

1 **BEFORE THE BOARD OF COUNTY COMMISSIONERS**
2 **FOR MULTNOMAH COUNTY**

3 In the Matter of the Review of)
4 the Planning Commission Decisions)
5 which denied "Aspen Meadows",)
6 a manufactured home Planned)
 Development and Zone Change.)

FINAL ORDER 90-82
ZC 1-90/PD 1-90

7 This matter came before the Board of Commissioners (Board) for a hearing on
8 May 1, May 8 and May 22, 1990. The Board hereby reverses the decisions of the
9 Planning Commission regarding this application based on the findings and con-
10 clusions contained herein.

11 The Planning Commission (Commission) held a public hearing on the ZC and
12 PD request on February 26, 1990. After receiving testimony, the Commission
13 denied the ZC in a 6-1 split vote. The Commission adopted Findings supporting
14 the denial decision at that same meeting. The applicant appealed that decision
15 to the Board which heard the matter on May 1, 1990. After considering evi-
16 dence, staff recommendations, arguments from the applicant, and other testimo-
17 ny, the Board directed the Planning Staff to draft findings, conditions and con-
18 clusions to support an approval of the proposals. That material was presented to
19 the Board on May 8, 1990. As a result of testimony from opponents at that hear-
20 ing the Board directed Planning Staff to seek a consensus between the applicant
21 and opponents. Negotiating sessions were held on May 8 and May 14 and a con-
22 sensus regarding additional conditions was reached at the latter meeting. On
23 May 29, 1990 the Board adopted findings, conditions and conclusions which
24 reversed the Planning Commission's decisions and approved the ZC and PD
25 requests.

I. APPLICABLE REVIEW STANDARDS

There are two areas in the Zoning Ordinance which specify criteria for ZC and PD applications. The first group are the criteria for a zone change which are within MCC .8230(D) and the second are in MCC .6206 which are the approval criteria for a Planned Development.

A. Under MCC .8230(D): The burden is on the applicant for a zone change to persuade the Planning Commission that:

- (a) Granting the request is in the public interest;
- (b) There is a public need for the requested change and that need will be best served by changing the classification of the property in question as compared with other available property;
- (c) The proposed action fully accords with the applicable elements of the Comprehensive Plan.

B. Under MCC .6206, the PD must meet the following standards:

- (a) The proposed action fully accords with the applicable elements of the Comprehensive Plan;
- (b) The applicable provisions of MCC 11.45 the Land Division Chapter;
- (c) 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 which are:
To provide a means of creating planned environments through the application of flexible and diversified land development stan-

1 *dards; to encourage the application of new techniques and new*
2 *technology to community development which will result in supe-*
3 *rior living or development arrangements; to use land efficiently*
4 *and thereby reduce the costs of housing, maintenance, street sys-*
5 *tems and utility networks; to promote energy conservation and*
6 *crime prevention; to relate developments to the natural environ-*
7 *ment and to inhabitants, employers, employees, customers, and*
8 *other users in harmonious ways.*

9 (d) That the system of ownership and the means of developing, pre-
10 serving and maintaining open space is suitable to the purposes of
11 the proposal.

12 (e) The following environmental standards:

13 (1) The Development Plan and Program shall indicate how the pro-
14 posal will be compatible with the natural environment.

15 (2) The elements of the Development Plan and Program shall pro-
16 mote the conservation of energy, and may include such factors
17 as the location and extent of site improvements, the orientation
18 of buildings and usable open spaces with regard to solar expo-
19 sure and climatic conditions, the types of buildings and the
20 selection of building materials in regard to the efficient use of
21 energy and the degree of site modification required in the pro-
22 posal.

23 (3) The Development Plan and Program shall be designed to pro-
24 vide freedom from hazards and to offer appropriate opportuni-
25 ties for residential privacy and for transition from public to pri-
26 vate spaces.

