



MULTNOMAH COUNTY
LAND USE AND TRANSPORTATION PROGRAM
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<http://www.multco.us/landuse>

HEARINGS OFFICER DECISION AND FINAL ORDER

Community Service, Design Review, Significant Environmental Concern for Water Resources, Major and Minor Variance

Case File: T3-2013-2861

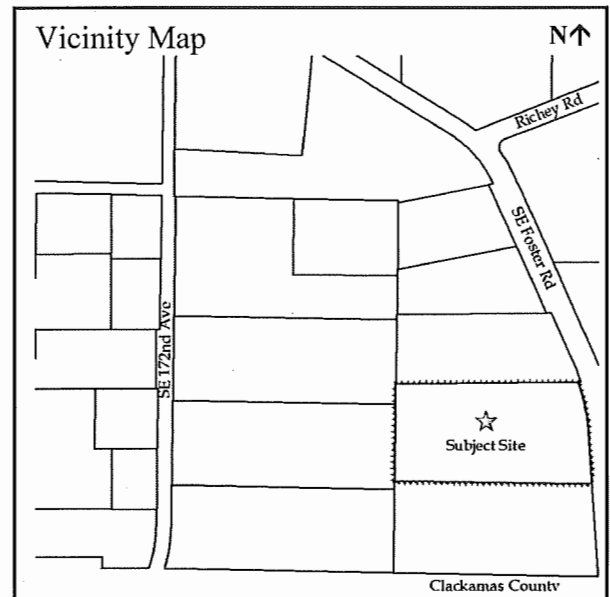
Applicant: Somphone P. Chanthosbouasy,
Lao Buddhist Center NW, Inc.

Property Owners: Khanthaly Thammavong,
Pat P. Phayaraj,
Somochine Singharaj

Location: 17676 SE Foster Road
Tax Lot 600, Sec 19DC,
T 1 South, R East, W.M.
Tax Account # R993190320

Base Zone: Rural Residential (RR)

Overlays: Significant Environmental Concern
for water resources (SEC-wr)



Summary: Applicant is proposing to operate the Lao Buddhist Center Northwest from the subject property and convert existing buildings and construct various improvements to accommodate the use of the site.

Site Size: 4.81 acres

PROCEDURAL ISSUES

1. Impartiality of the Hearings Officer

A. No ex parte contacts. I did not have any *ex parte* contacts prior to the hearing of this matter. I did not make a site visit.

- B. No conflicting personal or financial or family interest. I have no financial interest in the outcome of this proceeding. I have no family or financial relationship with any of the parties.

2. Jurisdictional Issues

At the commencement of the hearing, I asked the participants to indicate if they had any objections to jurisdiction. The participants did not allege any jurisdictional or procedural violations regarding the conduct of the hearing.

BURDEN OF PROOF

In this proceeding, the burden of proof is upon the Applicant.

Hearing Officer Decision:

1. Approve the Community Service use of the site and buildings for the Lao Buddhist Center Northwest with conditions;
2. Approve the Significant Environmental Concern permit for water resources subject to modifying the mitigation plan, moving the meditation garden into the low impact area and moving other various improvements on the Master Site Plan;
3. Approve the Minor Variance for the Community Service side yard setback for the community hall and its expansion;
4. Approve Design Review subject to the applicant redesigning the ADA parking spaces pursuant to the finding in Section 6.02 and main parking area pursuant to the various findings in Section 6.00 to authorize the use of the site for the Community Service use;
5. Deny the Minor Exception for the Community Service side yard setback for the community hall and its expansion; and
6. Deny the Major Variance for the Community Service side yard setback for the patio cover.

Conditions of Approval:

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents and as modified by these conditions. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. Events shall be limited to no more than 2 average events of less than 75 attendees per month and no more than an additional 4 large events of a 120 attendees or less per year. These events shall take place on the weekends. Attendees shall arrive between 7 am and 10 am and leave between 1 pm and 2 pm.
 - a. Any operational changes such as the number of events, number of attendees, days of the week on which the events take place and/or the time of day during

which events take place shall require a new traffic impact study and revision to this permit. [MCRR 5.100 & 5.200 and MCC 11.15.2206]

3. All overflow parking for events shall occur at the Pleasant Valley Elementary School parking lot and shuttle service be provided to transport attendees to and from the Lao Buddhist Center Northwest (LBCN) site. Pedestrian crossing of Foster Road shall be actively discouraged by LBCN. [MCRR 5.100 & 5.200, MCC 11.15.6112 B. and MCC 11.15.7015 F.]
 - a. Prior to June 1, 2014, the property owners shall demonstrate that the Pleasant Valley Elementary School has agreed to the use of their off-street parking lot by LBCN for their overflow parking for various events. LBCN and Pleasant Valley Elementary shall enter into a lease, contract or other similar document allowing the use of the off-site parking.
 - b. If the Pleasant Valley Elementary School parking lot ceases to be available for overflow parking at events held at the LBCN, LBCN shall contact the Transportation and Land Use Planning and revise their parking plan for these events. The revised parking plan shall require revision to this permit.
 - i. If alternative parking cannot be arranged the large attendance events may be required to cease until such time as adequate parking arrangements can be provided.
4. Prior to land use approval for building plan check on any building improvement:
 - a. The non-permitted driveway on the southeastern portion of the property shall be closed and two, 3-foot tall arborvitae planted. [MCRR 4.200 and MCC 37.0560]
 - b. LBCN shall provide a solution for the use of on-site water storage and sprinklers or develop other on-site options to provide adequate water flow for firefighting purposes on the site at all times. If adequate on-site water flow for firefighting purposes cannot be provided, then the community hall and/or other buildings shall be reduced in size or occupancy intensity so that adequate water flow for firefighting purposes is available on site at all times. [Policy 38, B.]
 - c. The Storm Water Certificate and report shall be revised to cover the 1,200 square foot patio cover (if authorized to remain), 820 square foot barn, the awning attached to the community hall and the additional paved areas created since 2010. [Policy 37F]
 - d. The property owner shall record the approved mitigation plan in the deed records of Multnomah County. [MCC 11.15.6429 E. 2. g.]
 - e. The property owners shall dedicate five-foot slope/utility/drainage/sidewalk/landscaping/ traffic control device easement along the site's Foster Road frontage for the benefit of Multnomah County. . No other easements are to be created overlaying this easement. Contact Pat Hinds at (503) 988-5050 Ext. 83712 to complete the easement dedication. [MCRR 6.100.A]
 - f. The property owners shall sign a non-remonstrance agreement, or "deed restriction" committing them and/or future property owners to participate in future standard Rural Arterial along the site's Foster Road frontage. Contact Pat Hinds at (503) 988-5050 ext. 83712 to complete the deed restrictions. [MCRR 6.100]

- g. The property owners shall acquire a driveway permit for the site's access onto Foster Road. Contact Alan Young at (503) 988-3582 to acquire the permit. [MCRR 18.250]
 - h. The property owners shall prepare a lighting plan for the property. The plan shall show the location of all exterior light fixtures. In addition, lighting details shall be included showing that the proposed fixtures are hooded and the light directed downwards. Outdoor lighting shall be placed in a location so that it does not shine directly into undeveloped water re-source or habitat areas, into adjoining dwellings or create a hazard to the traveling public on Foster Road. [MCC 11.15.6423 B. and MCC 11.15.6134]
5. Prior to any on-site construction, the Water Resource Area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as otherwise allowed by this decision. Such markings shall be maintained until construction is complete. [MCC 11.15.6429 E.7.]
6. Due to the current operation of the Lao Buddhist Center Northwest on the subject site, the following site improvements shall be completed by the dates listed below:
- a. By June 1, 2014, the non-permitted bridges over the creek channel shall be removed and any disturbed ground area reseeded with native ground cover. Upon completion, the property owners shall contact the Code Compliance section to verify the removal via inspection. [MCC 37.0560 and MCC 29.603]
 - b. By July 1, 2014, the non-permitted patio cover shall be removed from its existing location and the area reseeded with native ground cover. Upon completion, the property owners shall contact the Code Compliance section to verify the removal via inspection. [MCC 37.0560 and MCC 11.15.2206]
 - c. By October 15, 2014, the property owners shall remove the gravel parking area and roadway from the alternatives analysis area in preparation of performing the mitigation work on-site. Upon completion, the property owners shall contact the Code Compliance section to verify the removal via inspection.
 - d. By March 30, 2015, the property owners shall complete the mitigation preparation and plantings and restore the areas disturbed by the removal of the gravel parking lot and roadway within the alternatives analysis area.
 - i. Upon completion, Pacific Habitat Service or other environmental consultant shall certify in writing that the work has been completed in accordance with the approved mitigation plan and that no nuisance plants found in MCC 11.15.6423, Table 1 or those listed MCC 11.15.6401 B. were planted within the SEC-wr overlay zone. If the listed nuisance plants were found within the mitigation area, they were removed.
 - ii. Written certification shall be submitted to Land Use Planning by November 30, 2014. [MCC 11.15.6429 D.4. & E.2.f., and MCC 11.15.6423 C.]
 - e. By May 1, 2015, the property owners shall complete the installation of the on-site sewage disposal system in accordance with Exhibit A.30 and the Master Site Plan (Exhibit A.28). Upon obtaining final inspection of the on-site sewage disposal system, the property owners shall provide a copy of the final inspection form to Land Use Planning. [MCC 37.0560 and Policy 37]

- f. Conversion of the accessory building to the community hall shall commence by June 1, 2015 and construction must be completed by November 1, 2015. This includes obtaining the necessary building permits with the associated trade permits, completing all necessary improvements to the building, and obtaining final inspection for the building. [MCC 11.15.2206 and MCC 37.0560]
 - i. The improvements to provide adequate water flow for firefighting purposes on the site at all times for the on-site buildings shall be constructed as part of converting the accessory building to the community hall.
 - ii. Upon obtaining final inspection of the on-site sewage disposal system, the property owners shall provide a copy of the final inspection form to Land Use Planning.
- g. By November 30, 2015, the property owners shall complete the construction of the on-site parking lot and installation of the landscaping in the front yard. This includes the paving, curbing and striping of the parking lot. Upon completion, the property owners shall contact Land Use Planning to schedule a site inspection of the finished parking lot and landscaping. [MCC 11.15.6102]
- h. By February 15, 2016, the property owners shall obtain the necessary permits and inspections to permit the 820 square foot barn as an accessory structure for landscaping equipment and associated storage. Upon completion, the property owners shall contact the Code Compliance section to verify the removal via site inspection. [MCC 11.15.2206]
- i. By April 1, 2016, the property owners shall remove the remainder of the gravel roadway within the low impact area of the SEC-wr and plant native grasses or other native plantings. Upon completion, the property owners shall contact the Code Compliance section to verify the removal and landscaping via site inspection. [MCC 11.15.2206, MCC 37.0560, MCC 11.15.7825 A., MCC 11.15.7855 C.2. and MCC 11.15.6429 E.]
7. Prior to any ground disturbance on the subject site, the property owners or their representative shall first obtain a Grading and Erosion Control permit as required by MCC 29.330 through 29.348.
8. Prior to any ground disturbing activities within the FEMA designated 100-year floodplain, the proposed work shall be reviewed to determine if a Flood Hazard permit is required pursuant to MCC 29.603.
9. The property owners shall maintain all required landscaping shown on the master site plan or required to be planted by condition of approval or mitigation plan. Plant materials that die or become diseased shall be replaced by the next planting season with similar landscape materials (example – tree for tree, shrub for shrub). No nuisance or invasive plant species shall be utilized. [MCC 11.15.7855 C. 5. and MCC 11.15.6429]

Applicable Approval Criteria: Multnomah County Code (MCC): *Rural Residential:* MCC 11.15.2212 Conditional Uses, A. Community Service Uses..., MCC 11.15.2218C. & D. Dimensional Requirements, MCC 11.15.2222 Lot of Record, MCC 11.15.2224 Lot Sizes for Conditional Uses, MCC 11.15.2226 Off-Street Parking and Loading, MCC 11.15.2228 Access
Community Service Conditional Use: MCC 11.15.7020 Uses, A. 4. Church, MCC 11.15.7025 A., D.4, & F. Restrictions, MCC 11.15.7015 Approval Criteria

Comprehensive Plan Policies: Policy 14 Development Limitations, Policy 31 Community Facilities and Uses, Policy 37 Utilities, Policy 38 Facilities

Off-Street Parking and Loading: MCC 11.15.6100 through MCC 11.15.6148

Design Review & Minor Exception: MCC 11.15.7805 through MCC 11.15.7870

Major & Minor Variances: MCC 11.15.8505 through MCC 11.15.8525

Significant Environmental Concern for Water Resources: 11.15.6400 through MCC 11.15.6428

Multnomah County Road Rules (MCRR): MCRR 4.000 Access to County Roads, MCRR 4.100 Required Information, MCRR 4.300 Location, MCRR 4.400 Width, MCRR 4.500 Sight Distance, MCRR 5.000 Transportation Impact, MCRR 6.000 Improvement Requirements, MCRR 6.100 Site Development.

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Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as '**Staff:**' and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*. Hearings Officer comments and analysis are identified as "**Hearings Officer**". If there is no Hearings Officer comment after a staff comment or finding, the Hearings Officer concurs with staff.

1.00 Project Description:

Staff: Lao Buddhist Center Northwest, Inc. (LBCN) is requesting to use the site at 17676 SE Foster Road (Tax Lot 600, Section 19DC, Township 1 South, Range 3 East) to serve the religious, cultural and social needs of the Lao Buddhist community in the Portland Metropolitan region and SW Washington area. A maximum of five monks will reside within the existing dwelling with the possibility of no more than 3 guest monks visiting from one to three nights. No other individuals will live on the site. Various gatherings will occur throughout the year within the buildings and outside areas (see Exhibit A.26).

To accommodate the use, the applicant is proposing to complete a 720 square foot addition for kitchen and bathroom facilities on the eastern side of the Community Hall. In addition, a 700 square foot awning will be constructed on the western side of the hall. When funding becomes available in the future, LBCN will construct a 600 square foot (20-foot by 30 foot) Simma building. If the construction of the Simma building does not start within two years of

this permits approval, a new land use application will be required. The Simma building will be used strictly by the monks for occasional ordainment, regularly scheduled chanting during the summer months or the Lent season. In addition, the Simma building will be used for consultation meetings between resident monks and individual members.

The LBCN operates five (5) days a week, between the hours of 8 am and 8:30 pm. During this time period, on-going meditation practice is offered five days a week. Saturday and Sundays are reserved for study groups, ceremonial events and workshop sessions that run throughout the year. During the day, a few community members will take turns coming to the property to prepare breakfast and lunch for the monks or to serve ready-made meals. Other members may drop off dry food and beverages and/or other necessary household items and to stock them up in the storage room for future use on-site. In addition, there may be small religious ceremonies or memorial services performed at the request of a member to commemorate their passed-away relatives. Occasionally cultural education / social meetings may be held. These events will draw ten (10) to twenty (20) additional people to the site.

