



COUNTY COMMISSIONERS

John Hutchings
District One

Gary Edwards
District Two

Tye Menser
District Three

HEARING EXAMINER

Creating Solutions for Our Future

**BEFORE THE HEARING EXAMINER
FOR THURSTON COUNTY**

In the Matter of the Application of)	NO. 2019100401
)	
YWAM, Faith Harvest Helpers)	
)	Order Reopening Record
For a Reasonable Use Exception)	After BOCC Remand
_____)	

Following a May 26, 2020 virtual open record public hearing, the Thurston County Hearing Examiner denied the above-captioned RUE on June 17, 2020. Applicant Faith Harvest Helpers (FHH) appealed the Examiner's decision to the Board of Thurston County Commissioners. On September 22, 2020, the County Commissioners remanded the matter to the Examiner for additional findings and conclusions addressing two specific findings in the decision and three questions put the Examiner by the Commissioners in the Remand Order.

First, the Remand determined that Finding of Fact 27 was ambiguous as to whether or not the subject property is within the designated Thurston County Agritourism Overlay District (AOD). Second, the Remand determined that Finding 17 does not state whether the structures for which the RUE was requested are/have been used for agricultural purposes. Then the Board requested additional findings of fact and conclusions of law addressing the following three questions:

- 1) Is the subject property within the Agritourism Overlay District (AOD), Chapter 20.08.G?
- 2) If the subject property is within the AOD, does TCC Chapter 20.08 exempt the requested structures from compliance with either the general critical areas ordinance at TCC Title 24 or the agricultural activities critical areas ordinance at TCC Chapter 17.15?
- 3) Based on the findings and conclusions entered in response to the questions above, are the requested structures exempt from the critical areas ordinance, and if not has the Applicant satisfied the criteria for RUE?

Whether the subject property is inside the AOD is a matter of fact in the possession of the County, rather than being a legal determination properly made by the Examiner. Also, in

concluding whether the property's location requires demonstration of compliance with TCC Title 24, or TCC Chapter 17.15, or exempts the requested structures from review under either critical areas ordinance is a matter on which the County's Hearing Examiner requires the benefit of a recommendation by the Planning Department.

In order to make less ambiguous findings on the matters addressed in Findings 17 and 27 of the original decision, and to render the conclusions required to answer the questions posed by the Board on Remand, the County's Hearing Examiner needs additional evidence to be submitted.

Pursuant to the authority in Hearing Examiner Rules of Procedure Rules 7.5(a), 7.6(f), and 7.6(g), the record in this matter is reopened for the submission of the evidence identified in the Order below.

ORDER

- 1) Staff from the Community Planning and Economic Development Department shall submit the following not later than October 21, 2020:
 - a. Mapping and/or aerial photography with annotations clearly showing the perimeter of the Agritourism Overlay District as formally adopted by the County, that also clearly depicts the location of the subject property in relation to the perimeter of the AOD; and
 - b. A written memorandum addressing the following questions:
 - i. If such mapping or photography cannot be provided, the Community Planning and Economic Development Department (CPED) is requested to submit a detailed written explanation of why it cannot be clearly demonstrated one way or the other; and
 - ii. If such mapping/photography is provided and shows the subject property is within the AOD, the official position of CPED as to whether the requested RUE is subject to TCC Chapter 17.15 instead of TCC Title 24; and
 - iii. If subject to TCC Chapter 17.15, whether approval of the requested RUE is required or not; and
 - iv. If subject to TCC Title 24, whether CPED recommends approval or denial of the RUE based on the record presented at the May 26, 2020 hearing.
- 2) The Applicant shall have until October 28, 2020 to submit a written memorandum responding to the County's submittal in answer to item 1 above. No additional evidence is requested from the Applicant. The Applicant has already submitted evidence and argument addressing the questions raised in the Remand Order; this opportunity to comment is afforded to the Applicant as the party with the burden of proof in *response* to the *new* evidence submitted by the County as a result of this Order. However, if the Applicant has other evidence addressing the question of whether the property is inside or outside the AOD, they may submit it, and if it is found to be reasonably credible and relevant, it will be admitted.

- 3) There will be no additional public comment on the application.
- 4) If the above schedule is met, the record will close on October 28, 2020, and the decision will issue five business days later on November 4, 2020.
- 5) If either party requires an extension of the above schedule, they shall communicate the request via the Hearing Clerk with a proposed revised schedule at their earliest opportunity.
- 6) All submittals in response to this order shall be submitted via email **as attached Word documents, .pdfs, .jpegs, or other attachments to email** sent to the hearing clerk Sonja Cady at

sonja.cady@co.thurston.wa.us

All admitted submittals will be added to the record and addressed in the Examiner's Decision on Remand from the Board. (Should any submittals be rejected, the Decision on Remand will state the basis for exclusion.)

- 7) Questions seeking to clarify this order may be submitted via the Hearing Clerk. Any such questions will be answered via email through the Hearing Clerk, cc'd to the other party.

Ordered September 29, 2020 by



Sharon A. Rice
Thurston County Hearing Examiner