

**ANNOTATED MINUTES**

**Tuesday, July 28, 1992 - 9:30 AM  
Multnomah County Courthouse, Room 602**

**PLANNING ITEMS**

Chair Gladys McCoy convened the meeting at 9:35 a.m., with Vice-Chair Sharron Kelley, Commissioners Gary Hansen present, and Commissioner Pauline Anderson and Rick Bauman excused.

The Following Decisions of the Planning and Zoning Hearings Officer are Reported to the Board for Review and Affirmation:

P-1     PD 1-92     June 15, 1992 Decision APPROVING, SUBJECT TO CONDITIONS, a Change in Zone Designation from LR-5, Low Density Residential District, to LR-5, P-D, Planned Development, to Allow Development of a 10 Unit Manufactured Home Park on a 1.5 Acre Site, for Property Located at 12846 SE RAMONA STREET

DECISION READ. IN RESPONSE TO A QUESTION OF CHAIR McCOY, PLANNING DIRECTOR SCOTT PEMBLE ADVISED THAT NO APPEAL WAS FILED ON THIS APPLICATION AND THE DECISION STANDS AS REPORTED UNLESS THE BOARD CHOOSES TO TAKE IT UP ON ITS OWN MOTION. DECISION STANDS.

P-2     SEC 6-91a  
HDP 4-91a     June 16, 1992 Decision DENYING Applicant's Request to Amend SEC 6-91a and HDP 4-91a, to Permit Construction of a Culvert Over Balch Creek, Which Has Already Been Installed, for Property Located at 6125 NW THOMPSON ROAD

DECISION READ. MR. PEMBLE ADVISED A NOTICE OF REVIEW APPEAL WAS FILED BY APPLICANT, WITH THE REQUEST THAT AN ON THE RECORD HEARING BE SET FOR SEPTEMBER 22, AT WHICH TIME HIS COUNSEL WILL BE AVAILABLE AND THERE WILL BE A FULL BOARD. UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, IT WAS UNANIMOUSLY APPROVED THAT A PUBLIC HEARING, ON THE RECORD, WITH TESTIMONY LIMITED TO 10 MINUTES PER SIDE, BE SCHEDULED FOR 9:30 AM, TUESDAY, SEPTEMBER 22, 1992.

P-3     CS 9-92     July 6, 1992 Decision APPROVING, SUBJECT TO CONDITIONS, a Change in Zone Designation from CFU to CFU, C-S, Community Service Designation, to Allow Installation of a Cellular Telephone Communications Monopole, with Associated Antennas, and to Erect an Electronics Equipment Building on Property Located at SE TROUT CREEK ROAD (9+ MILES EAST OF EAST END)

DECISION READ, NO APPEAL FILED, DECISION STANDS.

P-4      CS 10-92      July 6, 1992 Decision APPROVING, SUBJECT TO CONDITIONS, Requested Community Service Change in Zone Designation, from LR-5 to LR-5, C-S, to Allow Expanded Facilities for the Eastside Free Methodist Church, for Property Located at 650 SE 139TH AVENUE

DECISION READ, NO APPEAL FILED, DECISION STANDS.

P-5      CU 9-92      July 6, 1992 Decision APPROVING, SUBJECT TO CONDITIONS, Conditional Use Request for a Non-Resource Related Single Family Dwelling on a Lot of Record in the MUF-19, Multiple Use Forest Zoning District, for Property Located at 41223 SE GORDON CREEK ROAD, CORBETT

DECISION READ, NO APPEAL FILED, DECISION STANDS.

P-6      CU 11-92      July 6, 1992 Decision APPROVING, SUBJECT TO CONDITIONS, Development of a Non-Resource Related Single Family Dwelling on 7.80 Acre Lot of Record in the MUF-19, Multiple Use Forest Zoning District, for Property Located at 43640 E LARCH MOUNTAIN ROAD

DECISION READ. MR. PEMBLE ADVISED A NOTICE OF REVIEW APPEAL WAS FILED AND RECOMMENDED THAT A HEARING BE HELD ON THE RECORD PLUS ADDITIONAL TESTIMONY LIMITED TO THE PHYSICAL CONSTRAINTS OF THE SITE RELATIVE TO THE PLACEMENT OF THE SINGLE FAMILY DWELLING, WITH TESTIMONY LIMITED TO 10 MINUTES PER SIDE, THAT THE HEARING BE SCHEDULED FOR AUGUST 25, THAT ALL PARTIES WHO HAVE STANDING BE ALLOWED TO SUBMIT ADDITIONAL NEW EVIDENCE LIMITED TO THE PHYSICAL CONSTRAINTS OF THE SITE, IN WRITING, UP TO AND INCLUDING 4:30 PM FRIDAY, AUGUST 7, AND THAT ALL PARTIES WHO HAVE SUBMITTED EVIDENCE BE ALLOWED TO ARGUE THAT WRITTEN EVIDENCE IN WRITING UP TO 4:30 PM FRIDAY, AUGUST 14. MR. PEMBLE ADVISED THAT STAFF RECOMMENDS THIS STRATEGY IN ORDER FOR ALL PARTIES TO HAVE TIME TO REVIEW AND REBUT THE SUBMITTED EVIDENCE. UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, IT WAS UNANIMOUSLY APPROVED THAT A PUBLIC HEARING, ON THE RECORD, WITH ADDITIONAL EVIDENCE LIMITED TO THE PHYSICAL CONSTRAINTS OF THE SITE RELATIVE TO THE PLACEMENT OF THE SINGLE FAMILY DWELLING, AND TESTIMONY LIMITED TO 10 MINUTES PER SIDE, BE SCHEDULED FOR 9:30 AM, TUESDAY, AUGUST 25, 1992; AND THAT ALL PARTIES WHO HAVE STANDING BE ALLOWED TO SUBMIT ADDITIONAL NEW EVIDENCE LIMITED TO THE PHYSICAL CONSTRAINTS OF THE SITE, IN WRITING, UP TO AND INCLUDING 4:30 PM FRIDAY, AUGUST 7, 1992 AND THAT ALL PARTIES WHO HAVE SUBMITTED EVIDENCE BE ALLOWED TO ARGUE THAT WRITTEN EVIDENCE IN WRITING UP TO 4:30 PM FRIDAY, AUGUST 14, 1992.

P-7 CU 12-92 July 6, 1992 Decision APPROVING, SUBJECT TO CONDITIONS, Conditional Use Request to Add the Auction Sale of Farm Machinery (a "Limited Rural Commercial Use") to the Farm Animals and Productions Auction Facility Previously Approved as a "Use Under Prescribed Conditions" on May 15, 1992, for Property Located at 17622 NW ST HELENS ROAD

DECISION READ, NO APPEAL FILED, DECISION STANDS.

P-8 ZC 3-92 July 6, 1992 Decision APPROVING the Requested Zoning Map Correction Adjusting the District Boundary Northward 40 Feet to Match the Original Platted Lot Line Between Lots 31 and 32, Section Line Road Fruit Tract, for Property Located at 31132 SE DIVISION DRIVE

DECISION READ, NO APPEAL FILED, DECISION STANDS.

P-9 CU 8-92 HEARING, ON THE RECORD, 10 MINUTES PER SIDE, in the Matter of a Appeal of a June 1, 1992 Planning and Zoning Hearings Officer Decision to DENY a Conditional Use Request for a 9,000 Square Foot Warehouse and Office Structure, for Property Located at 28885 SE DODGE PARK BOULEVARD

MR. PEMBLE ADVISED THAT DUE TO INADEQUATE NOTICE PURSUANT TO STATUTE, STAFF RECOMMENDS THAT THE HEARING BE RESCHEDULED FOR AUGUST 11. UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, IT WAS UNANIMOUSLY APPROVED THAT THE PUBLIC HEARING OF CU 8-92, ON THE RECORD, WITH TESTIMONY LIMITED TO 10 MINUTES PER SIDE, BE RESCHEDULED FOR 9:30 AM, TUESDAY, AUGUST 11, 1992.

There being no further business, the planning items portion of the meeting was adjourned at 10:00 a.m.

OFFICE OF THE BOARD CLERK  
for MULTNOMAH COUNTY, OREGON

BY Carrie A. Patterson

Tuesday, July 28, 1992 - 10:00 AM  
Multnomah County Courthouse, Room 602

BOARD BRIEFING

B-1 On-Line Purchasing System Project. Presented by Merlin Reynolds, Jim Mathe and Mindy Harris.

Tuesday, July 28, 1992 - 10:30 AM  
Multnomah County Courthouse, Room 602

AGENDA REVIEW

B-2 Review of Agenda for Regular Meeting of July 30, 1992.

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Thursday, July 30, 1992 - 9:30 AM  
Multnomah County Courthouse, Room 602

REGULAR MEETING

Chair Gladys McCoy convened the meeting at 9:35 a.m., with Vice-Chair Sharron Kelley, Commissioners Gary Hansen present, and Commissioner Pauline Anderson and Rick Bauman excused.

CONSENT CALENDAR

UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, THE CONSENT CALENDAR (ITEMS C-1 THROUGH C-5) WAS UNANIMOUSLY APPROVED.

JUSTICE SERVICES

SHERIFF'S OFFICE

C-1 Ratification of Amendment No. 1 to Intergovernmental Agreement Contract No. 800832 Between Multnomah County Sheriff's Office and USDA Forest Service, Mt. Hood National Forest, Columbia River Gorge National Scenic Area, Providing Increased Services and Reimbursement for the Period May 21, 1992 and September 7, 1992

DEPARTMENT OF ENVIRONMENTAL SERVICES

C-2 Ratification of Intergovernmental Agreement Contract No. 300153 Between Multnomah County and Oregon State University Extension Service, Multnomah County 4-H Division, Providing Services to Coordinate and Organize All 4-H Activities Related to the 1992 Multnomah County Fair, for the Period Upon Execution to August 1, 1992

DEPARTMENT OF SOCIAL SERVICES

C-3 Ratification of Intergovernmental Agreement Contract No. 102743 Between the City of Portland and Multnomah County, Providing Funding for Administering the Area Agency on Aging and Portland/Multnomah Commission on Aging and Long Term Care Ombudsman, for the Period July 1, 1992 to June 30, 1993

C-4 Ratification of Intergovernmental Agreement Contract No. 102683 Between the City of Portland and Multnomah County, Providing Pass-Through Revenues for Relocation Services Through Community Action's Seven Community Service Centers, for the Period July 1, 1992 to June 30, 1993

NON-DEPARTMENTAL

- C-5 Ratification of Intergovernmental Agreement Contract No. 500103 Between Oregon Emergency Management Division and Multnomah County, Providing Federal Emergency Management Agency Assistance Funds for Implementation and Maintenance of the County's Emergency Management Program, for the Period July 1, 1992 to June 30, 1993

REGULAR AGENDA

NON-DEPARTMENTAL

- R-1 PROCLAMATION in the Matter of Recognizing Dr. Philip Harder, Ecumenical Minister for Portland State University, for his Role as a Model Peacemaker and Honoring him with the 1992 Thousand Cranes Peace Award

UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, PROCLAMATION 92-133 WAS UNANIMOUSLY APPROVED.

JUSTICE SERVICES

SHERIFF'S OFFICE

- R-2 RESOLUTION in the Matter of a Housing Allowance for Chaplains Serving the County Jails

UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, RESOLUTION 92-134 WAS UNANIMOUSLY APPROVED.

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-3 Ratification of Intergovernmental Agreement Contract No. 300283 Between Oregon Department of Transportation, Multnomah County and the City of Troutdale, Providing that County Accept Jurisdiction and Control of Crown Point Highway from 244th Avenue to the West End of the Sandy River Bridge, Establish it as a County Road and Road with Participation of the Department of Transportation

UPON MOTION OF COMMISSIONER HANSEN, SECONDED BY COMMISSIONER KELLEY, R-3 WAS UNANIMOUSLY APPROVED.

- R-4 Ratification of Intergovernmental Agreement Contract No. 300293 Between the City of Troutdale and Multnomah County, Providing Cooperative Services for Improvement of the Kendall-Kibling Section of Crown Point Highway

UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, R-4 WAS UNANIMOUSLY APPROVED.

- R-5 Second Reading and Possible Adoption of an ORDINANCE Relating to Animal Control, Creating a Notice of Infraction Procedure, Expanded Hearing and Appeal Process, and

**Penalties for Violations of Animal Control Regulations and Amending Chapter 8.10 of the Multnomah County Code**

**PROPOSED ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER HANSEN MOVED, SECONDED BY COMMISSIONER KELLEY, APPROVAL OF THE SECOND READING. OPPOSITION TESTIMONY FROM BERNARD JOLLES, JOAN DAHLBERG, ROGER TROEN, LAURA BROWN, NORMAN ROLEY AND MICHAEL TWAIN. BOARD DISCUSSION. VOTE ON MOTION TO APPROVE FAILED WITH COMMISSIONERS HANSEN AND KELLEY VOTING AYE AND COMMISSIONER McCOY VOTING NO. STAFF DIRECTION GIVEN. UPON MOTION OF COMMISSIONER HANSEN, SECONDED BY COMMISSIONER KELLEY, IT WAS UNANIMOUSLY APPROVED THAT THE SECOND READING BE CONTINUED TO THURSDAY, AUGUST 27, 1992.**

- R-6 First Reading of an ORDINANCE Amending Multnomah County Code Chapter 9.10 [Uniform Mechanical Permit Fees]**

**PROPOSED ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. BOARD DISCUSSION. UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, IT WAS UNANIMOUSLY APPROVED THAT THE FIRST READING BE CONTINUED TO THURSDAY, AUGUST 6, 1992.**

- R-7 First Reading of an ORDINANCE Amending Multnomah County Code Chapter 9.30 [Uniform Plumbing Permit Fees]**

**PROPOSED ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. BOARD DISCUSSION. UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, IT WAS UNANIMOUSLY APPROVED THAT THE FIRST READING BE CONTINUED TO THURSDAY, AUGUST 6, 1992.**

**DEPARTMENT OF SOCIAL SERVICES**

- R-8 Ratification of Intergovernmental Agreement Contract No. 102733 Between Multnomah County and the Oregon Community Children and Youth Services Commission, Providing Funds for a Crew Leader to Supervise Youth Participating in the Community Pride Summer Employment Program, for the Period July 1, 1992 to September 30, 1992**

**UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, R-8 WAS UNANIMOUSLY APPROVED.**

- R-9 Budget Modification DSS #1 Authorizing Addition of \$3,800 State Community Children and Youth Services Commission Funds to the Housing and Community Services Division Budget, to Pay for a Summer Youth Employment Crew Leader**

**UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, R-9 WAS UNANIMOUSLY APPROVED.**

R-10 Ratification of Intergovernmental Agreement Contract No. 102763 Between Multnomah County and the State of Oregon, Economic Development Department, Allowing Receipt of \$100,000 in Oregon Lottery Funds to Support Participating Agencies of the Youth Employment and Empowerment Demonstration Project, for the Period August 1, 1992 to July 31, 1993

UPON MOTION OF COMMISSIONER HANSEN, SECONDED  
BY COMMISSIONER KELLEY, R-10 WAS UNANIMOUSLY  
APPROVED.

There being no further business, the meeting was adjourned  
at 10:50 a.m.

OFFICE OF THE BOARD CLERK  
for MULTNOMAH COUNTY, OREGON

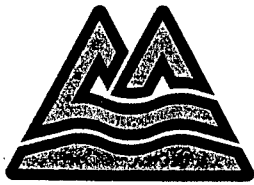
By Carrie A. Parkerson

BOARD OF COUNTY COMMISSIONERS  
FORMAL BOARD MEETING  
RESULTS

MEETING DATE: 7-28-92 Planning

Agenda Item #	Motion	Second	APP/NOT APP
<u>P-1</u> <u>motion</u>	<u>          </u>	<u>          </u>	<u>✓</u>
<u>P-2</u>	<u>SK</u>	<u>GH</u>	<u>APP</u>
<u>P-3</u>	<u>          </u>	<u>          </u>	<u>✓</u>
<u>P-4</u>	<u>          </u>	<u>          </u>	<u>✓</u>
<u>P-5</u> <u>motion</u>	<u>          </u>	<u>          </u>	<u>✓</u>
<u>P-6</u>	<u>SK</u>	<u>GH</u>	<u>APP</u>
<u>P-7</u>	<u>          </u>	<u>          </u>	<u>✓</u>
<u>P-8</u> <u>motion</u>	<u>          </u>	<u>          </u>	<u>✓</u>
<u>P-9</u>	<u>SK</u>	<u>GH</u>	<u>APP</u>
<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
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# MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK  
SUITE 1510, PORTLAND BUILDING  
1120 S.W. FIFTH AVENUE  
PORTLAND, OREGON 97204

GLADYS McCOY • CHAIR • 248-3308  
PAULINE ANDERSON • DISTRICT 1 • 248-5220  
GARY HANSEN • DISTRICT 2 • 248-5219  
RICK BAUMAN • DISTRICT 3 • 248-5217  
SHARRON KELLEY • DISTRICT 4 • 248-5213  
CLERK'S OFFICE • 248-3277 • 248-5222

## AGENDA

### MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS

#### FOR THE WEEK OF

JULY 27 - 31, 1992

Tuesday, July 28, 1992 - 9:30 AM - Planning Items. . . . . Page 2

Tuesday, July 28, 1992 - 10:00 AM - Board Briefing . . . . . Page 3

Tuesday, July 28, 1992 - 10:30 AM - Agenda Review. . . . . Page 3

Thursday, July 30, 1992 - 9:30 AM - Regular Meeting. . . . . Page 3

Thursday Meetings of the Multnomah County Board of Commissioners are taped and can be seen at the following times:

Thursday, 10:00 PM, Channel 11 for East and West side subscribers

Friday, 6:00 PM, Channel 22 for Paragon Cable (Multnomah East) subscribers

Saturday 12:00 PM, Channel 21 for East Portland and East County subscribers

INDIVIDUALS WITH DISABILITIES MAY CALL THE OFFICE OF THE BOARD CLERK AT 248-3277 OR 248-5222 OR MULTNOMAH COUNTY TDD PHONE 248-5040 FOR INFORMATION ON AVAILABLE SERVICES AND ACCESSIBILITY.

Tuesday, July 28, 1992 - 9:30 AM

Multnomah County Courthouse, Room 602

PLANNING ITEMS

The Following Decisions of the Planning and Zoning Hearings Officer are Reported to the Board for Review and Affirmation:

✓ P-1 PD 1-92 June 15, 1992 Decision APPROVING, SUBJECT TO CONDITIONS, a Change in Zone Designation from LR-5, Low Density Residential District, to LR-5, P-D, Planned Development, to Allow Development of a 10 Unit Manufactured Home Park on a 1.5 Acre Site, for Property Located at 12846 SE RAMONA STREET

*Appeal Hearing Set 9-22-92 on the Record 10 min/10 min*

P-2 SEC 6-91a

HDP 4-91a June 16, 1992 Decision DENYING Applicant's Request to Amend SEC 6-91a and HDP 4-91a, to Permit Construction of a Culvert Over Balch Creek, Which Has Already Been Installed, for Property Located at 6125 NW THOMPSON ROAD

✓ P-3 CS 9-92 July 6, 1992 Decision APPROVING, SUBJECT TO CONDITIONS, a Change in Zone Designation from CFU to CFU, C-S, Community Service Designation, to Allow Installation of a Cellular Telephone Communications Monopole, with Associated Antennas, and to Erect an Electronics Equipment Building on Property Located at SE TROUT CREEK ROAD (9+ MILES EAST OF EAST END)

✓ P-4 CS 10-92 July 6, 1992 Decision APPROVING, SUBJECT TO CONDITIONS, Requested Community Service Change in Zone Designation, from LR-5 to LR-5, C-S, to Allow Expanded Facilities for the Eastside Free Methodist Church, for Property Located at 650 SE 139TH AVENUE

✓ P-5 CU 9-92 July 6, 1992 Decision APPROVING, SUBJECT TO CONDITIONS, Conditional Use Request for a Non-Resource Related Single Family Dwelling on a Lot of Record in the MUF-19, Multiple Use Forest Zoning District, for Property Located at 41223 SE GORDON CREEK ROAD, CORBETT

*Appeal Hearing filed on the Record 10 min/10 min*

P-6 CU 11-92 July 6, 1992 Decision APPROVING, SUBJECT TO CONDITIONS, Development of a Non-Resource Related Single Family Dwelling on 7.80 Acre Lot of Record in the MUF-19, Multiple Use Forest Zoning District, for Property Located at 43640 E LARCH MOUNTAIN ROAD

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✓ P-8 ZC 3-92 July 6, 1992 Decision APPROVING the Requested Zoning Map Correction Adjusting the District Boundary North-

✓ ward 40 Feet to Match the Original Platted Lot Line Between Lots 31 and 32, Section Line Road Fruit Tract, for Property Located at 31132 SE DIVISION DRIVE

P-9

*Re scheduled hearing - not enough notice - motion*  
CU 8-92 HEARING, ON THE RECORD, 10 MINUTES PER SIDE, in the Matter of a Appeal of a June 1, 1992 Planning and Zoning Hearings Officer Decision to DENY a Conditional Use Request for a 9,000 Square Foot Warehouse and Office Structure, for Property Located at 28885 SE DODGE PARK BOULEVARD

*\* Hearing Rescheduled to 8-11-92 - 9:30am - Hearing on the Record, 10 minutes per side.*

Tuesday, July 28, 1992 - 10:00 AM

Multnomah County Courthouse, Room 602

BOARD BRIEFING

B-1 On-Line Purchasing System Project. Presented by Merlin Reynolds, Jim Mathe and Mindy Harris. 20 MINUTES REQUESTED.

Tuesday, July 28, 1992 - 10:30 AM

Multnomah County Courthouse, Room 602

AGENDA REVIEW

B-2 Review of Agenda for Regular Meeting of July 30, 1992.

Thursday, July 30, 1992 - 9:30 AM

Multnomah County Courthouse, Room 602

REGULAR MEETING

CONSENT CALENDAR

JUSTICE SERVICES

SHERIFF'S OFFICE

C-1 Ratification of Amendment No. 1 to Intergovernmental Agreement Contract No. 800832 Between Multnomah County Sheriff's Office and USDA Forest Service, Mt. Hood National Forest, Columbia River Gorge National Scenic Area, Providing Increased Services and Reimbursement for the Period May 21, 1992 and September 7, 1992

DEPARTMENT OF ENVIRONMENTAL SERVICES

C-2 Ratification of Intergovernmental Agreement Contract No. 300153 Between Multnomah County and Oregon State University Extension Service, Multnomah County 4-H Division, Providing

Services to Coordinate and Organize All 4-H Activities  
Related to the 1992 Multnomah County Fair, for the Period  
Upon Execution to August 1, 1992

DEPARTMENT OF SOCIAL SERVICES

- C-3 Ratification of Intergovernmental Agreement Contract No. 102743 Between the City of Portland and Multnomah County, Providing Funding for Administering the Area Agency on Aging and Portland/Multnomah Commission on Aging and Long Term Care Ombudsman, for the Period July 1, 1992 to June 30, 1993
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NON-DEPARTMENTAL

- C-5 Ratification of Intergovernmental Agreement Contract No. 500103 Between Oregon Emergency Management Division and Multnomah County, Providing Federal Emergency Management Agency Assistance Funds for Implementation and Maintenance of the County's Emergency Management Program, for the Period July 1, 1992 to June 30, 1993

REGULAR AGENDA

NON-DEPARTMENTAL

- R-1 PROCLAMATION in the Matter of Recognizing Dr. Philip Harder, Ecumenical Minister for Portland State University, for his Role as a Model Peacemaker and Honoring him with the 1992 Thousand Cranes Peace Award (9:30 TIME CERTAIN REQUESTED)

JUSTICE SERVICES

SHERIFF'S OFFICE

- R-2 RESOLUTION in the Matter of a Housing Allowance for Chaplains Serving the County Jails

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-3 Ratification of Intergovernmental Agreement Contract No. 300283 Between Oregon Department of Transportation, Multnomah County and the City of Troutdale, Providing that County Accept Jurisdiction and Control of Crown Point Highway from 244th Avenue to the West End of the Sandy River Bridge, Establish it as a County Road and Road with Participation of the Department of Transportation
- R-4 Ratification of Intergovernmental Agreement Contract No. 300293 Between the City of Troutdale and Multnomah County, Providing Cooperative Services for Improvement of the Kendall-Kibling Section of Crown Point Highway

- R-5 Second Reading and Possible Adoption of an ORDINANCE Relating to Animal Control, Creating a Notice of Infraction Procedure, Expanded Hearing and Appeal Process, and Penalties for Violations of Animal Control Regulations and Amending Chapter 8.10 of the Multnomah County Code
- R-6 First Reading of an ORDINANCE Amending Multnomah County Code Chapter 9.10 [Uniform Mechanical Permit Fees]
- R-7 First Reading of an ORDINANCE Amending Multnomah County Code Chapter 9.30 [Uniform Plumbing Permit Fees]

DEPARTMENT OF SOCIAL SERVICES

- R-8 Ratification of Intergovernmental Agreement Contract No. 102733 Between Multnomah County and the Oregon Community Children and Youth Services Commission, Providing Funds for a Crew Leader to Supervise Youth Participating in the Community Pride Summer Employment Program, for the Period July 1, 1992 to September 30, 1992
- R-9 Budget Modification DSS #1 Authorizing Addition of \$3,800 State Community Children and Youth Services Commission Funds to the Housing and Community Services Division Budget, to Pay for a Summer Youth Employment Crew Leader
- R-10 Ratification of Intergovernmental Agreement Contract No. 102763 Between Multnomah County and the State of Oregon, Economic Development Department, Allowing Receipt of \$100,000 in Oregon Lottery Funds to Support Participating Agencies of the Youth Employment and Empowerment Demonstration Project, for the Period August 1, 1992 to July 31, 1993

PAULINE ANDERSON  
Multnomah County Commissioner  
District 1



605 County Courthouse  
Portland, Oregon 97204  
(503) 248-5220

TO: Office of the Clerk of the Board  
Board of County Commissioners

FROM: Pauline Anderson

RE: Absence from office

BOARD OF  
COUNTY COMMISSIONERS  
1992 JUN 17 PM 2:15  
MULTNOMAH COUNTY  
OREGON

I will be on vacation and away from the office July 1st through  
July 30th.

RICK BAUMAN  
Multnomah County Commissioner  
District 3



606 County Courthouse  
Portland, Oregon 97204  
(503) 248-5217

June 17, 1992

TO: Clerk of the Board  
FR: Commissioner Rick Bauman  
RE: Scheduled Board Absences

I will be out of town on the following dates this summer:

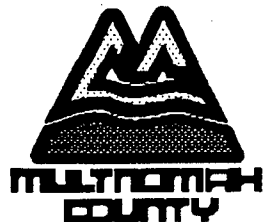
July 27 through August 7, and  
August 24 through September 11

and will therefore miss board meetings on July 28 and 30, August 25  
and 27 and September 1, 3, 8 and 10.

BOARD OF  
COUNTY COMMISSIONERS  
1992 JUN 23 AM 11:58  
MULTNOMAH COUNTY  
OREGON







DEPARTMENT OF ENVIRONMENTAL SERVICES  
DIVISION OF PLANNING AND DEVELOPMENT  
2115 SE MORRISON STREET  
PORTLAND, OREGON 97214 (503) 248-3043

### Decision

This Decision consists of Conditions, Findings of Fact and Conclusions.

**June 15, 1992**

**PD 1-92, #426**

### **Planned Development Overlay (10-space Manufactured Housing Development)**

Applicant requests a Planned Development (PD) zoning overlay on property with a base zone of LR-5, low density residential district. If approved, the PD overlay would allow a manufactured housing development on the site. The applicant proposes to place 9 manufactured houses on the site. The existing single family house on the site would remain.

**Location:** 12846 SE Ramona Street

**Legal:** Tax Lots '32' and '35', of Lot 6, Lamargent Park Plat #2

**Site Size:** 65,169 Square Feet (Approximately 1.5 Acres)

**Size Requested:** Same

**Property Owner:** KM Clark 12846 SE Ramona Street, 97236

**Applicant:** Same

**Comprehensive Plan:** Low Density Residential

**Present Zoning:** LR-5, Urban Low Density Residential District  
Minimum lot size of 5,000 square feet per dwelling unit

**Sponsor's Proposal:** LR-5, P-D, Low Density Residential-Planned Development District  
The Planned Development Overlay is required to develop a Mobile Home Park in the LR-5 District.

### **HEARINGS OFFICER DECISION**

**Approve, subject to conditions,** change in zone designation from LR-5, low density residential district, to LR-5, P-D, planned-development, to allow development of a 10-unit manufactured home park on a 1.5-acre site, based on the following Findings and Conclusions.