Generally once a month on weekends and as the weather permits, there will be religious ceremonies to commemorate major events in Buddha's life. This will draw most of the 50 LBCN family members and their close friends and relatives to the site. It is estimated that 80 to 100 visitors may be at the site at a given time during the course of that day.

Visitors/participants typically arrive by car as family groups and will be directed to the parking lot. Overflow parking will occur at the nearby Pleasant Valley Elementary School and a shuttle service used to transport between the two properties.

2.00 Property Description, History and Code Compliance:

Staff: The subject property is 5 acres and has a protected Significant Environmental Concern for water resource stream located on the western portion of the property. The stream runs south to north across the property. The property contains a 3,600 square foot dwelling constructed in 1992, an existing 2,400 square foot building constructed for storage and farm equipment, an 830 square foot barn for additional farm equipment and a 24-foot by 50 cover. The smaller barn and cover were constructed without land use approval. Sometime in the past, three stream crossings were constructed without first obtaining the required Flood Development permit. By August 2011, a gravel parking area roadway was constructed on the property along with and a second driveway access point added to Foster Road. A portion of this graveled roadway and parking area encroaches into the Significant Environmental Concern for water resource overlay zone.

In late 2010, LBCN purchased the property and began to use the property without the required land use and building approvals for their religious, educational and cultural practices. This application is to correct the various code compliance issues occurring on the property. Three monks currently live in the dwelling. The 2,400 square foot accessory building is presently used as the Community Hall where indoor ceremonies and services are conducted. The smaller barn is used for equipment to maintain the property. The 24-foot by 50-foot non-permitted cover is used as a covered dining area for outdoor celebrations. A 46-foot by 82-foot gravel meditation garden has been constructed west of the dwelling and south of the community hall within the SEC-wr overlay.

The applicant has indicated that the second access point onto Foster Road will be abandoned and the loop circulation abandoned.

3.00 Rural Residential Criteria:

3.01 11.15.2212 Conditional Uses

The following uses may be permitted when found by the Hearings Officer to satisfy the applicable Ordinance standards:

- A. Community Service Uses under the provisions of MCC .7005 through .7041.

Community Service – MCC 11.15.7020 Uses

- A. Except as otherwise provided in MCC 11.15.2008 through .2012 and MCC 11.15.2048 through .2050, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority.

4. Church.

Staff: The applicant has requested a community service conditional use to establish the Lao Buddhist Center Northwest (LBCN). The LBCN is a non-profit religious corporation formed under Oregon law. The proposed facility will provide for the religious, cultural and social needs of the Lao Buddhist community in the Metro and southwest Washington area.

3.02 MCC 11.15.2218 Dimensional Requirements

C. Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet.

- D. The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional requirements not otherwise established by Ordinance.

Community Service – MCC 11.15.7025 Restrictions

A building or use approved under MCC .7020 through .7030 shall meet the following requirements:

- A. Minimum yards in EFU, CFU, F-2, MUA-20, MUF, RR, RC, UF-20, UF-10, LR-40, LR-30, LR-20, LR-10, R-40, R-30, R-20, and R-10 Districts:

1. Front yards shall be 30 feet.
2. Side yards for one-story buildings shall be 20 feet; for two-story buildings, 25 feet.
3. Rear yards shall be as required in the district.

Staff: The heights of all structures existing and proposed are listed on Exhibit A.12, page 20. Exhibit A.12 demonstrates that all structures are less than 35 feet in height.

Transportation Planning has determined that a 5-foot utility easement is needed adjacent to the right-of-way. The 5-foot easement may occur within the front yard listed above in MCC 11.15.2218(C). No additional front yard setback is required pursuant to (D) above.

The monks' residence and community hall are lawfully constructed buildings. The

dwelling is located 120+/- feet from the north and south side property lines, 440+ feet from the western rear property line and 114 feet from the eastern front property line. The community hall is 19-feet from the northern side property line, 249+/- feet from the southern side property line, 120+/- feet from the eastern front property line and 405+/- feet from the western rear property line. The community hall encroaches 1-foot into the required side yard for community service uses. The applicant is proposing to match the existing 19-foot yard setback for the proposed kitchen and restroom addition on the east side of the community hall and the awning on the west side of the same building. The applicant is requesting a Minor Exception to the Community Service Minimum Yard requirement of MCC 11.15.7025A.2. Please see section 7.15 for the minor exception findings. In addition, the applicant has requested a minor variance to reduce the required side yard for the community hall and a major variance for the patio cover. Please see the various findings under Section 8.00 for additional information. *If the requested variances are granted, these criteria can be met.*

3.03 MCC 11.15.2222 Lot of Record

A. For the purposes of this district, a Lot of Record is a parcel of land:

- 1. For which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form prior to October 6, 1977; and**
- 2. Which, when established, satisfied all applicable laws.**

B. A Lot of Record which has less than the area or front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.

C. Separate Lots of Record shall be deemed created when a street or zoning district boundary intersects a parcel of land.

D. Except as otherwise provided by MCC .2220, .2224, and .7720, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

Staff: The County approved land division case LD 16-98 which authorized the creation of the subject site. In May 1990 the parcel was lawfully created with the recordation of the deed transferring the land to Harold & Darlene Johnson (Exhibit A.18). *The parcel is a Lot of Record.*

Hearings Officer: The parcel is a lot of Record

3.04 MCC 11.15.2224 Lot Sizes for Conditional Uses

The minimum lot size for a conditional use permitted pursuant to MCC .2212, except (B)(8) thereof, shall be based upon:

A. The site size needs of the proposed use;

Staff: The applicant has provided a Master Site Plan (Exhibit A.28) showing that the proposed use can meet the development standards of the Off-Street Parking and Loading ordinance, Design Review and the Community Service restriction. The site is adequate to meet the size needs for the proposed use. *Criterion met.*

3.05 B. The nature of the proposed use in relation to the impacts on nearby

properties; and

Staff: The surrounding properties in Multnomah County are predominately used for single family residential uses (Exhibit A.6). To the north of the site are an elementary school and another church. As the use has existed on the site since 2010 and we have not received any complaints, staff finds that the lot size for the proposed use will not impact nearby properties. *Criterion met.*

3.06 C. Consideration of the purposes of this district.

MCC 11.15.2202 Purposes

The purposes of the Rural Residential District are to provide areas for residential use for those persons who desire rural living environments; to provide standards for rural land use and development consistent with desired rural character, the capability of the land and natural resources; to manage the extension of public services; to provide for public review of non-residential use proposals and to balance the public's interest in the management of community growth with the protection of individual property rights through review procedures and flexible standards.

Staff: The application includes a request for a variance to the yard requirements of MCC 11.15.7025 due to the placement of existing structures within required yards. The parcel size is adequate. The proposed development will maintain at least 250 feet by 321 feet at the rear of the property in a natural setting. The use will be served by an on-site sewage disposal system. No extension of public services will occur to accommodate this use. The proposed use of the building and site for the LBCN use will have a significant amount of vegetation to maintain a similar use to the residences in the area. *Criterion met.*

3.07 11.15.2226 Off-Street Parking and Loading

Off-street parking and loading shall be provided as required by MCC .6110 through .6148.

Community Service – MCC 11.15.7025 Restrictions

C. Off-street parking and loading shall be provided as required in MCC .6100 through .6148.

Staff: Please see Section 6.00 for the Off-Street Parking findings.

3.08 MCC 11.15.2228 Access

Any lot in this district shall abut a street, or shall have other access determined by the Hearings Officer to be safe and convenient for pedestrians and passenger and emergency vehicles.

Staff: The parcel fronts Foster Road which is a public street. *Criterion met.*

4.00 Community Service Criteria

4.01 MCC 11.15.7015 Approval Criteria

In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria, except for transmission towers, which shall meet the approval criteria of MCC .7035, and except for regional sanitary landfills which shall comply with MCC .7045 through .7070.

A. Is consistent with the character of the area;

Staff: The subject 4.82 acre parcel is surrounded by other large rural residential parcels. Properties range in size from 1.74 to 8.61 acres (Exhibit A.15 and B.2). Many of these parcels have a home with outbuildings (Exhibit A.6). Two hundred and forty five feet to the north on the west side of Foster Road is another church. Across from the church on the east side of Foster Road is an elementary school. The proposed parcel has a residential character to it as the monks' residence is a single family dwelling constructed in 1992. The community hall has metal siding and roofing and was a pole barn style structure which is found on many rural properties. The property will maintain a 30-foot landscaped front yard and significant vegetation along the stream corridor. The building styles are very similar to other residential properties in the area. *Criterion met.*

4.02 B. Will not adversely affect natural resources;

Staff: The subject parcel has a protected Significant Environmental Concern overlay for water resources (SEC-wr) over 400 feet of the land at the rear of the property. Development within this buffer area must meet the approval criteria listed in Section 9.00 below. Provided the development complies with the SEC-wr criteria, no adverse affects should occur to this natural resource. *At present, the mitigation plan does not meet the required standards. Additional modifications are necessary to meet this criterion, see Section 9.00 for additional information.*

4.03 C. Will not conflict with farm or forest uses in the area;

Staff: The surrounding properties are all located within the Rural Residential district and are located within the urban growth boundary. Properties in this area are within the Pleasant Valley Urban Plan area and will eventually be annexed to the City of Gresham for urban uses. *Criterion met.*

4.04 D. Will not require public services other than those existing or programmed for the area;

Staff: The proposed use will be served by an on-site sewage disposal area and the existing well (Exhibit A.21.a and A.30). Transportation Planning has determined that the proposed use will have a Traffic Impact pursuant to Multnomah County Road Rules (MCRR 5.00). The County's Functional Classification Map designates Foster Road as a Rural Arterial. A 5-foot easement along the front property line adjacent to Foster Road will partially offset the traffic impacts occurring to the public roadway. Please see additional findings under Section 10.00 for supporting information. *Criterion met.*

4.05 E. Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;

Staff: The subject site is located within the Pleasant Valley Plan area within the urban growth boundary. The property is located outside of the big game winter habitat as defined by the Oregon Department of Fish and Wildlife. *Criterion met.*

4.06 F. Will not create hazardous conditions; and

Staff: At present, two hazardous conditions exist on the site. The first being a non-permitted driveway constructed onto Foster Road without County permits and sight-line studies. The applicant's narrative (Exhibit 12, Page 31) and the revised master site plan (Exhibit A.28) indicate that the second driveway will be closed permanently. The second hazardous condition is the use of an accessory building that was not constructed in accordance with building codes for an 'Assembly' occupancy. If the

land use application is approved, the existing community hall will need to obtain the appropriate permits to upgrade the building. The known hazards will be corrected through conditions of approval requiring compliance.

A third possible hazard for the proposed use is the overflow parking at Pleasant Valley Elementary School. Presently, there are no pedestrian facilities along Foster Road. Transportation Planning is concerned with pedestrians crossing Foster Road and then traveling without sidewalks. The applicant has proposed a shuttle service for events when overflow parking may occur. By using a shuttle, the number of pedestrians traveling along Foster and crossing Foster will be reduced or completely prevented. *As conditioned, criterion met.*

4.07 G. Will satisfy the applicable policies of the Comprehensive Plan.

Staff: Please see Section 5.00 below for findings on the applicable policies of the Comprehensive Plan. *At present, Policy 38 does not appear to have been met but a revision to the proposed improvements may allow for it to be met through a condition of approval.*

4.08 H. Will satisfy such other applicable approval criteria as are stated in this Section.

Staff: The proposed project has met the other applicable approval criteria of MCC 11.15.7025. See sections 3.02, 3.07, 4.10, 4.11 and 8.00 through 8.05 for supporting findings.

4.09 MCC 11.15.7010 General Provisions

D. A Community Service approval shall be for the specific use or uses approved together with the limitations or conditions as determined by the approval authority. Any change of use or modification of limitations or conditions shall be subject to approval authority approval after a public hearing.

E. In granting approval of a Community Service Use, the approval authority may attach limitations or conditions to the development, operation or maintenance of such use including but not limited to setbacks, screening and landscaping, off-street parking and loading, access, performance bonds, noise or illumination controls, structure height and location limits, construction standards, periods of operation and expiration dates of approval.

Staff: Planning staff has recommended various conditions to assist the Hearings Officer in finding compliance with the respective permits. These conditions are necessary to meet the required criteria or for maintenance of required improvements and mitigation measures.

4.10 11.15.7025 Restrictions

A building or use approved under MCC .7020 through .7030 shall meet the following requirements:

D. Minimum Site Size;

4. Churches shall be on sites of 15,000 square feet.

Staff: The project site is 4.86 acres in size. *Criterion met.*

- 4.11 F. Signs for Community Service Uses located in districts in MCC .2002 - .2966 pursuant to the provisions of MCC .7902 - .7982.

Staff: No signage is proposed. *Criterion met.*

5.00 Comprehensive Plan Policies

5.01 POLICY 14

The County's policy is to direct development and land form alterations away from areas with development limitations, except upon a showing that design and construction techniques can mitigate any public harm or associated public cost and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:

- A. Slopes exceeding 20%;
- B. Severe soil erosion potential;
- C. Land within the 100 year flood plain;
- D. A high seasonal water table within 0-24 inches of the surface for three or more weeks of the year;
- E. A fragipan less than 30 inches from the surface;
- F. Land subject to slumping, earth slides or movement.

Staff: The property has slopes of 3% or less (Exhibit A.7). The soil on the property is composed of Powell silt loam and this soil classification has a very low potential for soil erosion. Powell silt loam has a water table at the depth of 18 to 24 inches from December through April. A fragipan can form or exist between 20 to 30 inches of the surface. Since there are existing development on the property, it appears that if a fragipan exists it has not limited development of the property. The western portion of the property is crossed by an intermittent stream with a 100-year floodplain mapped over a portion of it (Exhibit A.28). None of the buildings are located within the 100 year floodplain. Based on the level site, it does not appear that the site is subject to slumping, earth slides or movement. *Policy met.*

5.02 POLICY 31

The County's policy is to:

- A. Support the siting and development of a full range of community facilities and services by supporting the location and scaling of community facilities and uses meeting the needs of the community and reinforcing community identity.
- B. Encourage community facilities siting and expansion at locations reinforcing orderly and timely development and efficient provision of all public services and facilities.
- C. Encourage land use development which supports the efficient use of existing and planned community facilities.
- D. Support the development of a unified approach to long-range community facilities planning and capital investment programming in Multnomah County.

Staff: The applicant states that the siting policies for Policy 31 “do not apply as the use has been in existence at the present location for three years.” The use was not lawfully established during those three years and the subject application is necessary to authorize the use. The siting policies apply.

The proposed community service use will serve the Lao Buddhist community of the greater Portland and southwest Washington areas. The subject property is located within the urban growth boundary in the area known as Pleasant Valley. At present the only community facilities available are electrical distribution and transmission, natural gas, and telephone communications. No sewage treatment plant or water districts exist in the area. The proposed use will utilize an on-site sewage disposal system and private well. The proposed facility will not require the extension of public sewer. The property will eventually be annexed to the City of Gresham for medium density residential use. The proposed facility will not prevent or hinder the development of the Pleasant Valley plan in the future.

