



March 6, 2018

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VIA EMAIL

Ms. Anna Slatinsky
Planning Division Manager
City of Beaverton
Community Development Department
P.O. Box 4755,
Beaverton, OR 97076

RE: Public comments received concerning Oregon Beverage Recycling Cooperative's
Request for a Type II Director's Interpretation (City File No. DI2017-0003)

Dear Ms. Slatinsky:

This office represents Oregon Beverage Recycling Center ("OBRC") in its request (the "Application") for a similar use determination pursuant to Beaverton Development Code ("BDC") sections 40.25.15 and 10.50, which if approved would constitute the City's finding that OBRC's Beverage Container Redemption Center ("BCRC") is similar to other uses permitted in the Community Service ("CS") zone. This letter is respectfully submitted in response to written public comments received during the open record for this Type 2 review.

1. Summary

A number of arguments have been raised by members of the public in opposition to the BCRC. Most of these follow two general themes. The first theme includes arguments that the BCRC is more like an industrial use than the uses allowed in the CS zone. As explained in detail below, a bottle redemption facility is nothing like an industrial use because it serves the end users of retail products and generates mostly single-occupancy vehicle trips that would conflict with industrial traffic. The redemption center concept is also intended by the legislature to be located near beverage retailers pursuant to ORS 459A.735-740 and is therefore appropriate in the CS zone. Furthermore, the function of the BCRC is no different than the recycling activities conducted by beverage retailers themselves and does not involve any actual processing of recyclables, which are simply collected, packaged, and moved off-site for processing.

The second theme includes assertions that the homeless, drug users, and petty criminals congregate near the BCRC. These problems are lamentable but they are certainly not *caused* by the BCRC. Rather, they are societal and require a City-wide approach. They will not be cured in any way by a finding that the BCRC is not similar to other uses in the CS zone.

2. Response to Arguments Raised by E. Michael Connors, Michael G. Neff, and Dr. Robert T. Franklin.

Glenwood 2006 LLC and Jesuit High School raised a number of arguments through their respective attorneys. Mr. Connors' and Mr. Neff's arguments are summarized below and each is followed by OBRC's response. Glenwood and Jesuit's comments generally argue that (1) the BCRC is an industrial use and (2), that BCRC's operations attract homelessness in its vicinity. On the contrary, the Director can find that the BCRC is not an industrial use and that homelessness is a City-wide problem that is not caused by BCRC and requires a City-wide solution. Finally, arguments raised by Dr. Robert T. Franklin of the Oregon Specialty Veterinary Hospital are also addressed.

(a) Letter from Mr. E. Michael Connors on behalf of Glenwood 2006, LLC (February 7, 2018).

(i) The BCRC is industrial in nature and is more appropriate in an industrial zone.

RESPONSE: The Director can reject this argument for three reasons.

First, the legislative history underpinning of the beverage container redemption center program demonstrates that redemption centers are intended to make it easier for people to recycle and thereby increase the rate of bottle returns, not make people drive far afield of retailers to return their bottles and cans.

The redemption center concept was first conceived in 2011 as a pilot project. HB 3145 (2011) (Enrolled). It established "convenience zones" to ensure that redemption centers would be convenient for retail customers. The current version of the statute, ORS 459A.735–740 made the 2011 pilot project permanent. In it, the legislature included several statements supporting the notion that redemption centers, such as the BCRC, are supposed to be located close to retailers. Take, for example, the following excerpts:

- "To facilitate the return of empty beverage containers and to serve dealers of beverages, any person may establish a redemption center, subject to the approval of the Oregon Liquor Control Commission, at which any person may return empty beverage containers and receive payment of the refund value of such beverage containers." ORS 459A.735(1).
- "The commission shall approve a redemption center if it finds the redemption center will provide a convenient service to persons for the return of empty beverage containers." ORS 459A.735(3).
- "For each beverage container redemption center, the Oregon Liquor Control Commission shall specify up to two convenience zones. The first convenience zone shall be the sector within a radius of not more than two

miles around the beverage container redemption center. The second convenience zone shall be the sector beginning at the border of the first convenience zone and continuing to a radius of not more than three and one-half miles around the beverage container redemption center. The convenience zones shall be based to the greatest extent practicable upon the proposals submitted as part of the application for approval of the redemption center under ORS 459A.735.” ORS 459A.738(1).

These excerpts demonstrate that the objective of a redemption center is to (1) make it convenient for people to return beverage containers, and (2) ensure the highest number of participating dealers by locating the redemption center within close proximity to those dealers. None of this legislative history suggests that redemption centers are industrial uses or that they should be located in industrial zones, far away from the bottle dealers and customers that the redemption centers are intended to serve.

Second, the BCRC provides a service to the end users of a retail product, employs relatively few people, and the traffic generated is primarily from single-occupancy vehicle instead of truck traffic. These characteristics are very unlike those of industrial uses and would conflict with industrial uses.

Finally, the function of the BCRC is the same as the bottle redemption facilities of grocery stores, which have long been common in most commercial zones. Containers are collected, packaged, and sent off site. As explained in the Application, they are not processed in the way that recyclables are in larger solid waste facilities.