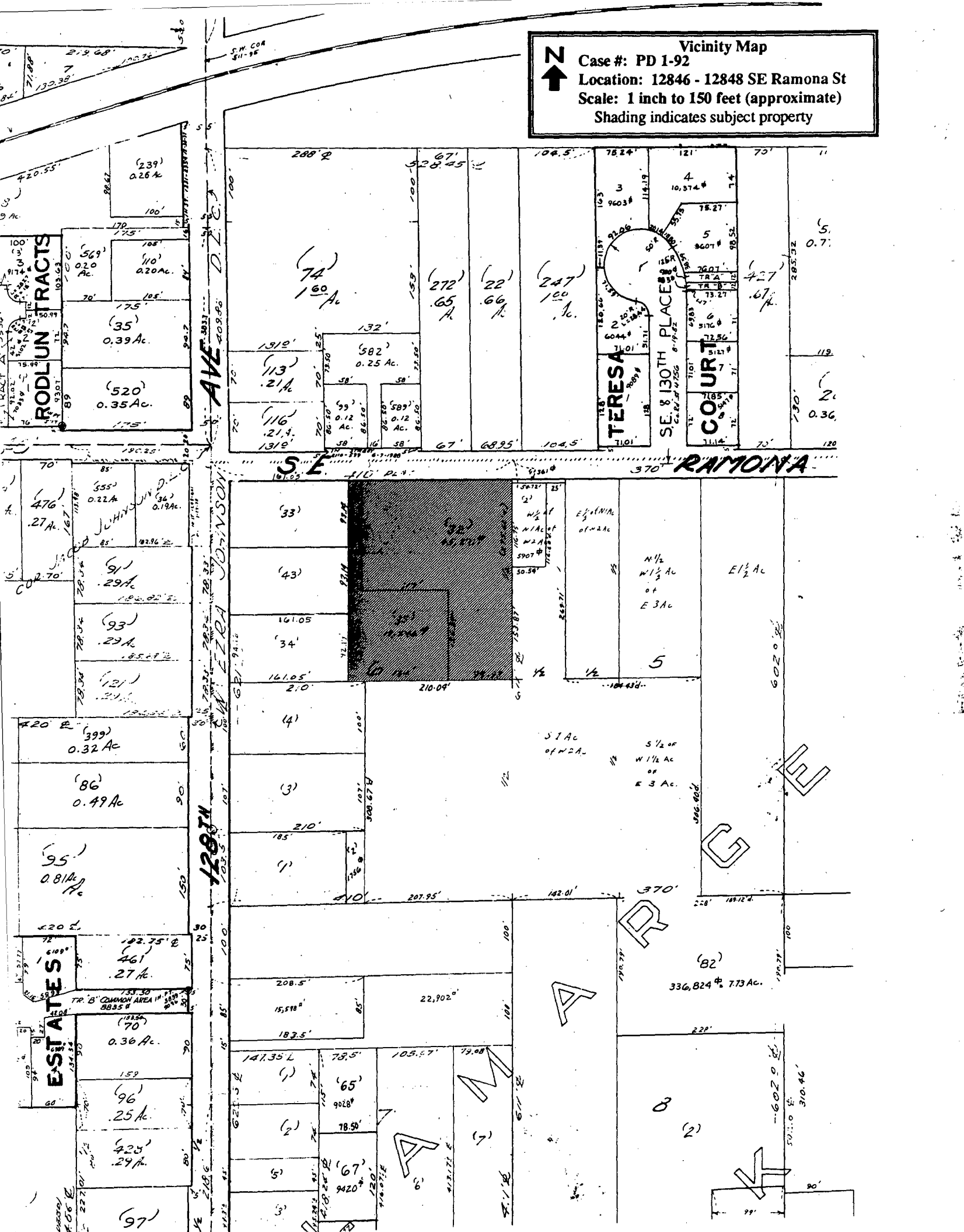
Vicinity Map

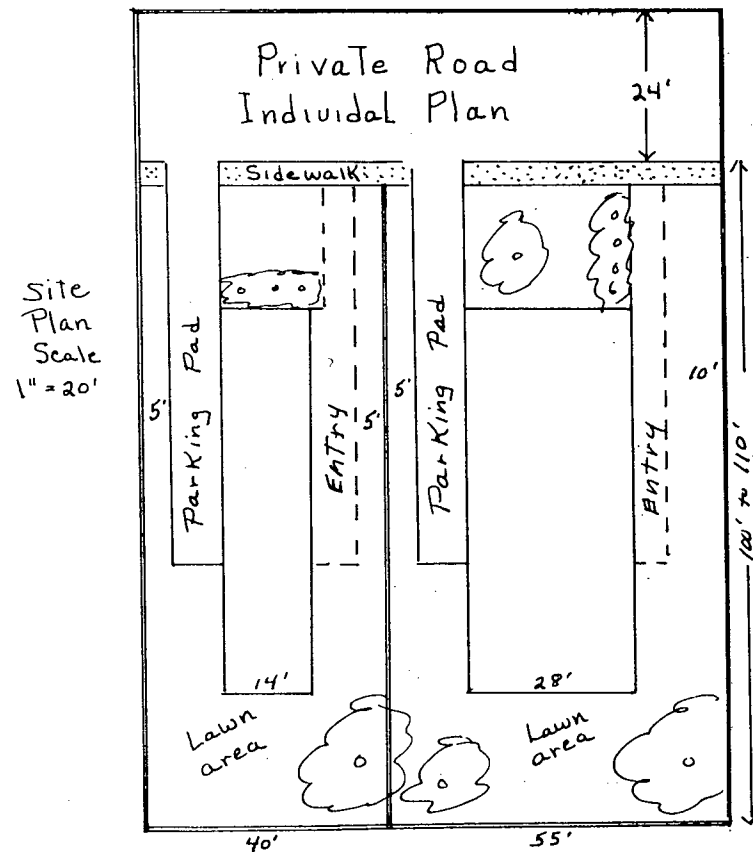
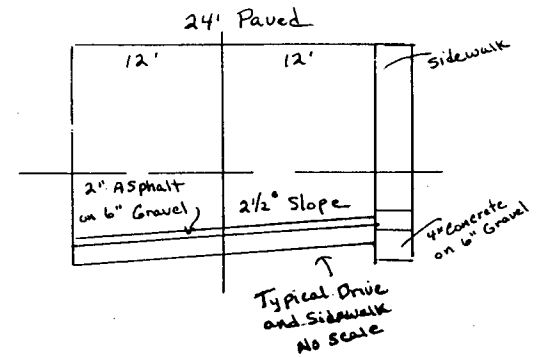
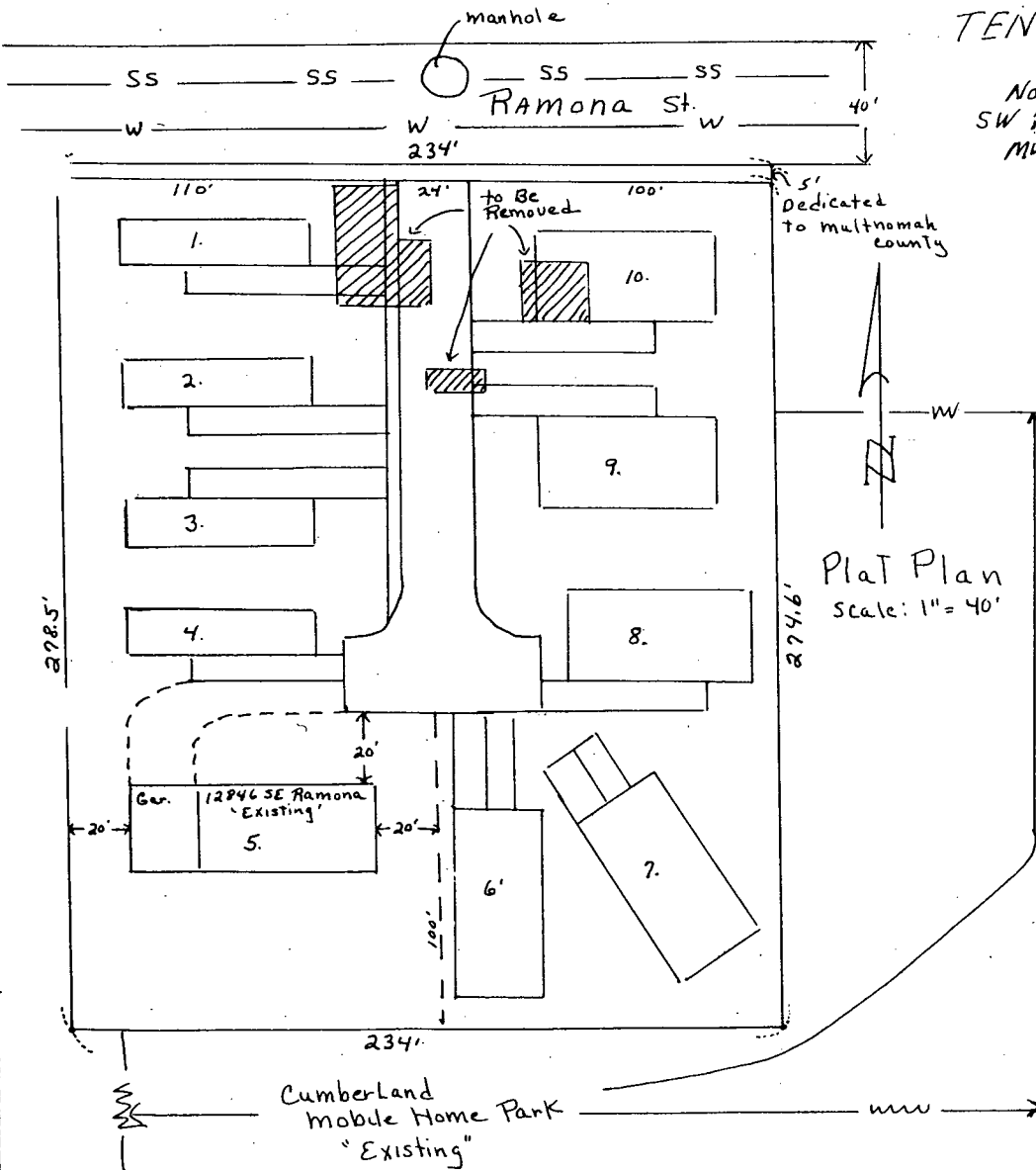
Case #: PD 1-92

Location: 12846 - 12848 SE Ramona St

Scale: 1 inch to 150 feet (approximate)

Shading indicates subject property





## CONDITIONS OF APPROVAL

1. Prior to any site clearing, grading or tree felling, obtain Design Review approval of all proposed site improvements, landscaping and manufactured home placements. The Design Review Plan shall indicate all existing trees on the site with 6-inch or greater trunk diameter. The design plan may be adjusted from that illustrated in this decision to preserve significant trees on the site. The number of manufactured home spaces may not exceed 9-units. Demolition of the structures near the Ramona Street frontage may proceed prior to Design Review.
2. Prior to issuance of placement permits for any of the proposed residences, complete Transportation Division requirements for right-of-way improvements to SE Ramona Street as applicable. The applicant shall execute a non-remonstrance agreement for sidewalk improvements along her SE Ramona Street frontage, in lieu of construction of sidewalks at this time, unless the Division of Transportation determines that sidewalks must be installed prior to development.
3. Consolidate the two parcels into a single tax account prior to issuance of placement permits.
4. Design Review plans and subsequent Placement Permit applications shall demonstrate compliance with the Mobile Home Park Development Standards in MCC .7715 (e.g., fencing, street names, setbacks, roof pitches, 40% maximum space coverage, etc.). Compliance shall be ministerially determined by the Planning Division as part of Final Design Review and application for individual Placement Permits.
5. An on-site storm water drainage system shall be developed with sufficient capacity to detain storm water in dry-wells or other facilities so no net increase in off-site discharge of storm water flow results from development of the site. An engineering certification shall be included as part of Design Review which assures satisfaction of this condition.
6. The PD plan must be reviewed and approved by Fire District #10 prior to issuance of Placement Permits.
7. The placement and size of individual pads shall substantially conform to the attached Site Plan, marked as Applicant's Exhibit #1, dated April 20, 1992, pending final design review.

## FINDINGS

### 1. PROPOSAL DESCRIPTION:

KM Clark proposes to develop a manufactured home development on SE Ramona Street. Applicant requests approval of a PD overlay on the subject property. The proposed project consists of 9-manufactured homes and the existing single family residence, and a private street to serve them.

Applicant provides the following description of their project:

*"The development plan for this property will be a Manufactured Home Park. The tenants in the Manufactured Home Park will own their own homes and rent space from the park owner. The tenants will be responsible for their own space maintenance under the park rules agreement all sign. The park owner will be responsible for enforcing these rules. The park owner will also be responsible for maintaining all other areas of the park, such as streets, landscaping areas and fencing. The park will be fenced and screening vegetation planted and maintained to promote privacy for the park residents.*

*"The park will be developed on a site that is currently used as a residential home with a large oversized lot (1.5 acres) and one rental house, which has outlived its usefulness and will be removed. The property was at one time a portion of an old farm and orchard. There are no large growth trees on the site and the property is level with Ramona St. The subject property is located immediately adjacent to a 51 unit Mobile Home Park (dba Cumberland Park) on the easterly and southerly property line. With the installation of sewers in the area and the need for alternative forms of housing, this planned development can meet the needs of many citizens in terms of affordability and security. The need for alternative forms of housing is well documented by the comprehensive plan. Manufactured Home Parks are well known for their added security features."*

## 2. ORDINANCE CONSIDERATIONS:

The property is zoned LR-5 (Urban Low Density Residential). The Multnomah County Code (MCC) § 11.15.2630(D) conditionally allows Mobile Home Parks in the LR-5 District as a PD. MCC § 11.15.6206 specifies PD approval criteria. Decisions shall be based on findings that the following are satisfied:

- (1) The proposed action fully accords with the applicable elements of the Comprehensive Plan [MCC .8230(D)(3)];
- (2) The applicable provisions of MCC 11.45 the Land Division Chapter;
- (3) That any exceptions from the standards or requirements of the underlying district are warranted by the design and amenities incorporated in the Development Plan and Program, as related to the purposes of the Planned Development subdistrict in MCC .6200, which are:

*"To provide a means of creating planned environments through the application of flexible and diversified land development standards; to encourage the application of new techniques and new technology to community development which will result in superior living or development arrangements; to use land efficiently and thereby reduce the costs of housing, maintenance, street systems and utility networks; to promote energy conservation and crime prevention; to relate*

*developments to the natural environment and to inhabitants, employers, employees, customers, and other users in harmonious ways."*

- (4) That any exceptions from the standards or requirements of the underlying district are warranted by the design and amenities incorporated in the Development Plan and relate to the purposes stated in MCC .6200.
- (5) That the system of ownership and the means of developing, preserving and maintaining open space is suitable to the purposes of the proposal.
- (6) The provisions of MCC .6214. (Relationship of the PD to Environment)
- (7) That the proposed development can be substantially completed within four years of the approval or according to the development stages proposed under MCC .6220.
- (8) The Development Standards of MCC .6212, .6216 and .6218.
- (9) The purposes stated in MCC .6200; and
- (10) That modifications or conditions of approval are necessary to satisfy the purposes stated in MCC .6200.
- (11) The Mobile Home Park Development Standards in MCC .7715 require that a mobile home park approved under this Chapter shall comply with the State standards in effect at the time of construction, the other applicable requirements of this Chapter, and the following:
  - (A) Application for a permit shall include evidence that the park will be eligible for a certificate of sanitation required by State law;
  - (B) The space provided for each mobile home shall be supplied with piped potable water and electrical and sewage disposal connections;
  - (C) Not more than 40 percent of the area of a mobile home space may be occupied by a mobile home and any attached or detached structure used in conjunction with the mobile home;
  - (D) Only those accessory structures authorized by Oregon Administrative Rule may be attached to a mobile home;
  - (E) The only detached structures located on a mobile home space shall be a carport or a fully-enclosed storage building;
  - (F) A mobile home and any attached accessory structure shall not be located less than:
    - (1) Ten feet from any other mobile home or accessory structure attached thereto;
    - (2) Ten feet from any detached accessory building or other building located within the mobile home park; or
    - (3) Five feet from a mobile home park property line.
  - (G) A permanent building in a mobile home park shall not be located less than ten feet from another permanent building and shall meet the yards as required in the district;

- (H) A sight-obscuring fence of not less than six feet in height, with openings only for required entrances or exits to a street or public place, shall be provided between mobile homes and a mobile home park property line;
- (I) Each vehicular way in a mobile home park of 50 spaces or more shall be named and marked with signs of a design similar to those for public streets. A map of the named vehicular ways and of the mobile home space numbers shall be provided by the owner to the fire district;
- (J) There shall be no outdoor storage of furniture, electrical appliances, tools, equipment, building materials or supplies within a mobile home park;
- (K) Any mobile home in a mobile home park within an LR-7 or LR-5 district shall:
  - (1) Be located in a mobile home space which complies with the standards of this subsection;
  - (2) Be a *manufactured home* constructed after June 15, 1976, and carry a State insignia indicating compliance with applicable Oregon State mobile home construction or equipment standards;
  - (3) Notwithstanding deterioration which may have occurred due to misuse, neglect, accident or other cause, the mobile home shall meet the State standards for mobile home construction evidenced by the required insignia;
  - (4) Have a minimum floor area of not less than 800 square feet;
  - (5) Have a roof with a minimum slope of 16 percent (2:12).

### 3. EVALUATION OF THE PROPOSAL:

The following section presents findings regarding the proposed Planned Development. The applicable criteria is in ***bold italics***; applicant's responses are presented first in "*italics*", followed by staff comments.

**3 A. Planned Development Approval Criteria** — Approval of a Planned Development shall be based on findings that the following are satisfied:

***(1) The requirements of MCC .8230(D)(3);***

**Findings:** The above cited Zoning Code subsection requires that the proposal comply with applicable elements of the Comprehensive Plan. The following Comprehensive Plan Policies are relevant:

- # 2 (*Off-Site Effects*)
- #13 (Air, Water, and Noise Qualities);
- #14 (Development Limitations);
- #16 (Natural Resources);
- #19 (Community Design);
- #20 (Arrangement of Land Uses)



- #21 (Housing Choice);
- #22 (Energy Conservation);
- #24 (Housing Location);
- #25 (Mobile Homes);
- #35 (Public Transportation);
- #36 (Transportation System Development)
- #37 (Utilities);
- #38 (Facilities).
- #39 (Park and Recreation Planning)

The following Policies of the Comprehensive Plan are applicable to this proposal:

**Policy 2 – Off-site Effects.**

**Findings:** When approving Planned Development, the County may apply conditions if necessary to minimize negative off-site effects to surrounding properties. Recommended conditions of approval address a variety of potential off-site effects from the proposed use, and are designed to help fulfill the intent of this Policy. This Policy will be met.

**Policy 13 – Air, Water, and Noise Quality.**

**Findings:** *Air quality in this area, according to the Oregon Department of Environmental quality, is generally good. The close location of the site on a major bus line should encourage the use of public transportation by the residents, thus eliminating some use of private automobile. The addition of 8 single-family manufactured homes (there are currently two dwellings on the property) will not impact the noise level to the surrounding residents any more so than eight single family stick-built homes. This Policy is met.*

**Policy 14 – Development Limitations**

**Findings:** *This site does not lie within the boundaries of any 100-year floodplain. The site does not have any areas where slope exceeds 20%. Run off of surface water will be handled by dry wells. This Policy is satisfied.*

**Policy 16 – Natural Resources.**

**Findings:** *There are no natural resources located on the site, such as wildlife, or fish. There is no sand or gravel extraction activity on the site or surrounding property. There are no natural resources to consider. This Policy is satisfied.*

**Policy 19 – Community Design.**

**Findings:** In addition to other conditions of approval, the applicant will be required to obtain design review approval for all proposed site improvements, landscaping, and home placements. This design review process satisfies Policy No. 19.

**Policy 20 - Arrangement of Land Uses**

**Findings:** The manufactured home planned development proposed for this LR-5 site satisfies Policy 20. Manufactured homes are considered residential uses and with design review, will blend with other residential uses in the area. These homes reinforce the identity of the community as a residential neighborhood. So long as the planned-development is well designed and maintained, it will help create a sense of pride and belonging.

The final portion of Policy 20 calls for development that will "D.) Maintain or create neighborhood long-term stability".

This part of Policy 20 is difficult to apply in this case. On one hand, there is some testimony in the record submitted by the opponents to this project that asserts that a "mobile home park" will create a "transient community". On the other hand, it should be noted that by law "manufactured homes" and "mobile homes" are not synonymous terms. The safety and construction standards that apply to "manufactured homes" are, by statute (See ORS 446.003), completely different than those which apply to "mobile homes". While both types of dwellings are constructed for movement on the public highway, their structural mobility does not, by itself, indicate that the neighborhood will be any less stable because of the use of manufactured dwellings. Based upon all the evidence in the record, this portion of Policy 20 will be satisfied, so long as the planned-development is well designed and maintained. This result will be insured through the design review process and through other conditions of approval.

#### **Policy 21 – Housing Choice.**

**Findings:** With the proper conditions of approval, this development will result in an attractive living environment that reduces the cost of housing, maintenance, street systems and utility networks for the individual family units. This Policy is satisfied.

#### **Policy 22 – Energy Conservation.**

**Findings:** Development of this parcel will infill urban lots and reduce sprawl. All essential services are already available to the site. Bus services within the area provides public transportation and thereby cuts down on use of private automobiles, thus decreasing energy use and pollution. The orientation of the manufactured homes on the spaces, will also encourage the maximum solar exposure that may be used by individual owners of passive solar features. This Policy is satisfied.

#### **Policy 24 – Housing Location.**

**Findings:** This manufactured housing planned-development is a minor residential project. It helps accommodate additional housing types in the area, in accordance with this Policy. Policy 24 is met..

### **Policy 25 – Mobile Homes.**

**Findings:** This manufactured home planned-development helps reinforce the single-family character of the area. It provides an ownership pattern for residents which is less expensive than standard ownership and also provides for residents who want to own their own home but do not want a high maintenance pattern of ownership. All other standards in this section, such as sight obscuring planting, fence and compliance with applicable state ordinance regarding safety and location of manufactured homes within the park have been addressed on preceding pages and following pages of this report. It should be noted, however, that under state law, manufactured homes and mobile homes are not synonymous. To the extent this Policy applies to manufactured homes, it is met.

### **Policy 35 – Public Transportation.**

**Findings:** Tri-Met bus lines run within one long block of the property. Bus service is available on SE 122nd., SE Foster Road. and SE 135th Avenue. This Policy is satisfied

### **Policy 36 – Transportation System Development.**

**Findings:** There are no sidewalks on SE Ramona Street. There is evidence in the record that a petition was circulated a number of years ago to form an Local Improvement District for the installation of sidewalks. 60% of the property owners would not sign the petition.

The applicant has testified that sidewalks are needed on SE Ramona Street to provide for the children in the neighborhood that attend the two schools on the street. However, she maintains that it would do little good for her to install sidewalks along the 234 feet in front of her property at this time without the participation of her neighbors in a sidewalk system. She has indicated that she would sign an agreement not to remonstrate against sidewalks and would install them as soon as a Local Improvement District is formed.

Sidewalks are needed in the area. However, until a sidewalk system is initiated in the area, a non-remonstrance agreement will satisfy the intent of this policy. This Policy will be met.

### **Policy 37 – Utilities.**

**Findings:** Utilities available to the site include Portland General Electric, Northwest Natural Gas, Gilbert Water District, US West Telephone Company Communications and, Paragon Cable. Written approval for accessibility of water has been obtained from Gilbert Water District. All service lines for utilities will be located underground within the park. Surface water will be handled by dry wells. This Policy is met.

## **Policy 38 – Facilities.**

**Findings:** The site lies within the boundaries of David Douglas High School. Gilbert Grade School is within 400 feet of the property and Alice Ott Middle School is within 600 feet of the property (distances are approximate). Both schools are within easy walking distance of the site. Development of the site as a Manufactured Home Park will not affect these schools, as the average resident will be of retirement age. Rental space for recreational vehicles (boats, trailers, campers, etc..) is available at a mini-storage business located two long block from the property on SE 122nd and Ramona Street.

Fire protection is provided by Multnomah County Fire Protection District #10, with a station located within one mile. A fire hydrant is located on SE Ramona St. at 130th and a second hydrant is located at the corner of SE Ramona and SE 128th Avenue. Police protection is provided by Multnomah County Division of Public Safety, with an office located within six miles of the site. This Policy is satisfied.

## **Policy 39 – Parks and Recreation Planning.**

**Findings:** The property is located in a community that has several parks located within walking distance. Gilbert Park is located on SE Foster Rd. at approximate 130th avenue. Leach Botanical Garden is located on SE 122nd just south of Foster Rd. A new recreational trail is currently under development by the City of Portland as a part of the 40 Mile Loop Trail. The recreation trail was once the Springwater Line (old Rose City railway line) which is located across Ramona St. and directly to the north of the planned manufactured Home Park. Both Gilbert Grade School and Alice Ott Middle School have a track and field area which are available to the community during the early morning hours, the evenings, summer months and weekends, when the school is not open or when the school does not have planned activities. This Policy is met.

**Summary Finding:** Conditions of approval are imposed to address several Plan policies. Condition #1 requires Design Review prior to site clearing or grading. It addresses policies #16 (Natural Resources) and #19 (Community Design). Condition #2 addresses policy #36 (Transportation System Development). Condition #4 addresses policies #19 (Community Design) and #25 (Mobile Homes). Conditions #5 and #6 address policies #2 (Off-site Effects); #13 (Air, Water, and Noise Qualities); #14 (Development Limitations); #16 (Natural Resources); and #37 (Utilities).

### ***(2) The applicable provisions of MCC 11.45, the Land Division Chapter:***

**Finding:** The proposal does not include partitioning or subdivision of land under the Land Division Chapter. Condition # 3 requires that consolidation of the two tax accounts be completed prior to issuance of placement permits within the development.

- (3) *Any exceptions from the standards or requirements of the underlying district are warranted by the design and amenities incorporated in the development plan and program, as related to the purposes stated in MCC .6200.*

**Findings:** The proposal does not significantly differ from conventional development prescribed by LR-5 provisions [ref. MCC 11.15.2622 – .2634]. The principle differences between the underlying district relate to dimensional standards (*i.e.*, lot area, setbacks, frontage). The purpose of the Planned-Development provisions are to allow for such flexibility.

**Density** — PD provisions essentially allow an increased density above that provided by the base zone (since the area needed for public streets is not subtracted). However, the applicant does not propose a density above the base zone. A conventional LR-5 subdivision of the site would result in about 10 lots. This figure assumes 20% of the site area would be required for a public street, leaving more than 52,000 square feet available for ten 5000-plus square foot lots.

The proposed PD proposes 9 manufactured home “spaces”. The existing house is the tenth unit. Review of the tentative plan suggests spaces #5 – #10 would exceed 5000 square feet, while spaces #1 – #4 would have about 4500 square feet. The PD overlay allows the manufactured home spaces to vary from the 5000 square foot standard. This Criteria is satisfied.

**Setbacks** — The plans indicates space #6 and #8 have rear yard setbacks of approximately 10-feet; the base zone requires a 15-foot minimum rear yard. The front setbacks on the plan illustrate “front yard” areas for each manufactured home will vary between 10 to 20-feet (*i.e.*, #4, #8). This Criteria is satisfied.

**Frontage** — Another difference between LR-5 standards and the proposed PD plan are the minimum frontage requirements. In the LR-5 zone, lots are required a 20-foot minimum frontage on a public street [ref. MCC .2634(E)]. The proposed PD plan includes a private street to serve the proposed manufactured home “spaces”. Each space, however, would have at least 20-feet of frontage on the private street. This Criteria is met.

The question before the County is whether *the design and amenities incorporated in the development plan* warrant flexibility from the LR-5 District standards, and whether the proposed plan sufficiently relates to the purposes of the Planned Development subdistrict. The PD purposes are quoted below [MCC .6200]:

“The purposes of the Planned Development sub-district are to provide a means of creating planned environments through the application of flexible and diversified land development standards; to encourage the application of new techniques and new technology to community development which will result in superior living or development arrangements; to use land efficiently and thereby reduce the costs of housing, maintenance, street systems and utility networks; to promote energy conservation and crime prevention; to relate developments to the natural environment and to inhabitants, employers, employees, customers, and other users in harmonious ways.”

The Hearings Officer concludes that the proposed design and amenities warrant the minor variations requested from the base zone. The proposed PD adequately addresses the PD purposes cited above.

***(4) That the system of ownership and the means of developing, preserving and maintaining open space is suitable to the purposes of the proposal.***

**Findings:** Creating a manufactured home community of rental spaces allow the owner to provide services such as streets, water, storm drainage, and utilities in an efficient manner subject to maintenance. Having the park owner responsible for maintenance of essential services allows these services to be provided by construction techniques most allowed in standard subdivisions. This can result in a more affordable rent schedule.

The proposal does not include partitioning or subdivision of land under the Land Division Chapter. Condition # 3 requires that consolidation of the two tax accounts be completed prior to issuance of placement permits within the development. There are no explicit minimum open space area requirements for a Planned Development. The proposal does not include common open space areas. The site would be held under a single ownership and the individual home sites would be leased. This is a common and proven means of accomplishing the plan and program for a manufactured home park. This Criteria is satisfied

**(5) The provisions of MCC .6214. (Relationship to the Environment)**

**Findings:**

(a) The development plan and program will be compatible with the natural environment in that as many trees as practicable will be preserved on the site.. There are no streams, lakes or other resources on the site which would be adversely affected. The impact will be limited to that which will naturally take place with the addition of 9 more living units to the site.

(b) Energy conservation is promoted due to the fact that schools and bus lines are located within walking distance, and the I-205 Freeway ramp is 1 1/2 miles away. The site is conducive to solar exposure. The dwellings will be built with energy efficiency in mind with dual-pane windows, electric furnaces and will meet HUD standards for manufactured homes.

The manufactured home community will be located with an orientation so that suns exposure will be available to all homes. Home owners can attach solar panels to their roofs and get adequate advantage from that facility.

(c) Maximum privacy will be achieved by placing homes upon individual spaces avoiding common wall construction found in standard housing allowable within this zone.

(d) The one access to the site is a private drive entering from SE Ramona Street. Each lot has direct access to the private roadway. Each home will have off-street parking facilities.

(e) The size of our spaces tend to be larger in depth than LR-5 single family lots. The majority of the manufactured home sites will exceed the overall square footage of a standard lot, as required in the LR-5 zone.

**Summary Finding:** . Condition No. 1 requires Design Review approval of proposed site improvements. It further requires that all existing trees (6-inch or greater diameter) be identified on the Design Review Plan and retained to the maximum practicable extent.

Adjacent properties are largely developed with single family dwellings, particularly to the west and north of the site. The Cumberland Mobile Park abuts the site on the east and south boundaries. Gilbert Primary School is located on the south side of SE Ramona Street further east. The proposed site layout displays a generally compatible design with neighboring road systems, buildings and uses. Conditions of approval are recommended to further address the Relationship of the Planned Development to the Environment.

Item (d) specifies that *[T]he 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, structures and uses shall be designed to maximize safety and convenience and be compatible with neighboring road systems, buildings, structures and uses.*

The surrounding area is primarily developed in a grid pattern, with square or rectangular parcels oriented on north-south or east-west streets. The proposed PD continues this pattern in its private street and lot and home configurations. Private access-way subdivisions are common to the area (e.g., the "Gilbert Park" addition, Rodlun Tracts, Deer Run Estates, etc.). Therefore, the proposed PD plan is similar to development on nearby properties.

The Transportation Division indicates the proposed development – as conditioned – is adequately served by the existing transportation system. Sidewalks and other Right-of-Way improvements may be required along the Ramona Street frontage. The application indicates the project may be secured by a 6-foot height fence. Design details would be finalized as part of Design Review (ref Condition #1). This Criteria is met.

**(6) *That the proposed development can be substantially completed within four years of the approval or according to the development stages proposed under MCC .6220.***

**Findings:** As a condition of approval, the development will be completed in advance of the four-year limit. This Criteria will be met..

of the four-year limit. This Criteria will be met..

**(7) The development standards of MCC .6212, .6216 and .6218:**

**MCC .6212 Minimum Site Size:**

**Findings:** The site consists of 1 1/2 acres with 234 feet of frontage on SE Ramona St. and is 278 feet in depth. This site size is suitable for the proposed development and is of sufficient size to be planned and developed in a manner consistent with the purposes of MCC .6200..

**MCC .6216 Open Space:**

**Findings:** There are no minimum open space area requirements for a Planned Development. The proposal does not include common open space areas; the proposed home sites would have between 4400 and 5610 sq. ft., with approximately 2800 to 3000 sq. ft. remaining "open" on each site. These private open spaces for each residence adequately satisfy the intent of MCC .6216. With the available community parks and walking trails in the immediate area, the need for public recreation space will be minimal. The requirement for recreation space will be limited to each individual site. The individual sites are oversized in depth and will allow for the privacy and recreation of each family unit without the need for public space within the Manufactured Home Park area. No open space area is being provided in that each lot will have a large private backyard area which will allow each tenant adequate area in which to have a garden or private yard. This Criteria is met.

**MCC .6218 Density Computation for Residential Development:**

**Findings:** LR-5 provisions specify a 5,000 square feet minimum lot size for a single family house. PD provisions essentially allow an increased density above that provided by the base zone (since the area needed for public streets is not subtracted). However, the applicant does not propose a density above the base zone. With a gross site size of 64,712 square feet, a conventional LR-5 subdivision of the site would result in about 10 lots. This figure assumes 20% of the site area would be required for a public street, leaving more than 52,000 square feet available for ten 5000-plus square foot lots.

The proposed PD proposes 9 manufactured home "spaces". The existing house is the tenth unit. Review of the tentative plan suggests spaces #5-#10 would exceed 5000 square feet, while spaces #1-#4 would have about 4500 square feet. The PD overlay allows the manufactured home spaces to vary from the 5000 square foot standard. Staff concurs that the proposed configuration adequately addresses Planned Development criteria. The Hearings Officer agrees with Staff's analysis in this regard. This Criteria is met.



**(8) *The purposes stated in MCC .6200.***

**Findings:** The proposed development generally fulfills purposes of the Planned development overlay by providing affordable housing opportunities, an efficient use of the site, reduced public costs for streets and maintenance, and preservation of natural features on the site (*i.e.*, mature trees). This Criteria is satisfied.

**(9) *That modifications or conditions of approval are necessary to satisfy the purposes stated in MCC .6200.***

**Findings:** Conditions of approval are recommended to address the purposes of the PD overlay. Condition #1 requires Design Review of proposed site improvements and limits the development to 9-manufactured homes; #2 requires street improvements to access the site, and #3 requires consolidation of the two parcels into one tax account. Condition #4 requires that Design Review plans and placement permit requests for each proposed house comply with the mobile home park development standards (*e.g.*, 40% max. coverage, setbacks, *etc.*). Condition #5 requires that an on-site storm water drainage system be designed and certified by an engineer; and Condition #6 requires approval of the site plan by the Fire District.

**4. Additional Findings:**

MCC.6222 (B) specifies the permitted uses for Planned Developments in LR-5 District. Subsection (2) allows a "Manufactured Home Park" outside of a developed neighborhood as designated in the Community Plan. The Powellhurst Community Plan does not identify the subject property as a developed neighborhood therefore, the proposal is consistent with this provision.

## **C O N C L U S I O N S**

It should be noted that much of the testimony offered in opposition to this application was based on the argument that:

"Mobile home parks have the effect of lowering surrounding property values and creating a transient community. SE Ramona Street should not be expected to handle any more mobile home parks" (See June 8, 1992 letter of Gregory G. Lutje).

Approval or denial of this application for a conditional use permit for a PD overlay to allow development of a ten-unit manufactured home park must be based on standards and criteria as set forth in the County's Development Ordinance and Comprehensive Plan. With the exception of general references to Plan Policies 19, 20, and 24 (which

have been specifically addressed in this report), the opponents have not cited the Hearings Officer to any relevant approval criteria which requires me to make a determination as to whether or not too many mobile home parks are being developed in the area.

Furthermore, as a matter of state law, I have serious doubts as to whether or not any of the County's existing policies could lawfully be construed in such a way so as to deny this application for a manufactured dwelling park, based upon a subjective determination that too many manufactured dwellings may exist in the area. ORS 197.480(5) specifically provides as follows:

(a) A city or county may establish clear and objective criteria and standards for the placement and design of mobile home or manufactured dwelling parks.

(b) If a city or county requires a hearing before approval of a mobile home or manufactured dwelling park, application of the criteria and standards adopted pursuant to paragraph (a) of this subsection shall be the sole issue to be determined at the hearing. (Emphasis Added).

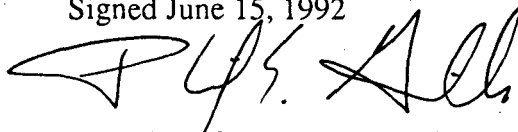
(c) No criteria or standards established under paragraph (a) of this subsection shall be adopted which would preclude the development of mobile home or manufactured dwelling parks within the intent of ORS 197.2956 and 197.475 to 197.490.

ORS 197.475 establishes a state-wide policy to provide for mobile home or manufactured dwelling parks within all urban growth boundaries to allow persons and families to choice of residential settings.

In conclusion, the opponents argument with regard to their subjective assessment that too many mobile homes are being located in the area is not well taken. The Hearings Officer believes that such an argument is not relevant to the applicable approval criteria and that it is unlawful for the Hearings Officer to consider such subjective factors given the mandate of ORS 197.480(5).

The applicant has demonstrated compliance with the relevant approval criteria and the application is approved, subject to the conditions set out on Page 5.