E. Classify community facilities according to their function and scale of operations.

Scale	Type of Facilities
Minor Community	Churches

F. Locate community facilities on sites with average site grades consistent with a project’s scale and impacts. Site slope requirements by scale are:

Scale	Average Site Slope Standard
Minor Community	10%

For sites with average slopes steeper than the standard, the developer must be able to demonstrate that through engineering techniques, all limitations to development and the provision of services can be mitigated.

Staff: The Lao Buddhist Center Northwest land use qualifies as a “Minor Community” facility. The subject site has slopes of less than 3% based on soil type.

G. Support the location of community facilities on existing transportation systems with volume capacities and modal mix splits available and appropriate to serve present and future scales of operation. Vehicular access requirements by scale of facility are:

Scale	Vehicular Access Standards
Minor Community	Direct access to a collector street and no routing of traffic through local neighborhood streets.

	Public transit available within 1/4 mile.
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H. Restrict the siting of community facilities in locations where site access would cause dangerous intersections or traffic congestion, considering the following:

- 1. Roadway capacities.**
- 2. Existing and projected traffic counts.**
- 3. Speed limits.**
- 4. Number of turning points.**

Staff: The proposed use is located on Foster Road. Foster Road is classified as a Rural Arterial on the County's Functional Classification of Roadways map. The Pleasant Valley Plan designates the roadway as a "Major Arterial". Transportation Planning requested a Traffic Analysis (Exhibit A.31) for trip generation and driveway spacing for the project site. The location of the single access point to and from the property has been found suitable with good sight-lines. The proposed use will create traffic impacts to Foster Road on various occasions. Transportation Planning has requested a five-foot easement to mitigate the transportation impacts generated by the use.

At present, public transit is available 1.5 miles to the north of the subject site. Tri-Met has developed future routes and improvements which will become available as the area becomes more urbanized. The applicant has indicated that most families carpool to the site at present. Ride-sharing to the site will serve the purpose of public transit at present until mass-transit becomes available.

Hearings Officer: The property owners shall dedicate a five-foot slope/utility/drainage/sidewalk/landscaping/traffic control device easement along the site's Foster Road frontage for the benefit of Multnomah County.

I. Support community facilities siting and development at sites of a size which can accommodate the present and future uses and is of a shape which allows for a site layout in a manner which maximizes user convenience, energy conservation, and pedestrian and bicycle access to and within the site.

J. Promote compatible development and minimize adverse impacts of site development on adjacent properties and the community through the application of design review standards codified in MCC 11.15.7805-11.15.7865.

K. Provide for the siting and expansion of community facilities in a manner which accords with the other applicable policies of this plan.

Staff: The location of the facility is on a 4.86 acre parcel. Most of the development is located on the eastern portion of the property. At present, the LBCN will add a 720 square foot addition for kitchen and restrooms and a 700 square foot awning to the community hall. In the second phase, a 600 square foot Simma building will be added. The parcel has available room if necessary to support the use as it has been described.

The LBCN facility utilizes existing buildings on the property. The monks live in an existing dwelling constructed in 1992. The community hall utilizes an existing accessory building. Other buildings on the site are consistent in design with accessory buildings on other parcels. The property has significant vegetation along the perimeter to screen it from surrounding uses. The proposed project will be reviewed through the Design Review criteria with findings in Section 7.00. Expansion of the use in the future will need to revised the community service conditional use or go through the applicable process with the City of Gresham. *Policy met.*

5.03 POLICY 37

Water and Disposal System

- A. Shall be connected to a public sewer and water system, both of which have adequate capacity; or**
- B. Shall be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or**
- C. Shall have an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or**
- D. Shall have an adequate private water system and a public sewer with adequate capacity.**

Staff: The LBCN facility will be served by a private well existing on-site (Exhibit A.21.a). The Environmental Health Specialist has reviewed the proposed use and has authorized the use of an on-site sewage disposal system (Exhibit A.30).

Drainage

- E. Shall have adequate capacity in the storm water system to handle the run-off; or**
- F. The water run-off shall be handled on the site or adequate provisions shall be made; and**
- G. The run-off from the site shall not adversely affect the water quality in adjacent streams, ponds, lakes, or alter the drainage on adjoining lands.**

Staff: The applicant has submitted a Storm Water Certificate and report (Exhibit A.19) for the 720 square foot building addition to the community hall and 600 square foot Simma building. The stormwater report does not cover the non-permitted 1200 square foot patio cover, 830 square foot barn and any other impervious paving or roofing added to the site since 2010 (Exhibit B.3 and B.4). In addition, if the parking area is required to be paved the stormwater report will need to consider the additional water from that area. *Additional information is needed to find compliance with the drainage policy. It may be feasible that the Hearings Officer can find that the drainage portion of Policy 37 can be met through a condition.*

5.04 POLICY 38

It is the County's Policy to coordinate and encourage involvement of applicable agencies and jurisdiction in the land use process to ensure:

School

A. The appropriate school district has had an opportunity to review and comment on the proposal.

Fire Protection

B. There is adequate water pressure and flow for fire fighting purposes; and

C. The appropriate fire district has had an opportunity to review and comment on the proposal.

Police Protection

D. The proposal can receive adequate local police protection in accordance with the standards of the jurisdiction providing police protection.

Staff: The Centennial School District has no comment (Exhibit A.21.d). The County Sheriff's Office indicates that the level of service available is adequate for the project (Exhibit A.21.c). Gresham Fire has reviewed the proposal and has established that the project can meet the Oregon Fire Code for access. Adequate water pressure is not available from a public water district or through the well on the site. Gresham Fire has determined that the use of a water tender available through a mutual aid agreement with Clackamas Fire District #1 from their station #7 located approximately 2 miles to the south on 172nd Avenue in Happy Valley would meet the Oregon Fire Code (Exhibit A.21.b). This use of a water tender is not guaranteed as it is in a separate fire district and Gresham Fire does not have control over what equipment is available at the station. In the past, the station had been closed due to budget constraints and only recently reopened.

In the emails attached to the Fire Service Agency Review form (Exhibit A.21.b), it appeared that the use of a storage tank and sprinklers was technically feasible but must have been abandoned due to financial constraints. There does appear to be at least one option technically available to provide adequate water flow and pressure available on the site 24/7. Planning staff recommends that the hearings officer require that LBCN provide for on-site storage and sprinklers, or develop other permanent options to provide adequate water flow for firefighting purposes on the site or scale back the community hall so that adequate water flow for firefighting purposes are available on site. *Additional information is needed to demonstrate that the site has adequate water pressure and flow for firefighting purposes on the site without requiring the need for the water tender.*

Hearings Officer: The requirement for adequate fire flow and water pressure is a separate standard from the requirement for the sign off by the appropriate fire district and the applicant has not demonstrated that there is adequate water pressure and flow for fire fighting purposes.

6.00 Off-Street Parking and Loading

6.01 MCC 11.15.6108 Plan Required

A plot plan showing the dimensions, legal description, access and circulation layout for vehicles and pedestrians, space markings, the grades, drainage, setbacks, landscaping and abutting land uses in respect to the off-street parking area and such other information as shall be required, shall be submitted in duplicate to the Planning Director with each application for approval of a building or other required permit, or for a change of classification to O-P.

MCC 11.15.6112 Location of Parking and Loading Spaces

- A. Parking spaces required by this Section shall be provided on the lot of the use served by such spaces.**
- B. Exception** – The Planning Director may authorize the location of required parking spaces other than on the site of the primary use, upon a written finding by the Director that:
- 1. Parking use of the alternate site is permitted by this Ordinance;**
 - 2. The alternate site is within 350 feet of the use;**
 - 3. There is a safe and convenient route for pedestrians between the parking area and the use;**
 - 4. Location of required parking other than on the site of the use will facilitate satisfaction of one or more purposes or standards or requirements of this Chapter; and**
 - 5. There is assurance in the form of a deed, lease, contract or other similar document that the required spaces will continue to be available for off-street parking use according to the required standards.**

Staff: The applicant is proposing to have overflow parking for various events at the Pleasant Valley Elementary School. Pleasant Valley Elementary School is over 350 feet from the northeast corner of the project site. Pedestrian facilities have yet to be constructed along Foster Road. The applicant has proposed a shuttle service operate during these events to transfer attendees from the elementary school to the community hall. Provided the shuttle service is utilized, Transportation and Land Use Planning recommends the Hearings Officer approve the overflow parking proposal as no on-street parking is available for the use and the site is extremely limited for parking due to the SEC-wr overlay zone. Staff has recommended a condition requiring the use of the shuttle and the discouragement of pedestrian travel along Foster Road.

Hearings Officer: I concur with staff's recommendation and a condition requiring a use of a shuttle will be imposed.

6.02 MCC 11.15.6114 Improvements Required

- A. Required parking and loading areas shall be improved and placed in condition for use before the grant of a Certificate of Occupancy under MCC .8725, or a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director.**

Staff: At present, the LBCN is operating from the subject site. A non-permitted gravel parking area and roadway have been constructed to serve the use. The applicant is proposing to abandon the non-permitted parking lot and construct a new parking area outside of the Significant Environmental Concern overlay. The applicant has indicated the timeline for the construction of the parking area to be contingent on the completion of the septic system and then within one year the parking lot would be constructed (Exhibit A.26). Planning staff has recommended as a condition of approval requiring specific dates for the construction of the various improvements since the facility is already operating.

6.03 MCC 11.15.6116 Change of Use

A. Any alteration of the use of any land or structure under which an increase in the number of parking or loading spaces is required by this Section shall be unlawful unless the additional spaces are provided.

Staff: The former permitted use of the site was a single family dwelling. MCC 11.15.6142 A.1 requires two parking spaces per dwelling unit. The spaces can be in a driveway or a garage. The conversion of the property from a residential use to the LBCN facility requires a minimum of 30 parking spaces for the main auditorium and one space for the residing monks. The additional parking is required to be provided in a parking lot that is in compliance with the standards listed in below. These spaces are required to be improved before the use starts operating on the site. The parking area is currently not paved and will be moved outside of the SEC-wr overlay zones. A condition of approval requiring the parking lot's construction in a timely manner has been recommended to the Hearings Officer to ensure that parking is provided in a reasonable time period.

6.04 MCC 11.15.6128 Access

A. Where a parking or loading area does not abut directly on a public street or private street approved under MCC 11.45, the Land Division Chapter, there shall be provided an unobstructed paved drive not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.

B. Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this section. Required spaces may be located in a private street when authorized in the approval of such private street.

Staff: The revised Master Site Plan (Exhibit A.28) shows a 20-foot wide paved drive leading to Foster road for two way traffic. No on-street parking is proposed. *Criterion met.*

6.05 MCC 11.15.6130 Dimensional Standards

A. Parking spaces shall meet the following requirements:

1. At least 70% of the required off-street parking spaces shall have a minimum width of nine feet, a minimum length of 18 feet, and a minimum vertical clearance of six feet, six inches.

2. Up to 30% of the required off-street parking spaces may have a minimum width of eight-and-one-half feet, a minimum length of 16 feet, and a vertical clearance of six feet if such spaces are clearly marked for compact car use.

3. For parallel parking, the length of the parking space shall be 23 feet.

4. Space dimensions shall be exclusive of access drives, aisles, ramps or columns.

B. Aisle width shall be not less than:

1. 25 feet for 90° parking,

2. 20 feet for less than 90° parking, and

3. 12 feet for parallel parking.

4. Angle measurements shall be between the center line of the parking space and the center line of the aisle.

Staff: The revised Master Site Plan (Exhibit A.28) shows that the typical width for the 38 parking spaces in the main lot will be 9 feet in width and 18 feet in length. The vertical clearance for these spaces can be met. No compact spaces are proposed. The main parking area is designed with 90 degree parking. The plan shows the aisle width between the two rows of parking spaces 25 feet in width. The parking spaces in the ADA parking area are parallel to the paved driveway and fire department access road and turn-around. The ADA spaces measure out to be 10 feet wide by 18-20 feet long on the master site plan (Exhibit A.28). The applicant has provided an ADA detail (Exhibit A.37) indicating that the spaces will be striped at 18 feet. If the space between the striping is to be for wheelchair access then the parallel spaces do not meet the County standard of 23 feet. Planning staff is also confused by the curbing between the parking space and the pedestrian access. Typically, the pedestrian access is at the same level as the ADA parking space. The ADA parking spaces need to be redesigned to meet the minimum length requirement. The ADA parking detail needs clarification (Exhibit A.37) as whether pedestrian access is proposed between each parking space or if that area is available for vehicle parking. If necessary, the ADA parking spaces can be relocated to the main parking area. A revised site plan would be necessary before to ensure compliance with the parking code and design review criteria. *At present, the ADA parking spaces are not in compliance with County code for parallel parking spaces.*

6.06 MCC 11.15.6132 Improvements

A. Surfacing

- 1. All areas used for parking, loading or maneuvering of vehicles shall be surfaced with two inches of blacktop on a four inch crushed rock base or six inches of portland cement or other material providing a durable and dustless surface capable of carrying a wheel load of 4,000 pounds.**
- 2. Large parking fields for intermittent uses such as amusement parks, race tracks, stadiums, and the like may be surfaced with gravel or grass and spaces may be unmarked if the parking of vehicles is supervised.**

Staff: LBCN is requesting a gravel surface for the main parking area. Gravel is not a durable and dustless surface. Gravel is only suitable for intermittent uses, not for uses that will have a high volume of use. The property is located within the urban growth boundary and is within a neighborhood in transition to an urban setting. While the whole parking lot may not be regularly filled with members, vehicle traffic will utilize the parking area on a daily basis. During the week, the facility will be open 8 am to 8:30 pm. Meditation practice is currently offered twice a day five days a week. On the weekend, the facility will be used for study groups, ceremonial events and workshops in addition to special celebrations and events. In addition, various members will deliver meals to the monks or to prepare breakfast and lunch. Staff recommends that the hearings officer require the installation of either blacktop or cement. Additional area for stormwater may be required if the pavement is impervious. The County allows the use of pervious asphalt or concrete. Since the use is currently occupying the site and operating, the hearings officer should specify a time period to construct the parking lot. Planning staff has crafted a condition requiring that the parking areas be constructed

within a set time period appropriate to the fact that the site is currently being used for the LBCN facility. *As conditioned, criterion can be met.*

B. Curbs and Bumper Rails

- 6.07 **1. All areas used for parking, loading, and maneuvering of vehicles shall be physically separated from public streets or adjoining property by required landscaped strips or yards or in those cases where no landscaped area is required, by curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress.**

Staff: The main parking area is physically separated from Foster Road by the 30-foot front yard and 20-foot side yard setbacks (Exhibit A.28). *Criterion met.*

- 6.08 **2. The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height and at least three feet from the lot line or any required fence.**

Staff: The revised Master Site Plan (Exhibit A.28) shows that each parking space in the main parking area will have a wheel stop. It is unclear whether the boundaries for the paved driveway, ADA parking, and main parking lot will be curbed or have a bumper rail installed around their perimeter to prevent overflow parking within the grass landscape area (SEC-wr overlay). In Exhibit A.25 on page 4 under item 7 Proposed Gravel Parking Lot, the applicant indicates that these areas will include curbs or other permanent barriers against unchanneled vehicle movement. Wheel stops are not the same as a bumper rail or curb. Since there is no note on the revised Master Site Plan (Exhibit A.28) or any parking detail staff is uncertain that this criterion will be met. *Additional information is needed to find compliance with this criterion.*

Hearings Officer: The revised site plan submitted at the hearing as Exhibit H.1 shows a 6 inch curb around the outer boundary of the parking area more than 3 feet from the property line.