(ii) BCRC is the first ever stand-alone beverage container redemption facility in the City of Beaverton that receives, processes, stores, and transports over 30 million containers per year.

RESPONSE: The Director can reject this argument because the number of containers that flow through the redemption centers does not demonstrate that the bottle drop is an industrial use any more than the sales volume of beverages indicates that beverage dealers are industrial uses. The intent of the redemption center is to accept the containers that would otherwise be returned to retailers, for which a bottle return is part of such retail use. Moving those bottle returns into a single facility does not convert them from a retail/service use into an industrial use.

(iii) The Director may not approve a use as a “similar use” if the proposed use already qualifies as a use elsewhere in the BDC, and such use is prohibited/restricted in the underlying zone.

RESPONSE: The Director can reject this argument for two reasons. First, a redemption center is not a defined use and is not clearly permitted in other zones. Second, a redemption center is not prohibited in the CS zone. In fact, bottle returns have for decades been a part of grocery stores, which are permitted in the CS zone.

(iv) Applicant’s contention that the BCRC is similar to a “Service Business or Professional Services” (which is allowed in the CS zone) use is misguided because it has very little in common with specific examples of service businesses in the BDC: “small dental and medical offices, real estate, insurance, administrative facilities, personal care, business; professional, and similar services”.

RESPONSE: The director can reject this argument for a number of reasons.

First, while the Director can find that the BCRC is a “service business or professional services use” for the reasons explained in the Application, that is not the only basis upon which the Director can find the BCRC is similar to other uses in the CS zone. The CS zone allows far more than “small dental and medical offices, real estate, insurance, administrative facilities, personal care, business; professional, and similar services.” Critically, this includes “retail trade,” which can include even very large retail uses such as grocery stores and department stores. As explained above, the BCRC provides a service that has commonly been provided by retailers permitted in the CS zone.

Second, the purpose statement for the CS zone focuses on the neighborhood scale of uses rather than the *types* of uses: “the CS District is intended to provide for a variety of business types compatible with and of similar scale to commercial activities found principally along the City’s major streets.” BDC 20.10.10. Simply stated, this provision means that the CS zone encapsulates the urban forms that are typically on Beaverton’s main streets, which include a variety of small and medium-sized retail, service, and other commercial uses. The BCRC utilizes an existing building that is compatible with and similar to other buildings on Beaverton Hillsdale Highway. It consists of less than 9,800 square feet on less than an acre. By comparison, the abutting building to the west consists of nearly 16,000 square feet. Thus, the scale of the BCRC is very similar to surrounding businesses.

Finally, the Oregon legislature did not intend bottle drops to be sequestered away from retail uses in industrial areas, as explained above.

(v) Customers go to the BCRC to redeem or dispose of a product, not to use the services of a trained professional;

RESPONSE: For the reasons stated in the Application, the Director can find that the BCRC provides a commercial service that involves professional staff, similar to other commercial uses in the CS zone. However, there is absolutely nothing in the BDC which suggests that seeking the services of a “trained professional” is necessary for a determination that the BCRC qualifies as a “similar use” in the CS zone. Furthermore, as explained above, the Director can also find that the BCRC is similar to uses in the CS zone other than “service business or professional services.”

(vi) The BCRC fails the “substantially similar” requirement under BDC 10.50.

RESPONSE: This argument misquotes BDC 10.50, which provides as follows:

“The Director may authorize that a use, not specifically named in the allowed uses, be permitted if the use is of the same general type and is similar to the allowed uses; provided, however, that the Director may not permit a use already allowed in any other zoning district of this Code.”

To find that the BCRC is a “similar use,” the Director need only find that the BCRC is “of the same general type” and is “similar” to allowed uses, not that the BCRC is “substantially similar” to allowed uses. For the reasons stated in the Application and this letter, the Director can find that the BCRC meets these requirements and is therefore permissible in the CS zone.

(vii) The BCRC meets the plain language and industry definitions of a “Recycling Center,” and therefore should not be considered a “Service Business or Professional Service” use.

RESPONSE: The Director can reject this argument for several reasons. First, a beverage container redemption center is a statutory concept and the legislature defined it as a “redemption center.” As such, the BCRC operates under an OLCC license specific to *redemption centers*, for which the Applicant must provide a land use compatibility statement (LUCS)—which the City issued in this instance. The LUCS does not require the City to find that a “recycling center” is permissible, it requires the City to determine whether a “beverage container redemption center” is permissible.

Second, the BCRC is nothing like a “recycling center.” It is conducted entirely indoors, is largely automated, and is intended to function as a supporting service to nearby beverage dealers. For contrasting examples, the Tualatin Valley Waste Recovery facility and the Metro South Transfer Station both include large warehouses, outdoor vehicle circulation areas, and are much larger than the BCRC. See **Exhibits 1 and 2**. Moreover, there is no waste processing actually going on at the BCRC – containers are simply compacted for shipment to recycling facilities for actual processing. The Director can find that the BCRC is a “beverage container redemption center,” not a “recycling center.”