Signed June 15, 1992



By Phillip Grillo, Hearings Officer

Filed With the Clerk of the Board on June 25, 1992

### **Appeal to the Board of County Commissioners**

Any person who appears and testifies at the hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to the Hearings Officer decision, may file a Notice of Review with the Planning Director on or before 4:30 PM. on Monday, July 6, 1992 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

*The Decision on this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, July 28, 1992 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development Division at 248-3043.*

Meeting Date: July 28, 1992

Agenda No.: P-2

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM  
(For Non-Budgetary Items)

SUBJECT: Hearings Officer Decision

BCC Informal \_\_\_\_\_ BCC Formal July 28, 1992  
(date) (date)

DEPARTMENT DES DIVISION Planning

CONTACT Sharon Cowley TELEPHONE 2610

PERSON(S) MAKING PRESENTATION Planning Staff

ACTION REQUESTED:

☐ INFORMATIONAL ONLY

☐ POLICY DIRECTION

xx DENIAL

☐ APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: Ten Minutes

CHECK IF YOU REQUIRE OFFICIAL WRITTEN NOTICE OF ACTION TAKEN: xx

BRIEF SUMMARY (include statement of rationale for action requested, as well as personnel and fiscal/budgetary impacts, if applicable):

SEC 6-91a/HDP 4-91a Review the Decision of the Hearings Officer of June 16, 1992, denying applicant's request to amend SEC 6-91a and HDP 4-91a to permit construction of a culvert over Balch Creek, which has already been installed, all for property located at 6125 NW Thompson Road

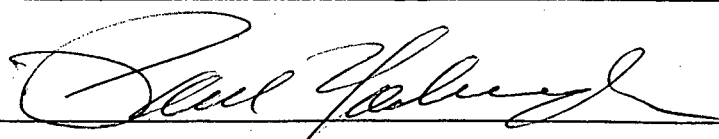
BOARD OF  
COUNTY COMMISSIONERS  
MULTNOMAH COUNTY  
OREGON  
1992 JUL 21 PM 3:36

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL \_\_\_\_\_

Or

DEPARTMENT MANAGER 

(All accompanying documents must have required signatures)

7/22

CARRIE - WE  
HAVE 2  
LETTERS RE  
APPEAL HEARING  
DATES - ATTACHED  
TO BACK  
(BCC HAS COPIES WITH <sup>Packer</sup> DEB)



DEPARTMENT OF ENVIRONMENTAL SERVICES  
DIVISION OF PLANNING AND DEVELOPMENT  
2115 SE MORRISON STREET  
PORTLAND, OREGON 97214 (503) 248-3043

## Decision

JUNE 16, 1992

This Decision consists of Conditions of Approval, Findings of Fact and Conclusions

SEC 6-91a                      Significant Environmental Concern Permit  
HDP 4-91a                      Grading and Erosion Control Permit  
(Amended design for private crossing over Balch Creek)

Applicant requests approval to modify the driveway design approved in 1991 by SEC 6-91 and HDP 4-91 (Grading Permit). The proposed access drive to the property crosses the Thompson Road fork of Balch Creek. The proposed drive and culvert/fill work is located within 100-feet of a Class I stream, and is therefore an *Area of Significant Environmental Concern* (designated SEC in the Multnomah County Zoning Code).

**Location:** 6125 NW Thompson Road

**Legal:** Tax Lots '1' of Lot 37, Mountain View Park Addition #1

**Owner/Applicant:** Dan M McKenzie  
One Bellevue Lake Building, Suite 205  
Seattle, Washington - - 98005

**Appellant:** Arnold Rochlin, c/o Friends of Forest Park  
PO Box 83645, Portland, 97283

**Site Size** 3.00 Acres

**Comprehensive Plan** Multiple Use Forest

**Present Zoning :** MUF-19/SEC, Multiple Use Forest District/Significant Environmental Concern subdistrict

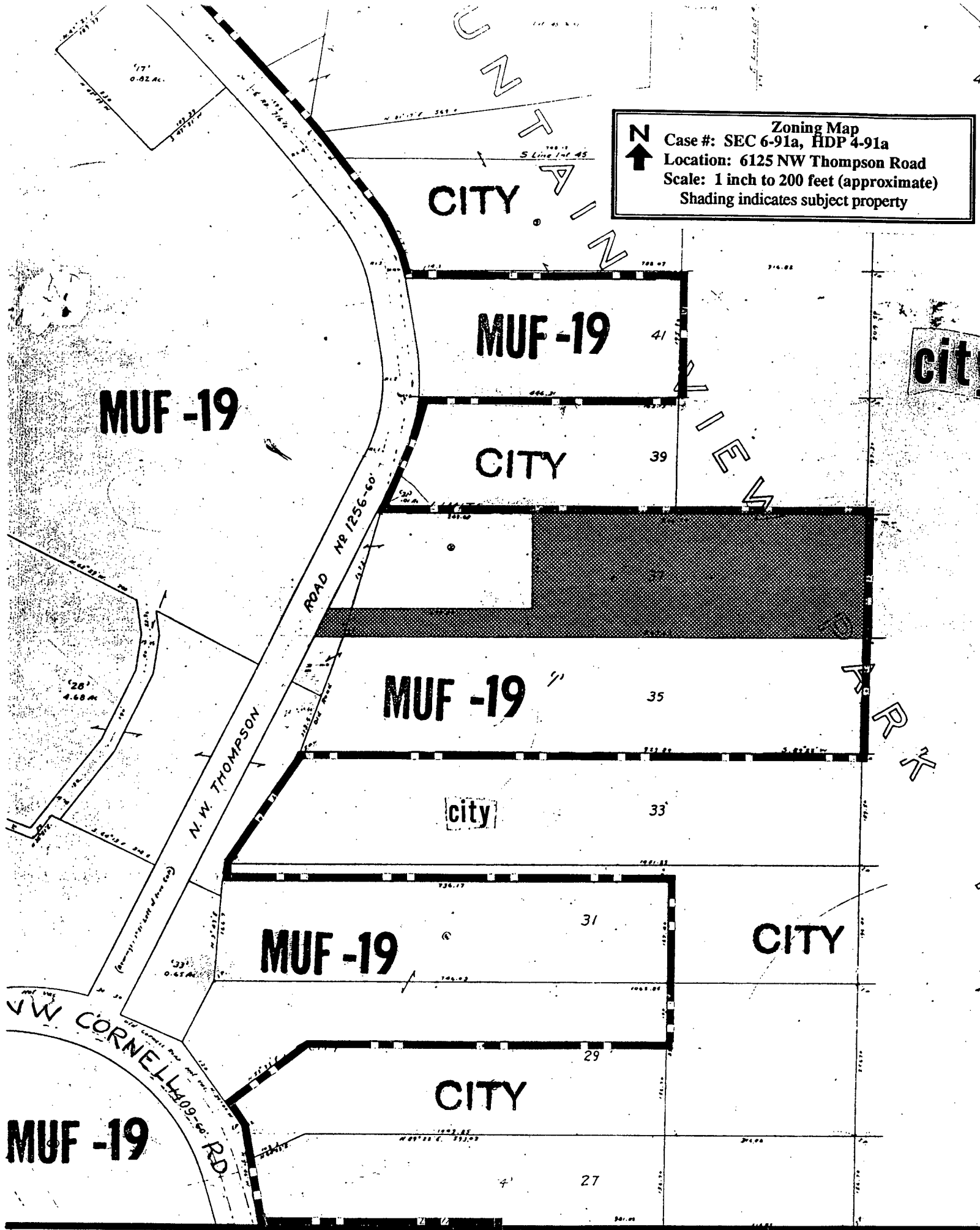
**Hearings Officer  
Decision:**

**Deny** the applicant's request to amend SEC 6-91a and HDP 4-91a, to permit construction of a culvert over Balch Creek, which has already been installed.

The appeal of Arnold Rochlin, c/o Friends of Forest Park, is granted, reversing the Administrative Decision of the Planning Director.

SEC 6-91a/HDP 4-91a

**Zoning Map**  
Case #: SEC 6-91a, HDP 4-91a  
Location: 6125 NW Thompson Road  
Scale: 1 inch to 200 feet (approximate)  
Shading indicates subject property



200 SCALE

## FINDINGS

### 1. Background:

An SEC Permit was approved for the property on March 22, 1991 [SEC 6-91]. This Administrative Decision authorized construction of a driveway access off of NW Thompson Road, with a bridge over the creek. This decision was not appealed, therefore it was final on April 2, 1991.

The Planning Commission authorized a "non-resource related single family residence", as a Conditional Use (CU) on April 1, 1991 [CU 5-91]. This decision was not appealed. The Board accepted the decision on their April 23, 1991 consent agenda, and therefore it was final on May 6, 1991.

A Hillside Development and Erosion Control Permit was approved for the property on May 1, 1991 [HDP 4-91]. This Administrative Decision authorized grading and clearing for the proposed driveway access and house site authorized under SEC 6-91 and CU 5-91 respectively. The HDP decision was not appealed, and therefore it became final on May 12, 1991.

The applicant later modified the design of the driveway access, proposing a culvert/fill rather than a bridge crossing over the fork of Balch Creek. The amended design was reviewed and approved by the Corps of Engineers and the Division of State Lands (DSL), however, County approval for a bridge crossing was not obtained prior to construction. The applicant proceeded with the culvert/fill work in the fall of 1991.

The Planning Division received complaints in December, 1991 and January, 1992 regarding placement of a culvert and fill where a bridge crossing was previously proposed. The Planning Division notified Mr. McKenzie that redesign and installation of the crossing violated prior zoning approvals [ref. January 23, 1992 letter; file: ZV 03-92]. An application to amend the prior SEC and HDP decisions (from a bridge to a culvert/fill crossing) was received on January 24, 1992.

Several letters and other documents have been submitted regarding the amended crossing design. These are listed and briefly described below:

- A. 10/16/91 letter from the Division of State Lands (DSL) — exempts the culvert/fill proposal from DSL Permit requirements since it involves less than 50 cubic yards of material "*within the banks of a waterway*" [DSL # 6447].
- B. 11/22/91 letter from Corps of Engineers — accepts the culvert crossing proposal — Application 91-00095; includes 6/17/91 review by M. Hess, County Planner, indicating that an SEC/Grading Permit is needed for the culvert/fill work.



- C. 1/12/92 letter from Friends of Balch Creek — cites redesign and culvert placement in the creek; alleges violation of conditions of approval, and adverse effects to the stream and fish movements and the *"effectiveness of the wetland"*.
- D. 1/16/92 letter from John Sherman (c/o Friends of Forest Park) — asserts that the culvert/fill crossing violates County approvals, as conditioned, and requests removal of the culvert.
- E. 1/22/92 memo from Irv Ewen, Zoning Enforcement Office — includes the site inspection and background research report.
- F. 1/23/92 letter from Irv Ewen, Zoning Enforcement Office — notified the property owner (Dan McKenzie) that the culvert/fill work violates the zoning approvals for the property.
- G. 2/6/92 letter (received) from Medoff family (neighbors) — disputes the adverse impact claims in the Friends of Balch Creek letter cited above in item C; claims that the culvert, as installed, does not pose a threat to *'significant fish and wildlife habitat'*.
- H. 2/10/92 letter from John Sherman (c/o Friends of Forest Park) — asserts that the culvert/fill crossing and access design requires Planning Commission review pursuant to MCC 11.15.6414(A) and .7110(D).
- I. 2/12/92 letter from Cinda and Frederic Ing (neighbors) — disputes the adverse impact claims and other statements in the Friends of Balch Creek letter cited above in item C.
- J. 2/12/92 letter from Angela Miller (neighbor) — disputes the fish habitat claims and statements regarding wetlands impacts in the Friends of Balch Creek letter cited in above in item C.
- K. 2/15/92 letter from Dan McKenzie (owner/applicant) — describes application history and agency reviews; responds to zoning violations alleged in items C and F above; describes existing culvert crossings elsewhere in the vicinity.
- L. 2/18/92 letter from Jay Massey, Fish Biologist (ODFW) — indicates the culvert installed is acceptable for Class I or Class II streams, and that this *"...culvert installation is much better than some existing culverts in the local area."*
- M. 2/19/92 letter from Irv Ewen, Zoning Enforcement Office — acknowledges receipt of item K above, and forwards letter to Mark Hess for consideration in the Administrative Decision.

- N. 2/20/92 letter from Hagen family (neighbors) — disputes the wisdom of removing culverts as suggested by the Friends of Balch Creek letter (item C).
- O. 3/18/92 letter from Robert Maben, Regional Supervisor (ODFW) — indicates that multiple culvert installations in a stream can have adverse cumulative effects on fish habitat.

In addition, other exhibits were received before, at or after the hearing and are made a part of the record or have been rejected, as indicated below:

- P). Applicant's Exhibits A-E (Accepted)
- Q). Opponents Exhibits A-Fa (Accepted)
- R). Applicant's Response to Appellants Hearing Memorandum with Exhibits:
  - Exhibit 1 (Accepted)
  - Exhibit 2 (Accepted)
  - Exhibit 3 (Accepted)
- S). ODFW Fish Inventory Data (Accepted)
- T). Dan MacKenzie's Handwritten Notes Regarding the Fish Survey (Rejected)
- U). Opponent's Objections to Applicant's Memorandum and Exhibits (Accepted)
- V). Hearings Officer's Intermediate Ruling
- W). Applicant's Response and Opponents Objections (Accepted)

## **2. Site and Vicinity Information:**

The subject property is a Lot of Record of three acres located on the east side of NW Thompson Road approximately 800 feet north of its intersection with NW Cornell Road. It is vegetated with a mixture of conifer and deciduous trees. The property abuts Forest Park to the north and east. A fork of Balch Creek flows south near the west end of the property, approximately 50 feet from the NW Thompson Road frontage.

Properties in the surrounding area range in size from less than one acre to over 20 acres in size. Several of the smaller lots are developed with rural residences, while most of the larger parcels are undeveloped. There are no commercial farm or forest uses in the immediate area. Single family residences are developed on properties immediately south and west of the subject site. The City of Portland's Forest Park adjoins the property to the east and north. An "arm" of the park also borders the lot immediately south of the subject property.

The culvert/fill work has been performed in a 50-foot wide access strip which connects the property to NW Thompson Road. The Forest Park boundary is approximately 200-feet north and south of the culvert/fill work, and approximately 900-feet

to the east. The grading work associated with the driveway preparation will occur near the south boundary of the site. The house site and associated drainfield grading work is proposed near the eastern end of the lot, between 30 and 100-feet from the east boundary, and about 20 to 100-feet from the north boundary (ref. CU 5-91 site plan).

### 3. Zoning and Comprehensive Plan Designations.

#### A. Necessity of Seeking an Amendment to CU 5-91

The appellants maintain that the original SEC permit (SEC 6-91) which allowed the applicant to cross the creek with a bridge, was issued in conjunction with CU 5-91. CU 5-91 incorporated by reference the SEC permit conditions of approval. Therefore, they assert that the SEC permit cannot be amended by itself to allow a culvert to replace the bridge. The appellants' position is that both the SEC and the CU permits must be amended in order to permit the culvert. The applicant responds that CU 5-91 did not require installation of a bridge across Balch Creek as a condition of approval, and that a conditional use permit amendment is not necessary.

The Hearings Officer notes that the SEC permit (SEC 6-91) became final on April 4, 1991. the Conditional use permit (CU 5-91) became final on May 6, 1991. Condition #3 of the County's Decision in CU 5-91 reads as follows:

"3). Prior to any site clearing or grading, satisfy the Conditions of Approval of SEC 6-91 (See Appendix). Contact Mark Hess at 248-3043 for specific information".

**Findings:** The above language of Condition #3 of CU 5-91 does not incorporate by reference or otherwise adopt the Conditions of Approval in SEC 6-91. Rather, as I read the plain language of Condition #3 of CU 5-91, it requires the applicant to satisfy the condition of SEC 6-91 prior to any site clearing or grading. Likewise, if the conditions of SEC 6-91 are amended, the amended conditions would have to be satisfied if these amendments occurred before the applicant proposed to clear or grade the site. If site clearing or grading occurred before SEC 6-91 was amended, the applicant would be responsible for demonstrating compliance with SEC 6-91 prior to any site clearing or grading. Therefore, the proposed amendment to a condition of SEC 6-91 does not require a separate amendment to CU 5-91, at least not by virtue of Condition #3 of CU 5-91.

#### B. Necessity for a hearing under MCC 11.15.6414

In addition, the appellant argues that when an SEC permit is sought in conjunction with a conditional use permit, a public hearing before the Hearings Officer is required by MCC 11.15.6414, unless the Planning Director makes the appropriate findings under MCC 11.15.8240[E].

**Findings:** I agree that under MCC 11.15.6414 this Decision on an amendment to an SEC permit requires a hearing. The appellants have, however, received a hearing before the Hearings Officer, which is all that MCC 11.15.6414 entitles them to. This provision of the Zoning Code does not expressly or implicitly require the Hearings Officer to apply conditional use permit criteria to the proposed use (or change of use) in addition to the SEC criteria. MCC 11.15.6414[C] specifically requires that:

"The Findings and Conclusions made by the Hearings Officer and the Condition or modifications of approval, if any, shall specifically address the relationships between the proposal and the criteria in MCC 11.15.6420".

The Criteria in MCC 11.15.6420 are the SEC Approval Criteria, and they are addressed below, in relation to the proposal.

## **5. Relevant Approval Criteria**

### **A. SEC Approval Criteria (MCC .6420)**

The Hearings Officer finds and adopts by reference the Staff's Findings (i.e., comments) as set forth in the Director's March 31, 1992 Decision in SEC 6-91a with the following amendments and additions:

The Findings for the SEC Approval Criteria (MCC .6420), Sections (g), (h), (k) and (p) are replaced and amended as follows:

**Criteria (g) - Significant fish and wildlife habitats shall be protected.**

**Findings:** Staff notes that it is generally accepted that a bridge over the creek would have less impact on fish habitat than a culvert/fill crossing. However, Staff determined that there was conflicting evidence regarding claims of fish being present in this section of the stream. Jay Massey, a Fish Biologist for ODFW testified in his February 18, 1992 letter that which ODFW prefers that stream crossings be by way of bridges or open-bottom arch type culverts, properly installed round corrugated culverts are acceptable to ODFW. ODFW examined the culvert installed at this site and found it acceptable from their prospective.

The March 18, 1992 letter from Robert Maben, also of ODFW, points out that multiple culvert installation in a stream, as is the case here, can have adverse cumulative effects on fish habitat, because each culvert eliminates the fish habitat for the length of the culvert. This culvert is 36 feet long.

This Criteria seeks to protect significant fish and wildlife habitats. The existing County Framework Plan and background documents do not specifically assess the significance of habitats in the Balch Creek Basin, let alone this reach of the creek. However, the City of Portland has completed an extensive inventory and analysis of the Goal 5 Resources in the Balch Creek Basin, including approximately 650 acres in the unincorporated area of the County. In 1990, the City adopted the Balch Creek Watershed Protection Plan. Both of these documents have been made part of the record in this case. The Hearings Officer has taken judicial notice of these public documents and has reviewed relevant portions of both documents in connection with this matter. The appellants have also quoted extensively from these documents in their written and oral testimony.

Based upon all of the evidence in the record, there is substantial evidence in the record that Mr. Bower at ODFW has documented the existence of cutthroat trout on October 24, 1986 below the proposed culvert, on the same reach of Balch Creek. There is undocumented testimony of additional sitings of trout above the culvert at a unspecified date. Nonetheless, the current existence of an active fish population at or above the culvert is not required under this criteria in order to establish that a significant fish and wildlife habitat exists and therefore must be protected.

There is substantial evidence in the whole record of the following facts:

- 1). We are presently in the midst of a 7-year drought where water levels along this reach of Balch Creek have been significantly reduced.
- 2). All sections of a small stream like Balch Creek are important habitats for producing aquatic insects which are the trouts primary feed.
- 3). Aquatic insects tend not to reproduce in long narrow culverts because of the lack of direct sunlight. This culvert is five feet wide and 36 feet long and will reduce the amount of habitat available to sustain wildlife in the area.
- 4). The Balch Creek Basin sustains a population of trout and many other species of wildlife. The fact that there are unconfirmed sitings of trout above the culvert in this reach of Balch Creek does not mean that this area of the basin does not contain a significant fish and wildlife habitat. Confirmed sitings of trout have been made immediately below the site.
- 5). The condition of fish and wildlife habitats vary over time, subject to both natural and man-made conditions.

6). This criteria seeks to protect significant fish and wildlife habitats. This area at the Balch Creek Basin is a significant fish and wildlife habitat as evidenced by the testimony and the Balch Creek Watershed Protection Plan.

7). It may be, as suggested by ODFW, that this culvert is better than existing culverts in the area. Furthermore, based upon the evidence in the record, it may be that culverts can be designed to be as effective as a bridge in order to protect the fish and wildlife habitat affected.

8). This culvert, designed and installed as it is, even with the conditions proposed by Staff, eliminates significant fish and wildlife habitat by making 36 feet of the Creek inaccessible to wildlife and less desirable as a habitat for the fish population which is struggling to survive in the Balch Creek Basin. The culvert does nothing to protect the significant fish and wildlife habitat of the Creek, it nearly covers 36 feet of the Creek's length and thereby eliminates the natural bank over that distance. This culvert may be better than other culverts on the Creek, but such a comparison is irrelevant under this Criteria. Criteria (g) is not met.

#### **Criteria (h)**

The natural vegetation along rivers, lakes, wetlands and streams shall be protected and enhanced to the maximum extent practicable to assure scenic quality and protection from erosion, and continuous riparian corridors.

**Findings:** The natural vegetation fringe along the portion of Balch Creek where the culvert has been constructed is gone. Sediment barriers on the toes of the fill, rocks on the bottom of the culvert and new plantings around the openings of the culvert and on top of the fill are irrelevant. The criteria requires that the natural vegetative fringe along the creek must be "enhanced and protected to the maximum extent practicable to assure scenic quality and protection from erosion.

A stream put into a culvert may or may not result in increased erosion, depending on whether or not stream velocities are increased as a result of the culvert. In this regard, the applicant has simply not carried its burden of proof. Regarding scenic quality and landscaping, new plantings on the openings of the culvert and the top of the fill do not preserve the natural vegetative fringe of the creek. This criteria is not satisfied

### Criteria (k)

Areas of annual flooding, floodplains, water areas and wetlands shall be retained in their natural state to the maximum possible extent to preserve water quality and protect water retention, overflow and natural functions.

### Findings:

The applicant responds to this criteria primarily by indicating that:

- A bridge was considered but it proved to be extremely expensive and less safe.
- There are currently five culverts on this tributary - three upstream and two downstream., There are also three more culverts downstream from this tributary.
- The relevant state and federal agencies have given the applicant approval for the fill in the wetland.

None of the evidence provided by the applicant is directly responsive to this criteria, which requires that areas of annual flooding, flood plains, water areas and wetlands shall be retained in their natural state to the maximum possible extent to preserve water quality and protect water-retention, overflow and natural functions. This is an extremely rigorous standard,. The applicant has demonstrated that the culvert is less expensive than a bridge, but that a bridge is possible. Approval of the culvert by other agencies who administer different regulatory standards is likewise not relevant. The existence of other culverts in the area has no bearing on the preservation of the natural state of this water area. This criteria is not met.

### Criteria (p)

An area generally recognized as fragile or endangered plant habitat or which is valued for specific vegetative features, or which has an identified need for protection of the natural vegetation, shall be retained in a natural state to the maximum extent possible

**Findings:** For the reasons set out in Criteria (g), (h) and (l) above, Criteria (p) is not satisfied. The entire Balch Creek Basin is an area generally recognized as a fragile or endangered plant habitat and is valued for specific vegetative features. (See the Balch Creek Watershed Protection Plan and support-

ing Goal 5 Inventories referred to elsewhere in this report). The Balch Creek Plan calls for the protection of forest cover on most lands. The fact that Multnomah County has not adopted this Plan is irrelevant. The Criteria itself speaks to areas that are "generally recognized" as fragile or endangered plant habitats. Balch Creek is generally recognized as an area containing fragile plant habitats. This criteria is not satisfied.

***B. Design Standards For Grading and Erosion Control (MCC .6730)***

***(1) Grading Standards***

- (a) Fill materials, compaction methods and density specifications shall be indicated. Fill areas intended to support structures shall be identified on the plan. The Director or delegate may require additional studies or information or work regarding fill materials and compaction;***

**Findings:** There is an engineering report accompanying the original HDP 4-91 request regarding fill and slope stability. The structural stability of the area for the new house is not addressed; the Building Bureau may require additional information regarding the foundation for the building. This Criteria can be met

- (b) Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified;***

**Findings:** The engineering report accompanying the original HDP 4-91 request recommends fill slopes not exceed 2-feet horizontal to: 1-foot vertical. Proposed amendments to add a culvert/fill type crossing are consistent with this report. Erosion control measures are specified through Staff proposed conditions of approval. This Criteria can be met.

- (c) Cuts and fills shall not endanger or disturb adjoining property;***

**Findings:** Staff proposed Conditions would address this standard. This Criteria can be met

- (d) The proposed drainage system shall have adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency;***



**Findings:** The proposed fill will not create significant new areas with impervious surfaces. Most existing trees will be retained. Staff proposed Conditions of approval would require that drainage from the roofed area be directed to an approved dry well or other system. This Criteria can be met.

- (e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the displaced streamflow for a storm of 10-year design frequency;*

**Findings:** The driveway to the house site will cross the creek above a 5-foot diameter culvert. The Corps of Engineers reviewed and approved the proposed 5-foot diameter culvert [ref. November 22, 1991 letter]. The applicant indicates that two (2) downstream culverts on this tributary of Balch Creek have smaller diameters. Staff proposed Conditions would require installation of a sediment fence to separate exposed soil areas from the creek during the entire project and until revegetation is in place. Adverse impacts to the watercourse on the site are addressed through the proposed conditions. This Criteria can be met.

**(2) Erosion Control Standards**

- (a) On sites within the Tualatin River Drainage Basin, erosion and stormwater control plans shall satisfy the requirements of OAR 340-41-455. Land-disturbing activities within the Tualatin Basin shall provide a 100-foot undisturbed buffer from the top of the bank of a stream, or the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland; unless a mitigation plan consistent with OAR 340 is approved for alterations within the buffer areas.*

**Findings:** The site is not within the Tualatin Drainage Basin. This Criteria does not apply

- (b) Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;*

**Findings:** The proposal will remove some trees from the house site and associated driveway and parking areas. Staff proposed Conditions of approval would require replanting of any exposed soil or disturbed areas within 30 – days and before October 1 of any year the areas are exposed. This Criteria can be met.

- (c) Development Plans shall minimize cut or fill operations and ensure con-*

*formity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff;*

Staff proposed Condition #2 limits tree removals and associated grading and fill to those areas specifically required for the house site and the driveway. Staff proposed Condition #7 requires an on-site dry well system to minimize this potential. This Criteria can be met.

***(d) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;***

**Findings:** Staff proposed Condition #5 requires seeding, mulching or cover of exposed soil surfaces to prevent off-site erosion effects. Condition #7 requires replanting of any exposed soil or disturbed areas within 30 – days after completion of the grading work and before October 1. A site inspection on January, 17, 1992 reported the following:

- Bales of hay have been used extensively around fill to retard erosion and prevent sediment from being washed into the stream. Black plastic sheeting, forming a fence about two feet in height, has also been used along the banks of the stream for erosion control from any fill material.
- Culvert bottom appears to be slightly below the stream bed level, allowing water to pass through without any change in grade (ie no “waterfall” effect at lower end).

Proposed Condition #3 would require specific plantings just west of the creek to reduce the visual intrusion of the new culvert in the wooded-riparian corridor along this fork of Balch Creek. This condition also provides additional protection from erosion, and the use native plant materials responds to the environmental character of the area. The amended design, as conditioned, would satisfy this Criteria.

***(e) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;***

**Findings:** Most of the wooded areas on the site will be retained. Staff proposed Condition #2 addresses retention of existing trees. Staff proposed Condition #3 would require supplemental plantings west of the creek to reduce the visual intrusion of the new culvert in the wooded-riparian corridor. Staff proposed Condition #8 would require that all disturbed or filled areas be replanted no later than October 1st of the year the work was initiated, and that plants or seeds be selected from the *Preferred Native Plants* listed in Appendix F of the Balch Creek Watershed Protection Plan [Port-

land Planning Bureau, 1990]. The amended design would, satisfy this Criteria, if Conditions of Approval are met.

- (f) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;*

**Findings:** Staff proposed Condition #8 would require that all disturbed or filled areas be replanted no later than October 1st of the year the work was initiated, and that plants or seeds be selected from the *Preferred Native Plants* listed in Appendix F of the Balch Creek Watershed Protection Plan [Portland Planning Bureau, 1990]. The amended design would satisfy this Criteria if Staff's proposed Conditions of Approval were met.

- (g) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;*

**Findings:** Most of the existing trees will be retained. The remaining trees will help dissipate and absorb most surface drainage increases from the partial site clearing. The proposed grading associated with the new driveway and house site will not create significant new areas with impervious surfaces. The applicant would have to direct drainage from the new building to an approved on-site dry-well or other system [ref. Staff proposed Condition #7] This Criteria can be met.

- (h) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized;*

**Findings:** Staff proposed Conditions adequately address prevent off-site erosion effects. Staff proposed Condition #7 addresses off-site drainage potential. Staff proposed Condition #8 requires replanting of any exposed soil or disturbed areas within 30 – days after completion of grading. Staff proposed Condition #9 allows additional erosion control techniques if site work causes turbidity or other unforeseen erosion impacts to the creek. This Criteria can be met.

- (i) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding;*

**Findings:** Staff proposed Conditions adequately address this Criteria; refer to Findings for B(i).

- (j) All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural watercourses, drainage swales, or an approved dry well system;*

**Findings:** Staff proposed Condition #7 addresses off-site drainage potential and requires a dry-well or other system to handle storm water. Condition #8 requires replanting of any exposed soil or disturbed areas after completion of grading.

- (k) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion;*

**Finding:** No drainage swales are proposed.

- (l) Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:*

*(i) Energy absorbing devices to reduce runoff water velocity;*

*(ii) Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;*

*(iii) Dispersal of water runoff from developed areas over large undisturbed areas.*

**Findings** Staff proposed Condition #4 requires a sediment fence or barriers at the toe of all disturbed and filled areas, and seeding, mulching or cover of exposed soil surfaces to prevent off-site erosion effects. Condition #7 addresses off-site drainage potential. Condition #8 requires replanting of any exposed soil or disturbed areas within 30 – days after completion of grading.

- (m) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures;*

**Findings:** No on-site spoils storage or stockpiling is proposed. Staff proposed Conditions address off-site erosion potential associated with the site work. This Criteria can be

- (n) Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.*

**Finding:** Staff proposed Condition #8 addresses this standard. This Criteria can be met.

- (o) On sites within the Balch Creek Drainage Basin, erosion and stormwater control features shall be designed to perform as effectively as those prescribed in the Erosion Control Plans Technical Guidance Handbook (January, 1991). All land disturbing activities within the basin shall be confined to the period between May first and October first of any year. All permanent vegetation or a winter cover crop shall be seeded or planted by October first the same year the development was begun; all soil not covered by buildings or other impervious surfaces must be completely vegetated by December first the same year the development*

**Findings:** Staff proposed Conditions adequately address prevent off-site erosion effects. Condition #7 addresses off-site drainage potential. Condition #8 requires replanting of any exposed soil or disturbed areas within 30 – days after completion of grading. Condition #9 allows additional erosion control techniques if site work causes turbidity or other unforeseen erosion impacts to the creek. This criteria can be met.

## 6. Conclusions:

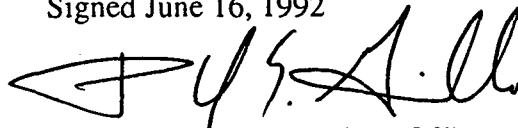
The application to amend SEC 6-91a and HDP 4-91a to permit construction of a culvert (which has already been installed) is denied. The appeal is granted, reversing the Administrative Decision of the Planning Director.

The applicant has not provided substantial evidence in the whole record demonstrating compliance with SEC Approval Criteria (g), (h), (l) and (p). All other relevant Approval Criteria can be satisfied with the conditions of approval proposed by staff.

SEC Criteria (h), (k) and (p) are extremely rigorous standards. In this case, these criteria have not been satisfied. The erosion control standards can be met if the staff's proposed conditions of approval are required. However, the HDP permit for the culvert cannot be issued unless the SEC permit is also approved. Therefore, the amendments to both permits have been denied.

The logic of the County's original approval for a bridge over the creek is still valid; namely that a bridge over the creek at this location will have less impact on the creek habitat than would this culvert-type crossing.

Signed June 16, 1992

A handwritten signature in black ink, appearing to read "P. Grillo", written over a horizontal line.

By Phillip Grillo, Hearings Officer

Filed With the Clerk of the Board on June 26, 1992

### Appeal to the Board of County Commissioners

Any person who appears and testifies at the hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to the Hearings Officer decision, may file a Notice of Review with the Planning Director on or before 4:30 PM. on Monday, July 6, 1992 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

*The Decision on this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, July 28, 1992 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development Division at 248-3043.*

**PRESTON  
THORGRIMSON  
SHIDLER  
GATES & ELLIS**

ATTORNEYS AT LAW

GLADYS MOODY  
MULTNOMAH COUNTY CHAIR  
1120 S.W. 5th, ROOM 1410  
PORTLAND, OREGON 97204

3200 U.S. Bancorp Tower  
111 S.W. Fifth Avenue  
Portland, OR 97204-3688

Telephone: (503) 228-3200  
Facsimile: (503) 248-9085

EDWARD J. SULLIVAN

7/6/92  
June 30, 1992

Delma Farrell, Secretary  
Board of County Commissioners  
Multnomah County  
Room 1410  
1120 S.W. Fifth Avenue  
Portland, OR 97204

**Re: Possible Appeal of Hearings Officer Decision of Denial of  
Application of Dan McKenzie  
Multnomah County Case File Nos. SEC 6-91a and HDP 4-91a  
Our File No. 30183-00.001**

Dear Ms. Farrell:

I am writing you regarding the filing of the Hearings Officer's Decision with you on June 26, 1992. I understand from the Notice that the applicant, or any other party thereto, may take an appeal from this Decision by filing a Notice of Review on or before July 6, 1992.

