ANNOTATED MINUTES

Thursday, July 10, 2003 - 9:30 AM
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

REGULAR MEETING

Vice-Chair Maria Rojo de Steffey convened the meeting at 9:31 a.m., with Commissioners Serena Cruz and Lonnie Roberts present, Commissioner Lisa Naito participating via speakerphone, and Chair Diane Linn arriving at 9:37 a.m.

CONSENT CALENDAR

UPON MOTION OF COMMISSIONER ROBERTS, SECONDED BY COMMISSIONER NAITO, THE CONSENT CALENDAR (ITEMS C-1 THROUGH C-4) WAS APPROVED, WITH COMMISSIONERS NAITO, CRUZ, ROBERTS AND ROJO VOTING AYE.

DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES

C-1 RESOLUTION Setting Public Hearing Date of July 24, 2003 for Consideration of Proposed Transfer of Tax Foreclosed Properties to Local Governments for Non Housing Purposes and Authorizing Publication of Public Notice

RESOLUTION 03-097.

DEPARTMENT OF COUNTY HUMAN SERVICES

C-2 Amendment 2 to Governmental Revenue Agreement 0210023 with the State of Oregon, Department of Human Services for FY 2003-04

SHERIFF'S OFFICE

C-3 Renewal of Government Revenue Contract (190 Agreement) 0210309 with Metro for the Provision of Solid Waste Enforcement and Clean up

C-4 Renewal of Government Revenue Contract (190 Agreement) 0210310 with the Oregon State Marine Board for the Provision of Law Enforcement Services on the County Jurisdictional Waterways

REGULAR AGENDA
PUBLIC COMMENT

Opportunity for Public Comment on non-agenda matters. Testimony is limited to three minutes per person. Fill out a speaker form available in the Boardroom and turn it into the Board Clerk.

NO ONE WISHED TO COMMENT.

DEPARTMENT OF COMMUNITY JUSTICE

R-1 RESOLUTION Establishing Fees and Charges for Chapter 17, Community Justice, of the Multnomah County Code and Repealing Resolution No. 00-078

COMMISSIONER CRUZ MOVED AND COMMISSIONER ROBERTS SECONDED, APPROVAL OF R-1. MARK CAMPBELL EXPLANATION OF INCREASES TO THE ALTERNATIVE CORRECTIONS PROGRAM FEE AND THE PARENTING EDUCATION PROGRAM FEE. RESOLUTION 03-098 WAS ADOPTED, WITH COMMISSIONERS NAITO, CRUZ, ROBERTS AND ROJO VOTING AYE.

DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES

R-2 RESOLUTION Establishing Fees and Charges for Chapter 7, Business and Community Services, of the Multnomah County Code and Repealing Resolution No. 02-031

COMMISSIONER CRUZ MOVED AND COMMISSIONER ROBERTS SECONDED, APPROVAL OF R-2. ROBERT HOVDEN EXPLANATION OF INCREASES TO COUNTY SURVEYOR AND FILING FEES, TO RECOVER ACTUAL COSTS AND RESPONSE QUESTIONS OF VICE-CHAIR ROJO AND COMMISSIONER ROBERTS.

Chair Linn arrived at 9:37 a.m.

BOB ELLIS EXPLANATION OF INCREASES TO ASSESSMENT AND TAXATION FEES. RESOLUTION 03-099 UNANIMOUSLY ADOPTED. FOLLOWING DISCUSSION WITH COMMISSIONER NAITO, CHAIR LINN DIRECTED STAFF TO LOOK AT FEE AMOUNTS AND BRING APPROPRIATE CHANGES FORWARD ANNUALLY TO INSURE MULTNOMAH COUNTY FEES REMAIN CONSISTENT WITH THOSE CHARGED BY OTHER OREGON COUNTIES.

R-3 First Reading and Possible Adoption of an ORDINANCE Amending County Land Use Code, Plans and Maps to Adopt Portland's Recent Land Use Code, Plan and Map Revisions in Compliance with Metro's Functional Plan and Declaring an Emergency

ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER CRUZ MOVED AND COMMISSIONER ROBERTS SECONDED, APPROVAL OF FIRST READING AND ADOPTION. GARY CLIFFORD EXPLANATION. NO ONE WISHED TO TESTIFY. ORDINANCE 1014 UNANIMOUSLY ADOPTED.

There being no further business, the meeting was adjourned at 9:45 a.m.

BOARD CLERK FOR MULTNOMAH COUNTY, OREGON

Deborah L. Bogstad

Multnomah County Oregon

Board of Commissioners & Agenda

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BOARD OF COMMISSIONERS

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REVISED
JULY 10, 2003
BOARD MEETING

FASTLOOK AGENDA ITEMS OF INTEREST

Pg 2	9:30 a.m. Opportunity for Public Comment on Non-Agenda Matters
Pg 2	9:30 a.m. RESOLUTION Establishing Fees and Charges for Chapter 17, Community Justice
Pg 3	9:35 a.m. RESOLUTION Establishing Fees and Charges for Chapter 7, Business and Community Services
Pg 3	9:40 a.m. First Reading and Possible Adoption of an ORDINANCE Amending County Land Use Code, Plans and Maps to Adopt Portland's Recent Land Use Code, Plan and Map Revisions in Compliance with Metro's Functional Plan

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DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES - 9:35 AM

R-2 RESOLUTION Establishing Fees and Charges for Chapter 7, Business and Community Services, of the Multnomah County Code and Repealing Resolution No. 02-031

R-3 First Reading and Possible Adoption of an ORDINANCE Amending County Land Use Code, Plans and Maps to Adopt Portland's Recent Land Use Code, Plan and Map Revisions in Compliance with Metro's Functional Plan and Declaring an Emergency

Multnomah County Oregon

Board of Commissioners & Agenda

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BOARD OF COMMISSIONERS

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MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
501 S.E. HAWTHORNE BLVD., Room 600
PORTLAND, OREGON 97204
(503) 988-5217

LISA NAITO ● DISTRICT 3 COMMISSIONER

MEMORANDUM

TO: Chair Diane Linn
Commissioner Maria Rojo de Steffey
Commissioner Serena Cruz
Commissioner Lonnie Roberts
Board Clerk Deb Bogstad

FROM: Carol Wessinger
Staff to Commissioner Lisa Naito

DATE: June 9, 2003

RE: Commissioner Naito unable to attend July 10, 2003 Board Meeting

---

Commissioner Naito will be in Milwaukee, Wisconsin attending NACO Committee meetings.

MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
501 S.E. HAWTHORNE BLVD. Room 600
PORTLAND, OREGON 97204
(503) 988-5217

LISA NAITO ● DISTRICT 3 COMMISSIONER

MEMORANDUM

TO: Chair Diane Linn
Commissioner Maria Rojo de Steffey
Commissioner Serena Cruz
Commissioner Lonnie Roberts
Board Clerk Deb Bogstad

FROM: Carol Wessinger
Staff to Commissioner Lisa Naito

DATE: July 3, 2003

RE: Commissioner Naito to vote by phone

Commissioner Lisa Naito will participate by phone in the July 10, 2003 Board of Commissioners meeting.

Thank You.

Diane Linn, Multnomah County Chair

Suite 600, Multnomah Building
501 SE Hawthorne Boulevard
Portland, Oregon 97214-3587
Email: mult.chair@co.multnomah.or.us

Phone: (503) 988-8308
FAX: (503) 988-3093

MEMORANDUM

TO: Commissioner Maria Rojo de Steffey
Commissioner Serena Cruz
Commissioner Lisa Naito
Commissioner Lonnie Roberts
Board Clerk Deb Bogstad

FROM: Delma Farrell
Administrative Director

DATE: July 8, 2003

RE: Board Briefing/Meeting Excused Absences

Chair Linn will be arriving late for the July 10, 2003. She'll arrive about 10:00 a.m.

Chair Linn actually arrived @ 9:37 am

cc: Laura Bridges, Executive Assistant

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: **July 10, 2003**
Agenda Item #: **C-1**
Est. Start Time: **9:30 AM**
Date Submitted: **06/16/03**

Requested Date: July 10, 2003 **Time Requested:** Consent Item

Department: DBCS **Division:** Tax Title

Contact/s: Gary Thomas

Phone: 503-988-3590 **Ext.:** 22591 **I/O Address:** 503/4 Tax Title

Presenters: Gary Thomas

Agenda Title: RESOLUTION Setting the Public Hearing date of July 24, 2003 for Consideration of the Proposed Transfer of Tax Foreclosed Properties to Local Governments for Non Housing Purposes and Authorizing the Publication of the Public Notice in the DJC

NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide clearly written title.

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1. **What action are you requesting from the Board? What is the department/agency recommendation?**

   The Department of Business and Community Services, Tax Title Division, requests the Board of County Commissioners to set July 24, 2003 as a date to receive public testimony concerning the proposed transfer of twelve Tax Foreclosed Properties identified as Parcel Nos. one to twelve in the attached Exhibit A, to the local governments identified below for non-housing purposes. Further, the Department requests the board to authorize the publication of the required notice for the proposed hearing. This request is undertaken pursuant to ORS 271.330(5) and MCC Section 7.407(E).

2. **Please provide sufficient background information for the Board and the public to understand this issue.**

On April 9, 2003 in accordance with Multnomah County Code Chapter 7, all of these twelve (12) properties were made available on a list of Tax Foreclosed Properties offered to Governmental Agencies for non-housing purposes.

The County received requests for these properties from the following local governments:

a. The State of Oregon Parks and Recreation Department requested Parcel No. 1 within the sixty days required by MCC Section 7.407. The formal request from The State of Oregon Parks and Recreation Department was received on May 6, 2003. There are no duplicate applications submitted to Tax Title from another Government Agency requesting this property.

b. The City of Troutdale, Public Works Department requested Parcel No. 2 within the sixty days required by MCC Section 7.407. The formal request from The City of Troutdale, Public Works Department was received on May 19, 2003. There are no duplicate applications submitted to Tax Title from another Government Agency requesting this property.

c. The City of Gresham, Department of Environmental Services requested Parcel No. 3 within the sixty days required by MCC Section 7.407. The formal request from The City of Gresham, Department of Environmental Services was received on May 22, 2003. There are no duplicate applications submitted to Tax Title from another Government Agency requesting this property.

d. The Portland Community College, Physical Plant Department requested Parcel No. 4 within the sixty days required by MCC Section 7.407. The formal request from The Portland Community College, Physical Plant Department was received on May 29, 2003. There are no duplicate applications submitted to Tax Title from another Government Agency requesting this property.

e. The Port of Portland, Aviation Department requested Parcel No. 5 within the sixty days required by MCC Section 7.407. The formal request from The Port of Portland, Aviation Department was received on June 5, 2003. There are no duplicate applications submitted to Tax Title from another Government

f. The City of Portland, Bureau of Environmental Services requested Parcel No. 6 within the sixty days required by MCC Section 7.407. The formal request from the City of Portland, Bureau of Environmental Services was received on June 6, 2003. There are no duplicate applications submitted to Tax Title from another Government.

g. The City of Portland, Office of Transportation requested Parcel Nos. 7-12 within the sixty days required by MCC Section 7.407. The formal request from the City of Portland, Office of Transportation was received on June 9, 2003. There are no duplicate applications submitted to Tax Title from another Government.

The Department has reviewed these requests and has found them to be in compliance with ORS 271.330 and MCC 7.407.

3. Explain the fiscal impact (current year and ongoing).

The Tax Title Fund has incurred expenses associated with preparation of application materials, newspaper publications, processing transfer requests, and preparation of Board documents. Future costs will include newspaper publications, title reports, recording fees, and preparation of Board documents. The proposed transfer of these properties at present does not provide for reimbursement to the County for these costs.

4. Explain any legal and/or policy issues.

No legal issues are expected to develop as a result of this action.

5. Explain any citizen and/or other government participation that has or will take place.

All public agencies of Multnomah County were invited to participate in this Tax Foreclosed Property transfer process. All Neighborhood Associations within the County where the properties are located were notified of the availability of Tax Foreclosed Properties to Government Agencies for possible transfer. Notice of this transfer hearing will be published in a newspaper for one day in two successive weeks.

The Daily Journal of Commerce, Public Notice Section
Dates of publication: July 11th and 18th.

Required Signatures:

Department/Agency Director: **Date: 06/16/03**

Budget Analyst

By: **Date:**

Dept/Countywide HR

By: **Date:**

EXHIBIT A (AGENDA PLACEMENT REQUEST)

PROPERTIES REQUESTED BY LOCAL GOVERNMENTS
FISCAL YEAR 2002/03

OREGON PARKS AND RECREATION DEPARTMENT

PARCEL NO. 1.:

Legal Description:
Lot 3, Block 8, LATOURELLE FALLS

Multnomah County Deed No.:	D031908
Tax Account No.:	R202199
Type of Use:	Day Use Park
Taxes:	$2121.54
Expenses:	$203.00

CITY OF TROUTDALE, PUBLIC WORKS DEPARTMENT

PARCEL NO. 2.:

Legal Description:
LOT A, FRALEY HTS

Multnomah County Deed No.:	D031910
Tax Account No.:	R166248
Type of Use:	Street Right-of-Way
Taxes:	$112.65
Expenses:	$57.95

CITY OF GRESHAM, DEPARTMENT OF ENVIRONMENTAL SERVICES

PARCEL NO. 3.:

Legal Description:
A 10.00 foot wide strip of land situated in the Northeast ¼ of Section 13, Township 1 South, Range 3 East of the Willamette Meridian, Multnomah County, Oregon, said 10.00 foot strip adjoining the present north right-of-way (20.00 feet from centerline) for said Salquist Rd. (Co. Rd. No. 981), the 10.00 foot strip being more particularly described as follows:

Commencing at a Brass Disk marking the center of said Section 13 and proceeding thence South 87° 56' 08" East along the South line of said Northeast ¼ of Section 13 (being the center of S.E. Salquist Road), a distance of 310.25 feet to a point that is 2343.00 feet Westerly from the Southeast corner thereof; thence North 1° 04' 22" East parallel with the East line of said Northeast ¼, a

distance of 20.00 feet to the Point of Beginning for said 10.00 foot dedication strip at the existing North line of South East Salquist Road; thence continuing North 1° 04' 22" East, a distance of 10.00 feet to a point that is 30.00 feet Northerly, when measured at right angles, from the center of said Salquist Road; thence North 87° 56' 08" West parallel with said Salquist Road, a distance of 309.76 feet to a point that bears North 2° 00' 22" East, 30.00 feet from said center of Section 13, thence south 2° 00' 22" West, a distance of 10.00 feet to said existing North line of Salquist Road; thence South 87° 56' 08" East, a distance of 309.92 feet to the Point of Beginning

Multnomah County Deed No.:	D031913
Tax Account No.:	R339906
Type of Use:	Public Street Right-of-Way
Taxes:	$135.07
Expenses:	$24.00

PORTLAND COMMUNITY COLLEGE, PHYSICAL PLANT DEPARTMENT

PARCEL NO. 4.:

Legal Description:

A tract of land located in Section 5, Township 1 South, Range 2 East, Willamette Meridian, Multnomah County and State of Oregon, described as follows:

Beginning at a point of intersection with the South line of S. E. Sherman Street with the east line of David D. Prettyman D.L.C.; thence East 20 feet to the Southeast corner of a parcel described for road purposes in Book 2097 and Page 12, recorded in 1962, Multnomah County deed records; thence South to a point in the South line of the Triplette tract described in Book 1989 and Page 148, recorded in 1959 in Multnomah County deed records; thence West 20 feet to a point being the most Westerly Southwest corner of said Triplette tract, said point also being on the East line of said David D. Prettyman D.L.C.; thence North to the point of beginning.

Multnomah County Deed No.:	D031914
Tax Account No.:	R332704
Type of Use:	Buffer between College Parking and Neighborhood streets.
Taxes:	$65.12
Expenses:	$24.00

PORT OF PORTLAND, AVIATION DEPARTMENT

PARCEL NO. 5.:

Legal Description:

Commencing at the Southwest corner of Section 24, Township 1 North, Range 3 East, of the Willamette Meridian, Multnomah County, Oregon; thence East along the North line of the D.F. Buxton DLC a distance of 282.38 feet to a point; thence North a distance of 26 feet to the True Point of Beginning; thence North 89°57'00" East a distance of 400 feet

more or less to the Westerly right of way line of Harlow Road County Road 1728; thence Southeasterly along said road to the North line of the aforesaid Buxton DLC; thence Westerly along said line to the Point of Beginning; EXCEPTING THEREFROM that portion lying within N.W. Graham Road (County Road 1380-A).

Multnomah County Deed No.:	D031915
Tax Account No.:	R320480
Type of Use:	Troutdale Airport entrance road and buffer.
Taxes:	$2340.26
Expenses:	$57.95

CITY OF PORTLAND, BUREAU OF ENVIRONMENTAL SERVICES

PARCEL NO. 6.:

Legal Description:

All that part of Tract 1 of the duly recorded plat of R.A. Heintz Industrial Park, situated in the William Payne Donation Land Claim in the Southeast One-Quarter of Section 12 Township 1 North, Range 1 East, of the Willamette Meridian, Multnomah County, Oregon, lying South of the South high water line of the Columbia Slough per the Oregon Division of State Lands.

Multnomah County Deed No.:	D031916
Tax Account No.:	R251223
Type of Use:	Restored and protected as a riparian area.
Taxes:	$29.23
Expenses:	$249.00

CITY OF PORTLAND, OFFICE OF TRANSPORTATION

PARCEL NO. 7:

Legal Description:

A tract of land in Lot 1, Block 3, Barbur Heights, a duly recorded subdivision in Multnomah County, State of Oregon described as follows:

Lot 1, except that part in street as recorded February 20, 1958 in Book 1884 at Page 520 and excepting therefrom that portion of said Lot 1 lying in the following described tract of land:

All of those portions of Lot 1 and the Easterly 15 feet of Lot 2, lying Northerly of a line which is parallel to and 89.21 feet South of the North line of Lots 1 and 2.

Multnomah County Deed No.:	D031917
Tax Account No.:	R111780
Type of Use:	Street Right-of-Way
Taxes:	$471.19
Expenses:	$24.00

PARCEL NO. 8:

Legal Description:

EXC N 5' OF LOTS 1 & 2, BLOCK 4, LE ROY HTS, Multnomah County, Oregon

Multnomah County Deed No.:	D031918
Tax Account No.:	R205354
Type of Use:	Street Right-of-Way
Taxes:	$2,854.24
Expenses:	$65,723.05

PARCEL NO. 9:

Legal Description:

LOT A, PARTITION PLAT 1993-68, Multnomah County, Oregon

Multnomah County Deed No.:	D031919
Tax Account No.:	R237909
Type of Use:	Access Control Strip
Taxes:	$66.80
Expenses:	$19.00

PARCEL NO. 10:

Legal Description:
EXC PT IN ST LOT B, THOMSON VILLAS, Multnomah County, Oregon

Multnomah County Deed No.:	D031920
Tax Account No.:	R287193
Type of Use:	Street Right-of-Way
Taxes:	$65.61
Expenses:	$24.00

PARCEL NO. 11:

Legal Description:
N OF MIDWAY ST LOT 6, BLOCK 11, WHITWOOD CT, Multnomah County, Oregon

Multnomah County Deed No.:	D031921
Tax Account No.:	R305606
Type of Use:	Street Right-of-Way
Taxes:	$15.82
Expenses:	$19.00

PARCEL NO. 12:

Legal Description:

A tract of land in the Northwest One-Quarter of Section 11, Township 1 North, Range 1 East, of the Willamette Meridian, Multnomah County, Oregon, described as follows:

Beginning at a point on the North line of North East Gertz Rd. (County Road No. 1093), which point is North 84° 24' East, a distance of 604.90 feet from the Southwest corner of that 7 acre tract of land conveyed to Edgar Boyce and Elma Boyce by deed recorded June 7, 1937 in Book 401 Page 371, Multnomah county Deed Records; thence North 84° 24' East, along the North line of said North East Gertz Rd. to the intersection of said North line with the West line of North East 13th Avenue; thence Northerly, along said West line to a point which bears North 42° 32' East, a distance of 70.90 feet from the point of beginning; thence South 42° 32' West, a distance of 70.90 feet to the point of beginning.

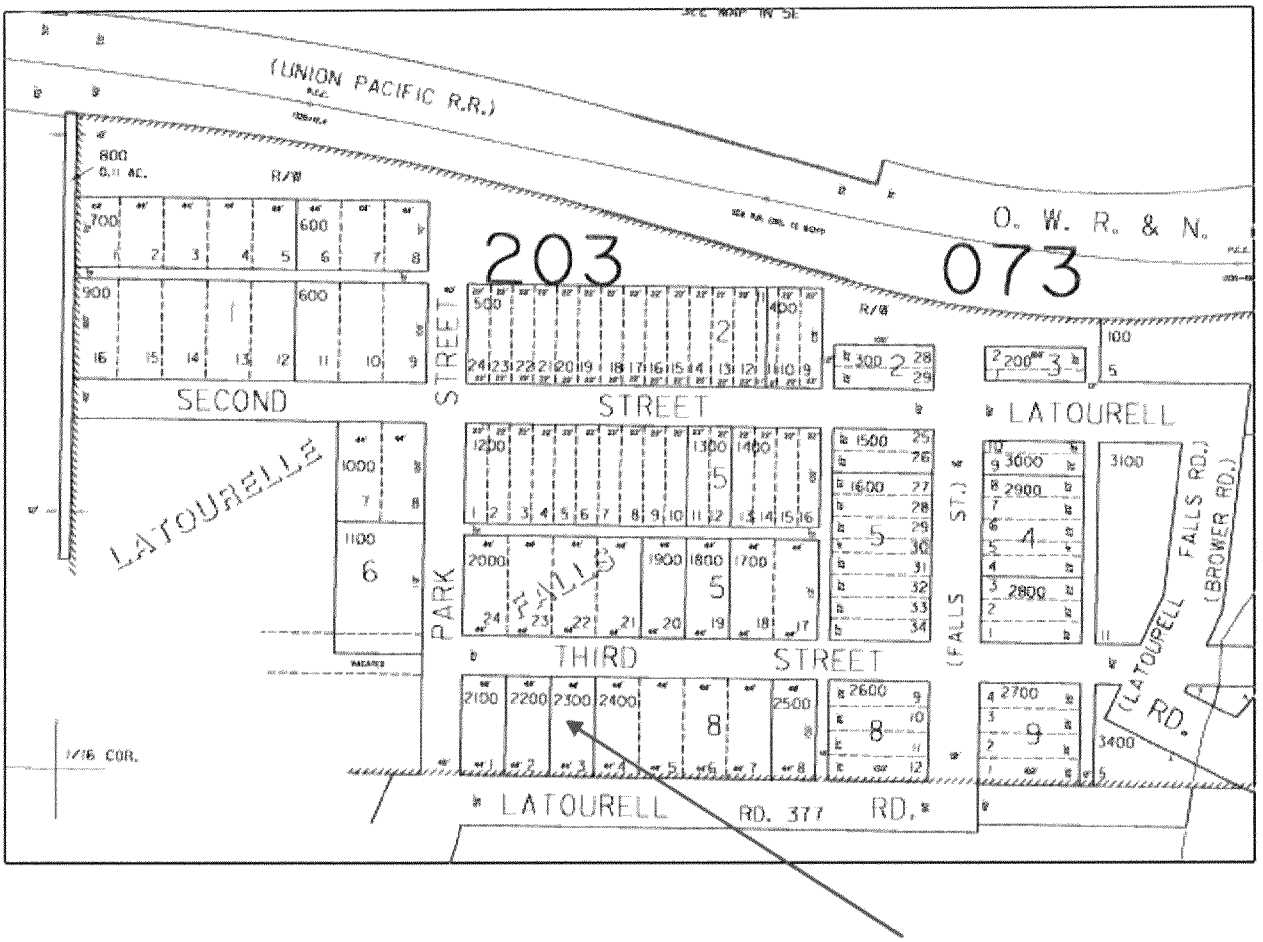
Multnomah County Deed No.:	D031922
Tax Account No.:	R315121
Type of Use:	Street Right-of-Way
Taxes:	$65.21
Expenses:	$24.00

EXHIBIT B

PROPERTIES REQUESTED BY LOCAL GOVERNMENTS
FISCAL YEAR 2002/03

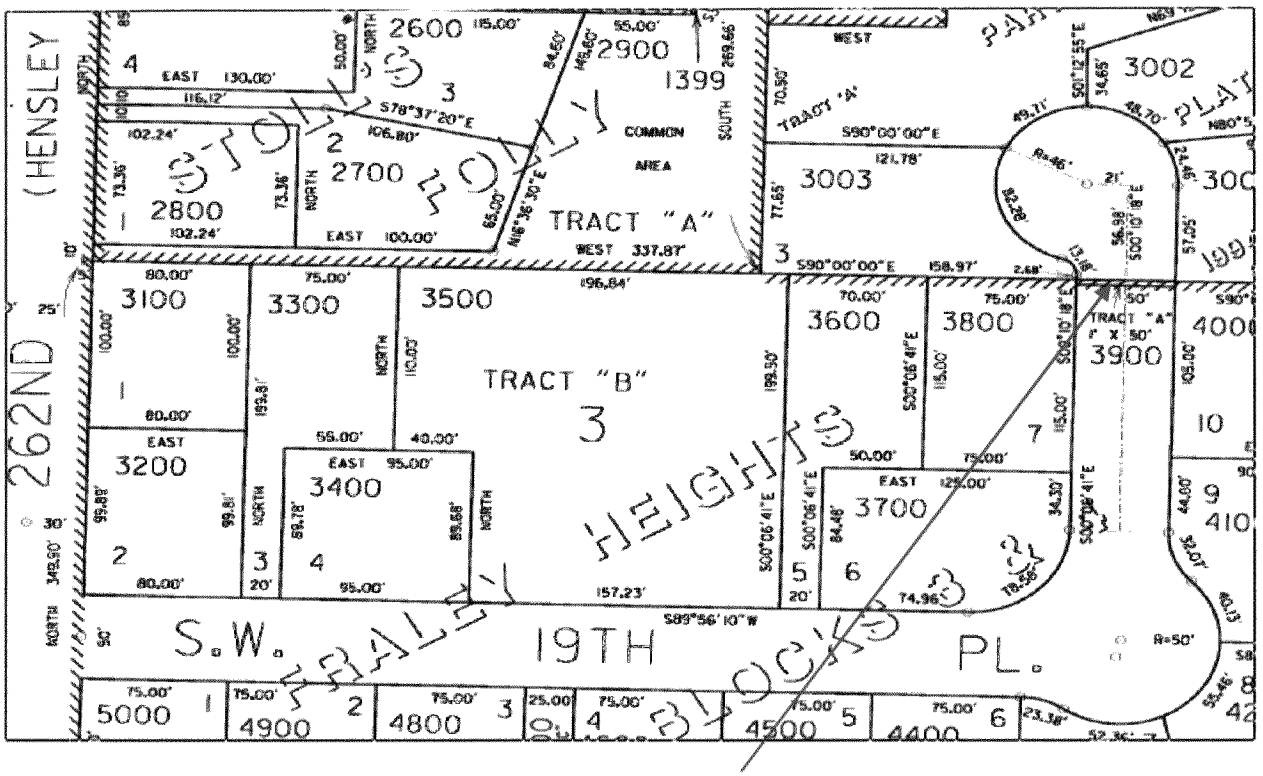
PARCEL NO. 1.:

Property Tax Account Number R202199 / R47580-1770, 1N5E29BD 02300



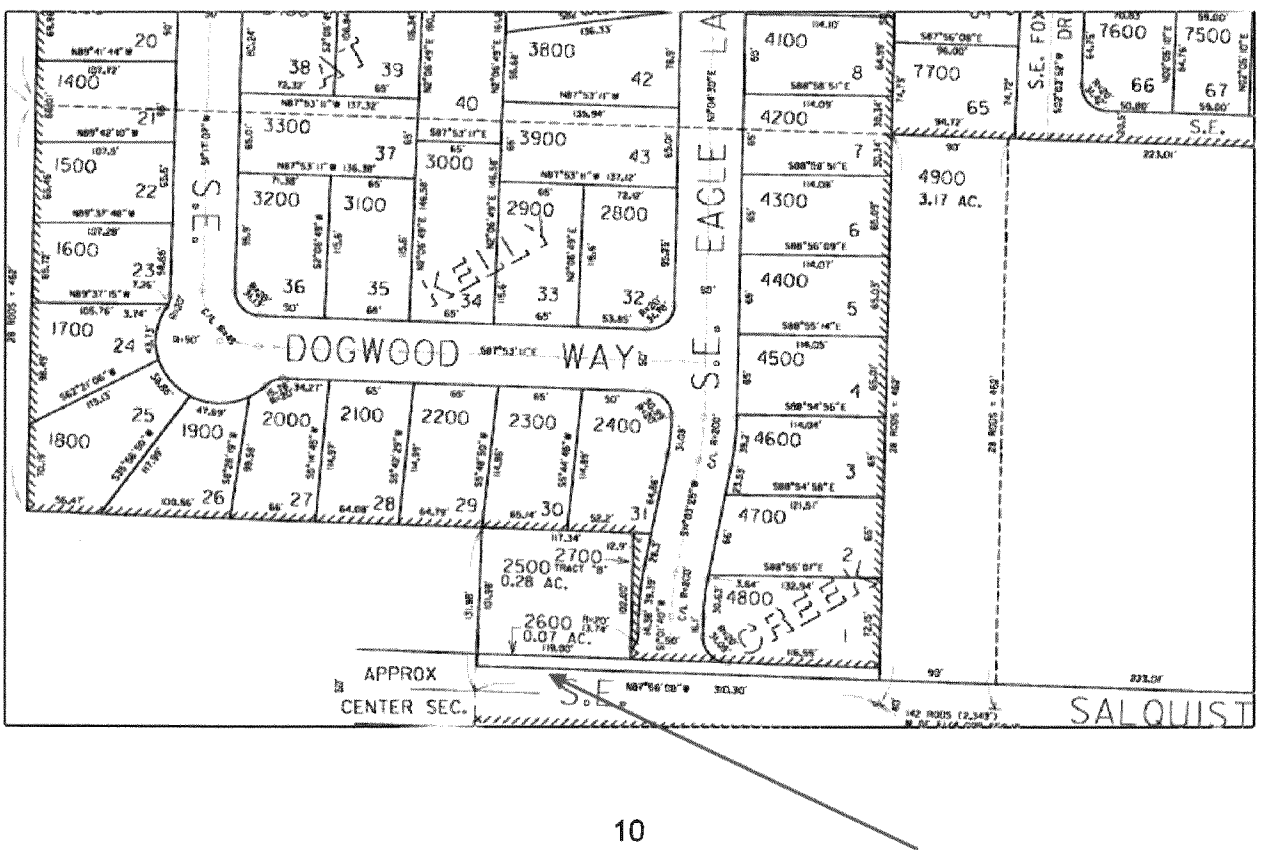
PARCEL NO. 2.:

Property Tax Account Number R166248 / R29569-0620; 1N3E36BC 03900



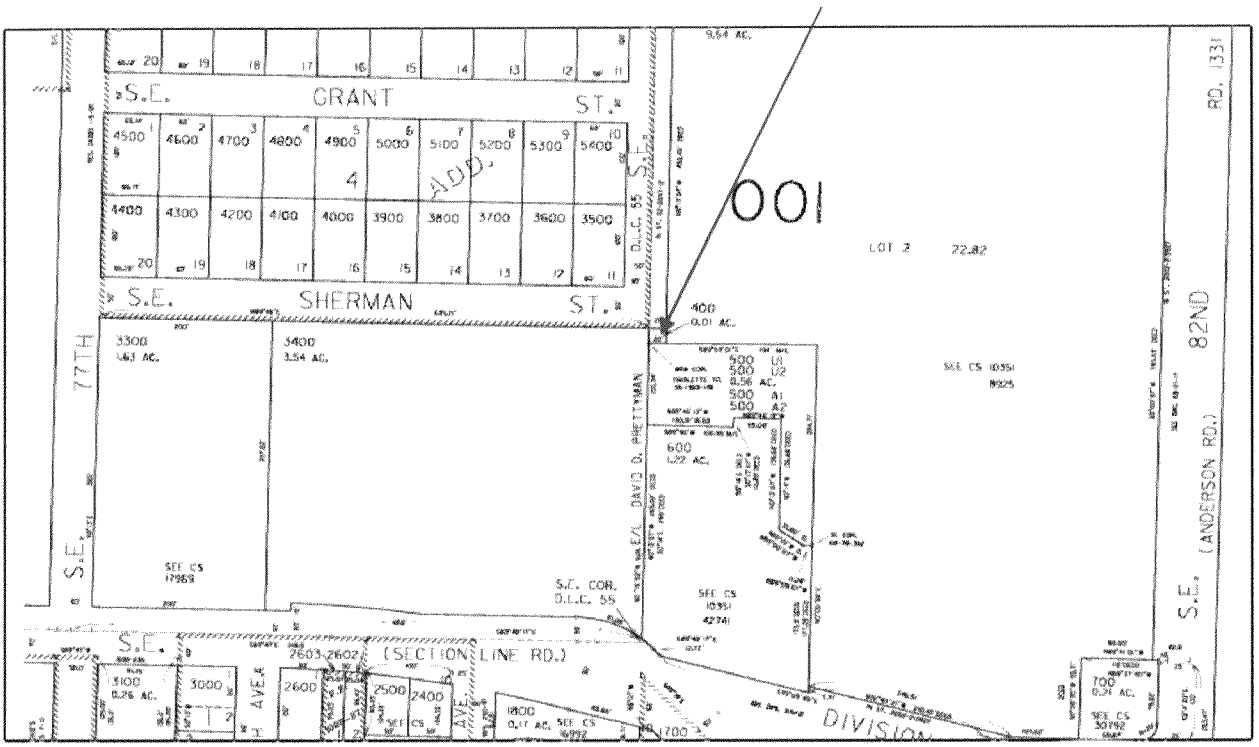
PARCEL NO. 3.:

Property Tax Account Number R339906 / R99313-3030; 1S3E13AC 02600



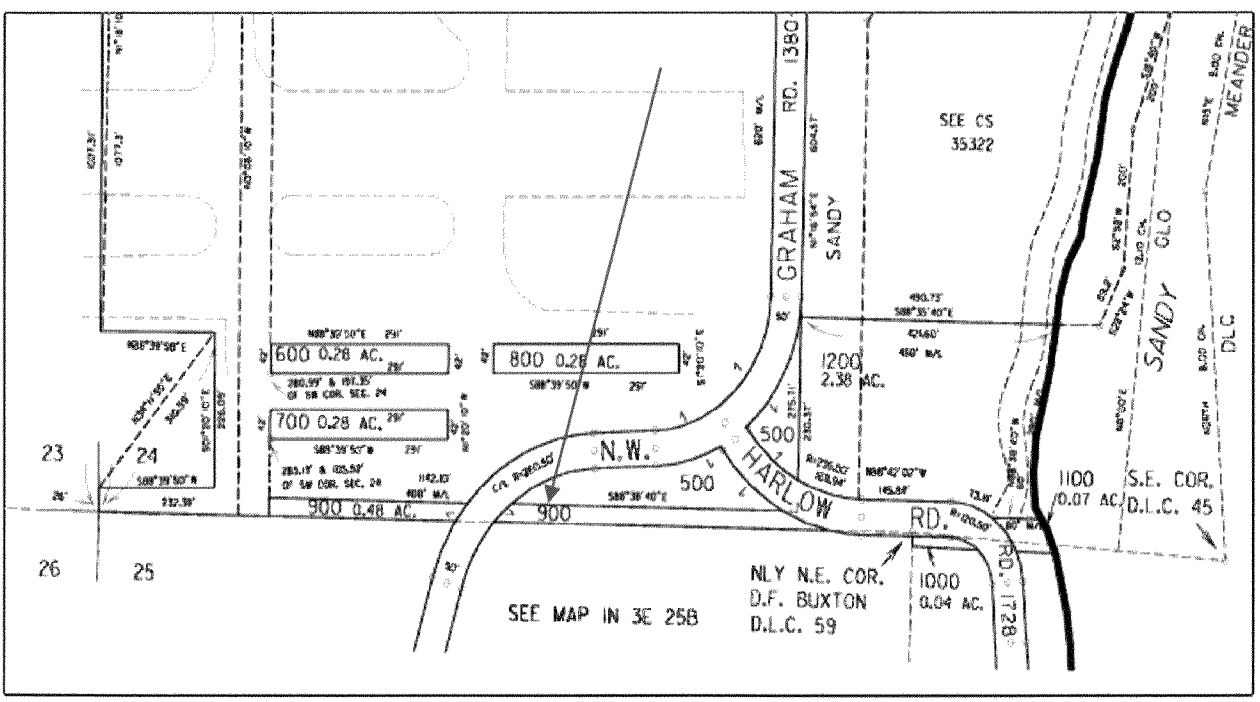
PARCEL NO. 4.:

Property Tax Account Number R332704 / R99205-2980; 1S2E05DD 00400



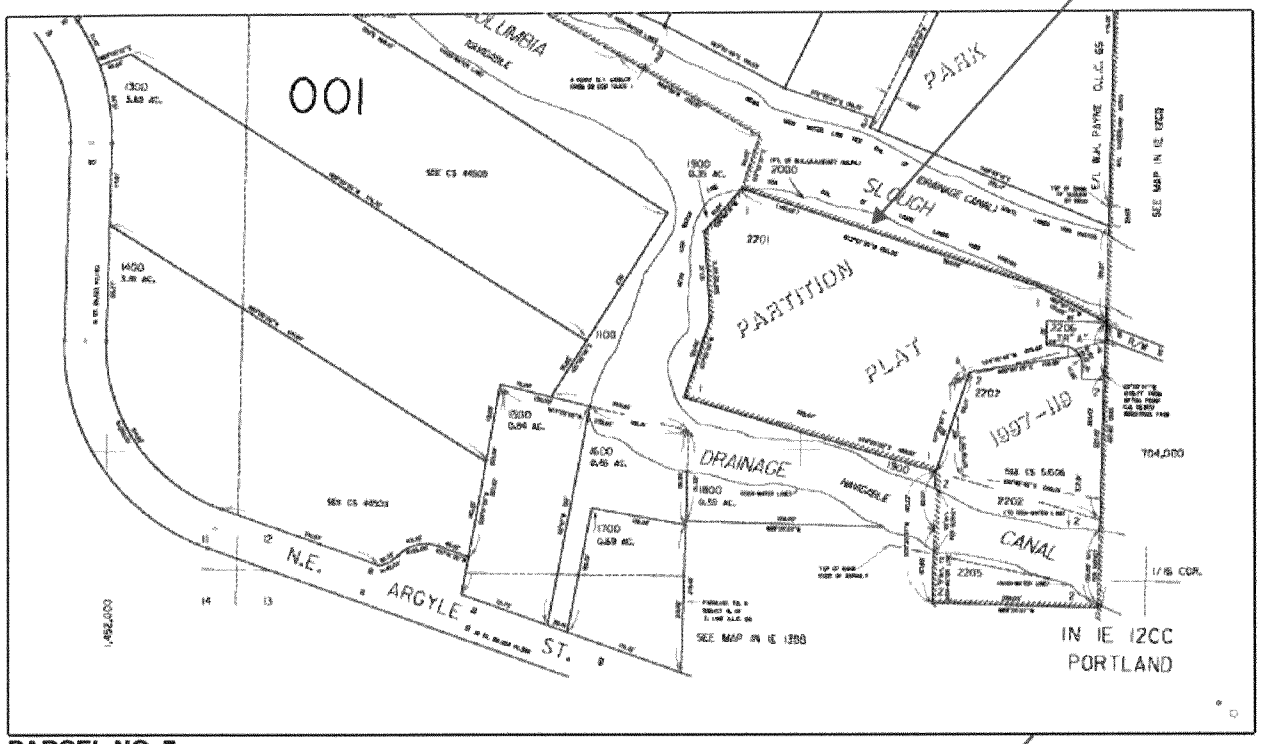
PARCEL NO. 5.:

Property Tax Account Number R320480 / R94324-0310; 1N3E24C 00900



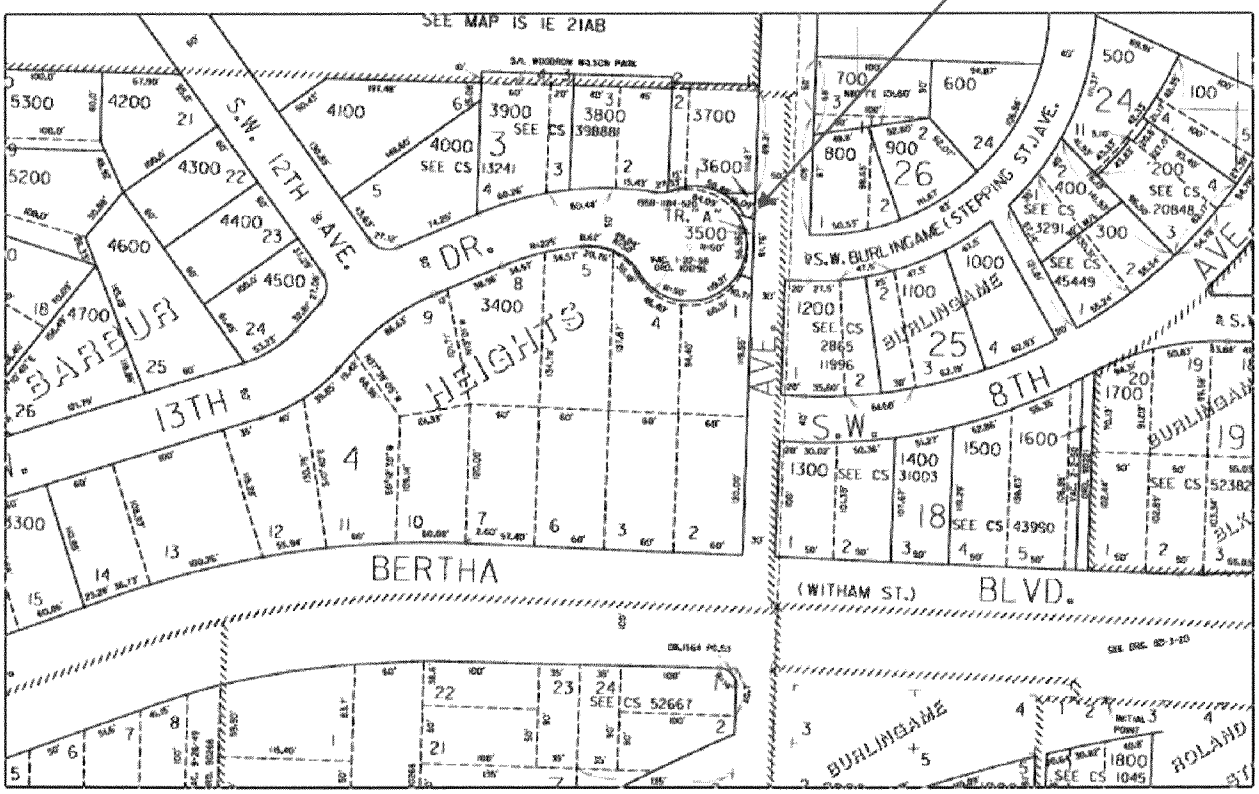
PARCEL NO. 6.:

Property Tax Account Number R251223 / R68270-0200; 1N1E12CC 02000



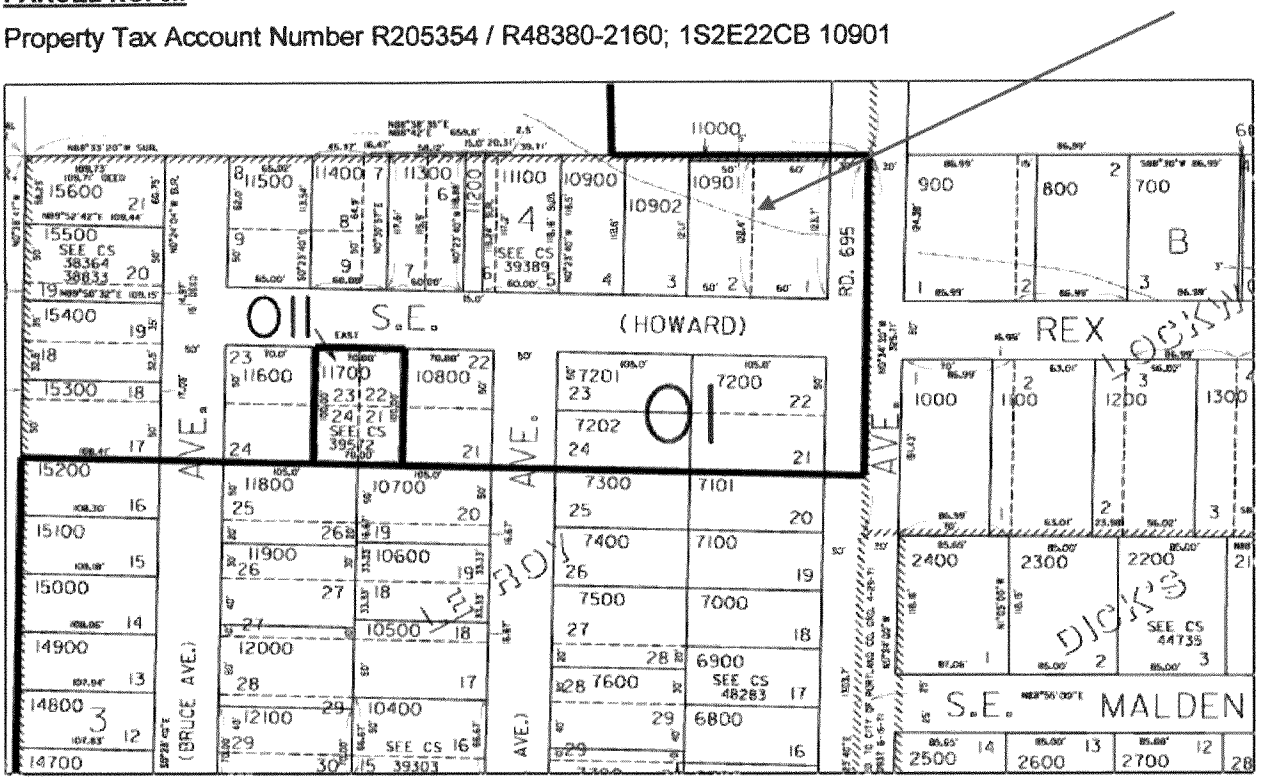
PARCEL NO. 7.:

Property Tax Account Number R111780 / R05450-0850; 1S1E21AC 03600



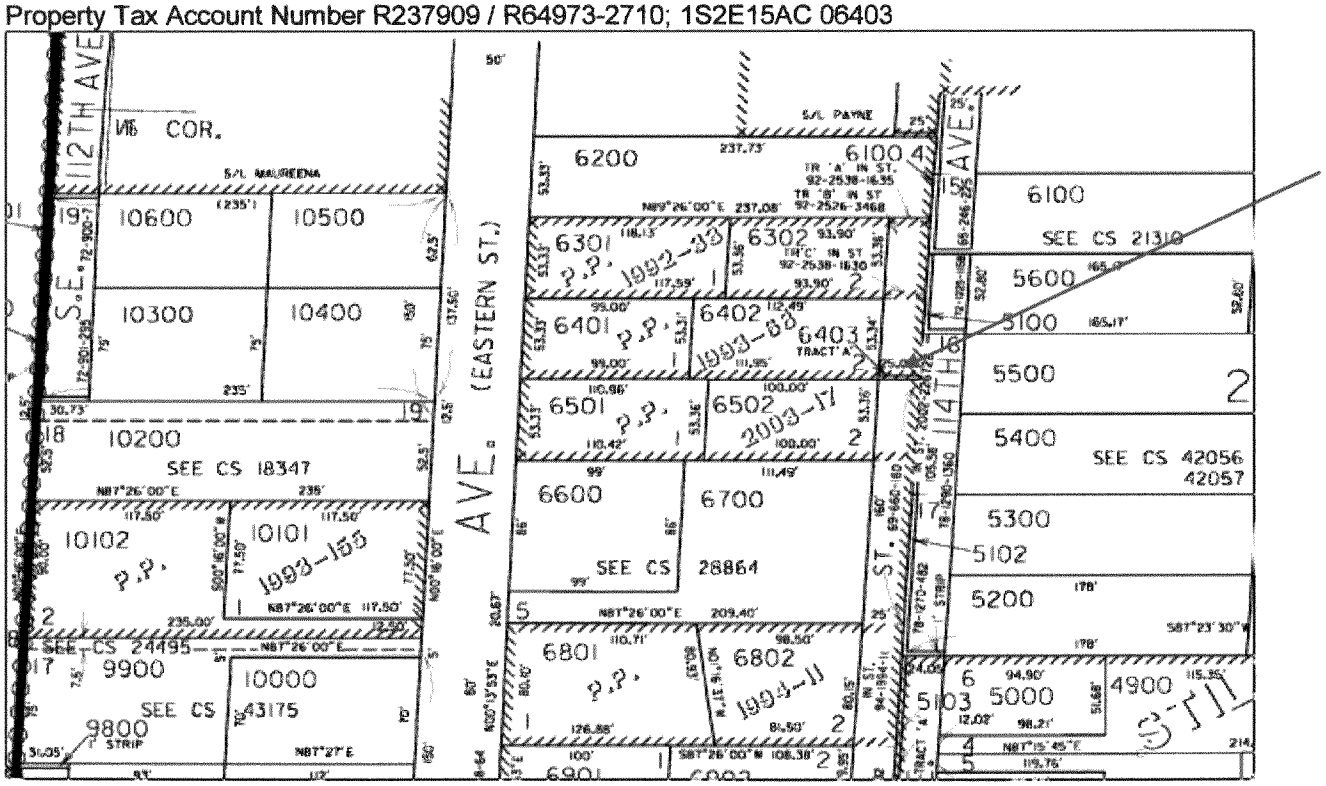
PARCEL NO. 8.:

Property Tax Account Number R205354 / R48380-2160; 1S2E22CB 10901



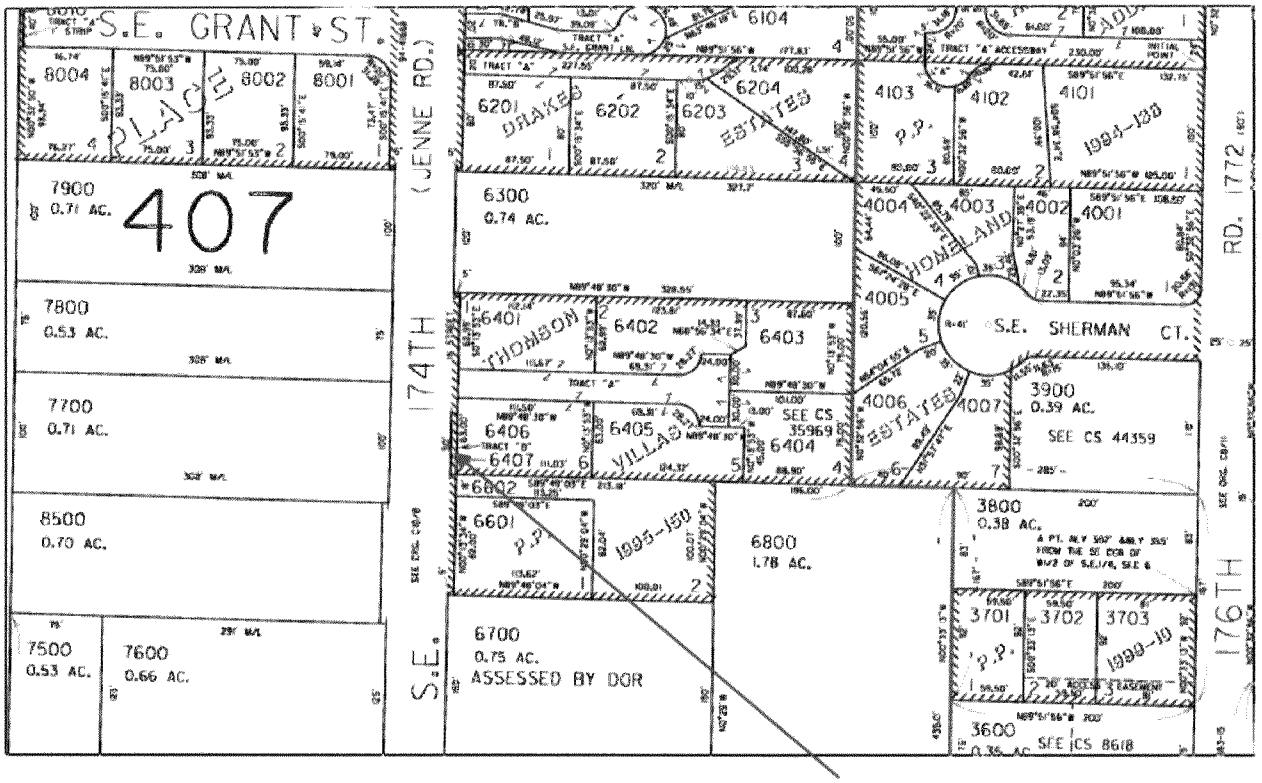
PARCEL NO. 9.:

Property Tax Account Number R237909 / R64973-2710; 1S2E15AC 06403



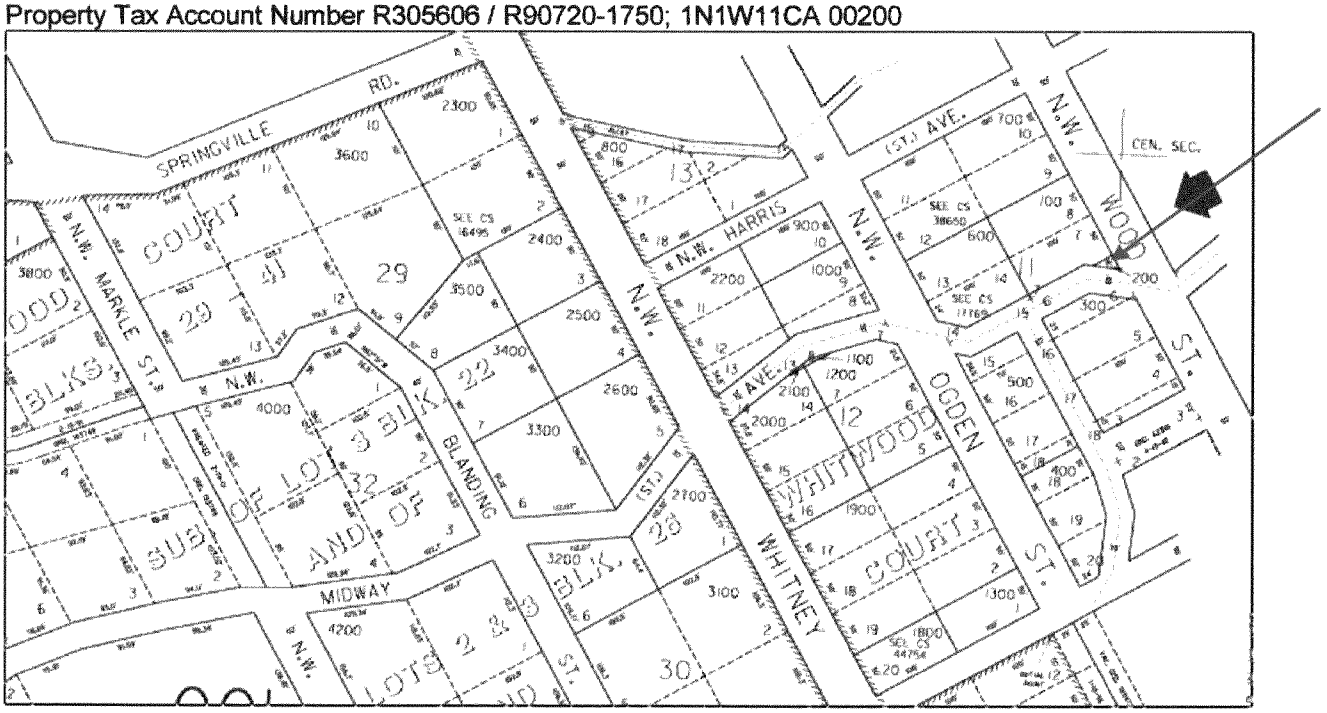
PARCEL NO. 10.:

Property Tax Account Number R287193 / R83200-0020; 1S3E06DC 06407



PARCEL NO. 11.:

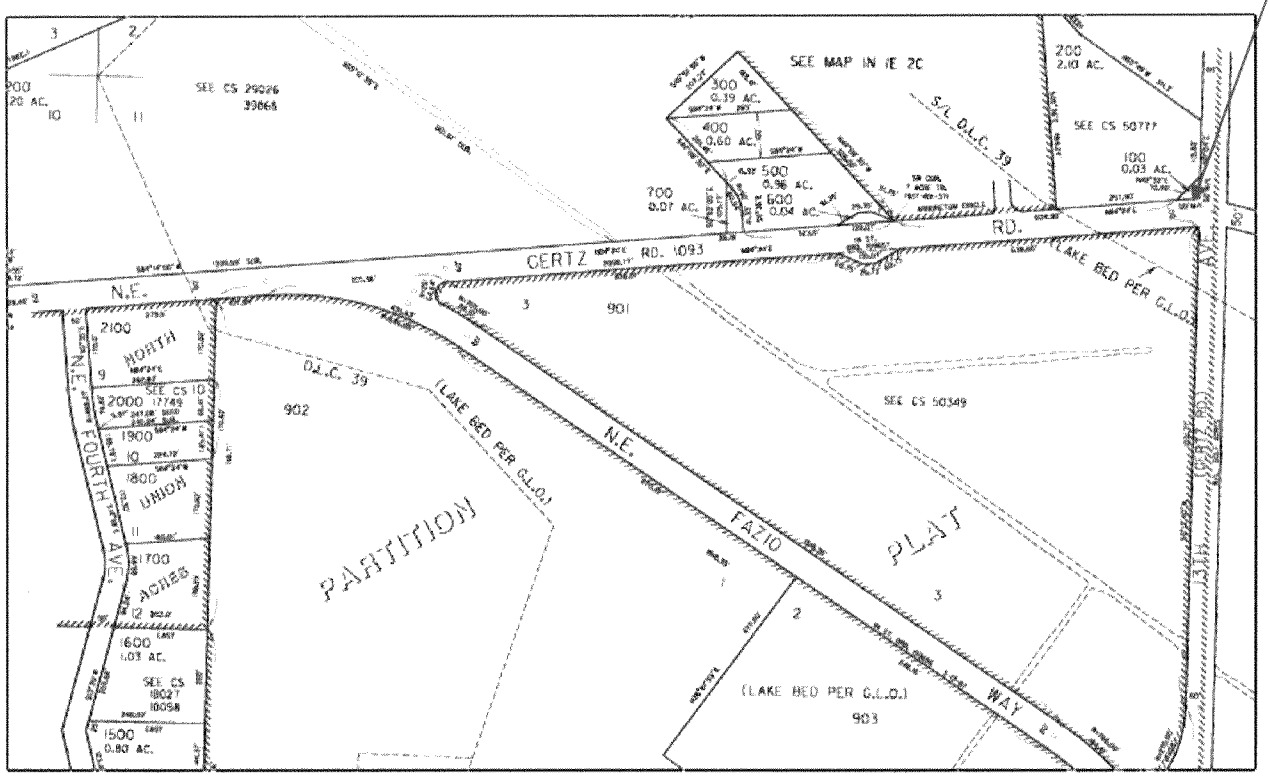
Property Tax Account Number R305606 / R90720-1750; 1N1W11CA 00200



+

PARCEL NO. 12.:

Property Tax Account Number R315121/ R94111-1360; 1N1E11B 00100



BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Setting Hearing Date of July 24, 2003, for Consideration of Proposed Transfer of Tax Foreclosed Properties to Local Governments for Non-Housing Purposes and Authorizing Publication of Notice

The Multnomah County Board of Commissioners Finds:

a) ORS 271.330 and Multnomah County Code Chapter 7 allow for transfer of Tax Foreclosed Real Property to governmental bodies provided the property is used for a public purpose. Attached to this Resolution is a list identified as Exhibit A and incorporated by this reference, which describes the twelve (12) properties for which the County received requests for transfer as authorized under the cited State Law and the County Code.

b) The State of Oregon Parks and Recreation Department has formally requested the transfer of Parcel No. 1, a certain Tax Foreclosed Property located in Multnomah County, more particularly described in Exhibit A.

c) The City of Troutdale, Public Works Department has formally requested the transfer of Parcel No.: 2, certain Tax Foreclosed Property located in Multnomah County, more particularly described in Exhibit A.

d) The City of Gresham, Department of Environmental Services has formally requested the transfer of Parcel No.: 3, a certain Tax Foreclosed Property located in Multnomah County, more particularly described in Exhibit A.

e) Portland Community College, Physical Plant Department has formally requested the transfer of Parcel No.: 4, a certain Tax Foreclosed Property located in Multnomah County, more particularly described in Exhibit A.

f) The Port of Portland, Aviation Department has formally requested the transfer of Parcel No.: 5, a certain Tax Foreclosed Property located in Multnomah County, more particularly described in Exhibit A.

g) The City of Portland, Bureau of Environmental Services has formally requested the transfer of Parcel No.: 6, a certain Tax Foreclosed Property located in Multnomah County, more particularly described in Exhibit A.

h) The City of Portland, Office of Transportation has formally requested the transfer of Parcel Nos. 7 to 12, certain Tax Foreclosed Properties located in Multnomah County, more particularly described in Exhibit A.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 03-097

Setting Hearing Date of July 24, 2003, for Consideration of Proposed Transfer of Tax Foreclosed Properties to Local Governments for Non-Housing Purposes and Authorizing Publication of Notice

The Multnomah County Board of Commissioners Finds:

a) ORS 271.330 and Multnomah County Code Chapter 7 allow for transfer of Tax Foreclosed Real Property to governmental bodies provided the property is used for a public purpose. Attached to this Resolution is a list identified as Exhibit A and incorporated by this reference, which describes the twelve (12) properties for which the County received requests for transfer as authorized under the cited State Law and the County Code.

b) The State of Oregon Parks and Recreation Department has formally requested the transfer of Parcel No. 1, a certain Tax Foreclosed Property located in Multnomah County, more particularly described in Exhibit A.

c) The City of Troutdale, Public Works Department has formally requested the transfer of Parcel No.: 2, certain Tax Foreclosed Property located in Multnomah County, more particularly described in Exhibit A.

d) The City of Gresham, Department of Environmental Services has formally requested the transfer of Parcel No.: 3, a certain Tax Foreclosed Property located in Multnomah County, more particularly described in Exhibit A.

e) Portland Community College, Physical Plant Department has formally requested the transfer of Parcel No.: 4, a certain Tax Foreclosed Property located in Multnomah County, more particularly described in Exhibit A.

f) The Port of Portland, Aviation Department has formally requested the transfer of Parcel No.: 5, a certain Tax Foreclosed Property located in Multnomah County, more particularly described in Exhibit A.

g) The City of Portland, Bureau of Environmental Services has formally requested the transfer of Parcel No.: 6, a certain Tax Foreclosed Property located in Multnomah County, more particularly described in Exhibit A.

h) The City of Portland, Office of Transportation has formally requested the transfer of Parcel Nos. 7 to 12, certain Tax Foreclosed Properties located in Multnomah County, more particularly described in Exhibit A.

i) Pursuant to MCC Section 7.407(D) the Department of Business and Community Services, Tax Title Division, issued a report dated July 10, 2003 to the County Board of Commissioners regarding the proposed transfers of Tax Foreclosed Properties to the above named local governments. The Department's report is attached and is identified as the "Agenda Placement Request" to this Resolution.

The Multnomah County Board of Commissioners Resolves:

1. That pursuant to ORS 271.330(5) and MCC 7.407(E) these requests by local governments for transfer of the above described tax foreclosed properties for non-housing purposes be set for a further hearing before this Board on July 24, 2003 at 9:30 a.m.

2. That the Multnomah County Tax Title Division is directed to publish notice of the public hearing in a newspaper of general circulation for two successive weeks. The notice shall be in a form consistent with that set forth in Exhibit B, attached to this Resolution and incorporated by this reference and shall:

   a. Advise the public of the County's intention to transfer these properties;
   b. Describe the properties proposed for transfer;
   c. Identify the date, time and location of the hearing;
   d. State that the Board will accept objections and comments concerning the transfer at the hearing;
   e. Advise how a copy of the Department's report can be obtained.

3. That the Tax Title Division shall mail a copy of the notice to the local government applicants and other persons requesting such notice.

ADOPTED this 10th day of July, 2003.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By Sandra Duffy
Sandra N. Duffy, Assistant County Attorney

EXHIBIT A (RESOLUTION)
PROPERTIES REQUESTED BY LOCAL GOVERNMENTS
FISCAL YEAR 2002/03

OREGON PARKS AND RECREATION DEPARTMENT

PARCEL NO. 1:

Legal Description:
LOT 3, BLOCK 8, LATOURELLE FALLS, Multnomah County, Oregon

Multnomah County Deed No.:	D031908
Tax Account No.:	R202199
Type of Use:	Day Use Park
Taxes:	$2121.54
Expenses:	$203.00

CITY OF TROUTDALE, PUBLIC WORKS DEPARTMENT

PARCEL NO. 2:

Legal Description:
LOT A, FRALEY HTS, Multnomah County, Oregon

Multnomah County Deed No.:	D031910
Tax Account No.:	R166248
Type of Use:	Street Right-of-Way
Taxes:	$112.65
Expenses:	$57.95

CITY OF GRESHAM, DEPARTMENT OF ENVIRONMENTAL SERVICES

PARCEL NO. 3:

Legal Description:
A 10.00 foot wide strip of land situated in the Northeast ¼ of Section 13, Township 1 South, Range 3 East of the Willamette Meridian, Multnomah County, Oregon, said 10.00 foot strip adjoining the present north right-of-way (20.00 feet from centerline) for said Salquist Rd. (Co. Rd. No. 981), the 10.00 foot strip being more particularly described as follows:

Commencing at a Brass Disk marking the center of said Section 13 and proceeding thence South 87° 56′ 08″ East along the South line of said Northeast ¼ of Section 13 (being the center of S.E. Salquist Road), a distance of 310.25 feet to a point that is 2343.00 feet Westerly from the Southeast corner thereof; thence North 1° 04′ 22″ East parallel with the East line of said Northeast ¼, a distance of 20.00 feet to the Point of Beginning for said 10.00 foot dedication strip at the existing

North line of South East Salquist Road; thence continuing North 1° 04′ 22″ East, a distance of 10.00 feet to a point that is 30.00 feet Northerly, when measured at right angles, from the center of said Salquist Road; thence North 87° 56′ 08″ West parallel with said Salquist Road, a distance of 309.76 feet to a point that bears North 2° 00′ 22″ East, 30.00 feet from said center of Section 13, thence south 2° 00′ 22″ West, a distance of 10.00 feet to said existing North line of Salquist Road; thence South 87° 56′ 08″ East, a distance of 309.92 feet to the Point of Beginning

Multnomah County Deed No.:	D031913
Tax Account No.:	R339906
Type of Use:	Public Street Right-Of-Way
Taxes:	$135.07
Expenses:	$ 24.00

PORTLAND COMMUNITY COLLEGE, PHYSICAL PLANT DEPARTMENT

PARCEL NO. 4:

Legal Description:

A tract of land located in Section 5, Township 1 South, Range 2 East, Willamette Meridian, Multnomah County and State of Oregon, described as follows:

Beginning at a point of intersection with the South line of S. E. Sherman Street with the east line of David D. Prettyman D.L.C.; thence East 20 feet to the Southeast corner of a parcel described for road purposes in Book 2097 and Page 12, recorded in 1962, Multnomah County deed records; thence South to a point in the South line of the Triplette tract described in Book 1989 and Page 148, recorded in 1959 in Multnomah County deed records; thence West 20 feet to a point being the most Westerly Southwest corner of said Triplette tract, said point also being on the East line of said David D. Prettyman D.L.C.; thence North to the point of beginning.

Multnomah County Deed No.:	D031914
Tax Account No.:	R332704
Type of Use:	Buffer between College Parking and Neighborhood streets.
Taxes:	$65.12
Expenses:	$24.00

THE PORT OF PORTLAND, AVIATION DEPARTMENT

PARCEL NO. 5:

Legal Description:

Commencing at the Southwest corner of Section 24, Township 1 North, Range 3 East, of the Willamette Meridian, Multnomah County, Oregon; thence East along the North line of the D.F. Buxton DLC a distance of 282.38 feet to a point; thence North a distance of 26 feet to the True Point of Beginning; thence North 89°57'00" East a distance of 400 feet more or less to the Westerly right of way line of Harlow Road County Road 1728; thence Southeasterly along said road to the North line of the aforesaid Buxton DLC; thence Westerly along said line to the Point of Beginning; EXCEPTING THEREFROM that portion lying within N.W. Graham Road (County Road 1380-A).

Multnomah County Deed No.:	D031915
Tax Account No.:	R320480
Type of Use:	Troutdale Airport entrance road and buffer.
Taxes:	$2340.26
Expenses:	$57.95.

THE CITY OF PORTLAND, BUREAU OF ENVIRONMENTAL SERVICES

PARCEL NO. 6:

Legal Description:

All that part of Tract 1 of the duly recorded plat of R.A. Heintz Industrial Park, situated in the William Payne Donation Land Claim in the Southeast One-Quarter of Section 12 Township 1 North, Range 1 East, of the Willamette Meridian, Multnomah County, Oregon, lying South of the South high water line of the Columbia Slough per the Oregon Division of State Lands.

Multnomah County Deed No.:	D031916
Tax Account No.:	R251223
Type of Use:	Restored and Protected as a Riparian Area
Taxes:	$29.23
Expenses:	$249.00

THE CITY OF PORTLAND, OFFICE OF TRANSPORTATION

PARCEL NO. 7:

Legal Description:

A tract of land in Lot 1, Block 3, Barbur Heights, a duly recorded subdivision in Multnomah County, State of Oregon described as follows:

Lot 1, except that part in street as recorded February 20, 1958 in Book 1884 at Page 520 and excepting therefrom that portion of said Lot 1 lying in the following described tract of land:

All of those portions of Lot 1 and the Easterly 15 feet of Lot 2, lying Northerly of a line which is parallel to and 89.21 feet South of the North line of Lots 1 and 2.

Multnomah County Deed No.:	D031917
Tax Account No.:	R111780
Type of Use:	Street Right-of-Way
Taxes:	$471.19
Expenses:	$24.00

PARCEL NO. 8:

Legal Description:
EXC N 5' OF LOTS 1 & 2, BLOCK 4, LE ROY HTS, Multnomah County, Oregon

Multnomah County Deed No.:	D031918
Tax Account No.:	R205354
Type of Use:	Street Right-of-Way
Taxes:	$2,854.24
Expenses:	$65,723.05

PARCEL NO. 9:

Legal Description:
LOT A, PARTITION PLAT 1993-68, Multnomah County, Oregon

Multnomah County Deed No.:	D031919
Tax Account No.:	R237909
Type of Use:	Access Control Strip
Taxes:	$66.80
Expenses:	$19.00

PARCEL NO. 10:

Legal Description:
EXC PT IN ST LOT B, THOMSON VILLAS, Multnomah County, Oregon

Multnomah County Deed No.:	D031920
Tax Account No.:	R287193
Type of Use:	Street Right-of-Way
Taxes:	$65.61
Expenses:	$24.00

PARCEL NO. 11:

Legal Description:

N OF MIDWAY ST LOT 6, BLOCK 11, WHITWOOD CT, Multnomah County, Oregon

Multnomah County Deed No.:	D031921
Tax Account No.:	R305606
Type of Use:	Street Right-of-Way
Taxes:	$15.82
Expenses:	$19.00

PARCEL NO. 12:

Legal Description:

A tract of land in the Northwest One-Quarter of Section 11, Township 1 North, Range 1 East, of the Willamette Meridian, Multnomah County, Oregon, described as follows:

Beginning at a point on the North line of North East Gertz Rd. (County Road No. 1093), which point is North 84° 24′ East, a distance of 604.90 feet from the Southwest corner of that 7 acre tract of land conveyed to Edgar Boyce and Elma Boyce by deed recorded June 7, 1937 in Book 401 Page 371, Multnomah county Deed Records; thence North 84° 24′ East, along the North line of said North East Gertz Rd. to the intersection of said North line with the West line of North East 13th Avenue; thence Northerly, along said West line to a point which bears North 42° 32′ East, a distance of 70.90 feet from the point of beginning; thence South 42° 32′ West, a distance of 70.90 feet to the point of beginning.

Multnomah County Deed No.:	D031922
Tax Account No.:	R315121
Type of Use:	Street Right-of-Way
Taxes:	$65.21
Expenses:	$24.00

EXHIBIT B (RESOLUTION)

NOTICE OF PUBLIC HEARING
BEFORE THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS

TIME: 9:30 a.m., Thursday, July 24, 2003

PLACE: The Multnomah Building, Room 100
501 SE Hawthorne Blvd, Portland, Oregon

SUBJECT: Proposed Transfer of twelve (12) Multnomah County owned properties listed below, to other Governmental bodies to be used for public purposes as authorized under ORS 271.330 and Multnomah County Code Chapter 7. The Governments requesting the properties and the descriptions of the properties proposed for transfer are as follows:

(A) To the STATE OF OREGON, PARKS AND RECREATION DEPARTMENT, for public purposes:

PARCEL NO. 1: 1N5E29BD, Tax Lot 02300, also known as Tax Account No.: R202199, a vacant lot located off of Crown Point Hwy, between Latourelle Road and 3rd Street.

(B) To the CITY OF TROUTDALE, PUBLIC WORKS DEPARTMENT, for public purposes:

PARCEL NO. 2: 1N3E36BC, Tax Lot 03900, also known as Tax Account No.: R166248, approx. 1' x 50' strip across SW Kings Byway.

(C) To the CITY OF GRESHAM, DEPARTMENT OF ENVIRONMENTAL SERVICES, for public purposes:

PARCEL NO. 3: 1S3E13AC Tax Lot 02600, also known as Tax Account No.: R339906, a 10' x 285' strip adjacent to SE Salquist Rd.

(D) To PORTLAND COMMUNITY COLLEGE, PHYSICAL PLANT DEPARTMENT, for public purposes:

PARCEL NO. 4: 1S2E05DD Tax Lot 00400, also known as Tax Account No.: R332704, a vacant lot adjacent to 8001 Division.

(E) To The PORT OF PORTLAND, AVIATION DEPARTMENT, for public purposes:

PARCEL NO. 5: 1N3E24C Tax Lot 00900, also known as Tax Account No.: R320480, located along the South end of Troutdale Airport and NW Graham and Harlow roads.

(F) To The CITY OF PORTLAND, BUREAU OF ENVIRONMENTAL SERVICES, for public purposes:

PARCEL NO. 6: 1N1E12CC Tax Lot 02000, also known as Tax Account No.: R251223, located adjacent to the Columbia Slough & 7555 NE 33rd Ave.

(G) To The CITY OF PORTLAND, OFFICE OF TRANSPORTATION, for public purposes:

PARCEL NO. 7: 1S1E21AC Tax Lot 03600, also known as Tax Account No.: R111780, located adjacent to 7207 SW 13th DR.

PARCEL NO. 8: 1S2E22CB Tax Lot 10901, also known as Tax Account No.: R205354, located adjacent to 10411 SE Rex ST.

PARCEL NO. 9: 1S2E15AC Tax Lot 06403, also known as Tax Account No.: R237909, located between 5007 SE 114TH and 5010 SE 113TH

PARCEL NO. 10: 1S3E06DC Tax Lot 06407, also known as Tax Account No.: R287193, strip adjacent to and in front of 2310 SE 174th AVE.

PARCEL NO. 11: 1N1W11CA Tax Lot 00200, also known as Tax Account No.: R305606, adjacent to 8617 NW Wood ST & NW Midway Ave.

PARCEL NO. 12: 1N1E11B Tax Lot 00100, also known as Tax Account No.: R315121, located at the corner of NE Gertz Rd & NE 13th Ave.

TO OBTAIN A COPY OF THE COUNTY STAFF REPORT ON THESE PROPOSED TRANSFERS CONTACT: Multnomah County Tax Title Division at (503) 988-3590.

OBJECTIONS OR COMMENTS TO THE PROPOSED TRANSFER: Will be heard at the date, time and location set forth above, or as soon thereafter on that date as the matter may be heard, that being the time and place of the regular weekly meeting of the Multnomah County Board of Commissioners.

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: **July 10, 2003**
Agenda Item #: **C-2**
Est. Start Time: **9:30 AM**
Date Submitted: **06/24/03**

Requested Date: July 10, 2003 **Time Requested:** N/A

Department: County Human Services **Division:** MHAS

Contact/s: Gayle Kron

Phone: 503.988.5464 **Ext.:** 26392 **I/O Address:** 166/5

Presenters: Consent Calendar

Agenda Title: Amendment No. 2 with State of Oregon, Dept. of Human Services for FY2003/04.

NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide clearly written title.

---

1. **What action are you requesting from the Board? What is the department/agency recommendation**? Approval of amendment No. 2

2. **Please provide sufficient background information for the Board and the public to understand this issue.** This amendment No. 2: a) extended the validity period is to June 30, 2004, b) Increases funding by $120,000 for FY2003/04, and c) Amends the contract language in Section 12: Compliance with Applicable Law; General Provision (a) & (b).

3. **Explain the fiscal impact (current year and ongoing).**

   NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

   If a budget modification, explain:

- What revenue is being changed and why?
- What budgets are increased/decreased?
- What do the changes accomplish?
- Do any personnel actions result from this budget modification? Explain.
- Is the revenue one-time-only in nature?
- If a grant, what period does the grant cover?
- When the grant expires, what are funding plans?

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain:

- Why was the expenditure not included in the annual budget process?
- What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?
- Why are no other department/agency fund sources available?
- Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.
- Has this request been made before? When? What was the outcome?

If grant application/notice of intent, explain:

- Who is the granting agency?
- Specify grant requirements and goals.
- Explain grant funding detail – is this a one time only or long term commitment?
- What are the estimated filing timelines?
- If a grant, what period doest the grant cover?
- When the grant expires, what are funding plans?
- How will the county indirect and departmental overhead costs be covered?