- 6.09 **C. Marking - All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC .6108, and such marking shall be continually maintained.**

Staff: LBCN has requested that gravel be allowed in the main parking area instead of asphalt or concrete. There has been no explanation on how the parking spaces shall be marked in compliance with this standard. *Additional information is needed to find compliance with this criterion unless pavement is required.*

Hearings Officer: This is not an intermittent use. Gravel parking does not meet the code requirement. The parking lot needs to be paved

- 6.10 **D. Drainage - All areas for the parking and maneuvering of vehicles shall be graded and drained to provide for the disposal of all surface water on the lot.**

Staff: LBCN is requesting the use of gravel so that surface water can infiltrate into the soil below and not have to provide additional stormwater swales or other treatment. The use of pervious pavement is possible to off-set the need for stormwater collection. The stormwater report can also be modified to consider a sheet flow situation from the parking area towards the grass area near the Simma building within the SEC-wr. As the applicant is applying for a SEC-wr permit, it is feasible to amend the plan to include additional swales for the additional impervious surface if necessary. *Additional information is needed to find compliance with this criterion.*

Hearings Officer: The parking lot needs to be paved, but the LCBN can use pervious pavement which would affect the stormwater plan. The stormwater report needs to be modified to provide additional information showing that the parking and maneuvering areas are adequately drained.

6.11 MCC 11.15.6134 Lighting

Any artificial lighting which may be provided shall be shielded or deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street.

Staff: The applicant has not provided any lighting details for the main parking lot or ADA spaces. Since the site is used up into 8:30 pm, it is likely lighting will be necessary to ensure that people do not trip. *Additional information is needed to find compliance with this criterion.*

Hearings Officer: I concur with the staff finding.

MCC 11.15.6138 Design Standards: Setbacks

6.12 A. Any required yard which abuts upon a street lot line shall not be used for a parking or loading space, vehicle maneuvering area or access drive other than a drive connecting directly to a street.

D. A required yard which abuts a street lot line shall not be paved, except for walkways which do not exceed 12 feet in total width and not more than two driveways which do not exceed the width of their curb cuts for each 150 feet of street frontage of the lot.

Staff: The revised Master Site Plan (Exhibit A.28) shows one 20 foot wide access point through the required front yard. No other access points are requested. *Criterion met.*

6.13 MCC 11.15.6140 Landscape and Screening Requirements

A. The landscaped areas requirements of MCC .7855(C)(3) to (7) shall apply to all parking, loading or maneuvering areas which are within the scope of design standards stated in MCC .6126(A).

B. Parking or loading spaces located within 50 feet of a property line of a lot in a residential or other district listed in MCC .2002 through MCC .2966 shall be separated from such property line by a sight-obscuring fence with height and materials suitable to meet the requirements of subsection MCC .7850(A)(7).

Staff: The southern end of the parking lot and its turnaround is within 50 feet of the neighboring residentially zoned property. The revised Master Site Plan (Exhibit A.28) shows that a fence exists along the shared property line and that it is lined with vegetation. While this is technically not a sight-obscuring fence, it serves the same purpose.

MCC 11.15.6126(A) covers the parking, loading and maneuvering areas for all uses except for a single family or two family dwelling. MCC .7855(C)(3) to (7) apply to the main parking lot and all other maneuvering areas for vehicles. Please see the findings in subsections 7.11 through 7.13 for the design review criteria. *At present, the above requirements have not been met.*

Hearings Officer: I concur with staff's finding. Please see the findings in subsections 7.11 through 7.13 for additional findings for the design review criteria.

6.14 MCC 11.15.6142 Minimum Required Off-Street Parking Spaces

B. Public and Semi-Public Buildings and Use

2. Church - One space for each 80 square feet of floor area in the main auditorium or, where seating is fixed to the floor, one space for each four seats or eight feet of bench length.
3. Church Accessory Use - In addition to spaces required for the church, one space for each ten persons residing in such building.

MCC 11.15.6122 Interpretation

Off-street parking or loading requirements for structures or uses not specifically listed in MCC .6142 and .6144 shall be determined by written decision of the Planning Director. The Director shall base such requirements on the standards for parking or loading of similar uses.

Staff: A maximum of five monks will live in the dwelling therefore, the monk's residence requires one parking space. The community hall is the main auditorium for the proposed LBCN use. The community hall does not have fixed seats. The hall area where members will congregate is 40 feet wide by 60 feet long (2,400 square feet). A total of 30 parking spaces are required for this area. The revised Master Site Plan shows 38 parking spaces between the monk's residence and Foster Road and four ADA spaces closer to the community hall.

For overflow parking during celebrations and other special events, the applicant is proposing the use of Pleasant Valley Elementary School's parking lot. The use of off-site parking is feasible provided it complies with MCC 11.15.6112 B. Please see Section 6.01 for additional findings regarding the overflow parking off-site. *Criterion met.*

7.00 Design Review & Minor Exception Criteria

7.01 MCC 11.15.7850 Design Review Criteria

A. Approval of a final design review plan shall be based on the following criteria:

1. Relation of Design Review Plan Elements to Environment.
 - a. The elements of the design review plan shall relate harmoniously to the natural environment and existing buildings and structures having a visual relationship with the site.
 - b. The elements of the design review plan should promote energy conservation and provide protection from adverse climatic conditions, noise, and air pollution.
 - c. Each element of the design review plan shall effectively, efficiently, and attractively serve its function. The elements shall be on a human scale, inter-related, and shall provide spatial variety and order.

Staff: At present, the property is occupied by an existing single family dwelling which

will be used as the monk's residence. A metal accessory building was converted to the community hall. An existing non-permitted 830 square foot barn is used for storage of gardening equipment and other materials. A non-permitted 1,200 square foot patio cover which was built by a prior owner will be used for picnics and other outdoor events. The LBCN facility proposes to add a matching 720 square foot addition to the community hall for kitchen and restroom facilities. The exterior materials on the addition will match the existing structure metal siding and roofing. A 700 square foot awning will also be added and will match the metal roofing on the community hall. The other improvement will be a 600 square foot Simma Building. Exhibit A.5 demonstrates what the building will look like. The actual building is not designed at this time, but will be of similar character. The Simma building will serve the religious nature of the site and be occupied only by the monks. By using the existing residential and accessory buildings for the facility, the buildings fit within the character of the residential neighborhood.

By reusing the buildings, the LBCN facility is conserving energy by not demolishing existing serviceable structures and importing new materials to construct a similar facility. The buildings have proven to provide protection from adverse climatic conditions, noise generated from Foster Road and air pollution in general to the previous residential property owners and the LBCN community.

The buildings were constructed as residential and accessory buildings to serve a single family on the site. The conversion of these structures to the proposed facility allows them to continue to serve their function and be of a size similar to other properties in the area. *Criterion met.*

7.02 2. Safety and Privacy - The design review plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transitions from public to private spaces.

Staff: The property is completely fenced and has significant vegetation along Foster Road and the southern residential property line. *Criterion met.*

7.03 3. Special Needs of Handicapped - Where appropriate, the design review plan shall provide for the special needs of handicapped persons, such as ramps for wheelchairs and Braille signs.

Staff: The revised Master Site Plan (Exhibit A.28) includes four ADA parking spaces near the community hall and an ADA accessible sidewalk near the main parking area. The design of the ADA spaces does not appear to meet design specifications for parallel spaces. In addition, the detail needs clarification (Exhibit A.37). The ADA spaces need to be redesigned. *Additional information is needed to find compliance with this criterion*

Hearings Officer: The LBCN submitted a revised master site plan at the hearing (Ex. H.1), but there is not sufficient detail to determine if the ADA spaces meet design specifications. The design detail for the ADA spaces needs clarification before compliance with this criterion can be determined.

7.04 4. Preservation of Natural Landscape - The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve their functions. Preserved trees and shrubs shall be protected during construction.

Staff: The proposed facility utilizes existing structures on a very flat site. Minimal landscaping will need to be removed to construct the main parking area and other improvements. The applicant has not indicated that any trees will be removed on the plan.

- 7.05 5. Pedestrian and Vehicular circulation and Parking - The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures, shall be designed to maximize safety and convenience and shall be harmonious with proposed and neighboring buildings and structures.**

Staff: The site will be served by a single 20-foot wide access point to Foster Road. The main parking area will be located between the 30-foot front yard setback and the existing residence. Additional paving and maneuvering area will be added near the community hall for the shuttle service and fire truck turnaround. The main parking area can be shifted five feet to the east in order to provide a pedestrian walkway along the western edge of the parking lot. At present, the applicant is excluding the 5-foot transportation easement from the front yard setback area. This is not necessary and can be used to provide a pedestrian walkway along the length of the main parking area. In addition to adding a walkway to the western edge of the main parking lot, two of the parking spaces towards the center of the parking lot should be converted to create a pedestrian corridor to the sidewalk so that pedestrians are not required to walk through the parking and maneuvering areas while vehicles are trying to enter and leave the site. *Staff recommends that the hearings officer require these changes in order to find that this criterion has been met.*

Hearings Officer: On Exhibit H-1 the applicant shows the 5-foot transportation easement in the front yard setback area. In addition, the revised plan shows a walkway along the western edge of the parking lot. A pedestrian corridor to the sidewalk is now shown on the plan. This criterion is now met

- 7.06 6. Drainage - Surface drainage systems shall be designed so as not to adversely affect neighboring properties or streets.**

Staff: The stormwater report and plans have taken into consideration the public right-of-way and adjacent neighbors. Additional storm water control will need to be designed for the main parking area, additional paved area near the ADA parking and for the non-permitted barn and patio cover. Based on the significant available area within the SEC-wr zone, the water should be able to be handled on-site without significant difficulties. *Additional information is needed to find compliance with this criterion. A condition of approval is recommended to ensure compliance.*

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

Staff: The site is heavily buffered by landscaping adjacent to Foster Road and the southern property line for approximately 180 feet. The waste receptacle location is screened from the adjacent northern property by the existing community hall building and vegetation. *Criterion met.*

- 7.08 8. Utilities - All utility installations above ground shall be located so as to minimize adverse impacts on the site and neighboring properties.**

Staff: No new utilities have been proposed or are needed for this project. All utilities exist. *Criterion met.*

- 7.09 9. Signs and Graphics - The location, texture, lighting, movement, and materials of all exterior signs, graphics or other informational or directional features shall be compatible with the other elements of the design review plan and surrounding properties.**

Staff: No signage is proposed as part of this project (Exhibit A.12).

7.10 MCC 11.15.7855 Required Minimum Standards

C. Required Landscape Areas

The following landscape requirements are established for developments subject to design review plan approval:

- 1. A minimum of 15% of the lot area shall be landscaped; provided, however, that computation of this minimum may include areas landscaped under subpart 3 of this subsection.**
- 2. All areas subject to the final design review plan and not otherwise improved shall be landscaped.**

Staff: Approximately ½ of the lot will be landscaped due to the SEC-wr, drainfield and front and side yard requirements (Exhibit A.28). *Criterion met.*

- 7.11 3. The following landscape requirements shall apply to parking and loading areas:**

- a. A parking or loading area providing ten or more spaces shall be improved with defined landscaped areas totaling no less than 25 square feet per parking space.**
- b. A parking or loading area shall be separated from any lot line adjacent to a street by a landscaped strip at least 10 feet in width, and any other lot line by a landscaped strip at least 5 feet in width.**

Staff: The main parking lot has 38 parking spaces. The total amount of landscaped planters dispersed through-out the parking area must equal at least 950 square feet to meet the above requirement. Areas within the required front and side yards cannot be counted towards the parking lot landscaping requirement. At present, the revised Master Site Plan (Exhibit A.28) shows two landscape planters at the entrance to the main parking area. One is approximately 15-foot by 15-foot (225 square feet) and the other is an 8-foot by 16-foot (128 square feet). Additional landscaping (approximately 858 square feet) is also shown at the end of the parking lot surrounding the turnaround for the parking lot. The parking lot is buffered from the front lot line by the 30-foot front yard setback. The turnaround is buffered from the adjacent property by the 20-foot side yard setback. *Criterion met.*

- 7.12 c. A landscaped strip separating a parking or loading area from a street shall contain:**

- i. Street trees spaces as appropriate to the species, not to exceed 50 feet apart, on the average;**

- ii. low shrubs, not to reach a height greater than 3'0", spaced no more than 5 feet apart, on the average; and
- iii. vegetative ground cover.

Staff: The applicant has not proposed to place any trees within the front yard. At present, the front yard area has grass and a six to eight-foot tall arborvitae hedge. The hedge is located within the required 5-foot right-of-way easement and may need to be removed at any time. In addition, hedges are not trees. The project needs to add two trees within the front yard area north of the driveway and four trees south of the driveway. These trees shall take into consideration any overhead lines and should be of a size as to not require trimming by utility companies. The arborvitae hedge does not qualify as low shrubs. Low shrubs will need to be added to the front yard area. *At present, the above requirements have not been met, but can be met with a condition of approval requiring the applicant to revise the master site plan or create a landscape plan.*

- 7.13**
- d. Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.
 - e. A parking landscape area shall have a width of not less than 5 feet.

Staff: At present the landscape planters within the main parking area are not uniformly distributed throughout the parking area. The planters are shown either at the entrance or around the turnaround. Planters should be placed adjacent to the pedestrian crossing as discussed in Section 7.05 to define and protect pedestrians. *At present, the above requirements have not been met.*

Hearings Officer: The applicant has revised the site plan to address staff's concerns. These criteria are met.

- 7.14**
- 4. Provision shall be made for watering planting areas where such care is required.
 - 5. Required landscaping shall be continuously maintained.
 - 6. Maximum height of tree species shall be considered when planting under overhead utility lines.
 - 7. Landscaped means the improvement of land by means such as contouring, planting, and the location of outdoor structures, furniture, walkways and similar features.

Staff: Staff is uncertain as to the plans for watering the required landscaping. A condition is recommended to require the property owners to maintain the required landscaping. *At present, the above requirements have not been met.*

Hearings Officer: A condition requiring the property owners to maintain the required landscaping will be imposed.