1 (4) The location and number of points of access to the site, the inte-
2 rior circulation patterns, the separations between pedestrians
3 and moving and parked vehicles, and the arrangement of park-
4 ing areas in relation to buildings, structures and uses shall be
5 designed to maximize safety and convenience and be compatible
6 with neighboring road systems, buildings, structures and uses.

7 (f) That the proposed development can be substantially completed
8 within four years of the approval or according to development
9 stages proposed as follows:

10 (1) The applicant may elect to develop the site in successive stages
11 in a manner indicated in the Development Plan and Program.
12 Each such stage shall satisfy the requirements of this Chapter.

13 (2) In acting to approve the Preliminary Development Plan and
14 Program, the Planning Commission may require that develop-
15 ment be completed in specific stages if public facilities are not
16 otherwise adequate to service the entire development.

17 (g) The following Development Standards:

18 (1) A Planned Development District shall be established only on a
19 parcel of land found by the Planning Commission to be suitable
20 for the proposed development and of sufficient size to be
21 planned and developed in a manner consistent with the purpos-
22 es stated in MCC .6200.

23 (2) Open space in a Planned Development District means the land
24 area used for scenic, landscaping or open recreational purposes
25 within the development.

26 (a) Open space shall not include street rights-of-way, driveways

1 or open parking areas.

2 (b) Locations, shapes and sizes of open space shall be consistent
3 with the proposed uses and purposes of the Planned Develop-
4 ment.

5 (c) Open spaces shall be suitably improved for intended use.
6 Open spaces containing natural features worthy of preserva-
7 tion may be left unimproved or may be improved to assure
8 protection of the features.

9 (d) The development schedule shall provide for coordination of
10 the improvement of open spaces with the construction of
11 other site improvements proposed in the Development Plan
12 and Program.

13 (e) Assurance of the permanence of open spaces may be required
14 in the form of deeds, covenants or the dedication of develop-
15 ment rights to Multnomah County or other approved entity.

16 (f) The Planning Commission may require that instruments of
17 conveyance provide that in the event an open space is per-
18 mitted to deteriorate or is not maintained in a condition con-
19 sistent with the approved plan and program, the County
20 may at its option cause such maintenance to be done and
21 assess the costs to the affected property owners. Any instru-
22 ments guaranteeing the maintenance of open spaces shall be
23 reviewed as to form by the County Counsel.

24 (3) In order to preserve the integrity of the Comprehensive Plan
25 and relate to a residential Planned Development to it, the num-
26 ber of dwelling units permitted shall be determined as follows:

1 (a) Divide the total site area by the minimum lot area per
2 dwelling unit required by the underlying district or districts
3 in which the Planned Development is located.

4 (b) Optional Density Standards. The following standards for the
5 calculation of residential density may be used singularly or
6 in combination, when approved by the Planning Commis-
7 sion:

8 (i) The permitted number of dwelling units determined
9 under subsection (A) above may be increased up to 25
10 percent upon a finding by the Planning Commission that
11 such increased density will contribute to:

- 12 • Satisfaction of the need for additional urban area
13 housing of the type proposed;
- 14 • The location of housing which is convenient to com-
15 mercial, employment and community services and
16 opportunities;
- 17 • The creation of a land use pattern which is comple-
18 mentary to the community and its identity, and to the
19 community design process;
- 20 • The conservation of energy;
- 21 • The efficient use of transportation facilities; and
- 22 • The effective use of land and of available utilities and
23 facilities.

24 (ii) The permitted number of dwelling units may be increased
25 over those computed above upon a finding by the Plan-
26 ning Commission that:

- The total number of persons occupying the site will not exceed the total otherwise permitted or authorized in the district, based upon the difference between the average family size occupying permitted units in the vicinity and the family size limited by the proposed number of bedrooms, the proposed number of kitchens, the age composition of prospective residents, or other similar occupancy limitations; and
- The criteria of (i) above are satisfied.

(h) The purposes of the Planned Development subdistrict; and

(i) That modifications or conditions of approval are necessary to satisfy the purposes of the Planned Development subdistrict.