(viii) The City should consider the definitions of Metro in determining how the industry defines a “Recycling drop center”: a “facility that receives or temporarily stores multiple source-separated recyclable materials, including but not limited to glass, scrap paper, corrugated paper, newspaper, tin cans, aluminum, plastic and oil, which materials will be transported or sold to third parties for reuse or resale.”

(ix) The BCRC also meets the Washington County Code definition of a “Recycling Center”: “[A]ny portion of a lot...used for the purpose of...sorting, handling, processing...materials that cannot, without further

reconditioning, be used for their original purposes, including such materials as glass, paper, plastic and aluminum.”

(x) The correct way to determine whether “Salvage Yards” and “Solid Waste Transfer Stations” are similar to BCRCs should be based on operating characteristics, not whether they are subject to the same laws.

RESPONSE: The Director should reject these arguments for three reasons.

First, the Metro definitions of “recycling drop center” and “solid waste transfer center,” and Washington County’s definition of “recycling center”¹ do not bind the City and are irrelevant to a determination of whether the BCRC is similar to other uses permitted in the CS zone.

Second, Metro’s definitions are not zoning or land use definitions and apply only for the purpose of regulating the disposal of solid waste disposal sites and solid waste facilities under Chapter 5 of the Metro Code. They do not apply to bottle redemption centers, which are expressly regulated by the OLCC and indeed, Chapter 5 does not address beverage container redemption in any way.

Third, the BCRC does not function like a recycling center, recycling drop center, or solid waste transfer center, as explained on pages 9-11 of the Application. **Exhibit 3.** For the reasons discussed throughout the Application and this letter, the Director can find that a bottle redemption center is different than a transfer center, recycling center, and recycling drop center, none of which were intended by the legislature to be located in close proximity to the retailers generating the waste.

(xi) OBRC’s attempt to distinguish the BCRC from a “Recycling Center” is seriously flawed because, among other things, it plays down the size and intensity of its operation and incorrectly argues that it will not generate adverse impacts to surrounding property owners.

RESPONSE: The Director can reject this argument because the application before the City is for a “similar use” determination, and not a conditional use application in which the impacts of a specific facility are at issue. The impacts that Mr. Connors suggests are at issue—namely, the problems of homelessness, vagrancy, and petty crime—are not only *not* inherent in the activity of a bottle return, they are not the types of issues that Beaverton’s conditional use process is intended to consider. Rather, the purpose of conditional use review in the City is to “review uses that may be compatible in the underlying zoning district but because of their size, operation, or other characteristics require review on a case by case basis.” BDC 40.15.05. Societal issues,

¹ Washington County’s definition of recycling center could only apply to a facility or service within the City of Beaverton if that facility or service had a franchise agreement with the County, which OBRC does not because it operates through a license from the OLCC.

such as the behavior of individuals off of OBRC's property, are not "characteristics" of a bottle redemption center use, nor are they inherent to the size or operation of the BCRC.

Finally, OBRC did not "play down the size and intensity of its operation"; on the contrary, OBRC fully explained its use in the Application.

(xii) At a minimum, the BCRC requires a conditional use permit because it is operating outside the operating hour limitation applicable to facilities within 500 feet of an existing residential use.

RESPONSE: The Director can reject this argument because the OBRC complies with the hours of operation limits applying to uses permitted in the CS zone. As explained in the Application, the BCRC is open between 8:00 AM and 6:00 PM. The "drop door" is available between 7:00 AM to 10:00 PM, which complies with the use limitation between the hours of 10:00 PM and 7:00 AM.

(b) Letter from Michael G. Neff on behalf of Jesuit High School (February 7, 2018).

(i) The OBRC center has negatively impacted nearby residents, students, educators and businesses.

(ii) There have not yet been documented, school related, serious, person-on-person crime believed to be directly associated with proximity to the OBRC site, but administrators believe that students and teachers are more likely to become victims of crime than they were before OBRC started at this location.

(iii) Royal Woodlands residents also have documented a significant adverse impact to public safety and livability since May 2017: discarded needles, alcohol consumption, panhandling in McMillan Park, increase in car break-ins and theft of non-secure items.

RESPONSE: OBRC understands and is sympathetic to Jesuit's concerns. However, there is no direct evidence that any of these issues are caused by OBRC's patrons or OBRC's presence in the neighborhood. Even if people who cause such nuisances have also returned beverage containers at the bottle drop, OBRC is in no way responsible for their behavior off its premises.

The BCRC is open to everyone and the act of returning beverage containers, in and of itself, causes no nuisances nor does it attract or encourage crime. Thus, Mr. Neff's arguments address larger issues than those presented by the BCRC: homelessness, drug use, poverty, and vagrancy. These are societal problems that OBRC did nothing to create and does not encourage. They require a City-wide solution, such as those being considered by the City as part of its evolving sidewalk camping ordinance.