7.15 MCC 11.15.7860 Minor Exceptions: Yard, Parking, Sign, and Landscape Requirements

A. In conjunction with final design review plan approval, the Planning Director may grant minor exceptions from the following requirements:

1. Dimensional standards for yards as required in the primary district;
2. Dimensional standards for off-street parking as required under MCC .6105 to .6225;
3. Standards for minimum number of off-street parking spaces as required in the primary district; and
4. Dimensional standards for signs as required in the primary district;
5. In the case of a proposed alteration, standards for landscaped areas under MCC .7855(C).

B. Except under subsection (A)(5) above, no minor exception shall be greater than 25% of the requirement from which the exception is granted.

Staff: Minor Exception Request #1: The applicant has requested a minor exception to the minimum required side yard setback to accommodate the proposed addition to the community hall. At present, the hall is 19 feet from the northern side property line. The dimensional standards for required yards in the Rural Residential district are as follows:

MCC 11.15.2218 Dimensional Requirements

C. Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

The community hall meets these dimensional standards as discussed in Section 3.02 above. The community hall does not meet the required side yard under the requirements for a Community Service use.

Community Service – MCC 11.15.7025 Restrictions

A building or use approved under MCC .7020 through .7030 shall meet the following requirements:

A. Minimum yards in EFU, CFU, F-2, MUA-20, MUF, RR, RC, UF-20, UF-10, LR-40, LR-30, LR-20, LR-10, R-40, R-30, R-20, and R-10 Districts:

1. Front yards shall be 30 feet.
2. Side yards for one-story buildings shall be 20 feet; for two-story buildings, 25 feet.
3. Rear yards shall be as required in the district.

The Community Service restriction may not be modified by the Minor Exception process in the Design Review section. Staff recommends that the Hearings Officer deny the minor exception for the required community service side yard of 20 feet as the minor exception is not the correct vehicle for relief. The variance process under MCC 11.15.8515 is the appropriate route to reduction of the Community Service yard restriction. Please see Section 8.00 for the variance findings.

Hearings Officer: I concur with staff's analysis.

Minor Exception Request #2: The applicant has requested a minor exception to the

following landscape requirements: 11.15.7855(C)3.a. through e. Findings for this minor exception request are listed below.

7.16

C. Approval of a minor exception shall be based on written findings, as required in this subpart.

1. In the case of a minor yard exception, the Planning Director shall find that approval will result in:

- a. More efficient use of the site;**
- b. Preservation of natural features, where appropriate;**
- c. Adequate provision of light, air, and privacy to adjoining properties; and**
- d. Adequate emergency accesses.**

2. In the case of a minor exception to the dimensional standards for off-street parking spaces or the minimum required number of off-street parking spaces, the Planning Director shall find that approval will provide adequate off-street parking in relation to user demands. The following factors may be considered in granting such an exception:

- a. Special characteristics of users which indicate low demand for off-street parking (e.g., low income, elderly);**
- b. Opportunities for joint use of nearby off-street parking facilities;**
- c. Availability of public transit;**
- d. Natural features of the site (topography, vegetation, and drainage) which would be adversely affected by application of required parking standards.**

3. In the case of a minor exception to the dimensional standards for signs, the Planning Director shall find that approval is necessary for adequate identification of the use on the property and will be compatible with the elements of the design review plan and with the character of the surrounding area.

4. In the case of a minor exception to the standards for landscaped areas, the Planning Director shall find that approval is consistent with MCC .7805, considering the extent and type of proposed alteration and the degree of its impact on the site and surrounding areas.

Staff: As discussed for Minor Exception #1, the community service side yard requirement cannot be altered using the Design Review minor exception process. As to Minor Exception #2, the applicant is requesting a significant modification to the landscape requirements for the main parking area and front yard landscaping between the parking area and the road. The findings for the modification requested for the parking lot is provided below:

d. Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area. [Staff emphasis added.]

At present, the revised Master Site Plan provides more than the required 950 square feet of landscaping, but does not uniformly distribute it throughout the parking area.

The applicant has also requested that the six to eight-foot tall arborvitae hedge count for the trees and shrubs required for the following:

c. A landscaped strip separating a parking or loading area from a street shall contain:

- i. Street trees spaces as appropriate to the species, not to exceed 50 feet apart, on the average;**
- ii. low shrubs, not to reach a height greater than 3'0", spaced no more than 5 feet apart, on the average; and**
- iii. vegetative ground cover. [Staff emphasis added.]**

To grant approval, the approval authority must find that the proposal is consistent with MCC .7805 which states:

MCC 11.15.7805 Purposes

MCC .7805 through .7865 provides for the review and administrative approval of the design of certain developments and improvements in order to promote functional, safe, innovative and attractive site development compatible with the natural and man-made environment.

The applicant argues (Exhibit A.12, page 42) that a solid hedge of six to eight-foot tall arborvitae is equal to, or consistent with the landscape requirement for trees, shrubs and ground cover. Their other argument is that to remove this substantial hedge would be an inefficient use of an existing resource and that the hedge should replace the required trees and shrubs within this landscape strip. The applicant has provided a photograph of the hedge in Exhibit A.16.

The purpose of the required trees and shrubs is to provide an attractive entrance statement to the site and to soften and separate the off-street parking from the roadway. The hedge is functional as it creates a visual barrier into the site but is not very innovative or attractive to public viewing the property from adjacent lands. The arborvitae hedge is also located within the requested 5-foot utility easement requested by Transportation Planning. It is possible that the hedge may need to be removed in the future to accommodate its use. The arborvitae hedge does not serve the same purpose as the required landscaping. The hedge is to block visual intrusion into the site, while the six trees and 360 shrubs (based on the area/25 sq. ft per shrub) are intended to beautify and naturalize this man-made environment. A 50% reduction in the number of shrubs required to be planted within this 30-foot wide by 300 feet long (9000 square feet) expanse may be appropriate to allow flexibility and creativity in the landscape design. The near complete elimination of all low-growing shrubs as proposed by the applicant does not provide for the purpose of the Design Review standards. Staff does not recommend any reduction in the required six trees as the front yard has the available area to plant small trees such as Japanese maples, semi-dwarf or dwarf fruit trees, etc. *Planning staff does not support the complete elimination of the landscaping required under MCC 11.15.7855(C)3.a. through e.*

Hearings Officer: It is appropriate to reduce the number of shrubs required to be planted within the above referenced 30x300 foot area by 50% to allow flexibility and creativity in the landscape design.

8.00 Major and Minor Variance Criteria

8.01 11.15.8515 Variance Classification

A. A Major Variance is one that is in excess of 25 percent of an applicable dimensional requirement. A Major Variance must be found to comply with MCC .8505(A).

B. A Minor Variance is one that is within 25 percent of an applicable dimensional requirement. The Planning Director is authorized to grant a Minor Variance in accordance with the following procedures and conditions:

- 1. Application shall be made on forms provided by the Planning Director and shall be accompanied by the written consent of the owner or owners of each lot adjoining and across any street from the subject property;**

Staff: The applicant is requesting a major variance to reduce the 20-foot side yard requirement feet listed under the Community Service standard of MCC 11.15.7025A.2. for the non-permitted patio cover. The existing, non-permitted structure is 11 feet (45% reduction) from the northern side property line. In addition, the applicant is requesting a minor variance for the existing, permitted accessory building being converted to the community hall and its two additions. The applicant is requesting a 19-foot side yard (1% reduction) be granted for the building. The applicant has provided signatures from the surrounding property owners consenting to the variance request (Exhibit A.23).

8.02 11.15.8505 Variance Approval Criteria

A. The Approval Authority may permit and authorize a variance from the requirements of this Chapter only when there are practical difficulties in the application of the Chapter. A Major Variance shall be granted only when all of the following criteria are met. A Minor Variance shall meet criteria (3) and (4).

Staff: The applicant is requesting for a Major Variance for an existing 1,200 square foot patio cover structure that is eleven feet from the north property line (side yard). The 1,200 square foot lien-to type structure was constructed without land use authorization or building permits by a prior owner possibly as a "farm building". LBCN will utilize it as a patio cover for use by participants and members during times of inclement weather and storage of outdoor equipment. No modifications are proposed for the structure other than obtaining necessary building and land use permits.

Since the non-permitted structure will be used as an "accessory uses to the above" [MCC 11.15.7020A.27.], it must also meet the required 20-foot side yard requirement of MCC 11.15.7025A.2. For the Major Variance, the applicant must demonstrate compliance with the practical difficulty standard above and criteria 1, 2, 3 and 4 in order for the Major Variance to be granted. Since the structure was never authorized by Land Use Planning, its existence in its present location is not a practical difficulty for the property owner as it is not lawful. There is no property right for an unlawful building or use. The subject property has area available to construct the patio cover in compliance with the required 20-foot side yard. In addition, its present unauthorized location is within 65 feet of the wetland boundary and will require a "No Alternative" findings under MCC 11.15.6429B. Staff believes making this finding does not seem feasible as the patio cover could be moved to the southern portion of the site where it would be further than 100 feet from the wetland boundary. [See Section 9.00 for additional findings]. *There is no practical difficulty in lawfully establishing the proposed*

patio cover on the site and meeting the required 20-foot side yard requirements.

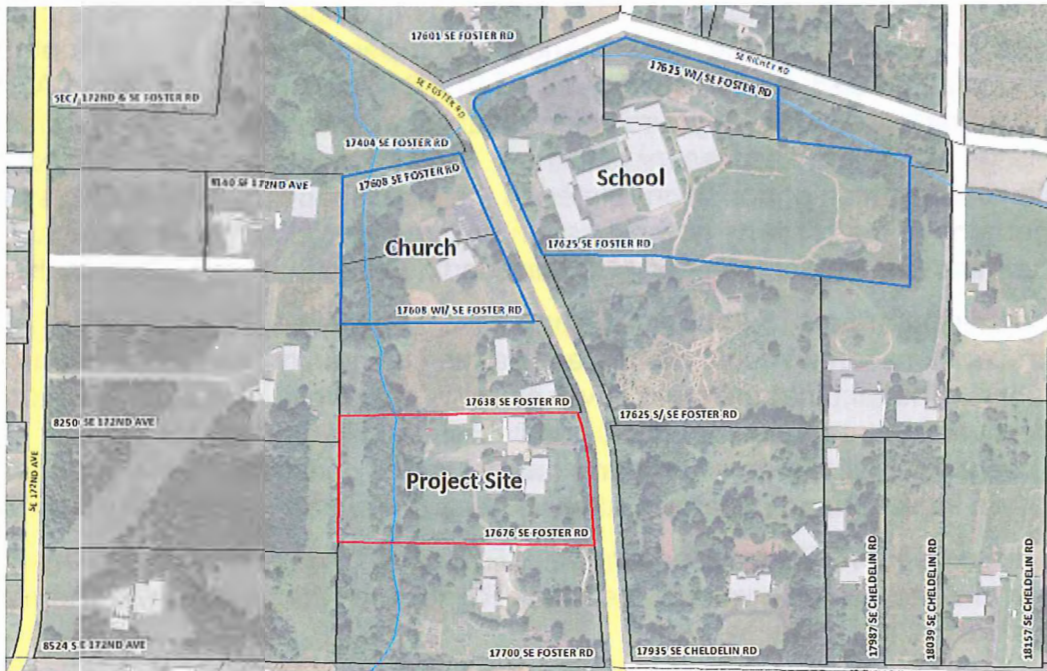
Hearings Officer: The revised site plan, Exhibit H.1, proposes moving the Patio Cover to a new location west of the Monk Residence which eliminates the need for a Major Variance.

Staff: The applicant is also requesting a Minor Variance for the existing lawfully permitted accessory building in order to convert it to the proposed community hall. The permitted accessory building is 19 feet from the northern property line. With its proposed conversion to the community service use, a 20-foot side yard requirement becomes applicable to the building. The applicant requests the minor variance for the existing building and for a 700 square foot awning addition to the building's western façade and a 720 square foot expansion to the eastern façade for a kitchen and bathroom addition. For a Minor Variance, the applicant needs to demonstrate compliance with the above practical difficulty requirement and criterion 3 and 4. A practical difficulty exists for the conversion of the lawfully established accessory building to a community hall as without the minor variance one-foot of the structure would need to be removed to comply with the standard. Since the building was lawfully established, the property owners have the expectation of continued use of the building that would otherwise be prohibited as the community service use will occupy the entire site. *A practical difficulty exists for this structure.*

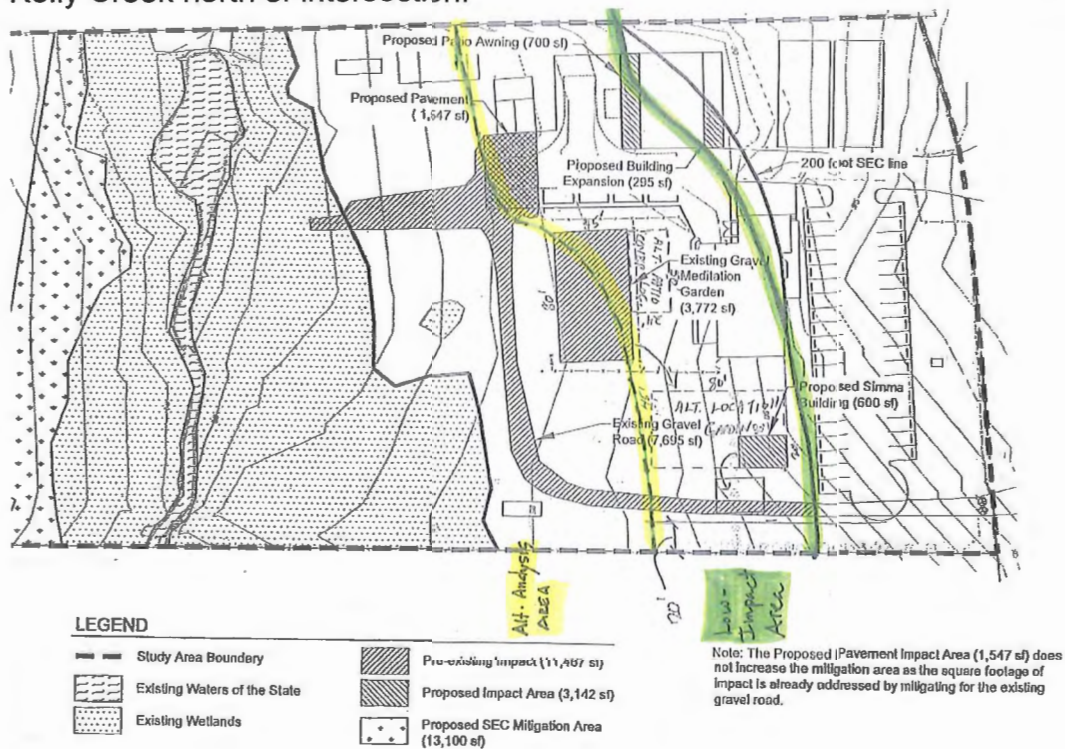
8.03

1. A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or district. The circumstance or condition may relate to the size, shape, natural features and topography of the property or the location or size of physical improvements on the site or the nature of the use compared to surrounding uses.