4. Explain any legal and/or policy issues.

5. Explain any citizen and/or other government participation that has or will take place.

Required Signatures:

Department/Agency Director: *Patricia K. Pate* Date: 06/23/03

Budget Analyst

By: Date:

Dept/Countywide HR

By: Date:

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

(See Administrative Procedure CON-1)

Contract #: 0210023

Pre-approved Contract Boilerplate (with County Counsel signature) [ ] Attached [X] Not Attached

Amendment #: 2

Class I	Class II	Class III
[] Professional Services not to exceed $50,000 (and not awarded by RFP or Exemption) [ ] Revenue not to exceed $50,000 (and not awarded by RFP or Exemption) [ ] Intergovernmental Agreement (IGA) not to exceed $50,000 [ ] Expenditure [ ] Revenue [ ] Architectural & Engineering not to exceed $10,000 *(for tracking purposes only)*	[ ] Professional Services that exceed $50,000 or awarded by RFP or Exemption (regardless of amount) [ ] PCRB Contract [ ] Maintenance Agreement [ ] Licensing Agreement [ ] Construction [ ] Grant [] Revenue that exceeds $50.000 or awarded by RFP or Exemption (regardless of amount)	[X] Intergovernmental Agreement (IGA) that exceeds $50,000 [ ] Expenditure [X] Revenue Non-190 Agreement APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS AGENDA # C-2 DATE 07.10.03 DEB BOGSTAD, BOARD CLERK

Department:	County Human Services	Division:	MHAS	Date:	June 16, 2003
Originator:	Gayle Kron	Phone:	26392	Bldg/Rm:	166/5
Contact:	Lynn Ervins	Phone:	26644	Bldg/Rm:	166/7

Description of Contract: **This amendment is a) Extends the validity period July 28, 2001 through June 30, 2004 b) Increases funding by $120,000 for FY2003/04 c) Amends contract language in Section 12:Compliance with Applicable Law; General Provision (a) & (b).**

RENEWAL: [X]	PREVIOUS CONTRACT #(S):	Previous Contract # 0110870	
RFP/BID:	N/A IGA	RFP/BID DATE:	
EXEMPTION #/DATE:		EXEMPTION EXPIRATION DATE:	ORS/AR #:

CONTRACTOR IS: [ ] MBE [ ] WBE [ ] ESB [ ] QRF [ ] N/A [ ] NONE *(Check all boxes that apply)*

Contractor	**State of Oregon, Dept. of Human Services, (SOSCF)**		
Address	**4th Floor HSB E03, 500 Summer St. NE** **Salem, OR 97301-1080**	Remittance Address *(If different)*	
Phone	**503.945.6372**	Payment Schedule / Terms	
Employer ID# or SS#	**N/A**	[ ] Lump Sum $	[ ] Due on Receipt
Effective Date	**July 28, 2001**	[x] Monthly $ Invoice	[ ] Net 30
Termination Date	**June 30, 2004**	[ ] Other $	[ ] Other
Original Contract Amount $	**163,440**		
Total Amt of Previous Amendments $	**163,440**	[ ] Requirements $	
Amount of Amendment $	**120,000**		
Total Amount of Agreement $	**446,880**	Encumber [ ] Yes [ ] No	

REQUIRED SIGNATURES

Department Manager	Rosemary Alp-Alston	DATE 6/17/03
Purchasing Manager		DATE
County Counsel	Patrick W. Hemmer	DATE 6/27/03
County Chair	Diane M. Linn	DATE 7/10/03
Sheriff		DATE
Contract Administration		DATE

SAP CUSTOMER CODE 200147 — PREVIOUS DEPT REFERENCE REV223

LINE #		WBS FY2002/03	AMOUNT						WBS FY2003/04	AMOUNT	
01		AS OUT AR SCF EAST	$81,720						AS OUT AR SCF EAST	60,000	
02		AS OUT AR SCF MID	$81,720						AS OUT AR SCF MID	60,000	

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Agreement # 99094
Date: May 20, 2003

STATE OF OREGON
INTERGOVERNMENTAL AGREEMENT
AMENDMENT # 2

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio tape, oral presentation and electronic format. To request an alternate format call the State of Oregon, Department of Human Services, Contracts and Procurement Unit at (503) 945-5818 or TTY (503) 945-5928.

AMENDMENT OF AGREEMENT NO. 99094, dated June 8, 2001, between the State of Oregon, Department of Human Services, hereinafter referred to as the "Department," and

MULTNOMAH COUNTY
DEPARTMENT OF COMMUNITY AND FAMILY SERVICES
421 SW 6th Ave, Suite 500
Portland, OR 97204

hereinafter called "**CONTRACTOR/COUNTY.**"

1. This is Amendment No. 2 to original Agreement No. 99094. This Amendment No. 2 shall become effective on the date it has been signed by every party hereto.

2. The purpose of Amendment No. 2 is to extend the term of the Agreement and provide additional funds to the Agreement. The Department's supervising representative for this Amendment No. 2 is Jay Wurscher.

3. Agreement No. 99094 between the Department and Contractor shall be amended as follows. Unless the content of the specific revision makes it otherwise clear, **[the language to be deleted is in bold type and bracketed]**, **<u>the new language is in bold type and underlined.</u>**

4. Amend the second paragraph, which begins "Effective Date and Duration", of the document entitled "STATE OF OREGON INTERGOVERNMENTAL AGREEMENT" to read as follows:

   "Effective Date and Duration: This Agreement shall become effective on July 1, 2001, or on the date at which every party has signed this Agreement and, when

required, the Department of Administrative Services and the Department of Justice have approved this Agreement, whichever date is later. This Agreement shall expire, unless otherwise terminated or extended, on **[June 30, 2003]** **June 30, 2004**. However, such expiration shall not extinguish or prejudice Department's right to enforce this Agreement with respect to (i) and breach of a Contractor warranty; or (ii) any default or defect in Contractor performance that has not been cured."

5. Amend the fourth paragraph, which begins "Consideration", of the document entitled "STATE OF OREGON INTERGOVERNMENTAL AGREEMENT" to read as follows:

   "Consideration: Department agrees to pay Contractor an amount not to exceed **[$326,880.00]** **$446,880.00** for accomplishment of the work, including any allowable expenses. Interim payments shall be made to Contractor as outlined in the Agreement document entitled SCHEDULE."

6. Amend Section B Consideration subsection 1, of the document entitled "SCHEDULE" to read as follows:

   "1. As consideration for services provided in accordance with the Agreement by the Contractor/County during period beginning July 28, 2001, and ending **[June 30, 2003]** **June 30, 2004**, the Department will pay the Contractor/County, by check(s), an amount not to exceed **[$326,880.00]** **$446,880.00**, to be paid **[at the rate of $13,620.00 per month for a maximum of 24 months]** **as follows:**

      a. For the period beginning July 28, 2001 and ending June 30, 2003, the Department will pay to the Contractor/County by check(s) an amount not to exceed $326,880.00 to be paid at the rate of $13,620.00 per month for a maximum of 24 months; and

      b. For the period beginning July 1, 2003 and ending June 30, 2004 the Department will pay to the Contractor/County by check(s) an amount not to exceed $120,000.00 to be paid at the rate of $10,000.00 per month for a maximum of 12 months.

   Payment shall be subject to the provisions or ORS 293.462 (payment of overdue account charges)."

7. Amend Section 12 "Compliance with Applicable Law" of the document entitled "GENERAL PROVISION" to read as follows:

"12. Compliance with Applicable Law

a. Contractor shall comply with all federal, state, and local laws, regulations, executive orders, and ordinances applicable to the Work under this Agreement. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with **the following laws, regulations and executive orders, as they may be amended from time to time during the term of the Agreement, to the extent they are applicable to the Agreement**: (i) Titles VI **and VII** of the Civil Rights Act of 1964**, as amended**; (ii) Sections **[V] 503 and 504** of the Rehabilitation Act of 1973**, as amended**; (iii) the Americans with Disabilities Act of 1990 **[and ORS 659.425]**, **as amended;** (iv) **Executive Order 11246, as amended; (v) The Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vi) The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (vii) Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996; (viii) ORS Chapter 659, as amended; (ix)** all regulations and administrative rules established pursuant to the foregoing laws; and **[(v)] (x)** all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. **These laws, regulations, and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated.** Agency's performance under this Agreement is conditioned upon Contractor's compliance with the provisions of ORS 279.312, 279.314, 279.316, 279.320, and 279.555, which are incorporated by reference herein.

(b) HIPAA Business Associate Requirements: The federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the federal regulations implementing the Act require that Agency obtain certain satisfactory assurances from its business associates. Such satisfactory assurances and the other business associate contracting requirements are contained in OAR 125, Division 55. Contractor is a business associate of Agency and desires to provide such assurances with respect to the performance of its obligations under the Agreement. Effective April 14, 2003, Contractor provides the satisfactory assurances contained in OAR 125, Division 55, which is incorporated herein by this reference, and Contractor and Agency agree to comply with the terms and conditions contained in OAR 125, Division 55."

8. Except as expressly amended, all other terms and conditions of original Agreement are still in full force and effect. Contractor certifies that the representations, warranties, and certifications contained in the original Agreement are true and correct as of the effective date of this amendment and with the same effect as though made at the time of this amendment.

9. The individual signing this Amendment on behalf of the Contractor hereby certifies and swears under penalty of perjury that he or she is authorized to act on behalf of Contractor, that he or she has authority and knowledge regarding Contractor's payment of taxes, and to the best of his or her knowledge, Contractor is not in violation of any Oregon tax laws. For purposes of this certification, "Oregon tax laws" means the state inheritance tax, gift tax, personal income tax, withholding tax, corporation income and excise taxes, amusement device tax, timber tax, cigarette tax, other tobacco tax, 9-1-1 emergency communications tax, the homeowners and renters property tax relief program and local taxes administered by the Department of Revenue (Multnomah County Business Income Tax, Lane Transit District Tax, Tri-Metropolitan Transit District Employer Payroll Tax, and Tri-Metropolitan Transit District Self-Employment Tax).

CONTRACTORS: YOU WILL NOT BE PAID FOR SERVICES RENDERED PRIOR TO NECESSARY STATE APPROVALS.

10. Signature

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Contractor/County:

Diane M. Linn, Multnomah County Chair

By: _____ **Title:** Dept. Director **Date:** 6/23/03

Department of Human Services Authorized Representative:

By: _____ **Title:** _____ **Date:** _____

Reviewed by Contracts Consultant: _____ **Date:** _____

Approved as to Legal Sufficiency: _____ Asst. A.G. **Date:** 5/23/03

99094-2/rls/5-20-2003

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-2 DATE 07-10-03
DEB BOGSTAD, BOARD CLERK

REVIEWED:
AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY
BY _____
ASSISTANT COUNTY ATTORNEY
DATE 6/27/03

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: **July 10, 2003**
Agenda Item #: **C-3**
Est. Start Time: **9:30 AM**
Date Submitted: **06/27/03**

Requested Date: July 10, 2003 **Time Requested:** N/A

Department: Sheriff's Office **Division:** Enforcement

Contact/s: Dave Braaksma

Phone: 988-4415 **Ext.:** 84415 **I/O Address:** 503/350/Braaksma

Presenters: Dave Braaksma

Agenda Title: Renewal of Government Revenue Contract (190 Agreement) 0210309 with Metro for the Provision of Solid Waste Enforcement and Clean up

NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide clearly written title.

---

1. **What action are you requesting from the Board? What is the department/agency recommendation?**
   Approval of Government Contract.

2. **Please provide sufficient background information for the Board and the public to understand this issue.**
   MCSO has been providing these services to METRO since 1994. Under the terms of this agreement, the MCSO agrees to provide solid waste Flow Control and general investigative police service to METRO. The County also agrees to provide a supervised inmate work crew to clean up illegal dumpsites within the jurisdictional boundaries of METRO. The agreement shall be effective from July 1, 2003 through June 30, 2004.

3. **Explain the fiscal impact (current year and ongoing).** Metro agree to compensate MCSO for providing this service in the amount of $335,000. This funding has been anticipated and is part of the upcoming fiscal year budget.

4. **Explain any legal and/or policy issues.**
This has been reviewed by the County Attorney.

5. **Explain any citizen and/or other government participation that has or will take place.**
None other than stated above.

Required Signatures:

Department/Agency Director: Bernie Lifsto **Date: 06/18/03**

Budget Analyst

By: **Date:**

Dept/Countywide HR

By: **Date:**

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

Pre-approved Contract Boilerplate (with County Attorney signature) ☐Attached ☐Not Attached

Contract #: 0210309
Amendment #:

CLASS I	CLASS II	CLASS III A
Contracts $75,000 and less per 12 month period	Contracts over $75,000 per 12 month period	☒ Government Contracts (190 Agreement)
☐ Professional Services Contracts ☐ PCRB Contracts ☐ Maintenance Agreements ☐ Licensing Agreements ☐ Public Works Construction Contracts ☐ Architectural & Engineering Contracts ☐ Revenue Contracts ☐ Grant Contracts ☐ Non-Expenditure Contracts	☐ Professional Services Contracts ☐ PCRB Contracts ☐ Maintenance Agreements ☐ Licensing Agreements ☐ Public Works Construction Contracts ☐ Architectural & Engineering Contracts ☐ Revenue Contracts ☐ Grant Contracts ☐ Non-Expenditure Contracts	☐ Expenditure ☐ Non-Expenditure ☒ Revenue **CLASS III B** ☐ Government Contracts (Non-190 Agreement) ☐ Expenditure ☐ Non-Expenditure ☐ Revenue ☐ Interdepartmental Contracts

Department: Sheriff Division: Enforcement Date: 06/18/03
Originator: Chief Deputy Graham Phone: 503-988-4308 Bldg/Rm: 503/350
Contact: Dave Braaksma Phone: 503-988-4415 Bldg/Rm: 503/350
Description of Contract: Revenue contract with Metro to provide solid waste enforcement and clean up

RENEWAL: ☐ PREVIOUS CONTRACT #(S): 0210287,0110769,0010306
RFP/BID: RFP/BID DATE:
EXEMPTION #: ORS/AR #:
Effective DATE: EXPIRATION DATE:
CONTRACTOR IS: ☐ MBE ☐ WBE ☐ ESB ☐ QRF State Cert# or ☐ Self Cert ☐ Non-Profit ☒ N/A *(Check all boxes that apply)*

Contractor: Metro Solid Waste and Recycling Dept.
Address: 600 NE Grand Ave
City/State: Portland, OR
ZIP Code: 97232
Phone: 503-797-1678
Employer ID# or SS#:
Contract Effective Date: 07/01/03 Term Date: 06/30/04
Amendment Effect Date: New Term Date:

Remittance address *(If different)*:

Payment Schedule / Terms
☐ Lump Sum $ ☐ Due on Receipt
☐ Monthly $ ☐ Net 30
☐ Other $ ☐ Other

Original Contract Amount: $335,000
Total Amt of Previous Amendments: $
Amount of Amendment: $
Total Amount of Agreement $: $335,000

☐ Requirements Funding Info:
Original Requirements Amount: $
Total Amt of Previous Amendments: $
Requirements Amount Amendment: $
Total Amount of Requirements: $

REQUIRED SIGNATURES:

Department Manager _____ DATE _____
Purchasing Manager _____ DATE _____
County Attorney _____ DATE 6/27/03
County Chair _____ DATE 7.10.03
Sheriff Bernie Giusto by LAG DATE 6-18-03
Contract Administration _____ DATE _____

COMMENTS:

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-3 DATE 07.10.03
DEB BOGSTAD, BOARD CLERK

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is made and entered into pursuant to the authority found in ORS 190.010, et seq. and ORS 206.345 between MULTNOMAH COUNTY by and through the Multnomah County Sheriffs Office (COUNTY) and METRO.

RECITALS

WHEREAS, Multnomah County is a political subdivision of the State of Oregon and is a unit of local government authorized to enter into intergovernmental agreements pursuant to ORS 190.010, et seq; and

WHEREAS, the Multnomah County Sheriff is authorized to enter into intergovernmental agreements jointly with and on behalf of the County, pursuant to ORS 206.345; and

WHEREAS, METRO is a municipal corporation formed and operating under state law and the Metro Charter, and is a unit of local government authorized to enter into intergovernmental agreements pursuant to ORS 190.010, et seq; and

WHEREAS, METRO desires to contract with the COUNTY for the performance of certain law enforcement functions, related to METRO's purpose and authority, to be performed by the COUNTY through the Multnomah County Sheriffs Office (hereinafter "MCSO"); and

WHEREAS, the COUNTY through the MCSO is able and prepared to provide the services required by METRO under the terms and conditions set forth in this Agreement; therefore,

IN CONSIDERATION of those mutual promises and the terms and conditions set forth hereafter, and pursuant to the provisions of ORS chapter 190, the parties agree to be bound as follows:

INVESTIGATION

1. The COUNTY agrees to provide general investigative police service to METRO. Such police service shall include:

    (a) Enforcement of all duly enacted ordinances of METRO, including those related to flow control investigation and solid waste management;

    (b) Random and directed surveillance of persons collecting, transporting, storing, treating and disposing of solid and liquid waste to ensure such persons are complying with applicable laws relating to waste management;

    (c) Background investigations of prospective vendors, contractors who enter into agreements with METRO to provide solid and liquid waste management services or are subject to METRO regulation by law or

agreement. Such background investigations shall be subject to the restrictions and limitations imposed by law regarding the use of computerized criminal history information;

(d) At METRO's request, investigation, case preparation, and prosecution assistance in cases involving offenses (including, but not limited to fraud, racketeering, and material breach of contract) allegedly committed by vendors, contractors, or subcontractors doing business with METRO or by facilities, firms or individuals subject to METRO or by law or agreement;

(e) Criminal intelligence briefings on the waste management industry nationwide, statewide, and locally; specifically focusing upon any connection or relationship between industry participants and known elements of organized crime or other criminal activities;

(f) Investigations of suspected violations of environmental laws, rules, and ordinances; and

(g) Other general investigative work as requested by Metro.

2. In accordance with ORS 206.345(2), the COUNTY and METRO agree that during the existence of this Agreement, the sheriff and the deputies of the sheriff shall exercise such authority as may be vested in them by law or by terms of this Agreement, including full power and authority to cite violators, arrest for violations of applicable criminal laws, and take other enforcement action for violations of all duly enacted ordinances of METRO relating to flow control and waste management.

ILLEGAL DUMPSITE CLEANUP - INMATE WORKCREWS

3. The COUNTY agrees to provide two supervised inmate work crew to clean up illegal dumpsites within the jurisdictional boundaries of METRO. Sites will only be cleaned up as requested by METRO. The COUNTY further agrees that:

   (a) Each crew will be supervised by one or more corrections officers trained and experienced in managing inmate work crews;

   (b) Each work crew will be comprised of sentenced, local inmates eligible for outside public works and who pose a minimal threat to the public;

   (c) Each work crew vehicle will be radio-equipped, self-contained, and furnished with hand and power tools appropriate for each job; and

   (d) Each work crew supervisor shall be directed to identify and retain through procedures designed to maintain a defensible chain of custody, any evidence that may lead to a successful prosecution of persons dumping waste illegally.

4. The COUNTY and METRO agree, however, that the clean-up of dump sites containing known or suspected hazardous materials is beyond the scope, skill, training, and experience of inmate work crews and that an inmate work crew, including inmates and ASSIGNED PERSONNEL, shall not be required to clean-up

any dump site where known or suspected hazardous materials are present. In the event the inmate work crew discovers known or suspected hazardous materials at a dump site, the work crew supervisor shall immediately cease the cleanup activity until such time as the site is inspected and declared or made safe by the appropriate hazardous materials authority.

PERSONNEL MATTERS

5. The COUNTY agrees to provide for the performance of the duties hereunder two (2) FTE deputy sheriffs, and one point eight (1.8) FTE corrections officers. The COUNTY will provide one (1) FTE sergeant in place of one (1) FTE deputy sheriff, should the nature of the work performed under this contract require the skills, expertise, experience, and supervisory authority of a sergeant. The COUNTY will notify METRO in advance of assigning a sergeant to perform duties under this contract, and such assignment will be subject to METRO's prior approval. These persons are hereinafter referred to as "ASSIGNED PERSONNEL." For the purpose of this Agreement, one (1.0) FTE position means an employee who is regularly scheduled to work at least 40 hours per week.

6. The COUNTY and METRO agree that one or more of the deputy sheriffs provided hereunder may be provided by a law enforcement agency other than MCSO. In such event, the other law enforcement agency hereinafter shall be referred to as a "PARTICIPATING AGENCY."

7. The COUNTY agrees that the sergeant, deputy sheriffs, and corrections officers provided as ASSIGNED PERSONNEL shall be certified in their respective disciplines by the State's Board of Public Safety Standards and Training.

8. The COUNTY and METRO agree that the ASSIGNED PERSONNEL provided hereunder by MCSO or a PARTICIPATING AGENCY shall be and remain employees of the COUNTY or PARTICIPATING AGENCY. The ASSIGNED PERSONNEL shall be supervised by MCSO and shall perform their duties in accordance with the administrative and operational procedures of MCSO. Metro shall nevertheless retain the right, upon request and for cause stated, to have ASSIGNED PERSONNEL removed from assignment under this Agreement and replaced by other ASSIGNED PERSONNEL meeting the requirements of this Agreement.

9. METRO does not assume any liability for the direct payment of any wages, salaries, or other compensation to ASSIGNED PERSONNEL performing services pursuant to the terms of this Agreement or for any other liability not provided for in this Agreement.

10. The COUNTY shall maintain Workers' Compensation insurance coverage for ASSIGNED PERSONNEL, either as a carrier insured employer or a self-insured employer as provided in ORS Chapter 656.

11. The COUNTY and METRO agree that matters concerning direct or indirect monetary benefits, hours, vacations, sick leave, grievance procedures and other conditions of employment regarding ASSIGNED PERSONNEL under this Agreement shall be governed by the provisions of existing collective bargaining agreements between the ASSIGNED PERSONNEL's bargaining unit and their public employer.

12. The COUNTY and METRO agree that all labor disputes arising out of this Agreement shall be governed by the provisions of applicable collective bargaining agreements in effect during this Agreement, and the personnel rules of the COUNTY or PARTICIPATING AGENCY.

13. The COUNTY and METRO acknowledge that the ASSIGNED PERSONNEL will be absent from duty for various reasons, including but not limited to vacation, holiday, illness, injury, training, leave of absence, and administrative leave. The COUNTY and METRO also acknowledge that some employee absences are the result of paid leave that the ASSIGNED PERSONNEL earn and are entitled to take. The COUNTY and METRO also acknowledge that some employee absences are the result of actions taken by the employer, with or without the employee's consent. In accordance with the foregoing acknowledgments, the COUNTY and METRO agree:

    (a) Except as provided in subsection (b) below, the COUNTY will not be responsible or otherwise obligated to replace any ASSIGNED PERSONNEL who is absent due to paid accrued leave, including but not limited to: vacation, holiday, sick leave or who is absent while participating in training directly related to the services-required by METRO. However, the COUNTY will make a good faith effort to schedule known, projected absences so as to minimize the impact on the COUNTY's ability to perform under this Agreement.

    (b) The COUNTY or PARTICIPATING AGENCY will replace any ASSIGNED PERSONNEL who is absent more than 10 consecutive days during a year due to: 1) vacation; 2) employer action; including but not limited to training not related to or provided by this Agreement; 3) leave of absence granted at employer's discretion; 4) administrative leave; 5) sick leave; 6) maternity/paternity leave; or 7) absence due to a job related injury covered by worker's compensation.

    (c) In the event the COUNTY or PARTICIPATING AGENCY does not replace any ASSIGNED PERSONNEL, the COUNTY will not invoice METRO for those personnel costs.

14. The COUNTY shall rotate the primary corrections officers assigned to METRO at staggered intervals such that the METRO program does not have both of its primary corrections officers rotated out of the program within less than six months of each other.

15. The COUNTY shall rotate the deputy sheriffs assigned to METRO at staggered intervals such that the METRO program does not have both of its deputy sheriffs rotated out of the program within less than six months of each other.

OFFICE SPACE

16. METRO agrees to provide the ASSIGNED PERSONNEL with sufficient office space, to include payment of costs for utilities, including telephone service, at METRO's premises or at a site mutually agreed upon by the COUNTY and METRO.

EQUIPMENT PURCHASE, USE AND DISPOSITION

17. Materials and supplies will be purchased for the use of ASSIGNED PERSONNEL as provided hereunder. For the purpose of this Agreement, "materials' includes capital equipment with a unit cost of $1,000 or more. "Supplies" includes any item with a unit cost of less than $1,000.

18. METRO agrees to purchase all materials and supplies necessary for the performance of this Agreement.

19. The COUNTY and METRO agree that all vehicles and equipment purchased by METRO for use in fulfilling this agreement, including capital equipment, shall be owned by METRO but under the exclusive control of the COUNTY for the COUNTY's use in performing its duties under this Agreement. The COUNTY and METRO further agree that upon termination of this Agreement, control of all remaining materials and supplies purchased hereunder, including capital equipment, shall revert to METRO.

20. Notwithstanding the provisions of section 17, METRO may grant to the COUNTY an option to purchase from METRO any or all remaining materials and supplies at a price mutually agreed upon by the parties, not to exceed the fair market value of the items at the times of purchase. The COUNTY agrees to give METRO notice of the COUNTY's intent to exercise its option under this section within 60 days following termination of this Agreement.

CONTRACT COSTS

21. METRO shall pay COUNTY for all costs, services performed, and materials delivered for the term of this Agreement. By February 1 of each year, the MCSO shall provide METRO with a good faith estimate of the cost of this agreement for the following fiscal year. The actual amount to be paid by METRO will be determined through mutual agreement of the parties prior to each anniversary date of the execution of this Agreement. The amount to be paid by METRO for the term of the Agreement will not exceed THREE HUNDRED THIRTY-FIVE THOUSAND AND NO/100THS DOLLARS ($335,000.00). This maximum sum includes all fees, costs, and expenses of whatever nature to which COUNTY may become entitled for the term of this Agreement. All costs listed on Exhibit A, which is The Budget for the Agreement prepared by COUNTY, are on a "not to exceed" basis, and shall be billed quarterly for costs incurred, services performed, and materials delivered during the previous quarter. COUNTY shall submit itemized billings to METRO within 15 days of the end of each quarter of the contract year, and METRO shall make payment to COUNTY within 30 days of receipt of approved billings.

INDEMNIFICATION AND LIABILITY

22. The COUNTY shall indemnify, defend, and hold harmless METRO, its officers, employees, and agents from all claims, suits, actions, or expenses of any nature resulting from or arising out of the acts, errors, or omissions of the ASSIGNED PERSONNEL acting pursuant to the terms of this Agreement, within the limits of the Oregon Tort Claims Act and the Oregon Constitution.

23. METRO shall indemnify, defend, and hold harmless the COUNTY, its officers, employees, and agents, including ASSIGNED PERSONNEL from all claims, suits,

actions, or expenses of any nature resulting from or arising out of the acts, errors, or omissions of METRO or its assignees, within the limits of the Oregon Tort Claims Act and the Oregon Constitution.

DISPUTE RESOLUTION

24. While the parties have attempted to make an Agreement anticipating and addressing their concerns, METRO and the COUNTY acknowledge the possibility that a claim, controversy, or dispute may arise out of this Agreement. METRO and the COUNTY agree that each party has an obligation and affirmative duty to make a good faith effort to resolve any claim, controversy, or dispute, including the giving of timely, written notification thereof to the other party.

25. METRO and the COUNTY agree that all claims, controversies or disputes which arise out of this Agreement, and which have not been resolved through good faith efforts of the parties, shall be resolved by arbitration in accordance with the then effective arbitration rules of the Arbitration Service of Portland or the American Arbitration Association, whichever organization is selected by the party who first initiates arbitration by filing a claim in accordance with the rules of the organization selected, and any judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof.

CONTRACT ADMINISTRATION

26. The Multnomah County Sheriff or his designated representative will represent the COUNTY in all matters pertaining to administration of this Agreement.

27. METRO designates its Solid Waste & Recycling Dept. Director or his designee to represent METRO in all matters pertaining to administration of this Agreement.

28. Any notice or notices provided for by this Agreement or by law to be given or served upon either party shall be given or served by certified letter, deposited in the U.S. mail, postage prepaid, and addressed to:

Multnomah County Sheriff
501 SE Hawthorne Blvd., Ste 350
Portland, Oregon 97214

Solid Waste & Recycling Dept. Director
METRO
600 NE Grand Avenue
Portland, Oregon 97232

CONTRACT TERM, MODIFICATION, AND TERMINATION

29. This Agreement shall be effective from the 1st day of July, 2003, and shall run through the 30th day of June 2004, unless extended.

30. METRO and the COUNTY agree that either party to this Agreement may terminate said Agreement by giving the other party not less than 90 days written notice.

31. METRO and the COUNTY agree that this Agreement may be modified or amended by agreement of the parties. Any modification to this Agreement shall be

effective only when incorporated herein by written amendments and signed by both METRO and the COUNTY.

32. This Agreement is not intended to benefit any individual, employee, group of employees, corporation, or other legal entity other than the parties to this Agreement. This Agreement shall not be deemed to vest in any third party any rights, nor shall it be deemed to be enforceable by any third party in any legal, equitable, or administrative proceeding whatsoever.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers on the date written below.

MULTNOMAH COUNTY

By: Bernie Giusto by LAG
Bernie Giusto, Sheriff

Date: 6-18-03

By: Diane M. Linn
Diane M. Linn, Multnomah County Chair

Date: 07.10.03

APPROVED AS TO FORM:
Multnomah County Attorney

By: [illegible]
Asst. County Attorney

Date: 6/27/03

METRO

By: Michael Jordan
Michael Jordan,
Chief Operating Officer

Date: 6/16/03

APPROVED AS TO FORM:
Metro Attorney

By: _____
Marvin D. Fjordbeck,
Senior Asst. Counsel

Date: _____

SK:bjl
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APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-3 DATE 07.10.03
DEB BOGSTAD, BOARD CLERK

EXHIBIT A

MCSO Metro Unit Budget
7/1/03 – 6/30/04

Budget Detail:

G/L Code	Rev. Code	Description	Expenses	Revenues
60000		Permanent	205,193	
60110		Overtime		
60130		Salary-related expense	60,855	
60135		Non-Base(OT) fringe		
60140		Insurance benefits	51,256	
60145		Non-Base(OT) Ins.		
60170		Professional services		
60200		Communications	1,500	
60220		Repairs and maintenance		
60240		Petty cash		
60260		Education & training		
60350		Indirect costs (5.08%)	16,196	
	50200	Metro Service District	335,000	(335,000)
		Totals:		(335,00)

Actual MCSO Personnel Costs:

Job Class	FTE	Total	OT	Prem
Corr. Off.	0.9	75,948	-	-
Corr. Off.	0.9	73,335	-	-
Deputy	1.0	89,724	-	-
Deputy	1.0	91,813	-	-
Overtime Non-Base Fringe & Ins.		606	1,500	-
Totals	3.8	331,426	1,500	-

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: **July 10, 2003**
Agenda Item #: **C-4**
Est. Start Time: **9:30 AM**
Date Submitted: **06/27/03**

Requested Date: July 10, 2003 **Time Requested:** N/A

Department: Sheriff's Office **Division:** Enforcement

Contact/s: Dave Braaksma

Phone: 988-4415 **Ext.:** 84415 **I/O Address:** 503/350/Braaksma

Presenters: Dave Braaksma

Agenda Title: Renewal of Government Revenue Contract (190 Agreement) 0210310 with the Oregon State Marine Board for the Provision of Law Enforcement Services on the County Jurisdictional Waterways

NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide clearly written title.

---

1. **What action are you requesting from the Board? What is the department/agency recommendation?**
   Approval of government contract.

2. **Please provide sufficient background information for the Board and the public to understand this issue.**
   This agreement has been in effect since 1974. The MCSO receives money from the Oregon State Marine Board to enforce laws applicable to the waterways, investigate complaints of boating law violations and boating accidents and actively pursue Boating under the Influence violations.

3. **Explain the fiscal impact (current year and ongoing).**

The County will receive $493,119 from the Marine Board for these services, which is equivalent to last year's allocation. This was anticipated and is included in the FY04 budget.

4. **Explain any legal and/or policy issues.**
The County attorney has already reviewed this agreement.

5. **Explain any citizen and/or other government participation that has or will take place.**
The Oregon State Marine Board.

Required Signatures:

Department/Agency Director: Bernie Giusto **Date: 06/26/03**

Budget Analyst

By: **Date:**

Dept/Countywide HR

By: **Date:**

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

Contract #: 0210310
Amendment #:

Pre-approved Contract Boilerplate (with County Counsel signature) ☐Attached ☐Not Attached

CLASS I	CLASS II	CLASS III
☐ Professional Services not to exceed $50,000 (and not awarded by RFP or Exemption) ☐ Revenue not to exceed $50,000 (and not awarded by RFP or Exemption) ☐ Intergovernmental Agreement (IGA) not to exceed $50,000 ☐ Expenditure ☐ Revenue ☐ Architectural & Engineering not to exceed $10,000 *(for tracking purposes only)*	☐ Professional Services that exceed $50,000 or awarded by RFP or Exemption (regardless of amount) ☐ PCRB Contract ☐ Maintenance Agreement ☐ Licensing Agreement ☐ Construction ☐ Grant ☐ Revenue that exceeds $50,000 or awarded by RFP or Exemption (regardless of amount)	☒ Intergovernmental Agreement (IGA) that exceeds $50,000 ☐ Expenditure ☒ Revenue APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS AGENDA # C-4 DATE 07.10.03 DEB BOGSTAD, BOARD CLERK

Department: Sheriff's Office Division: ENF Date: 06/23/03
Originator: Captain Brett Elliot Phone: 988-6788 Bldg/Rm: 313/RPU
Contact: David Braaksma, Contracts Administrator Phone: 988-4415 Bldg/Rm: 503/350
Description of Contract: Funding for RPU to conduct Marine Law Enforcement
RENEWAL: ☐ PREVIOUS CONTRACT #(S): 0210028, 0210292
RFP/BID: RFP/BID DATE:
EXEMPTION #/DATE: EXEMPTION EXPIRATION DATE: ORS/AR #:
CONTRACTOR IS: ☐ MBE ☐ WBE ☐ ESB ☐ QRF ☒ N/A ☐ NONE *(Check all boxes that apply)*

Contractor Oregon State Marine Board
Address 435 Commercial St. NE
Salem, OR 97310-0650
Attn: Bill Rydblom
Phone 373-1405x239
Employer ID# or SS#
Effective Date July 1,2003
Termination Date June 30,2004
Original Contract Amount $ 493,119
Total Amt of Previous Amendments $
Amount of Amendment $
Total Amount of Agreement $ 493,119

Remittance address *(If different)*

Payment Schedule / Terms
☐ Lump Sum $ ☐ Due on Receipt
☐ Monthly $ ☐ Net 30
☐ Other $ ☐ Other
☐ Requirements Not to Exceed $
Encumber ☐ Yes ☐ No

REQUIRED SIGNATURES:

Department Manager DATE
Purchasing Manager *(Class II Contracts Only)* DATE
County Counsel Scott Taylor DATE 6-27-03
County Chair Diane Linn DATE 7.9.03
Sheriff Bernie Giusto by CAO DATE 6-26-03
Contract Administration *(Class I, Class II Contracts only)* DATE

LGFS VENDOR CODE						DEPT REFERENCE					
LINE #	FUND	AGENCY	ORG	SUB ORG	ACTIVITY	OBJ/ REV	SUB OBJ	REP CAT	LGFS DESCRIPTION	AMOUNT	INC DEC
01											
02											
03											

Exhibit A, Rev. 3/25/98 DIST: Originator, Accts Payable, Contract Admin - Original *If additional space is needed, attach separate page. Write contract # on top of page.*

ORIGINAL

CONTRACT
BOATING SAFETY AND LAW ENFORCEMENT SERVICES

This contract is entered into by and between the STATE OF OREGON, acting by and through its State Marine Board, hereinafter called the BOARD, and Multnomah County, through its' Sheriffs' Office hereinafter called the CONTRACTING PARTY, under the authority of ORS 830.110 and ORS Chapter 190.

A. DEFINITIONS

1. **"MSLE PPM"** shall mean the MARINE SAFETY LAW ENFORCEMENT POLICY AND PROCEDURES MANUAL, the reference manual that governs the boating safety law enforcement program

2. **"BOARD"** shall mean the Oregon State Marine Board.

3. **"CONTRACTING PARTY"** shall mean the County Sheriff. The execution and delivery and termination of this contract by the County must be approved by the County Court/County Board of Commissioners, as applicable.

4. **"AUTHORIZED EXPENDITURES"** shall mean those expenditures authorized by the BOARD as noted in the MSLE PPM.

B. BASIC SERVICES TO BE PROVIDED

The **CONTRACTING PARTY** will provide the following services in accordance herewith and with the MSLE PPM in order to promote safe boating practices on Oregon's waterways:

1. Enforce the applicable provisions of Oregon Revised Statutes, Chapters 830 and 704.

2. Enforce the applicable provisions of Oregon Administrative Rules, Chapter 250.

3. Investigate complaints of boating law violations.

4. Actively pursue Boating Under the Influence violations.

5. Investigate boating accidents as specified in the MSLE PPM.

6. Provide law enforcement examinations of boats.

7. Alert the public to unsafe boating conditions.

8. Provide assistance to boaters as warranted, search and rescue services being provided only as noted in the MSLE PPM.

9. Distribute such public information as may be provided by the BOARD.

10. Provide marine patrol coverage on all waters within county jurisdiction with a particular emphasis on those waters described in the Fiscal Year 03/04 Marine Safety and Law Enforcement Program ("Program") budget which is attached hereto as Exhibit A and made a part of this contract.

11. Implement Program improvements as set forth in the current edition of the Marine Law Enforcement Plan to the extent funding allows.

12. Actively participate in youth/school and adult education safety programs, but at a minimum introduce the "Aqua Smart" program in the second grade county wide.

C. CONTRACTING PERIOD

This contract shall be effective from July 1,2003 and shall run through June 30, 2004.

D. BUDGET

The BOARD will, upon receipt of cost/expenditure documentation, pay to the COUNTY an amount not to exceed in the aggregate the sub-total shown in the below listed BOARD column. These payments will be for such boating safety and law enforcement services as are contained in this contract and Exhibit A.

	Board	**Multnomah County**
Personnel Services	$ 493,119	$ 904,645
Services and Supplies	$ 0	$ 130,874
Instructor Support	$ 0	$ 0
Capital Outlay	$ 0	$ 5,000
Sub-Total	$ 493,119	$ 1,040,519

Grand Total Program **$ 1,533,638**

E. PAYMENT SCHEDULE

Payments to the CONTRACTING PARTY shall be made on a **semi-annual** basis for Authorized Expenditures actually incurred in accordance with the MSLE PPM and shall be paid within thirty (30) days of receipt of a signed State Marine Board voucher and supporting documentation denoting such expenditures. This expenditure report must also display those expenses and/or expenditures which will constitute the program match. The final request for payment must be received at the State Marine Board office no later than July 31 immediately following the conclusion of the contract period (unless otherwise advised.)

F. GENERAL PROVISIONS

1. The CONTRACTING PARTY shall perform the services required under this contract as an independent contractor. Each party shall be responsible exclusively with respect to their employees, for providing for employment-related benefits and deductions that are required by law, including but not limited to federal and state income tax deductions, workers' compensation coverage, and contributions to the Public Employees Retirement System. Any wages, salaries or reimbursements made to employees of the CONTRACTING PARTY shall be at a reasonable rate as compared to the rate for similar work within the CONTRACTING PARTY's county and similar surrounding counties.

   Each party shall be responsible, to the extent required by the Oregon Tort Claims Act, ORS 30.260-30.300, only for the acts, omissions or negligence of its own officers, employees or agents.

2. During the term of this contract, the CONTRACTING PARTY shall provide insurance to cover all loss, damage or injury to equipment purchased under this contract, in an amount no less than the purchase price thereof. Such insurance shall be provided by the CONTRACTING PARTY through an insurer duly authorized to do business in the State of Oregon but may be provided by self-insurance. Any proceeds from insurance or self-insurance shall be applied to the repair or replacement of the damaged equipment unless the CONTRACTING PARTY receives prior written direction or authorization from the BOARD to otherwise dispose of the proceeds.