In fact, it is entirely likely that factors other than the BCRC influence such behavior. For example, McMillan Park itself is just as attractive to the homeless as OBRC, which provides no space or accommodation of homeless camping. In considering options to address overnight camping in City bill no. 17247, the City observed that homelessness and its attendant nuisances has increased generally over the last few years:

“Over the past several years, economic and social factors have combined to present communities with a broad range of public space disorder problems. Many cities have seen a dramatic increase in the number and size of homeless camps, as well as the number of people living on sidewalks, or in vehicles parked on streets. This issue can affect livability and residents' sense of place, resulting in demands on cities to take action. Recently, the City has seen an increase in the number of complaints of camping on city streets. These complainants report an increased number of individuals camping on city streets and express concerns about public health and sanitation, safety, and aesthetics.”

There is simply no proof that these broader societal problems, which have long been a part of life in larger cities but are now reaching Beaverton, are caused or directed by OBRC. Finally, there is no evidence that forcing the BCRC to cease operations will be a solution to these problems even as they manifest in this neighborhood. If the availability of beverage recycling facilities does draw individuals engaged in problematic behavior, moving the BCRC somewhere else will simply induce such individuals to congregate elsewhere. The alternative of having beverage containers returned to retailers is not desirable for at least two reasons: first, the legislature found that a centralized bottle return system will result in a greater recycling rate, and second, the BCRC is better equipped to monitor the activities of those using its facilities than grocery stores which have less sophisticated bottle return systems and procedures.

Finally, there are number of uses permissible within the CS zone that might appeal to people who engage petty crime and drug use, such as bars, marijuana dispensaries, and convenience stores – all of which are mostly patronized by law-abiding citizens. Depriving the CS zone of these services or the BCRC is not a rational answer to the problems identified by Mr. Neff. Rather, the real issue for Jesuit High School is not whether the BCRC or any of these other uses should be permissible in the CS zone, it's whether they should be allowed near Jesuit High School itself. The City should not make a decision on the permissibility of a certain use in a certain zone, which will apply City-wide, on the basis of suspicions that such a use might appeal to people that Jesuit would rather not have in its proximity. This is especially so here, where none of the problems identified by Mr. Neff have anything to do with bottle redemption and could not even be clearly attributed to BCRC's customers.

(iv) The OBRC center has concentrated the recycling activities of 24 large retail grocers into a single facility, making what was once diffuse very concentrated. OBRC failed to identify the possibility of such a significant, adverse impact before the city approved OBRC's development application.

RESPONSE: For the reasons above, the Director can find that the “concentration” of bottle redemption into a single facility was precisely the legislature’s intent when it created the beverage container redemption center program, that such facilities are intended to be close to beverage retailers, and that the activities within the BCRC are no different than the recycling conducted at retailers themselves.

(v) A Director’s Interpretation cannot legally be used to permit a facility like the OBRC in a “Community Service” zone because the primary use is the collection and processing of recycled materials, which use is only permitted in Industrial zones.

- a. It is common sense that the OBRC facility is a recycling center.**
- b. The facility meets Washington County’s Community Development Code definition of “recycling center”.**

RESPONSE: The Director can reject this argument because Washington County’s code does not apply in Beaverton as well as for the reasons explained in response to similar arguments raised by Mr. Connors.

(vi) BCD 10.50 expressly prohibits Director Twete from authorizing a use in Commercial zoned areas that already is authorized in the Industrial zoned areas ("the Director may not permit a use already allowed in any other zoning district of this Code."). Because the OBRC center meets the plain language definition of "recycling center," Director Twete may not authorize the OBRC center in a Commercial zoned area through a Director's Interpretation.

RESPONSE: As explained above and in the Application, the Director can find that the bottle drop is a not a “recycling center,” particularly in light of the statutory scheme underpinning the beverage container redemption program (ORS 459A.735–740), discussed above.

(vii) The OBRC should be established in an Industrial zone using the conditional use process provided in the BDC.

RESPONSE: The Director can reject this argument because the BCRC is not an industrial use and should not be located in an industrial zone. As explained above, the legislative intent of ORS 459A.735–740 is that redemption centers are intended to be located near beverage dealers, which generally means grocery and convenience stores that are not usually found in industrial zones.

Redemption centers function far more like retail or service uses than industrial uses in that they are open to the public, generate a moderate amount of primarily single-occupancy vehicle trips, are located in relatively small buildings, and do not involve any actual processing of recyclables

aside from packaging returned containers. Simply put, these activities are exactly the same as those conducted in the recycling areas of grocery stores.

In light of these aspects, redemption centers do not function at all like the uses identified in the City's industrial zone purpose statement:

“The Industrial District is intended to provide sites for manufacturing, distribution, industrial uses, and uses requiring processing, fabrication and storage, including outdoor storage areas, heavy equipment and other similar uses not compatible in an Office Industrial area.” BDC 20.15.10.3.

In fact, the orientation of redemption centers towards frequent use by consumers conflicts with the very intent of industrial zoning, as embodied in the Metro Urban Growth Functional Plan:

“Protection of Industrial Areas. (a) Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses—such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project [...]”. Metro Urban Growth Function Plan 3.07.430 (emphasis added).