Staff: The 20-foot side yard requirement of MCC11.15.7025A.2. applies to all properties within the unincorporated Multnomah County area for any properties seeking to convert structures or build a new building for a community service use. At present, a Baptist church exists two properties to the north and an elementary school is located to the northeast on the corner of Foster Road and Richey Road. These two uses are both community service uses and the standards would also apply to any new buildings being constructed on their site or additions. The 20-foot side yard requirement is not a circumstance or condition that applies only to this property in the area.



The subject parcel is crossed by a protected SEC-wr stream with related wetlands. This protected riparian area runs north-south across the western portion of the site. The stream travels northward from the Clackamas County properties through the subject site and continues northward to the Foster & Richey Intersection and joins Kelly Creek north of intersection.



As represented in the above aerial photograph, other parcels in the area have the same site conditions as the subject parcel.

The subject parcel is 4.82 acres with an existing permitted single family dwelling and a

permitted 40-foot by 60-foot accessory building. In addition to the non-permitted 1,200 square foot patio cover, the site has another non-permitted 830 square foot "barn". Surrounding parcels range from 2+/- acres to 8.61 acres (Exhibit B.2 and A.15). The surrounding uses include a church elementary school, vacant land, single family dwellings with related accessory buildings. Staff cannot find that the subject parcel has a circumstance or condition related to the size, shape, natural features and topography of the property or the location or size of physical improvements on the site or the nature of the use compared to surrounding uses that are unique to this property.

The applicant argues (Exhibit A.12, page 44) that because the covered patio exists at its present location it should be treated like the community hall and be granted the variance. The fact that the patio cover exists is not a valid condition or circumstance to grant a variance as it was not lawfully established in its present location. If this argument was valid, then all property owners would construct their improvements first and then seek variance approval after. *It does not appear the criterion can be met.*

Hearings Officer: The revised site plan, Exhibit H.1, proposes moving the Patio Cover to a new location west of the Monk Residence which eliminates the need for a Major Variance.

8.04 2. The zoning requirement would restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or district.

Staff: The applicant argues that the 20 foot setback requirement would require the removal of the structure and that the removal of the structure would be more stringent than other properties in the vicinity or district. The zoning code applies across the board to all properties within unincorporated Multnomah County. All uses and structures are required to be lawfully established. The prior property owner did not obtain permits to construct the 1,200 square foot lien-to structure in its present location. The applicant is applying for a use that is not allowed outright or through an administrative decision. Community Service conditional uses may be allowed in the zone but first the applicant must demonstrate that the use will meet the approval criteria. As part of the approval criteria to allow this conditional use, a larger setback from the side property line is required. These standards were created to allow conditional uses when they were found to fit within a neighborhood or community. The LBCN did not obtain permits to convert the lien-to into a patio cover for a community service use. There are areas on the site for the patio cover that meet the 20-foot setback restriction. If the LBCN community service conditional use is approved, the building would be accessory to that use. The Hearings Officer must approve accessory uses to a Community Service use. The required yard can be met. *It does not appear that the criterion can be met.*

Hearings Officer: The revised site plan, Exhibit H.1, proposes moving the Patio Cover to a new location west of the Monk Residence which eliminates the need for a Major Variance.

8.05 3. The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or adversely affects the appropriate development of adjoining properties.

Staff: Since the major variance for the patio cover has failed criteria 1 and 2 above, staff will cease analyzing it and now focus on the minor variance for the community

hall. The existing accessory building being converted to a community hall for the community service conditional use is located 19 feet from the northern property line. The applicant is requesting a one foot minor variance be granted for the conversion of the existing structure and for two additions. On the western side of the building a 700 square foot awning will be added to the building. On the eastern side of the community hall, a 720 square foot kitchen and bath addition will be added. The applicant is requesting the minor one foot variance be granted also for the proposed additions so that the northern building elevation can maintain a straight line. With a 19-foot setback to the property line, the building should not adversely affect development of the property to the north. *This criterion can be met.*

- 8.06 4. The granting of the variance will not adversely affect the realization of the Comprehensive Plan nor will it establish a use which is not listed in the underlying zone. The granting of the variance will not adversely affect the realization of the Comprehensive Plan nor will it establish a use which is not listed in the underlying zone.**

Staff: The proposed community service use is a listed use in the underlying RR zone provided the conditional use permit is granted. Staff is unaware on any comprehensive plan policy that would be adversely affected by granting the one-foot variance for the community meeting hall. *Criterion can be met.*

9.00 Significant Environmental Concern for Water Resources Criteria

9.01 MCC 11.15.6401 Definitions

A. Development: Any manmade change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. Any other activity that results in the removal of more than 10 percent of the existing vegetative cover in the Water Resource Area or Habitat Area on a lot or parcel.

B. Nuisance, invasive non-native and native plants: Nuisance and invasive non-native plants include the those plants listed in the latest edition of the Metro Nuisance Plant List and the Prohibited Plant List, and include those plants listed in the latest edition of the State of Oregon Noxious Weed List. Native plants are those listed in the latest edition of the Metro Native Plant List.

C. Practicable, Practical: As in No Practicable Alternative. Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

MCC 11.15.6404 Uses → SEC Permit Required

All uses permitted under the provisions of the underlying district are permitted on lands designated SEC; provided, however, that the location and design of any use, or change or alteration of a use, except as provided in MCC .6406, shall be subject to an SEC permit.

Staff: On February 6, 2010 the SEC-wr overlay became effective over this and other nearby properties in the Pleasant Valley area. On September 15, 2010, LBCN purchased the property and began using it for their facility. A comparison of the 2010 and 2012 aerial photographs shows that a number of manmade changes occurred to the site since the LBCN occupancy. The non-permitted development includes construction of the 46-foot by 82-foot meditation garden, construction of

parking/meeting areas between the proposed community hall and the 830 square foot barn, extension and graveling of the area used for vehicle parking and movement, construction of a secondary graveled, one-way roadway around the dwelling to Foster Road and some ground disturbance or placement of soil adjacent to the trees in the riparian area. All or part of this development occurred within the SEC-wr overlay zone without authorization or obtaining land use approvals.



The applicant has applied for a SEC-wr permit to restore or authorize this non-permitted development and to allow the 700 square foot awning and a portion of the 720 square foot kitchen and bathroom additions to the community hall, paved and gravel driveway, fire truck turnaround and graveled assembly area, the Simma building, non-permitted 830 square foot barn, 1,200 square foot non-permitted patio cover and ADA parking within the SEC-wr overlay (Exhibit A.29)

9.02 MCC 11.15.6423 General Requirements for Approval in Areas Designated as SEC-wr.

The requirements in this section shall be satisfied for development in the SEC-h and SEC-wr areas in addition to the provisions of MCC .6426 or MCC .6428 as applicable.

A. Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices and may include restriction on timing of soil disturbing activities.

Staff: For all future ground disturbing activities on the site, the property owners will need to obtain the necessary Grading and Erosion Control permit before commencement of the activity. A condition of approval has been recommended indicating development of the proposed improvements shall not commence without required permits. *As conditioned, this criterion can be met.*

9.03 B. Outdoor lighting shall be of a fixture type and shall be placed in a location so that it does not shine directly into undeveloped water re-source

or habitat areas. Where illumination of a water resource or habitat area is unavoidable, it shall be minimized through use of a hooded fixture type and location. The location and illumination area of lighting needed for security of utility facilities shall not be limited by this provision.

Staff: The applicant has indicated that “no additional outdoor lighting is proposed.” While this would be ideal, it is likely that the conversion of the accessory building to a community hall, its additions, the new parking areas, non-permitted barn, non-permitted patio cover may need lighting to make the site in compliance with building codes for exiting requirements, safety concerns for pedestrians during the evening hours, and a myriad of other reasons lighting is installed on a property. The conversion of the residential property to a community service use for the LBCN community is a change of use which requires the site to be brought into compliance with the SEC-wr standards. All existing lighting which is located within the SEC-wr zone will need to be upgraded so that it does not shine into the undeveloped SEC-wr areas. Planning staff has recommended a condition of approval that a lighting plan be required for the property and that all fixtures in or shining towards the SEC-wr zone comply with the shielding standard. *As conditioned, this criterion can be met.*

- 9.04 **C. The following nuisance plants, in addition to the nuisance plants defined in MCC .6401, shall not be used as landscape plantings within the SEC-wr and SEC-h Overlay Zone:**

**Table 1
Nuisance Plant List**

Staff: Table 1 has been removed from above and can be found as Exhibit B.7. The applicant’s narrative indicates that “None of the plants listed in Table 1 of the County code will be used in the proposed mitigation planning plan. Only native species are proposed. The plants will be obtained from a reputable source and inspected before installation to ensure the correct species are installed.” In addition to Table 1, nuisance plants include those listed in the latest edition of the Metro Nuisance Plant List and the Prohibited Plant List, and those plants listed in the latest edition of the State of Oregon Noxious Weed List. Native plants are those listed in the latest edition of the Metro Native Plant List. Staff is recommending a condition of approval be included requiring that the proposed plants comply with the above requirement and that the applicant’s consultant for Exhibit A.29 and A.29.a, certify that their plans comply with the above requirements.

9.05 **MCC 11.15.6429 CRITERIA FOR APPROVAL OF SEC-WR PERMIT -WATER RESOURCE**

Except for the exempt uses listed in MCC .6406 and the existing uses pursuant to MCC .6412, no development shall be allowed within a Water Resource Area unless the provisions of section (A) or (B) or (C) below are satisfied. An application shall not be approved unless it contains the site analysis information required in MCC .6408(A) and (C), and meets the general requirements in MCC .6423.

A. Development on Low Impact Sites - Development on parcels in locations that would have low impacts on Water Resource Areas may be exempt from the Alternatives Analysis in (B) below. Development on sites that meet the following criterion may be allowed pursuant to the other applicable requirements of this district including the Development Standards of (D) and the provisions for Mitigation in (E):

1. The development site is at least one hundred (100) feet from top of bank or top of ravine, which ever results in a greater distance from the Protected Water Feature.

Top of ravine is the break in the > 25% slope. Slope should be measured in 25-foot increments away from the water feature until the slope is less than 25% (top of ravine), up to a maximum distance of 200' from the water feature. Where multiple resources are present (e.g., stream with wetlands along banks), the starting point for measurement should be whichever offers greatest resource protection.

Staff: The proposed community hall expansions, non-permitted barn, Simma building, and about a third of the gravel roadway (to be abandoned) are within the Low-Impact Zone as measured by staff on Exhibit B.6. These improvements are exempt from the Alternatives Analysis required in subsection B. below but must meet the criteria in D. and E. below.

- 9.06 **B. Alternatives Analysis - Development proposed within a Water Resource Area may be allowed if there is no alternative, when the other requirements of this district including the Development Standards of (D) and the provisions for Mitigation in (E) are met. The applicant shall prepare an alternative analysis which demonstrates that:**

Staff: The applicant's alternative analysis can be found in Exhibit 17 (starting on page 10). The applicant's analysis considers the whole project to make a number of the findings regarding uses located in the low-impact portion of the overlay and does not consider those existing non-permitted development within 100 feet of the wetlands on the site. As a reminder, the patio cover, meditation garden, existing gravel parking and roadway were constructed without land use authorization.

Planning staff will consider in the Alternatives Analysis only the portion of the existing gravel road and parking area, patio cover, meditation garden, two proposed swales and the small portion of the paved fire department turnaround located within the Alternative Analysis area (Exhibit B.6). Those portions of the development within the Low-Impact area (further than 100 feet from wetland boundaries) are exempt from the alternatives analysis as stated in MCC 11.15.6429A.1.

- 9.07 **1. No practicable alternatives to the requested development exist that will not disturb the Water Resource Area; and**

MCC 11.15.6401 Definitions. C. *Practicable, Practical:*
As in No Practicable Alternative.

Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Staff: Almost all of the development within the alternative analysis area currently exists. The prior property owner constructed the patio cover without permits. LBCN constructed a graveled parking area and gravel road leading to Foster Road and paved additional areas southwest of the community hall to facilitate their use of the site without first obtaining land use approval for their community service use. In addition, the meditation garden was constructed half in the low impact area and half within the

alternative analysis area. Staff finds treating this situation for the above criterion would be difficult. If these improvements were proposed and had not been constructed, the development would be required to be redesigned to avoid the alternative analysis area. For the existing non-permitted improvements, this option has been pre-empted by their construction. In reviewing land use permits, planning staff does not grant special dispensation just because someone unlawfully established an improvement. It is the County's practice to consider non-permitted improvements the same as if they are just being proposed for construction. Staff will now consider each of the improvements encroaching into the alternative analysis area.

Fire Truck Turn-around: This paved fire truck turn-around at the end of the drive adjacent to the community hall does not currently exist, but the area is in gravel. It may be feasible to shift the top of the hammerhead to the east closer to the community hall, if the awning was reduced in size or trimmed to allow the radius to be closer to the building. The awning area could then be bumped out near the northern end of the community hall if 700 square feet of covered area is needed for the operation of the facility. Staff is uncertain if the financial costs to LBCN would be greater to do the above change. It is technically feasible, but the benefit gained by removing approximately 100 square feet or less of asphalt from the alternative analysis area may increase the logistical layout of the proposed facility. *Additional information is needed before staff can indicate that there is no practical alternative in establishing the fire truck turnaround within the alternative analysis area.*

Hearings Officer: As shown on Exhibit H-1, the fire department turnaround is no longer in alternative analysis area.

Meditation Garden: The location of the 3,772 square foot meditation garden is a little more than half way into the alternative analysis area. There is adequate area available as shown on Exhibit B.6 for the garden to be solely within the low impact area. *There is a practical alternative for the location of the meditation garden.*

Patio Cover: The 1,200 square foot patio cover is chiefly in the alternative analysis area. If the meditation garden was moved to the alternative location, there would be significant area available for the structure. Alternatively, the patio cover could be placed against the existing meditation garden and encroach into a grassy area between the garden and the monk residence. There is also at least one other location the patio cover could be placed outside of the alternative analysis area. *There is a practical alternative for the location of the patio cover.*

Hearings Officer: As shown on Exhibit H-1, the fire department turnaround is no longer in alternative analysis area.

Gravel Parking and Roadway: A graveled parking area and roadway was constructed in the alternative analysis area. The applicant indicated that these improvements will be abandoned as they were not lawfully established. As shown on Exhibit A.28 and A.29, a new parking area will be constructed in the front of the property between the monk residence and Foster Road. *There is a practical alternative for the location of the gravel parking and roadway.*

Two Swales: The applicant is proposing two swales to handle the stormwater being created by new impervious surfaces. These swales could be placed in the 20-foot side yards in the low impact area and not intrude into the alternative analysis area. In addition, it may be feasible to construct them in the location of the existing meditation garden currently located in the low impact area, if the garden was moved. *There is a*

practical alternative for the location of the two swales outside of the alternative analysis area.