I have reason to believe that such a Notice will be filed. I have represented the appellants before the Hearings Officer and will probably do so before the Board of County Commissioners. However, I will be out of the country from July 9, 1992, through and including August 2, 1992, and would request that a hearing date after that time be established.

During my absence, please refer all inquiries in this matter to Dan Kearns of this office.

Sincerely,

Edward J. Sullivan

EJS:pb

cc: Clients  
Michael C. Robinson, Esq.  
Sharon Cowley, Multnomah County Planning Department  
John L. DuBay, Esq.

30183-00.001\5YLSCRTY.2KK

BOARD OF  
COUNTY COMMISSIONERS  
1992 JUL 10 AM 10:49  
MULTNOMAH COUNTY  
OREGON

O'DONNELL, RAMIS, CREW & CORRIGAN

JEFF H. BACHRACH  
MARK L. BUSCH  
CHARLES E. CORRIGAN\*  
STEPHEN F. CREW  
CHARLES M. GREEFF  
WILLIAM A. MONAHAN  
NANCY B. MURRAY  
MARK P. O'DONNELL  
TIMOTHY V. RAMIS  
SHEILA C. RIDGWAY\*  
MICHAEL C. ROBINSON\*\*  
WILLIAM J. STALNAKER

ATTORNEYS AT LAW  
BALLOW & WRIGHT BUILDING  
1727 N.W. Hoyt Street  
Portland, Oregon 97209

TELEPHONE: (503) 222-4402  
FAX: (503) 243-2944

PLEASE REPLY TO PORTLAND OFFICE

CLACKAMAS COUNTY OFFICE  
181 N. Grant, Suite 202  
Canby, Oregon 97013  
(503) 266-1149

JAMES M. COLEMAN  
KENNETH M. ELLIOTT  
Special Counsel

July 17, 1992

\*ALSO ADMITTED TO PRACTICE IN STATE OF WASHINGTON  
\*\*ALSO ADMITTED TO PRACTICE IN WISCONSIN

Ms. Delma Farrel  
Office of Multnomah County Commissioners  
1021 SW Fourth  
Portland, OR

RE: Appeal of Hearings Officer's Decision in SEC 6-91a and  
HDP 4-91a by Dan McKenzie

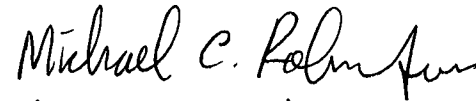
Dear Delma:

I represent Mr. McKenzie. I will not be available for a hearing on August, 3, 4, 13 or 14. My client would prefer that the matter be set for hearing in the first two weeks of August. If this is possible, I would appreciate you accommodating his request.

Thank you very much for your assistance in this matter.

Very truly yours,

O'DONNELL, RAMIS, CREW & CORRIGAN



Michael C. Robinson

MCR/sb  
mcr\mckenzie\feral.lt1

cc: Dan McKenzie  
Daniel Kearns, Esq.  
R. Scott Pemble

BOARD OF  
COUNTY COMMISSIONERS  
MULTNOMAH COUNTY  
OREGON  
1992 JUL 22 PM 12:32



Meeting Date: July 28, 1992

Agenda No.:

P-3

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM  
(For Non-Budgetary Items)

SUBJECT: Hearings Officer Decision

BCC Informal	(date)	BCC Formal	July 28, 1992
DEPARTMENT	DES	DIVISION	Planning
CONTACT	Sharon Cowley	TELEPHONE	2610
PERSON(S) MAKING PRESENTATION			Planning Staff

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: One Minute

CHECK IF YOU REQUIRE OFFICIAL WRITTEN NOTICE OF ACTION TAKEN: ☒

BRIEF SUMMARY (include statement of rationale for action requested, as well as personnel and fiscal/budgetary impacts, if applicable):

CS 9-92 Review the Decision of the Hearings Officer of July 6, 1992, approving, subject to conditions, change in zone designation from CFU to CFU, C-S, community service, to allow installation of a cellular telephone communications monopole, with associated antennas, and to erect an electronics equipment building, all property located on SE Trout Creek Road (Approximately 9 miles east of the east end of Trout Creek Road).

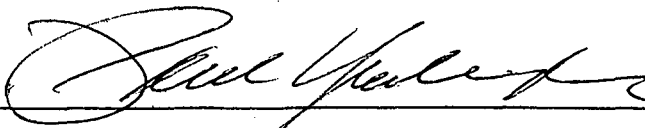
(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL

Or

DEPARTMENT MANAGER



(All accompanying documents must have required signatures)

BOARD OF  
COUNTY COMMISSIONERS  
JUL 21 PM 3:35  
CLATSOP COUNTY  
OREGON



**Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison Street  
Portland, Oregon 97214 (503) 248-3043**

**Decision**

This Decision consists of Conditions, Findings of Fact and Conclusions

**July 6, 1992**

**CS 9-92, #813**

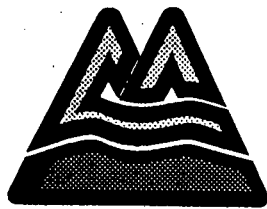
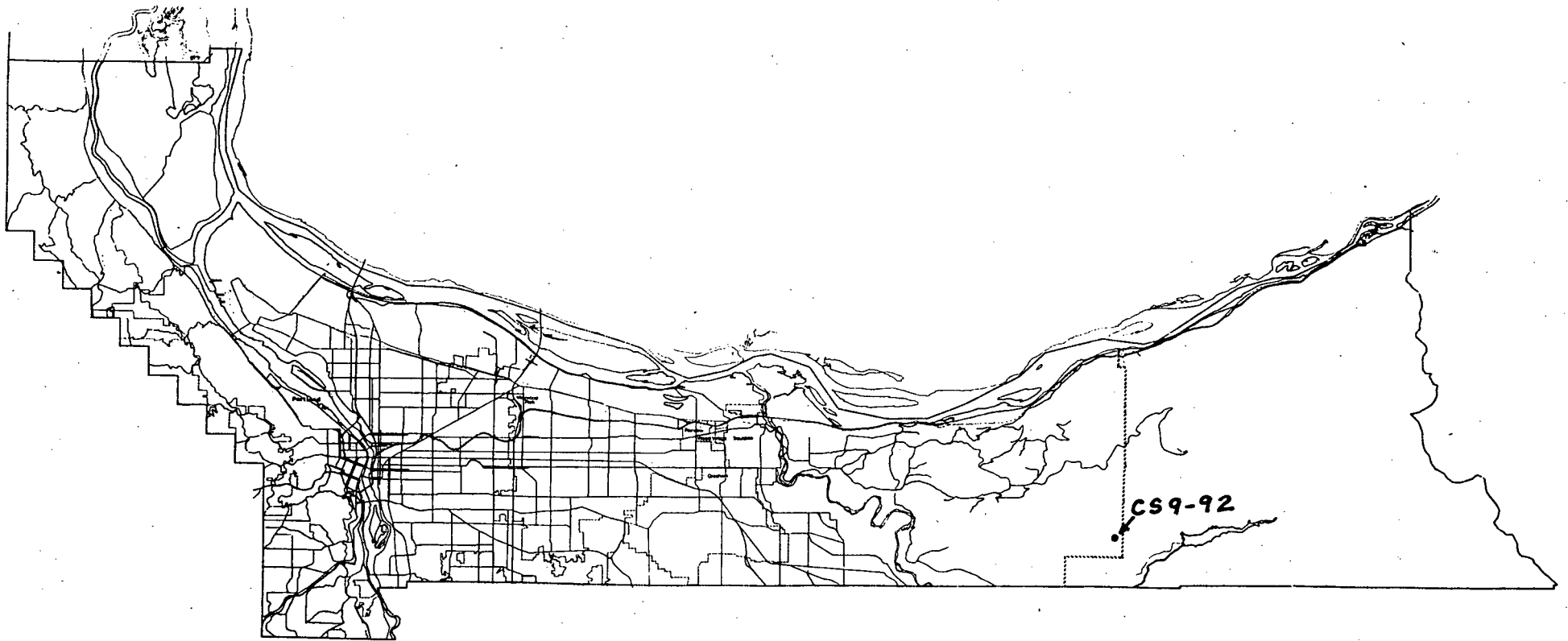
**Community Service Expansion  
(911 Radio Transmission Tower)**

Applicant requests change in the zone designation of this property from CFU, Commercial Forest Use, to CFU, CS (Community Service), to allow construction of a 180' emergency communication tower and a 24' x 30' accessory building.

**Location:** SE Trout Creek Road (9<sup>±</sup> miles east of east end)  
**Legal:** Tax Lot '1', Section 13, T1S, R5E (1991 Assessor's Map)  
**Site Size:** 640 Acres  
**Size Requested:** 200' x 200'  
**Property Owner:** United States of America  
620 SW Main Street, 97205-3037  
**Applicant:** City of Portland  
1130 SW 17<sup>th</sup> Avenue, 97205  
**Comprehensive Plan:** Commercial Forest Use  
**Present Zoning:** CFU-80  
**Sponsor's Proposal:** CFU-80, CS

**Hearings Officer**

**Decision:** APPROVE, subject to conditions, change in zone designation from CFU to CFU, C-S, community service designation to allow installation of a cellular telephone communications monopole, with associated antennas, and to erect an electronics equipment building on the subject site, based on the Following Findings and Conclusions.



**MULTNOMAH COUNTY**



**Vicinity Map**

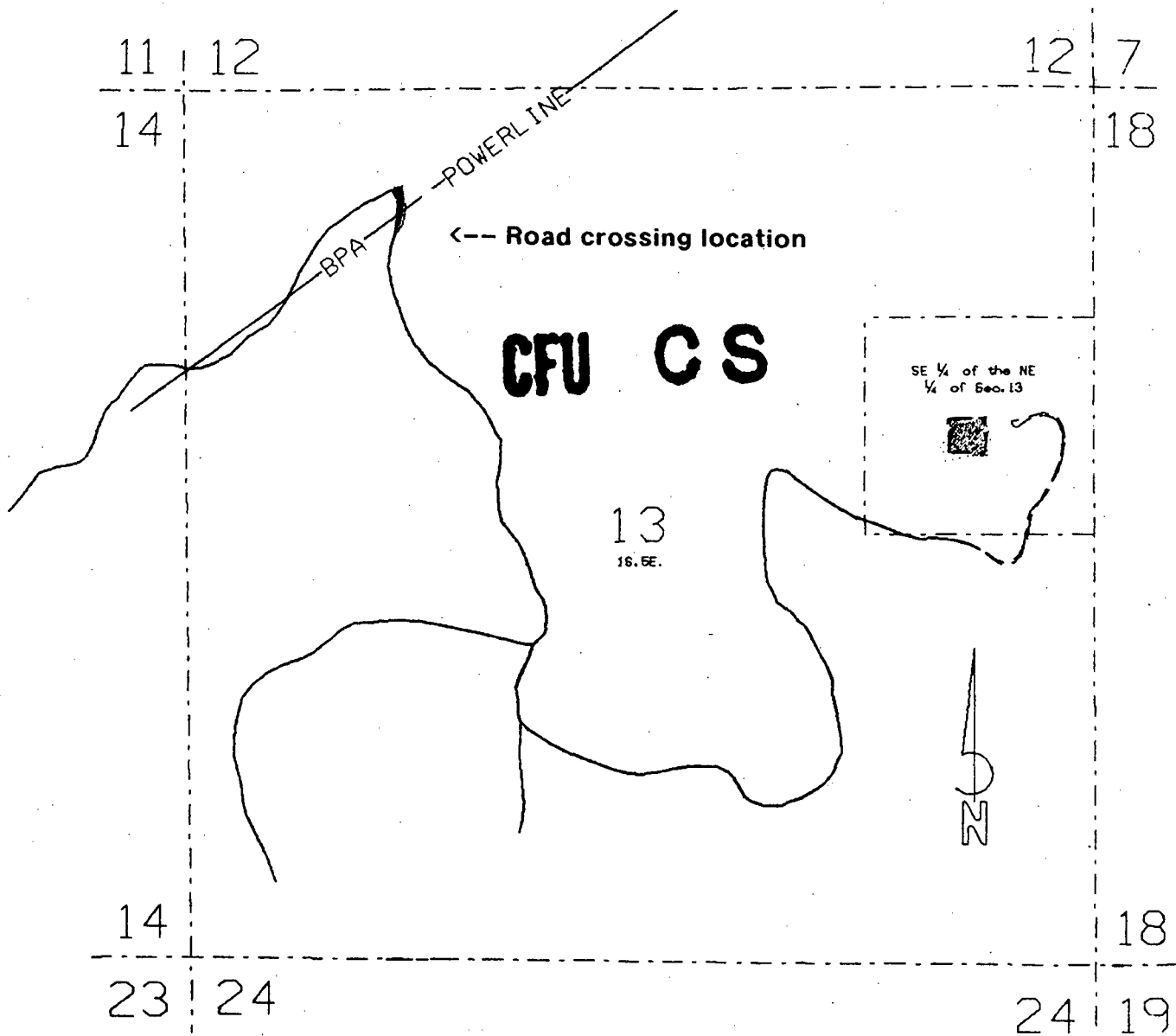
**Case #: CS 9-92**

**Exhibit E**

**Underground power line location route**

Route shall be to the North side of the gravel road

except at the BPA right-of-way



**Vicinity Map**



Case #: CS 9-92

Scale: 1 inch to 1000 feet (approximate)

Shading indicates subject property

CITY OF PORTLAND

**BUREAU OF WATER WORKS**

Communications Services  
Lookout Point Comm. Site  
(Sec. 13, 1S 5E WM.).

DATE Mar '92.

1/4 SEC.

SCALE 1"=1000'

ACTIVITY NO'S

DESIGNED J.H.

Proj. No.  
LP 01

DRAWN R.M.H.

CHECKED

SUB.

1

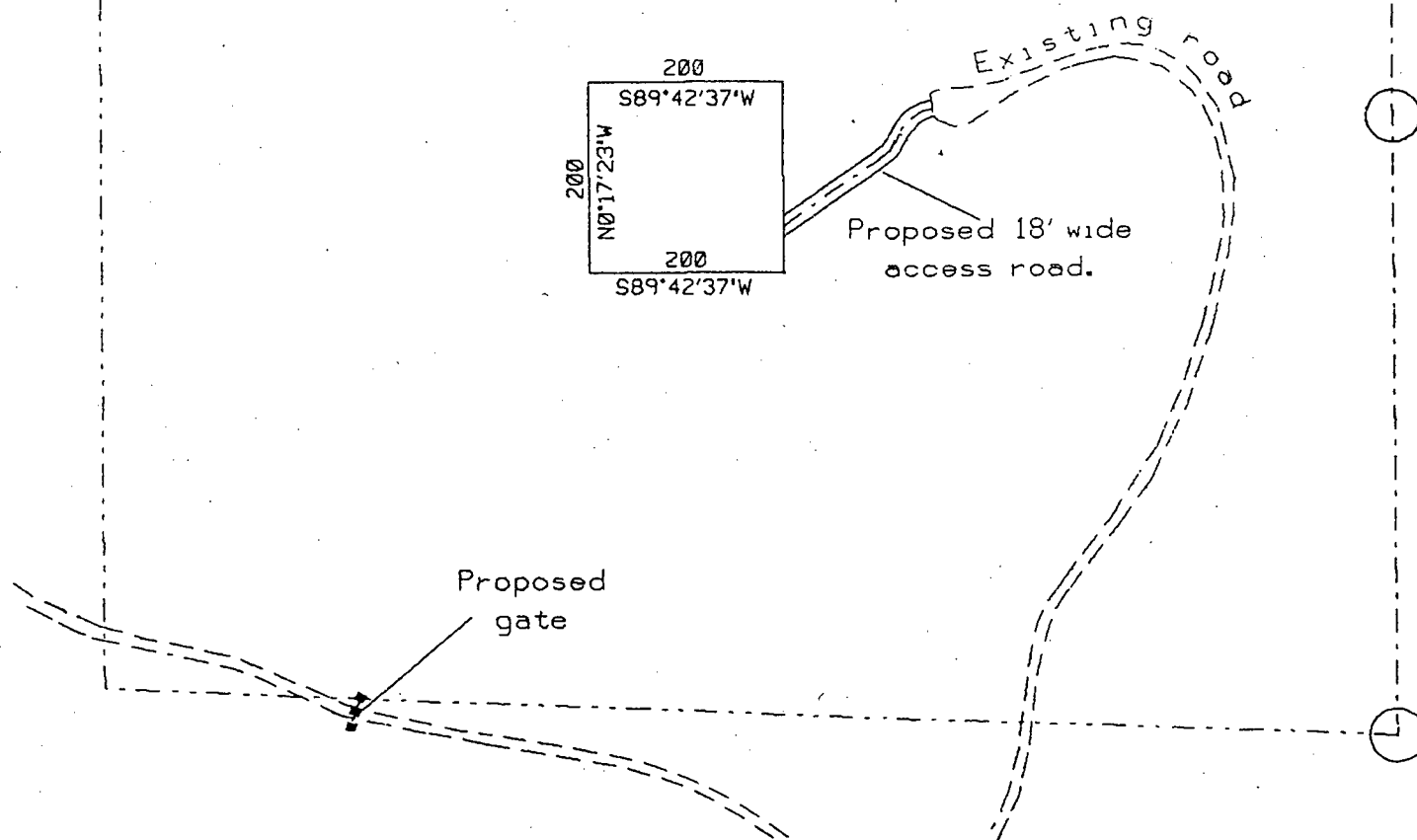
2

SE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$   
of Sec 13, 1S.5E.

SITE DETAIL  
RIGHT-OF-WAY MAP

Lookout Point Communications Site  
City of Portland  
General Services

Sec. 13 T. 1S., R. 5E., W.M.  
Multnomal County, Oregon



<div style="text-align: center;">CITY OF PORTLAND BUREAU OF WATER WORKS</div>	DATE	Ap. '92	1/4 SEC.
	SCALE	1" = 200'	ACTIVITY NO'S
	DESIGNED	J.H.	Proj. No. LP 01
	DRAWN	R.M.H.	
	CHECKED		2
	SUB.		2



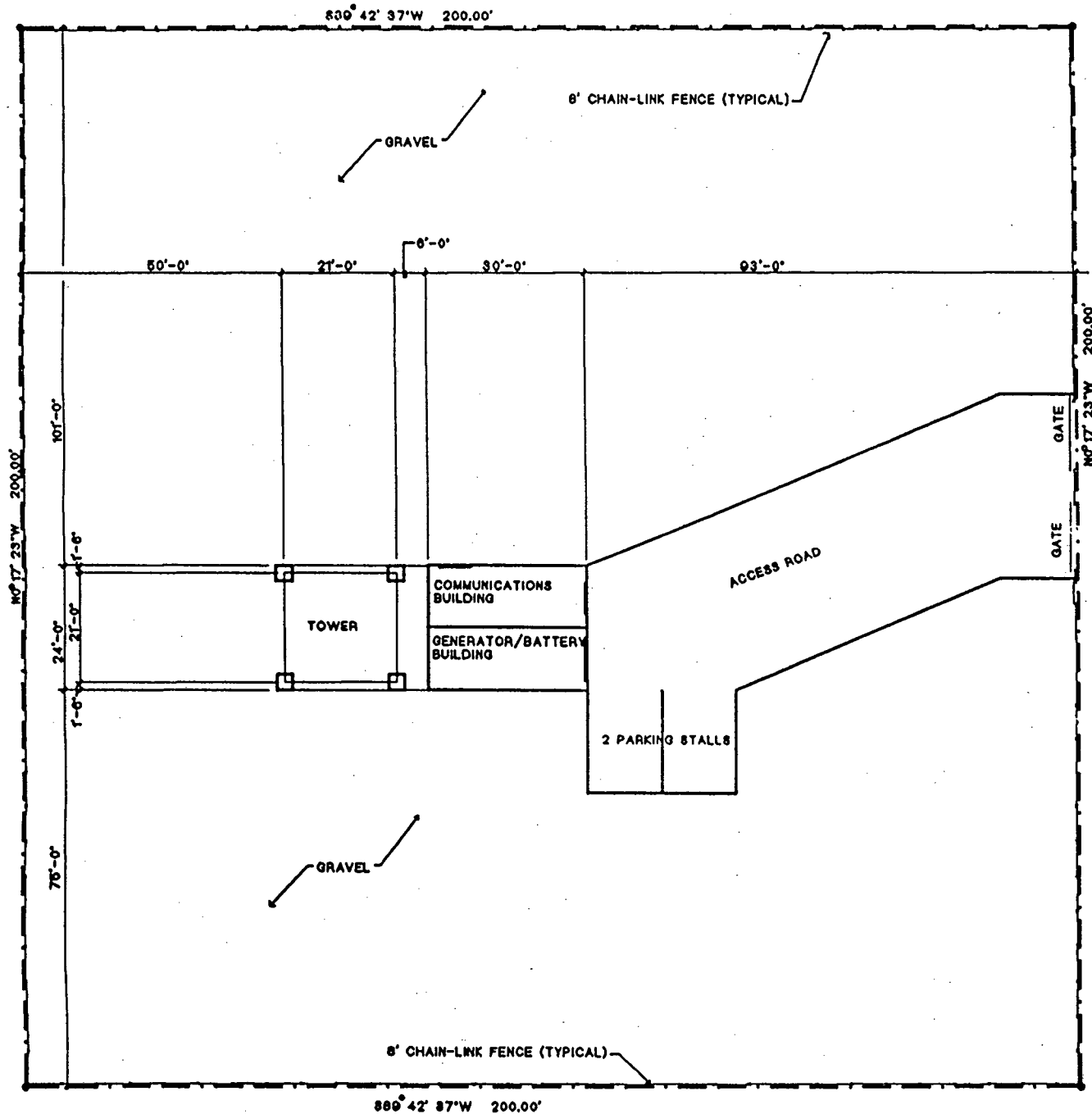
**Vicinity Map**

Case #: CS 9-92

Scale: 1 inch to 200 feet (approximate) (Sec. 13, 1S 5E WM.).

Communications Services  
Lookout Point Comm. Site

# Exhibit B



NORTH

## SITE PLAN

CITY OF PORTLAND BUREAU OF GENERAL SERVICES COMMUNICATIONS SERVICES DIVISION		
TITLE	LOOKOUT POINT PROPOSED SITE PLAN	
DATE	APRIL 7, 2008	SHEET 1 OF 1

## Conditions:

1. The applicant shall provide detailed development plans to Design Review for review and approval. Those plans shall include, in addition to those items required by MCC .7035(A)–(G), specifics of:
  - A. The materials and colors of the electronic building;
  - B. The details of erosion control for any excavation and grading; and
  - C. Fence materials and colors.

## 1. Applicant's Proposal:

The applicant provides the following description of the proposal:

(Note: Throughout this report, material cited directly from the applicant's submittal will be presented in *this type style*.)

*The City of Portland, Bureau of General Services requests approval for a Community Service use designation to allow the construction of a communications facility (site) . The City submits the following explanation of the proposal:*

*The City is in the process of constructing a new \$10.5 million public safety County wide radio system. This system is a trunked 800 MHz state-of-the-art simulcast radio and microwave system.*

*The proposed site is one (1) of five (5) locations in the Portland metro area. To accomplish this, two (2) communications buildings and a 180' tower with various antennas are required.*

*The subject property is under the jurisdiction of the U.S. Government, Bureau of Land Management (BLM) . It consists of a 640 acre parcel located in a remote forested area next to the Bull Run Watershed. The highest point on this property is know as "Lookout Point" . The proposed site shall be constructed on a 200' by 200' BLM right-of-way located near the top of Lookout Point.*

*The property on all four (4) sides of the site is vacant with the exception of a Bonneville Power Administration (BPA) transmission tower right-of-way. Access to the site is by a gravel road 9 miles from the end of Trout Creek Road or 6 miles from the end of Warriner Road which is located in Clackamas County.*

*The proposed tower is a Microflex model 108-M860-190 or equivalent (See attached exhibit A regarding the City bid process and tower engineering requirements). The tower location is shown on the site plan exhibit B drawing. The location shown on exhibit B is dictated by the technical requirements for the site. The proposed base width of the tower is 21' . The tower shall be supported by a reinforced concrete slab foundation. All reinforcing shall be intermediate grade deformed bars conforming to ASTM A615 grade 40. All concrete shall have a minimum ultimate compressive stress of 3,000 psi at 28 days. The requirement for the concrete shall be as given in the ASI "Standard Building Code for Reinforced Concrete", ASI 318.*

*The tower will support the required eleven (11) mobile relay and four (4) microwave link antennas.*

*This is an unmanned site. Only the occasional maintenance personnel have access to the site.*

*A chain-link fence, 8 feet high, with barbed-wire or equivalent shall be around the 200' X 200' area.*

*The proposed communications facility would include the following major features:*

- *Two (2) 12' X 30' (720 total square footage) pre-engineered concrete or fiberglass buildings shall house the radio and backup power equipment.*
- *Installation of 5.7 miles of underground PGE power cable.*
- *180' self-supported tower.*
- *Extension of the BLM gravel road to the proposed site.*
- *Chain-link fencing, 8 feet high, around the proposed site.*
- *Locked road access gate.*

## **2. Approval Criteria:**

A radio transmission tower may be approved by the Approval Authority as a Community Service use in a rural zoning district if found to satisfy the following approval criteria:

(1) The site is of a size and shape sufficient to provide the following setbacks:

- (a) For a tower located on a lot abutting an urban residential district or a public property or street, except a building-mounted tower, the site size standards of MCC. 7035(B)(4) and (5) are met as to those portions of the property abutting the residential or public uses.
- (b) For all other towers, the site shall be of sufficient size to provide the setback required in the underlying district between the base of the tower, accessory structures and uses, and guy anchors, if any, to all abutting property lines.

*The 200'x200' area to be leased for the tower does not abut an urban residential area, and the nearest property line is approximately 700 feet to the east. That is well in excess of the 30 foot setback required by the CFU-80 zoning district.*

(2) The required setbacks shall be improved to meet the landscaping standard of MCC .7035(B)(11) to the extent possible within the area provided.



*MCC .7035(B)(11)(c) allows the Approval Authority to authorize alternative landscaping requirements to those of (B)(11)(a) and (b) when associated with a bona fide forest use. This proposal utilizes the surrounding 640 parcel in federal ownership currently in timber production as the method of satisfying the landscaping requirements.*

- (3) The visual impact standard of MCC .7035(B)(7) is met.

*The proposed tower shall be a galvanized finish.*

- (4) The parking requirement of MCC .7035(B)(9) is met, provided additional parking may be required in accordance with MCC .6100 to .6148 if the site serves multiple purposes.

*MCC .7035(B)(9) requires that a minimum of two parking spaces shall be provided on each site; an additional parking space for each two employees shall be provided at facilities which require on-site personnel. The City shall provide two parking spaces for maintenance personnel.*

- (5) The applicable policies of the Comprehensive Plan are met.

*Only Policies No. 14 (Development Limitations) and No. 16 (Natural Resources) apply to this proposal. Policy No. 14 is satisfied because no limitations to the proposed development have been identified on the site (i.e., the property is not in extreme slope, is not within a flood plain, has no high seasonal water table, and is not subject to earth movement). No 16 is met because the site is not within an area identified by the county as having any open space, scenic, historic, or natural resource value.*

- (6) The NIER standards of (F) are met.

*See attached City of Portland Engineering and NIER proposal letter, Exhibit A.*

- (7) The following agency coordination standards of MCC .7035(B)(14) are met.

- (a) A statement from the Federal Aviation Administration that the application has not been found to be a hazard to air navigation under Part 77, Federal Aviation Regulations, or a statement that no compliance with Part 77 is required.

*See attached Federal Aviation Administration aeronautical study, Exhibit K.*

- (b) A statement from the Oregon State Aeronautics Division that the application has been found to comply with the applicable regulations of the Division, or a statement that no such compliance is required.

*See attached Oregon State Aeronautics Division letter, Exhibit L.*

- (c) A statement from the Federal Communications Commission that the application complies with the regulations of the Commission or a statement that no such compliance is necessary.

*See attached Federal Communications Commission letter, Exhibit M.*

- (8) Accessory uses – For a proposed tower in the EFU, MUF, CFU, MUA, and UF districts, the restrictions on accessory uses in MCC .7035 (B)(12) shall be met.

*MCC .7035(B)(12) authorizes only those accessory uses necessary for transmission function. The 24' X 30' (720 total square footage) pre-engineered concrete or fiberglass building shall house only the radio and backup power equipment necessary for transmission.*

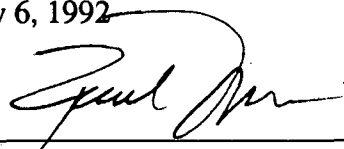
3. No objections to this proposal were received prior to or at the public hearing. The Hearings Officer adopts the Staff's comments and findings.

### **Conclusion:**

The applicant has carried the burden necessary for the granting of a Community Service designation for this property to allow its development with a 911 radio transmission tower.

July 6, 1992

By

  
Paul Norr, Hearings Officer

Filed with Clerk of the Board on July 16, 1992

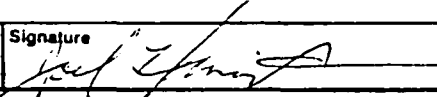

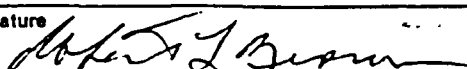
### **Appeal to the Board of County Commissioners**

Any person who appears and testifies at the Planning Commission hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or before 4:30 p.m. Monday, July 27, 1992 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

*The Decision in this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, July 28, 1992 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development at 248-3043.*

DO NOT REMOVE CARBONS

Form Approved OMB No 2120-0001

NOTICE OF PROPOSED CONSTRUCTION OR ALTERATION			Aeronautical Study Number <b>92-ANM-0044-0E</b>	
<b>1. Nature of Proposal</b> A. Type <input checked="" type="checkbox"/> New Construction <input type="checkbox"/> Alteration B. Class <input checked="" type="checkbox"/> Permanent <input type="checkbox"/> Temporary (Duration _____ months) C. Work Schedule Dates Beginning <u>May 1, 1992</u> End <u>May 1, 1993</u>			<b>2. Complete Description of Structure</b> A. Include effective radiated power and assigned frequency of all existing, proposed or modified AM, FM or TV broadcast stations utilizing this structure. B. Include size and configuration of power transmission lines and their supporting towers in the vicinity of FAA facilities and public airports. C. Include information showing site orientation, dimensions and construction materials of the proposed structure.  SEE ATTACHED DESCRIPTION SHEET	
<b>3A. Name and address of individual, company, corporation, etc. proposing the construction or alteration.</b> (Number, Street, City, State and Zip Code) (503 ) <u>823-4581</u> area code Telephone Number  <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;">             CITY OF PORTLAND              BUREAU OF GENERAL SERVICES              1130 SW 17 th AVENUE              PORTLAND OR 97205           </div>			(if more space is required, continue on a separate sheet.)	
<b>B. Name, address and telephone number of proponent's representative if different than 3 above.</b> Joel Harrington, Communications Engineer 503/823-4581 Same Address				
<b>4. Location of Structure</b> A. Coordinates (To nearest second) 45° 29' 02" Latitude 122° 07' 40" Longitude B. Nearest City, Town and State Corbett, Oregon C. Name of nearest airport, heliport, flight park, or seaplane base Troutdale (1) Distance to 4B 8.6 miles Miles (2) Direction to 4B Northwest (292 T) (1) Distance from structure to nearest point of nearest runway 13.9 miles (2) Direction from structure to airport Northwest (289 T)			<b>5. Height and Elevation</b> (Complete to the nearest foot) A. Elevation of site above mean sea level 2640' B. Height of Structure including all appurtenances and lighting (if any) above ground, or water if so situated 180' C. Overall height above mean sea level (A + B) 2820'	
<b>D. Description of location of site with respect to highways, streets, airports, prominent terrain features, existing structures, etc. Attach a U.S. Geological Survey quadrangle map or equivalent showing the relationship of construction site to nearest airport(s).</b> (if more space is required, continue on a separate sheet of paper and attach to this notice.)  SEE ATTACHED DESCRIPTION SHEET				
Notice is required by Part 77 of the Federal Aviation Regulations (14 C.F.R. Part 77) pursuant to Section 1101 of the Federal Aviation Act of 1958 as amended (49 U.S.C. 1101). Persons who knowingly and willingly violate the Notice requirements of Part 77 are subject to a fine (criminal penalty) of not more than \$500 for the first offense and not more than \$2,000 for subsequent offenses, pursuant to Section 902(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(a)).				
I HEREBY CERTIFY that all of the above statements made by me are true, complete, and correct to the best of my knowledge. In addition, I agree to obstruction mark and/or light the structure in accordance with established marking & lighting standards if necessary.				
Date 01/27/92		Typed Name/Title of Person Filing Notice Joel Harrington		Signature 
<b>FOR FAA USE ONLY</b>			FAA will either return this form or issue a separate acknowledgement.	
<b>The Proposal:</b> <input checked="" type="checkbox"/> Does not require a notice to FAA. <input type="checkbox"/> Is not identified as an obstruction under any standard of FAR, Part 77, Subpart C, and would not be a hazard to air navigation. <input type="checkbox"/> Is identified as an obstruction under the standards of FAR, Part 77, Subpart C, but would not be a hazard to air navigation. <input checked="" type="checkbox"/> Should be obstruction - <input checked="" type="checkbox"/> MARKED, <input checked="" type="checkbox"/> lighted per FAA Advisory Circular 70/7460-1, Chapter(s) <u>3, 4, 5, 13</u> <input type="checkbox"/> Obstruction marking and lighting are not necessary.			<b>Supplemental Notice of Construction</b> FAA Form 7460-2 is required any time the project is abandoned, or <input type="checkbox"/> At least 48 hours before the start of construction. <input type="checkbox"/> Within five days after the construction reaches its greatest height.  This determination expires on <u>2/1/93</u> unless: (a) extended, revised or terminated by the issuing office; (b) the construction is subject to the licensing authority of the Federal Communications Commission and an application for a construction permit is made to the FCC on or before the above expiration date. In such case the determination expires on the date prescribed by the FCC for completion of construction, or on the date the FCC denies the application.  NOTE: Request for extension of the effective period of this determination must be postmarked or delivered to the issuing office at least 15 days prior to the expiration date.  If the structure is subject to the licensing authority of the FCC, a copy of this determination will be sent to that Agency.	
Remarks:				
Issued In 		Signature 		Date 2/18/92

Page 2 of 2  
FAA Form 7460-1

ATTACHMENT TO FAA 7460-1

- 2.A. No existing, proposed or modified AM, FM, or TV broadcast station will utilize the proposed structure.
- 2.B. All power transmission lines for the proposed electronics equipment and structure will be provide by a single-phase 7KV underground service.
- 2.C. The proposed Microflect Model 108-M860-180 180' tower site orientation will be 15' West of the proposed two (2) 14' X 30' buildings on the top of Lookout point. See conceptual drawing attached.