As Metro's industrial protection requirement makes plain, industrial areas are primarily the province of those who work in them and are not intended for frequent visits by the end users of retail products. Forcing a redemption center to locate in such areas would not only subvert the intent of redemption centers by keeping them far from beverage dealers but also conflicts with both the City's and Metro's policies encouraging protection of industrial land from conflicting uses.

(viii) The Director's Interpretation is clearly the wrong approach to permitting the OBRC center, given its impacts on the surrounding community, schools, residents, and businesses.

RESPONSE: The Director can reject this argument because OBRC's proposal is for a similar use determination, which is a finding by the City that the use is already permissible under current zoning regulations, and not a conditional use process that is based on an analysis of the BCRC's impacts. Moreover, this process involves solicitation of public comments, which allows interested parties to be heard.

(ix) The intensity of the OBRC's collection and processing of recycling conflicts with Comprehensive Plan Policy (b) of Goal 3.9.3, which states that the City of Beaverton's industrial zoning is to "provide suitable locations for industrial and manufacturing uses that are not compatible with sensitive uses (e.g. schools, daycares, homes) ...".

RESPONSE: As explained above, the BCRC is not an industrial use and is, in fact, inconsistent with the City's industrial zone and Metro's industrial protection policies. The Director can reject this argument.

(a) Letter from Dr. Robert T. Franklin, Oregon Specialty Veterinary Hospital (February 3, 2018).

(i) There has been an increase in security-related problems since the bottle drop was opened.

(ii) Noise and trash have increased, there is glass bottles and glass shards being put in the parking lot that can't be fully cleaned.

RESPONSE: OBRC is very concerned by such behavior and is sympathetic to Mr. Franklin's concerns. Furthermore, OBRC is willing to work with the veterinary hospital to determine ways to reduce access between the two properties. However, again, there is no evidence that such activity is solely caused by OBRC's customers and moreover, these problems are societal in nature and require a City-wide approach instead of placing sole blame on the BCRC. Finally, none of these comments suggest that the BCRC is not similar to other uses permitted in the CS zone.

(iii) Since our parking lot has a cut through access we frequently have cars and trucks driving through our parking lot to get to the stoplight on 91st so they can make a left hand turn because it is so difficult to do so onto Beaverton Hillsdale Highway from the entrance and exit to the bottle drop.

RESPONSE: As the BCRC neither has a similar cut-through access nor a vehicular access to the veterinary hospital's circulation area, such problems are not caused by the BCRC. The Director can reject this argument.

(iv) The facility is processing cans and bottles which makes it a light industrial business and should not be in a commercial zone next to a high school and residential area.

RESPONSE: The Director can reject this argument for the same reasons discussed in the Applicant's response to Mr. Connors' and Mr. Neff's arguments.

3. Response to Arguments Raised by Unrepresented Parties

Several neighbors, local business owners, and other interested parties submitted objections to the BCRC. We have consolidated their arguments below and provide a response to each.

Several neighbors raised concerns regarding increased trash, drug use, and petty crime. These neighbors claim that the amount of activity generated by the BCRC, which is concentrated near residential neighborhoods, businesses, and a high school, creates a public safety concern. While OBRC is sympathetic to these concerns, the Director can find that there is no direct evidence that the BCRC caused such activities to occur. There is no evidence that the people engaging in the aforementioned activities are frequent users of the BCRC. Even if there were, OBRC does not encourage, condone, or allow such behavior, nor is able to control it. Finally, none of that behavior is related in any way to the act of returning beverage containers.

Other neighbors claim that there has been a major increase at McMillan Park of incidences of drinking, panhandling, abandoned grocery store carts, and unknown people rummaging through recycling containers. While it is true that the park is across the street from the BCRC, there is no evidence that the problems asserted by the neighbors are caused by the BCRC's customers. In fact, one of the neighbors opposing the OBRC, Mr. Skayhan, admits that there is "no direct evidence" that OBRC has caused these negative changes. Again, OBRC employs staff and attendants that monitor the behavior of its patrons when they are using the facility, but OBRC cannot control the behavior of each of its patrons when they are acting outside the BCRC.

Certain neighbors also make the argument that the BCRC does not belong in the CS zone because the use is industrial. For the reasons stated above, the Director can find that the use is permissible in the CS zone. Furthermore, the BCRC attracts mostly consumer-level SOV trips and uses the same general recycling interfaces that were previously located at neighborhood grocery stores. While we acknowledge that the BCRC uses these neighborhood recycling interfaces on a larger scale, in so doing the BCRC does not convert the act of returning beverage containers into an industrial use.

At least one neighbor claimed that she had visited during normal business hours and found no attendant on duty, broken collection machines, and dirty floors. OBRC appreciates the feedback and will continue its efforts to keep the facility clean and well-maintained. Because the machines are automated, the staffing needs of the facility are minimal, but OBRC will do everything in its power to maintain a well-staffed and clean facility.

