

November 6, 2014

Land Conservation and Development Commission
Attn: Amie Abbott
635 Capitol St. NE, Ste. 150
Salem, Oregon 97301

RE: Young Life Comments on October 31 Staff Report from DLCD on Youth Camp Rulemaking

Dear Commissioners:

Young Life has the following comments on the October 31, 2014 Staff Report and the Proposed Rule submitted to the Commission by Jim Rue and Jon Jinings for your consideration as Agenda Item 12 during your November 13-14 LCDC Meeting.

Young Life feels strongly that it is time to reach closure on this rulemaking. Young Life appreciates the work that DLCD and the RAC have done to reach this point, and supports what was proposed to you with a few changes as discussed below. We believe that all but one of our requested changes involves either noncontroversial alternative language to meet the intent of the current language, or changes to improve clarity and consistency. In the interest of obtaining closure, Young Life has chosen to no longer request some changes it has fought hard for in the past, such as the explicit inclusion of a narrowly defined go-kart track as an allowed activity.

Young Life supports the proposed form of the Rule subject to the following changes:

1. **Young Life's Most Important Issue:** Extension of Sewer – use “shall” instead of “may.” (Section (40)(I) [starts on Page 7, Line 35]): The biggest change Young Life would like you to make relates to the language in Section (40)(I) of the Rule concerning obtaining an exception to Goal 11 to extend an existing sewer system to serve a future youth camp, and whether the Rule says that a county “may” or “shall” grant the exception if a narrowly defined set of facts exist. This is an issue that is of critical importance to Young Life, which wants to be able to take advantage of the existing sewer system to support other camps. The use of the existing system had strong support from the RAC members. In this unique situation, where the existing system is the only system that could qualify for this exception, and where we believe there is a general consensus that such an extension would be good and should be allowed, we believe the Rule should mandate that the county find the exception criteria satisfied, rather than allow discretion that opens the door to uncertainty and possible legal challenge.
2. **Important Substantive Clarifications.**
 - a. Timing of recording a restrictive covenant. (Section (40)(d); Page 3, Line 29): Language first added in the version of the Rule accompanying the Staff Report requires an applicant for an increased number of overnight youth camp

participants to record a restrictive covenant “prior to the county granting final approval” of the increased number. Young Life believes it is not reasonable to require the recording of such a document before approval is granted and without knowing if approval will be granted, because there is no mechanism to remove the restrictive covenant if the proposal were not ultimately approved. We believe the need to assure that the restrictive covenant is recorded after approval should be handled in the same way a similar restriction is handled in Section (40)(h)(E) [Page 6, Line 25], by requiring such recording as a condition of approval of the youth camp. We suggest the language in Section (40)(d) be revised to read as follows:

“The county shall require, as a condition of approval of an increased number of overnight youth camp participants authorized by paragraphs (c)(A), (B), (C) or (D) of this section requiring other lands to be permanently protected from development, that the land owner of the other lands required to be protected sign and record in the deed records for the county or counties where such other lands are located a document that protects the lands as provided herein, which document for the purposes of this section shall be referred to as a restrictive covenant.”

- b. Map of property subject to restrictive covenant. (Section (40)(d)(E); Page 4, Line 11): The language in this Section refers to a “...map or other record depicting tracts do not qualify [sic] for the siting of a dwelling under the restrictive covenant...” Young Life believes this language should be modified to only refer to those portions of tracts that are subject to a restrictive covenant (to not suggest that all of the tracts or all portions of the tracts are subject to such restrictions) and that the reference to siting of a dwelling may have been intended to refer to development prohibited by the restrictive covenant.
- c. Declaration of Restrictive Covenant. (Exhibit attached to Rule): Young Life believes that the language on Page 2 of the Draft Declaration of Restrictive Covenant addressing the Grantor (landowner) accompanying the Grantee and DLCD on any inspections should more fully define how this will happen. We suggest the following (additions underlined):

“The Grantee and DLCD may, with 72-hours’ prior written notice, enter the Property for the purpose of inspection and enforcement of the terms, conditions and restrictions of this Restrictive Covenant.
For every such entry the Grantee and DLCD shall: (i) make

diligent efforts to coordinate the entry with the Grantor so that the Grantor has a reasonable opportunity to accompany those entering the Property, and (ii) abide by reasonable requests by the Grantor with regard to safety, security, and appropriate routes when on the Property. Nothing in this Restrictive Covenant may be construed to convey a public right of access or use of the Property, and the Grantor retains the exclusive right to such access and use, subject only to the provisions of this Restrictive Covenant.”

3. Minor Language Corrections and Improvements.

- a. Use of the phrase “lawfully established unit of land.” (Various locations): Young Life finds acceptable DLCD’s rephrasing of several references to “site” instead of defining the word “site.” We note, however, that HB 3098 and most of the references are to “lawfully established unit of land” but that some of the current changes refer to “lawfully created unit of land.” We think the phrase “lawfully established unit of land” should be used throughout. We think that phrase should also replace the term “subject property” on Page 6, Line 36 and that the phrase “youth camp property” on Page 5, Line 15 should be replaced with the phrase “lawfully established unit of land on which the youth camp is located.”
- b. Reference to “deed restriction or conservation easement.” (Section (40)(d)(C); Page 4, Lines 2-3): This reference has been replaced elsewhere with the term “restrictive covenant,” and should be replaced here also.
- c. Omitted Words. (Section (40)(d); Page 3, Line 33): Several words appear to have been omitted in the middle of the line. We believe the language should read “...where the property subject to the restrictive covenant is located...” (addition underlined).
- d. Corrected Word. (Section (40)(h)(E)(ii); Page 6, Line 34): Replace the word “that” with the word ”than.”

Thank you for your consideration.



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