9.08 2. Development in the Water Resource Area has been limited to the area necessary to allow for the proposed use;

Staff: It appears that a number of the improvements could be built either outside of the SEC – wr overlay or only while encroaching into the low impact area. *The encroachment of the development into the alternative analysis area has not been limited. This criterion has not been met.*

9.09 3. Development shall occur as far as practically possible from the stream; and

Staff: The proposed improvements located in the alternative analysis area can be located within the low impact zone which is at least 100 feet from the riparian area (Exhibit B.6). *The proposed development is not as far as practically possible. This criterion has not been met.*

9.10 4. The Water Resource Area can be restored to an equal or better condition; or

Staff: It is possible to restore the water resource area to “good” condition via the mitigation plan. At present, the mitigation plan needs work to meet the requirements under D, E, and F. *Additional information is needed in order to determine whether this criterion can be met.*

9.11 5. Any net loss on the property of resource area, function and/or value can be mitigated.

Staff: At present, the mitigation plan needs work to meet the requirements under D, E, and F. *Additional information is needed in order to determine whether this criterion can be met.*

9.12 D. Development Standards- Development within the Water Resource Area shall comply with the following standards:

1. Development of trails, rest points, viewpoints, and other facilities for the enjoyment of the resource must be done in such a manner so as to minimize impacts on the natural resource while allowing for the enjoyment of the natural resource.

Staff: The proposed project does not involve the construction of any recreational resources. The narrative indicates that if a trail may be place in the future. This statement is a concern to staff since LBCN has failed to obtain the necessary permits for a number of improvements and the use of the site since September 2010. Staff has recommended a condition to the Hearings officer regarding future developments.

9.13 2. Development in areas of dense standing trees shall be designed to minimize the numbers of trees to be cut. No more than 50 percent of mature standing trees (of 6-inch DBH greater) shall be removed with-out a one-for-one replacement with comparable species. The site plan for the pro-posed activity shall identify all mature standing trees by type, size, and location, which are proposed for removal, and the location and type of replacement trees.

Staff: The applicant’s narrative indicates no trees will be cut (Exhibit 17, page 12). The location of development is within areas occupied by existing improvements and no trees to be removed are shown on the plans. *It appears the criterion can be met.*

- 9.14 **3. Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous, particularly along natural drainage courses, so as to provide a transition between the proposed development and the natural resource, to provide food, water, and cover for wildlife, and to protect the visual amenity values of the natural resource.**

Staff: The riparian zone has significant but degraded tree cover along the stream channel. The applicant's specialist has indicated that the riparian area is degraded due to reduced tree cover, and lack of native shrubs and emergent layers and invasive reed canary grass in the stream channel (Exhibit A.29.a). The areas of standing trees along the stream channel will remain as the applicant has indicated that no trees will be cut (Exhibit A.17, page 12). *It appears the criterion can be met by implementation of a mitigation plan.*

- 9.15 **4. The Water Resource Area shall be restored to "good condition" and maintained in accordance with the mitigation plan pursuant to (E) below and the specifications in Table 2.**

Staff: The applicant's mitigation plan discusses the condition of the wetlands and their marginal and degraded condition (Exhibit A.29.a and A.17, page 12). The plan (Exhibit A.29, and A.29.a) indicates where the plantings will occur and numbers to be planted. The original mitigation plan by Environmental Management Services (Exhibit A.17, page 13 & 14) indicates that a much larger area would be improved and that the area planted would restore a portion of the area to good condition. Since the mitigation plan has been reduced, the area proposed to be restored is 13,062 (down from 22,872 square feet). Staff is unclear since a different consultant completed the revised plan, if the new company, Pacific Habitat Services would find that the area to be restored will be improved to "good condition" as they do not state so in their plan (Exhibit A.29.a). In addition, it is suggested that a small, non-removable fence be added across the property running north to south along the edge of the development to restrict vehicle access and movement within the alternative analysis area. Since the area has been used for parking in the past, the likelihood that it will be returned to overflow parking in the future needs to be discouraged.

In order for the mitigation plan to meet the specifications in Table 2, it must include:

- **Remove any invasive non-native or nuisance species and debris and noxious materials within the corridor by hand or mechanically with small equipment, as appropriate to minimize damage to existing native vegetation.**
- **Provide County with a native plant revegetation plan appropriate to the site conditions developed by an ecologist/biologist or landscape architect to restore to a good corridor condition.**
- **Vegetate corridor to establish "good" corridor conditions. [Code from Table 2]**

Additional information is needed to find the proposed mitigation plan in compliance with the above criterion.

- 9.16 **5. To the extent practicable, existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce**

potential damage to the Water Resource Area. Trees in the Water Resource Area shall not be used as anchors for stabilizing construction equipment.

Staff: The mitigation plan (Exhibit A.29.a) does not outline how the work will be completed to install the mitigation plantings. Staff is uncertain whether the area will be mowed, sprayed, disked or what other methods will be used to prepare the planting area. Staff is uncertain as to the type of equipment needed to complete the restoration portion of the project. *Additional information is needed to find the proposed mitigation plan is in compliance with the above criterion.*

- 9.17** **6. Where existing vegetation has been removed, or the original land contours disturbed, the site shall be revegetated, and the vegetation shall be established as soon as practicable. Nuisance plants, as identified in Table 1, may be removed at any time. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas. Nuisance plants shall be replaced with non-nuisance plants by the next growing season.**

Staff: LBCN has constructed graveled parking and roadway within the alternative analysis area. The applicant states that the grass (pasture/lawn) is re-establishing through the gravel. While the re-establishment of native plants in the disturbed area is required, the placement of gravel and any associated ground disturbance were not authorized. As discussed above in the Alternative Analysis finding (section 9.07), the placement of the gravel parking lot and roadway has practical alternatives. The gravel parking area and roadway to be abandoned must be removed and the area restored with appropriate native materials. By leaving the gravel, the parking area and roadway would remain and could easily be used for overflow parking. A grading and planting plan is needed to restore the area to the site's native soil and grade. *Additional information is needed to find the proposed mitigation plan is in compliance with the above criterion.*

- 9.18** **E. Mitigation - Mitigation shall be required to offset the impacts of development within the SEC-wr. This section establishes how mitigation can occur.**

- 1. Prior to construction, the Water Resource Area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as otherwise allowed by this district. Such markings shall be maintained until construction is complete.**

Staff: Staff recommends that the Hearings Officer adopt a condition that a note referencing the above requirement be added to all plans. *As conditioned, this criterion can be met.*

- 9.19** **2. Stormwater quantity control and quality control facilities:**
- a. Stormwater management shall be conducted in a manner that does not increase the flow of stormwater to the stream above pre-development levels.**

Staff: A storm water management plan has been submitted for the proposed project (Exhibit A.19). The plan does not address non-permitted existing improvements that have been completed on the site. All impervious surfaces that are to be legalized for the community service use must have their stormwater managed. These include the 820 square foot barn, the approximate 1,500 square feet of asphalt installed for the

basketball hoop area, and the 1,200 square feet of patio cover (if authorized). Legalization of improvement must be brought into the rules in place at the time they are authorized. In addition, planning staff has proposed that the parking area be paved. Depending on the materials used, additional stormwater will need to be handled from that area. *While it is likely that the criterion in 2.a. can be met, additional information is required to do so.*

Hearings Officer: I concur with staff's finding.

- 9.20 **b. The stormwater quantity control and quality control facility may only encroach a maximum of 25 feet into the outside boundary of the Water Resource Area of a primary water feature; and**

Staff: The northern stormwater swale shown on Exhibit A.29 must be moved to be at least 175 feet from the top bank of the stream. At present, it is less than 100 feet from the top bank of the stream. The southern swale appears to be approximately 190 feet from the top bank of the stream. *At present, the proposed location of the northern swale is not in compliance with the above criterion.*

Hearings Officer: I concur with the staff finding. At present, the proposed location of the northern swale is not in compliance with the above criterion.

- 9.21 **c. The area of encroachment must be replaced by adding an area equal in size and with similar functions and values to the Water Resource Area on the subject property.**

Staff: In order to authorize the swales in b. above, the applicant will need to complete additional mitigation in the riparian zone. Staff is uncertain if the swales are the exact dimension to be installed or if they are just space holders. The southern swale is approximately 230 square feet. The northern swale is approximately 270 square feet. *Additional information is needed to find the proposed mitigation plan is in compliance with the above criterion.*

Hearings Officer: I concur with the staff finding. Additional information is needed to find the proposed mitigation plan is in compliance with the above criterion.

- 9.22 **F. Mitigation - Mitigation shall be required to offset the impacts of development within the SEC-wr. This section establishes how mitigation can occur.**

1. Mitigation Sequence. Mitigation includes avoiding, minimizing or compensating for adverse impacts to regulated natural resource areas.

a. When a proposed use or development activity could cause adverse impacts to a natural resource area, the preferred sequence of mitigation as defined in 1. through 5. below shall be followed unless the applicant demonstrates that an overriding public benefit would warrant an exception to this preferred sequence.

1. Avoiding the impact altogether by not taking a certain action or parts of actions on that portion of the site which contains the regulated natural resource area;

2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

3. Compensating for the impact by repairing, rehabilitating, or

restoring the affected environment;

4. Compensating for the impact by replacing, enhancing or providing substitute resources or environments on-site.

5. Compensating for the impact by replacing, enhancing or providing substitute resources or environments off-site.

Staff: Applicant's answer to a. can be found in Exhibit A.17 on page 11. Due to the extent of the water resource area on the site, it is not possible to do the project without some encroachment into the natural resource area. In addition, due to the non-permitted work that had already been completed within the water resource area, mitigation sequence 1 and 2 cannot be met. The project will compensate for its impacts within the SEC-wr zone by rehabilitating and restoring areas along the riparian area.

9.23 **b. When evaluating potential impacts to the natural resource, the County may consider whether there is an overriding public benefit, given:**

1. The extent of the public need for the proposed development;

2. The functional values of the Water Resource Area that may be affected by the proposed development;

3. The extent and permanence of the adverse effects of the development on the Water Resource Area, either directly or indirectly;

4. The cumulative adverse effects of past activities on the Water Resource Area, either directly or indirectly; and

5. The uniqueness or scarcity of the Water Resource Area that may be affected.

Staff: Applicant's answer to a. can be found in Exhibit A.17 on page 11. The operation of the Lao Buddhist Center Northwest serves a given population demographic but is not site specific. Staff is not aware of any overriding public benefit requiring the use to occur on the site compared to other areas in the community. The proposed development will need to mitigate for its impacts to the water resource area.

9.24 **2. Compensatory Mitigation: General Requirements. As a condition of any permit or other approval allowing development which results in the loss or degradation of regulated natural resource areas, or as an enforcement action, compensatory mitigation shall be required to offset impacts resulting from the actions of the applicant or violator.**

a. Any person who alters or proposes to alter regulated natural resource areas shall restore or create natural resource areas equivalent to or larger than those altered in order to compensate for resource losses.

b. The following ratios apply to the creation or restoration of natural resource areas. The first number specifies the amount of natural resource area to be created and the second specifies the amount of natural resource area to be altered or lost.

Creation (off-site) 2:1

Restoration (off-site) 1.5:1

Creation (on-site) 1.5:1

Restoration (on-site) 1:1

- c. Only marginal or degraded water resource areas as described in Table 2 may be the subject of a restoration project proposed as part of a Mitigation Plan.
- d. Highest priority sites for mitigation are marginal or degraded corridors that are closest to a natural drainage, and areas which will increase contiguous areas of standing trees, shrubs, and natural vegetation along drainages.
- e. The off-site mitigation shall be as close to the development as is practicable above the confluence of the next downstream tributary, or if this is not practicable, within the watershed where the development will take place or as otherwise specified by the County.

Staff: Applicant's answer to a. can be found in Exhibit A.17 on page 12. The present use of the site for the Lao Buddhist Center Northwest has caused degradation of the water resource area by the non-permitted construction of a gravel parking lot and roadway and other ground disturbance in or adjacent to the wetlands. In addition, the applicant is proposing to add square footage and buildings within the water resource area. The applicant proposes compensatory mitigation in the creation (on-site) category requiring 1.5:1 as they are proposing to plant adjacent to the western edge of the wetlands. The amount of proposed mitigation area shown on the revised mitigation plan (Exhibit A.29 and A.29.a) is 13,100 square feet. Table 1 of Exhibit A.29.a lists the areas with water resource area impacts and the amount of mitigation area proposed to off-set the impact. Unfortunately, the proposed mitigation areas do not cover the legalization of the 820 square foot barn, 1,200 square foot patio cover (if authorized), additional ground disturbance of fill adjacent to or in the wetlands, and the 500 square feet for two soakage trenches. Staff calculates the minimum area to be mitigated for is approximately 15,600 square feet. For the creation of on-site natural resource areas, the amount of mitigation would need to be 23,400 square feet. Staff believes that it was the applicant's intent to restore the water resource area and due 1:1 on-site restoration. No off-site mitigation is proposed.

The consultant determined that the wetland area is in marginal condition. The creek channel and riparian areas were determined to be degraded (Exhibit A.29.a, page 2) by Pacific Habitat Services, Inc. The mitigation plan proposes to do the restoration work on the western edge of the wetlands with no mitigation work occurring along the degraded stream channel or where the non-permitted gravel parking lot (and adjacent ground disturbance) encroaches into wetlands. Pursuant to d. above, the restoration work needs to be completed adjacent to the stream channel where there is invasive reed canary grass and work outwards to achieve the required 15,600 square feet of mitigation area. In addition, the invasive reed canary grass is not proposed to be removed as required by Table 2 below. After the work is complete the degraded and marginal areas will need to be restored to a good condition. As there are significant degraded and marginal areas within the water resource area, the proposed mitigation plan does not comply with the approval criteria. *The mitigation plan needs to be redrafted to restore the areas closest to the stream channel first and then work outwards to achieve the square footage required.*

Hearings Officer: I concur with the staff finding. The mitigation plan needs to be

redrafted to restore the areas closest to the stream channel first and then work outwards to achieve the square footage required.

9.25 f. Compensation shall be completed prior to initiation of development where possible.

Staff: Since the LBCN facility is already operating and fully utilizing the site for daily activities, the timeline will need to be modified so that the work is completed in a set time period and before allowing the expansion to the community hall. *Normally, staff would recommend that conditions be completed at various phases of development, but since a majority of the work has already been completed and the site is currently being used for daily activities, planning staff suggests that the hearings officer adopt an alternative timeline for the restoration work as a condition of approval.*

9.26 g. In order to ensure that on-site mitigation areas are established and maintained, the property owner shall record the mitigation plan approval in the deed records of Multnomah County. In order to ensure that off-site mitigation areas will be protected in perpetuity, the owner shall cause a deed restriction to be placed on the property where the mitigation is required. The deed restriction shall be irrevocable unless a statement of release is signed by an authorized representative of Multnomah County.