The proposed base tower width is twenty-one (21) feet.

General construction materials include structural pipe for legs and diagonal bracing members. Horizontal bracing such as girts on the tower face and internal bracing are structural angle sections. Pipe members are fully galvanized.

The tower will be designed in accordance with EIA RS-222-C standards and the A.I.S.C. manual of steel construction.

- 4.D The proposed site is located on the top of Lookout Point which is adjacent to the City of Portland's Bull Run Watershed. Lookout Point is 8.6 miles from the town of Corbett, Oregon.

Access is by way of the end of Trout Creek Road 8.75 miles to the site or by the way of the end of Warriner Road 5 miles to the site.

The nearest airport is located in Troutdale, Oregon (TTD).

For you reference four (4) 15 minute series topographic maps of the area have been provided.

92-ANM-0044-0E

DEPARTMENT OF  
TRANSPORTATION

AERONAUTICS  
DIVISION

February 27, 1992

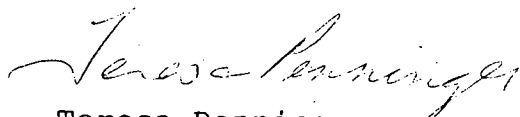
City of Portland  
Bureau of General Services  
Attn: Joel Harrington  
1130 SW 17th Avenue  
Portland, OR 97205

Regarding: Notice of Proposed Construction

Dear Sir:

Oregon Aeronautics has reviewed the proposed location of the 180 foot free standing tower located on Lookout Point near Corbett, Oregon and concurs with the recommendations for marking and lighting contained in FAA Aeronautical Study #92-ANM-0044-OE. The application to construct the 180 foot tower has been found to comply with all other applicable regulations as outlined in Oregon Administrative Rules, Chapter 738, Division 70.

Sincerely,



Teresa Penninger  
Aviation Planner

tp



3040 25th Street SE  
Salem, OR 97310-0100  
(503) 378-4880  
FAX (503) 373-1688  
Toll-free 1-800-874-0102

Federal Communications Commission

Gettysburg, PA 17326

FEB 11 1992

In Reply Refer To:

7110-18

City of Portland, Oregon  
Bureau of General Services  
1130 S.W. 17th Avenue  
Portland, OR 97205

Attn: Joel Harrington  
Communications Service Division

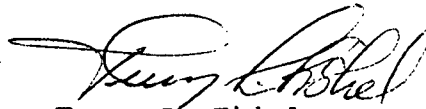
Dear Mr. Harrington:

This is in response to your letter advising of the City of Portland's proposal to construct a 180 foot free standing tower on Lookout Point near Corbett, Oregon, and requesting a statement that the proposed construction would not require the filing of an FAA Form 7460-1.

Based upon the information submitted in your January 13, 1992 letter and our analysis of the information, an FAA Form 7460-1 would not have to be filed for construction of the tower.

It is hoped this is responsive to your request and satisfies the requirements of Multnomah County's ordinance 11.15.7035(14)(c).

Sincerely,



Terry L. Fishel  
Chief, Land Mobile Branch

Meeting Date: July 28, 1992

Agenda No.: P-4

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM  
(For Non-Budgetary Items)

SUBJECT: Hearings Officer Decision

BCC Informal	<u>(date)</u>	BCC Formal	<u>July 28, 1992</u>
			<u>(date)</u>
DEPARTMENT	<u>DES</u>	DIVISION	<u>Planning</u>
CONTACT	<u>Sharon Cowley</u>	TELEPHONE	<u>2610</u>
PERSON(S) MAKING PRESENTATION	<u>Planning Staff</u>		

ACTION REQUESTED:

☐ INFORMATIONAL ONLY      ☐ POLICY DIRECTION      ☒ APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: One Minute

CHECK IF YOU REQUIRE OFFICIAL WRITTEN NOTICE OF ACTION TAKEN: xx

BRIEF SUMMARY (include statement of rationale for action requested, as well as personnel and fiscal/budgetary impacts, if applicable):

CS 10-92 Review the Decision of the Hearings Officer of July 6, 1992, approving, subject to conditions, change in zone designation from LR-5 to LR-5, C-S, community service, to allow expanded facilities for the EastsideFree Methodist Church, for property located at 650 SE 139th Avenue.

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL \_\_\_\_\_

Or

DEPARTMENT MANAGER \_\_\_\_\_

(All accompanying documents must have required signatures)

BOARD OF  
COUNTY COMMISSIONERS  
MULTNOMAH COUNTY  
OREGON  
1992 JUL 21 PM 3:35



DEPARTMENT OF ENVIRONMENTAL SERVICES  
DIVISION OF PLANNING AND DEVELOPMENT  
2115 SE MORRISON STREET  
PORTLAND, OREGON 97214  
(503) 248-3043

DECISION

This Decision consists of Conditions, Findings of Fact and Conclusions

JULY 6, 1992

CS 10-92, #391

COMMUNITY SERVICE DESIGNATION  
(Proposed Church Expansion)

Applicant requests approval of a CS (community service) use permit to expand the Eastside Free Methodist Church. Proposed construction includes additions to the auditorium, increasing seating capacity from 185 to 240, and five new classrooms and two storage areas. Expand church building on the original site (CS approved in 1962), and expand the CS designation 70-feet south to include the Pastor's house and land for future parking (located at 720 SE 139th Avenue).

**Location:** 650 SE 139th Avenue

**Legal:** Excepting the South 70' of the West 150' of Lots 15 and 16, Blk. 2, Hood Acres; Plus the South 70' of the West 150' of Lot 15, Blk. 2, Hood Acres, on the 1991 Assessor's Map 3144

**Site Size:** 280' x 300' **Size Requested:** Same

**Property Owner:** Free Methodist Church of North America  
PO Box 535002, Indianapolis, Indiana 46253-5002

**Applicant:** Eastside Free Methodist Church  
650 SE 139th Avenue, 97233

**Comprehensive Plan:** Low Density Residential

**Present Zoning:** LR-5, CS, Urban Low Density Residential  
Community Service District

**SPONSOR'S PROPOSAL:** LR-5, C-S, Urban Low Density Residential, Community Service  
Community Service designation shall be for the specific use or  
uses approved together with the limitations or conditions as  
determined by the approval authority

HEARINGS OFFICER

DECISIONS:

APPROVE, SUBJECT TO CONDITIONS, requested Community Service change in zone designation, from LR-5 to LR-5, C-S, to allow expanded facilities for the Eastside Free Methodist Church, based on the following Findings and Conclusions.

CS 10-92



304 4



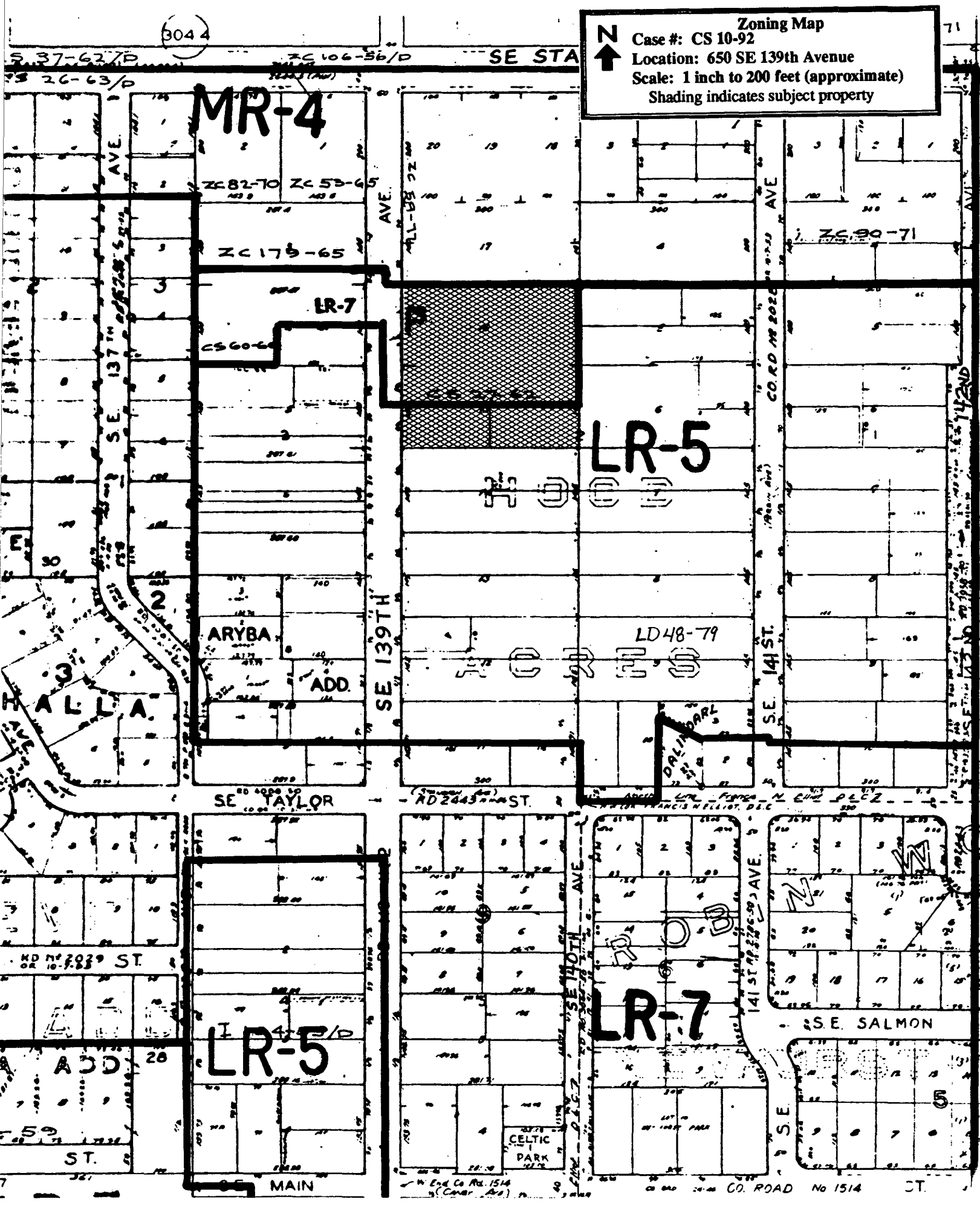
**Zoning Map**

Case #: CS 10-92

Location: 650 SE 139th Avenue

Scale: 1 inch to 200 feet (approximate)

Shading indicates subject property



2644.5 (Plot)

SE STARK

~~ST~~

N  
↑

**Case #: CS 10-92**

**Location: 650 SE 139th Avenue**

**Scale: 1 inch to 120 feet (approximate)**

**Shading indicates subject properties**

AVE.

CO. RD. No 2028  
O.R. 10-7-53  
AVE.

1/2  
'PERRIN AVE)

S.E. 141<sup>st</sup> ST.

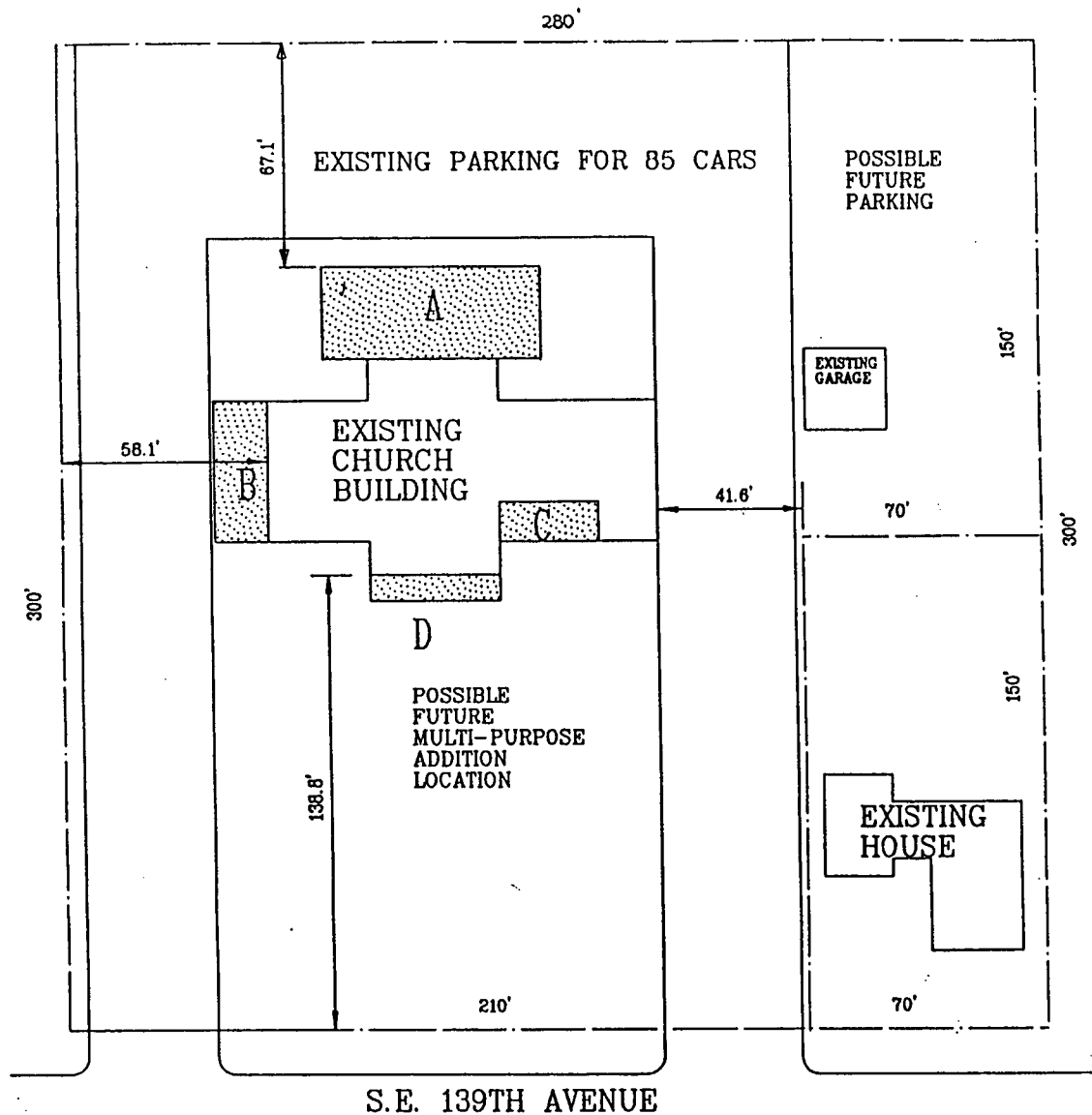
SE 139TH

(STANDISH AVE.)  
← RD. 2443 10-11-56 ST.

North Line Francis N. Elliot D. L.  
N.W. COR. FRANCIS N. ELLIOT, D.L.C. 330

390

390



# PROPOSED ADDITIONS AND CHANGES:

A SANCTUARY EXPANSION  
 PLATFORM  
 3 CLASSROOMS  
 2 STORAGE

B 2 CLASSROOMS

C REMODELED  
 RESTROOMS

D EXPANDED ENTRY

## SITE PLAN



EASTSIDE FREE METHODIST CHURCH

DRAWN BY:  
 LORENZO J. NELSON, AIA, ARCHITECT  
 CHURCH CONSULTANT SERVICE  
 BOX 16596, PORTLAND, OR 97216, PHONE 761-0700

280.00'

20'0" Proposed Access Road

EXISTING PARKING FOR 69 CARS  
(No change proposed)

EXISTING  
CHURCH  
BUILDING

D

S.E. 139TH AVENUE

CS 10-92

300.00'

58.1'

138.8'

210.00'

2.2'

41.8'

2.2'

16'

110'

NEW  
TRUSSES &  
ROOF

EXISTING  
BUILDING  
NO CHANGE

NEW  
TRUSSES  
& ROOF

EXISTING  
BUILDING  
NO CHANGE

# WEST ELEVATION

SCALE 1/8" = 1'- 0"

NEW ENTRY AREA

## CONDITIONS OF APPROVAL

1. Obtain Design Review approval of all proposed site improvements including, but not limited to, grading, clearing, landscaping, fencing and exterior building designs. Site work shall not proceed until required Design Review approvals are obtained. Specific site improvements represented in the CS application may be developed in separate phases.
2. Prior to occupancy or final approvals for the additions, complete County Engineering Services requirements for Right-of Way improvements or dedications.
3. The land use approval shall be for the specific uses and scale specified in the application, subject to design review.

## FINDINGS

### 1. Project Description:

Applicant describes the request as follows:

*"The site is presently used for Church with regular services on Wednesday evening, and Sunday morning and evening. The present occupant load of the site is about 185 on any given day. The existing building on the site is:*

- A. Church building that houses a Multi-purpose room and various classrooms.*
- B. Within this building are two offices and a kitchen.*
- C. The present building is 5654 sq. ft. in size.*
- D. The site is presently served by an on-site cesspool waste system. Proposed county sewer line hook-up in 1995.*

*Our purpose for the Conditional Use application is to gain approval for the following addition to the property:*

- 1. The 4 stage addition of approximately 2824 sq. ft. to the existing building, including enlarging of existing Multi-purpose room, additional classrooms and remodeling off existing restrooms.*

*Stage I. Addition C: Remodeling of existing restrooms to meet handicap requirements.*

*Stage II. Addition A: Enlarging of Multi-purpose room to 1736 sq. ft.; adding 3 classrooms and 2 storage rooms.*

*Stage III. Addition B: Adding 1 additional classroom and a new entry area.*

*Stage IV. Addition D: Expanding existing foyer to 280 sq. ft.*

*2. Parking: The current parking lot contains 85 parking spaces. Allowing for the county's claim to the eastern-most 20 feet of property as an access right-of-way, we will retain 69 spaces. This exceeds the number of spaces required by 11.15.6142, paragraph B2, requiring one space for each 80 sq. ft. of main room space. Our main room contains 2050 sq. ft. requiring 26 spaces.*

*Our present timeline for the above stated development is as follows:*

*Stage I: To begin late April 1992 with an approximate completion time to be May 1992.*

*Stage II, III, IV: To begin approximately June 15th 1992 with an anticipated completion time to be before 1993.*

## **2. Site and Vicinity Information:**

The site is located within the Hazelwood Community near the intersection of 139th Avenue and Stark Street. The area is typified by small offices (along Stark) single family houses and several churches. The land is generally flat.

## **3. Ordinance Considerations:**

Conditional uses allowed in the LR-5 District are specified in MCC 11.15.2630. Subsection (A) specifies "*Community Service Uses pursuant to the provisions of MCC .7005 through .7041.*" MCC .7020(A)(4) identifies a church as a CS Use; approval criteria are specified in MCC .7015.

The following section presents findings regarding the proposed expansion of the Community Service Use. The applicable criteria is in *bold italics*; applicant's responses are presented first in "*italics*", followed by staff comments.

### **3. A. Community Service Use Criteria (MCC .7015)**

When approving a Community Service Use, the approval authority must find that the proposal:

#### ***A(1) Is consistent with the character of the area;***

*"The expansion of the church facilities will not alter the character of the surrounding area. The church has been at this location for 16 years and has*

*proven itself to be a good neighbor. Further expansion of the education facilities will not alter or adversely impact the surrounding area. The addition to the existing building will not affect neighboring property lines. It is consistent with this area to have a church in the neighborhood.*

**Staff Comment:** The proposal expands a church use which has operated on the site for several years. The additional property added to the south of the current church site provides additional opportunities to buffer and screen the use from surrounding residences. The added property also provides site area to redesign the parking areas for the church.

**A(2) *Will not adversely affect natural resources;***

*"There is no adverse affect on natural resources."*

**Staff Comment:** Condition #1 requires Design Review of the site development. Design Review criteria stipulate that the design shall preserve natural landscape features and existing grades to the maximum practical degree [ref. MCC .7850(A)(4)]. There are no large trees or other significant natural features on the site.

**A(3) *Will not conflict with farm or forest uses in the area;***

*"There is no conflict with farm or forest uses."*

**Staff Comment:** The new development proposed on the site is within an urban residential district and inside the Urban Growth Boundary (UGB).

**A(4) *Will not require public services other than those existing or programmed for the area;***

*"There is no anticipated need for greater public services. In 1995 when the proposed county sewer line is available the church will hook up."*

**Staff Comments:** Staff concurs that the church additions will not create additional public service demands.

**A(5) *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;***

*"The proposed work at the existing school site is not within a big game winter habitat area."*



**Staff Comment:** The site is not identified as a big game habitat area in the Comprehensive Plan or by the Oregon Department of Fish and Wildlife.

**A(6) Will not create hazardous conditions;**

*"There are no hazardous conditions relevant to this project."*

**Staff Comment:** The added property provides sufficient site area to expand the parking areas for the church, thereby minimizing street-side parking along 139th Avenue.

**A(7) Will satisfy the applicable policies of the Comprehensive Plan.**

The following policies of the County's Comprehensive Plan are found applicable to this request: Policy 2 (Off-site Effects); Policy 13 (Air, Water and Noise Quality), Policy 14 (Development Limitations); Policy 19 (Community Design); and, Policy 31 (Community Facilities and Uses).

**a. Policy 2 – Off-site Effects.**

**Staff Comment:** When approving new or expanded land uses, the County may apply conditions if necessary to minimize negative off-site effects to surrounding properties. Conditions of approval address a variety of potential off-site effects from the proposed use.

**b. Policy 13 – Air, Water, and Noise Quality.**

*"With regard to noise , water an air quality the following issues are important:*

*a. The building is place in such a manner as to put it in the farthest distance possible from the adjoining properties. To the west, and across 139th Ave., is another religious facility. To the east is part of the church parking with a buffer to residential property by a tall fence of heavy vegetation. On the south is the church's own property used for the Pastor's living residence. All efforts have been made to create a suitable buffer on all property lines..*

*b. Water quality will be maintained by the on-site cesspool waste system. There is at this time no other available sewage disposal system in this area.*

*c. Air quality will not be affected since the church operations will not impact the air except by motor vehicle travel.*

**Staff Comment:** The expanded church facilities should not significantly affect air quality in the area. Potential water quality effects would be addressed through application of Grading and Erosion Control provisions under Condition #1, and the sub-surface disposal review required as part of the Building Permit process. Noises associated with a church are in part mitigated by adding additional property to the site (the lot to the south).

**c. Policy 14 – Development Limitations.**

**Staff Comment:** Condition #1 requires Design Review of all proposed grading, clearing, or fill associated with the project. This review incorporates and implements the County's development limitations policy. The site does not contain steep slopes and is not identified in the County's Slope Hazards Maps.

**d. Policy 19 – Community Design.**

*a. The site will continue to be used as it now is . A church with associated activity will continue as before.*

*b. Every thing in landscaping and buffering has been pursued in order to maintain the privacy of neighbors.*

*c. Traffic patterns and parking lot lighting has been planned to have minimal impact on the surrounding area. All design in this area will follow the established county standards.*

*d. Provisions for the handicapped is a high priority in the remodeling of this facility. Handicap parking as well as barrier free access to the building is maintained throughout.*

**Staff Comment:** Staff concurs that the project, as conditioned, satisfies this policy.

**e. Policy 31 – Community Facilities and Uses**

*a. "It is appropriate for this Conditional Use to be granted under this policy guideline. The church is an existing use and the Owners wish to enlarge their capability to provide this service to the community. Since all county guidelines have been met, and since the church is a needed community facility the request should be granted.*

*b. This project should be encouraged because it is timely and a good use of land available. By allowing the church to enlarge and expand its service in this*

location and use land already set aside for this use, we are allowed to put our property to its highest and best use, and to maintain an already approved community facility use.

c. This project falls into the categories listed as to its function and scale of operation:

1. Major Community
2. Minor Community

**Staff Comment:** Churches are listed as a "MINOR COMMUNITY" scaled use under Policy 31.

Subsection G prescribes different access standards for CS uses, depending upon the scale of the facility. "MINOR COMMUNITY" scaled uses should be located on transportation systems with volume capacities appropriate to serve present and future scales of operation, and at a minimum should have "...DIRECT ACCESS TO A COLLECTOR STREET AND NO ROUTING THROUGH LOCAL NEIGHBORHOOD STREETS..."

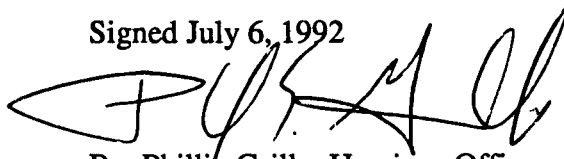
The section of SE 139th Avenue abutting the subject property is designated a Neighborhood Collector on the FUNCTIONAL CLASSIFICATION OF TRAFFICWAYS map (ref. Policy 34; adopted 1983). SE Stark Street, north of the site, is designated a Major Arterial. Therefore, the proposed expansion would not result in routing traffic associated with the CS-Use through local neighborhood streets.

Based on the findings above, the proposed CS Use satisfies the vehicular access requirements embodied in Policy 31. The proposal is consistent with Policy 31.

## CONCLUSIONS

1. Based on the findings above, the proposal – as conditioned – satisfies approval criteria for a Community Service Use.
2. Conditions of approval are necessary to assure proposed development complies with applicable Zoning Code provisions and criteria, that applicable policies of the Comprehensive Plan are addressed, and to minimize potential adverse impacts from the expanded CS use and assure compatibility with surrounding land uses..

Signed July 6, 1992



By Phillip Grillo, Hearings Officer

**Filed With the Clerk of the Board on July 16, 1992**

**Appeal to the Board of County Commissioners**

Any person who appears and testifies at the hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to the Hearings Officer decision, may file a Notice of Review with the Planning Director on or before 4:30 PM. on Monday, July 27, 1992 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

*The Decision on this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, July 28, 1992 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development Division at 248-3043.*

Meeting Date: July 28, 1992

Agenda No.: P-5

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM  
(For Non-Budgetary Items)

SUBJECT: Hearings Officer Decision

BCC Informal \_\_\_\_\_ BCC Formal July 28, 1992  
(date) (date)  
DEPARTMENT DES DIVISION Planning  
CONTACT Sharon Cowley TELEPHONE 2610  
PERSON(S) MAKING PRESENTATION Planning Staff

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: One Minute

CHECK IF YOU REQUIRE OFFICIAL WRITTEN NOTICE OF ACTION TAKEN: ☒

BRIEF SUMMARY (include statement of rationale for action requested, as well as personnel and fiscal/budgetary impacts, if applicable):

CU 9-92 Review the Decision of the Hearings Officer of July 6, 1992, approving, subject to conditions, conditional use request for a non-resource related single family dwelling on this Lot of Record in the MUF-19 zoning district, for property located at 41234 SE Gordon Creek Road

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL \_\_\_\_\_

Or

DEPARTMENT MANAGER \_\_\_\_\_

(All accompanying documents must have required signatures)

BOARD OF  
COUNTY COMMISSIONERS  
1992 JUL 21 PM 3:35  
MULTNOMAH COUNTY  
OREGON



**Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison Street  
Portland, Oregon 97214 (503) 248-3043**

## **Decision**

**This Decision consists of Conditions, Findings of Fact and Conclusions.**

**July 6, 1992**

**CU 9-92, #819**

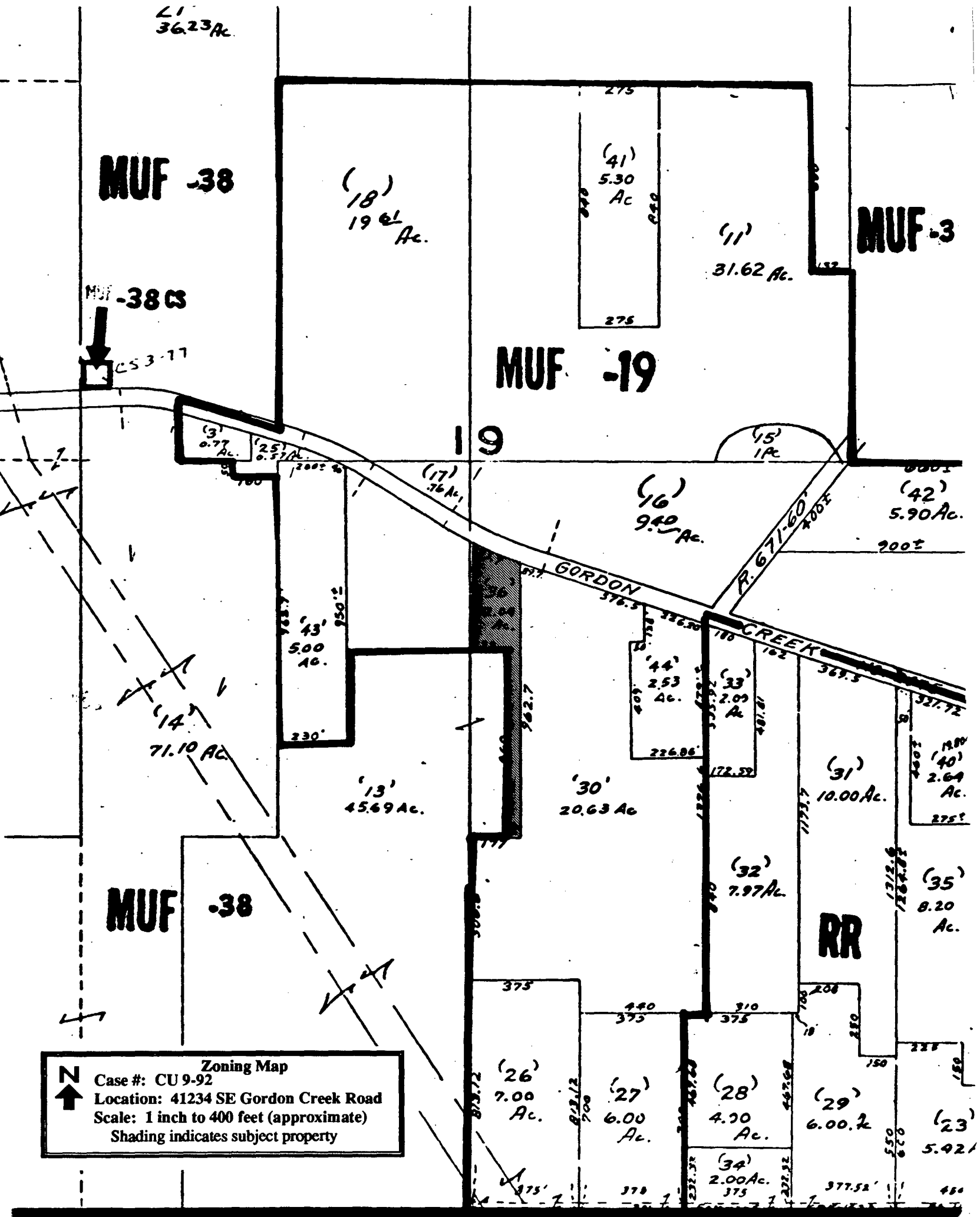
### **Conditional Use Request (Non-Resource Related Single Family Dwelling)**

Applicant requests conditional use approval to construct a non-resource related single family dwelling on this Lot of Record in the MUF-19 zoning district.