3. This contract is subject to all applicable federal Assurances specified in Exhibit B attached hereto and by this reference made a part hereof. If applicable, CONTRACTING PARTY shall provide the BOARD its Annual Comprehensive Financial Report as required in the Single Audit Act of 1984, 31 U.S.C. §§7501-7507 (1994) *as amended by* Pub.L. 104-156, §§1-3, 110 Stat. 1397 (1966). At the end of each fiscal year during the term of this contract, the CONTRACTING PARTY will be notified of the amount of federal pass-through dollars included in the payments made by the Board to the CONTRACTING PARTY during that fiscal year.

4. Performance by either party to this contract shall be contingent upon funding being obtained at a sufficient level to allow for purchase of the indicated quantity of services.

5. Payment requests shall only be for services provided by the CONTRACTING PARTY pursuant to this contract and for costs incurred by the CONTRACTING PARTY in conjunction with such services and the Marine Law Enforcement program (including salaries, supplies and/or purchases of equipment).

G. BOARD RESPONSIBILITIES

1. The BOARD and its officers, agents and employees shall neither solicit nor accept gratuities, favors, or anything of monetary value from the CONTRACTING PARTY.

2. The BOARD shall maintain selected records of marine effort and activity in order to assure adequate performance within the terms, conditions, and specifications of this contract.

3. The BOARD acknowledges and agrees that the ownership of any boat purchased by the CONTRACTING PARTY during the term of this contract shall be vested in the CONTRACTING PARTY regardless of funding source, subject to Section H.7 hereof.

H. CONTRACTING PARTY RESPONSIBILITIES

1. The CONTRACTING PARTY shall furnish and supply all necessary labor, supervision, equipment, communications, facilities, and supplies necessary to provide the level of service described in the MSLE PPM and the CONTRACTING PARTY's proposed marine patrol budget.

2. Standards of performance, discipline of officers, and other matters incidental to the performance of the services required to be performed hereunder by the CONTRACTING PARTY and the control of personnel performing such services shall at all times be the responsibility of the CONTRACTING PARTY.

3. Personnel assigned by the CONTRACTING PARTY to the duty of boating law enforcement shall be mentally and physically capable of performing such duties. They shall have a thorough knowledge of boating laws and regulations and the powers, duties, and limitations of the authority of police officers. They shall have a thorough knowledge of the operation of small boats and the rules and regulations pertaining thereto. All marine patrol personnel, other than assistants, must complete the Marine Law Enforcement Training Course approved by the BOARD and be marine certified.

4. All persons engaged in the boating law enforcement program shall actively cooperate with the BOARD.

5. The CONTRACTING PARTY shall not enter into any subcontracts for marine law enforcement services required to be provided hereunder by the CONTRACTING PARTY without the prior written approval of the BOARD. The BOARD's consent to any subcontract shall not relieve the CONTRACTING PARTY of any of its duties or obligations under this contract.

6. The CONTRACTING PARTY shall maintain all fiscal records relating to this contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this contract in such a manner as to clearly document the CONTRACTING PARTY's performance. The CONTRACTING PARTY acknowledges and agrees that Board and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans and writings of the CONTRACTING PARTY that are pertinent to this contract to perform examinations and audits and make excerpts and transcripts. The CONTRACTING PARTY shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of seven (7) years, or such longer period as may be required by applicable law, following final payment and termination of this contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this contract, whichever date is later.

7. The CONTRACTING PARTY agrees to maintain in good working condition any boat or major piece of equipment purchased, in whole or in part, by the CONTRACTING PARTY with funds received pursuant to this contract. Preventative maintenance schedules for boats and trailers will be established and be adhered to.

Further, upon the trade-in or sale of a boat or major piece of equipment purchased, in whole or in part, with funds received pursuant to this contract, any proceeds derived from such trade-in or sale shall remain in the CONTRACTING PARTY'S marine budget for use in the Marine Law Enforcement program. Upon termination of this contract, all boats and major pieces of equipment purchased, in whole or in part, with funds received pursuant to this contract shall be returned to the BOARD for reassignment.

8. The CONTRACTING PARTY agrees that the use of any boat or major piece of equipment purchased, in whole or in part, by the CONTRACTING PARTY with funds provided pursuant to this contract shall be limited to activities necessary to carry out the provisions of this contract and such other authorized activities as contained in the MSLE PPM.

9. The CONTRACTING PARTY agrees that each person employed for the purpose of fulfilling provisions of this contract shall wear a Coast Guard approved personal flotation device (life jacket) while working or riding in boats.

10. The CONTRACTING PARTY covenants that it will improve performance in all areas identified in prior written communication such as monthly report cards, field evaluations as well as other pertinent documents. And as recommended by State auditors, the CONTRACTING PARTY must comply with performance norms as outlined in MSLE PPM. Performance will be monitored periodically for purpose of noting improvement and to document the CONTRACTING PARTY's compliance with Section H.10. Such information may be considered by the Board in future contract negotiations and non-compliance with MSLE PPM performance standards, may identify the CONTRACTING PARTY's program as a candidate for audit and may place the CONTRACTING PARTY's program at risk of funding reductions.

11. The CONTRACTING PARTY shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this contract. The Board's performance under this contract is conditioned upon the CONTRACTING PARTY's compliance with the provisions of ORS 279.312, 279.314, 279.316, 279.320, and 279.555, which are incorporated by reference herein.

I. TERMINATION

1. This contract may be terminated by mutual consent of both parties; by either party on 30 days notice; or by either party upon 20 days notice under any of the following conditions:

   a. If funding from federal, state or other source(s) is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. When possible, and when agreed upon, the contract may be modified to accommodate a reduction in funds.

   b. If any federal, state, local or county law, regulation, ordinance or guideline is modified or changed in such a way that the services are no longer allowable or appropriate for purchase under this contract.

   c. If the CONTRACTING PARTY commits any material breach or default of any covenant, warranty, obligation or agreement under this contract, and such breach, default or failure is not cured within such 20 day period after delivery of the Board's notice.

2. The Board shall be entitled to any and all rights and remedies at law or in equity.

J. FORCE MAJEURE

1. Neither the Board nor the CONTRACTING PARTY or the BOARD shall be held responsible for delay or failure to perform when such acts or delay or failure is due to fire, flood, epidemic, strikes, acts of God or the public enemy, legal acts of public authorities, or delays or defaults caused by public carriers, which cannot be reasonably foreseen or provided against.

K. MISCELLANEOUS

1. Except as otherwise expressly provided in this contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to the CONTRACTING PARTY or the BOARD at the address or number set forth on the signature page of this contract, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section J.1. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

2. This contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the BOARD (and/or any other agency or department of the State of Oregon) and the CONTRACTING PARTY that arises from or relates to this contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

3. The BOARD and the CONTRACTING PARTY are the only parties to this contract and are the only parties entitled to enforce its terms. Nothing in this contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this contract.

THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES ON THE SUBJECT MATTER HEREOF. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. CONTRACTING PARTY, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, DOES HEREBY ACKNOWLEDGE THAT IT HAS READ THIS CONTRACT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

IN WITNESS WHEREOF, this instrument has been executed by each of the parties signatory hereto.

STATE OF OREGON
acting by and through its
STATE MARINE BOARD

Paul Donheffner
Director /Assistant Director

6/6/03
Date

Multnomah County

Bernie Giusto by LAG
Title: Sheriff

6-26-03
Date

APPROVED: Multnomah County Court/Board of County Commissioners

Diane M. Linn, Multnomah County Chair

Reviewed:
County Counsel for
Multnomah County

By: [illegible] 6/27/03
Assistant County Counsel Date

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-4 DATE 07-10-03
DEB BOGSTAD, BOARD CLERK

EXHIBIT "A"
PROGRAM BUDGET
MARINE SAFETY AND LAW ENFORCEMENT SERVICES

SEE ATTACHED BUDGET
NEXT PAGE

MARINE SAFETY AND LAW ENFORCEMENT PROGRAM BUDGET

F/Y 03/04 **PROPOSED** 2/1/03 (Date) **APPROVED (SMB)** BR/OK (Date)

Multnomah County Sheriff **Agency PROGRAM LENGTH** Year-Round (Seasonal/Year-round)

Budget Preparer: David Hadley

Title: Sergeant **Phone:** 503-988-6788

I. FUNDING:

Source	Amount	Indicate Cash Amount	Indicate In-Kind Amount
Marine Board	$ ~~505,697~~ 493,119	$ 493,119	$
Agency Match *	$ 1,040,519	$ 1,040,519	$
Other Oregon State Parks Contract	$ ~~16,000~~ BR	$	$
Total Program	$ ~~1,561,216~~ 1,533,638 BR	$ 1,533,638	$

See Comments BR

II. OPERATIONS:

A. Patrol Vessels: (Include non-registered/non-powered vessels)

OR 283 XCX OR 183 XCX OR 17 XCX OR 282 XCX OR 311 XCX
OR 204 XCX OR 331 XCX OR 497 TS OR 324 XCX OR 247 XCX
OR 215 XCX OR 281 XCX

B. Patrol Areas: (If a river, specify upstream to downstream limits.)

Be specific; do not estimate 40 hours per week, 52 weeks a year unless you intend to meet that commitment. (Some water bodies may require only a few weeks of coverage and a few hours or less per visit.) Page 3 to be duplicated for additional water bodies.

(1) Body of Water COLUMBIA RIVER - Bonneville Dam (RM146) to Mid Sauvie Island (RM 96)

Average hours of patrol per week Winter 30/Summer 60
Number of weeks coverage 52

Estimated hours of coverage per year 2040

(2) Body of Water Willamette River Mouth to Elk Rock (RM 18.5)

Average hours of patrol per week Winter 20/Summer 80
Number of weeks coverage 52

Estimated hours of coverage per year 1810

B. Patrol Areas: (Continued)

(3) Body of Water: Multnomah Channel - Head to Scappoose (RM10)

Average hours of patrol per week: Winter 3/Summer 10
Number of week coverage: 52

Estimated hours of coverage per year: 356

(4) Body of Water: Sand River Mouth to Oxbow Park

Average hours of patrol per week: 0
Number of weeks coverage: ON CALL BASIS

Estimated hours of coverage per year: 10

(5) Body of Water: BLUE LAKE/FAIRVIEW LAKE
Average hours of patrol per week: 0
Number of weeks coverage: ON CALL BASIS

Estimated hours of coverage per year: 0

(6) Body of Water: _____

Average hours of patrol per week: _____
Number of weeks coverage: _____

Estimated hours of coverage per year: _____

(7) Body of Water: _____

Average hours of patrol per week: _____
Number of weeks coverage: _____

Estimated hours of coverage per year: _____

B. Patrol Areas: (Continued)

( ) Body of Water _____

Average hours of patrol per week _____
Number of weeks coverage _____

Estimated hours of coverage per year _____

( ) Body of Water _____

Average hours of patrol per week _____
Number of weeks coverage _____

Estimated hours of coverage per year _____

( ) Body of Water _____

Average hours of patrol per week _____
Number of weeks coverage _____

Estimated hours of coverage per year _____

( ) Body of Water _____

Average Hours of patrol per week _____
Number of weeks coverage _____

Estimated hours of coverage per year _____

( ) Body of Water _____

Average hours of patrol per week _____
Number of weeks coverage _____

Estimated hours of coverage per year _____

* **Patrol Coverage**
Total of all water bodies 4216

III. PERSONNEL:

A. Program Manager (and rank) CAPTAIN BRETT ELLIOTT

Phone Number 503-988-6788 Fax Number 503-988-4099

B. Number of marine certified personnel to be assigned:

1. Seasonal: Number of Full-time: 4 Part-time: _____

	Full-time	Part-time
Names:	Sergeant	
	Deputy	
	Deputy	
	Deputy	

2. Year Around: Number of Full-time: 9 Part-time: _____

	Full-time	Part-time
Names:	Sgt. Dave Hadley	
	Deputy Sarah Frost	
	Deputy Scott McDowell	
	Deputy Dan Austin	
	Deputy Tom Sawyer	
	Deputy Mike Heffernan	
	Deputy Scott McLellan	
	Deputy Erik Gustafson	
	Deputy Brett Lort	

03/04 LE BUDGET

C. MARINE PATROL							(Cash + In-Kind)	
				SMB	AGENCY	AGENCY	TOTAL	TOTAL
				Share	Cash	In-Kind	Agency Share	Program
1.)	10.5 FTE	# of Officers						
		(FTE or Seasonal)						
	40	Hrs. Per Week Each						
X	$39.37	Rate Per Hour						
		(Hourly Rate, Benefits,						
		Dept. Overhead, S/S,						
		Taxes, Health Ins.)						
52	# Weeks	2096		$ ~~505,697~~	$ 360,757	$	$	$ ~~866,454~~
				493119				853,876
2.)	1 FTE	# of Officers		SMB	AGENCY	AGENCY	TOTAL	TOTAL
	SGT	(FTE or Seasonal)		Share	Cash	In-Kind	Agency Share	Program
X	40	Hrs. Per Week Each						
X	$ 48.36	Rate Per Hour						
		(Hourly Rate, Benefits,						
		Dept. Overhead, S/S,						
		Taxes, Health Ins.)						
52	# Weeks	2096			$ 101,362	$	$	$ 101,362
				SMB	AGENCY	AGENCY	TOTAL	TOTAL
				Share	Cash	In-Kind	Agency Share	Program
3.)	3	# of Officers						
	Seasonal	(FTE or Seasonal)						
X	40	Hrs. Per Week Each						
X	$ 39.37	Rate Per Hour						
		(Hourly Rate, Benefits,						
		Dept. Overhead, S/S,						
		Taxes, Health Ins.)						
13	# Weeks	1560			$ 61,417	$	$	$ 61,417
	Page 5 Subtotal			$ ~~505,697~~	$ 523,536	$	$	$ ~~1,029,233~~
				493119				1,016,655

1,850

00

760

03/04 LE BUDGET

C. MARINE PATROL				SMB Share	AGENCY Cash	AGENCY In-Kind	TOTAL Agency Share	TOTAL Program
4.)	1 SGT	# of Officers						
	Seasonal	(FTE or Seasonal)						
X	40	Hrs. Per Week Each						
X	$ 48.36	Rate Per Hour						
		(Hourly Rate, Benefits,						
		Dept. Overhead, S/S,						
		Taxes, Health Ins.)						
13	# Weeks	520		$	$ 25,147	$	$	$ 25,147
5.)	**Overtime**			**SMB**	**AGENCY**	**AGENCY**	**TOTAL**	**TOTAL**
(Specify # Hrs. F/T and P/T)				**Share**	**Cash**	**In-Kind**	**Agency Share**	**Program**
Deputy	$ 50.20	x1500 Hrs			$ 75,300			$ 75,300
Sgt.	$ 65.11	x200 Hrs			$ 13,022			$ 13,022
Mar Spec	$ 43.52	x200 Hrs			$ 8,704			$ 8,704
	Subtotal O/T			$	$ 97,026	$	$	$ 97,026
				SMB	**AGENCY**	**AGENCY**	**TOTAL**	**TOTAL**
MARINE SPECIALIST				**Share**	**Cash**	**In-Kind**	**Agency Share**	**Program**
	.1	# of Persons						
	FTE	(FTE or Seasonal)						
X	40	Hrs. Per:						
X	$ 32.79	Rate Per Hour						
		(Hourly Rate, Benefits,						
		Dept. Overhead, S/S,						
		Taxes, Health Ins.)						
52	# Weeks	2096			$ 68,727	$	$	$ 68,727
	Pg. 6 Subtotal				$ 190,900	$	$	$ 190,900

520

900

23,530 est Total P/S available for Patrol

03/04 LE BUDGET

E. SUPERVISION				SMB	AGENCY	AGENCY	TOTAL	TOTAL
CAPTAIN				Share	Cash	In-Kind	Agency Share	Program
	1	# of Persons						
	FTE	(FTE or Seasonal)						
X	40	Hrs. Per:						
X	$ 61.47	Rate Per Hour						
		(Hourly Rate, Benefits,						
		Dept. Overhead, S/S,						
		Taxes, Health Ins.)						
52	# Weeks	2096		$	$ 128,841	$	$	$ 128,841
F. OTHER (Specify)				**SMB**	**AGENCY**	**AGENCY**	**TOTAL**	**TOTAL**
(Office space, phones, etc.)				Share	Cash	In-Kind	Agency Share	Program
Office Space					$ 46,768			$ 46,768
Telephone					$ 8,000			$ 8,000
Prof Servc /Printing					$ 1,800			$ 1,800
Electronic Services					$ 4,800			$ 4,800
				$	$ 61,368	$	$	$ 61,368
BUII Enforcement		(%____)		**SMB**	**AGENCY**	**AGENCY**	**TOTAL**	**TOTAL**
(In addition to III.C Marine Patrol)				Share	Cash	In-Kind	Agency Share	Program
		# of Officers						
		(FTE or Seasonal)						
X		Hrs. Per Week Each						
X	$	Rate Per Hour						
		(Hourly Rate, Benefits,						
		Dept. Overhead, S/S,						
		Taxes, Health Ins.)						
X	# Weeks	=		$	$	$	$	$
	Page 7 Subtotal			$	$ 190,209	$	$	$ 190,209
	Page 6 Subtotal			$ 495119	$ 190,900	$	$	$ 190,900
	Page 5 Subtotal			$ ~~505,697~~	$ 523,536	$	$	$ ~~1,029,233~~ 1,018,655
				495119				
TOTAL PERSONNEL SERVICES				$ ~~505,697~~	$ 904,645	$	$	$ ~~1,410,342~~ 1,399,764

700

03/04 LE BUDGET

IV. SERVICES AND SUPPLIES	SMB Share	AGENCY Cash	AGENCY In-Kind	TOTAL Agency Share	TOTAL Program
A. Fuel 25000 Gallons X 1.50/Gal		$ 37,500			$ 37,500
(Fleet Srvcs., Boats, Vehicles.)					
B. Vehicle Cost per mile_____					
(Other) Motor Pool		$ 28,000			$ 28,000
C. Other Expendable Supplies		$ 55,624			$ 55,624
(Oil, Grease, etc.)					
D. Training (Please List)					
E. Insurance (company name) _____					
Self Insured? Yes/No (indicate)					
F. Maintenance (max.$500 per boat		$ 9,750			$ 9,750
seasonal prog./$750 year round prog.)					
G. Other (Moorage, Storage, Office, Phone,					
Uniforms, equipment, ect. / please itemize)					
2 H. Instructor Support Line Item	$ ~~2,000~~	Delete w/k			$ ~~2,000~~
(no match required)					
I. Dispatch Services					
Subtotal S & S	$ ~~2,000~~	$ 130,874	$	$	$ 132,874
Subtotal Marine Equipment	$	$	$	$	$
Total Services & Supplies	$ ~~2,000~~	$ 130,874	$	$	$ ~~132,874~~ 130,874

03/04 LE BUDGET

V. CAPITAL OUTLAY/PLANNED REPLACEMENTS

(Note: C/O is equipment in excess of $ 500.00 each.)

Item	Qty.	Unit Cost	SMB Share	AGENCY Cash	AGENCY In-Kind	TOTAL Agency Share	TOTAL Program
Emergency Needs				$ 5,000.00			$ 5,000.00
TOTAL CAPITAL OUTLAY			$	$ 5,000.00	$	$	$ 5,000.00

VI. TOTAL PROGRAM COST ESTIMATE

	TOTAL PROGRAM	
PERSONNEL COSTS	$ ~~1,425,634~~	1,399,764
SERVICES & SUPPLIES	$ ~~132,874~~	130,874
CAPITAL OUTLAY	$ 5,000	
TOTAL PROGRAM ESTIMATE	$ ~~1,548,216~~	1,535,638

VII. FUNDING RECAP

(Note: SMB Share/4 = Minimum Match or 20% X Total Program)

	SMB Share	AGENCY Cash	AGENCY In-Kind	TOTAL Agency Share	TOTAL Program
Personnel Services	$ ~~505,697~~ 493,119	$ 904,645	<$16,000>	$ 904,645	$ ~~1,426,342~~ 1,399,764
			State Parks Contract cash not in kind		
Services & Supplies	$	$ 130,874		130,874	$ 130,874
Capital Outlay	$	$ 5,000	$	$ 5,000	$ 5,000
Instructor Support	$ 0 ~~2,000~~				$ ~~2,000~~
Total	$ ~~507,697~~ 493,119	$ 1,040,519	$ ~~16,000~~	1,040,519	$ ~~1,564,216~~ 1533,638

Changes by BR/SMB

III. ADDITIONAL AGENCY COMMENTS: _____

SUBMITTED BY: _____
(Sheriff, Agency Head or Designate and title)

DATE: 2/12/2003

XI. Marine Board Comments: (1) ST. P/S Contract Doesn't Need to be identified as part of SMB budget. (2) INST-Support $2,000 is NOT Authorized (or Needed) this year.

SMB funding was limited to FY 01-03 levels with zero COLA/INFLATION for FY 03/04. Therefore your proposal (SMB allocation) needed to be trimmed by 12,578. $2,000 from INST Support and $10,578 from P/S.

Signed: _____ Date: June 2/03

MULTNOMAH COUNTY SHERIFF'S OFFICE

501 SE HAWTHORNE BLVD., SUITE 350 • PORTLAND, OR 97214

Exemplary service for a safe, livable community

BERNIE GIUSTO
SHERIFF

503 988-4300 PHONE
503 988-4500 TTY
www.sheriff-mcso.org

Oregon State Marine Board
435 Commercial St. NE #400
Salem, OR 97301
ATTN: Bill Rydblom, L/E Program Administrator

February 13, 2003

RE: 03/04 Marine Safety and Law Enforcement Program Budget

Attached you will find our fiscal year 03/04 budget. If you should have any questions about the budget numbers, feel free to contact Sergeant David Hadley at (503) 988-6788. You may also email questions to him at: david.l.hadley@co.multnomah.or.us . For my records if you correspond via email, please cc me at the email address below.

Upon completion of the contract packet, it should be mailed to me at the address provided, as I will be responsible for routing the contract through our county contract processes.

Sincerely,

Dave Braaksma
Contracts Administrator
Multnomah County Sheriff's Office
501 SE Hawthorne Blvd. Suite 350
Portland OR 97214
(503) 988-4415
Fax (503) 988-4317
david.a.braaksma@co.multnomah.or.us

EXHIBIT "B"
ASSURANCES - NON-CONSTRUCTION PROGRAMS
MARINE SAFETY AND LAW ENFORCEMENT SERVICES

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance or personal or organizational conflict of interest or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728-4763) relating to prescribed standards for merit systems for programs funded under one on the 19 statues or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900 Subpart F).

6. Will comply with all Federal statues relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683, and 1685-1688), which prohibits discrimination on the basis of sec; (c) Section 504 of the Rehabilitation Act of 1973, as amended

(29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) 523- and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3) as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) As amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provision in the specific states(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis Bacon Act (40 U.S.C. 276a to 276a-7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11968; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h)

protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205)

12. Will comply with Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.)

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be preformed the required financial and compliance audits in accordance with the Single Audit Act Amendments f 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

Signature of Authorized Certifying Official	**Title**
Bernie Giusto by LAB	Sheriff
Applicant Organization	**Date Submitted**
Multnomah County SO	6-26-03

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: **July 10, 2003**
Agenda Item #: **R-1**
Est. Start Time: **9:30 AM**
Date Submitted: **06/26/03**

Requested Date: July 10, 2003 **Time Requested:** 5 Minutes

Department: DCJ/DBCS **Division:** Budget Office

Contact/s: Mark Campbell

Phone: 503 988-5000 **Ext.:** x24213 **I/O Address:** 503/4

Presenters: Mark Campbell/Michael Haines/Sharon James

Agenda Title: RESOLUTION Establishing Fees and Charges for Chapter 17, Community Justice, of the Multnomah County Code and Repealing Resolution No. 00-078

---

1. **What action are you requesting from the Board? What is the department/agency recommendation?**
   Approve the resolution to increase the Alternative Corrections Program fee (17.003) and the Parenting Education Program fee (17.102).

2. **Please provide sufficient background information for the Board and the public to understand this issue.**
   ORS 423.570 authorizes the imposition of a monthly fee payable by persons on supervised release. The fee is designed to offset the costs incurred in supervising probation, parole, post-prison supervision, or other supervised release of clients assigned to DCJ.

   The current fee is established at $25 per month. It can be waived in cases of financial hardship at the discretion of the court or the department. The fee has never been raised in Multnomah County. At the current rate it is among the lowest supervision fees charged by any of the other counties in Oregon. This resolution proposes to increase the fee to a rate of **$35 per month**. This is consistent with the fees charged in 23 of the other 35 counties in the state.

The Parenting Education Program fee is currently established at $45 per parent who participates in the program. This resolution will **increase the fee to $60** with the stipulation that it will be reduced to the current level if the participant(s) register for the program within 45 days from when an action was filed.

This change is not designed to increase program revenues. Rather, the intent of the fee increase is to provide motivation for individuals to register for the program in a timely fashion.

3. **Explain the fiscal impact (current year and ongoing).**
Multnomah County supervises between 9,000 – 10,000 clients each month. On average, DCJ receives payment from approximately 1,400 individuals in a month. At $25 per month the fee has generated the following revenue over the past two years:

FY 01-02	$771,790
FY 02-03	$840,000 (Estimated)

The FY 03-04 budget assumes **additional revenue of $250,000** as a result of the proposed fee increase. That estimate may be conservative. The additional revenue is assumed to be ongoing.

The fee increase is recommended, in part, to support a greater share of the costs associated with the adult supervision programs and also to offset state budget reductions proposed for the FY 03-05 biennium.

There are approximately 2,500 parents who participate in the Parenting Education Program. If they all registered after the initial 45 day period the program would increase its revenue by **$37,500 annually**. We do not expect to realize that much revenue as it is likely the higher fee will encourage people to register within the first 45 days.

4. **Explain any legal and/or policy issues.**
The ability of clients to pay the increased Alternative Corrections Program fee may be a concern. The revenue estimate has been discounted slightly to reflect the potential that more hardship waivers may be granted as a result of the fee increase.

5. **Explain any citizen and/or other government participation that has or will take place.**
N/A

Required Signatures:

M. Cecilia Johnson

Department/Agency Director: **Date: 06/26/03**

Budget Analyst
By: **Date:**

Dept/Countywide HR
By: **Date:**

2003 SUPERVISION FEES BY COUNTY

COUNTY	Supervision Fee Amt
Baker	$30
Benton	$25 field / $20 case bank
Clackamas	$45 field / $35 case bank
Clatsop	$40
Columbia	$40 Probation / $25 Parole
Coos	$35
Crook	$30
Curry	$25
Deschutes	$35
Douglas	$35
Grant	$25
Harney	$35
Hood River	$25
Jackson	$35
Jefferson	$35
Josephine	$35
Klamath	$35
Lake	$25 / may increase soon
Lane	$35
Lincoln	$25 to $35
Linn	$25
Malheur	$35 Felony / $50 Misdemeanor
Marion	$35
Morrow	$35
Multnomah	$25 now / $35 as of 07/01/03
Polk	$35
Tillamook	$25
Tri-Counties:	
Gilliam	$35
Sherman	$35
Wheeler	$35
Umatilla	$35
Union	$25
Wallowa	$25
Wasco	$30
Washington	$35 Probation / $25 Parole
Yamhill	$35

March 6, 2003

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Establishing Fees and Charges for Chapter 17, Community Justice, of the Multnomah County Code and Repealing Resolution No. 00-078

The Multnomah County Board of Commissioners Finds:

a. Chapter 17, Community Justice, of the Multnomah County Code provides that the Board shall establish certain fees and charges by resolution.

b. On May 18, 2000, the Board adopted Resolution 00-078 establishing fees for MCC Chapter 17.

c. The Board wishes to increase the alternative corrections program fee authorized by MCC § 17.003 to bring it into line with the fees charged by other counties in Oregon.

d. The Board also wishes to increase the parenting education program fee. To encourage early registration and expedite the court process, the Board will reduce the fee if registration is completed in a timely manner.

e. All other fees established by Resolution 00-078 remain the same.

The Multnomah County Board of Commissioners Resolves:

1. The fees and charges for Chapter 17, Community Justice, of the Multnomah County Code are set as follows:

Section 17.003. ALTERNATIVE CORRECTIONS PROGRAM; FEE.

Multnomah County community corrections shall charge a fee of $35.00 to any offender sentenced to a community service sentence of 40 hours or more. In the case of documented indigence, the fee shall be waived. All fees collected under this section shall be used to fund services provided by the alternative community service program. An offender under obligation to repay may petition the sentencing court for waiver of the fee under conditions of manifest hardship. No offender may be held in contempt for failure to pay if the default is not attributable to intentional refusal to pay.

Section 17.100. MARRIAGE LICENSES; FEES.

A fee of $10.00 shall be charged for the issuance of a marriage license in addition to that fee prescribed by subsection (7) of ORS 205.320. Fees collected pursuant to this section shall be used to finance the cost of conciliation services provided under ORS 107.510 to 107.615.

Section 17.101. DOMESTIC RELATIONS SUIT; FILING FEE.

(A) The Multnomah County portion of the fee for filing a domestic relations suit in the circuit court of Multnomah County shall be $150.00. Total receipts from these filings shall be utilized to fund conciliation and mediation services provided by the family court services division.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 03-098

Establishing Fees and Charges for Chapter 17, Community Justice, of the Multnomah County Code and Repealing Resolution No. 00-078

The Multnomah County Board of Commissioners Finds:

a. Chapter 17, Community Justice, of the Multnomah County Code provides that the Board shall establish certain fees and charges by resolution.

b. On May 18, 2000, the Board adopted Resolution 00-078 establishing fees for MCC Chapter 17.

c. The Board wishes to increase the alternative corrections program fee authorized by MCC § 17.003 to bring it into line with the fees charged by other counties in Oregon.

d. The Board also wishes to increase the parenting education program fee. To encourage early registration and expedite the court process, the Board will reduce the fee if registration is completed in a timely manner.

e. All other fees established by Resolution 00-078 remain the same.

The Multnomah County Board of Commissioners Resolves:

1. The fees and charges for Chapter 17, Community Justice, of the Multnomah County Code are set as follows:

Section 17.003. ALTERNATIVE CORRECTIONS PROGRAM; FEE.

Multnomah County community corrections shall charge a fee of $35.00 to any offender sentenced to a community service sentence of 40 hours or more. In the case of documented indigence, the fee shall be waived. All fees collected under this section shall be used to fund services provided by the alternative community service program. An offender under obligation to repay may petition the sentencing court for waiver of the fee under conditions of manifest hardship. No offender may be held in contempt for failure to pay if the default is not attributable to intentional refusal to pay.

Section 17.100. MARRIAGE LICENSES; FEES.

A fee of $10.00 shall be charged for the issuance of a marriage license in addition to that fee prescribed by subsection (7) of ORS 205.320. Fees collected pursuant to this section shall be used to finance the cost of conciliation services provided under ORS 107.510 to 107.615.

Section 17.101. DOMESTIC RELATIONS SUIT; FILING FEE.

(A) The Multnomah County portion of the fee for filing a domestic relations suit in the circuit court of Multnomah County shall be $150.00. Total receipts from these filings shall be utilized to fund conciliation and mediation services provided by the family court services division.

(B) A child custody evaluation case-opening fee of $150.00 shall be assessed in domestic relations suits in the circuit court of Multnomah County involving minor children, at the time court ordered custody investigation is instituted. Both parties to the suit are responsible for payment of the fee. The fee may be assessed as costs at the time of the decree.

(1) Total receipts from the case-opening fee shall be utilized to fund the Family Court Services Division. Persons eligible for legal aid counsel may have the custody evaluation case-opening fee deferred, upon application to and approval of the director of Family Court Services, or that person's designee.

(2) The director of Family Court Services shall establish written criteria to be used in reviewing application for fee deferral, consistent with local court rules regarding deferral of filing fees.

(C) The Multnomah County portion of the fee for filing a motion to modify a decree shall be $50.00, for a total filing fee of $95.00, and the moving party shall pay the total fee.

Section 17.102. PARENTING EDUCATION PROGRAM; FEE FOR PARTICIPATION.

(A) Effective September 1, 2003, a fee of $60.00 shall be collected from each parent participating in the parenting education program of the Department of Community Justice, Family Court Services. However, if registration occurs within 45 days of the date of filing an action, or 45 days after service is received, the fee shall be reduced to $45.00. Fees collected pursuant to this section shall be used to finance the cost of the Parent Education Program.

(B) The Department of Community Justice, Family Court Services shall establish policy and procedures whereby persons who are in financial difficulty may apply for a deferral of the fee, a waiver of the fee, or both.

2. This resolution takes effect and Resolution No. 00-078 is repealed on July 10, 2003.

ADOPTED this 10th day of July, 2003.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By
Jacqueline A. Weber, Assistant County Attorney

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: **July 10, 2003**
Agenda Item #: **R-2**
Est. Start Time: **9:35 AM**
Date Submitted: **06/16/03**

Requested Date: July 10, 2003 **Time Requested:** 5 Minutes

Department: BCS **Division:** LUT & Finance

Contact/s: Mark Campbell and Tom Hansell

Phone: 503 988 -5050 **Ext.:** 29833 **I/O Address:** Bldg 425

Presenters: Bob Hovden, Bob Ellis, Kathy Tuneberg

Agenda Title: RESOLUTION Establishing Fees and Charges for Chapter 7, Business and Community Services, of the Multnomah County Code and Repealing Resolution No. 02-031

NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide clearly written title.

---

1. **What action are you requesting from the Board? What is the department/agency recommendation?** It is recommended the Board adopt the resolution to amend the fees and charges established in the Department of Business and Community Services and to be effective August 1, 2003.

2. **Please provide sufficient background information for the Board and the public to understand this issue.** Assessment and Taxation Fees are being updated to reflect our ability to provide information electronically using current technology which for many reports our new A & T appraisal system provides reduced costs to the users.

   The County Survey Office has continued to align program staffing and operations to match available resources. The two fee increase requested in this resolution will provide the necessary revenue adjustment to allow the County Surveyor to continue to deliver mandated county service to the public and avoid financial assistance support from the

County General Fund. The increases from a regional perspective, positions Multnomah County at or below the costs charged by Clackamas and Washington Counties Survey Offices. A delaying of a fee increase in the survey program would lead to additional staff reductions. Staff reductions would result in difficulties for the program to perform state-mandated duties such as: filing, indexing and maintaining the public survey records; establishing and maintaining Public Land Survey corners; and reviewing and approving all County subdivisions, partition, and condominium plats.

The proposed changes in Exhibit A Miscellaneous Permit Fees, are intended to update MCC callouts and typographical errors. No fee increases are proposed for permits at this time.

3. **Explain the fiscal impact (current year and ongoing).** The proposed fee changes presented in this resolution are consistent with the revenue estimates forecasted in the County's FY 2003 – 2004 budget. Adoption of this resolution will allow the County Survey and Assessment and Taxation Offices to meet projected revenues estimates. The revenues collected from these fee increases continue to mitigate demand on the County General Fund.

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

If a budget modification, explain:

- **What revenue is being changed and why?**
- **What budgets are increased/decreased?**
- **What do the changes accomplish?**
- **Do any personnel actions result from this budget modification? Explain.**
- **Is the revenue one-time-only in nature?**
- **If a grant, what period does the grant cover?**
- **When the grant expires, what are funding plans?**

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain:

- **Why was the expenditure not included in the annual budget process?**
- **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?**
- **Why are no other department/agency fund sources available?**
- **Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.**
- **Has this request been made before? When? What was the outcome?**

If grant application/notice of intent, explain:

- **Who is the granting agency?**
- **Specify grant requirements and goals.**
- **Explain grant funding detail – is this a one time only or long term commitment?**

- **What are the estimated filing timelines**?
- **If a grant, what period does the grant cover**?
- **When the grant expires, what are funding plans**?
- **How will the county indirect and departmental overhead costs be covered**?

4. **Explain any legal and/or policy issues.** Multnomah County Code provides that the Board shall establish and change fees by resolution. The fee increases are consistent with revenue estimates projected for the Surveyor, Assessment and Taxation programs for the 2003 – 2004 fiscal year budget.

5. **Explain any citizen and/or other government participation that has or will take place.** Customers address lists will be utilized to communicate effective dates of fee revisions.

Required Signatures:

Department/Agency Director: M. Cecilia Johnson **Date: 06/16/03**

Budget Analyst

By: **Date:**

Dept/Countywide HR

By: **Date:**

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Establishing Fees and Charges for Chapter 7, Business and Community Services, of the Multnomah County Code and Repealing Resolution No. 02-031

The Multnomah County Board of Commissioners Finds:

a. The Multnomah County Code provides that the Board shall establish certain fees and charges by resolution.

b. The Board adopted Resolution 02-31 establishing fees for MCC Chapter 7, Management and Business Services on March 7, 2002.

c. It is necessary to increase the fees authorized under MCC §7.008, Assessment and Taxation fees and §§ 7.060-7.062, with respect to county surveyor and filing fees, to recover actual cost.

d. All other fees and charges established by Resolution 02-031 remain the same.

The Multnomah County Board of Commissioners Resolves:

1. The fees and charges for Chapter 7, Business and Community Services, of the Multnomah County Code are set as follows:

Section 7.002. DISHONORED CHECK FEES.

The fee for processing a dishonored check, draft or money order is $25.00.

Section 7.005. INTEREST FEES.

The interest rate on receivables is 1.5% per month.

Section 7.006: PURCHASING AND HANDLING FEES.

The fee for purchasing and stores services is 10% of the value of goods purchased and handled.

Section7.008. ASSESSMENT AND TAXATION FEES.

(A) For any printout or copy of an appraisal card for any tax account, the division of assessment and taxation shall charge a fee of $1.00 per page, provided that where printouts or appraisal cards are requested and provided for more than one tax year or for any tax year other than the current year, the division shall charge an additional fee of $1.00 for each such year.

(B) For the division's services in gathering, preparing or providing nonstandard information upon request, the division shall collect a fee equal to its actual cost, as determined by the director of the division.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 03-099

Establishing Fees and Charges for Chapter 7, Business and Community Services, of the Multnomah County Code and Repealing Resolution No. 02-031

The Multnomah County Board of Commissioners Finds:

a. The Multnomah County Code provides that the Board shall establish certain fees and charges by resolution.

b. The Board adopted Resolution 02-31 establishing fees for MCC Chapter 7, Management and Business Services on March 7, 2002.

c. It is necessary to increase the fees authorized under MCC §7.008, Assessment and Taxation fees and §§ 7.060-7.062, with respect to county surveyor and filing fees, to recover actual cost.

d. All other fees and charges established by Resolution 02-031 remain the same.

The Multnomah County Board of Commissioners Resolves:

1. The fees and charges for Chapter 7, Business and Community Services, of the Multnomah County Code are set as follows:

Section 7.002. DISHONORED CHECK FEES.

The fee for processing a dishonored check, draft or money order is $25.00.

Section 7.005. INTEREST FEES.

The interest rate on receivables is 1.5% per month.

Section 7.006: PURCHASING AND HANDLING FEES.

The fee for purchasing and stores services is 10% of the value of goods purchased and handled.

Section7.008. ASSESSMENT AND TAXATION FEES.

(A) For any printout or copy of an appraisal card for any tax account, the division of assessment and taxation shall charge a fee of $1.00 per page, provided that where printouts or appraisal cards are requested and provided for more than one tax year or for any tax year other than the current year, the division shall charge an additional fee of $1.00 for each such year.

(B) For the division's services in gathering, preparing or providing nonstandard information upon request, the division shall collect a fee equal to its actual cost, as determined by the director of the division.

