshine under the guidance of their attorney has clearly exploited this previous approval and intends to house a transitional population of drug and alcohol addicts everyday year round. This use is far from the intended use of a “community center” and Sunshine clearly states in their application they do not have a religious affiliation. The attorney’s request is an attempt to muddy and skew the terminology to falsely push the county to a decision that in their writing makes Sunshine’s intended use seem less than the Diocese’s use. That is not a factual representation of Sunshine’s intended use and is not in any way similar to the current CUP approved in 2007. The Diocese used “community center” and “religion” to gain a loophole and approval of their initial CUP based on events, weekend camps and retreats. Sunshine intends to host, feed, and medically treat a daily population that exceeds 150 people. The current CUP as written is for overnight guest/campers. The current CUP as defined for a “community center” is for a government agency or non-profit and up to 225 guest, 8 full-time and 8 part-time staff. Clearly the two uses (Diocese and Sunshine) are not the same.

Both entities used the limited definition of “community center” in the code to attempt to gain use and access to the property that differs from the intent of EFU-3 zoning and the newest application from Sunshine creates a false application of conditional use hiding behind the ADA and FHAA laws. Denying this application in no way takes away living or treatment options for Veterans or those considering their addiction a disability. The “community center” definition is designed for government and non-profit use on existing EFU-3 property; not a for-profit substance addiction treatment facility that will never offer agriculture benefit or use of the existing properties agriculture capabilities.

Changes to land use in Oregon of recent has been to increase housing opportunities. The change in ADU rules creating additional housing opportunities is one example of a recent change. Sunshine is using the ADA and FHAA laws inappropriately to argue their point to purchase the property. 30-day transitional housing for addiction treatment is not increasing housing opportunities in Oregon. I find it disturbing that the attorney representing Sunshine would take this route for an argument when we do have a real housing problem in Oregon. His choice of language for his client to purchase the property and gain a significant

financial benefit is disturbing. Denying this application as it should be denied is not discriminating against any person; it is simply denying a CUP request that is not within the current approved CUP.

Reiterating the point of focus- the approval in 2007 was for a "community center" with stated limitations.

From the applicant's application discussing community centers:

In 2007 conditional use of EFU-3 would allow "Public and private parks, playgrounds, hunting and fishing preserves and campgrounds, and community centers owned and operated by a governmental agency or non-profit community organization.

The Diocese posed this definition as referenced above:

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

Sunshine states they are also seeking approval based on the "community center" approval much like the previous application. The applicant's attorney skews the definition based on the year of approval and states Sunshine is asking for the same approval. The issue is that the intended use by Sunshine is not in any way like the intended and approved use as requested and approved by the Diocese in 2007.

Current terminology for "community centers" has been updated and changed. In the applicant's application they discuss in detail the terminology including using an argument for Veterans use. Sunshine's application is asking for reasonable accommodation under ADA and FHAA. The intended use is not for just Veterans and is not intended as housing for those suffering from addiction. The intended use is for a substance abuse treatment center to offer treatment for a transitional population.

Regardless of what definition of "community center" the applicant chooses to use; Sunshine's intended for profit use does not fall under any part of the approved "community center" use and again is further from the EFU-3 CUP approval given to the Diocese in 2007.

Sunshine's attempt to use discrimination and ADA laws to inappropriately purchase a rural agriculture piece of land currently used by a church for infrequent retreats and camps should pose a significant red flag to our local planners, commissioners, government officials, and community members.

Crook County stretched the ruling to approve the Diocese's community center request in 2007. The approval was not supported by the community in 2007, the county chose to approve the project as a "community center" and it has never served as a "community center". We cannot undo the decisions of the past, but the Crook County Court has the ability and legal right to deny this amended conditional use permit by Sunshine. The current Sunshine application states that it will not deviate from the existing CUP (except for the RV park)- that is clearly not true.

There is not a single similarity between the Diocese's approved use in 2007 and Sunshine's current CUP application to operate under the existing CUP permit. Sunshine's intended use and application is a clear deviation from the current conditional use permit approved in 2007 and should be denied.

**Standing.** Owners own property adjacent to 14427 SW Alfalfa Road, the property at issue in this appeal (the "Diocese Property") and therefore, have standing to contest the Modification of Condition Use, known as File # 217-24-000047-PLNG.

**Basis of Appeal:**

Crook County Community Development Planning Division (the "County") erred when it approved applicant's request to qualify applicant as a community center.

Under ORS 215.283(2)(e), a community center must be a "governmental entity or a nonprofit." Applicant, however, is a private, profit-seeking entity and acknowledges that fact on page 11 of the Findings and Decision:

"The intent behind this statutory language [e.g. statutes relating to community centers] is clearly intended to limit the purposes of community centers to be for "learning, activities, social support, and events" as opposed to commercial enterprises with a profit motive."

Given applicant's status as a private and for-profit entity, applicant does not qualify to be a community center under Oregon law, and the County had no legal basis for approving applicant as a community center. Neither the County nor the Applicant have the right or power to amend existing Oregon law.

In addition, nothing in the Findings and Decision states or proves that federal law overrides the requirements of a community center under Oregon law.

Therefore, the County's approval of applicant as a community center was unlawful, is unenforceable and must be revoked.

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