**Location:** 41234 SE Gordon Creek Road  
**Legal:** Tax Lot '36', Section 19, 1S-5E, 1991 Assessor's Map  
**Site Size:** 2.04 Acres  
**Size Requested:** Same  
**Property Owner:** Carl and Margaret Cuison  
41100 SE Gordon Creek Road, Corbett, 97019  
**Applicant:** Same  
**Comprehensive Plan:** Multiple Use Forest  
**Present Zoning:** MUF-19, Multiple Use Forest District  
Minimum lot size of 19 acres

### **Hearings Officer**

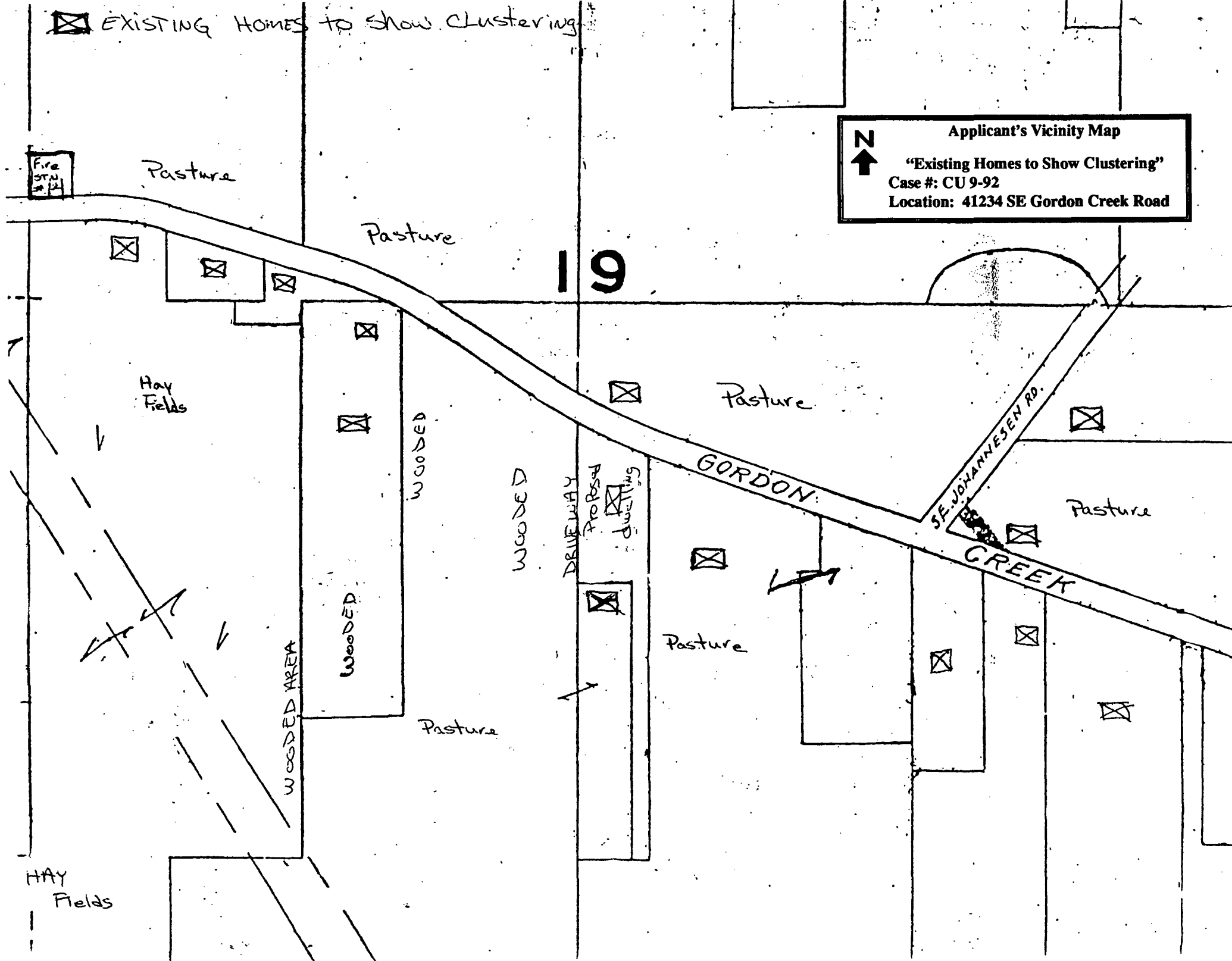
**Decision:** Approve, subject to conditions, the conditional use requested, a non-resource related single family dwelling on this Lot of Record in the MUF-19 zoning district, all based on the following findings and conclusions:



EXISTING HOMES TO SHOW CLUSTERING

**Applicant's Vicinity Map**

“Existing Homes to Show Clustering”  
Case #: CU 9-92  
Location: 41234 SE Gordon Creek Road





REVISION

Pasture

Pasture

Pasture

Neighbor House

Neighbor House

Neighbor House

GORDON CREEK RD.  
193.7  
30' SETBACK LINE

Tree Cluster

Proposed dwelling  
FRONT  
57'  
47.5  
47.5

Neighbor Driveway 380.9

Wooded Area

WOODED Area

84.5 45 45

177'

660' →

302.7

962.7

SITE PLAN

UNNOTED AREA

SCALE 1:50

WOODED AREA

## Conditions of Approval

1. Prior to issuance of building permits, the property owner shall provide the Planning and Development Division with a copy of the recorded restrictions required under MCC 11.15.2172 (A)(5). A prepared blank copy of this deed restriction is available at the Planning and Development Office.
2. Satisfy the requirements of the Transportation Division regarding any future improvements of SE Gordon Creek Road.
3. All land-disturbing activities shall be subject to the standards in MCC 11.15.6700-.6735. The applicable permit(s) shall be secured prior to developing or clearing.

## Findings of Fact

NOTE: The applicant has provided a narrative statement in response to the Conditional Use approval criteria. In this section, quoted portions of the applicant's material are in *italic* type. Staff discussion of applicant responses appear in paragraphs titled Staff Comment. Quoted ordinance language appears in ***bold italic*** type. The applicant's narrative is attached to this report.

### 1. Applicant's Proposal:

The applicant requests Planning Commission approval to develop the above described 2.04-acre Lot of Record with a non-resource related single family dwelling.

### 2. Site Conditions and Vicinity Information:

The site is on the south side of SE Gordon Creek about-one-half mile west of SE Groce Road.

### 3. Zoning Ordinance Considerations:

**Non-Resource-Related Dwelling Approval Criteria:** Under MCC 11.15.2172(C), a non-resource related single family dwelling is permitted in the MUF zoning district as a Conditional Use where it is demonstrated that:

- (1) *The lot size shall meet the standard of MCC 11.15.2178(A) or .2182(A) to (C).*
- (2) *The land is incapable of sustaining a farm or forest use, based upon one of the following:*
  - (a) ***A Soil Conservation Service Agriculture Capability Class of IV or greater for at least 75% of the lot area, and physical conditions insufficient to produce 50 cubic feet/acre/year or any commercial trees species for at least 75% of the area;***

- (b) *Certification by the Oregon State University Extension Service, the Oregon Department of Forestry, or a person or group having similar agricultural and forestry expertise, that the land is inadequate for farm and forest uses and stating the basis for the conclusions; or*
- (c) *The lot is a Lot of Record under MCC 11.15.2182(A) through (C) and is ten acres or less in size.*
- (3) *A dwelling, as proposed, is compatible with the primary uses as listed in MCC 11.15.2168 on nearby property and will not interfere with the resources or the resource management practices or materially alter the stability of the overall land use pattern of the area.*
- (4) *The dwelling will not require public services beyond those existing or programmed for the area.*
- (5) *The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices.*
- (6) *The residential use development standards of MCC .2194 will be met.*

**Residential Use Development Standards:** MCC 11.15.2194 states that *A residential use located in the MUF district after August 14, 1980, shall comply with the following:*

- (A) *The fire safety measure outlined in the Fire Safety Considerations for Development in Forested Areas, published by the Northwest Interagency Fire Prevention Group, including at least the following:*
  - (1) *Fire lanes at least 30 feet wide shall be maintained between a residential structure and an adjacent forested area; and*
  - (2) *Maintenance of a water supply and of fire fighting equipment sufficient to prevent fire from spreading from the dwelling to adjacent forested areas;*
- (B) *An access drive at least 16 feet wide shall be maintained from the property access road to any perennial water source on the lot or an adjacent lot.*
- (C) *The dwelling shall be located in as close proximity to a publicly maintained street as possible, considering the requirements of MCC .2178(B).*
- (D) *The physical limitations of the site which require a driveway in excess of 500 feet shall be stated in writing as part of the application for approval.*
- (E) *The dwelling shall be located on that portion of the lot having the lowest productivity characteristics for the proposed primary use, subject to the limitations of subsection (C), above.*

- (F) *Building setbacks of at least 200 feet shall be maintained from all property lines, wherever possible, except:*
  - (1) *A setback of 30 feet or more may be provided from a public road, or*
  - (2) *The location of dwelling(s) on adjacent lot(s) at a lesser distance will allow for the clustering of dwellings or the sharing of access.*
- (G) *Construction shall comply with the standards of the building code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes.*
- (H) *The dwelling shall be attached to a foundation for which a building permit has been obtained.*
- (I) *The dwelling shall have a minimum floor area of 600 square feet.*
- (J) *The dwelling shall be located outside a big game habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable.*

#### 4. **Compliance with Non-Resource-Related Dwelling Approval Criteria**

This proposal satisfies the applicable approval criteria as follows:

- A. *The lot size shall meet the standard of MCC 11.15.2178(A) or .2182(A) to (C). [MCC 11.15.2172(C)(1)]*

The site is an under size Lot of Record that satisfies MCC 11.15.2182(A)(2) because: it was created before February 20, 1990; met all applicable laws when it was created; has less than the minimum lot area required in the MUF-19 district; and does not adjoin another substandard parcel under the same ownership.-

- B. *The land is incapable of sustaining a farm or forest use, . . . [MCC 11.15.2172(C)(2)]*

The site satisfies MCC 11.15.2172(C)(2)(c) because it is a Lot of Record under MCC 11.15.2182(C) and is less than 10 acres in size.

- C. *A dwelling, as proposed, is compatible with the primary uses as listed in MCC 11.15.2168 on nearby property and will not interfere with the resources or the resource management practices or materially alter the stability of the overall land use pattern of the area [MCC 11.15.2172(C)(3)]*

**Applicant's Response:** *"This dwelling would be located on a 2.04 acre Lot of Record in an existing cluster of houses and would not interfere with the resources. It*

*will also be compatible with the primary use as outlined in MCC .2168 (E), residential use consisting of a single-family dwelling."*

Staff Comment

Within one-quarter mile of the site, there are houses on each parcel adjoining Gordon Creek Road. The primary use of lands in the area is for pasture. A residence on the subject site is consistent with the existing housing pattern. The proposal satisfies [MCC 11.15.2172(C)(3).

- D. ***The dwelling will not require public services beyond those existing or programmed for the area.*** [MCC 11.15.2172(C)(3)]

Applicant's Response: *"A well and septic system is planned as there is no public water or sewer systems available. Public services such as fire protection and police are in existence for the area."*

Staff Comment

Rural Fire Protection District 14 provides fire protection and the County Sheriff's Office provides police protection. The County Sanitarian will require a Land Feasibility Study regarding on-site sewage disposal. The proposal satisfies MCC 11.15.2172(C)(4).

- E ***The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices.***

Compliance with this requirement is a condition to be fulfilled prior to issuance of a building permit. For this reasons, the proposal satisfies MCC 11.15.2172(C)(5).

5. Compliance with Residential Use Development Standards

- A. **Fire Safety Measures**

Applicant's Response: *"The proposed dwelling site would be at least 30 feet from a forested area. This area is in Multnomah County Rural Fire Protection District No. 14, with the proposed dwelling site 1300 feet from a fire station, and will be developed to meet their criteria for fire protection."*

Staff Comment: The proposed residence meets MCC 11.15.2194(A).

- B. ***... access drive at least 16 feet wide ...***

Applicant's Response: *"The proposed well site will have an access drive of 16 feet fro the property access road."*

**Staff Comment:** The proposed residence meets MCC 11.15.2194(B).

C. . . . *proximity to a publicly maintained street . . .*

As shown on the site plan, the proposed home site meets MCC 11.15.2194(C) because it separated from the road by a tree cluster.

D. . . . *driveway in excess of 500 feet . . .*

The driveway to the proposed residence is 115 feet long.

E. . . . *located on* [the least productive] *portion of the lot . . .*

**Applicant's Response:** "This lot is 2.04 acres in size and the proposed use is residential, therefore the location of the proposed dwelling would not impact any productivity characteristics."

**Staff Comment:** This criterion is not applicable in that the proposal is for a non-resource-related residence on a 2.04-acre site.

F. . . . *setbacks of at least 200 feet . . . except:*

**Staff Comment:** Given the site's area and dimensions, this criterion will be satisfied to the extent possible

G. [construction to meet either building code or mobile home standards]

**Staff Comment:** Any residence must meet either the building code or mobile home code; no other permissible options exist.

H. *The dwelling shall be attached to a foundation for which a building permit has been issued.*

Please refer to G above.

I. *The dwelling shall have a minimum floor area of 600 square feet.*

No mobile home siting permit will be approved unless the floor area meets this requirement.

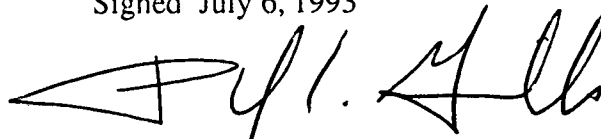
J. . . . *located outside a big game habitat area . . .*

The site is not inside a big game habitat area as defined by the Oregon Department of Fish and Wildlife.

**Conclusion:**

1. The proposal meets the approval criteria for a non-resource related dwelling in the MUF zoning district.

Signed July 6, 1993

A handwritten signature in black ink, appearing to read 'P. Grillo', written over a horizontal line.

By Phillip Grillo, Hearings Officer

**Filed with Clerk of the Board on July 16, 1992**

**Appeal to the Board of County Commissioners**

Any person who appears and testifies at the Planning Commission hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or before 4:30 p.m. Monday, July 27, 1992 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

*The Decision in this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, July 28, 1992 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development at 248-3043.*

# MATERIAL SUBMITTED BY APPLICANT



11.15.2172 Conditional Uses

The following uses may be permitted when found by the approval authority to satisfy the applicable ordinance standards:

(C) Residential use, not in conjunction with a primary use listed in MCC .2168, consisting of a single-family dwelling, including a mobile home or modular home, subject to the following findings:

(1) The lot size shall meet the standards of MCC .2168 (A), .2180(A) to (C), or .2182(A) to (C);

→ This is a Lot of Record.

(2) The land is incapable of sustaining a farm or forest use, based upon one of the following:

(C) The lot is a Lot of Record under MCC .2182 (A) through (C), and is 10 acres or less in size;

→ This land is a Lot of Record and is 2.04 acres in size. The lot is less than 10 acres in size; therefore, incapable of sustaining a farm or forest use.

(3) A dwelling as proposed is compatible with the primary uses as listed in MCC .2168 on nearby property and will not interfere with the resources or the resource management practices or materially alter the stability of the overall land use pattern area;

→ This dwelling would be located on a 2.04 acre Lot of Record and will be compatible with the primary use as outlined in MCC .2168 (E), residential use consisting of a single-family dwelling. This residence would not interfere with any resources in this area.

(4) The dwelling will not require public services beyond those existing or programmed for this area;

→ A well and septic system is planned as there is no public water or sewer systems available. Public services such as fire protection and police are in existence for the area.

(5) The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of the owners of the nearby property to conduct accepted forestry or farming practices;

→ We agree to do this condition upon approval of this application.

(6) The residential use development standards of MCC .2194 will be met.

→ Yes, we agree to meet MCC .2194 standards upon approval of this application.

11.15.2194 Residential Use Development Standards

• A residential use located in the MUF district after August 14, 1980, shall comply with the following:

(A) The fire safety measure outlined in the Fire Safety Considerations for Development in Forested Areas, published by the Northwest Interagency Fire Prevention Group, including at least the following:

(1) Fire lanes at least 30 feet wide shall be maintained between a residential structure and an adjacent forested area;

→ The proposed dwelling site would be at least 30 feet from any forested area.

(2) Maintenance of water supply and of fire fighting equipment sufficient to prevent fire from spreading from the dwelling to adjacent forested areas;

→ This area is in Multnomah County Rural Fire Protection District No. 14 and will be developed to meet their criteria for fire protection.

(B) An access drive at least 16 feet wide shall be maintained from the property access road to any perennial water source on the lot or an adjacent lot.

→ The proposed well site will have an access drive of 16 feet from the property access road.

(C) The dwelling shall be located in as close proximity to a publicly maintained street as possible, considering the requirements of MCC .2178 (B).

→ Not applicable.

(D) The physical limitations of the site which require a driveway in excess of 500 feet shall be stated in writing as part of the application for approval.

→ Not applicable.

(E) The dwelling shall be located on that portion of the lot having the lowest productivity characteristics for the proposed primary use, subject to the limitations of subsection (C), above.

→ This lot is 2.04 acres in size and the proposed use is residential, therefore the location of the proposed dwelling would not impact any productivity characteristics.

(F) Building setbacks of at least 200 feet shall be Maintained from all property lines, wherever possible, except:

(1) A setback of 30 feet or more may be provided from a public road,

(2) The location of dwelling(s) on adjacent lot(s) at a lesser distance will allow for the clustering of dwellings or the sharing of access.

→ We agree to satisfy the Residential Use Development Standards.

(G) Construction shall comply with all the standards of the building code or as prescribed in ORS 446.002 through 446.200 related to mobile homes.

→ We agree to comply with these standards.

(H) The dwelling shall

(H) The dwelling shall be attached to a foundation for which a building permit has been obtained.

→ We agree to obtain a building permit prior to construction.

(I) The dwelling shall have a minimum floor area of 600 square feet.

→ The proposed dwelling is to have a floor space area of between 2000 to 3000 square feet.

(J) The dwelling shall be located outside a big game habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certifies that the impacts will be acceptable.

→ The property is not within a big game habitat area.

Meeting Date: July 28, 1992

Agenda No.: P-6

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM  
(For Non-Budgetary Items)

SUBJECT: Hearings Officer Decision

BCC Informal \_\_\_\_\_ BCC Formal July 28, 1992  
(date) (date)  
DEPARTMENT DES DIVISION Planning  
CONTACT Sharon Cowley TELEPHONE 2610  
PERSON(S) MAKING PRESENTATION Planning Staff

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: One Minute

CHECK IF YOU REQUIRE OFFICIAL WRITTEN NOTICE OF ACTION TAKEN: xx

BRIEF SUMMARY (include statement of rationale for action requested, as well as personnel and fiscal/budgetary impacts, if applicable):

CU 11-92 Review the Decision of the Hearings Officer of July 6, 1992, approving, subject to conditions, conditional use request to allow a non-resource related single family residence on this 7.80-acre Lot of Record, for property at 43640 East Larch Mountain Road


BOARD OF  
COUNTY COMMISSIONERS  
1992 JUL 21 PM 3:35  
CLATSOP COUNTY  
OREGON

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL \_\_\_\_\_

Or

DEPARTMENT MANAGER 

(All accompanying documents must have required signatures)



**Department of Environmental Services  
Division of Planning and Development  
2115 S.E. Morrison Street  
Portland, Oregon 97214 (503) 248-3043**

**Decision**

**This Decision consists of Conditions, Findings of Fact and Conclusions**

**July 6, 1992**

**CU 11-92, #792**

**Conditional Use Request  
(Non-Resource Related Single Family Dwelling)**

Applicant requests Conditional Use approval for a non-resource related single family dwelling on this 7.80 acre Lot of Record in the MUF-19 zoning district..

**Location:** 43640 E. Larch Mountain Road

**Legal:** Tax Lot '24', Section 5, 1S-5E, 1991 Assessor's Map

**Site Size:** 7.80 Acres

**Size Requested:** Same

**Property Owner:** David A. Grey/Jeffrey L. Smith  
P.O. Box 210, Corbett 97019

**Applicant:** Same

**Comprehensive Plan:** Multiple Use Forest

**Present Zoning:** MUF-19

**Hearings Officer**

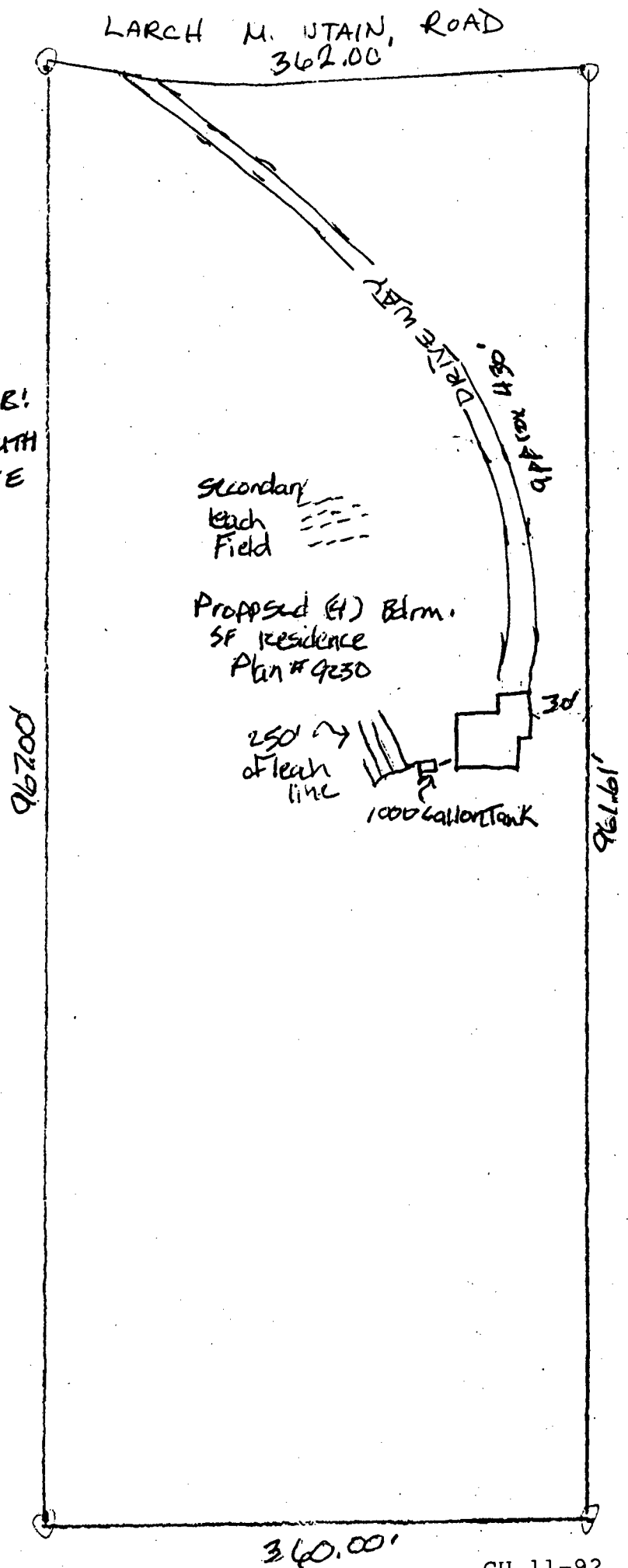
**Decision:** Approve, subject to conditions, development of this 7.80 acre Lot of Record with a non-resource related single family dwelling, based on the following Findings and Conclusion.



# Plot Plan

SCALE 1" = 100'

FUTURE RESIDENCE FOR:  
DEAN AND CLAUDIA AUFMUTH  
TAX LOT 24 S.5, T.1S, R.5E  
R 99505-0240  
MULTNOMAH COUNTY,  
OREGON



## CONDITIONS OF APPROVAL:

1. Prior to the issuance of building permits, the property owner shall provide the Land Development Section with a copy of the recorded restrictions required under MCC 11.15.2172(C)(5). A prepared blank copy of this deed restriction is available at the Land Development Offices.
2. Satisfy the requirements of Engineering Services regarding any further improvements of Larch Mountain Road.
3. Prior to any site clearing or grading, obtain a *Hillside Development and Erosion Control Permit* pursuant to MCC .6700-6730, if applicable. Contact Mark Hess at 248-3043 for application materials.
4. The final site plan shall demonstrate compliance with the Residential Use Development Standards of MCC .2194.
5. The front of the dwelling shall be located no farther than 50 feet from the Larch Mt. Road right-of-way.
6. The building shall be set back at least 100 feet from both the east and west property lines.

## FINDINGS OF FACT:

### 1. Applicant's Proposal:

The applicant requests Hearings Officer approval to develop the above described 7.80 acre Lot of Record with a non-resource related single family dwelling.

### 2. Ordinance Considerations:

A. A non-resource related single family dwelling is permitted in the MUF zoning district as a Conditional Use [MCC .2172(C)] where it is demonstrated that:

- (1) The lot size shall meet the standard of MCC 11.15.2178(A) or .2182(A) to (C).
- (2) The land is incapable of sustaining a farm or forest use, based upon one of the following:
  - a) A Soil Conservation Service Agriculture Capability Class of IV or greater for at least 75% of the lot area, and physical conditions insufficient to produce 50 cubic feet/acre/year or any commercial trees species for at least 75% of the area;
  - b) Certification by the Oregon State University Extension Service, the Oregon Department of Forestry, or a person or group having similar agricultural and forestry expertise, that the land is inadequate for farm and forest uses and stating the basis for the conclusions;  
or



- c) The lot is a Lot of Record under MCC 11.15.2192(A) through (C) and is ten acres or less in size.
  - (3) A dwelling, as proposed, is compatible with the primary uses as listed in MCC 11.15.2168 on nearby property and will not interfere with the resources or the resource management practices or materially alter the stability of the overall land use pattern of the area.
  - (4) The dwelling will not require public services beyond those existing or programmed for the area.
  - (5) The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices.
  - (6) The dwelling 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 are acceptable.
- B. A residential use located in the MUF district after August 14, 1980 shall comply with the following:
- (1) The fire safety measures outlined in the "Fire Safety Considerations for Development in Forested Areas", published by the Northwest Inter-Agency Fire Prevention Group, including at least the following:
    - a) Fire lanes at least 30 feet wide shall be maintained between a residential structure and an adjacent forested area;
  - (2) An access drive at least 16 feet wide shall be maintained from the property access road to any perennial water source on the lot or an adjacent lot;
  - (3) The dwelling shall be located in as close proximity to a publicly maintained street as possible, considering the requirements of MCC 11.15.2058(B). The physical limitations of the site which require a driveway in excess of 500 feet shall be stated in writing as part of the application for approval;
  - (4) The dwelling shall be located on that portion of the lot having the lowest productivity characteristics for the proposed primary use, subject to the limitations of subpart #3 above;
  - (5) Building setbacks of at least 200 feet shall be maintained from all property lines, wherever possible, except:
    - a) a setback of 30 feet or more may be provided for a public road, or
    - b) the location of dwelling(s) of adjacent lots at a lesser distance which allows for clustering of dwellings or sharing of access;

- (6) The dwelling shall comply with the standards of the Uniform Building Code or as prescribed in ORS 446.002 through 446.200, relating to mobile homes;
- (7) The dwelling shall be attached to a foundation for which a building permit has been obtained;
- (8) The dwelling shall have a minimum floor area of 600 square feet; and
- (9) The dwelling 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.

### **3. Site and Vicinity Characteristics:**

The subject property is a Lot of Record of 7.80 acres located on the south side of E. Larch Mountain Road one-quarter of a mile westerly of its intersection with Loudon Road. The property is vegetated with a mixture of conifer and deciduous trees. The property is not within a designated big game winter habitat area.

Properties in the surrounding area range in size from nearly two acres to over 80 acres in size. Most of the lots along Larch Mountain Road are developed with rural residences. The property is bordered on the east by a subdivided area zoned Rural Residential, and another Rural Residential area is located two lots removed to the west. Those two intervening properties are undersized lots designated MUF-19 and each developed with a single family residence.

The tentative site plan indicates compliance with the Residential Location Standards of the MUF zone. Condition #4 insures that all standards will be met before any development permits are issued on the property. Water will be provided by Corbett Water District, and the property has been tested for subsurface sewage disposal. Telephone and power facilities are available along the Larch Mountain Road frontage.

### **4. Compliance With Ordinance Considerations:**

#### **The Hearings Officer makes the following Findings regarding the Ordinance Approval Criteria of MCC 11.15.2172(C):**

1. The lot size requirement of .2182(A)(2) is met with this 7.80-acre parcel.
2. The land is incapable of sustaining a farm or forest use, in spite of the fact that the property has recently been logged for commercial purposes, because Section (c) by definition establishes a Lot of Record of ten acres or less in size as incapable of sustaining farm or forest use.
3. A dwelling on this site is compatible with the primary uses listed in MCC .2168 on nearby properties because the nearby properties located in the MUF-19 and RR districts are either already occupied by single family residences or are eligible for single family development with-

out further zoning approvals, and with the signing and recording of the acknowledgement required by MCC .2172(C)(5), the single family dwelling will not interfere with the resources or resource management practices or materially alter the stability of the overall land use pattern in the area.

The concern expressed by Sid Kennedy, and Donald and Karen Horn, adjoining property owners, regarding clear cutting in the area appear to be well founded. There do not, however, appear to be any restrictions in the County Zoning Ordinance which would prevent clear cutting. Since the Ordinance defines a Lot of Record of less than ten acres in size as "incapable of sustaining a farm or forest use", there is the inconsistency of on the one hand recognizing the commercial value of the timber and at the same time defining the Lot of Record as nonproductive. This inconsistency, however, does not prevent a dwelling from being established on a qualifying Lot of Record.

The Ordinance prohibits destabilizing the overall land use pattern of the area. Locating a dwelling on an existing Lot of Record does not destabilize the zoning pattern in the area.

Applicable requirements of the Oregon Forest Practices Act (ORS 527.610 et seq), if any, are administered by the State Forester in the Oregon Department of Forestry, not by Multnomah County.

4. The dwelling will not require public services beyond those existing or programmed for the area because adequate services are available in the Larch Mt. Road right-of-way or can be provided on-site.

5. The owner will be required to record the acknowledgement regarding the rights of owners of nearby property to conduct acceptable forestry or farming practices.

6. The residential use development standards of MCC .2194 can be met, as discussed below, provided the approval is properly conditioned.

**The Hearings Officer makes the following Findings regarding the Ordinance Approval Criteria of MCC 11.15.2194:**

A. The fire safety requirements can be met since the property is large enough to provide the required 30-foot buffer, and water supply is available in the Larch Mt. Road right-of-way.

B. The applicant proposes a 16-foot wide access drive in compliance with the access requirement.

C. MCC .2194(C) states:

"The dwelling shall be located in as close proximity to a publicly maintained street as possible, considering the requirements of MCC .2178(B)".

MCC .2178(B) states:

"That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot".

The applicant proposes to locate the house approximately 430 feet from Larch Mt. Road, however, offers no explanation as to why a location in closer proximity to Larch Mt. Road is not possible.

The reason offered by the applicant for the proposed location is only that the proposed location affords the best view. Therefore, the proposed location 430 feet from Larch Mt. Road does not satisfy Subsection (C). If the approval is properly conditioned to require the dwelling to be located closer to the street, this requirement will be met.

- D. The applicant does not claim that physical limitations require a driveway in excess of 500 feet.
- E. Since the Lot of Record of less than ten acres by definition is not capable of sustaining farm and forest practices, the requirement of locating the dwelling on the portion of the lot having the lowest productivity characteristics is satisfied.
- F. Subsection (F) of MCC .2194 requires a setback of at least 200 feet from all property lines whenever possible, except (1) the setback may be reduced to 30 feet for the front yard setback along a public road or (2) the 200-foot setback may be reduced if dwellings located on adjacent lots are at a lesser distance and reducing the setback for the subject site will allow clustering of the dwellings or shared access.

The applicant proposes to locate the dwelling 30 feet from the east property line. No information has been provided by the applicant to indicate that a greater setback cannot be accommodated, although since the lot width is approximately 360 feet, it is obvious that the house cannot be located 200 feet from both the east and the west property lines.

The applicant is not requesting shared access that would require the house to be located closer to a neighboring property line.

Also, the testimony at the public hearing indicates that while there is a home on the neighboring Tax Lot '3' of Tract A, the neighboring Tax Lot '2' of Tract A and the neighboring Lot 1 of the Laura Subdivision are vacant.

There is no information in the record to indicate how far from the property line the house on Tax Lot '3' of Tract A is located. Therefore, since there is only one neighboring house and it is not evident how far from the property line that house is located, the information available in the record does not support a conclusion that the clustering of dwellings would justify a reduction in the 200-foot setback requirement.

The intent of Subsection (F) of MCC .2194 is apparently to provide an adequate buffer of hopefully at least 200 feet whenever a new home is constructed in the MUF district. This requirement recognizes the expectation that residences in this rural zone can generally be separated from the property line to this extent, and consequently from one another. The proposed location 30 feet from the east property line, does not satisfy the intent of Subsection (F).

As indicated above, however, the 200-foot setback requirement applies "wherever possible". In this case, a 200-foot setback from both the east and the west property lines is not possible. The proposed single family use can satisfy the intent of Subsection (F) if the approval is properly conditioned so that the house is located farther from the property line. In this case, it is reasonable to require that the house be set back at least 100 feet from both the east and west property lines, leaving approximately 160 feet within which to locate the house.

If the applicant is correct and the proposed location afford the best view, then this may be an example of where compliance with the Zoning Ordinance requires locating the structure somewhere on the site other than the applicant's most preferred location.