(C) In addition, the division shall charge the following fees for copies provided by it:

MICHROFICHE	
Assessment roll	$ 100.00
Property owners index	25.00
Property address index	25.00
Sales data—per month	50.00
Individual copies of microfiche:	
First copy	10.00
Each additional copy	1.00
Merged recording indices	100.00
Record indexing fee, per document	1.00
ELECTRONIC FILES	
Assessment roll	200.00
Property Administration	100.00
Tax bills	100.00
Delinquent taxes	50.00
Situs address	75.00
Sales	75.00
Deeds	75.00
Property Owners	75.00
Property Improvement Characteristics	300.00
Property Land Characteristics	75.00

Section 7.052. MISCELLANEOUS PERMIT FEES.

See Exhibit A attached.

Section 7.053. PLAN REVIEW AND INSPECTION OF UNDERGROUND INSTALLATIONS AND STREET INTERSECTIONS.

See Exhibit B attached

Section 7.054: ROAD VACATION APPLICATION.

Feasibility study:	$200.00
Application:	120% of estimated costs
Minimum:	$1,000.00 plus $65.00 for posting

Section 7.055. STREET AND ROAD WIDENING PERMITS.

(B) The construction permit deposit schedule for engineering, design, project management, and administration shall be as follows:

Project Cost as Estimated by the County	Deposit
Minimum Deposit at the time of application	800.00
$4,000.00 to $10,000.00	20%
$20,000.00 to $50,000.00	$2,000.00 plus 12.0% over $10,000.00
$50,000.00 and over	$6,800.00 plus s10.0% over $50,000.00

Section 7.056. MISCELLANEOUS PUBLIC WORKS FEES.

For services provided by the department in connection with design, plan review and inspection of items not set forth elsewhere, the department shall charge fees sufficient to cover the actual cost of services. The following are deposits only. The actual charges will be based on actual costs including overhead and other related costs, determined at the completion of the project. The difference between the actual costs and the deposit will either be billed or refunded to the permit holder.

Project cost as Estimated by the county	Deposit
Minimum deposit at the time of application	$800.00
$4,000.00 to $10,000.00	$20%
$10,000.00 to $50,000.00	$2,000.00 plus 12.0% over $10,000.00
$50,000.00 and over	$6,800.00 plus 10.0% over $50,000.00

Section 7.059. ZONE REVIEW AND ZONING INSPECTIONS.

For conducting any zone review prior to the issuance of a building or mobile home permit, the department shall charge a fee of $25.00 or 15 percent of the permit fee, whichever is greater; provided that the fee for review of applications for permits to construct one-or two-family dwellings shall not exceed $25.00. Zoning review fees are payable upon permit application. For conducting any zoning inspection during construction or after completion of construction, the department shall charge a fee equal to the greater of $25.00 or 35 percent of the building permit fee, to be collected at the time the permit is issued, provided, however, that no fee for zoning inspection of one- and two-family dwellings shall exceed $25.00. Zoning inspection fees are payable upon permit issuance.

Section 7.060. FILING OF MAP SURVEYS.

A fee of $225.00 shall accompany each filing of a map of survey

Section 7.061. FEES FOR CERTAIN DOCUMENTS; PUBLIC LAND CORNER PRESERVATION ACOUNT.

Document filing fee: $5.00

Section 7.062. COUNTY SURVEYOR FEES.

(A) Fees are based on the following procedures and requirements on partition, subdivision and condominium plats.

(1) Submit a boundary survey to the County surveyor a minimum of 30 days prior to the submission of the final subdivision or condominium plat. If warranted, the county surveyor may waive this requirement.

(2) In addition to the requirements of ORS 209.250, a survey, and a partition plat if a separate survey has not been filed shall show all obvious encroachments or hiatus created by deeds, buildings, fences, cultivation, previous surveys and plats, or similar means and any other conditions that may indicate that the ownership lines as surveyed may be different than those shown on the survey.

(3) The county surveyor may refuse to approve a plat if the surveyor finds an encroachment or hiatus. Evidence that the hiatus or encroachment has been eliminated may be required, or the county surveyor may require that it be shown on the plat if it cannot be eliminated.

(4) All partition, subdivision, and condominium final plats, including those inside city limits, shall be checked and approved by the county surveyor prior to recording. No plat shall be recorded without such approval. This approval by the county surveyor shall be valid for 30 days from the date of approval to the date submitted for recording, after 30 days the approval is withdrawn and must be resubmitted.

(5) All partition, subdivision, and condominium final plats submitted for approval shall be accompanied by a report, issued by a title insurance company, or authorized agent to perform such service in Oregon, setting forth ownership and all easements of record, together with a copy of the current deed and easements for the platted property, and copies of the deeds for all abutting properties and other documentation as required by the county surveyor. The report shall have been issued no more than 15 days prior to plat submittal to the county surveyor. A supplemental report may be required by the county surveyor.

(B) A deposit for the following county surveyor functions shall be made with the submission of the material. The final fee will be determined at completion of the project based on actual costs incurred by Multnomah County including overhead and other related costs. The difference between the actual costs and the deposit will be paid prior to approval of the final plat or refunded to the applicant except for post-monumented plats, which will not be refunded until after completion of the interior monumentation; the survey filing fee is non-refundable.

(1) Partition Plat Review, the deposit shall be:

Base Deposit	$480.00 plus
Survey filing Fee	$225.00

(2) Pre-monumented Plat Review, the deposit shall be:

Base Deposit	$700.00 plus
Survey Filing Fee	$225.00 plus
Per Lot, Tract, or Parcel	$ 35.00 each, plus
Per gross acre of the subdivision if the average Lot size exceeds 15,000 sq. ft	$ 31.00 per acre

(3) Post-Monumented Plat Review, the deposit shall be:

An estimate by the county surveyor based on the complexity of the plat at 120 percent of the estimate; the minimum deposits shall be:

Base Deposit	$795.00 plus
Survey Filing Fee	$225.00 plus
Per Lot, Tract, or Parcel	$45.00 each, plus
Per gross acre of the subdivision if the average lot size exceeds 15,000 sq. ft.	$31.00 per acre

(4) For Condominium Plat Review, the deposit shall be:

Base Deposit	$770.00 plus
Each Building	$105.00 each, plus
Survey Filing Fee	$225.00

(5) For Condominium Plat Amendment Review, the deposit shall be:

Base Deposit	$500.00 plus
Survey Filing Fee	$225.00

(C) Posting of street vacations in accordance with ORS 271.230(2) — $ 65.00

(D) Review, Approval, and Posting of Affidavits of correction — $ 45.00 plus county clerk's recording fee

(E) For services required by ORS 100.115 in connection with reclassification or withdrawal of variable property from unit ownership as provided in ORS 100.115(1) or (2), or removal of property from any condominium plat as provided in ORS 100.600(2), the fee will be $150.00.

(F) In accordance with ORS 92.070(5), (1997), relating to the reestablishment of Subdivision Plat Monuments and the review and recordation of the required surveyor's affidavit in support thereof, the affidavit recording fee shall be $100.00 plus the county clerk's recording fee.

(G) In accordance with ORS 100.115(6), (1997), relating to Declaration Amendment Review service, the fee shall be $100.00 plus the county clerk's recording fee.

Section 7.064. BOOK OF RECORDS.

Minimum per roll of 16mm:	$12.00
Minimum per roll for 35mm microfilm:	$15.00
Minimum for microfiches:	$ 2.00

Section 7.065. MAP REPRODUCTIONS AND LOANS.

For the services of the department in reproducing and loaning maps, fees shall be charged in accordance with the following schedules:

Standard Weight	Blackline	Sepia
¼ Section 30 inches x 36 inches	$3.00	$5.00
600 Scale 21 inches x 33 inches	$2.00	$3.00
Plat 18 inches x 24 inches	$2.00	$2.00
1,000 Scale 13 inches x 21 inches	$1.00	$2.00

Photostat copy where no tracing exists: $5.00

Office duplicator copy of a portion of a map: $1.50

For loaning sepia or plat tracing, 48-hour
limit excluding weekends and holidays: $0.50 each

Each additional 48 hours excluding weekends and holidays: $2.00 each

Condominium hardboard and tracing recording: $9.00 per page.

Section 7.067. BOUNDARY CHANGE APPLICATION.

For services provided by the department in connection with processing a boundary change petition, the department shall charge fees sufficient to cover the actual cost of services. The following is a deposit only and is in addition to any other fees, deposits or charges authorized by law. The actual charges will be based on actual costs including overhead and other related costs, determined at the completion of the process. The difference between the actual costs and the deposit will either be billed or refunded to the applicant. Minimum Deposit: $2,300 per application (includes Metro mapping service fee).

Section 7.303. DOMESTIC PARTNERSHIP REGISTRATION FEES:

Filing Fees:

Registration:	$60 to be distributed as follows:		
		$25	to county (General Fund) for processing
		$25	to the Multnomah County Community and Family Services – Clearinghouse to be used for safe housing for Domestic Violence victims
		$10	for conciliation services provided under ORS §§ 107.5100 to 107.610
Termination:	$25.00		to county for processing

Section 7.405. PROCEDURE FOR REQUESTING TRANSFER OF TAX FORECLOSED PROPERTY FOR HOUSING PURPOSES:

Non-refundable Application Fee: $50.00

Section 7.410. PROCEDURE FOR DISPOSITION OF REQUESTS FOR TRANSFER OF TAX FORECLOSED PROPERTY FOR HOUSING AND FOR OPEN SPACE, PARKS OR NATURAL AREAS:

Non-refundable Transfer Fee: $200.00

Section 7.505 . REAL PROPERTY COMPENSATION APPLICATION FEE AND ADDITIONAL COSTS:

Non-refundable Application Fee:	$1,550
Posting signs:	$5 each

Section 7.605. PERMITS.

Ammonia storage:	$25.00

Section 7.783. SEWER USER SERVICE CHARGES.

Per equivalent dwelling unit, per month:	$14.00
Pumping, per 1,000 cubic feet water consumption per month:	$0.50 to $2.00

Section 7.784. SENIOR CITIZENS RATE

Per month:	$7.00

Section 7.788. CONNECTION FEES.

(A) The following fees for connection with a public sewer inside or outside the district shall become effective November 1, 1984, and shall be based on equivalent dwelling units and shall be as follows:

(1) Residential Users:

(a)	Single-family unit connection fee, October 1, 1984:		$1,100.00
(b)	Multifamily unit connection fee:		
	(i)	First living unit:	$1,100.00
	(ii)	Each additional living unit:	$ 935.00

(2) Nonresidential users: The formula for computing the connection fee for a nonresidential user shall be equal to the equivalent dwelling units multiplied by $1,100.00. Equivalent dwelling units shall be determined by table 2 of MCC 7.783.

(3) Combined dwelling units and others: Where both dwelling units and other occupancies are combined on the same property, the charges for sanitary connection shall be at the living unit

rate for the dwelling units required in subsection (A)(1)(b) of this section, plus the rates given in (A)(2) for the nonresidential users of the property.

Section 7.790. EXTRA-STRENGTH INDUSTRIAL WASTE.

(D) *Extra-strength rates.* Effective October 1, 1984:

BOD, per pound	$0.097
Suspended solids, per pound	$0.106

(E) *Industrial waste discharge permit fees.*

(1) The engineer shall determine the effective period for the permit, based upon such factors as concentration, volume, and origin of the discharge. In no case shall an industrial waste permit be effective for a period exceeding five years.

(2) Except as provided in subsection (F)(2)[sic], fees for industrial waste discharge permits shall be $75.00 for each permit and $50.00 for each renewal of a permit. However, permit renewals which involve new or additional discharges from those in the preceding permit shall have a fee of $75.00. Where a permit is issued as a result of a violation, the permit fee shall be $150.00. Fees are payable to the county as part of the application for the permit or permit renewal.

(3) Where the owner of a property is discharging industrial wastes prior to the effective date of the ordinance comprising this subchapter, the owner shall be issued an industrial waste discharge permit at no charge, but will then be subject to the renewal fees and requirements of this section.

(F) *Minimal charges suspension.* The engineer may establish a minimum limit for monthly extra-strength charges. The billing for all accounts whose monthly extra-strength charges are below this minimum limit will be suspended until such time as they are found to be higher.

(G) *Adjustments.* The engineer may check sewage strength as outlined in this section and adjust charges where applicable at any time in accordance with the most recent analysis.

(H) *Resampling request; fees.* Any discharger may request the district to resample wastewater at no charge if 18 months or more have elapsed since the last such sampling. If less than 18 months have elapsed since the last sampling, then requests for the district to resample wastes shall be submitted in writing and accompanied by full payment for the resampling fee. The fee to each account for five days of

sampling is $500.00 per sample, per sampling point. The fee for one day's resampling is $125.00 per sample, per sampling point.

2. This resolution takes effect and Resolution 02-031 is repealed on July 10, 2003.

ADOPTED this 10th day of July, 2003.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By

Matthew O. Ryan, Assistant County Attorney

EXHIBIT A

Section 7.052. MISCELLANEOUS PERMIT FEES

Miscellaneous permit fees.

The following fees shall be charged for permits:

(A) For overweight or over dimensional moves, except for moves as specified in MCC 7.052(A)(2), either single trip or annual permit, the fee shall be $8.00. Future fee increases by the Oregon Department of Transportation shall automatically increase the county's fee for this service to the same level, without action of the board of county commissioners.

(B) For building and structure move permits permittee shall post a deposit of $1,000.00 prior to issuance of a permit. Non-refundable permit application, investigation and issuance fees for structures under 14 feet in width and 15 feet in height shall be $115.00. For structures exceeding the above dimensions, the non-refundable permit fee shall be $145.00. Inspection fees to be billed at the actual costs incurred by the county including overhead and equipment costs. For over-dimensional moves other than house moves, the non-refundable permit fees for heights over 17 feet in width shall be $75.00 for a normal workday, and $350.00 for holidays and weekends.

(C) For permits issue for manholes for storm and sanitary sewers, the fee shall be $30.00 per manhole.

(D) For permits issued for canopies, awnings and marquees, a fee of $40.00 shall be charged.

(E) For permits issued for construction or reconstruction of driveway approaches, the fees shall be:\

(1) $90.00 first driveway approach.

(2) $60.00 each additional driveway approach inspected at the same time as first approach.

(3) Common access way permit fees for plan review and inspection shall be $120.00 or $0.06 per square foot of common access way, whichever is greater. The above fee will include the first driveway approach fee under section 7.052(E)(1).

(4) $90.00 for agriculture approaches.

(5) $90.00 for temporary logging approaches.

(F) For permits issued for sewer connections, the fee shall be $120.00 per connection.

(G) For a drilling or boring test hole permit, the fee shall be $84.00 each.

(H) For curb drain outlet construction or reconstruction, including drainage connections to catch basins, a fee of $20.00 shall be charged.

(I) For sidewalk construction or reconstruction, the fee shall be $0.25 per square foot with a minimum fee of $10.00. For curb construction or reconstruction the fee shall be $0.35 per lineal foot with a minimum fee of $10.00.

(J) The fee to release advertising benches picked up within the right-of-way shall be $50.00 per bench.

(K) For any excavation, construction, reconstruction, repair, removal, abandonment, placement or use within the right-of-way, the permit fee shall be a minimum of $50.00.

(L) For material filing or excavating within the public right-of-way, the permit fee shall be $50.00.

(M) For underground storm or sanitary sewer construction, reconstruction or repair permits, including property service and laterals not maintained by the county, the fees shall be:

Length of Conduit Constructed, Reconstructed, Repaired or Exposed for Repair	*Fee*
0 - 50 feet	$50.00
51 - 100 feet	60.00
101 - 200 feet	70.00
201 - 300 feet	75.00
301 - 400 feet	80.00
401 - 500 feet	85.00
501 feet and over	$85.00 plus $0.07 per foot over 500 feet

Conduit diameters exceeding 24 inches shall be assessed a surcharge onto the above rates of $0.01 per foot of diameter per foot of length.

(N) If work is commenced on a project requiring a permit without first securing the permit, the fee shall be double the fee established in this section. If the fee required by this subsection is not paid directly to the department by the owner of the property, the person paying the penalty shall be required to notify the owner that the penalty was imposed. Payment of the fee shall not relieve or excuse any person from penalties imposed for violation of any applicable statutes or ordinances.

(O) If work is commenced on a project requiring a permit without first securing the permit, the fee shall be double the fee established in this section. If the fee required by this subsection is not paid directly to the department by the owner of the property, the person paying the penalty shall be required to notify the owner that the penalty was imposed. Payment of the

fee shall not relieve or excuse any person from penalties imposed for violation of any applicable statutes or ordinances.

(P) A permit deposit for each permit authorizing work under ORS 374.305 not covered in this section shall be 120 percent of estimated amount of charges based on the estimated hours or part thereof for plan review and/or inspection. The final fee will be determined at completion of the project based on the actual costs incurred by Multnomah County including overhead and other related costs. The difference between the two amounts will be billed or refunded to the permit holder with the minimum fee being $50.00.

(Q) Permits under this section shall be issued without charge when a permit is required as a direct result of a county public works improvement. For temporary closure of any street or any portion of a street, the fee shall be $84.00.[Ord. 126 § 9 (1976); Ord. 195 § 6 (1979(; Ord. 256 § 2 (1980); Ord. 278 § 3 (1981); Ord. 367 § 1 (1983) (court of appeals held that payment of fee for permit by utility companies was in violation of ORS 758.010 on May 16, 1984, supreme court denied petition for review August 8, 1984, court of appeals decision became enforceable September 10, 1984); Ord. 467 § 2 (1985); Ord 826 § 2(A)--(H) (1995)]

EXHIBIT B

Section 27.053. PLAN REVIEW AND INSPECTION OF UNDERGROUND INSTALLATIONS AND STREET INTERSECTIONS

Fees for plan review and inspection of underground installations and street intersections.

(A) For plan review and inspection of any storm sewer line installation, when completed facilities are to be maintained by the county, the fee shall be:

Estimated or Bid Construction Cost			*Fee*
0.00	-	$1,000.00	$50.00
$1,000.00	-	5,000.00	$50.00 plus 1.25% over $1,000.00
5,000.00	-	10,000.00	$100.00 plus 1.00% over $5,000.00
10,000.00	-	15,000.00	$150.00 plus 0.90% over $10,000.00
15,000.00	-	20,000.00	$195.00 plus 0.80% over $15,000.00
20,000.00	-	25,000.00	$235.00 plus 0.70% over $20,000.00
25,000.00	-	30,000.00	$270.00 plus 0.60% over $25,000.00
30,000.00	-	35,000.00	$300.00 plus 0.50% over $30,000.00
35,000.00	-	40,000.00	$325.00 plus 0.40% over $35,000.00
40,000.00	-	45,000.00	$345.00 plus 0.30% over $40,000.00
45,000.00	-	50,000.00	$360.00 plus 0.20% over $45,000.00
50,000.00	-	and over	$370.00 plus 0.74% over $50,000.00

(A) When submitting plans for review, the applicant shall submit a copy of the engineer's estimate or the bid construction cost. No plans will be reviewed without the required cost figures. If, in the opinion of the director of the department, the cost figures appear unreasonable, the director shall establish the permit fee based upon the director's cost estimate of the work to be done. The director shall submit a report to the county executive/chair of the board of county commissioners whenever a cost estimate is adjusted and shall state the reasons therefore.

(B) For utility lines, including storm and sanitary sewers, to be maintained be maintained by others, not connecting to a county-maintained system but located within county-controlled right-of-way or easements, the plan review and inspection fee will be $40.00 plus $0.10 per foot of line.

(C) For storm or sanitary sewer line systems located on private land connecting to county maintained systems, the plan review and inspection fee will be a minimum of $40.00 plus $10.00 for each acre or fraction thereof within the development area. Developments requiring both storm and sanitary system review will be charged that rate for each.

(D) A sewer line system for fee purposes means a line with two or more connections including lateral lines, house branches, inlets or any other appurtenance contributing discharge.

(E) Plan review and inspection fees will be established by the director for connections to a county system where the development area is not discernable or applicable. A deposit shall be 120 percent of estimated amount of charges based on the estimated hours or parts thereof required for plan review and/or inspection. The final fee will be determined at completion of the project based on costs incurred by Multnomah County including overhead and other related costs. The difference between the actual costs and the deposit will be billed or refunded to the permit holder.

(F) For plan review and inspection of each street intersection or vehicle access, either public or private, other than a standard driveway approach, a fee of $40.00 will be charged.

(G) Plans shall be reviewed by Multnomah County under this section for compatibility with the comprehensive plan, conformance to county design criteria, as applicable, and for general protection of county facilities as considered necessary.

(H) Inspection by Multnomah County under this section will be cursory only and will not relieve the owner, contractor or engineer of responsibility for the project being completed according to plans and specifications.

[Ord. 126 § 10 (1976); Ord. 826 § 2(I), (J)(1995)]

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:	
Meeting Date:	**July 10, 2003**
Agenda Item #:	**R-3**
Est. Start Time:	**9:40 AM**
Date Submitted:	**06/23/03**

Requested Date: July 10, 2003 **Time Requested:** 5 Minutes

Department: Business and Community Services **Division:** Land Use & Transportation

Contact/s: Susan Muir

Phone: 503-988-3043 **Ext.:** 83182 **I/O Address:** 455/116

Presenters: Susan Muir

Agenda Title: An Ordinance Amending County Land Use Code, Plans And Maps To Adopt Portland's Recent Land Use Code, Plan And Map Revisions In Compliance With Metro's Functional Plan And Declaring An Emergency

NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide clearly written title.

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1. **What action are you requesting from the Board? What is the department/agency recommendation**? Adopt the ordinance as recommended by the Portland Planning Commission and Portland City Council.

2. **Please provide sufficient background information for the Board and the public to understand this issue.** On October 11, 2001 the Board adopted Ordinance 967 (effective date January 1, 2002) adopting, in summary, the Portland Comprehensive Plan and zoning ordinance. The County and the City of Portland have been engaged in agreements enabling the City of Portland to provide planning services to achieve compliance with the Metro Functional Plan for those areas outside the City limits, but within the urban growth boundary and urban service boundary of Portland. Since the adoption of Ordinance 967 and subsequently Ordinance 997, the attached ordinances have been passed by the City Council and therefore the County must adopt them pursuant to our intergovernmental agreement

to keep the code up to date. Multnomah County and the City of Portland entered into an Intergovernmental Agreement (IGA) to transfer land use planning responsibilities on January 1, 2002. The IGA lays out a process requiring the County to ensure that any City Council adopted amendments to the City comprehensive plan, zoning code and other regulations adopted by the County Board of Commissioners will be considered by the County Board of Commissioners at the earliest possible meeting. It also states "The County Board of Commissioners shall enact all comprehensive plan and code amendments so that they take effect on the same date specified by the City's enacting ordinance" (unless adopted by emergency). The City will have taken action on all of the above items by the hearing date of this ordinance. If the County does not adopt these amendments, the IGA will be void and the County will be required to resume responsibility for planning and zoning administration within the affected areas.

3. **Explain the fiscal impact (current year and ongoing)**. NA

4. **Explain any legal and/or policy issues**. State law requires a notice be placed in a newspaper of general circulation 10 days prior (7/01/03) to the BCC hearing. We request adoption of this ordinance by emergency to coincide with the City of Portland adoption date (7/10/03) as stated in the IGA. The County Attorney's office was involved in the drafting of the original IGA and has been involved in coordinating our compliance effort through adoption of these code amendments.

5. **Explain any citizen and/or other government participation that has or will take place.** The City included the County affected property owners in their noticing for these code revisions when required pursuant to the IGA and directed them to the City legislative process.

Required Signatures:

Department/Agency Director: M. Cecilia Johnson **Date: 6/23/03**

Budget Analyst

By: **Date:**

Dept/Countywide HR

By: **Date:**

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. _____

Amending County Land Use Code, Plans and Maps to Adopt Portland's Recent Land Use Code, Plan and Map Revisions in Compliance with Metro's Functional Plan and Declaring an Emergency

The Multnomah County Board of Commissioners Finds:

a. The Board of County Commissioners (Board) adopted Resolution A in 1983 which directed the County services towards rural services rather than urban.

b. In 1996, Metro adopted the Functional Plan for the region, mandating that jurisdictions comply with the goals and policies adopted by the Metro Council.

c. In 1998, the County and the City of Portland (City) amended the Urban Planning Area Agreement to include an agreement that the City would provide planning services to achieve compliance with the Functional Plan for those areas outside the City limits, but within the Urban Growth Boundary and Portland's Urban Services Boundary.

d. It is impracticable to have the County Planning Commission conduct hearings and make recommendations on land use legislative actions pursuant to MCC 37.0710, within unincorporated areas inside the Urban Growth Boundary for which the City provides urban planning and permitting services. The Board intends to exempt these areas from the requirements of MCC 37.0710, and will instead consider the recommendations of the Portland Planning Commission and City Council when legislative matters for these areas are brought before the Board for action as required by intergovernmental agreement (County Contract #4600002792) (IGA).

e. On June 5, 2003, the Board amended County land use codes, plans and maps to adopt the City's land use codes, plans and map amendments in compliance with Metro's Functional Plan by Ordinance 1011.

f. Since the adoption of Ordinance 1011, the City's Planning Commission recommended land use code, plan and map amendments to the City Council through duly noticed public hearings.

g. The City notified affected County property owners as required by the IGA.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1014

Amending County Land Use Code, Plans and Maps to Adopt Portland's Recent Land Use Code, Plan and Map Revisions in Compliance with Metro's Functional Plan and Declaring an Emergency

The Multnomah County Board of Commissioners Finds:

a. The Board of County Commissioners (Board) adopted Resolution A in 1983 which directed the County services towards rural services rather than urban.

b. In 1996, Metro adopted the Functional Plan for the region, mandating that jurisdictions comply with the goals and policies adopted by the Metro Council.

c. In 1998, the County and the City of Portland (City) amended the Urban Planning Area Agreement to include an agreement that the City would provide planning services to achieve compliance with the Functional Plan for those areas outside the City limits, but within the Urban Growth Boundary and Portland's Urban Services Boundary.

d. It is impracticable to have the County Planning Commission conduct hearings and make recommendations on land use legislative actions pursuant to MCC 37.0710, within unincorporated areas inside the Urban Growth Boundary for which the City provides urban planning and permitting services. The Board intends to exempt these areas from the requirements of MCC 37.0710, and will instead consider the recommendations of the Portland Planning Commission and City Council when legislative matters for these areas are brought before the Board for action as required by intergovernmental agreement (County Contract #4600002792) (IGA).

e. On June 5, 2003, the Board amended County land use codes, plans and maps to adopt the City's land use codes, plans and map amendments in compliance with Metro's Functional Plan by Ordinance 1011.

f. Since the adoption of Ordinance 1011, the City's Planning Commission recommended land use code, plan and map amendments to the City Council through duly noticed public hearings.

g. The City notified affected County property owners as required by the IGA.

h. The City Council adopted the land use code, plan and map amendments, set out in Section 1 below and attached as Exhibits 1 and 2. The IGA requires that the County adopt these amendments for the City planning and zoning administration within the affected areas.

Multnomah County Ordains as follows:

Section 1. The County Comprehensive Framework Plan, community plans, rural area plans, sectional zoning maps and land use code chapters are amended to include the City land use code, plan and map amendments, attached as Exhibits 1 and 2 and effective on the same date as the respective Portland ordinance:

Exhibit No.	Description	Effective or Hearing Date
1	Ordinance to amend Portland Title 33, Planning and Zoning, to update and improve City building and land use regulations and procedures that hinder desirable development. (ORD 177643)	7/10/2003
2	Portland Planning Commission Report and Recommendation: Policy Package 1 – Exhibit A	6/4/2003

Section 2. In accordance with ORS 215.427(3), the changes resulting from Sections 1 of this ordinance shall not apply to any decision on an application that is submitted before the applicable effective date of this ordinance and that is made complete prior to the applicable effective date of this ordinance or within 180 days of the initial submission of the application.

Section 3. In accordance with ORS 92.040(2), for any subdivisions for which the initial application is submitted before the applicable effective date of this ordinance, the subdivision application and any subsequent application for construction shall be governed by the County's land use regulations in effect as of the date the subdivision application is first submitted.

Section 4. Any future amendments to the legislative matters listed in Section 1 above, are exempt from the requirements of MCC 37.0710. The Board acknowledges, authorizes and agrees that the Portland Planning Commission will act instead of the Multnomah Planning Commission in the subject unincorporated areas using the City's own procedures, to include notice to and participation by County citizens. The Board will consider the recommendations of the Portland Planning Commission when legislative matters for County unincorporated areas are before the Board for action.

Section 5. An emergency is declared in that it is necessary for the health, safety and general welfare of the people of Multnomah County for this ordinance to take effect concurrent with the City code, plan and map amendments. Under section 5.50 of the Charter of Multnomah County, this ordinance will take effect in accordance with Section 1.

FIRST READING AND ADOPTION: July 10, 2003

BOARD OF COUNTY COMMISSIONERS,
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By Sandra Duffy
Sandra N. Duffy, Assistant County Attorney

EXHIBIT LIST FOR ORDINANCE

1 Ordinance to amend Portland Title 33, Planning and Zoning, to update and improve City building and land use regulations and procedures that hinder desirable development (ORD 177643)

2 Portland Planning Commission Report & Recommendation: Policy Package 1

Prior to adoption, this information is available electronically or for viewing at the Multnomah County Board of Commissioners and Agenda website (www.co.multnomah.or.us/cc/WeeklyAgendaPacket/). To obtain the adopted ordinance and exhibits electronically, please contact the Board Clerk at 503-988-3277. These documents may also be purchased on CD-Rom from the Land Use and Transportation Program. Contact the Planning Program at 503-988-3043 for further information.

ORDINANCE NO. 177643 As Amended

*Amend Title 33, Planning and Zoning, to apply design standards to substandard lots in the R5 and R2.5 zones. (Ordinance; amend Code Section 33.110)

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

1. On June 26, 2002, the City Council adopted Resolution 36080, which authorized the Mayor to develop a process to streamline and update the City's building and land use regulations and to improve regulatory-related procedures and customer services.

2. This process, the Regulatory Improvement Workplan, includes several phases, and a number of projects assigned to several bureaus.

3. On August 14, 2002, Council adopted the FY 2002-2003 Initial Regulatory Improvement Work Plan.

4. The workplan has been divided into several projects. The first of the projects addressed the dollar thresholds for upgrades to nonconforming development and was adopted by City Council on April 2, 2003.

5. The bulk of the 2002-2003 Regulatory Improvement Workplan has been divided into two packages--Policy Package 1 and Policy Package 2.

6. This proposal includes one part of Policy Package 1.

7. On February 27, 2003, notice of the proposed action was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-18-020.

8. On April 22, 2003, the Planning Commission held a hearing on this proposal. Staff from the Bureau of Planning presented the proposal, and public testimony was received.

9. On May 13, 2003 and May 27, 2003, the Planning Commission held work sessions to further discuss the proposal and consider public testimony. The Commission made several changes to the proposal, and voted to forward Policy Package 1 to City Council. One of the changes was to add design standards for development on substandard lots in the R5 and R2.5 zones.

10. On June 18, 2003, City Council held a hearing on this proposal, and heard testimony from the public.

11. On June 18, 2003, City Council discussed the design impacts of new detached houses that have recently been built on substandard lots in neighborhoods that are zoned R5 and R2.5 but have an underlying platting pattern of 25 by 100 foot lots.

12. On June 18, 2003, City Council further discussed the Planning Commission recommendation to adopt design standards to ensure that narrow houses on substandard lots are more compatible with the design and character of existing houses in the surrounding area.

13. On June 18, 2003, City Council voted to separate the Planning Commission recommendation to apply design standards to new development on substandard lots from the other Policy Package 1 recommendations, and to proceed with an emergency ordinance to adopt the design standards.

14. On June 25, 2003, City Council voted to adopt the Planning Commission recommendation to amend the Zoning Code to add design standards for development on substandard lots in the R5 and R2.5 zones.

Statewide Planning Goals Findings

15. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with the state land use goals.

16. **Goal 1, Citizen Involvement**, requires provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided numerous opportunities for public involvement. The amendments are supportive of this goal in the following ways:

- On March 21, 2003, the Bureau of Planning sent notice to all neighborhood associations and coalitions, and business associations in the City of Portland, as well as other interested persons, to inform them of an open house on April 9, 2003. The purpose of the open house was to allow the public the opportunity to review the proposed recommendations, and ask questions of staff.

- Also on March 21, 2003, the Bureau of Planning sent notice to all neighborhood association and coalitions, and business associations in the City of Portland, as well as other interested persons, to inform them of a Planning Commission public hearing on the *2002-2003 Regulatory Improvement Workplan: Policy Package 1*. This event was also advertised in the Oregonian.

- On March 24, 2003, the Bureau of Planning published a document titled, *2002-2003 Regulatory Improvement Workplan: Policy Package 1 Proposed Draft*. The report was made available to the public and mailed to all those requesting a copy.

- On April 4, 2003, the Bureau of Planning sent a letter to specific persons interested in the amendments to PCC 33.110.212, Validation of Lots and Lots of Record, to inform them of the April 9, 2003 open house.

- On April 22, 2003, the Planning Commission held a public hearing during which citizens commented on the *2002-2003 Regulatory Improvement Workplan: Policy Package 1 Proposed Draft*. After listening to testimony, the Planning Commission decided to add design standards for development on substandard lots in the R5 and R2.5 zones to the Policy Package 1 proposal. On May 13 and May 27, 2003, the Planning Commission held work sessions to further discuss the Policy Package 1 amendments.

- On June 2, 2003, The Bureau of Planning sent notice to all persons who testified, orally or in writing, at the Planning Commission hearing, informing them of a City Council public hearing to consider the *2002-2003 Regulatory Improvement Workplan: Policy Package 1* including the design standard recommendations. This notice was also sent to those persons requesting such notification.

- On June 18, 2003, the City Council held a public hearing on *2002-2003 Regulatory Improvement Workplan: Policy Package 1 Recommended Draft*, dated June 4, 2003. Citizens were provided the opportunity to attend this hearing and present testimony.

- On June 25, 2003, the City Council held a public hearing on this ordinance.

17. **Goal 2, Land Use Planning**, requires the development of a process and policy framework that acts as a basis for all land use decisions, and ensures that decisions and actions are based on an understanding of the facts relevant to the decision. The amendments are supportive of this goal because development of the recommendations followed established city procedures for legislative actions.

18. **Goal 3, Agricultural Lands**, requires the preservation and maintenance of the State's agricultural land, generally located outside of urban areas. The amendments do not affect the use of agricultural land so they are not applicable to this goal.

19. **Goal 4, Forest Lands**, requires the preservation and maintenance of the State's forest lands, generally located outside of urban areas. The amendments do not affect the use of forest lands, so they are not applicable to this goal.

20. **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources**, requires the conservation of open space and the protection of natural and scenic resources. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to the conservation of open space, scenic and historic areas, and natural resources.

21. **Goal 6, Air, Water and Land Resource Quality**, requires the maintenance and improvement of the quality of air, water and land resources, including the handling of solid wastes. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to air, water and land resource quality.

22. **Goal 7, Areas Subject to Natural Disasters and Hazards**, requires the protection of life and property from natural disasters and hazards. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to areas subject to natural disasters and hazards.

23. **Goal 8, Recreational Needs**, requires satisfaction of the recreational needs of both citizens and visitors to the state. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to recreational needs.

24. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to economic development.

25. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to housing.

26. **Goal 11, Public Facilities and Services**, requires planning and development of timely, orderly and efficient public service facilities that serve as a framework for urban and rural development. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to public facilities and services.

27. **Goal 12, Transportation**, requires provision of a safe, convenient and economic transportation system. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to transportation.

28. **Goal 13, Energy Conservation**, requires development of a land use pattern that maximizes the conservation of energy based on sound economic principles. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to energy conservation. In addition, one of the amendments allows attached houses in the R5 zone. This amendment is supportive of this goal because attached houses can be more energy efficient than detached houses.

29. **Goal 14, Urbanization**, requires provision of an orderly and efficient transition of rural lands to urban use. Urban growth boundaries shall be established to identify and separate urbanizable land from rural land. The amendments are consistent with this goal in that

they do not affect the placement of the urban growth boundary, and they do not change policy or intent of any of the existing regulations pertaining to urbanization.

30. **Goal 15, Willamette River Greenway**, requires the protection, conservation, enhancement, and maintenance of the natural, scenic, historic, agricultural, economic, and recreational qualities of land along the Willamette River. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to the Willamette River Greenway.

31. **Goals 16, 17, 18, and 19** deal with **Estuarine Resources, Coastal Shorelines, Beaches and Dunes,** and **Ocean Resources**, respectively, and are not applicable to Portland as none of these resources is present within the City limits.

Metro Urban Growth Management Functional Plan Findings

32. **Title 1, Requirements for Housing and Employment Accommodation,** requires that each jurisdiction contribute its fair share to increasing the development capacity of land within the Urban Growth Boundary. This requirement is to be generally implemented through city-wide analysis based on calculated capacities from land use designations. The amendments do not change policy or intent of existing regulations relating to the regional requirements for housing and employment accommodation, and therefore, do not affect the City's ability to meet Title 1.

33. **Title 2, Regional Parking Policy,** regulates the amount of parking permitted by use for jurisdictions in the region. Generally, the amendments are not inconsistent with this title because they do not change policy or intent of existing regulations relating to the amount of parking allowed. Specifically, one amendment is supportive of this title because it eliminates the requirement for on-site parking for substandard lots in the R5 zone.

34 **Title 3, Water Quality and Flood Management Conservation,** calls for the protection of the beneficial uses and functional values of resources within Metro-defined Water Quality and Flood Management Areas by limiting or mitigating the impact of development in these areas. The amendments are not inconsistent with this title because they do not change policy or intent of existing regulations relating to water quality and flood management conservation.

35. **Title 4, Retail in Employment and Industrial Areas,** calls for retail development that supports Employment and Industrial areas, and that does not serve a larger market area. The amendments are not inconsistent with this title because they do not change policy or intent of existing regulations relating to retail in employment and industrial areas.

36. **Title 5, Neighbor Cities and Rural Reserves,** defines Metro's policy regarding areas outside of the Urban Growth Boundary. The amendments are not inconsistent with this title because they do not change policy or intent of existing regulations relating to neighbor cities and rural reserves.

37. **Title 6, Regional Accessibility,** recommends street design and connectivity standards that better serve pedestrian, bicycle and transit travel and that support the 2040 Growth Concept. The amendments are not inconsistent with this title because they do not change policy or intent of existing regulations relating to regional accessibility.

38. **Title 7, Affordable Housing,** recommends that local jurisdictions implement tools to facilitate development of affordable housing. The amendments are not inconsistent with this title because they do not change policy or intent of existing regulations relating to the development of affordable housing. In addition, the amendments will result in the application of design standards to development on substandard lots in the R5 and R2.5 zones. The design standards currently apply in other situations in the City and will not add substantially to the cost of construction on substandard lots. One of the standards eliminates a requirement for on-site parking; this could reduce the cost of construction and thus the sales price.

39. **Title 8, Compliance Procedures,** outlines compliance procedures for amendments to comprehensive plans and implementing ordinances. The amendments are not inconsistent with this title because they do not change policy or intent of existing regulations relating to compliance.

Portland Comprehensive Plan Goals Findings

40. The City's Comprehensive Plan was adopted by the Portland City Council on October 16, 1980, and was acknowledged as being in conformance with the statewide planning goals by the Land Conservation and Development Commission on May 1, 1981. On May 26, 1995, the LCDC completed its review of the City's final local periodic review order and periodic review work program, and reaffirmed the plan's compliance with statewide planning goals.

41. **Goal 2, Urban Development,** calls for maintenance of Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to urban development. In addition, the amendments will result in the application of design standards to substandard lots in the R5 and R2.5 zones. The design standards currently apply in other situations in the City and are intended to protect neighborhood character.