II. FINDINGS OF FACT

This property is located at the southwest corner of the intersection of SE 136th Avenue and SE Holgate Street. The site is undeveloped and the majority has been in the ownership of David Douglas School District since 1965. The site slopes downward from south to north, with the northerly portion being a portion of an area which experiences occasional flooding and is known as Holgate Lake. That area, however, has undergone extensive filling and the area which would be subject to flooding is greatly reduced, if not eliminated. Properties on all sides of the site are developed for residential purposes.

The applicant plans to develop the property with a 124-unit mobile home park at a density of approximately one unit per 8,860 square feet. While individual lot sizes will be less than that allowed by the present LR-10 and LR-7,

1 the resulting site density is not significantly different than what would be real-
2 ized by a subdivision development of the entire site under the provisions of the
3 existing zoning. The difference results from the proposed provision of open
4 space, common areas and a water feature.

5 The proposed development includes the completion of the public street sys-
6 tem for the surrounding area. Engineering Services is requiring that SE 133rd
7 Avenue and SE Raymond Street be *cul-de saced*, but be connected with the inte-
8 rior streets of the development for emergency access purposes. SE Long Street
9 will be *cul-de saced* at the westerly boundary of the project. The main access to
10 the development will be from SE Holgate Blvd. and 136th Avenue.

11 Interior development is proposed to be comparable to that of the Meadowland
12 mobile home development at 160th and SE Powell Blvd. The perimeter will be
13 fenced from adjoining properties, areas around individual sites will be land-
14 scaped, a common storage area will be provided, and an office/clubhouse is pro-
15 posed. Each site will be provided a garage or carport area and all units must be
16 of a minimum size of 950 square feet.

17 18 **III. EVALUATION OF THE APPLICATION** 19

20 After hearing testimony, arguments and weighing the evidence, the Board
21 finds the proposal satisfies the approval criteria and review standards as set
22 forth below.

23 A. *Public Interest:* It is in the public interest to provide communities with
24 a range of affordable housing types. The LR-7 zoning district recog-
25 nizes this fact by allowing mobile home parks as a Conditional Use.

26 B. *Public Need:* There is a public need for providing additional areas

1 within the County where manufactured homes may be located. As the
2 cost of site built homes increases to an average of nearly \$65 per
3 square foot, fewer residents are able to afford them. Manufactured
4 units, then, which average around \$25 per square foot become an
5 attractive option, and one which more of the population is turning as
6 witnessed by the low vacancy rates in existing developments.

7 C. *Compliance with Applicable Comprehensive Plan Policies:* This pro-
8 posal satisfies the following policies of the Comprehensive Framework
9 and Powellhurst Community plans:

10 (a) No. 13—Air, Water and Noise Quality: No adverse impacts with
11 respect to air, water and noise quality have been identified which
12 would result from this development.

13 (b) No. 14—Development Limitations: The northern portion of this
14 site is within a designated flood hazard area. However, a large por-
15 tion of that area has been filled with earthen material over the
16 years. The flood elevation of this area is identified by FEMA as
17 being 210 feet above MSL. A 1963 topographic map indicates that
18 the lowest elevation of the site was 190.1 feet. Staff inspection of
19 the property concluded that it is possible that the depth of fill
20 material for a significant portion of the flood hazard area may have
21 raised the ground elevation above the 210 foot elevation.

22 The Board heard testimony from surrounding property owners
23 regarding their concern that the fill necessary to raise portions of
24 this site above the 100 year floodplain would increase the flooding
25 potential on their properties. The applicant provided an analysis
26 from Ogden Beeman & Associates indicating that the fill would not

1 have a significant impact with respect to flooding potential on sur-
2 rounding properties. Planning Staff received and the Board heard
3 conflicting information from the Department of Land Conservation
4 and Development, the Army Corps of Engineers and the Federal
5 Emergency Management Agency. The Board does not find any of
6 this information convincing; therefore, conditions approval of this
7 proposal that certification be obtained from a registered profession-
8 al, licensed to practice in Oregon, that the fill required by this pro-
9 ject will not increase the flooding potential on surrounding proper-
10 ties [see IV(2)].