Lastly, a few neighbors make due process arguments that they should have been given an opportunity to voice their concerns. We are encouraged that neighbors are currently being given the opportunity to highlight their concerns. The purpose of this letter is to acknowledge and respond to those concerns.

Ms. Anna Slatinsky
March 6, 2018
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4. Conclusion

For the above reasons as well as those in the Application, the Director can reject all arguments in opposition and find that the BCRC is similar to other uses located in the CS zone.

Sincerely,



Michael C. Robinson

MCR:gv
Enclosures

cc: Mr. Douglas Grimm (*via email*) (*w/ encls.*)
Mr. John Anderson (*via email*) (*w/ encls.*)
Ms. Stephanie Marcus (*via email*) (*w/ encls.*)
Mr. Jules Bailey (*via email*) (*w/ encls.*)
Mr. Garrett Stephenson (*via email*) (*w/ encls.*)

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[wmnorthwest.com / landfill / hillsboro2.htm](http://wmnorthwest.com/landfill/hillsboro2.htm)

Hillsboro Landfill and Tualatin Valley Waste Recovery

3205 SE Minter Bridge Road - Hillsboro, OR 97123 | 503-640-9427

Hillsboro Landfill and Tualatin Valley Waste Dry Waste Recovery Facility are located on the same property, allowing customers easy access to recycling and waste disposal. The landfill and recycling centers accept different materials. Please come by during our new, extended hours!

NOTICE - All demolition debris loads must comply with DEQ asbestos rules and regulations.

The Oregon DEQ now requires an owner or operator to have an accredited inspector perform an asbestos survey before demolishing a residential building built prior to January 1, 2004. More information is available on the [DEQ website](#).

Hillsboro Landfill

Hillsboro Landfill provides customers with professional, safe and convenient disposal services. The landfill is engineered with overlapping environmental protection systems that meet or exceed EPA Subtitle D Solid Waste Disposal Facility regulations. Systems include engineered liners and covers, leachate collection and removal, and landfill gas collection and control. This "special purpose" landfill accepts a variety of material for disposal, however it does not accept putrescible waste (i.e. food waste), or hazardous waste. Hillsboro Landfill is permitted to accept and solidify free liquids by permit/appointment only.

Operation Hours:

6:00 AM - 4:00 PM | Monday - Friday
8:00 AM - 2:00 PM Asbestos and ACM | Monday - Friday
8:00 AM - Noon | Saturday

Closed Sunday

Office

8:00 AM - 4:00 PM | Monday - Friday

Hillsboro Landfill Rates

Waste from **within**
Portland Metro Boundries

Waste from **outside**
Portland Metro Boundries

Acceptable Material

- Asbestos - Friable & Non-Friable
- Auto Shredder Waste

Tualatin Valley Waste Recovery

This ultra-green recycling facility provides businesses and the community with professional sorting and recovery services that dramatically reduce landfill waste. The Tualatin Valley Waste Recovery (TVWR) facility repurposes construction and demolition debris as part of a regional effort to achieve aggressive waste reduction goals.

Our state-of-the-art recovery center conforms to Portland Metro EDWRP regulations and can help you reach your sustainability goals and LEED certification. Processing approximately 400 tons per day, dry material is sorted onto two assembly lines, which separate plastic, wood, metal, cardboard, paper and asphalt shingles. Most of this material is sent to local recycling markets for reuse. Wood is ground on-site and then reprocessed into "hogged fuel," creating steam for energy. Asphalt shingles are reused to create road base on-site. TVWR has a current recovery rate of about 40%. This facility is also a model for Waste Management programs nationwide as the company partners with businesses and local governments to divert materials from landfills and turn waste streams into value streams.

Operation Hours:

6:00 AM - 4:00 PM | Monday - Friday
8:00 AM - 2:00 PM Asbestos and ACM | Monday - Friday
8:00 AM - Noon | Saturday

Closed Sunday

Office

8:00 AM - 4:00 PM | Monday - Friday

TVWR Rates

LEED Gold Certified Building

TVWR was built in 2009 and awarded LEED Gold Certification. The

- Clean & Contaminated Soil
- Construction & Demolition Wastes
- **Disposal of Lathe and Plaster**
- Drummed Waste with Solids
- Industrial Process Waste
- Liquid Waste by appointment only
- Residual Waste from a Dry Waste Material Recovery Facility
- Sludge
- Wood Waste

Unacceptable Wastes

- Batteries
- Biosolids
- Electronic Waste
- Explosives
- Hazardous Waste
- Infectious Waste
- Putrescible Waste (e.g. food waste)
- Radioactive Waste
- Tires
- White Goods (e.g. refrigerators, air conditioners, etc.)

NOTICE

All demolition debris loads must comply with DEQ asbestos rules and regulations. The Oregon DEQ now requires an owner or operator to have an accredited inspector perform an asbestos survey before demolishing a residential building built prior to January 1, 2004. More information is available on the [DEQ website](#).