42. **Goal 3, Neighborhoods,** calls for preservation and reinforcement of the stability and diversity of the city's neighborhoods while allowing for increased density. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to the stability and diversity of neighborhoods. In addition, the amendments will result in the application of design standards to substandard lots in

the R5 and R2.5 zones. The design standards currently apply to other situations in the City and are intended to protect neighborhood character.

43. **Goal 4, Housing**, calls for enhancing Portland's vitality as a community at the center of the region's housing market by providing housing of different types, tenures, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to housing. In addition, the amendments will result in the application of design standards to substandard lots in the R5 and R2.5 zones. The design standards currently apply to other situations in the City and are intended to protect neighborhood character.

44. **Goal 6, Transportation**, calls for protection of the public interest and investment in the public right-of-way and transportation system by

- encouraging development of a balanced, affordable and efficient transportation system consistent with the Arterial Streets Classifications and Policies; providing adequate accessibility to all planned land uses;
- providing safe and efficient movement of people and goods while preserving, enhancing, or reclaiming neighborhood livability;
- minimizing the impact of inter-regional trips on City neighborhoods, commercial areas, and the City street system;
- reducing reliance on the automobile and per capita vehicle miles traveled;
- building the use of the City street system to control air pollution, traffic, and livability problems; and maintaining the infrastructure in good condition.

The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to transportation. While not changing policy, one amendment is related to transportation. The amendment exempts substandard lots in the R5 and R2.5 zones from the requirement for on-site parking. The exemption is part of a package of standards aimed as increasing the design compatibility of narrow houses on substandard lots. This particular exemption will result in fewer of these narrow houses being built with a garage as the primary focal point on the ground floor.

45. **Goal 7, Energy**, calls for promotion of a sustainable energy future by increasing energy efficiency in all sectors of the City by ten percent by the year 2000. The amendments are consistent with this goal because they do not change policy or intent of existing regulations. In addition, one of the amendments allows attached houses in the R5 zone. This amendment is supportive of this goal because attached houses can be more energy efficient than detached houses.

46. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process. The amendments are consistent with this goal because the process provided opportunities for public input and followed adopted procedures for notification and involvement of citizens in the planning process.

47. **Goal 12, Urban Design**, calls for the enhancement of Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to urban design. The amendments will result in the application of design standards to substandard lots in the R5 and R2.5 zones. The design standards that will apply to substandard lots currently apply in other parts of the City and are intended to protect neighborhood character.

48. The following goals do not apply because of the limited scope of these amendments: **Goals 1, 5, 8, 10 and 11.**

NOW, THEREFORE, the Council directs:

a. Amend Title 33, Planning and Zoning, as shown in Exhibit A, dated June 24, 2003; and

b. Direct the Bureau of Development Services, in cooperation with the Bureau of Planning, the neighborhoods, the design community, the home builders, and other affected parties, to develop a catalogue of home designs that are allowed to be built on lots in R5 zones which are less than 3000 square feet in area or less than 36 feet wide, and lots in the R2.5 zone that are less than 1600 square feet in area. The catalogue of designs shall be completed no later than July 1, 2004.

Section 2.

1. The Council declares an emergency exists because:

   a. The design of many new detached houses on substandard lots in the R5 and R2.5 zones is incompatible with the character and design of existing, neighboring houses;

   b. There are thousands of substandard lots in the R5 and R2.5 zones throughout the City that can potentially be built on;

   c. The pace of development on substandard lots in the R5 and R2.5 zones has increased sharply in the past year; and

   b. The design standards will ensure that the design of houses on substandard lots in the R5 and R2.5 zones is more compatible with existing, neighboring housing.

   Therefore this ordinance shall be in full force and effect on July 10, 2003.

Passed by the Council, JUN 2 5 2003

GARY BLACKMER
Auditor of the City of Portland

Mayor Vera Katz

By Susan Parsons

Deputy

Shannon Buono, Bureau of Planning
June 9, 2003

Exhibit A—Amendments to Title 33, Planning and Zoning

AMEND CHAPTER 33.110, SINGLE-DWELLING ZONES

Sections:

33.110.213 Additional Development Standards in R5 and R2.5 Zones

A. Purpose. These standards increase the compatability of new houses on small and narrow lots in the zones where there is no minimum lot area for existing lots.

B. Where these regulations apply. The regulations of this section apply as follows:

1. R5 zone. In the R5 zone, these regulations apply to lots, lots of record, or combinations of lots or lots of record that were created before July 26, 1979 and are

   a. Less than 3,000 square feet in area; or

   b. Less than 36 feet wide, measured at the front lot line.

2. R2.5 zone. In the R2.5 zone, these regulations apply to lots, lots of record, or combinations of lots or lots of record that were created before July 26, 1979 and are less than 1,600 square feet in area.

3. Planned unit developments. Lots in planned unit developments are exempt from the requirements of this section.

C. **Standards.** Modifications to the standards of this subsection may be requested through Design Review. Adjustments are prohibited. The standards are:

1 Maximum height. The maximum height allowed for all structures is 1.5 times the width of the structure;

2 Main entrance. The main entrance that meets Subsection 33.110.230.C, Main Entrances in R10 through R2.5 Zones, must be within 4 feet of grade. For the purposes of this requirement, grade is the average grade measured along the foundation of the longest street-facing wall of the dwelling unit. See Figure 110-7;

3 Garage door. In addition to meeting the requirements of 33.110.250.E.4, the garage door may not be more than 8 feet wide. If there is more than one door, the combined width may not be more than 8 feet;

~~4 Vehicle access. Where the lot or lot of record abuts an alley, vehicle access to the lot must be from the alley;~~

4 No parking required. No off-street parking is required.

5 Exterior finish materials. The following standards must be met on all building facades:

a. Plain concrete block, plain concrete, corrugated metal, plywood and sheet preasboard are not allowed as exterior finish material, except as secondary finishes if they cover no more than 10 percent of the surface area of each facade. Composite boards manufactured from wood or other products, such as hardboard or hardplank, may be used when the board product is less than 6 inches wide;

b. Where wood products are used for siding, the siding must be shingles, or horizontal siding, not shakes;

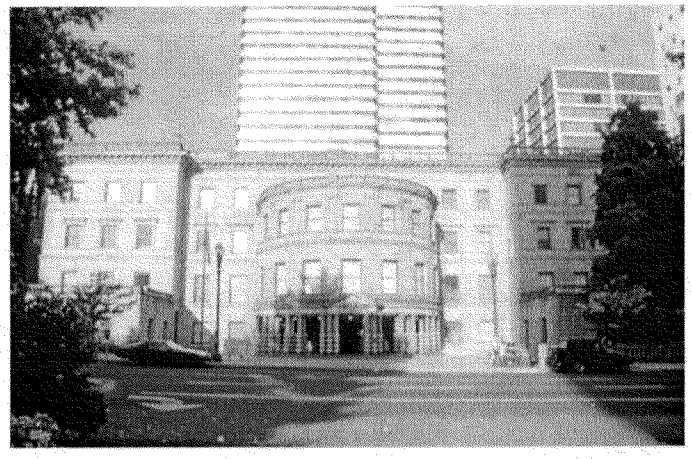
c. Where horizontal siding is used, it must be shiplap or clapboard siding composed of boards with a reveal of 3 to 6 inches, or vinyl or aluminum siding which is in a clapboard or shiplap pattern where the boards in the pattern are 6 inches or less in width;

6 Trim. Trim must mark all building roof lines, porches, windows, and doors on all facades. The trim must be at least 3-1/2 inches wide. Buildings with an exterior material of stucco or masonry are exempt from this standard;

7 Eaves. Roof eaves must project from the building wall at least 12 inches on all elevations; and

8 Attached housing. Attached housing is allowed, but no more than two units may be attached;

2002-2003
REGULATORY IMPROVEMENT WORKPLAN:



Policy Package 1

Recommended Draft

Planning Commission Recommendation to City Council

June 4, 2003

CITY OF PORTLAND, OREGON
BUREAU OF
Planning

Portland City Council will hold a public hearing on this project:
Wednesday, June 18, 2003
6:00 PM
City Hall, Council Chambers
1221 S.W. Fourth Ave.
Portland, OR 97204

For more information on the 2002-2203 Regulatory Improvement Workplan: Policy Package 1, please contact:

Bill Cunningham
Portland Bureau of Planning
1900 SW 4th Avenue, Suite 4100
Portland, Oregon 97201
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Internet: http://www.planning.ci.portland.or.us/cp_reg_over.html

The Bureau of Planning is committed to providing equal access to information and hearings. If you need special accommodation, please call 503-823-7700

(TTY 503-823-6868).

CITY OF PORTLAND, OREGON
PLANNING COMMISSION

c/o BUREAU OF PLANNING
1900 S.W. FOURTH AVENUE, ROOM 4100
PORTLAND, OREGON 97201-5350
TELEPHONE: (503) 823-7708
FAX: (503) 823-7800

June 4, 2003

Mayor Katz and City Commissioners
Portland City Council
1221 SW Fourth Avenue
Portland, Oregon 97204

Re: 2002-03 Regulatory Improvement Workplan: Policy Package 1

Dear Mayor Katz and City Commissioners:

On behalf of the Portland Planning Commission, we are forwarding our recommendations on Policy Package 1, the second element revising the Zoning Code as part of the City's 2002-2003 Regulatory Improvement Workplan.

The majority of the elements of Policy Package 1 are, without question, improvements to the Zoning Code. They increase clarity, simplify approaches, and better implement the Comprehensive Plan. Planning staff will give you a full presentation on all of our recommendations. There are several items that we received a great deal of testimony on and led to much discussion on our part, that we'd like to focus on in this letter.

1. **Lot Validations and Lot Segregations.** This is the issue we received the most testimony on, and spent the most time deliberating. After much discussion, our unanimous vote was to recommend significantly reorganizing and simplifying this section of the Code. Our recommendation, if adopted by Council, would replace the "Validation of Lots" section of the existing code with a new section called "Where Primary Structures are Allowed".

   We are recommending this change to provide greater consistency in the way we treat lots and sites throughout the City. It will establish the same minimum lot sizes for both existing lots and those being newly created through land divisions. As part of this change, minimum lot sizes will be added for existing lots in the R5 and R2.5 zones. This specific change is needed to bring the Zoning Code into compliance with the City's Comprehensive Plan.

   Much of the testimony we heard about this item focused on the part of the proposal which re-establishes a minimum lot size for the R5 (Residential 5000) zone. Much of the testimony was related to the Comprehensive Plan, zoning, and density issues. Other testimony focused on design issues related to narrow lot development. Our recommendation addresses both of these issues.

   The Comprehensive Plan's High Density Single Dwelling designation, which the R5 zone is intended to implement, is meant to "continue Portland's most

common pattern of development." . The maximum density is generally 8.7 units per acre The existing code, by having no minimum lot size for existing lots in the R5 zone, allows for twice the density (or greater) in areas that the City has determined should be developed at the R5 density, but which have an underlying historic platting pattern that might date from the early 1900s.

Historically, many areas (primarily in North, NE, and SE Portland) were platted with 25 x 100 foot lots. The lots were typically sold in combinations of two, three, or four contiguous lots, and developed with one house per ownership, creating the common pattern of development cited in the Comprehensive Plan. Most of these areas with this underlying platting pattern are currently zoned R5, an appropriate zone given the existing development pattern, the desired character of these neighborhoods, proximity to services, etc. Other areas (both with and without this historic platting), have been zoned R2.5 or higher through legislative planning projects because of their closer proximity to transit and appropriate infrastructure, the existing development pattern, and greater proximity to commercial centers and services. These are areas the City has determined can appropriately accommodate higher density housing.

When the existing regulations were adopted in 1991, no minimum lot size was established for substandard lots in the R5 and R2.5 zones. At the time, allowing such development was expected to have minimal impact on neighborhoods because most sites with underlying 25' x 100' platting were already developed in ways that meet the current code (e.g. one house per 5000 square feet). For the few vacant lots or the occasional side yard that could be segregated, it didn't seem necessary to establish a minimum that could unnecessarily preclude these smaller, existing, stand-alone lots from developing. In 1991, we did not expect that it would be financially viable to demolish an existing house straddling two historic lots in order to build two "skinny houses" in its place. This expectation proved to be correct for most of the 90s. However several areas of the City are now experiencing a "demolition phenomenon" not anticipated in 1991. We have discovered that the Zoning Code, because of changing market forces, no longer is implementing our Comprehensive Plan in the R5 zone.

As you know, the Comprehensive Plan is the City's overarching approach to planning, and the Zoning Code must--by state law--implement the Comprehensive Plan. Our recommendation does just that by re-establishing a minimum lot size of 3000 square feet for existing lots in the R5 zone. We recommend "grandfathering" in existing lots that already have separate tax accounts, or that are "in the pipeline" as of the effective date of this regulation.

We have asked staff to provide you with a full presentation on this issue at your hearing. The Planning Commission found that pictures, maps, and animated, real-life illustrations were very useful in helping us understand this complicated issue and the many options that will still be available for development on affected sites.

We also heard significant concerns about the design of houses being built on these narrow lots. Most of the houses built on these lots are only 15 feet wide, which presents significant limitations to the designers; because of these

constraints, the houses are often disproportionately tall (although within maximums allowed), and the garage is the dominant street-facing element. The Infill Design Project will address many of these issues, but we are concerned that if we wait until that project is completed, too many opportunities may be lost. Although our recommendation would stop future lot segregations, there are several hundred of these lots that could still be developed.

We asked Planning staff to develop some interim design standards for development on these lots, to be used until the more comprehensive Infill Design Project is completed. Given the design concerns, the limited scope of this project, and limited Planning Bureau resources, we asked staff to use some of the standards that are currently in the Zoning Code, although they may not currently apply to development on these lots. We strongly urge you to adopt these interim design standards; they do not address all of the design concerns, and they do not provide the ideal solutions, but they will suffice until better standards are adopted.

We are concerned about a potential rush of applications for lot segregations and the detrimental effect these will have on the neighborhoods in which they are located, especially if the interim design standards are not implemented soon. The Council should consider applying an emergency clause to the Ordinance to allow for an earlier effective date for the new "Where Primary Structures are Allowed" section of the Recommended Code. We heard a great deal of urgency in testimony and hope that the Council chooses to quickly address this issue.

2. **Eaves.** Eaves are currently included in calculations of how much building coverage is allowed on each lot. We are recommending that you remove eaves from the "building coverage" definition in the Zoning Code.

   The inclusion of eaves under the existing code presents several problems. The purpose of the building coverage regulations is, in concert with height limits, to regulate the bulk of development. Eaves, however, do not contribute to bulk, and in fact can sometimes lessen the appearance of bulk. BDS staff has found that when a project comes in over the maximum building coverage due to eaves, the most common response is to eliminate the eaves, rather than redesign the building to have a smaller footprint. Eliminating or reducing the eaves can adversely impact the design and appearance of the structure and can result in structures that are not compatible with nearby development. For these reasons, and those detailed in our report to you, we recommend deleting eaves from the definition of building coverage.

3. **Building Coverage.** We also are recommending an amendment to how we calculate building coverage in residential zones. As part of the Land Division Code, the City created Table 110-6 which includes seven different ranges of lot size and complex calculations for arriving at maximum building coverage. This was raised as an issue in the development of the "top ten" last fall for several reasons:

   - The calculations in Table 110-6 are complicated and should be revised for easier implementation.

- Concerns had been raised that the changes to the maximum building coverage allowance in Single-Dwelling zones resulted in a significant reduction in allowed building coverage on oversized lots when compared to what was previously allowed. BDS has found a number of cases where existing development in established neighborhoods (such as Laurelhurst and Irvington) with oversized lots in R5 zones, would need adjustments for additions that previously would have been allowed outright due to the greater percentage allowance of the R5 zone prior to this change taking place.
- Staff identified a "glitch" in the Table's calculations which creates a disparity in how the City treats lots between 5000 and 6999 square feet in size.

The Planning Commission recommends:

- Significantly simplifying and streamlining Table 110-6 and the calculations while retaining the policy decision made during the Land Division Code Rewrite.
- Slightly increasing the building coverage allowance for lots between 5000 and 10,000 square feet. The Planning Commission decided it would be appropriate to allow a little more increased flexibility for properties between 5000 and 10,000 square feet which the simplification of the Table allows. The Planning Commission is not recommending significant increases for these properties. The intention at the time of the Land Division Code adoption was not to keep all rights for oversize lots as they were under the previous code, but rather to treat all same sized lots the same, no matter what the base zone.
- Slightly increasing the building coverage allowance for lots under 3000 square feet to provide additional flexibility for these small lots. This was raised as a concern by the Bureau of Development Services in testimony to the Commission and we agreed this was important to do.
- Slightly decreasing the building coverage allowance for lots over 10,000 square feet. With the change to the building coverage definition, we felt this decrease would have marginal impacts.

The Planning Commission also discussed whether we should reduce the maximum building coverage allowances given our decision on excluding eaves from the definition of building coverage. The Commission voted (4-2-1) against reducing the allowance, since eliminating eaves from the definition of building coverage would not increase the currently allowed bulk of houses.

4. **Tree caliper.** Broadleaf trees required by the Zoning Code in nonresidential zones must be at least 3 caliper inches. There is an exception in parking lots for trees on the Parking Lot Tree List which may be 2 caliper inches. We recommend that you reduce the general requirement to 2 caliper inches, and reduce the requirement for trees on the Parking Lot Tree List to 1.5 caliper inches. We believe this will make it easier for developers to find the trees required by the Code, reduce costs for them, and increase the viability of the trees planted. In addition, in order to provide a comparable reduction in the requirements for conifer trees, we ask that you also reduce the required height

for conifers from 6 feet to 5 feet in general, and from 5 feet to 4 feet for trees on the Parking Lot Tree List.

We are concerned however about this piecemeal approach to the landscaping regulations. In addition to the requirements in the Zoning Code, trees and landscaping are also required by the City Forester (street trees), the Bureau of Environmental Services (as part of stormwater management), and other agencies. The Bureau of Development Services has begun a project to consider the entirety of the City's landscape regulations, with an eye to consolidating and simplifying the requirements. We strongly encourage you to make this project a priority.

RECOMMENDED ACTIONS

The Planning Commission recommends that the City Council adopt this ordinance and report, and amend the Zoning Code as shown in the report.

Thank you for consideration of the recommendations of the Portland Planning Commission.

Sincerely,

Ethan Seltzer, President
Portland Planning Commission

2002-2003
REGULATORY IMPROVEMENT WORKPLAN:

Recommended Draft

Planning Commission Recommendation to City Council

June 4, 2003

CITY OF PORTLAND, OREGON
BUREAU OF
Planning

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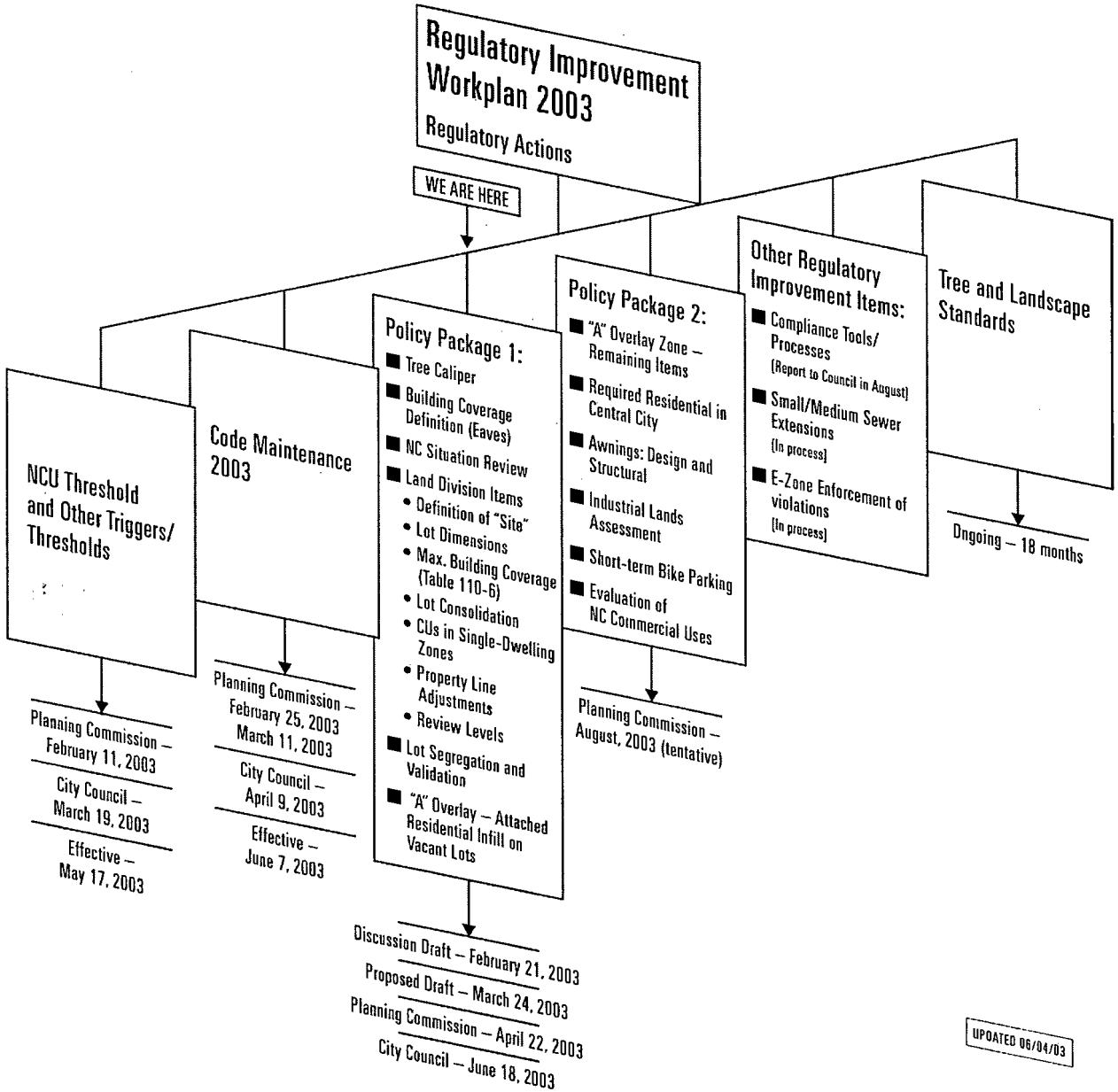
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Summary and Planning Commission Recommendation

Summary

This report is the second element revising the Zoning Code as part of the 2002-2003 Regulatory Improvement Workplan, a program to update and improve City building and land use regulations and procedures that hinder desirable development. The Recommended Draft includes several amendments to the Zoning Code that are grouped into what is referred to as "Policy Package 1." Items in Policy Package 1 range from the size of trees planted in nonresidential zones to various elements of the land division code.

For other items that are included in the 2002-2003 Regulatory Improvement Workplan but are not a part of this Recommended Draft, please refer to the chart on the previous page.

In this report, Planning Commission recommends the following:

- Tree size: In non-residential zones, reduce the minimum required tree caliper for broadleaf trees from 3 inches to 2 inches and the minimum required height for conifers from 6 feet to 5 feet. Preserve the incentive for using trees off the Parking Lot Tree List in parking lots, by reducing the allowed tree size for those trees from 2 inches to 1.5 inches, and from 5 feet to 4 feet.
- Definition of building coverage: Exclude eaves from the definition of building coverage.
- Maximum building coverage: Revise Table 110-6, Maximum Building Coverage Allowed in RF through R2.5 Zones, to reduce the number of ranges in the table and simplify the calculations significantly.
- Nonconforming Situation Review: Change the existing criterion for nonconforming situation review from requiring applicants to demonstrate a "net decrease" in detrimental impacts to "no net increase" in detrimental impacts. Reduce review procedure for non-conforming situation reviews in R (residential) and OS (open space) zones to Type II (from Type III).
- Attached residential infill on vacant lots ("a" overlay): Eliminate the code provision for attached residential infill on vacant lots in the R20, R10, and R7 zones while retaining it for the R5 zone.
- Lot validations and Lot segregations: Replace "Validation of Lots and Lots of Record" section with "Where Primary Structures are Allowed" to simplify this section, provide consistency in how lots and sites are treated throughout the city and establish minimum lot sizes for existing lots in the R2.5 and R5 zones. Establish design standards for "grandfathered" lots that do not meet the minimum lot size.
- Definition of "site" for land divisions: Allow the applicant to define the site within an ownership along lot lines.
- Lot Dimension Standards in the Multi-Dwelling Zones: Add minimum lot dimension standards for nonconforming uses and duplexes; reduce minimum lot depth in R3, R2, and R1 zones to 70 feet, add front lot line requirements for attached housing in all Multi-Dwelling Zones, and for all development in the RX zone; add minimum lot dimensions for attached housing in the IR zone to

correct some inadvertent omission made during the Land Division Code Rewrite Project. .

- Front lot line in Commercial zones: Change the minimum front lot line standard from 25' for most development and 16' for attached houses to 10'; this will allow live/work situations in attached buildings in commercial zones, and increase opportunities for creative development.
- Nonconforming uses in R2.5 and multi-dwelling zones: Clarify which development standards apply to lots that will be developed with uses other than attached and detached houses; clarify that sites with conditional uses are exempt from minimum density standards.
- Conditional uses in RF though R5 zones: Clarify that the portion of a site with a conditional use is exempt from minimum density standards and also clarify that lots with conditional or institutional uses are exempt from the maximum lot area standards.
- Property line adjustments: Clarify that the dimensional standards that apply to lots created through the land division process also apply to Property Line Adjustments.
- Lot consolidation: Create a process for the removal of lot lines within a site that is simpler, faster, and less expensive than the land division process.
- Review of land divisions in multi-dwelling zones: Replace "dwelling units" with "lots" as one of the factors considered when determining which level of review procedure is assigned to a proposed land division.

Planning Commission Recommendation

Planning Commission recommends the following City Council actions:

- Adopt this ordinance and report, and
- Amend the Zoning Code as shown in this report.
- Consider adding an Emergency Clause to allow for an earlier effective date for Section 33.110.112, Where Primary Structures are Allowed.

A. Background

On June 26, 2002, the Portland City Council approved Resolution 36080, which sought to "update and improve City building and land use regulations that hinder desirable development." This was the beginning of the Council's charge to build an effective process of continuous improvement to the City's code regulations, procedures, costs and customer service.

Between the time of Council's approval of Resolution 36080 in June and final Council action in the Fall of 2002, City staff participated in an extensive public outreach program over the course of 12 weeks. This effort was spearheaded by the Mayor's Office and included a diverse group of regulatory stakeholders ranging from City bureau representatives to neighborhood association representatives and business groups.

One component of City Council's 2002-2003 Final Regulatory Improvement Workplan included the annual development of a "top ten" list of problematic code regulations. Some of the items included in the "top ten" list for 2002-2003 require significant staff time for review and proposal development, thus this year's "top ten" (which turns out to be approximately fifteen items) has been grouped into several pieces, including the items in this Recommended Draft. These items make up the bulk of what is referred to as Policy Package 1. Other code improvement items in the 2002-2003 Workplan will be moving their way through the public review process in the upcoming months.

The Bureau of Planning published *Regulatory Improvement Workplan: Policy Package 1 Discussion Draft* on February 21, 2003. Copies were available at the Bureau's office and on the Bureau's website. Notice of the proposal was to a broad range of community members, including those who had provided email input to the City's Regulatory Improvement website, and Business and Neighborhood Associations. In addition, there was extensive review by other City bureaus prior to the Planning Commission's hearing.

The proposed draft of the Regulatory Improvement Workplan: Policy Package 1 was published on March 24, 2003. Nearly 2,000 individuals and organizations were notified of the draft.

On April 9, 2003, Bureau of Planning staff hosted an informational Open House for additional public review and comment on the proposal. On April 22, 2003, Planning Commission held a public hearing on the proposal. After receiving oral and written testimony, Planning Commission deliberated on and developed their recommendation to City Council.

This report forwards the Planning Commission's recommendation on Policy Package 1.

B. Discussion

Due to the varied nature of the code proposals contained within this package, discussion of the various proposals is contained within the commentary pages accompanying the recommended code amendments. Section D. Recommended Amendments to the Zoning Code, begins on page 1 of this document.

C. Impact Assessment

This Impact Assessment section of the *Planning Commission Recommended Draft* contains many references to other documents because this project (Policy Package 1) is one of many inter-related projects in the Regulatory Improvement Workplan. Many of the steps of an impact analysis were performed as part of the other related projects, discussed below. The flowchart of the model process for impact assessment, included in this document as Attachment 1, provides additional information.

The Model Process for Impact Assessment

The Impact Analysis Workgroup developed a model process for impact assessment. Development of the model was part of the 2002-2003 Regulatory Improvement Workplan. The model recommends a two-stage assessment for all legislative projects; each stage includes a set of questions to be addressed.

The first stage is part of the initial phase of a project, and should be incorporated into the scoping, problem definition, and other early project steps. The second stage is part of the development and analysis of a project, and includes considerations of alternatives. This impact assessment follows this two-stage assessment model.

First Stage Assessment

The model process recommends that the following questions be addressed in the initial phases of any legislative project:

1. *What is the issue or problem we are trying to address? Is there a mandate (state or federal) that requires a regulation or other non-regulatory response--and is there clear authority for its adoption?*

2. *What are the intended or desired outcomes? What community goals or aspirations are we trying to achieve? How will the outcomes advance and support the City's Comprehensive Plan?*

3. *Is the issue of sufficient magnitude to justify developing new regulations or other non-regulatory tools? Is the issue just the "crisis du jour" or something more substantial?*

4. *What entities will be affected by the potentially proposed policies, requirements and/or regulations? Are there existing regulations and non-regulatory tools that affect the same entities? Are there existing policies, requirements and/or*

regulations that are duplicative, contradict, or overload the existing regulatory framework?

5. *Why should this be a priority for action? How will the City staff and fund the project?*

For Policy Package 1, much of the First Stage Assessment work of Issue Identification and Initial Scoping, Bureau and Council Prioritization, and Project Initiation and Scope Refinement was conducted through a process led by the Mayor's Office in the summer and fall of 2002. This assessment is not repeated here.

The Regulatory Improvement Workplan includes multiple projects and initiatives to update and improve City building and land use regulations that hinder desirable development. The Bureau of Planning is responsible for developing any proposed changes to the City's Zoning Code [Title 33] and bringing them to the Planning Commission for hearings and recommendations to the City Council.

This package of amendments to the Zoning Code, *2002-2003 Regulatory Improvement Workplan: Policy Package 1*, includes a number of proposals on the "Top Ten" list; the Top Ten list was a list of items approved for further action by Council in November 2002. Other items on the Top Ten list will be addressed by other City bureaus, who will bring changes directly to Council. In addition, the Bureau of Planning will bring forward additional amendments to the Zoning Code as part of the *2002-2003 Regulatory Improvement Workplan: Policy Package 2* later this year.

Five white papers for the items in this package are included in this report as Attachments 2 through 6. These white papers were considered by City Council when they approved the Top Ten list and forwarded these issues to the Bureau of Planning for further work and consideration through the legislative process. The white papers provide descriptions of the problems identified with the code provisions, possible solutions or concepts, and the desired outcomes of changes.

The items included as part of Policy Package 1 are listed below. The item numbers are those used on the Regulatory Improvement Workplan Top Ten list and the white papers.

Item #10--Reduce minimum caliper of tree
Item #37--Exclude eaves from building coverage
Item #A37--Criteria for nonconforming situation review
Item #16--Attached residential infill on vacant lots ('a' overlay)
Item #A6.1--Land division definition of "site"
Item #A6.2a--Duplexes in multidwelling zones and
Item #A6.2f--Depth of R2 lots
Item #A6.2b--Nonconforming uses in R2.5 and Multidwelling zones
Item #A6.2c--Property line adjustments
Item #A6.2d--Lot validation and Lot segregations (New item)
Item #A6.2e--Front lot line in Commercial zones
Item #6.3--Maximum building coverage (Table 110-6)

Item #6.4--Lot consolidation
Item #6.5--Conditional uses in RF through R5 zones
Item #6.7--Review of land divisions in multidwelling zones

The items related to Land Division regulations (those beginning with A6), while considered as one item for the Top Ten, actually include numerous changes. Since adoption of the Top Ten list, BDS staff has identified many additional implementation and code clarification issues. The Bureau of Planning agrees with BDS on the need to address some of these newly-identified issues, but feels that many of these suggested changes go beyond the scope of this project. Planning will continue to work with BDS to scope out the next set of amendments to the Land Division regulations.

First Stage Assessment and Description of Additional Items

Prior to publication of the Bureau of Planning's *Proposed Draft*, two issues were identified after adoption of the Top Ten list that related directly to items already included in Policy Package 1. Additional related items were requested by the public, the Bureau of Development Services, or the Planning Commission when the project was under consideration. These issues have been included as part of this package and are described below.

1. Review Procedure for Nonconforming Situation Review.
   At the request of BDS, the Planning Bureau recommended a change to the review procedures for Nonconforming Situation Reviews in the OS and R zones, proposing they be reviewed through a Type II procedure rather than a Type III. The Planning Commission recommends adoption of this item.

   This code amendment is in the same section of the Zoning Code as the recommended amendment for item #A37--Criteria for Nonconforming Situation Review.

   As described in the commentary for this change (page 22), these reviews are relatively rare, especially in the OS and R zones, and of those reviewed in the past three years, none have been appealed to the City Council. These are relatively straightforward reviews and, as less discretionary reviews, should appropriately be processed through a Type II rather than a Type III procedure. This will reduce the time and expense of these reviews for both the City and the applicant without compromising the City's policy goals.

2. Lot Size Minimums for Existing Lots vs. New Lots in R2.5 and R5.
   The second additional item, dealing with lot segregations and minimum dimensional requirements for Valid Lots in the R2.5 and R5 zones, was added at the direction of the Planning Commission with the concurrence of Planning staff; Planning Commission responded to a community request brought before them in early February. This issue would have needed to be addressed in any case, given the approach proposed by BDS and Planning and recommended by the Planning Commission to address Item #A6.2.d Lot Dimensions--Lot Validation Dimensions vs. Regular Lot Dimensions.

Shortly after implementation of the new Land Division regulations, BDS identified a concern that the standards for existing lots in the R20, R10, and R7 zones (33.110.212) were larger than the minimum lot standards for new lots (33.610.200 and 33.611.200). BDS recommended clarifying which standards apply to existing lots. The Bureau of Planning and BDS agreed to apply the minimums for new lots (contained in Table 610-1) to existing lots, allowing for the development of existing lots in these zones, and increasing consistency with the Code. This issue was identified as Item #A6.2d on the Top Ten list.

While the Top Ten list was being finalized in the fall of 2002, community members began raising concerns about the lack of a minimum lot size for existing lots in the R5 and R2.5 zones. They were seeing development of many houses on sites that, while zoned R5, had platted lots measuring 25' x 100'. The new development is occurring on these old platted lots through a process called lot segregation, which recognizes the old lots, and allows development in the absence of a minimum lot size.

Members of the community were concerned about the increased density of these houses, the demolition of existing housing stock, the lack of supporting infrastructure, the design of these houses, and the lack of compatibility with the surrounding R5 neighborhood. They were also concerned about perceived inequities between neighborhoods that had underlying 25' x 100' plats that could see extensive increases in density without upzoning and those without the underlying lotting pattern that would not see this same change.

Representatives of the Roseway Neighborhood Association attended the hearing on the *Regulatory Improvement Workplan: Thresholds for Upgrading Nonconforming Development*, and requested the Planning Commission include this issue as part of *Code Maintenance 2003*. They asked for the adoption of a minimum lot area standard equal to the base zone density requirements (1 unit per 5000 square feet) or equal to the new minimum lot area allowed through the land division process (3000 square feet minimum area). Planning Staff advised the Planning Commission that this issue was related to Item #A6.2.d in *Policy Package 1* and indicated that it went beyond the code clarification and maintenance issues *Code Maintenance* could address. Planning Commission directed staff to include this item, if possible, *in Policy Package 1*.

Staff's initial investigation indicated that the increase in density in R5 neighborhoods with this underlying platting pattern of 25' x 100' lots was not in keeping with the Comprehensive Plan designation of R5. Further analysis is presented below, in the Planning Commission's Transmittal Letter, and in the Discussion and Commentary of the *Recommended Draft*. In addition, Planning Commission has asked staff to cover this issue thoroughly in their presentation to the City Council.

3. Parking Lot Trees.

"Top Ten" Item #10--Reduce minimum caliper of trees specifically directed staff to consider changes to the broadleaf tree caliper requirements in the Tree and Landscaping Chapter of the Zoning Code. Two related issues were raised as the proposal moved forward. By reducing the tree size requirement for all trees, there would no longer be an incentive in the Parking and Loading Chapter of the Zoning Code to use trees from the Parking Lot Tree List. Currently, this Chapter requires 3" caliper broadleaf trees for parking lot landscaping unless trees from the Parking Lot Tree List are used, in which case they may be 2". The Planning Commission considered four different options proposed through testimony to address this issue, and recommends amending this Chapter to allow 1.5" trees off the Parking Lot Tree List.

In addition, the Code also regulates the size of conifer trees--by height, rather than caliper. At the request of one of the Planning Commissioners, the Commission considered amending the height requirements of conifers in both the Tree and Landscaping and Parking and Loading Chapters of the Zoning Code to provide a comparable reduction in size. The Planning Commission recommends reducing the general height requirement for conifers from 6' to 5' and the requirement for conifers on the Parking Lot Tree List from 5' to 4'.

4. Front lot lines

In their April 22 memorandum to the Planning Commission on the Proposed Draft, the Bureau of Development Services requested consideration of an amendment to add front lot line requirements for attached housing in all Multi-Dwelling Zones, and for all development in the RX Zone. Currently, there are no minimum front lot line requirements in the Zoning Code for these types of development in these zones. Other bureaus' codes require street frontage, yet are difficult to easily summarize for applicants, creating confusion for applicants when BDS staff try to require street frontage during a land division. For example, water service must be from a street, not over an easement. Adding a front lot line requirement of 10 feet ensures adequate access for services and alerts applicants to the need for street frontage. Planning and BDS staff concluded and the Planning Commission agreed that making this change, while it would add additional regulations to the Zoning Code, was appropriate given the clarity it would provide to applicants. The requirement is recommended at just 10 feet to allow the greatest flexibility, while still allowing for the necessary frontage for utility connections.

Second Stage Assessment

The Second Stage Assessment consists of the following steps: Project Development and Analysis; Release of the Proposal including Impact Assessment; Consideration of the Proposal; and finally Adoption and Implementation. Again, some of the steps in the second stage assessment were carried out as part of other related projects. During the Second Stage Assessment, in addition to updating information prepared in the First Stage Assessment, several key questions are addressed. These questions are addressed below for the project as a whole, followed by analysis related to some specific items.

Question 1: What regulatory and non-regulatory alternatives were considered? Why is the proposal the preferred solution/response? How does the proposal best respond to the objectives and goals identified in the first stage of the project?

Throughout the development of *Policy Package 1*, Planning staff met with staff from the Bureau of Development Services to develop and consider various approaches and alternatives to address the items identified by the City Council as priorities for action.

In general, regulatory (as opposed to nonregulatory) alternatives were considered as part of this proposal. This is because the stated purpose of the Regulatory Improvement Workplan is to continuously improve the City's existing code regulations. Within that context, the proposals included in the Policy Package 1 document attempt to clarify and improve existing code, rather than assess whether there is a non-regulatory alternative that would better achieve the same end. However, in some cases (such as the definition of site and the "a" overlay), staff is recommending deleting or replacing code provisions because the code language does not achieve the purpose of the regulation.