11 (c) No. 16—Natural Resources: With the exception of the flood hazard
12 area identified in (b) above, there are no natural resources that
13 have been identified which would be impacted as a result of the
14 proposed zone change and planned development.

15 (d) No. 21—Housing Choice: This proposal provides for the location of
16 housing units at a cost well below that of site built residences.

17 (e) No. 22—Energy Conservation: This proposal would allow the opti-
18 mum use of solar access for its residents. North-south street and
19 east-west site layout results maximum solar potential for the units.

20 (f) No. 24—Housing Location: This proposal allows the infill of vacant
21 urban land with a housing type that is currently in great demand.

22 (g) No. 25—Mobile Homes: Development of this property with a
23 mobile home complex under the provisions of the Planned Develop-
24 ment subdistrict satisfies this policy.

25 (h) No. 36—Transportation System Development Requirements: Engi-
26 neering Services is requiring the following improvements:

- Dedicate and improve *cul-de-sacs* at east end of SE Long Street, SE Raymond Street, and the north end of SE 133rd Avenue.

The *cul-de-sacs* on SE Raymond Street and SE 133rd Avenue shall connect to the internal street system of the project, but be designed to prevent through vehicular traffic while allowing emergency access.

- Relocate proposed main entrance west as far as practical to maximize sight distance on SE Holgate Blvd.
- Create new access point approximately 200 ft. south of SE Holgate Blvd. on SE 136th Avenue.
- Dedications and improvements to county standards (60 ft. of right-of-way with a 44 ft. pavement section, curb and sidewalks for SE 136th Avenue, and 80 ft. right-of-way with a 66 ft. pavement section for SE Holgate Blvd.), will be required.
- If the internal street connects to SE 133rd Avenue, it must be improved to its intersection with SE Raymond Street
- The improvements of the private streets are not subject to our standards for public streets.

(i) No. 37—Utilities: Water is provided by Gilbert Water District who indicates they are capable of serving the project with water at 50 pounds pressure. Sewage disposal will be via public sewer which is available at SE 136th and Holgate. Drainage is handled on-site by means of dry wells. All necessary power and communication facilities are available along both street frontages.

(j) No. 38—Facilities: David Douglas School District has been informed of this request and has made no response. Fire protection

1 is provided by Fire District No. 10 and police protection by the
2 Multnomah County Sheriff.

3 D. Additional Planned Development Considerations: A number of the
4 Planned Development approval criteria are discussed in (C) above and
5 a number of others are not applicable to this proposal since they
6 involve the processing of special requests which are not being made by
7 this applicant (e.g., land division, density increase, etc.). Those that
8 remain are satisfied as follows:

9 (a) *System of Ownership* — It is proposed that this project remain
10 under single ownership. That has been found to be the best
11 method of insuring that open space is adequately preserved and
12 maintained.

13 (b) *Size* — This parcel is of sufficient size (25.22 acres) to be suitable to
14 accommodate the development as proposed. It allows a system of
15 mainly private streets, sizable areas of open space, and energy effi-
16 cient dwelling location.

17 (c) *Development and Placement of Open Space* — This is an item that
18 is best controlled through the Design Review Process. The
19 approval is conditioned to insure that these items will be provided.

20 (d) *Density* — The proposed density is less than that which could be
21 achieved through a subdivision of the land, a far less than that pos-
22 sible through the planned development process.

23 (e) *Satisfaction of Planned Development Purpose* — This proposal is an
24 efficient use of undeveloped urban land. It employs development
25 techniques different than that of a conventional subdivision by cre-
26 ating a circulation pattern that is mainly in private ownership;

1 consequently not a maintenance burden of the public. It allows for
2 energy efficient orientation of units and provides amenities in the
3 form of useable open space and a central recreation area. All nec-
4 essary public support services and facilities are directly available to
5 the site and no additional public funds are necessary to achieve
6 program implementation.