- G. The applicant proposes to comply with the applicable Building Code standards in compliance with Subsection (G).
- H The dwelling is proposed to be attached to a foundation for which a building permit will be obtained.
- I. The applicant proposes a dwelling of approximately 1,800 square feet, in compliance with the minimum requirement of 600 square feet
- J. The property is located outside of a big game habitat area.

In summary, the proposal as submitted, complies with all of the applicable requirements of MCC .2172, and all of the requirements of MCC .2194, except for Subsections (C) and (F) of .2194. The approval as conditioned herein, however, does satisfy the requirements of Subsections (C) and (F).

##### **5. Hearings Officer's Authority to Attach Conditions.**

MCC 11.15.7115 provides that the approval authority (Hearings Officer) may attach conditions and restrictions to any conditional use approved, including any reasonable conditions, restrictions, or safeguards that would uphold the purpose and intent of the Zoning Ordinance or which would mitigate any adverse effect upon the adjoining properties which may result by reason of the conditional use approved.

##### **CONCLUSIONS:**

1. The property is a Lot of Record of less than ten acres in size; thereby, incapable of sustaining a farm or forest use.
2. Conditions are necessary to insure compliance with all Code provisions.
3. The applicant has carried the burden necessary for the approval of a non-resource related single family dwelling in the MUF-19 zoning District.

**IN THE MATTER OF CU 11-92:**

July 6, 1992



By Paul Norr, Hearings Officer

Filed with Clerk of the Board on July 16, 1992

**Appeal to the Board of County Commissioners**

Any person who appears and testifies at the Planning Commission hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or before 4:30 p.m. Monday, July 27, 1992 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

*The Decision in this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, July 28, 1992 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development at 248-3043.*

Meeting Date: July 28, 1992

Agenda No.: P-7

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM  
(For Non-Budgetary Items)

SUBJECT: Hearings Officer Decision

BCC Informal \_\_\_\_\_ BCC Formal July 28, 1992  
(date) (date)  
DEPARTMENT DES DIVISION Planning  
CONTACT Sharon Cowley TELEPHONE 2610  
PERSON(S) MAKING PRESENTATION Planning Staff

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: One Minute

CHECK IF YOU REQUIRE OFFICIAL WRITTEN NOTICE OF ACTION TAKEN: xx

BRIEF SUMMARY (include statement of rationale for action requested, as well as personnel and fiscal/budgetary impacts, if applicable):

CU 12-92 Review the Decision of the Hearings Officer of July 6, 1992, approving, subject to conditions, conditional use request to add the auction sale of farm machinery (a limited rural commercial use) to the farm animals and products auction facility previously approved as a Use Under Prescribed Conditions, all for property located at 17622 NW St. Helens Road

(If space is inadequate, please use other side)

SIGNATURES:

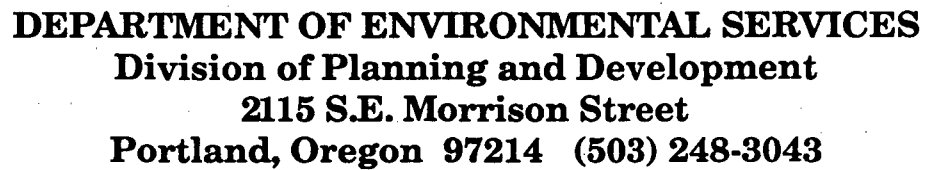
ELECTED OFFICIAL \_\_\_\_\_

Or

DEPARTMENT MANAGER \_\_\_\_\_

(All accompanying documents must have required signatures)

BOARD OF  
COUNTY COMMISSIONERS  
1992 JUL 21 PM 3:35  
MULTNOMAH COUNTY  
OREGON



**This Decision consists of Conditions, Findings of Fact and Conclusions.**  
**July 6, 1992**

**APPROVE, subject to conditions, approval to add the auction sale of farm machinery (a "limited rural commercial use") to the farm animals and products auction facility previously approved as a "Use Under Prescribed Conditions" on May 15, 1992, based on the following Findings and Conclusions.**

**CU 12-92**



**Zoning Map**  
**Case #: CU 12-92**  
**Location: 17622 NW St. Helens Road**  
**Scale: 1 inch to 400 feet (approximate)**  
**Shading indicates subject property**

FW

**MUA-20**

WRG

FF

**MUF -19**

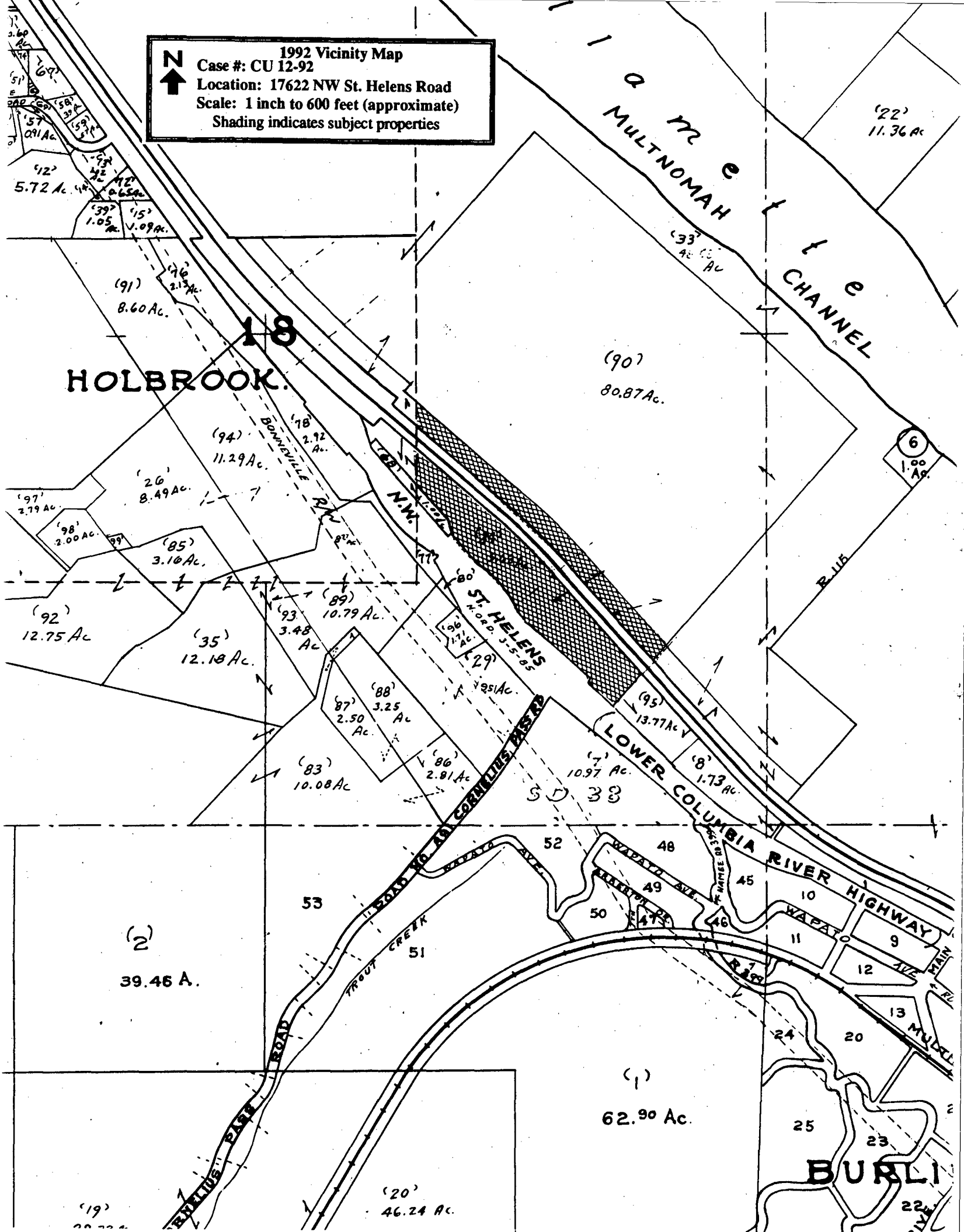
10.99 **RC**

CS

RC

CS 4-84

**1992 Vicinity Map**  
Case #: CU 12-92  
Location: 17622 NW St. Helens Road  
Scale: 1 inch to 600 feet (approximate)  
Shading indicates subject properties



# Cornelius Pass Auction

CU 12-92

Tax Lot 90

WETLANDS

Proposed future Parking  
100'x100'

Display Area for Machinery  
100'x120'

Existing Parking Area  
150'x120'

TAX LOT 95

TAXLOT 34

WETLANDS

Traffic Light

TL 95  
McCarthy Creek

Holbrook School

Cornelius Pass Rd

NW St Helens Road

WETLANDS

OSHD

17622

Farmhouse

Existing Dairy Buildings

1 inch = 200 ft

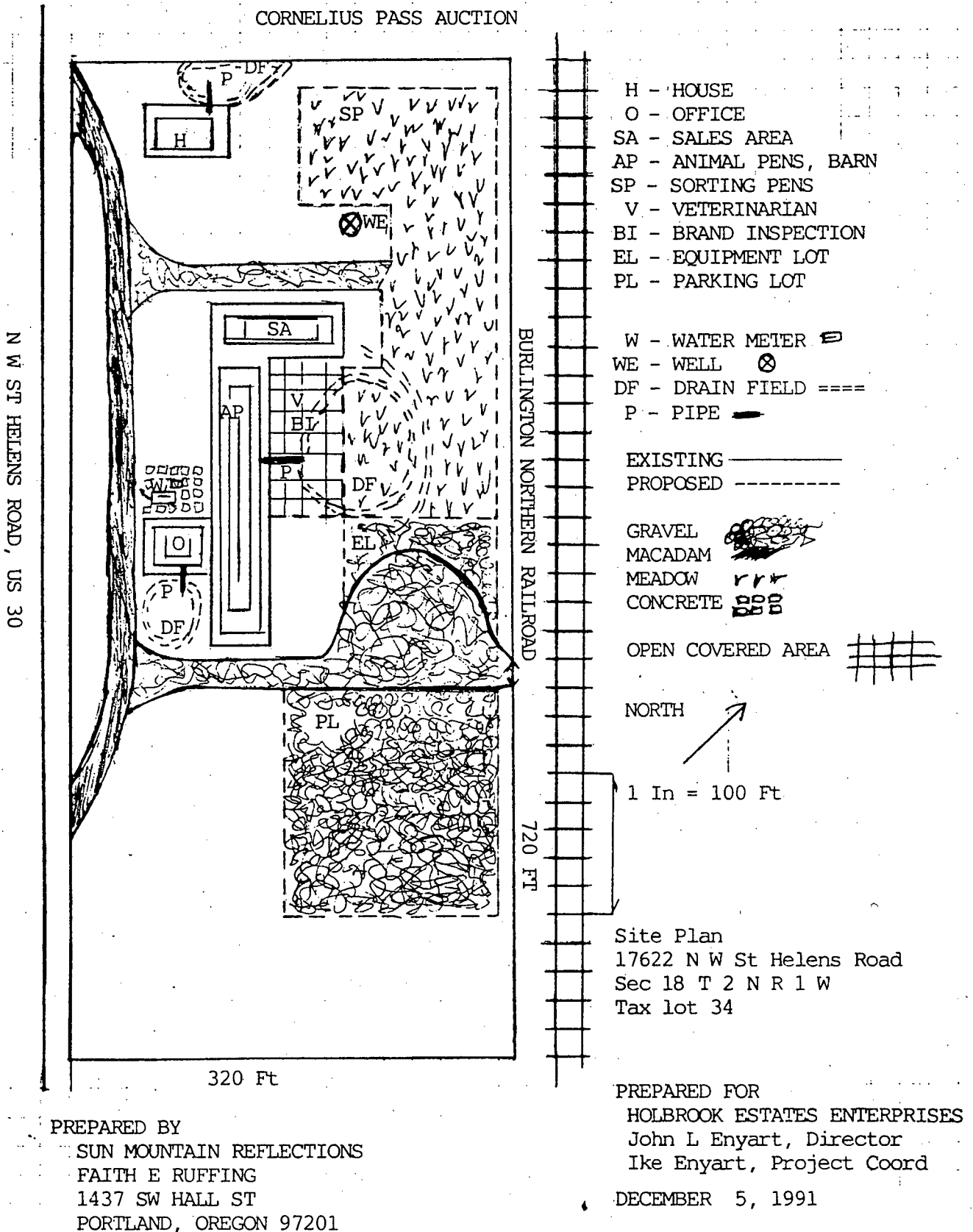
Site Plan  
Cornelius Pass Auction  
17622 NW ST HELENS Rd

Holbrook ESTATES ENTERPRISES  
JOHN L. EMYART

prepared by  
FAITH E. RUFFING  
May 29, 1992

# HOLBROOK ESTATES ENTERPRISES

## CORNELIUS PASS AUCTION



CU 12-92

CU 12-92



## CONDITIONS OF APPROVAL:

1. The "Conditions of Approval" numbered 2, 3, and 4 given in the Planning Director's decision in case PRE 4-92 and WRG 1-92, May 15, 1992, also apply to this request. They are:
  - A. Number 2: "This WRG Permit does not authorize grading, tree removal, or other site or bank work not described in the application narrative or indicated on the site plan. Any disturbed areas associated with the project shall be replanted and stabilized as soon as practicable, and prior to occupancy of the Auction facility. Obtain a Willamette River Greenway Permit for any future site development, including, but not limited to: accessory structure(s), cutting or removal of trees with 8-inch or greater trunk diameter, or alterations or stabilization work on the river bank."
  - B. Number 3: "The parking facilities for the auction use shall be confined to the gravel parking area existing at the time of the application. The expanded gravel parking area and the overflow "meadow" parking area are not authorized as part of this permit. These facilities must be developed according to parking standards in MCC 11.15.6108 -.6142 and MCC.7855(C)(3)."
  - C. Number 4: "Obtain approval (if applicable) from the Oregon Department of Transportation (ODOT) for any new or altered access points along Highway 30 (St. Helens Road)."

In addition, comply with all restrictions which the Oregon Department of Transportation may place on the use of St. Helens Road for on street parking.

2. Complete County Design Review and provide verification from the City of Portland Bureau of Buildings that the structures used as part of the auction facility meet all Building and Fire Code requirements.
3. No structure or improvement such as a surface parking lot shall be closer than 50 feet to the southerly wetland on the site. The boundary of the wetland is that shown on the *significant* wetlands aerial photographs (with the Division of Planning and Development) or that boundary documented by a competent professional with such maps as described in MCC 11.15.6376(A)(1) to (3).

## FINDINGS OF FACT:

### I. Applicant's Proposal:

- A. This Conditional Use request is to allow the auction sale of farm machinery at a recently approved auction facility for the sale of farm animals and products. The sale of farm animals and products on the site received approval as a Use Under Prescribed Conditions by the Planning Director on May 15, 1992, attached as Exhibit A. The sale of farm machinery is a Conditional Use which requires approval by a Hearing Authority.
- B. The applicant describes the auction as follows:

*"The owner proposes to operate an Auction at the site for wholesale and retail sale of farm animals, products and machinery to be held initially once a month and perhaps more frequently during peak seasons. Animals will be held in the barn presently at facilities for two days per week. Auction offices also at site."*

## **2. Ordinance Considerations:**

A. MCC 11.15.2132(C) "The following Conditional Uses may be permitted on lands not predominantly of Agricultural Capability Class I, II, or III soils: ...

(2) Pursuant to the provisions of MCC .7105 through .7640: ...

(b) Limited rural service commercial uses such as local stores, shops, offices, repair services and similar uses, ..."

B. MCC 11.15.7120(A) "... In approving a Conditional Use in this section, the approval authority shall find that the proposal:

(1) Is consistent with the character of the area;

(2) Will not adversely affect natural resources;

(3) Will not conflict with farm or forest uses in the area;

(4) Will not require public services other than those existing or programmed for the area;

(5) 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;

(6) Will not create hazardous conditions; and

(7) Will satisfy the applicable policies of the Comprehensive Plan.

## **3. Vicinity and Site Characteristics:**

A. NW St. Helens Road (State Highway 30) has four travel lanes, a center turning lane, and wide enough shoulders for safe parallel parking. The auction has two existing access points on the highway about 450 feet apart. A paved drive which acts as a frontage road connects the two driveways.

B. The southerly driveway is approximately 350 feet from the intersection of N.W. Cornelius Pass Road and N. St. Helens Road. The intersection is a "T" configuration with N.W. Cornelius Pass Road ending at a traffic signal. On the southerly corner is the building and parking lot which at one time was Holbrook School, more recently a specialized medical facility, and now is vacant. North of the intersection, on the opposite side of NW St. Helens Road from the auction is a private road/driveway serving five homes.

- C. The Burlington Northern Railroad is located on the easterly side of N.W. St. Helens Road. At the subject property it is located 200 to 300 from the road, separating a 100 foot wide strip of the tax lot from the main portion of the site.
- D. The center of the tax lot is higher in elevation than the road and the property slopes down to below the road elevation at the north and south ends. The northerly and southerly portions of the property contain large areas classified as wetlands on the National Wetland Inventory done by the U.S. Department of Fish and Wildlife.
- E. The center portion of the site contains a house built in 1937 which will continue to be used as a residence. South of the house is a large barn complex which once operated as a dairy farm. Southeast of the barns is a graveled area of about one-half acre that will be used for parking.

#### 4. Compliance With Ordinance Considerations:

**NOTE:** Applicants response to criteria is in *italics* type followed by staff comments where appropriate.

##### A. MCC 11.15.2132(C)

"The following Conditional Uses may be permitted on lands not predominantly of Agricultural Capability Class I, II, or III soils: ...

**Staff Comment:** The subject property surface area is comprised of about 60 percent Class VI soils and ground covered by buildings, driveways, and parking areas. Most of the Class VI soil areas are shown on the National Wetlands Maps to be wetlands that most likely would not be permitted to be disturbed by development.

(2) Pursuant to the provisions of MCC .7105 through .7640: ...

- (b) Limited rural service commercial uses such as local stores, shops, offices, repair services and similar uses, ..."

**Staff Comment:** The auction sale of farm machinery is a similar type of rural commercial use, especially in conjunction with the sale of farm animals and products.

##### B. MCC 11.15.7120(A)

"... In approving a Conditional Use in this section, the approval authority shall find that the proposal:

- (1) Is consistent with the character of the area;

**Applicant's response:** *"The site is the former location of a dairy and the existing facilities will be used for the auction. No additional construction will be necessary for the operations beyond that which present-*



ly exists. Historically the location and design of the facilities have been compatible with the character of the area and meet the conditions under the Multiple Use Agriculture zoning regulations.

*The number of animals anticipated for the auction can be housed in the barn and no CAFO permit is required at this time.*

*The farm equipment and machinery will be brought in no more than 2 days prior to the auction and removed within 24 hours after the sale to minimize the possible perception of a daily operation."*

- (2) Will not adversely affect natural resources;

**Applicant's response:** *"The operations will be limited to the existing facilities which have no adverse impact from the site to the surrounding natural areas. There is no visible run off from the property to impact the water nor are there any noise or emissions from the operations. The operations are separated from the natural area by a buffer of 200 feet on all sides."*

- (3) Will not conflict with farm or forest uses in the area;

**Applicant's response:** *"The site is surrounded by wetlands which are presently grazed. The operations will not interfere with this use. Possible restoration of the Burlington Railroad crossing behind the site may enhance the surrounding use."*

**Staff Comment:** The is no farm use at this time on the tax lot. Some pasture and wetland areas to the east of this lot are grazed by cattle. It is unclear how the restoration of the crossing would enhance any potential farm activities.

- (4) Will not require public services other than those existing or programmed for the area;

**Applicant's response:** *"I have contacted the County Sanitarian, Michael Ebeling, and he has visited the site and recommended that we have an on site inspection of the existing system to determine the needs for handling additional wastes. Until then increased wastes from the auction customers will be handled through the use of three portable toilets."*

*Animals are presently kept in the barn. Water usage is mostly for watering of animals. There is no visible water draining from the barn. Wastes are contained in the bedding of the stalls and are removed when the barns are cleaned.*

*This manure is composted and stored in a covered wooden bin and will be sold at the auction. No water is anticipated to drain out since the bin will be protected from the weather.*

*The Burlington Water District has informed me that the highest monthly usage in 1991 was 6700 cubic feet and that the District was able to supply this with the present system. Since October the usage has dropped to 2000 cu ft per month after repair of leaks in the plumbing. It is not anticipated that the water usage will increase beyond the peak as a result of the auction."*

- (5) 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;

**Applicant's response:** *"The site is not located with such a habitat area."*

- (6) Will not create hazardous conditions; and

**Applicant's response:** *"Some concerns have been raised regarding the impacts of parking and congestion caused by the auction on the traffic flow along Highway 30.*

*The site is located within 100 feet of a traffic light on US 30 at Cornelius Pass road so traffic is slowing and stopping. In addition there is a middle turn lane, two lanes of traffic each direction, a bicycle lane and a lane to pull off on the outside of the road.*

*Parking along the highway may cause some problems which will be handled as follows.*

*The road will be policed to make sure that the cars are out of the bicycle path so that a bicyclist will not have to move out into the traffic in order to get around it.*

*Assuming 300-500 vehicles to be accommodated over a six to eight hour period. ..."*

**Staff Comment:** St. Helens Road is a State Highway under control of the Oregon Department of Transportation. The County's classification system for rural roads does not permit the use of on street parking: MCC 11.60, Table 5.2, "Basic Rural Standards for Right of Way and Improvements by Functional Classification" states there is no parking on rural trafficways. However, the highway is the State's jurisdiction and allowing such parking is at their discretion. A condition of approval of this Conditional Use request requires compliance with the State's actions if they choose to restrict this type of parking.

The County will strive to ensure that the parking needs of the auction are accommodated on site. Hampering that effort is the lack of a specific parking space listing in the zoning code for an auction house. The closest description may be in MCC 11.15.6142 (C)(2): "Service and Repair Shop and Retail Store handling bulky merchandise, such as automobiles and furniture - One space for each 600 square feet of gross floor area." A rough calculation of the floor area of the barns results in an on-site parking requirement of approximately 20 spaces. The County Design Review procedure following the hearing will examine in more detail the parking requirements and layout.

- (7) Will satisfy the applicable policies of the Comprehensive Plan. The following Comprehensive Plan Policies are applicable to the proposed conditional use. The proposal satisfies those policies for the following reasons:

- (a) **Policy No. 13 - Air and Water Quality and Noise Levels.** This policy seeks to maintain and improve air and water quality and reduce noise pollution in the county

**Applicant's response:** *"There will be no impact on the air, noise and water quality."*

**Staff Comment:** The anticipated noise that the addition of the farm machinery sales would have to the site would be no greater than the present linear noise source from Highway 30. The closest off site noise sensitive land use to the auction is a house 450 feet away on the other side of the highway.

- (b) **Policy No. 14 - Development Limitations** This policy is concerned with mitigating or limiting the impacts of developing areas that have any of the following characteristics: slopes exceeding 20%; severe soil erosion potential; land within the 100 year floodplain; a high seasonal water table within 0-24 inches of the surface for 3 or more weeks of the year; a fragipan less than 30 inches from the surface; and land subject to slumping, earth slides or movement.

**Staff Comment:** The existing site improvements and proposed minor additions are more than 100 feet from any development sensitive areas, which on this property are wetlands.

- (c) **Policy No. 15 - Willamette River Greenway.** The County's policy is to protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River.

**Applicant's response:** *"The owner of the property at 17622 NW St Helens Road is proposing to use the existing facilities consisting of a dairy barn and surrounding land as the site for the auction of farm products and machinery. The owner plans no additional facilities or any landscape changes at this time beyond maintenance of that described as existing in the site plan at this time."*

*The site is 2000 ft from the Multnomah Channel shoreline, and 300 ft from McCarthy Creek. It is on the upland area of the Rafton/Burlington Bottoms Wetlands. It is separated from the wetlands by the Burlington Northern Railroad tracks and no runoff has been observed from the site.*

*The site was cleared for the dairy and pasture land more than fifty years ago and no further clearing is necessary. The site is edged with trees and shrubs constituting about 5% of the total site which will remain undisturbed. The area designated as meadow has been churned up with heavy equipment by the previous tenant and is mostly mud. This area will be replanted with pasture plants to prevent erosion of the topsoil and protect water quality.*

*The proposed use is designed and located in such a way as to have no impact on wildlife in the area. No unique wildlife have been observed nesting, feeding, resting or performing other important activities on the site.*

*The view from U.S. 30 is of a pastoral setting complete with barns and pastures, backdropped by the wetlands and the Channel. The view from the Channel is of the wetlands in the foreground with the hill rising behind on which the buildings are mostly obscured by the trees and shrubs surrounding the site. The mountain range beyond forms a forested backdrop.*

*The Nature Conservancy, in partnership with the Oregon Department of Fish and Wildlife and other private investors, is in the process of purchasing 400 acres to the south of the site which will be a significant wildlife habitat protection effort. It is the intention of the owner to protect the wetlands on the rest of his property and thereby enhance the investment of the Nature Conservancy. The Auction does not extend over any waters and access to public recreation is not affected by the proposed use.*

*The structures on the site may have historic significance as the former Holbrook Estates Dairy. Application to the State Historic Preservation Office for determination is in preparation. The Auction will not affect this feature but will serve to preserve the structures through repair and maintenance of the buildings and grounds.*

*The nearest body of water to the site is McCarthy Creek which is separated from the site by 300 ft of undisturbed shrub and meadow. This creek drains through the wetland to the channel at distance of about 8200 ft. The site is not within a watershed supplying domestic water. The proposed use will have a water quality enhancement effect on the creek and the channel and the wetlands.*

*The former tenant had a negative impact on the environmental quality of the site. The buildings had deteriorated from neglect and the grounds become the dumping site for refuse, used tires, scrap metal and old appliances and had become overgrown with weeds and blackberries. Heavy equipment had been operated over the entire property churning the grounds into mud, possibly damaging the drainfield to the septic tank, and damaging the water meter. The plumbing was hooked up in such a way as to cause excessive use of water.*

*Since the new owner has taken charge this tenant has left, the buildings have been cleaned out and the grounds have been cleaned up. The refuse has been removed and recyclable items have been hauled away. The waste from the barn is being managed in a manner to keep it from open water.*

*The water meter has been repaired and protected from further damage. The septic tank and the drainfield have been located and will be inspected. The grounds have been prepared to reseed and the mud has been cleared away from the driveways thereby eliminating possible sources of sediment movement.*

*No chemicals will be used for the auction which will impact water quality, no sediment will be added to the water nor will the flow or location characteristics be altered.*

*The site is not within the 100 year floodplain. Storm water from macadam driveway runs down to the highway. Storm water from the roofs of buildings will drained into a storage container and used for irrigation during the dry summer months. Overflow will drain over the meadow and shrub area to the north and south of the barn. All other storm water falls on permeable surfaces."*

**Staff Comment:** The County's latest historical property survey had this property on the initial investigation list, but the site was cut during a later pruning of the list. Staff agrees with the applicant that the requested use would help to preserve the barn structures for possible reappraisal of their significance.

- (c) **Policy No. 16 - Natural Resources.** The purpose of this policy is to implement Statewide Planning Goal 5, "Open Spaces, Scenic and Historic Areas, and Natural Resources."

**Staff Comment:** The wetland on the southern portion of the tax lot is the only wetland on the site which is designated as *significant* on the aerial photographs referred to in MCC 11.15.6376. The developed

area closest to the wetland is the upland graveled parking area which is about 100 feet from the boundary of the wetland. A buffer area of at least 50 feet is required from a *significant* wetland. There are no other inventoried Policy 16 Natural Resources on the property.

No objections to this proposal were received prior to or at the public hearing. The Hearings Officer adopts the Staff's comments and Findings.

#### **CONCLUSIONS:**

1. The applicant has carried the burden necessary for the approval of the auction sale of farm machinery.
2. Conditions are necessary to insure compliance with County regulations.
3. The Planning Director's decision in case WRG 1-92/PRE 4-92 is attached for reference as Exhibit A.

Signed July 6, 1992



By: Paul Norr, Hearings Officer

**Filed with Clerk of the Board on July 16, 1992**

#### **Appeal to the Board of County Commissioners**

Any person who appears and testifies at the Planning Commission hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or before 4:30 p.m. on Monday, July 27, 1992 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

*The Decision in this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, July 28, 1992 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development at 248-3043.*

**EXHIBIT A**  
**COVER PAGE**

**Administrative Decision**  
**WRG 1-92 / PRE 4-92**



DEPARTMENT OF ENVIRONMENTAL SERVICES  
DIVISION OF PLANNING AND DEVELOPMENT  
2115 S.E. MORRISON STREET  
PORTLAND, OREGON 97214 (503) 248-3043

## ADMINISTRATIVE DECISION

MAY 15, 1992

WRG 1-92/PRE 4-92

WILLAMETTE RIVER GREENWAY PERMIT  
USE PERMITTED UNDER PRESCRIBED CONDITIONS  
(Farm Auction Site)

Location: 17622 NW St. Helens Road

Legal: Tax Lot '34'; Section 18, 2N-1W

Owners: David Palmberg                      John Enyart  
            498 Galena                              15499 SW Twin Fir Road  
            Warrenton, Oregon 97146          Lake Oswego, Oregon 97025

Applicant: Faith Ruffing  
              1437 SW Hall Street  
              Portland, Oregon 97201

*nine decisions  
mailed 5/15/92  
Mr. Han*

## DECISIONS

APPROVE, SUBJECT TO CONDITIONS, a Willamette River Greenway Permit; and,

APPROVE, SUBJECT TO CONDITIONS, a PRE-Permit for an auction facility, all based upon the following Findings and Conclusions.

## CONDITIONS OF APPROVAL

1. The auction or other retail sales at the site shall be limited to farm products raised or grown in the area (e.g., no machinery sales allowed). Sales of farm machinery or other manufactured items are prohibited unless authorized as a Conditional Use pursuant to MCC 11.15.2132(C)(2)(b).
2. This WRG Permit does not authorize grading, tree removal, or other site or bank work not described in the application narrative or indicated on the site plan. Any disturbed areas associated with the project shall be replanted and stabilized as soon as practicable, and prior to occupancy of the Auction facility. Obtain a Willamette River Greenway Permit for any future site development, including, but not limited to: accessory structure(s), cutting or removal of trees with 8-inch or greater trunk diameter, or alterations or stabilization work on the river bank.



3. The parking facilities for the auction use shall be confined to the gravel parking area existing at the time of the application. The expanded gravel parking area and the overflow "meadow" parking area are not authorized as part of this permit. These facilities must be developed according to parking standards in MCC 11.15.6108--6142 and MCC.7855(C)(3).
4. Obtain approval (if applicable) from the Oregon Department of Transportation (ODOT) for any new or altered access points along Highway 30 (St. Helens Road).

## FINDINGS

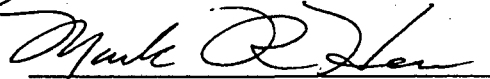
1. The zoning classification of the described property is MUA-20/WRG. MCC 11.15.2130(C) provides for administrative approval of "...[W]holesales or retail sales of farm or forest products raised or grown on the premises or in the immediate vicinity...". However, the application text indicates the proposed auction will include sales of farm machinery. In the MUA-20 Zone, uses involving retail or wholesale sales of machinery or other farm-related items not *raised or grown* in the area can only be authorized as a Conditional Use pursuant to MCC 11.15.2132(C)(2)(b). Condition #1. limits retail sales to products raised or grown in the area.
2. The proposed use is not listed as an *Exception* in MCC .6358; therefore a WRG Permit is required [per MCC .6354].
3. The site is located on the east side of NW St. Helens Road near its intersection with NW Cornelius Pass Road. Applicant proposes to convert an existing barn for use as an auction site. The application text and site plan are incorporated by reference.
4. Conditions of approval are necessary to comply with the MUA-20 zoning provisions, and to assure compatibility with *Policy No. 15*, Regarding scenic qualities and views and protection of the vegetative fringe along the Willamette River.
5. The proposal is consistent with the Greenway Design Elements, except for potential scenic effects associated with future landscaping or grading on the site. Condition #2 addresses this issue.
6. The Design Review provisions of MCC .7805 - .7870 apply to the parking and maneuvering areas around the barn/auction structure [per MCC .7820]. Condition #3 addresses this issue.

## CONCLUSIONS

1. The criteria for approval of a PRE Permit are satisfied with conditions.
2. The requirements and criteria for approval of a WRG Permit are satisfied with conditions.

3. The reasons for the conditions of approval are:
- A. To assure that future landscape or other site alterations are reviewed pursuant to the Willamette River Greenway provisions of the Zoning Code.
  - B. To comply with the use restrictions of the MUA-20 zone.
  - C. To assure that the parking area and access to Highway 30 is developed according to applicable County and State standards.