The proposals included in the Policy Package 1 document are the preferred solutions because they clarify existing code language that has been identified as problematic. The solutions proposed update and improve land use regulations that hinder desirable development. Specifics are described in the Commentary section and in the recommended Code language of the *Recommended Draft*

Question 2: How were stakeholders and the community consulted throughout the process? What were their responses to the proposed changes and the alternatives considered?

Between June and October 2002, Bureau of Planning staff participated in the extensive public outreach program focusing on the Regulatory Improvement Workplan spearheaded by the Mayor's office, and including a diverse group of regulatory stakeholders ranging from City bureau representatives to neighborhood association representatives and business groups. Through this process, staff heard from a wide range of stakeholders, including the City Council and various City stakeholders, about the specific items that were eventually included as part of the Top Ten, and subsequently Policy Package 1.

Staff from the Bureau of Planning met with BDS staff to discuss various approaches to the Policy Package 1 items and exchanged several versions of draft code language prior to publication of a *Discussion Draft* on February 21, 2003 for public review. It was during these discussions that the approach to Lot Validations and Lot Segregations was developed.

Notice of the availability of the *Discussion Draft* was sent to a broad range of community members, including those who had provided e-mail input to the City's Regulatory Improvement website, and Business and Neighborhood Associations. Staff discussed the *Draft* with various stakeholders and further with City staff and received input and information that was incorporated into the *Proposed Draft*. BDS

had further recommendations, some of which (e.g. the review level for Nonconforming Situation Reviews in OS and R zones) were included in the next draft. Planning worked with BDS staff to revise the proposals where appropriate.

The *Proposed Draft* was released on March 24, 2003. Nearly 2,000 individuals and organizations were notified, including a broad range of citizens and stakeholders, and all those who had received notice about the *Discussion Draft.*

Additional notice was sent about the proposed changes to Section 33.110.212, Lot Validation, that would also affect lot segregations and development on segregated lots. This additional notice was sent to 191 property owners and developers who had used the lot segregation process and/or developed on 25' x 100' lots. The additional notice was also sent to nearly 200 Neighborhood Offices and Land Use Chairs, many of which have raised concerns about this type of development.

Staff held an Open House on April 9, 2003 to answer any questions and receive comments about the *Proposed Draft.* Twelve people attended. The majority of the discussion concerned the lot segregation/validation of lots item. The definition of building coverage (excluding eaves) and the "a" overlay also were discussed.

The Planning Commission held a public hearing on April 22, 2003. Much of the testimony and discussion focussed on the issue of lot segregations. Some of the concerns raised related to the zoning issues of lot size and density, while others related to the design of houses on narrow lots. Several members of the Commission asked staff to prepare some design standards that could be applied to development on the narrow lots. At the May 13, 2003 work session the Commission considered several design proposals. Because there had been no opportunity for prior public review of the proposed design standards, the Commission set their final decision over until May 27, 2003 and directed staff to notify all previous testifiers of the decision and solicit their opinions. They also encouraged interested persons to let City Council know their views on the design proposals.

Question 3: What resources are required to implement the proposal and how will any proposed regulation be enforced?

In general, staff from Planning and BDS believe that no new resources are required to implement these proposals. The proposals improve existing regulations and in some instances should reduce both staff and applicant costs. The Code will continue to be enforced by BDS, and in some instances, enforcement should be easier. Most of the proposals do not implement new policy, but rather try to make existing policies easier to achieve and implement.

Question 4: What are the general benefits of the policy, regulation, or administrative requirement and how do these benefits compare to and balance against the public, private, and community costs?

For Policy Package 1 as a whole, the intent is to make the regulations easier to understand and apply, and to continue to implement the policy and provide

benefits that balance with the requirements. We recommend deleting some existing code provisions where the Code is not meeting our policy intent and simple and direct alternative ways to meet that intent are not available. For other items, we propose changes that remove disincentives to good development. More detailed descriptions of both benefits and costs of the regulations and impacts of the changes being proposed are discussed in the Discussion and Commentary accompanying the Code language.

Question 5: How will the regulation's impact be monitored to determine effectiveness? What should success look like? What resources are needed to gather and evaluate performance data?

The success of these code changes will be monitored through the ongoing Regulatory Improvement Workplan. In addition, the Land Use Review Survey that BDS sends to all applicants will help identify problems. BDS is also working with Planning on the development of a Land Division Customer Survey.

D. Recommended Amendments to the Zoning Code

Organization of this section:
The recommended amendment are organized by topic. Each topic heading is followed by a list of the "Top Ten" items that are addressed under that topic.

Within each topic is discussion, commentary, and recommended code language.

How Zoning Code changes are shown in this section:
Language to be added to the Zoning Code is underlined; language to be deleted is shown in ~~strikethrough~~.

Size of Trees

"Top Ten" Item #10--Reduce minimum caliper of trees

DISCUSSION AND COMMENTARY

Currently, required trees in the non-residential zones (i.e., Commercial, Employment and Industrial zones) must have a minimum caliper of 3 inches. After consideration of the following information, the Planning Commission recommends reducing the requirement to a 2" minimum caliper.

This item is discussed at length in the Top Ten white paper and in the commentary section of the *Proposed Draft*.

This item was very narrowly focused—looking solely at the size of tree required by the Zoning Code in non-residential zones. Through the Top Ten, Planning was not asked to address the broader range of issues related to tree and landscaping requirements which BDS is addressing through a different project. Alternatives such as allowing substitution of different plant materials for trees, allowing for cumulative tree caliper measurements (e.g. if 10 3" trees are required, allowing 30" of tree caliper amongst a different number of trees), or establishing a preferred tree list that would need to meet a lesser caliper requirement, were beyond the scope of this project and would best be considered in the context of the comprehensive approach BDS is taking.

We believe our proposal provides a more appropriate balance between the costs and benefits of this requirement. By allowing for smaller caliper trees, we are not reducing the number of trees required. Rather than requiring property owners to pay for the growth of a tree (from 2 inches to 3 inches) off-site, this change will allow them to buy and plant more trees and allow the trees to increase their caliper on site. This proposal has merit because there is some evidence that indicates that smaller caliper trees have a better survival rate when transplanted. Also, in the case of trees required to meet the nonconforming upgrade regulations, more trees can be bought and planted for the same expenditure of limited funds.

Tree Availability and Costs

Although 3" diameter trees are available at some local nurseries, this is not a standard caliper size found in area nurseries. The current code requirement is disconnected from standard nursery practices in this region because nurseries do not have significant quantities available. This makes conformance with the code requirements difficult and impractical, particularly for sites requiring large numbers of trees. Since most other municipalities have lesser standards, tree stock is often sold before it reaches the 3" size and not enough financial incentive exists to hold stock back in order to provide the 3" caliper trees. Public agencies, such as the Port of Portland, as well as private developers have reported significant difficulty in the procurement of 3" caliper broadleaf trees. To purchase this size tree, a grower often needs to be contracted with at least three years in advance. Due to typical procurement processes that include project scheduling, budget approval, bidding and contract authorization, the need for a three-year lead-time to procure 3" caliper trees is not practical or feasible for either public or private development.

In addition, while Development Services staff seldom sees requests for adjustment to the 3" caliper requirement, they often receive complaints from applicants "after the fact" when the

DISCUSSION AND COMMENTARY, CONT.

applicants run into difficulty locating this tree size and/or realize the additional costs. These costs include both material and labor. The costs associated with furnishing and installing a 3" caliper tree can be substantially more than the costs associated with a 2" caliper tree. Installing a larger stock typically requires using equipment such as a backhoe or bobcat with special attachments. Recent estimates of the difference in installation costs range from $225 to $240 for a 2" caliper tree and $305 to $350 for a 3" caliper tree.

In support of retaining the requirement for at least a 3" caliper tree in the nonresidential zones, the City Forester previously conducted comparative research with other cities. In addition, the staff at Urban Forestry has researched the availability of 3" caliper trees at nurseries in region. Others, including those in the environmental community, have previously provided input about the difficulty of obtaining native species in that size.

Transplant Shock, Stress, and Mortality

Advancements in modern equipment and technology have made it possible to transplant almost any size and species of tree. However, one thing remains the same--newly planted trees must quickly establish a normal spreading root system on the new site to minimize stress and ensure survival. In most urban settings, soils are routinely compacted with poor aeration, low water storage capacity and little organic matter and may have undesirable high soil pH values resulting from frequent irrigation with alkaline and chemically treated municipal water.

According to Gary Watson, Ph.D., past president of the International Society of Arboriculture and currently a researcher at the Morton Arboretum in Lisle, Illinois who specializes in root development of trees in urban landscapes, a transplanted tree loses as much as 98% of its root system which is left behind. Also, more than 75% of a tree's survival potential is stored in its root system. This is true for both large and small trees but a larger tree loses a much greater mass and lateral spread of roots than a smaller tree. Thus, even though the roots of both larger and smaller trees grow at the same rate (roughly 18 inches year), it takes the larger tree several years longer to regain the size of its original root system. This extended period of reduced vigor due to limited supply of nutrients and water to the upper portion of the tree adds to the transplant stress associated with larger trees and often results in concern about "transplant shock" and the ultimate survival of the larger tree. A smaller tree requires fewer annual root growth increments after transplanting than a larger tree, in order to replace the original root system. Since the smaller tree recovers vigor faster, a smaller tree may actually overtake a larger tree in growth by the time the larger tree has restored its root-shoot balance.

In a study published in 2002 by the International Society of Arboriculture, researchers compared the growth and establishment of transplanted Red oak in two caliper sizes (3.3" and 1.4") over a four-year period. Controlling for possible confounding factors such as tree genetics and pre-transplant health, these researchers found that the larger caliper trees had a higher mortality rate (58%) while no smaller caliper trees died.

DISCUSSION AND COMMENTARY, CONT.

Conifers vs. Broadleaf Trees

The discussion above about tree caliper applies only to broadleaf trees. In the Zoning Code, the size of conifers is regulated by tree height rather than caliper. The reasons for reducing the minimum caliper of broadleaf trees also apply to reducing the minimum height of conifers. Therefore, the Planning Commission is recommending a reduction to 5 feet (from 6 feet).

Parking Lot Tree List

To provide an incentive for planting certain trees in parking lots, the current code reduces the minimum size of broadleaf trees to 2 caliper inches and the height of conifers to 5 feet if they are a variety that is on the Parking Lot Tree List. With the minimum tree size reductions discussed above, the incentive for using trees from the Parking Lot Tree List will go away unless there is a corresponding reduction in the minimum size of trees on this list. We think the incentive should remain. Accordingly, we recommend that the minimum size for trees on the Parking Lot Tree list be reduced to 1.5 caliper inches for broadleaf trees, and to 4 feet for conifers.

RECOMMENDED CODE LANGUAGE

AMEND CHAPTER 33.248, LANDSCAPING AND SCREENING

33.248.030 Plant Materials

A. and **B.** [No change.]

C. Trees. Trees may be broadleaf or conifers. Broadleaf trees at the time of planting must be fully branched. Broadleaf trees planted in residential zones must be a minimum of 1.5 inches in diameter. Broadleaf trees planted in all other zones must be a minimum of **~~3~~ 2** *(emphasis added for reading clarity)* inches in diameter. Conifer trees at the time of planting must be fully branched and a minimum of **~~6~~ 5** *(emphasis added for reading clarity)* feet in height. These minimum requirements do not apply to trees used for mitigation, remediation, or restoration.

D. through **F.** [No change.]

AMEND CHAPTER 33.266, PARKING AND LOADING

33.266.130 Development Standards for All Other Uses

A. through **G.** [No change.]

H. Required landscape materials for parking lot landscaping. Landscape materials for parking lot interior and perimeter landscaping must be provided as follows:

1. All landscaping. [No change.]

2. Trees.

   a. Trees required. [No change.]

   b. Size of trees. Trees in residential zones must meet the tree size standards of Chapter 33.248, Landscaping and Screening. In non-residential zones, trees must meet the standards of Chapter 33.248, except for trees on the Parking Lot Tree List. The Parking Lot Tree List is maintained by the City Forester in consultation with the Bureau of Environmental Services and the Urban Forestry Commission. Trees on the Parking Lot Tree List must be fully branched and meet one of the following tree size standards:

      (1) Broadleaf trees must be at least **~~2~~ 1.5** *(emphasis added for reading clarity)* caliper inches at the time of planting; or

      (2) Conifer trees must be at least **~~5~~ 4** *(emphasis added for reading clarity)* feet tall at the time of planting.

   c. and d. [No change.]

Definition of "Building Coverage"

"Top Ten" Item #37—Exclude eaves from building coverage

DISCUSSION

Overview of Recommendation and Assessment

Eaves are currently included in calculations of how much building coverage is allowed on each lot. The Planning Commission recommends removing eaves from the "building coverage" definition in the Zoning Code.

The inclusion of eaves under the existing code presents several problems. The purpose of the building coverage regulations is, in concert with height limits, to regulate the bulk of development. Eaves, however, do not contribute to bulk, and in fact can sometimes lessen the appearance of bulk and should not be included in building coverage. Generally, other jurisdictions in the area do not include eaves in their definitions of building coverage.

This recommendation simplifies the measurement of building coverage and will save both applicants and city staff time and money.

During development of this recommendation, some raised concerns about overall bulk of buildings being increased because of this change. We do not believe this will be the case. Based on the experience of BDS staff, under current regulations applicants reduce eave overhangs to meet building coverage limitations, rather than reducing the overall bulk of their buildings by redrawing plans and reducing the square footage of a building. Eliminating or reducing the eaves can adversely impact the design and appearance of the structure and can result in structures that are not compatible with nearby development.

There were also concerns about eaves extending into setbacks and whether that would pose a fire hazard or appear to be too close to adjacent buildings. As described below, the Building and Fire codes regulate how close buildings and eaves can be for fire safety. In addition, eaves may already extend into building setbacks under Zoning Code provisions. The proposal does not change how much eaves may extend into setbacks.

During development of the *Proposed Draft*, several people suggested that if the goal is to have houses that are better-designed, and that have eaves, the City should just require them. In the early stages of what became the Base Zone Design Standards, such a requirement was considered and discarded for further consideration as being too prescriptive. This recommendation will remove a disincentive for eaves; creation of an incentive or requirement for eaves could be considered at a later time.

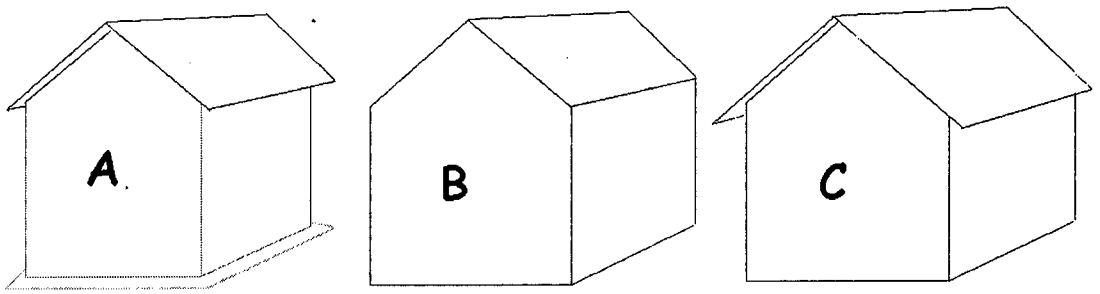
Further discussion

The maximum building coverage and height regulations limit the overall bulk of structures on a site. In the existing Zoning Code, "building coverage" is defined as the area that is covered by buildings or other roofed structures, including eaves. However, the bulk of a structure depends on the space that structure takes up--its height x width x depth (width x depth = the structure's footprint). Eaves do not add to the overall bulk of a structure.

Definition of "Building Coverage," Cont.

DISCUSSION, CONT.

The following illustration shows three different houses. Under the existing definition of "Building Coverage", which include eaves, houses A and B would have identical building coverage. A builder who chooses not to include eaves can have a larger and bulkier structure than one who chooses to include eaves. The lighter line in the illustration of House A indicates the area that would need to be measured for the building area calculation--the "drip-line" of the eave overhangs. For the eave-less structure, the building footprint is the same as the building coverage.



Using the recommended definition of "Building Coverage", excluding eaves, Houses B and C have identical building coverage. The two structures have identical heights, widths and depths--the only difference is that one has eaves. The overall bulk of the structures is the same, and under the recommended definition, their building coverage would be calculated the same as their building footprints.

Implementation

Including eaves in building coverage has created a number of implementation issues, for staff and applicants.

Measuring building coverage based on a calculation that includes eaves (the "drip-line"--lighter line in Illustration #1) is more difficult than basing the building coverage calculation on the footprint of a building. This recommended change would make it easier for applicants, staff in the Bureau of Development Services (BDS) and inspectors in the field to calculate building coverage. This will simplify review and enforcement of the Code.

In order to maximize the footprint of a building, builders/architects often eliminate or substantially reduce eave overhangs in order to conform with the maximum building coverage requirements. This can adversely impact the design and appearance of the structure and can result in structures that are not compatible with nearby development.

Eliminating eaves also reduces the protection from moisture that eaves provide to the structure and siding, and reduces solar shading benefits. BDS staff has found that when a project comes in over the maximum building coverage due to eaves, the most common response is to eliminate the eaves, rather than redesign the building to have a smaller footprint. Their experience indicates that this amendment will not result in increased visual building bulk.

DISCUSSION, CONT.

Under the Stormwater Manual requirements, stormwater must be treated on-site. BES has confirmed that this recommended change will not affect stormwater management objectives.

Staff who process many of the Adjustment Review requests, provided the following information:

1. Most requests to exceed maximum building coverage would meet the regulation if eaves were not counted. In essence, the bulk of the structure meets the maximum coverage limit. Applicants request an adjustment so that the house will have a traditional roof with overhang.

2. Many of these adjustments are for an addition to an existing house. By matching the depth of the existing eaves, the addition triggers an adjustment. The adjustment is approved because the additional eave depth makes the overall project more aesthetically pleasing, compatible with the existing development, etc.

3. Staff estimates that 75 to 85% of residential building coverage adjustments are approved.

Adjustment Reviews are expensive. BDS's fee schedule offers a lower fee for lots with existing single dwelling units in a single dwelling zones, however the fee is still relatively high — $979. Other residential adjustments are $1,024, while adjustments for non-residential and mixed-use projects cost $1,435. In summary, the Planning Commission believes that Adjustment Reviews for building coverage due to eaves add both time and costs to the permitting process for both the applicant and staff, with minimal improvement to the public interest.

Sound building design

In addition to the implementation issues related to the inclusion of eaves in the calculation of building coverage, a considerable amount of sound building and construction science has developed in the past few years to document the strong relationship between roof overhangs such as eaves, moisture intrusion and mold. Mold is the direct result of excess moisture. Staff has compiled an array of articles from both government and industry sources that describe the role of roof overhangs such as eaves in the prevention of moisture and mold problems. These include articles from the U.S. Environmental Protection Agency, the USDA Forest Products Laboratory, the National Association of Homebuilders and the Building Science Corporation, which has recently consulted with Walsh Construction here in Portland in an effort to develop moisture detailing for high-rise buildings such as Pacific Tower.

Eaves and other roof overhangs prevent the entry of bulk rainwater into claddings and window and door openings. Overhangs are one component in sound building design that utilizes redundant protection throughout the building envelope. In the case of exterior walls, a complete system would include roof overhangs (e.g., eaves), window and door flashing, seals around rough openings, claddings like siding or stucco, building paper and sometimes vented rain screens.

The Green Building Specialists in the City's Office of Sustainable Development often advocate for roof overhangs as an effective component in controlling bulk moisture in building walls during presentations about moisture and mold control.

DISCUSSION, CONT.

Other items related to definition of building coverage

There was some discussion prior to publication of the *Proposed Draft* about whether uncovered decks, stairways, entry bridges, and parking decks should be included in building coverage or not. This is a broader issue, and has been proposed as a possible item for inclusion in a future Regulatory Improvement Workplan Policy Package.

Definition of "Building Coverage," Cont.

COMMENTARY

Definition of "building coverage"
The Planning Commission recommends specifically stating that "Eaves are not included in building coverage" in addition to the deletion of "including eaves" in order to remove the eaves from the calculation of building coverage as well as providing increased clarity to the definition for future readers.

Definition and Illustration of "eave"
The Planning Commission recommends adding a definition and illustration of "eave" to the Code in order to make it clear which part of the roof is an eave and therefore excluded from the calculation of building coverage.

RECOMMENDED CODE LANGUAGE

AMEND CHAPTER 33.910, DEFINITIONS

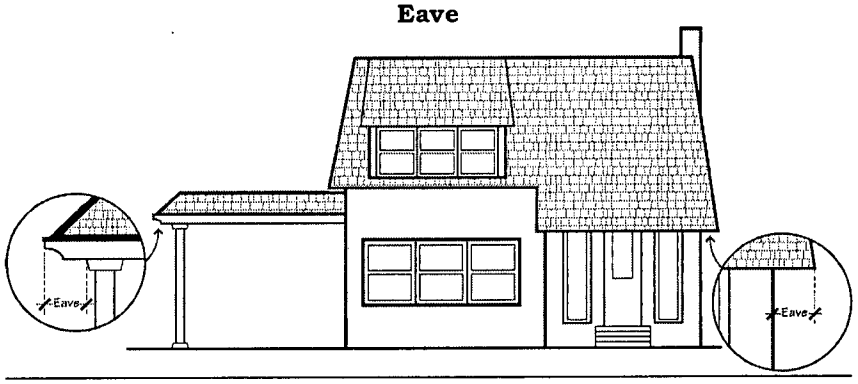
33.910.030 Definitions
The definition of words with specific meaning in the zoning code are as follows:

Building Coverage. The area that is covered by buildings or other roofed structures~~, including eaves~~. A roofed structure includes any structure more than 6 feet above grade at any point, and that provides an impervious cover over what is below. Building coverage also includes uncovered horizontal structures such as decks, stairways and entry bridges that are more than 6 feet above grade. Eaves are not included in building coverage.

Development-Related Definitions

- **Eave.** Projecting overhang at the lower border of a roof and extending from a primary wall or support.

Figure 910-XX
Eave



Eave. See Development-Related Definitions.

Maximum Building Coverage in R Zones

"Top Ten" Item #A6.3--Maximum building coverage (Table 110-6)

DISCUSSION

The Planning Commission also recommends an amendment to how we calculate building coverage in residential zones.

As part of the Land Division Code Rewrite project, the City created Table 110-6 to regulate building coverage allowed in the RF through R2.5 zones. This implemented a change in policy from regulating maximum building coverage based on the underlying Base Zone, to a policy of regulating maximum building coverage based on the size of the lot. For example, a 5000 square foot lot, whether in an R5 zone, R7 zone or R10 zone would be able to have 2250 square feet of building lot coverage. Previously, a 5000 square foot lot in an R5 zone would have been allowed 2250 square feet, in the R7, 1750 square feet, and in the R10, only 1500 square feet of building coverage.

The following shows the existing Table 110-6 as adopted by City Council and effective July 1, 2002.

Table 110-6
Maximum Building Coverage Allowed in the RF through R2.5 Zones

Lot Size	Maximum Building Coverage
Less than 2,500 sq. ft.	50% of lot area
2,500 sq. ft or more but less than 5,000 sq. ft.	1,250 sq. ft. + 40.04% of lot area over 2,500 sq. ft.
5,000 sq. ft. or more but less than 7,000 sq. ft.	2,250 sq. ft + 6.67% of lot area over 5,000 sq. ft.
7,000 sq. ft. or more but less than 10,000 sq. ft.	2,450 sq. ft. + 18.33% of lot area over 7,000 sq. ft.
10,000 sq. ft or more but less than 20,000 sq. ft.	3,000 sq. ft. + 20% of lot area over 10,000 sq. ft.
20,000 sq. ft. or more but less than 87,120 sq. ft.	5,000 sq. ft. + 5.53% of lot area over 20,000 sq. ft.
87,120 sq. ft. or more	8,712 sq. ft. + 10% of lot area over 87,120 sq. ft.

Through the application of the code, a number of issues became apparent with the implementation of Table 110-6. These issues were raised during the development of the "Top Ten" list last fall and prompted this items inclusion in Policy Package 1.

- The table itself and the calculations are not easily understood--it includes seven separate ranges of lot sizes with percentages to the second decimal space for calculating the lot coverage. The calculations are complicated and should be revised for easier implementation.
- Concerns had been raised that the changes to the maximum building coverage allowance in Single-Dwelling zones resulted in a significant reduction in allowed building coverage on oversized lots when compared to what was previously allowed. BDS has found a number of cases where existing development in established neighborhoods (such as Laurelhurst and Irvington) with oversized lots in R5 zones, would need adjustments for additions that previously would have been allowed outright due to the greater percentage allowance of the R5 zone prior to this change taking place.
- Staff identified a "glitch" in the Table's calculations which creates a disparity in how the City treats lots between 5000 and 6999 square feet in size. The table intended to have a seamless transition from one range to the next--however, a 6,999 square foot lot under the existing table would be allowed only 2383.4 square feet of building coverage, while a lot of 7,000 square feet would be allowed 2450 square feet of building coverage--almost 70

DISCUSSION, CONT.

square feet more building coverage for just one square foot of additional lot area. This could be corrected by making the following change:

"Fix the Glitch" Change **Table 110-6** **Maximum Building Coverage Allowed in the RF through R2.5 Zones**	
Lot Size	**Maximum Building Coverage**
Less than 2,500 sq. ft.	50% of lot area
2,500 sq. ft or more but less than 5,000 sq. ft.	1,250 sq. ft. + 40.04% of lot area over 2,500 sq. ft.
5,000 sq. ft. or more but less than 7,000 sq. ft.	2,250 sq. ft + ~~**6.67**~~ **10%** of lot area over 5,000 sq. ft.
7,000 sq. ft. or more but less than 10,000 sq. ft.	2,450 sq. ft. + 18.33% of lot area over 7,000 sq. ft.
10,000 sq. ft or more but less than 20,000 sq. ft.	3,000 sq. ft. + 20% of lot area over 10,000 sq. ft.
20,000 sq. ft. or more but less than 87,120 sq. ft.	5,000 sq. ft. + 5.53% of lot area over 20,000 sq. ft.
87,120 sq. ft. or more	8,712 sq. ft. + 10% of lot area over 87,120 sq. ft.

The Planning Commission recommends:

- Significantly simplifying and streamlining Table 110-6 and the calculations while retaining the policy decision made during the Land Division Code Rewrite.
- Slightly increasing the building coverage allowance for lots between 5000 and 10,000 square feet. The Planning Commission decided it would be appropriate to allow a little more increased flexibility for properties between 5000 and 10,000 square feet which the simplification of the Table allows. The Planning Commission is not recommending significant increases for these properties. The intention at the time of the Land Division Code adoption was not to keep all rights for oversize lots as they were under the previous code, but rather to treat all same sized lots the same, no matter what the base zone.
- Slightly increasing the building coverage allowance for lots under 3000 square feet to provide additional flexibility for these small lots. This was raised as a concern by the Bureau of Development Services in testimony to the Commission and we agreed on this amendment.
- Slightly decreasing the building coverage allowance for lots over 10,000 square feet. With the change to the building coverage definition, we felt this decrease would have marginal impacts.

The Planning Commission also discussed whether we should reduce the maximum building coverage allowances given their decision on excluding eaves from the definition of building coverage. The Commission voted against reducing the allowance, since eliminating eaves from the definition of building coverage would not increase the currently allowed bulk of houses.

Development of the Proposal and Recommendation

Planning staff considered a number of options and reviewed those options with the Bureau of Development Services prior to the publication of the *Discussion Draft*. These included just "fixing the glitch" as well as consideration of different lot size ranges and percentage increases. The staff proposed a significantly simplified table which maintained the policy decision made by Council, increased the ease of use of the Table, and provided slightly more flexibility for properties between 5000 and 10000 square feet. It also reduced the building coverage allowance for lots under 2500 square feet from 50% to 45%, reflecting the previous limitation for detached houses in the R2.5 zone. The Planning Commission recommends keeping

DISCUSSION, CONT.

two separate lot size ranges for lots under 5,000 square feet in order to provide 50% building coverage to lots under 3,000 square feet. The recommendation, as shown in a cleaned up version below, reduces the number of ranges from seven to four and simplifies the calculations significantly.

Table 110-6
Maximum Building Coverage Allowed in the RF through R2.5 Zones

Lot Size	Maximum Building Coverage
Less than 3,000 sq. ft.	50% of lot area
3,000 sq. ft. or more but less than 5,000 sq. ft.	1,500 sq. ft. + 37.5% of lot area over 3,000 sq. ft.
5,000 sq. ft. or more but less than 20,000 sq. ft.	2,250 sq. ft. + 15% of lot area over 5,000 sq. ft.
20,000 sq. ft. or more	4500 sq. ft. + 7.5% of lot area over 20,000 sq. ft.

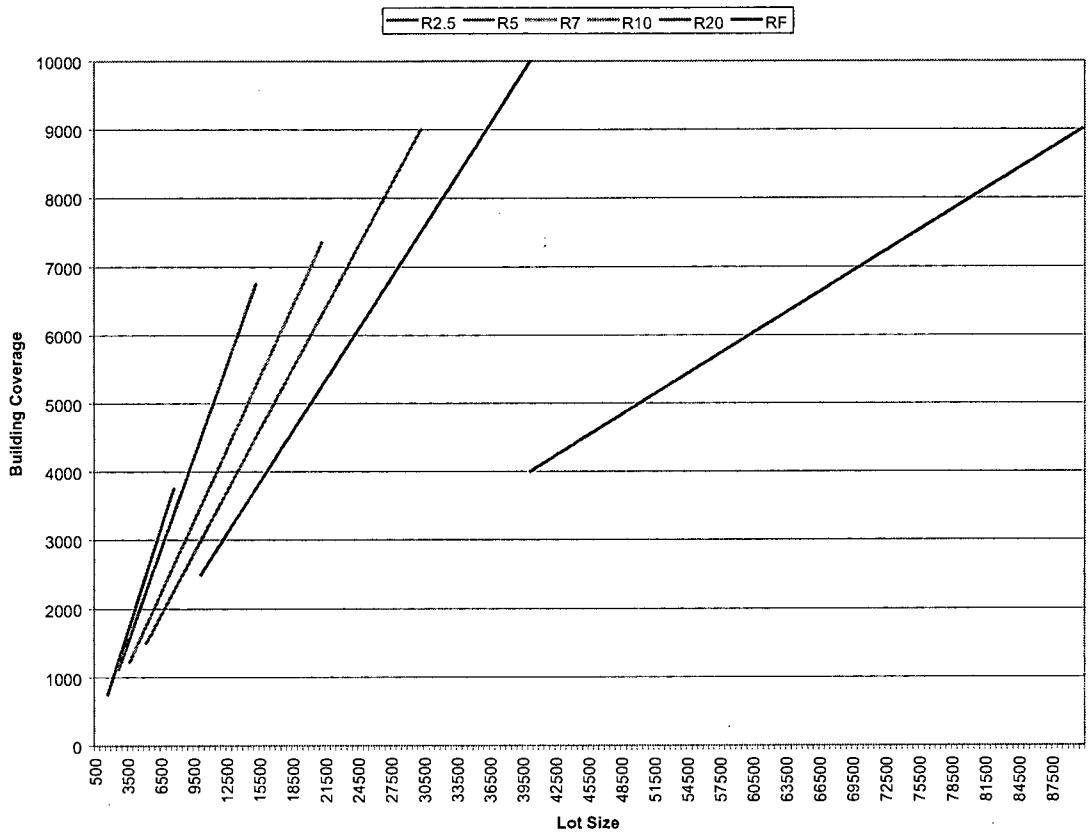
BDS staff reviewed 100 new single-dwelling building permits against the Table proposed by staff using the recommended definition of Building Coverage and found that all but two projects would be able to be approved. Although this approach allows slightly less building coverage for properties larger than 10,000 square feet than other approaches that were considered, it is preferred because it greatly simplifies the original table.

The following charts show how different sized lots in different base zones were considered prior to July 1, 2002, are considered under the current code (Table 110-6 with the "fixed glitch") and under the Planning Commission's recommendation. In addition, there is a brief explanation of how the current Table was developed.

Maximum Building Coverage in Residential Zones, Cont.

DISCUSSION, CONT.

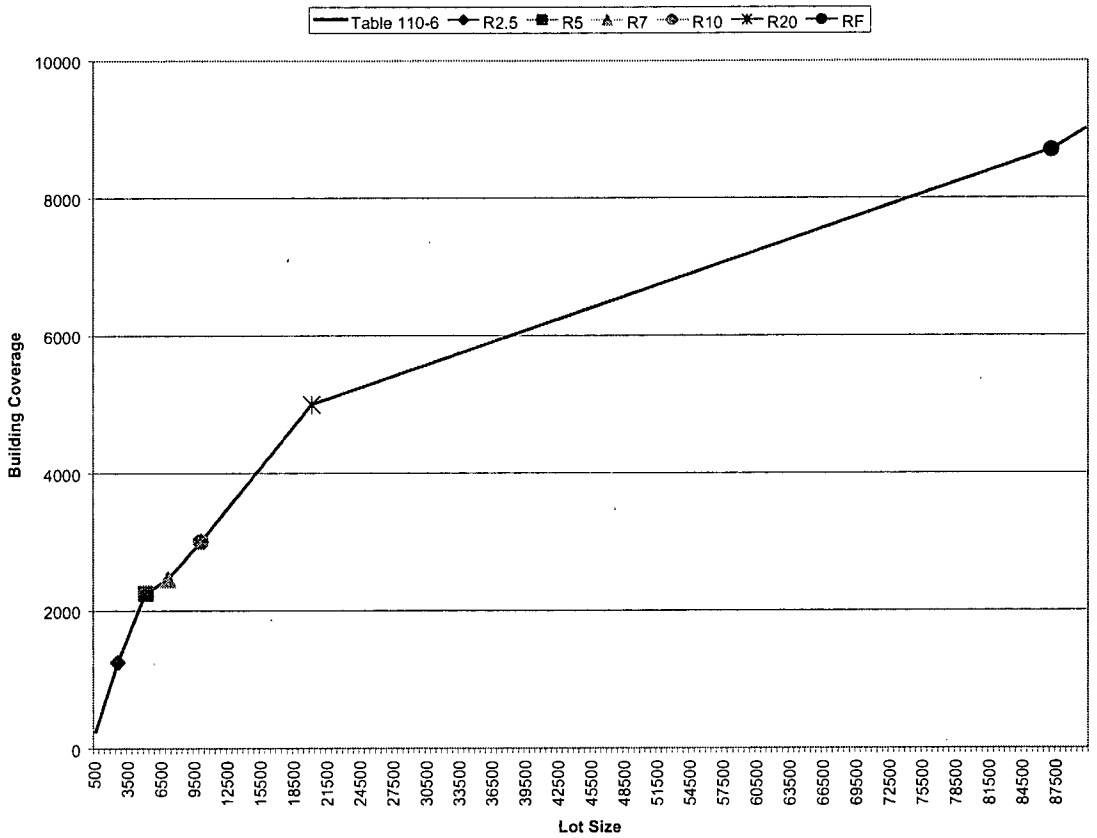
Prior to implementation of the Land Division Code on July 1, 2002, the Zoning Code regulated building coverage by Base Zone. This chart shows the allowed building coverage under the old Code for each zone based on lots from one half to three times the size of the average lot for the zone (for example, for R5, the line shows lots from 2500 to 15000 square feet in size and the 45% building coverage they were allowed; for R7, 3500 to 21000 square foot lots and 35% building coverage).



DISCUSSION, CONT.

The building coverage allowed for the average size lot for each base zone was used to create Table 110-6. The table kept the allowed building coverage for each of the average size lots for each base zone: 1250 for a 2500 square foot lot in R2.5; 2250 for a 5000 square foot lot in R5; 2450 for a 7,000 square foot lot in R7; 3000 for a 10,000 square foot lot in R10; 5000 for a 20,000 square foot lot in R20; and 8,712 square foot for a 2 acre lot in RF.

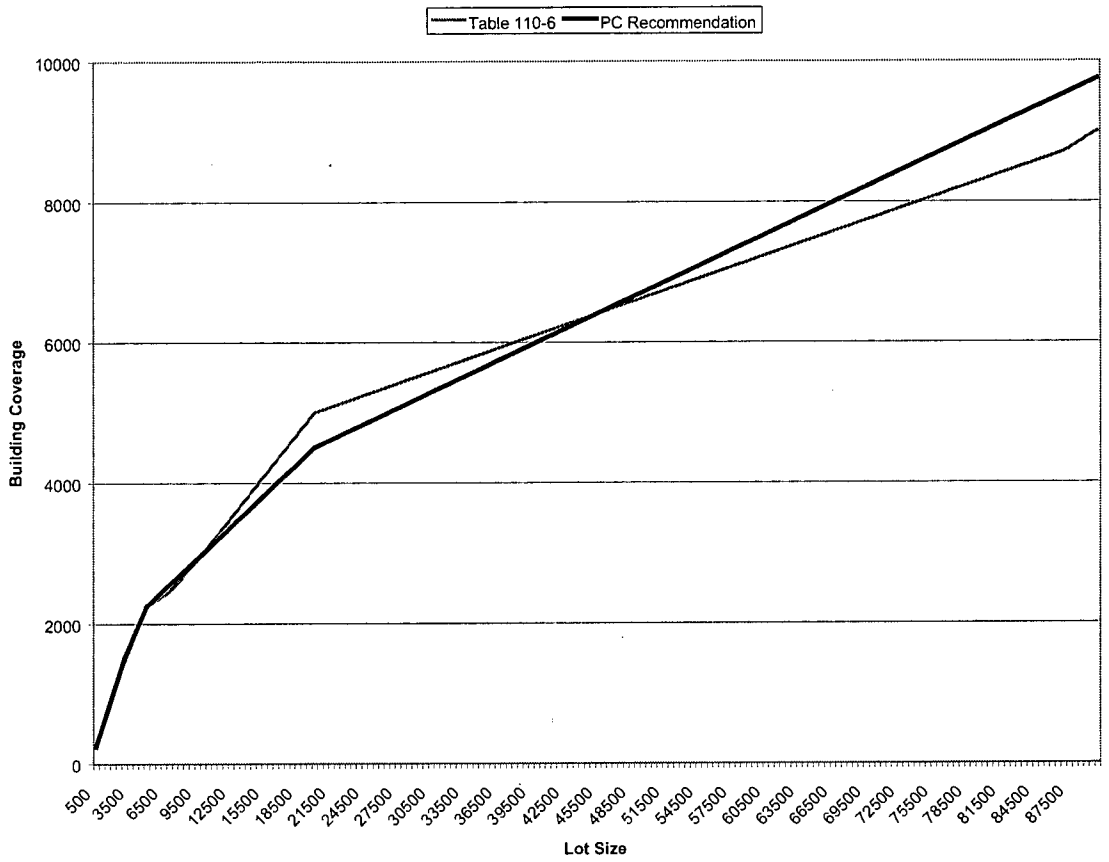
The following chart, shows these points, and shows how the "dots" were connected by Table 110-6 (assuming the "glitch" has been fixed), creating the seven different ranges and the complicated percentage increases. For example, to get from the 2450 square foot building coverage allowed for a 7,000 square foot lot in R7 to the 3000 square foot building coverage allowance of a 10,000 square foot lot in the R10, you must take 18.33% of the lot area over 7000 square feet and add it to 2450. (See the existing Table 110-6 above for all the calculations.)



Maximum Building Coverage in Residential Zones, Cont.

DISCUSSION, CONT.