7 (f) *Development Timetable* — The development is proposed to be com-
8 pleted within four years without phasing.

10 IV. CONDITIONS

12 (1) SE Raymond and SE 133rd shall terminate in *cul-de-sacs* (or other suit-
13 able terminations as approved by the Fire District) constructed on the
14 subject property. Those *cul-de-sacs* shall be designed in a manner which
15 prevents normal through vehicular traffic, but allows emergency access to
16 and through the development. Deed restrictions shall be provided for a
17 future *cul-de-sac* at the easterly end of SE Long Street.

18 (2) The applicant shall provide a study conducted by a professional (*i.e.*, engi-
19 neer, hydrologist, geologist, *etc.*) registered to practice in the State of Ore-
20 gon which certifies that the fill proposed by this development, and all
21 modifications thereof, will not increase the flooding potential on sur-
22 rounding properties. The data collection methods, analytical techniques,
23 and conclusions of that study shall be reviewed by a second professional
24 with like qualifications who is chosen with the agreement of the people in
25 attendance at the negotiating session of May 14, 1990. If the second pro-
26 fessional disagrees with the methodology or conclusions of the study, the

1 matter shall be returned to the Board of County Commissioners for fur-
2 ther consideration.

3 (3) All existing and any new fill associated with roadways, building founda-
4 tions and any other areas requiring compacted fill shall be tested and
5 meet soil compaction and quality standards as determined by a registered
6 soils engineer and as approved by the Building Official.

7 (4) An on-site storm water drainage system shall be developed with sufficient
8 capacity to detain storm water in dry-wells or retention ponds so no net
9 increase in off-site discharge of storm water flow results from develop-
10 ment of the site. An engineering certification shall be included as part of
11 Design Review which assures satisfaction of this condition.

12 (5) Areas of existing fill and any new areas of fill that may be required by the
13 development plan shall be constructed in accordance with a transition
14 grading plan to the adjacent lower properties and based on the following
15 formula:

16 (a) In areas where fill will result in a final finished grade that is 10
17 feet or less higher in elevation than the adjacent property elevation
18 at the property boundary, the development plan shall show a tran-
19 sition slope of no steeper than 3 feet horizontal to 1 foot vertical.

20 (b) In areas where fill will result in a final finished grade that is high-
21 er than 10 feet from the adjacent property elevation at the property
22 boundary, the final development plan shall show a transition slope
23 of not steeper than 5 feet horizontal to 1 foot vertical.

24 (6) All fill slopes facing adjacent property boundaries shall be landscaped
25 with plant materials that are characteristic of vegetation within the
26 immediate area. This landscaping shall include plantings of trees and

1 shrubs that will break up the uniform slope of the fill.

2 (7) Conditions 1, 2, 3, 4 and 5 shall be implemented under the Design Review
3 procedures specified in MCC 11.15.7805-.7870. Any reconfigurations of
4 the site plan made necessary by the conditions above shall not allow the
5 site to be developed with more than 117 single family houses.

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7 **V. CONCLUSIONS AND DECISION**

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9 Based on the above findings and evaluation, the Board of Commissioners con-
10 cludes that the proposed ZC and PD comply with the applicable standards of the
11 Multnomah County Code. Therefore, the Board of Commissioners hereby
12 reverses the Planning Commission decisions in this matter and approves the
13 Zone Change and Planned Development requested in ZC 1-90/ PD 1-90.

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15 DATED this 29th day of May, 1990



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Gladys McCoy
Gladys McCoy, Multnomah County Chair

REVIEWED AS TO FORM:
LAURENCE KRESSEL, COUNTY COUNSEL
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By: *John DuBay*
John DuBay, Chief Deputy County Counsel