Disposal Requirements for Asbestos-Containing Waste Material
- [Click Here](#)

Operation Hours:

6:00 AM - 4:00 PM | Monday - Friday
8:00 AM - 2:00 PM Asbestos & ACM | Monday - Friday
8:00 AM - 2:00 PM Saturday
Closed Sunday

Office

8:00 AM - 4:00 PM | Monday - Friday

All customers that deliver asbestos need to complete an ASN-4 Form.

[Click here to download the form](#)

Need bags and labels?

Hillsboro Landfill now offers the following items:

- Asbestos Bags - \$2.50 per bag
- Duct Tape - \$ 20.00 per roll
- Labels (printed with customer info) - \$0.30 per label

Now Accepting Liquid Waste

Hillsboro Landfill now accepts liquids for solidification and disposal Monday through Friday. Advanced scheduling is required. Please call us at 503-640-9427 for additional information.

Holidays

New Years Eve - 8:00 AM to 12 noon
New Years Day - Closed

building's unique design incorporates innovative features, which save energy and resources including:

- Interior lighting has motion control sensors and timers to minimize electrical usage
- A translucent roof allows for natural lighting and energy savings
- Rainwater is harvested into a 140,000 gallon tank and reused for cleaning, dust control and fire suppression
- Fresh air constantly circulates through the facility to protect air quality

Residential Drop-Off Area

Our residential drop-off area is open to the public. We accept commingled dry waste or separated material from household projects and clean ups including; wood, metal, concrete, cardboard newspaper, magazines, batteries, motor oil, carpet pad, rigid plastics, glass, tin, yard debris, tires, electronics and white goods.

Acceptable Material

- Aluminum/Tin Cans
- Construction & Demolition (C&D)
- **Disposal of Lathe and Plaster**
- Debris Scrap Metal
- Asphalt
- Container Glass
- Scrap Paper
- Car Batteries
- Magazines
- Tires
- Corrugated Cardboard
- Motor Oil
- White Goods
- Clean Soil
- Newspaper
- Wood
- Concrete
- Plastic Containers #1.7
- Yard Waste

Unacceptable Wastes

- Asbestos - Friable/Non-Friable
- E&P Wastes
- Medical Waste
- Auto Shredder Residue
- Explosives
- Municipal Solid Waste (MSW)
- Biosolids
- Hazardous Waste
- NORM/radioactive
- CERCLA Wastes
- Industrial and Special Waste
- Waste Containing Free Liquids

Additional Services Provided

- LEED documentation for construction and demolition projects
- Secure and certified document destruction services

For information about Hazardous Waste Disposal [Click Here](#).

If you have questions or need more information, please e-mail us at landfill@wmnorthwest.com.

Holidays

New Years Eve - 8:00 AM to 12 noon
New Years Day - Closed
Memorial Day - 6:00 AM - 4:00 PM
July 4th - Closed
Labor Day - 6:00 AM - 12 noon
Thanksgiving Day - Closed
December 24 - 8:00 AM to 12 noon
December 25 - Closed

Contact

TSC Portland
7227 NE 55th Avenue
Portland, OR 97218

1-800-685-8001 or
1-800-963-4776
TSCPortland@wm.com

Memorial Day - 6:00 AM - 4:00 PM
 July 4th - Closed
 Labor Day - 6:00 AM - 12 noon
 Thanksgiving Day - Closed
 December 24 - 8:00 AM to 12 noon
 December 25 - Closed

Payment Methods:

Cash, Business Checks (No Personal Checks), Visa,
 Mastercard and Debit Cards (with Visa and Mastercard logos)

Pay your Hillsboro Landfill Disposal Account On-Line with the WM ezPay Program! All you have to do is click this icon:



[Download the brochure](#)



Contact

TSC Portland
 7227 NE 55th Avenue
 Portland, OR 97218

1-800-685-8001 or
 1-800-963-4776
TSCPortland@wm.com



[Download the brochure](#)

[Español - Descarga el folleto](#)

Google Maps Metro South Transfer Station







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Metro South Transfer Station

3.8 ★★★★★ · 39 reviews

Recycling Center

-  2001 Washington St, Oregon City, OR 97045
-  oregonmetro.gov
-  (503) 234-3000
-  Open now: 7AM–6PM ▾

Popular times Tuesdays ▾

LIVE A little busy

business, individuals receive advice about buying or selling land from trained professionals. At an insurance business, individuals receive advice about insurance policies and claims from trained professionals. At a personal care business, individuals receive specialized care, such as from a nail technician or a masseuse. At the BCRC, individuals will be able to return their empty beverage containers and receive their container deposits in exchange, all as a result of the professional and manual personal labor of BCRC staff.

Second, “Service Business or Professional Services” do not typically involve the consumer’s purchase of a product that is made or created by the server on site. In fact, the plain text of the definition refers to the use providing “services” as opposed to “goods or “products.” Additionally, none of the examples listed in the definition typically provide goods or products that are made on-site. As noted in the use description above, the only sales that take place are bags purchased for the return of containers by consumers using the account holder option; no other products are made or sold on site at the BCRC.

For these reasons, the BCRC is of the same type and is similar to a “Service Business or Professional Services” use, and the Director should find that the BCRC is permitted where “Service Business or Professional Services” uses are permitted in the city.