MULTNOMAH COUNTY, OREGON  
DEPARTMENT OF ENVIRONMENTAL SERVICES



By Mark R. Hess, Planner  
For: Director, Planning & Development

Filed with the Director  
Department of Environmental Services  
On May 15, 1992

**NOTICE:** *This Decision may be appealed within 10 days of the above date. The appeal would be considered by the Planning Commission at a public hearing as provided by MCC 11.15.8290. An appeal requires a \$300.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or further information on the procedure, contact the Division of Planning and Development at 2115 S.E. Morrison Street, 248-3043.*

Meeting Date: July 28, 1992

Agenda No.: P-8

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM  
(For Non-Budgetary Items)

SUBJECT: Hearings Officer Decision

BCC Informal \_\_\_\_\_ BCC Formal July 28, 1992  
(date) (date)  
DEPARTMENT DES DIVISION Planning  
CONTACT Sharon Cowley TELEPHONE 2610  
PERSON(S) MAKING PRESENTATION Planning Staff

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: One Minute

CHECK IF YOU REQUIRE OFFICIAL WRITTEN NOTICE OF ACTION TAKEN: xx

BRIEF SUMMARY (include statement of rationale for action requested, as well as personnel and fiscal/budgetary impacts, if applicable):

ZC 3-92 Review the Decision of the Hearings Officer of July 6, 1992, approving request for zoning map correction, adjusting district boundary northward 40 feet to match the original platted lot line between Lots 31 and 32, Section Line Road Fruit Tract plus refund of filing fee, for property located at 31132 SE Division Drive

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL \_\_\_\_\_

Or

DEPARTMENT MANAGER \_\_\_\_\_

(All accompanying documents must have required signatures)

BOARD OF  
COUNTY COMMISSIONERS  
JUL 21 PM 3:35  
MULTNOMAH COUNTY  
OREGON



**DEPARTMENT OF ENVIRONMENTAL SERVICES**  
**Division of Planning and Development**  
**2115 S.E. Morrison Street**  
**Portland, Oregon 97214 (503) 248-3043**

## **Decision**

**This Staff Report consists of Findings of Fact and Conclusions.**  
**July 6, 1992**

**ZC 3-92, #683**

### **Zoning Map Correction** **MUA-20 to RR**

Applicant requests a zoning map correction in the zoning designation of .17 acres adjacent to a zone district boundary. The zone change would be from MUA-20, Multiple Use Agriculture to RR, Rural Residential. The change would result in a "lot line adjustment" involving the two "lots of record" created by the zone boundary.

**Location:** 31132 SE Division Drive

**Legal:** East 200 feet of Lots 30, 31 and 32, Except the east 20 feet,  
Section Line Road Fruit Tracts, 1991 Assessor's Map

**Site Size of  
Zone Change:** 40 feet by 180 feet (.17 acre)

**Property Owner:** Michael and Cheryl Whisler  
1475 SE Barnes Road, Gresham, 97080

**Applicant:** John and Heidi Calcagno  
4088 SE 26th Place, Gresham, 97030

**Comprehensive Plan:** Multiple Use Agriculture, Rural Residential

**Present Zoning:** MUA-20, Multiple Use Agriculture;  
Minimum lot size of 20 acres

**Hearings Officer  
Decision:**

**APPROVE** the requested zoning map correction adjusting the district boundary northward 40 feet to match the original platted lot line between Lots 31 and 32, Section Line Road Fruit Tract for the subject property, based on the following Findings and Conclusions.

**ZC 3-92**

**MUF--19 SEC**

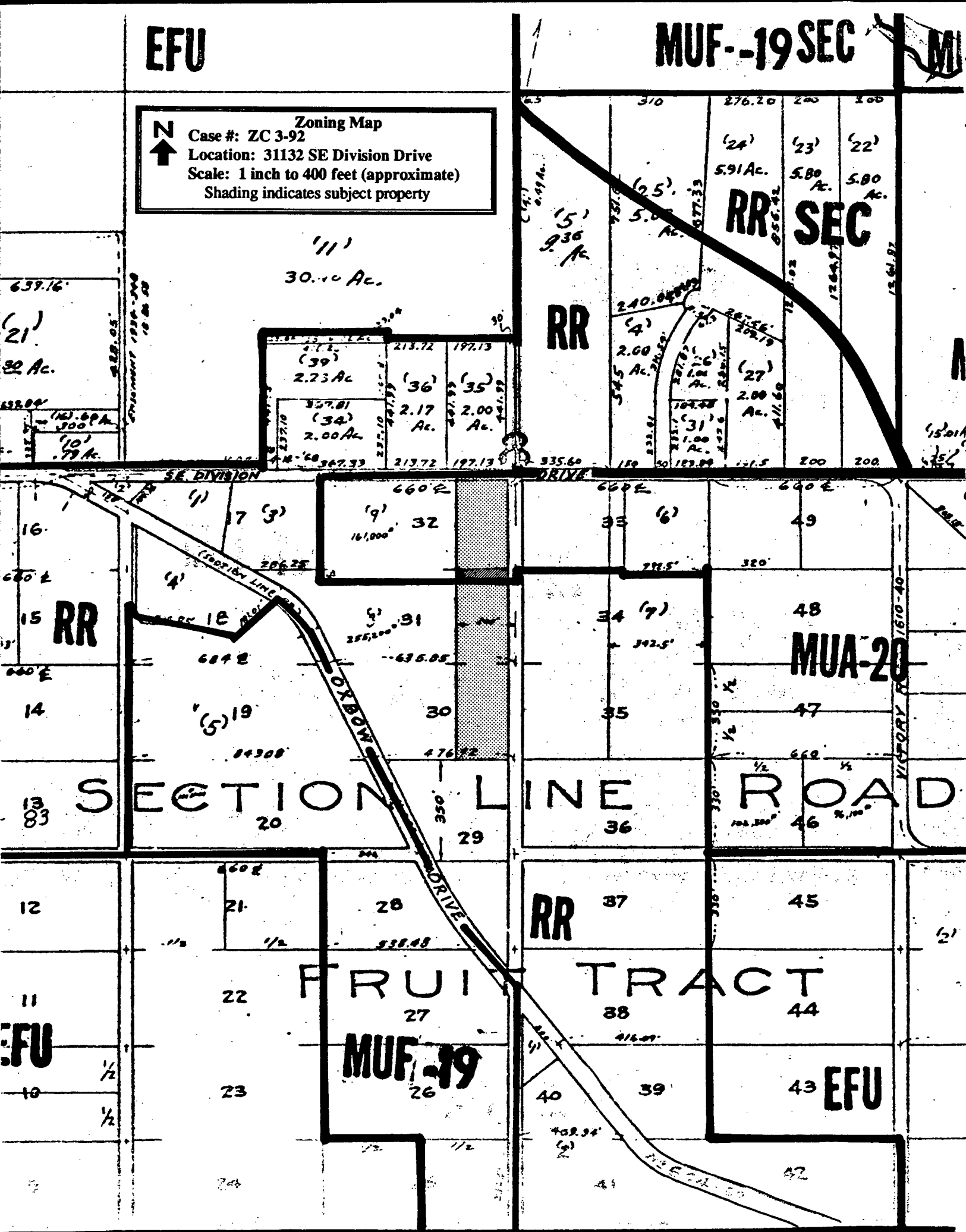
## Zoning Map

**Case #: ZC 3-92**

**Location: 31132 SE Division Drive**

**Scale: 1 inch to 400 feet (approximate)**

**Shading indicates subject property**



SE DIVISION DR

R.O.W.  
DEDICATION

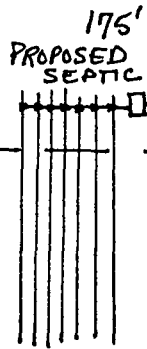
310'



ZONE  
MUA

ZONE  
RR

620'



PROPOSED  
HOME SITE  
2 STORY

175'  
10'  
65'

DRIVEWAY

← PROPOSED MOVE OF  
ZONE LINE

← CURRENT ZONE LINE

50' 30' 40'

EXISTING PUBLIC RIGHT OF WAY

EAST 200 FEET OF  
LOTS 30-32 OF SECTION  
LINE RD FRUIT TRACT  
SEC 8 T1S. R48 WM

4 BDRM, 2 CAR GARAGE  
3200 SQ FT

JOHN & HEIDI CALCAGN  
663-2588

1"=50'

B.A. SVAREN CONST.  
663-2183

SITE PLAN

2C 3-92

175'

40'

SE DIVISION DR



CONTOUR LINES

ZONE  
MUA

ZONE  
RR

PROPOSED  
HOME SITE

DRIVEWAY

EXISTING PUBLIC RIGHT OF WAY

EAST 200 FEET OF  
LOTS 30-32 OF SECTION 01  
LINE ROAD FRUIT TRACT  
SEC 8 T1S R48 WM

JOHN & HEIDI CALCAGNO  
663-2588  
1"=50'

20 3-92

620'

10'

65'

50'

30'

5'

40'

175'

5'

40'

1" = 50'

PROPOSED HOME FOUNDATION

10'

60'

620'

APPLICANT'S  
ELEVATION OF SITE

2C 3-92



## **FINDINGS OF FACT:**

### **I. Applicant's Proposal:**

- A. Applicant requests a zoning map correction in the zoning designation of .17 acres adjacent to a zone district boundary. The zone change would be from MUA-20, Multiple Use Agriculture to RR, Rural Residential. The change would result in a "lot line adjustment" involving the two "lots of record" created by the zone boundary.
- B. The subject tax lot, which is under one ownership, is described as the east 200 feet of lots 30, 31, and 32, (except the portion in the public right-of-way), Section Line Road Fruit Tracts Subdivision. The tax lot has two different zoning district designations, MUA-20 on a north portion and RR to the south. By zoning code definition, the presence of these two zones creates two "lots of record," which the property owner has not yet deeded separately. This zone boundary is the only property line recognized by the zoning code [MCC 11.15.2142(C) and .2222(C)] to divide the present ownership into two ownerships. Without moving the zone boundary there is no permitted manner to adjust the property line between the two "lots of record."
- C. The applicant is requesting that the present zone boundary be corrected by locating it northward 40 feet to match the previously platted lot line between the original lots 31 and 32, Section Line Road Fruit Tract.
- D. History of subject property:
  - (1) The Section Line Road Fruit Tract Subdivision was platted in 1909. Many of the original platted lots were drawn without consideration of topography and to date have frontage only on "paper roads" that would be impractical to build as platted.
  - (2) From 1958 to 1977 the area was zoned F2, a zone with a minimum lot size of 2 acres.
  - (3) Records indicate that in 1962 the present tax lot was created and a house built. The 4 acre ownership drew a new lot line across the original lots 30, 31 and 32 by comprising only the easterly 200 feet of those lots (except the part in the public right-of-way). The resulting tax lot had 180 feet of frontage on SE Division Drive, a County maintained road, and approximately 980 feet of frontage on an unnamed right-of-way, most of which is still without any improvements.
  - (4) From 1977 to 1980 the area was zoned MUA-20.
  - (5) It was in 1980, during the plan and zone amendments done for "acknowledgement" of the County's planning program by the Land Conservation and Development Commission, that the present zoning district boundary was drawn. The southerly portion of the property was zoned MUF-19, Multiple Use Forest, (19 acre minimum lot size) and the northerly area retained the MUA-20 zoning.

(6) In 1983, as part of a larger plan amendment process, a Forest Lands "goal exception" was taken for the nearby areas zoned MUF-19, resulting in those areas being zoned Rural Residential.

E. The current comprehensive plan map for the rural areas, adopted in 1983, uses a U.S.G.S. base map of 1 inch equals 2000 feet. There are no property lines on the map and at that scale the width of a normal pencil line is wider than the subject 40 foot adjustment of the boundary. It is for that reason that staff has determined that the subject proposal would only require a zone change; the line on the plan map can be read to be either MUA or RR.

## **2. Ordinance Considerations:**

**Note: Items in [brackets] have been added by staff for updating citations or clarification.**

A. "PC 1-80, Procedure for Identification and Correction of Potential Errors in the Community Plans, February 11, 1980 ...

The Multnomah County Planning Commission recognizes that omissions, misunderstandings and scrivener's errors may have occurred during the process of adopting the Community Plans for urban East Multnomah County. The Commission desires to provide a mechanism for identifying and, if appropriate, correcting alleged 'errors'.

The only issue to be considered by the approval authority regarding an action like that described below shall be whether an 'error' as defined below has been committed. The appropriate plan policies shall be relevant to that decision. The purpose of the procedure is to recognize errors, not to make amendments to the plan where an 'error' has not been committed. Ordinance No. 100 [the Zoning Code, now Multnomah County Code chapter 11.15] contains procedures regarding amendment of the Community Plans generally. In the case of doubt (i.e., where there is not substantial evidence in the record or in fact) whether an error has been committed, it shall be presumed that no error exists. In the absence of an error, the applicant should rely on the general plan amendment process.

Four kinds of potential 'errors' may be recognized by the Commission. ..." The type of error applicable to the subject property is number 2:

"2. Ownership Split by Zoning District Line. This may be found to exist where property under one ownership on July 26, 1979 (the effective date of the Community Plans) [July, 1980 for the rural areas] is split by Zoning District lines such that a portion of the property cannot be used in any practical manner. The proponent alleging this ground as the basis for an error must demonstrate:

- a. The proposed designation is consistent with the pattern of land uses on the subject site and adjoining parcels;
- b. The proposed designation is consistent with the applicable policies of the Comprehensive Plan; and

- c. The designation of the subject site, by the Planning Commissioners or the Board of County Commissioners was not expressly discussed during the adoption process of the corresponding Community Plan. ..."
- B. PC 1-80 further reads on pages 2 and 3: "The process to be used in evaluating purported plan errors shall be as described below:
  1. Application shall be made on forms provided by the Division of Planning and Development in the manner provided in Section 12.21.1 of Ordinance No. 100 [MCC 11.15.8210(A)], or Multnomah County Code 11.05.120, following a pre-initiation conference, as described in Section 12.22 of Ordinance No. 100 [MCC 11.15.8215] or Multnomah County Code 11.05.150.
    - a. Actions involving only zone changes shall be heard by the Hearings Officer as provided in Section 12.20 of Ordinance No. 100 [MCC 11.15.8105 - .8130]. Actions involving plan revisions or plan revisions and zone changes shall be heard by the Planning Commission pursuant to Multnomah County Code 11.05.130.
    - b. The applicant shall pay the fee required by Section 13 of Ordinance No. 100 [MCC 11.15.9005 - .9040] or Section 1.49 of Ordinance No. 133 (Multnomah County Code 11.05.410) for a quasi-judicial or legislative plan revision and for zone change, as appropriate. The fee shall be returned if and to the extent the approval authority finds an error has been committed as described herein.
    - c. The applicant shall bear the burden of persuading the approval authority by clear and convincing evidence that an error as defined above has been committed and that the proposed plan or zone designation is in substantial conformance with the criteria described above.
  2. Mailed, posted, and published notice of the public hearing at which the alleged error shall be reviewed shall be provided in the manner described in Subsection 12.23 of Ordinance No. 100 [MCC 11.15.8220] or Subsections 1.29 and 1.35 of Ordinance No. 133 (Multnomah County Code 11.05.200 and 11.05.270, respectively) as appropriate. The applicant shall post notice signs on the property at least 10 days prior to the hearing, as provided in those Sections cited herein.
  3. A staff report shall be prepared and available in the manner described in Section 12.25.2 of Ordinance No. 100 [MCC 11.15.8230(C)] or Section 1.25 of Ordinance No. 133 (Multnomah County Code 11.05.160).
  4. The Hearings Officer or Planning Commission shall hold a public hearing for the purpose of ruling on an application for recognition and correction of an error as provided in Section 12.25 of Ordinance No. 100 [MCC 11.15.8230] or Section 1.30 of Ordinance No. 133 (Multnomah County Code 11.05.170) as appropriate. The approval authority shall adopt findings and conclusions as provided in Section 12.26

of Ordinance No. 100 [MCC 11.15.8235] and Sections 1.28 and 1.38 of Ordinance No. 133 (Multnomah County Code 11.05.190 and 11.05.300) as appropriate and render a decision as provided in Section 12.27 of Ordinance No. 100 [MCC 11.15.8240] or a recommendation as provided in Sections 1.29 and 1.35 of Ordinance No. 133 (Multnomah County Code 11.05.200 and 11.05.270, respectively), as appropriate. The hearing shall be taped as provided by Section 12.28 of Ordinance No. 100 [MCC 11.15.8245]. The provisions of Section 12.29 of Ordinance No. 100 [MCC 11.15.8250] and Section 1.16.4 (Multnomah County Code 11.05.080(E)) shall apply regarding bias, conflict of interest, and ex-parte contact.

5. The decision or recommendation of the approval authority shall be reported to the Board of County Commissioners as provided in Subsections 12.27.2 and 12.30 of Ordinance No. 100 [MCC 11.15.8240(C) & .8255] and Subsections 1.30 and 1.39 of Ordinance No. 133 (Multnomah County Code 11.05.190 and 11.05.310). The Board shall act in the manner described in Subsection 12.36 of Ordinance No. 100 [MCC 11.15.8280(A)] or Subsections 1.31, 1.34, 1.40 and 1.46 of Ordinance No. 133 (Multnomah County Code 11.05.220, 11.05.250, 11.05.320 and 11.05.380)."

### 3. Vicinity and Site Characteristics:

- A. As shown by the zoning map, the general area is a mixed use of farm lands (EFU), forests (MUF), smaller lots with some agricultural activity (MUA), and small lots with the primary use being residential (RR). In a strip about 330 feet deep south from S.E. Division Drive and to the east and west of the subject property, the land has been cleared of forests and is in various "hobby farm" activity. This cleared area is zoned MUA-20. South of the MUA-20 zoning is an area of deciduous and evergreen forests on much steeper terrain containing tributaries draining into Beaver Creek, a Class I stream paralleling S.E. Oxbow Drive.
- B. The subject site is a gently sloping pasture with a residence on the MUA-20 zoned area and an area of steeper sloped forested terrain in the RR zoned area. The levellest portion of the RR zoned area is at the northeast corner. The applicant's site plan shows how their proposed building area crosses over the present zone boundary. Although it is not shown on the site plan, there is a small existing shed in the indicated building area.
- C. A graveled road of about 11 feet in width abutts the MUA-20 zoned portion of the property on the east. The road is within an unnamed public right-of-way which is platted from S.E. Division Drive to S.E. Oxbow Drive. Three existing residences are served by the graveled section of the road which stops short of extending southward to the RR zoned "lot of record." The County Right-of Way Permits Section will require additional road improvements at the time of the next dwelling permit application which has access to this road.

### 4. Compliance With Ordinance Considerations:

**NOTE:** Applicants response to criteria is in *italics* type followed by staff comments where appropriate.

- A. "PC 1-80, Procedure for Identification and Correction of Potential Errors in the Community Plans, February 11, 1980 ...

The Multnomah County Planning Commission recognizes that omissions, misunderstandings and scrivener's errors may have occurred during the process of adopting the Community Plans for urban East Multnomah County. The Commission desires to provide a mechanism for identifying and, if appropriate, correcting alleged 'errors'.

The only issue to be considered by the approval authority regarding an action like that described below shall be whether an 'error' as defined below has been committed. The appropriate plan policies shall be relevant to that decision. The purpose of the procedure is to recognize errors, not to make amendments to the plan where an 'error' has not been committed. Ordinance No. 100 [the Zoning Code, now Multnomah County Code chapter 11.15] contains procedures regarding amendment of the Community Plans generally. In the case of doubt (i.e., where there is not substantial evidence in the record or in fact) whether an error has been committed, it shall be presumed that no error exists. In the absence of an error, the applicant should rely on the general plan amendment process.

Four kinds of potential 'errors' may be recognized by the Commission. ..." The type of error applicable to the subject property is number 2, "Ownership Split by Zoning District Line.

- B. "2. Ownership Split by Zoning District Line. This may be found to exist where property under one ownership on July 26, 1979 (the effective date of the Community Plans) is split by Zoning District lines such that a portion of the property cannot be used in any practical manner. The proponent alleging this ground as the basis for an error must demonstrate:"

**Applicant's Response:** *"Ownership Split by Zoning District Line. This is found to exist on our property which was under one ownership on July 26, 1979. (The effective of the Community Plans) is split by zoning district lines such that a portion of our property cannot be used in a practical manner. Of the 2.5 acres, the most practical building site is the upper N.E.corner because of its slight slope as compared to the remaining property. Please see the attached side elevation slope diagram, which shows the contours lines and demonstrates the most feasible building site as being that located on that part of the parcel currently zoned MUA. As shown in the plot map, a home site would need 30 feet of the area currently zoned MUA."*

**Staff Comment:** Staff has examined contour maps of the area and visited the site and are in agreement that, for most practical purposes, the buildable area on the south "lot of record" is straddling the zone boundary. In consideration of the 10 foot side yard setback requirement and the probable location specifications of an on-site sanitation system, it appears necessary for any future dwelling to be located farther north than the present zone boundary line would allow.

- C. "a. The proposed designation is consistent with the pattern of land uses on the subject site and adjoining parcels;"

**Applicant's Response:** *"Our proposed designation is consistent with the pattern of land uses on our site and adjoining parcels. The general pattern which exists with zoning was to follow the property lines. In August of 1980, when the current zone lines were drawn, not only did the lines follow existing property lines, but where they split on ownership they always retraced a previously platted subdivision lot line even when that platted line was not a current property boundary. This applied to all parcels within this tract except this one. The adjacent parcels are zoned Rural Residential and have separate single family dwellings. All parcels except ours and one other have consistent zoning per tax lot."*

**Staff Comment:** The most convincing argument which the applicant has for purporting an error in the zoning line boundary is the fact that on all properties in the Section Line Road Fruit Tract Subdivision, except this property, the zoning boundary lines either:

- (1) followed property ownership lines, or
- (2) where the zone split a property, the zone boundary line followed the line of one of the original recorded lots from the 1909 subdivision plat.

For example, the zone boundary on the property to the east follows the original line between lots 33 and 34 until at two properties over the line jogs to follow a property line that does not match the platted lots.

- D. "b. The proposed designation is consistent with the applicable policies of the Comprehensive Plan;"

(1).POLICY 8, RURAL RESIDENTIAL LAND

IT IS THE COUNTY'S POLICY TO DESIGNATE CERTAIN LIMITED AREAS FOR RURAL RESIDENTIAL DEVELOPMENT. SUCH AREAS ARE ESTABLISHED BASED UPON THE FOLLOWING:

- A. SIGNIFICANT PARCELIZATION WHERE AN AVERAGE OF FIVE (5) ACRES OR LESS HAS ALREADY OCCURRED, THE MAJORITY OF WHICH ARE SEPARATELY OWNED AND DEVELOPED;
- B. THE AREA IS NOT A COHESIVE COMMERCIAL FARM OR FOREST RESOURCE AREA;
- C. THE DESIGNATED AREA IS COMPATIBLE WITH ANY ADJACENT FARM OR FOREST USES AND WOULD NOT CAUSE ANY SUBSTANTIAL CONFLICT WITH THESE NATURAL RESOURCE USES;

- D. THE LAND RESOURCE IS PREDOMINANTLY FOREST OR FOREST-AGRICULTURAL IN NATURE (DISCOUNTING THE RESIDENCES), RATHER THAN AGRICULTURAL IN CHARACTER;
- E. THERE ARE NO PHYSICAL DEVELOPMENT LIMITATIONS WHICH WOULD CAUSE THE AREAS TO BE HAZARDOUS FOR DEVELOPMENT; AND
- F. LIMITED, BUT ADEQUATE SERVICES MUST BE AVAILABLE FOR THESE AREAS, INCLUDING THOSE PROVIDED ON-SITE (WATER AND SUBSURFACE SEWAGE DISPOSAL) AS WELL AS OFF-SITE (SCHOOL, FIRE, POLICE).

**Applicant's Response:** *"Our proposed designation is consistent with the applicable policies of the Comprehensive Plan as follows:*

*Under the county's policy to designate certain limited areas for rural residential development, such areas are established based upon the following criteria which our proposed change would meet;*

- a. Significant parcelization where an average of 5 acres or less has already occurred, the majority of which are separately owned and developed. All of the parcels adjoining our proposed site of change are separately owned, developed, and are an average of 5 acres or less.*
- b. The area is not cohesive commercial farm or forest resource area. None of the surrounding area is commercial or forest resource.*
- c. The designated area is compatible with any adjacent farm or forest uses and would not cause any substantial conflict with these natural resource uses. In this area there are no adjacent farm or forest uses and thus would not cause a conflict with these natural resources.*
- d. The land resource is predominately forest or forest-agriculture in nature (discounting the residences), rather than agriculture in character. There is no adjacent agricultural resources and the land is predominately forest in nature.*
- e. There are no physical development limitations which would cause the areas to be hazardous for development. This parcel of land has no easements of any sort running through or over, it has no cliffs, and no other known hazard.*
- f. Limited, but adequate services must be available for these areas, including those provided on-site (water and sub-surface sewage disposal) as well as off site (school, fire, police). As evidenced by our application, water through Lusted district is available, a subsurface septic system would be available, Gresham Grade Schools as well as Gresham Fire and Police are also adequately available."*

(2).POLICY 10, MULTIPLE USE AGRICULTURAL LAND

THE COUNTY'S POLICY IS TO DESIGNATE AND MAINTAIN AS MULTIPLE USE AGRICULTURE, LAND AREAS WHICH ARE:

- A. GENERALLY AGRICULTURAL IN NATURE, WITH SOILS, SLOPE AND OTHER PHYSICAL FACTORS INDICATIVE OF PAST OR PRESENT SMALL SCALE FARM USE;
- B. PARCELIZED TO A DEGREE WHERE THE AVERAGE LOT SIZE, SEPARATE OWNERSHIPS, AND NON-FARM USES ARE NOT CONDUCTIVE TO COMMERCIAL AGRICULTURAL USE;
- C. PROVIDED WITH A HIGHER LEVEL OF SERVICES THAN A COMMERCIAL AGRICULTURAL AREA HAS: OR,
- D. IN AGRICULTURAL OR MICRO-CLIMATES WHICH REDUCE THE GROWING SEASON OR AFFECT PLANT GROWTH IN A DETRIMENTAL MANNER (FLOODING, FROST ETC.).

THE COUNTY'S POLICY, IN RECOGNITION OF THE NECESSITY TO PROTECT ADJACENT EXCLUSIVE FARM USE AREA'S, IS TO RESTRICT MULTIPLE USE AGRICULTURAL USES TO THOSE COMPATIBLE WITH EXCLUSIVE FARM USE AREAS.

**Applicant's Response:** *"Our proposed designation is inconsistent with the applicable policies of the Comprehensive Plan Multiple Use Agriculture:*

*The county's policy is to designate and maintain as Multiple Use Agriculture, land areas which are;*

- a. Generally agriculture in nature with soils, slope and other physical factors indicative of past or present small scale farm use. This parcel is heavily sloped and unusable for small scale farming.*
- b. Parcelized to a degree where the average lot size, separate ownerships and non-farm uses are not conducive to commercial agricultural use. The parcel is small, (40' X 180') steeply sloped, and heavily wooded. It is not suitable for commercial agriculture.*
- c. Provided with a higher level of services than a commercial agricultural area has. Because the area is made up of small parcels with separate ownerships it appears as a Rural Residential area, thus it is impacted by a higher level of urban services.*



d. *In agriculture or micro-climates which reduce the growing season, or effect plant growth in a detrimental manner (flooding, frost, etc.). Again because of the slope and size of the parcel (40' X 180' ) any agricultural use would be inappropriate."*

E. "and c. The designation of the subject site, by the Planning Commissioners or the Board of County Commissioners was not expressly discussed during the adoption process of the corresponding Community Plan. ..."

**Applicant's Response:** *"The designation of the subject site, by the Planning Commissioners, or the Board of County Commissioners was not expressly discussed during the adoption process of the corresponding Community Plan. We are unsure of when the deliberation took place and have been unable to locate minutes or transcripts from the planning commission, but, contend that our parcel was not considered specifically when this plan was adopted, and contend that the zone was established to follow the once in use fence line, rather than property line."*

**Staff Comment:** Staff agrees that there is no record of deliberation concerning this specific property. The reasoning for placing a new forest zone (MUF) on the southerly portion of the property in place of the Multiple Use Agriculture in 1980 was the absence of cleared land and agricultural land uses on that portion; it was all forest. Later, in 1983, it was determined that the forest zoned area actually met the criteria for exempting it from Goal 3, Forest Lands, protection and at that point it was changed to Rural Residential.

F. On pages 2, 3, and 4 of case number PC 1-80 is a description of the process for evaluating purported errors.

(1). "Application shall be made on forms provided by the Division of Planning and Development in the manner provided in Section 12.21.1 of Ordinance No. 100 [MCC 11.15.8210(A)], or Multnomah County Code 11.05.120, following a pre-initiation conference, as described in Section 12.22 of Ordinance No. 100 [MCC 11.15.8215] or Multnomah County Code 11.05.150."

**Staff Comment:** The applicant has followed these procedures.

(a). "Actions involving only zone changes shall be heard by the Hearings Officer as provided in Section 12.20 of Ordinance No. 100 [MCC 11.15.8105 - .8130]. Actions involving plan revisions or plan revisions and zone changes shall be heard by the Planning Commission pursuant to Multnomah County Code 11.05.130."

**Staff Comment:** As explained in 1.E. above, staff has made a determination that the subject zoning line adjustment is so minor as to not appear on or contradict the adopted comprehensive plan map which is mapped at a scale of 1" = 2,000' or a ratio of 1 to 24,000.

- (b). "The applicant shall pay the fee required by Section 13 of Ordinance No. 100 [MCC 11.15.9005 - .9040] or Section 1.49 of Ordinance No. 133 (Multnomah County Code 11.05.410) for a quasi-judicial or legislative plan revision and for zone change, as appropriate. The fee shall be returned if and to the extent the approval authority finds an error has been committed as described herein."

**Staff Comment:** The applicant has paid a total of \$560 toward this application. Staff has no recommendation concerning the extent that a refund may be appropriate. The Hearing Authority may make a determination that some or all of the fees paid by the applicant be refunded.

- (c). "The applicant shall bear the burden of persuading the approval authority by clear and convincing evidence that an error as defined above has been committed and that the proposed plan or zone designation is in substantial conformance with the criteria described above."

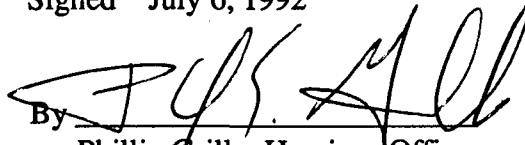
**Staff Comment:** There is sufficient evidence for approval.

2. Public hearing procedures have been followed as required by the Zoning Code.

## CONCLUSIONS:

1. The requested correction of an error in the location of a zoning district boundary is minor with few if any impacts on the land use pattern of the area.
2. The applicant has carried the necessary burden of approval.

Signed July 6, 1992

By   
Phillip Grillo, Hearings Officer

Filed with Clerk of the Board on July 16, 1992

## Appeal to the Board of County Commissioners

Any person who appears and testifies at the Planning Commission hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or before 4:30 p.m. on Monday July 27, 1992 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

*The Decision in this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, July 28, 1992 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development at 248-3043.*

Decision

July 6, 1992

Meeting Date: ~~June 23, 1992~~ JUL 28 1992

Agenda No.: ~~P-2~~ P-9

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM  
(For Non-Budgetary Items)

SUBJECT: Hearings Officer Decision

BCC Informal \_\_\_\_\_ (date) BCC Formal June 23, 1992 (date)  
DEPARTMENT DES DIVISION Planning and Development  
CONTACT Sharon Cowley TELEPHONE 2610  
PERSON(S) MAKING PRESENTATION Planning Staff

ACTION REQUESTED:

☐ INFORMATIONAL ONLY

☐ POLICY DIRECTION

xx DENIAL

☐ APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: 1 Minute

CHECK IF YOU REQUIRE OFFICIAL WRITTEN NOTICE OF ACTION TAKEN: xx

BRIEF SUMMARY (include statement of rationale for action requested, as well as personnel and fiscal/budgetary impacts, if applicable):

CU 8-92 Review the Decision of the Hearings Officer of June 1, 1992, denying requested conditional use permit for a 9,000-square foot warehouse and office building, for property located at 28885 SE Dodge Park Blvd.

NOTE:

NOTICE OF REVIEW FILED - BOARD SET APPEAL  
HEARING FOR 7/28/92 - STAFF NEGLECTED  
TO SEND OUT NOTICE - WILL REQUEST SET-  
OVER TO 8/11/92

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL \_\_\_\_\_

Or

DEPARTMENT MANAGER

Paul Garbargh / Huc

(All accompanying documents must have required signatures)

*Hearing Rescheduled to 8-11-92 - 9:30am - Hearing on the Record.  
10 Minutes Per Side.*

Meeting Date: JUL 28 1992

Agenda No.: B-1

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM  
(For Non-Budgetary Items)

SUBJECT: Briefing - On-line Purchasing System

BCC Informal 7/28/92 BCC Formal \_\_\_\_\_  
(date) (date)

DEPARTMENT Nondepartmental DIVISION Management Support Services

CONTACT Merlin Reynolds TELEPHONE X-3308/X-2970

PERSON(S) MAKING PRESENTATION Merlin Reynolds, Jim Mathe, Mindy Harris

ACTION REQUESTED:

☒ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☐ APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: 20 minutes requested

CHECK IF YOU REQUIRE OFFICIAL WRITTEN NOTICE OF ACTION TAKEN: \_\_\_\_\_

BRIEF SUMMARY (include statement of rationale for action requested, as well as personnel and fiscal/budgetary impacts, if applicable):

Brief the Board concerning On-line purchasing system project

BOARD OF  
COUNTY COMMISSIONERS  
MULTNOMAH COUNTY  
OREGON  
1992 JUL 17 PM 4:15

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL \_\_\_\_\_

Or

DEPARTMENT MANAGER 

(All accompanying documents must have required signatures)