Staff: Once the mitigation plan is approved, a condition of approval can be included by the hearings officer to ensure compliance with g. *Through a conditioned, this criterion can be met.*

9.27 3. Mitigation Plan Standards - Natural resource mitigation plans shall contain the following information:

- a. A description of adverse impacts that could be caused as a result of development.**
- b. An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated.**
- c. A list of all responsible parties including, but not limited to, the owner, applicant, contractor or other persons responsible for work on the development site.**
- d. A map drawn to scale, showing where the specific mitigation activities will occur.**
- e. An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. All in-stream work in fish-bearing streams must be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule.**

Staff: The proposed mitigation plan does not discuss how the adverse impact to the wetlands and the alternative analysis area will be mitigated. The plan indicates that the small finger of gravel in the wetlands will be removed, but no restoration of that area to "good condition" is proposed. The implementation schedule only indicates a general "spring" timeline and does not actually include any specific completion dates (months or years). Mitigation monitoring is only for one year by the biologist. After that year, it will be up to the property owners to decide if maintenance is necessary". No reporting has been indicated. No evidence has been provided that the property owners will be able to determine if the mitigation work is thriving or if it needs to be

replaced. Typically, mitigation plans discuss timelines for ground disturbance, steps needed to prepare the area, planting times, a three to five year monitoring and reporting period and a contingency plan if the mitigation fails. *Additional information is needed to find that the mitigation plan meets the required standards.*

Hearings Officer: I concur with the staff finding. Additional information is needed to find that the mitigation plan meets the required standards.

9.28

Table 2
Riparian/Vegetated Corridor Standards

Existing Riparian/Vegetated Corridor Condition	Requirements of Riparian/Vegetated Corridor Protection, Enhancement, and/or Mitigation
<i>Good Corridor</i>	
<p>Combination of native trees, shrubs, and groundcover covering greater than 80% of the area</p> <p>and</p> <p>Greater than 50% tree canopy exists (aerial measure)</p>	<p>Provide certification, pursuant to the procedures provided by the Planning Director, by a professional ecologist/biologist that the riparian/vegetated corridor meets condition criteria.</p> <p>Remove any invasive non-native or nuisance species and debris and noxious materials within the corridor by hand.</p> <p>Provide the County with a native plant revegetation plan appropriate to the site conditions developed by an ecologist /biologist or landscape architect to restore condition and mitigate any habitat or water quality impacts related to development.</p> <p>Revegetate impacted area per approved plan to reestablish “good” corridor conditions</p>
<i>Marginal Corridor</i>	
<p>Combination of native trees, shrubs, and groundcovers covering 50% - 80% of the area</p> <p>and/or</p> <p>26-50% tree canopy exists (aerial measure)</p> <p>(Restoration up to “good” corridor required)</p>	<p>Provide certification, pursuant to the procedures provided by the Planning Director, by a professional ecologist/biologist that the riparian/vegetated corridor meets condition criteria.</p> <p>Remove any invasive non-native or nuisance species and debris and noxious materials within the corridor by hand or mechanically with small</p>

	<p>equipment, as appropriate to minimize damage to existing native vegetation.</p> <p>Provide County with a native plant revegetation plan appropriate to the site conditions developed by an ecologist/biologist or landscape architect to restore to a good corridor condition.</p> <p>Vegetate corridor to establish “good” corridor conditions</p>
Degraded Corridor	
<p>Combination of native trees, shrubs, and groundcovers covering is less than 50% of the area</p> <p>and/or</p> <p>Less than 25% tree canopy exists (aerial measure)</p> <p>and/or</p> <p>Greater than 10% of the area is covered by invasive, non-native species</p> <p>(Restoration up to “good” corridor required)</p>	<p>Provide certification, pursuant to the procedures provided by the Planning Director, by a professional ecologist/biologist that the riparian/vegetated corridor meets condition criteria.</p> <p>Remove any invasive non-native or nuisance species and debris and noxious materials within the corridor by hand or mechanically as appropriate.</p> <p>Provide County with a native plant revegetation plan appropriate to the site conditions developed by an ecologist/biologist or landscape architect to restore to a good corridor condition.</p> <p>Vegetate corridor to establish “good” corridor conditions</p>

10.00 Transportation Criteria

10.01 MCRR 4.000 Access to County Roads

MCRR 4.100 Required Information: Applicants for a new or reconfigured access onto a road under County Jurisdiction may be required to provide all of the following:

- A. Site Plan;
- B. Traffic Study-completed by a registered traffic engineer;
- C. Access Analysis-completed by a registered traffic engineer;
- D. Sight Distance Certification from a registered traffic engineer; and

E. Other site-specific information requested by the County Engineer

MCRR 4.200 *Number*: Reducing the number of existing and proposed access points on Arterials and Collectors and improving traffic flow and safety on all County roads will be the primary consideration when reviewing access proposals for approval. One driveway access per property will be the standard for approval. Double frontage lots will be limited to access from the lower classification street. Shared access may be required in situations where spacing standards cannot be met or where there is a benefit to the transportation system.

Staff: The subject project will be served by one driveway. A second non-permitted driveway access point onto Foster Road had been constructed, but is in the process of being abandoned. A condition has been placed to guarantee a single access.

10.02 MCRR 4.300 *Location*: All new access points shall be located so as to meet the access spacing standards laid out in the Design and Construction Manual.

Staff: For a road classified as a *Rural Arterial*, the spacing standard is 300 feet. The existing driveway meets the standard.

10.03 MCRR 4.400 *Width*: Driveway and Accessway widths shall conform to the dimensions laid out in the Design and Construction Manual.

Staff: For a *Community Service* use, a new or reconfigured driveway must be 20 to 35 feet wide. The new driveway will be 20 feet wide.

10.04 MCRR 4.500 *Sight Distance*: All new access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the Design and Construction Manual and AASHTO's *A Policy on Geometric Design of Highways and Streets*.

Staff: Multnomah County Road Rules Section 4.500 states that access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the County Design and Construction Manual or AASHTO's *A Policy on Geometric Design of Highway and Streets*. County has reviewed the conditions of the site and finds no issues with sight distance for the driveway at the proposed location.

10.05 MCRR 5.000 Transportation Impact

MCRR 5.100 To determine if a Transportation Impact is caused by a proposed development, the County Engineer will determine the number of new trips generated by a site by one of the following methods:

A. Calculations from the most recent edition of the Institute of Transportation Engineers' Trip Generation (ITE); or

B. A site development transportation impact study conducted by a professional engineer registered in the State of Oregon and accepted by the County.

MCRR 5.200 The County Engineer will use the information obtained pursuant to sub-section 5.100 and/or the frontage length of the subject property to determine the pro-rata share of the requirements set forth in Section 6.000.

MCRR 5.300 Except where special circumstances require the County Engineer to make an alternate determination, any new construction or alteration which will increase the number of trips generated by a site by more than 20 percent, by

more than 100 trips per day or by more than 10 trips in the peak hour shall be found to have a *Transportation Impact*. A minimum increase of 10 new trips per day is required to find a transportation impact.

Staff: The Multnomah County Road Rules defines a Transportation Impact as the affect of any new construction or alteration which will increase the number of trips generated by a site by more than 20 percent, by more than 100 trips per day or by more than 10 trips in the peak hour [MCRR 3.000]. A minimum increase of 10 new trips per day is required to find a transportation impact.

The applicant has submitted a trip generation summary dated August 2, 2013 prepared by Lancaster Engineering. Summary finds that total weekday trips generated will be 16 and special events can range from 21 to 68 per hour. Therefore, a transportation impact will be caused by the proposed development since trips generated by the site will be increased.

The Trip Generation Summary indicated that daily trips will be low but special events have the potential to create impacts and exhaust onsite parking capacity. Per the submitted Summary, to address overflow parking concerns an agreement is in place with the nearby Pleasant Valley Elementary School to accommodate overflow parking. The applicant recognizes there are no pedestrian facilities on this section of Foster rd. and so will be providing shuttle services when this overflow parking is utilized to keep visitors safe. The county concurs with the submitted information and a condition has been placed to guarantee that shuttle service is provided for these operations.

MCRR 6.000 Improvement Requirements

MCRR 6.100 Site Development: The owner of the site or the applicant for a proposed development, which is found to cause a Transportation Impact will be responsible for improvements to the right-of-way as follows:

A. Dedication Requirement

The owner is responsible for a pro-rata share, as determined by the County Engineer, of right-of-way and easement dedications necessary to bring the affected, existing, created or planned public streets and other facilities within and abutting the development to the current County standard. The dedication of the required easements and right-of-way may be conditions of approval of Design Review or any other development permit related to the proposal.

Staff: The County's standard cross-section for a Rural Arterial facility includes 60 feet of right of way with 5-foot easements on each side. A 5-foot easement dedication allows the County to provide the services necessary to maintain the function of the roadway, provide adequate pedestrian facilities, and reduce the impact of utility upgrades on the traveling public while reducing right-of-way dedication requirements for property owners. No other easements are to be created overlaying this easement. *As conditioned, this standard is met.*

CONCLUSION

Based on the staff and witness testimony, the substantial evidence cited, the written staff report and the findings and other information provided above, I conclude that the applicant has carried the burden necessary for a decision that:

Approves the Community Service use of the site and buildings for the Lao Buddhist Center Northwest with conditions;

Approves the Significant Environmental Concern permit for water resources subject to modifying the mitigation plan, moving the meditation garden into the low impact area and moving other various improvements on the Master Site Plan;

Approves the Minor Variance for the Community Service side yard setback for the community hall and its expansion;

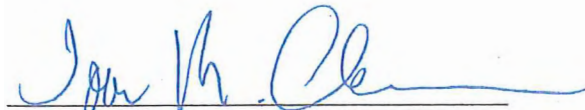
Approves Design Review subject to the applicant redesigning the ADA parking spaces pursuant to the finding in Section 6.02 and main parking area pursuant to the various findings in Section 6.00 to authorize the use of the site for the Community Service use;

Denies the Minor Exception for the Community Service side yard setback for the community hall and its expansion; and

Denies the Major Variance for the Community Service side yard setback for the patio cover.

The application is approved subject to the conditions set forth above.

IT IS SO ORDERED, this 20th day of March, 2014



Joan M. Chambers, Hearings Officer

11.00 Exhibits

'A' Applicant's Exhibits

'B' Staff Exhibits

'C' Procedural Exhibits

'H' Exhibits Submitted at Hearing

Exhibits with a "*"after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T3-2013-2861 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	2	General Application Form and Signature Letter	4.25.2013
A.2	5	Summary of Facts & Development Team, Table of Contents	4.25.2013
A.3	2	Introduction and Applicant's Proposal	4.25.2013
A.4	3	Project Background	4.25.2013
A.5	7	Proposed Site Plan Narrative	4.25.2013
A.6	1	Aerial Photo	4.25.2013
A.7	1	Topographic Survey	4.25.2013
A.8	1	Master Site Plan	4.25.2013
A.9	1	Community Hall Floor Plan	4.25.2013
A.10	1	Fire Access Plan	4.25.2013
A.11	1	EMS Proposed Site Plan	4.25.2013
A.12	26	Consistency with MCC Requirements	4.25.2013
A.13	1	Conclusion	4.25.2013
A.14	1	Appendix Cover Sheet	4.25.2013
A.15	1	Assessor Map	4.25.2013
A.16	18	Site and Building Photos	4.25.2013
A.17	23	SEC – Water Resource Report – Prepared by Environmental Management Systems, Inc.	4.25.2013
A.18	24	Chain of Title Documentation	4.25.2013
A.19	8	Stormwater and Fire Protection Report – Prepared by All County Surveyors & Planners, Inc. Dated December 27, 2012	4.25.2013
A.20	2	Geotechnical Consultation Letter – Prepared by Redmond Geotechnical Services, Dated December 7, 2012	4.25.2013

A.21		Service Provider Letters a. Certification of Water Service – 1 pg b. Fire Service Agency Review – 22 pgs c. Police Services Review – 1pg d. School District Review – 1 pg	4.25.2013
A.22	6	Memo to Multnomah County from Stiven Planning and Development Services, LLC, Dated April 3, 2013	4.25.2013
A.23	6	Petitions by Property Owners for Minor Exception and Major Variance	4.25.2013
A.24	3	Email Correspondence from K. Cook to M. Stiven, Dated October 23, 2012	4.25.2013
A.24.1	3	Transportation Analysis dated August 2, 2013	8.21.2013
A.25	6	Cover Letter for Submittal of Additional Materials	10.22.2013
A.26	1	Table One – LBCN Calendar of Events and Attendance 2012 and 2013	10.22.2013
A.27	1	List of Exhibits Cover Page	10.22.2013
A.28	2	Revised Master Site Plan dated October 18, 2013 – Exhibit 1	10.22.2013
A.29	6	Revised Mitigation Plan dated October 17, 2013 Sheet A – Exhibit 2 a. Narrative dated October 17, 2013	10.22.2013
A.30	11	On-Site Sewage Disposal Certificate – Exhibit 3	10.22.2013
A.31	5	Transportation Analysis – Exhibit 4	10.22.2013
A.32	4	Floor Plan and Building Elevations for Building Addition – Exhibit 5 a. Community Hall Floor Plan dated 7/17/2013 - Sheet A1.1 b. Community Hall East and South Elevation - Sheet A2.1 dated 7/17/2013 c. Community Hall West Elevation dated 7/17/2013 - Sheet A2.2	10.22.2013
A.33	2	Letter from Engineer Vannarath regarding Statutory Exemption of Water Use for proposed Center dated 9/17/2013 – Exhibit 6	10.22.2013
A.34	1	Stay on the Clock for 30 days	11.15.2013
A.35	1	Letter of Support from Pleasant Valley Neighborhood Association dated January 8, 2014	1.09.2014
A.36	4	Letter from Stiven Planning and Development Services regarding Clarification Issues for the application	1.13.2014

A.37	1	Enlarged ADA Parking Detail	1.21.2014
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information for 1S3E19DC - 00600	4.25.2013
B.2	1	A&T Tax Map for 1S3E19dd	12.19.2013
B.3	1	2010 Air Photo	
B.4	1	2012 Air Photo with Impervious Areas needing Stormwater Review and Handling	
B.5	1	Exhibit A.29 with Planning Staff added Low Impact and Alternative Analysis Zones on it	1.16.2014
B.6	1	Nuisance Plant List	
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete Letter	5.23.2013
C.2	1	Applicant's Acceptance of 180 Day Clock	6.07.2013
C.3	1	Complete Letter (Day 1- October 22,2013)	11.14.2013
C.4	3	Hearing Notice	1.23.2013
C.5		Staff Report	2.3.2014
'H'	#	HEARING SUBMITTALS	Date
H.1	1	Master Site Plan	2/14/14
H.2	2	Fire e-mails	2/14/14
H.3	8	Applicant Response to Final Staff Report	2/14/14
H.4	1	SEC Buffer Impacts and Mitigation Plan	2/14/14
H.5	4	Proposed Modification of Approval	2/14/14
H.6	1	Overflow Form	2/14/14
H.7	1	Hearings Officer Meeting Sign-In Sheet	2/14/14