B. A BCRC is not a “Recycling Center.”

The Director should reach this conclusion for four reasons. First, the Director should find that the BCRC is not a recycling center because it does not meet the definition of “Recycling Center.” Although this term is not defined in the BDC, its plain and ordinary meaning is a location where “recycling” occurs. “Recycling” is also not defined in the BDC, but its plain and ordinary meaning is “convert (waste) into reusable material.” As stated above, OBRC will not convert any waste into reusable material at the BCRC; rather, OBRC will package up the waste items and send them offsite, where they will be converted into reusable material. Therefore, the Director should find that the BCRC is not a “Recycling Center.”

Second, the BCRC is not a recycling center because it is unlike other uses the City Council regulates the same as Recycling Centers. Specifically, the use charts in the BDC list Recycling Centers together with other uses:

“18. Salvage Yards, Recycling Centers and Solid Waste Transfer Stations.”

BDC 20.15.20. As a result, from a use standpoint, the City regulates all three uses the same, which reflects the City Council decision that “Recycling Centers” are similar in nature and impacts to “Salvage Yards” and “Solid Waste Transfer Stations.” By contrast, a BCRC is not like a “Salvage Yard” or “Solid Waste Transfer Station.”

Chapter 90 of the BDC defines “Salvage Yard” as follows:

“A place out-of-doors where waste, discarded or salvaged materials are bought, exchanged, baled, packed, disassembled or handled including vehicle wrecking yards, building wrecking yards, used lumber yards and places of storage of salvaged building; wrecking and structural steel materials and equipment, but not including rummage, yard or garbage sales of more than (4) days duration. Three or more dismantled or inoperable materials on one lot shall constitute a salvage yard.”

The BCRC is not an outdoor facility, and the beverage containers handled at the BCRC are not like the wrecked and disassembled cars and buildings referenced in the definition.

Additionally, the BCRC is not a “Solid Waste Transfer Station.” The BDC does not define this use, but the Director should find that it is a term of art in the solid waste industry where smaller collection vehicles deposit various types of waste, which is then separated, sorted and transferred offsite in larger vehicles. The Director should find that Metro, the regional governing agency, owns and operates two solid waste transfer stations in the region, which are significant in size and accept a full array of materials, including tires, appliances, batteries, and hazardous waste. See attached information sheet describing Metro Solid Waste Transfer Stations in Exhibit 2. As explained above, the BCRC is comparatively limited in size and operations and accepts a much more innocuous type of materials than these Metro solid waste transfer stations.

Third, beyond mere definitions, there is additional context in the BDC that supports the conclusion that the BCRC is not a “Recycling Center.” The City only allows “Recycling Centers” in a single zoning district – the city’s most intensive district (Industrial) – and even then, only as a conditional use. The purpose of conditional use review in the City is to “review uses that may be compatible in the underlying zoning district but because of their size, operation, or other characteristics require review on a case by case basis.” BDC 40.15.05. They may “result in significant adverse effects upon the environment, overburden public services, alter the character of the surrounding area or create nuisances.” *Id.* Thus, the BDC reflects a legislative determination that “Recycling Centers” require more scrutiny and have the potential to have detrimental effects on

the surrounding area. The BCRC will not have such effects; it will not generate adverse impacts to surrounding properties such as noise, odor, or lighting. Further, it will operate during limited hours and in a small, indoor facility. Thus, it would not make sense to regulate the BCRC as a conditional use.

Fourth, state law has created unique operating standards that apply to BCRCs and distinguish a BCRC from Salvage Yards, Recycling Centers and Solid Waste Transfer Stations. See ORS 459A.737(2), which lists specific rules for a BCRC that are similar to the operational characteristics required from many grocery stores that offer beverage container redemption services under ORS 459A.710. In addition, ORS 459A.735(3) states that the OLCC “shall approve a redemption center if it finds the redemption center will provide a convenient service to persons for the return of empty beverage containers,” and lists specific guidelines for the location of convenience zones as specified under ORS 459A.738(1).

For these reasons, the Director should find that the BCRC is of the same general type, and is similar to, a “Service Business or Professional Services” use, and therefore, the BCRC is permitted where “Service Business or Professional Services” uses are permitted in the City, including in the CS zone.

40.25. DIRECTOR’S INTERPRETATION

40.25.05. Purpose.

The purpose of the Director’s Interpretation is to address new uses which may come into existence over time that are not addressed specifically in the Code or some of the terms or phrases within the Code which may require further interpretation. The Director’s Interpretation is established for resolving Code interpretation issues in advance of, or concurrent with, applying for approval of an application, development, permit, or other action. This Section is carried out by the approval criteria listed herein.

RESPONSE: As explained in this narrative, the term “Services Business or Professional Services” requires further interpretation as it relates to the BCRC. Therefore, this issue is the appropriate subject of an interpretation.

40.25.10. Applicability.

The Director shall have the initial authority and responsibility to interpret all terms provisions, and requirements of this Code.