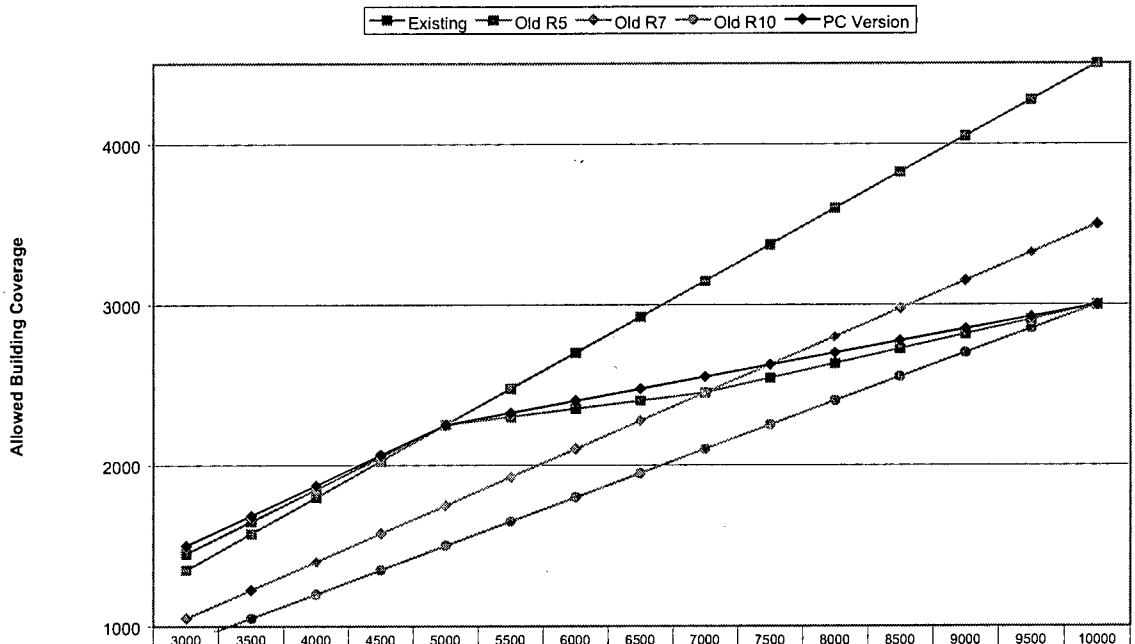
The Planning Commission recommendation does not significantly alter the allowed building coverages, but does significantly simplify Table 110-6 and its implementation. The following chart, shows the comparison between the current Code Table 110-6 and the Recommended Table 110-6 with the Recommendation shown with the bolder line.



Maximum Building Coverage in Residential Zones, Cont.

DISCUSSION, CONT.

The following chart shows how the lots under 10,000 square feet were treated under the Old Code (Old R5, R7, and R10), under the Existing Code, and under the Planning Commission's Recommendation. This shows the discrepancy between how the Old Code and the Existing Code would treat oversized lots, one of the issues raised shortly after implementation of the Land Division Code changes. The arrow points to the allowed building coverage as calculated under the various codes for a 7000 square foot lot. Previously, a 7000 square foot lot in the R5 zone got significantly more building coverage than currently. By simplifying the Table, the Planning Commission's recommendation adds incrementally to the building coverage allowance for lots between 5000 and 10,000 square feet (100 extra square feet of building coverage for a 7000 square foot lot). It should be noted, that under the previous code, a 7000 square foot lot in the R10 was allowed significantly less building coverage--the new Code removed this inequity for undersized lots.



	3000	3500	4000	4500	5000	5500	6000	6500	7000	7500	8000	8500	9000	9500	10000
Existing	1450	1650	1850	2050	2250	2300	2350	2400	2450	2541.65	2633.3	2724.95	2816.6	2908.25	3000
Old R5	1350	1575	1800	2025	2250	2475	2700	2925	3150	3375	3600	3825	4050	4275	4500
Old R7	1050	1225	1400	1575	1750	1925	2100	2275	2450	2625	2800	2975	3150	3325	3500
Old R10	900	1050	1200	1350	1500	1650	1800	1950	2100	2250	2400	2550	2700	2850	3000
PC Version	1500	1687.5	1875	2062.5	2250	2325	2400	2475	2550	2625	2700	2775	2850	2925	3000

Maximum Building Coverage in Residential Zones, Cont.

COMMENTARY

The recommended changes to Table 110-6 shown on the opposite page are shown below in a "clean" version.

Table 110-6 Maximum Building Coverage Allowed in the RF through R2.5 Zones	
Lot Size	**Maximum Building Coverage**
Less than 3,000 sq. ft.	50% of lot area
3,000 sq. ft. or more but less than 5,000 sq. ft.	1,500 sq. ft. + 37.5% of lot area over 3,000 sq. ft.
5,000 sq. ft. or more but less than 20,000 sq. ft.	2,250 sq. ft. + 15% of lot area over 5,000 sq. ft.
20,000 sq. ft. or more	4500 sq. ft. + 7.5% of lot area over 20,000 sq. ft.

Maximum Building Coverage in Residential Zones, Cont.

RECOMMENDED CODE LANGUAGE

AMEND CHAPTER 33.110, SINGLE DWELLING ZONES

Table 110-6 Maximum Building Coverage Allowed in the RF through R2.5 Zones	
Lot Size	**Maximum Building Coverage**
~~Less than 2,500 sq. ft.~~	~~50% of lot area~~
~~2,500 sq. ft or more but less than 5,000 sq. ft.~~	~~1,250 sq. ft. + 40.04% of lot area over 2,500 sq. ft.~~
Less than 3,000 sq. ft.	50% of lot area
3,000 sq. ft. or more but less than 5,000 sq. ft.	1,500 sq. ft. + 37.5% of lot area over 3,000 sq. ft.
~~5,000 sq. ft. or more but less than 7,000 sq. ft.~~	~~2,250 sq. ft + 6.67% of lot area over 5,000 sq. ft.~~
~~7,000 sq. ft. or more but less than 10,000 sq. ft.~~	~~2,450 sq. ft. + 18.33% of lot area over 7,000 sq. ft.~~
~~10,000 sq. ft or more but less than 20,000 sq. ft.~~	~~3,000 sq. ft. + 20% of lot area over 10,000 sq. ft.~~
5,000 sq. ft. or more but less than 20,000 sq. ft.	2,250 sq. ft. + 15% of lot area over 5,000 sq. ft.
~~20,000 sq. ft. or more but less than 87,120 sq. ft.~~	~~5,000 sq. ft. + 5.53% of lot area over 20,000 sq. ft.~~
~~87,120 sq. ft. or more~~	~~8,712 sq. ft. + 10% of lot area over 87,120 sq. ft.~~
20,000 sq. ft. or more	4500 sq. ft. + 7.5% of lot area over 20,000 sq. ft.

Nonconforming Situations

"Top Ten" Item #A37—Criteria for Nonconforming Situation Review

DISCUSSION

Nonconforming situations occur when an element of a development (or the use itself) was legal at the time it was created, but does not meet the current zoning regulations. Some changes to nonconforming situations are allowed, some are prohibited and some are allowed only if approved through a Nonconforming Situation Review.

Nonconforming Situation Reviews are relatively rare, particularly in the OS and R zones. There were no applications for Nonconforming Situation Reviews in OS and R zone during 1999, in 2000 there were four, and in 2001 there were three. Of the seven Type III reviews in three years, none were appealed to Council. The Planning Commission recommends changing the review procedure from a Type III to a Type II in order to reduce the time and expense—to applicants and the city—of this review, as well as to recognize the less discretionary nature of this review than the typical Type III review.

One of the approval criteria associated with this land use review requires the applicant to demonstrate that with mitigation measures the proposed change will result in a net **decrease** in any detrimental impacts the existing development has on the surrounding area. The applicant must address such factors as hours of operation, vehicle trips, noise, dust and odors, increased litter, and any outside displays. Even if the proposal results in the nonconforming development continuing to operate in the same manner as it has in the past, with no increased impacts on the surrounding neighborhood, the proposal cannot be approved as there is not a demonstrated decrease in impacts.

This approval criterion is inconsistent with the purpose of the nonconforming regulations, which in part are intended to allow nonconforming situations to continue and to ensure that zoning regulations will not cause unnecessary burdens. The burden of meeting this approval criterion is great, particularly given that the change in regulations that made the situation nonconforming is beyond the control of the applicant.

The Planning Commission recommends amending the existing criterion so that applicants must demonstrate that with mitigation measures the proposed change will not result in a net increase in any detrimental impacts on the surrounding area.

The amendment will reduce the disincentive of maintaining and/or improving existing nonconforming situations while still mitigating for any detrimental impacts on the surrounding area. The recommended amendment should encourage necessary investment in existing nonconforming situations. The change to the review criterion will <u>possibly result in fewer reductions</u> in detrimental impacts, but <u>will not result in increases</u> in detrimental impacts on surrounding areas when changes are proposed for nonconforming uses.

DISCUSSION, CONT.

The recommended change is unrelated to requirements for upgrading non-conforming development for landscaping, pedestrian connections, bike parking, etc. When the use of a property changes from one non-conforming use category to another non-conforming use category (e.g. from Office to Retail Sales and Service in a Residential zone), the nonconforming development must be brought into compliance with the development standards that apply to the site (base, overlay, plan district, special use).

COMMENTARY

33.258.080 Nonconforming Situation Review

A. The Code will no longer require a higher level of review for cases in OS and R zones. Nonconforming situation reviews in all zones will be processed through Type II procedures.

B. **Approval Criteria**

1. The criteria changes from "a net decrease" to "no net increase" reflecting a desire to allow nonconforming situations to continue as long as the detrimental impacts associated with the nonconforming situation do not increase and other approval criteria are met.

RECOMMENDED CODE LANGUAGE

AMEND CHAPTER 33.258, NONCONFORMING SITUATIONS

33.258.080 Nonconforming Situation Review

C. Procedure. A nonconforming situation review is processed through a Type II procedure ~~in the C, E, and I zones, and through a Type III procedure in an OS or R zone~~.

B. Approval Criteria. The request will be approved if the review body finds that the applicant has shown that all of the following approval criteria are met:

1. With mitigation measures, there will be ~~a net decrease~~ no net increase in overall detrimental impacts (over the impacts of the previous use or development) on the surrounding area taking into account factors such as:

   a. The hours of operation;

   b. Vehicle trips to the site and impact on surrounding on-street parking;

   c. Noise, vibration, dust, odor, fumes, glare, and smoke;

   d. Potential for increased litter; and

   e. The amount, location, and nature of any outside displays, storage, or activities; and

2. If the nonconforming use is in an OS or R zone, and if any changes are proposed to the site, the appearance of the new use or development will not lessen the residential character of the OS or R zoned area. This is based on taking into account factors such as:

   a. Building scale, placement, and façade;

   b. Parking area placement;

   c. Buffering and the potential loss of privacy to abutting residential uses; and

   d. Lighting and signs; and

3. If the nonconforming use is in a C, E, or I zone, and if any changes are proposed to the site, the appearance of the new use or development will not detract from the desired function and character of the zone.

"a" Overlay--Attached Residential Infill

"Top Ten" Item #16—Attached Residential Infill on Vacant Lots ("a" Overlay)

DISCUSSION AND COMMENTARY

In areas with the "a" overlay, attached residential infill development at R2.5 densities is allowed in most single-dwelling residential zones (R20 through R5) on lots that have existed and been vacant for at least five years. In addition, design review is required.

The intent of this code provision is to encourage infill development on lots that have been vacant for some time, and where adequate public services already exist. This provision tried to strike a middle ground between upzoning an area to higher residential densities outright, which could increase market pressure to demolish existing sound housing, and providing enough economic return to encourage development of long-vacant sites. However, concerns have been raised that this code provision has resulted in infill development that is incompatible with the surrounding development, particularly in the R20, R10, and R7 zones.

The Planning Commission considered deleting the provision entirely, particularly because it is rarely used. A quick search by the Bureau of Development Services found only two applications that have used this provision. The Planning Commissions recommendation is to eliminate this provision from R20, R10 and R7 zones while retaining it for the R5 zone. The Planning Commission recommends retaining it in the R5 zone because the increased density is proportionately less than in other zones, and the design review requirement can result in compatible development with minimal impacts. In addition, the provision supports urban infill and the "a" overlay zone in combination with the R5 zone was mapped in areas close to good transit service that otherwise would have been rezoned to R2.

Other items related to Ch. 33.405, Alternative Design Density Overlay Zone

Item #16 from the Regulatory Code Improvement List for 2002-2003 includes a much broader review of Ch. 33.405, Alternative Design Density Overlay Zone (also referred to as the "a" overlay zone). Since Council approval of the 2002-2003 Regulatory Improvement Workplan in November 2002, Bureau of Planning staff have developed a conceptual approach for this chapter. This approach, starting with the current amendment to 33.405.060, Attached Residential Infill on Vacant Lots includes evaluating each provision of this chapter independently of the others, rather than as a package. Each provision will be considered for deletion, citywide application, or repair. Where each provision should apply will also be evaluated on a provision-by-provision basis, rather than a package approach. The result will be that some provisions could be deleted, some could be in plan districts, some could be in base zones, and some could be separate overlays.

This broader review of the "a" overlay will be part of Policy Package 2, to be considered later this year.

RECOMMENDED CODE LANGUAGE

AMEND CHAPTER 33.405, ALTERNATIVE DESIGN DENSITY OVERLAY ZONE

33.405.060 Attached Residential Infill on Vacant Lots in the R5 zone.

A. Purpose. [No change.]

B. Attached residential infill. Attached residential development is allowed in the R5 zone if all of the following are met. Adjustments to Paragraphs B.1 through B.4, below, are prohibited:

1. The proposed attached residential development will be on a lot or lot of record that was created at least five years ago;

2. There has not been a dwelling unit on the lot or lot of record for at least five years;

3. Attached residential development ~~in the R20, R10, R7 and R5 zones~~ must meet the following development standards:

   a. Height and front setback standards. Attached residential development must meet the height and front setback standards of the ~~base~~ R5 zone; and

   b. All other development standards. The proposed development must meet all other development standards for attached housing projects in the R2.5 zone; and

4. Design review required: [no change]

Lot Validations and Lot Segregations

"Top Ten" Item #A6.2d, Lot Validation Dimensions vs. Regular Lot Dimension
New Item—Lot Size Minimums for Existing Lots vs. New Lots in R2.5 and R5 Zones

DISCUSSION

This recommendation, if adopted by Council, would replace the "Validation of Lots" section of the existing code with a new section called "Where Primary Structures are Allowed". This change reorganizes and simplifies the section and provides greater consistency in the way lots and sites are treated throughout the City. This recommendation addresses issues raised as part of the Top Ten Land Division items (#A6.2) and in recent communications to the Planning Commission about concerns related to lot segregations in existing R5 neighborhoods.

This is the issue that received the most testimony of the entire package. After much discussion, the Planning Commission unanimously voted to recommend significantly reorganizing and simplifying this section of the Code.

The Planning Commission recommends this change to provide greater consistency in the code by establishing the same minimum lot sizes for both existing lots and those being newly created through land divisions. As part of this change, minimum lot sizes will be added for existing lots in the R5 and R2.5 zones. This specific change is needed to bring the Zoning Code into compliance with the City's Comprehensive Plan.

"Top Ten" Item #A6.2d

As part of the 2002-2003 Regulatory Improvement Workplan "Top Ten" process, staff were directed to "clarify which standards of Title 33 apply to Validated Lots". Staff from the Bureau of Development Services identified the concern that the valid lot standards in the R20, R10, and R7 zones under the current code are smaller than regular lot standards (those that could be created using the new Land Division Code), making existing lots undevelopable even when meeting minimum lot dimension standards that would be applied to new lots. Staff from BDS and Planning agreed that rewriting Section 33.110.112 "Validation of Lots" would be the best approach to address this specific issue and to simplify and clarify the entire section.

Additional concerns raised

Neighborhood representatives raised concerns in late 2002 about the same code section, and inconsistencies with the newly adopted Land Division Code. There are no minimum lot size standards in R5 and R2.5, making allowed lots through the lot validation process smaller than the regular minimum lot standards that would be allowed in a new land division. Planning Commission heard from Roseway Neighborhood Association representatives about the impact of lot segregations in their community and directed staff to address this issue as well.

DISCUSSION, CONT.

The two tables in the current code

Under Table 110-4 in Section 33.110.112, development is allowed on lots, or combinations of lots, created before July 26, 1979 that meet the minimum size requirements of this table.

Table 110-4
Minimum Dimensions for Valid Lots and Lots of Record

Standard	RF	R20	R10	R7	R5 & R2.5
Lot Area	1 acre	14,000 sq. ft.	7,000 sq. ft.	5,000 sq. ft.	No Minimum
Lot Width	80 ft.	70 ft.	60 ft.	50 ft.	No Minimum
Lot Depth	120 ft.	100 ft.	80 ft.	70 ft.	No Minimum

New lots created through the Land Division process must meet the Lot Dimension Standards contained in Table 610-1, contained in Section 33.610.200. (They must also meet minimum and maximum density requirements for the whole site.)

Table 610-1
Lot Dimension Standards

	RF	R20	R10	R7	R5
Minimum Lot Area	52,000 sq. ft.	12,000 sq. ft.	6,000 sq. ft.	4,200 sq. ft.	3,000 sq. ft.
Maximum Lot Area	151,000 sq. ft.	34,500 sq. ft.	17,000 sq. ft.	12,000 sq. ft.	8,500 sq. ft.
Minimum Lot Width	60 ft.[1]	60 ft.[1]	50 ft.[1]	40 ft.[1]	36 ft.[1]
Minimum Front Lot Line	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.
Minimum Lot Depth	60 ft.	60 ft.	60 ft.	55 ft.	50 ft.

As can quickly be noted in comparing the two tables, the dimensional standards for minimum lot area are all different. For example, in the R10 zone, an existing lot would need to be at least 7,000 square feet in area to be buildable, while a new 6,000 square foot lot could be created in a land division in the R10 zone. Conversely, a new lot in the R5 zone would have to be at least 3000 square feet in area (averaging ~5000 square feet per lot per site), while an existing lot would have no minimum dimensional standards to be buildable.

Much of the testimony received about this item focused on the part of the proposal which re-establishes a minimum lot size for the R5 (Residential 5000) zone. Much of the testimony was related to the Comprehensive Plan, zoning, and density issues. Other testimony focused on design issues related to narrow lot development. The recommendation addresses both of these issues.

Zoning and Density Issues

The Comprehensive Plan's High Density Single Dwelling designation, which the R5 zone is intended to implement, is meant to "continue Portland's most common pattern of development." . The maximum density is generally 8.7 units per acre The existing code, by having no minimum lot size for existing lots in the R5 zone, allows for twice the density (or greater) in areas that the City has determined should be developed at the R5 density, but which have an underlying historic platting pattern that might date from the early 1900s.

Historically, many areas (primarily in North, NE, and SE Portland) were platted with 25' x 100' lots. The lots were typically sold in combinations of two, three, or four contiguous lots, and developed with one house per ownership, creating the common pattern of development cited in the Comprehensive Plan. Most of these areas with this underlying platting pattern are currently zoned R5, an appropriate zone given the

DISCUSSION, CONT.

existing development pattern, the desired character of these neighborhoods, proximity to services, etc. Other areas (both with and without this historic platting), have been zoned R2.5 or higher through legislative planning projects because of their closer proximity to transit and appropriate infrastructure, the existing development pattern, and greater proximity to commercial centers and services. These are areas the City has determined can appropriately accommodate higher density housing.

When the existing regulations were adopted in 1991, no minimum lot size was established for substandard lots in the R5 and R2.5 zones. At the time, allowing such development was expected to have minimal impact on neighborhoods because most sites with underlying 25' x 100' platting were already developed in ways that meet the current code (e.g. one house per 5000 square feet). For the few vacant lots or the occasional side yard that could be segregated, it didn't seem necessary to establish a minimum that could unnecessarily preclude these smaller, existing, stand-alone lots from developing. In 1991, we did not expect that it would be financially viable to demolish an existing house straddling two historic lots in order to build two "skinny houses" in its place. This expectation proved to be correct for most of the 90s. However, several areas of the City are now experiencing a "demolition phenomenon" not anticipated in 1991. We have discovered that the Zoning Code, because of changing market forces, no longer is implementing our Comprehensive Plan in the R5 zone.

The Comprehensive Plan is the City's overarching approach to planning, and the Zoning Code must--by state law--implement the Comprehensive Plan. This recommendation does just that by re-establishing a minimum lot size of 3000 square feet for existing lots in the R5 zone. The recommendation also includes "grandfathering" in existing lots that already have separate tax accounts, or that are "in the pipeline" as of the effective date of this regulation.

Staff in developing their *Proposed Draft* considered whether a design solution alone could address this issue and concluded that the underlying problem of the Zoning Code not implementing the Comprehensive Plan designation for these areas had to be addressed. They considered alternatives included requiring the development to adhere to design standards, go through Design Review, or requiring at least two units to be attached to better match the bulk and scale of surrounding homes. They put those alternatives aside for their *Proposed Draft* to address the underlying policy question of the appropriate density for development in the R5 zone. After hearing testimony, the Planning Commission determined that both the zoning/density issue and the design issue needed to be addressed.

It should be noted that in some of the areas experiencing this kind of development, the zoning is R5a (with the "a" alternative design density overlay). In these areas, the policy has been established that the density (one unit per 2,500 square feet) is appropriate if the strict design requirements of the overlay zone are met. However, this policy intent is not being realized because the current code does not require that the design requirements be met.

Design Standards for Narrow Lots

The Planning Commission heard significant concerns about the design of houses being built on these narrow lots. Most of the houses built on these lots are only 15 feet wide, which presents significant limitations to the designers; because of these constraints, the houses are often disproportionately tall (although within maximums allowed), and the garage is the dominant street-facing element. The Infill Design Project will address many of these issues, but we are concerned that if we wait until that project is completed, too many opportunities may be lost. There are many existing narrow lots and many that will enter "the pipeline" before the effective date of this regulation that will be "buildable" in the future, even if the

DISCUSSION, CONT:

recommended minimum lot sizes recommended in this report are adopted. The design of development on these lots is incompatible with existing development. The Infill Design Project will address many of these issues, but too many opportunities may be lost if we wait until that project is completed.

Developing design standards to address all of the design concerns with this kind of development is beyond the scope of this project. In addition, the Infill Design Project will address many of these issues.

Given the design concerns and limited resources to address those concerns at this time, we recommend adding some design standards, choosing from those that are currently in the Zoning Code, although they may not currently apply to development on these lots. The design standards selected were considered by Bureau of Planning staff in concert with BDS staff.

The design concerns raised in testimony--apart from the issues of density--focussed on garages, height, the effect of a series of tall houses on narrow lots, building materials, and how the houses "meet the street." Our recommended design standards address all of these concerns to a limited extent. Planning and BDS staff considered all of the "packages" of tools currently in the code, such as the "a" overlay, the Community Design Standards, and the regulations adopted with the Land Division regulations for small lots. We agree with staff that none of these "packages" would be a good choice, so we examined individual elements of the different design approaches in the code. We found that many of the individual elements were not workable for existing lots, some were ineffective, and some were too onerous a burden for these lots--that they might make a site virtually impossible to develop in a reasonable manner.

The standards we recommend are not ideal, nor do they address all of the concerns. However, they will serve as an interim tool until the Infill Design Project can be completed.

DISCUSSION, CONT.

Illustrations

The Planning Commission found that pictures, maps, and real-life examples were very useful to understand this complicated issue and the many options that will still be available for development on affected sites. Several examples are included in this document and additional illustrations will be presented at the City Council Hearing.

How the regulation will apply under different scenarios:

The figures and text on the following commentary page describe several different scenarios involving 5000 square foot lots (or combinations of lots) and how they would be affected by this proposal. Each of the illustrations shows a parcel of property consisting of one or two lots, totaling 5000 square feet. The lines on the illustrations in 1, 2, and 4 split the 5000 square foot parcels into two 25' by 100' areas--a common plat pattern in many parts of the City. The solid lines represent that as of the effective date of the regulation, the lot line was platted and divided into two separate tax accounts or that the process to do so had been initiated prior to the effective date and the lots were in separate tax accounts within a year of the effective date. The dotted lines represent underlying plats, where the larger lot is in common ownership and in one tax account. The underlying base zone assumed in these examples is R5--Residential 5000. The current code already includes minimum buildable lot sizes for the RF through R7 zones.

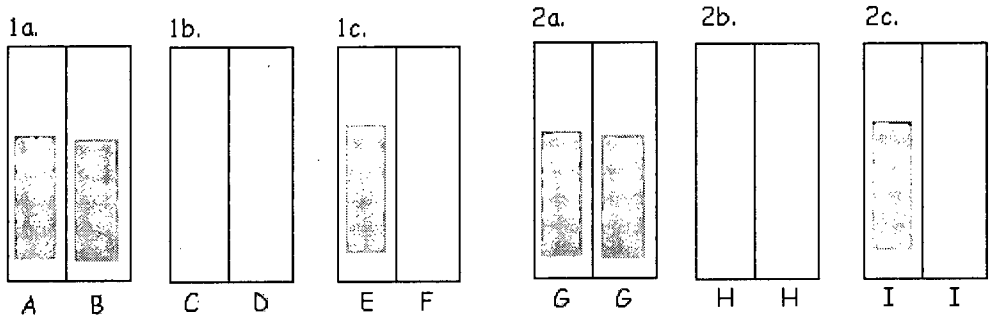
The legend below is provided to assist in understanding the diagrams on the following pages.

Solid lines = Current tax lot boundaries

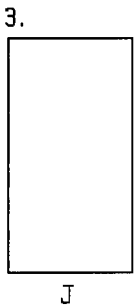
Dotted lines = Old platted boundaries

Shaded boxes = Existing primary structure or house

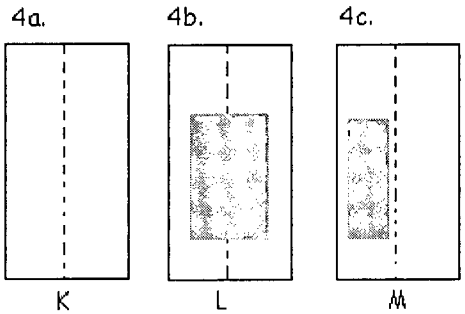
DISCUSSION, CONT.



1 and 2. In each of these six situations, two 25' x 100' lots were established prior to the effective date of this proposed regulation and the lots were under separate tax accounts (1a, 1b, and 1c are under separate ownership; 2a, 2b, and 2c are under common ownership). Both lots in each example are buildable under existing code and will remain buildable under this recommendation if adopted. If owners A, B, E, G, or I choose to tear down their houses and rebuild, they may. Owners C, D, F, H, and I may all build one house per lot. Owners G, H, and I may sell vacant or developed lots to others who may then build upon them.



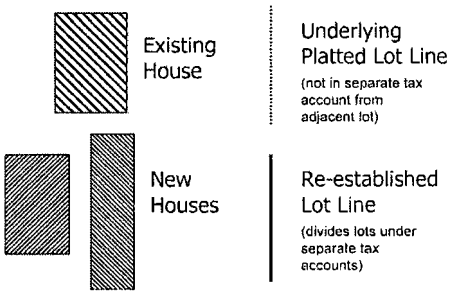
3. Owner J has one 5000 square foot parcel. He would not be able to get a land division for his property since he does not have enough site area. In the R5 zone he would need 9500 square feet to divide into two lots. (If Owner J did have 9500 square feet of property, the minimum lot size allowed would be 3000 square feet, leaving a second lot of 6500 square feet.) Under the existing and proposed codes, he may build one house on this 5000 square foot lot.



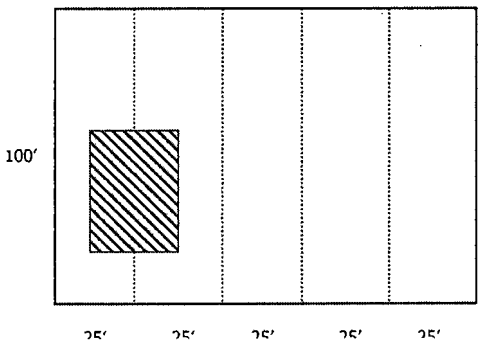
4. These three examples are all under common ownership and each under one tax account. The owners did not come in for a lot segregation prior to the effective date of the recommended regulation or did not complete the process and get separate tax accounts for the lots within a year of the effective date of the regulation. The lots for each example remain in the same tax account. In all three cases, one house could be built, or rebuilt, by right. These are the only properties that would be affected by the recommendation to establish a minimum lot size for the R5 zone. Under existing Code, they could be segregated and developed.

DISCUSSION, CONT.

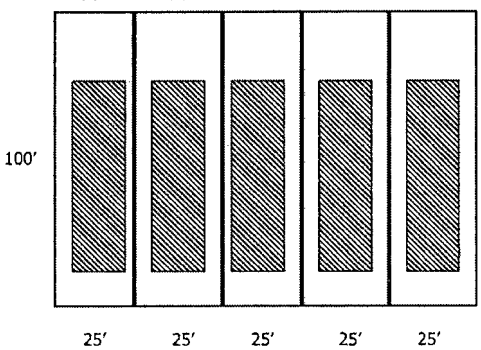
Several options will still be available for development of properties which have the underlying historic 25' x 100' platting.



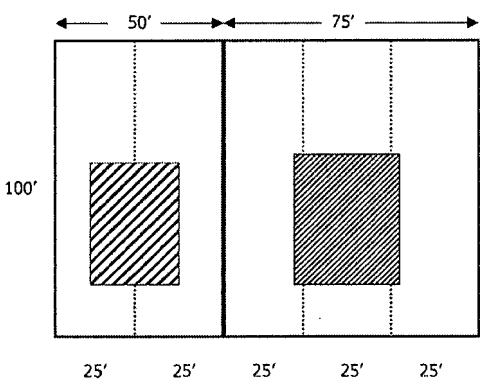
Following are some examples of the variety of ways in which a site could be developed under the existing code and the recommended code. The legend to the left is provided to assist in understanding the examples that follow.



Example A
This illustration shows a site with five underlying 25' x 100' historic lots with an existing house straddling two of the five lots. This is the "base case" for all the examples to follow. It is modeled after a specific property that is being redeveloped in the Kenton neighborhood using the current Code. The Base Zone for these examples is R5.

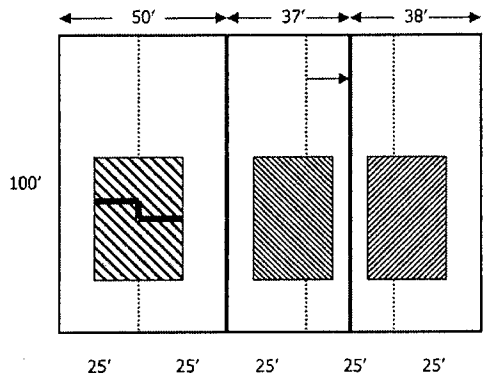


Example B
Under the current Code, the existing house can be demolished and the five underlying 2500 square foot lots can be re-established. Five 15' wide houses can then be built on these lots without any land use review or design requirements because there is no minimum lot area in the R5 zone for Valid Lots and Lots of Record.

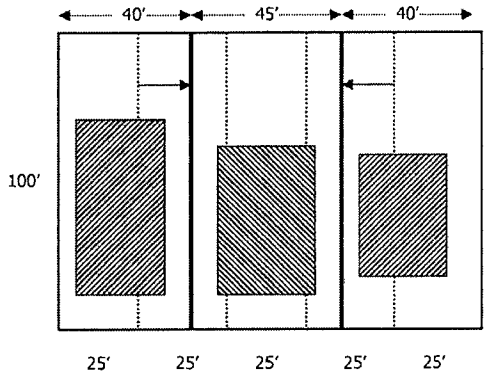


Example C
Under both the current and proposed Codes, a second lot can be established and developed with another single-dwelling house.

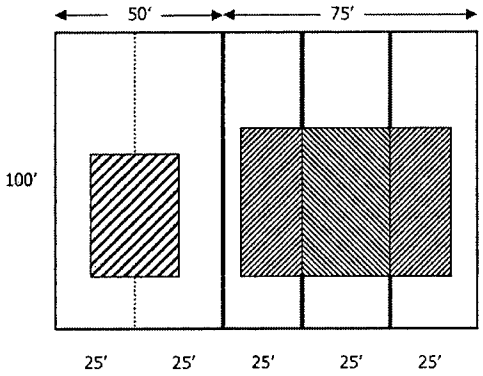
DISCUSSION, CONT.



Example D
Under both current and recommended Code, through a concurrent property line adjustment/lot segregation, three buildable lots can be established (one 5000 square foot large, one 3700 square foot, one 3800 square foot) and two additional houses built. In addition, because the existing house is on a corner, it can be converted to a duplex or could be demolished and replaced by a new duplex or attached houses.



Example E
Another possibility under both the current and recommended Code: the existing house can be demolished and through concurrent property line adjustments/lot segregations, three buildable lots can be established from the five underlying lots of record (e.g. two 4000 square foot lots, and one 4500 square foot lot).



Example F
If the property had the "a" overlay, as several areas with this historic platting do based on previous legislative planning efforts, the three underlying lots on the right side could be segregated and developed with Attached Housing at R2.5 density. The development must meet the Community Design Standards or go through Design Review. (This provision requires that the land have been vacant for five years.)

COMMENTARY

This proposal would replace Section 33.110.112, Validation of Lots and Lots of Record with a new Section 33.110.212, Where Primary Structures are Allowed. This change reorganizes and simplifies the section and provides greater consistency in the way lots and sites are treated throughout the City. This recommendation addresses issues raised as part of the Top Ten Land Division items (#A6.2) and in recent communications to the Planning Commission about concerns related to lot segregations in existing R5 neighborhoods, and .

Portland has many lots that were platted at sizes smaller than the current zoning allows. This code section addresses how these will be treated.

Some definitions currently in the code may help in reading this section:

Lot. A lot is a legally defined piece of land other than a tract that is the result of a land division. This definition includes the State definition of both lot, (result of subdividing), **and** parcel, (result of partitioning). See also, Ownership and Site.

Lot of Record. A lot of record is a plot of land:

- Which was not created through an approved subdivision or partition;
- Which was created and recorded before July 26, 1979; and
- For which the deed, or other instrument dividing the land, is recorded with the appropriate county recorder.

Primary Structure. A structure or combination of structures of chief importance or function on a site. In general, the primary use of the site is carried out in a primary structure. The difference between a primary and accessory structure is determined by comparing the size, placement, similarity of design, use of common building materials, and the orientation of the structures on a site.

RECOMMENDED CODE LANGUAGE

AMEND CHAPTER 33.110, SINGLE-DWELLING ZONES

Sections:
General
33.110.010 Purpose
33.110.020 List of the Single-Dwelling Zones
33.110.030 Other Zoning Regulations
Use Regulations
33.110.100 Primary Uses
33.110.110 Accessory Uses
33.110.120 Nuisance-Related Impacts
Development Standards
33.110.200 Housing Types Allowed
33.110.205 Density
33.110.212 ~~Validation of Lots and Lots of Record~~ When Primary Structures are Allowed
33.110.215 Height
33.110.220 Setbacks
33.110.225 Building Coverage
33.110.230 Main Entrances in R10 through R2.5 Zones
33.110.232 Street-Facing Facades in R10 through R2.5 Zones
33.110.235 Required Outdoor Areas in R5 and R2.5 Zones
33.110.240 Alternative Development Options
33.110.245 Institutional Development Standards
33.110.250 Accessory Structures
33.110.255 Fences
33.110.260 Demolitions
33.110.265 Excavations and Fills
33.110.270 Nonconforming Development
33.110.275 Parking and Loading
33.110.280 Signs
33.110.282 Trees
33.110.285 Street Trees

~~33.110.212 Validation of Lots and Lots of Record~~

~~**A. Purpose.** The regulations of this section allow for development on lots and lots of record, but do not legitimize plots which were divided after subdivision and partitioning regulations were established. The regulations also allow development on lots which were large enough in the past, but were reduced by condemnation or required dedications for right-of-way.~~

~~**B. Lots.** The regulations of this subsection apply to lots.~~

~~1. Lots created on or after July 26, 1979. Development that meets the regulations of this Title is allowed on lots, or combinations of lots, created on or after July 26, 1979.~~

~~2. Lots created before July 26, 1979. The following regulations apply to lots created before July 26, 1979:~~

COMMENTARY, CONT.

RECOMMENDED CODE LANGUAGE, CONT.

~~a. Development that meets the regulations of this Title is allowed on lots, or combinations of lots, that meet the minimum size requirements of Table 110-4, except in the West Portland Park subdivision. Development may be allowed on lots that do not meet the minimum size requirements of Table 110-4 through Validation Review; see Chapter 33.854.~~

~~b. In the West Portland Park subdivision, development that meets the regulations of this Title is allowed on lots, or combinations of lots, that meet the minimum size requirements of Table 110-5. Development may be allowed on lots that do not meet the minimum size requirements of Table 110-5 through Validation Review; see Chapter 33.854.~~

~~**Table 110-4**~~ ~~**Minimum Dimensions for Valid Lots and Lots of Record**~~					
~~**Standard**~~	~~**RF**~~	~~**R20**~~	~~**R10**~~	~~**R7**~~	~~**R5 & R2.5**~~
~~Lot Area~~	~~1 acre~~	~~14,000 sq. ft.~~	~~7,000 sq. ft.~~	~~5,000 sq. ft.~~	~~No Minimum~~
~~Lot Width~~	~~80 ft.~~	~~70 ft.~~	~~60 ft.~~	~~50 ft.~~	~~No Minimum~~
~~Lot Depth~~	~~120 ft.~~	~~100 ft.~~	~~80 ft.~~	~~70 ft.~~	~~No Minimum~~

~~**Table 110-5**~~ ~~**Minimum Dimensions for Valid Lots and Lots of Record in West Portland Park**~~			
~~**Standard**~~	~~**RF through R10**~~	~~**R7**~~	~~**R5**~~
~~Lot Area~~	~~Same requirements as Table 110-4~~	~~7,000 sq. ft.~~	~~5,000 sq. ft.~~
~~Lot Width~~		~~No Minimum~~	~~No Minimum~~
~~Lot Depth~~		~~No Minimum~~	~~No Minimum~~

~~3. Lots reduced by condemnation or required dedication for right-of-way.~~

~~a. Development that meets the regulations of this Title is allowed on lots, or combinations of lots, that did meet the minimum size requirements of Table 110-4 in the past, but were reduced below one or more of those requirements solely because of condemnation or required dedication by a public agency for right-of-way, except in the West Portland Park subdivision.~~

~~b. In the West Portland Park subdivision, development that meets the regulations of this Title is allowed on lots, or combinations of lots, that did meet the minimum size requirements of Table 110-5 in the past, but were reduced below one or more of those requirements solely because of condemnation or required dedication by a public agency for right-of-way.~~

~~**C. Lots of record.** The regulations of this Subsection apply to lots of record.~~

~~1. Development that meets the regulations of this Title is allowed on lots of record, or combinations of lots of record, that meet the minimum size requirements of Table 110-4, except in the West Portland Park subdivision. Development may be allowed on lots of record that do not meet the minimum size requirements of Table 110-4 through Validation Review; see Chapter 33.854.~~

COMMENTARY, CONT.

33.110.212 Where Primary Structures Are Allowed

A. **Purpose.** This maintains the former purpose statement of the Validation of Lots and Lots of Record section, recognizing that the purpose of the regulations remains the same.

B. **Primary structures allowed.**

1. July 26, 1979 is the date after which the City is confident that the County has kept accurate records of subdivision and partition plats.

2. This section establishes the dimensional standards and requirements for lots, replacing Table 110-4 (Minimum Dimensions for Valid Lots and Lots of Record) with a minimum width for all lots in the RF through R5 zones, and references to the requirements of Table 610-1 which applies to the creation of lots in the RF through R5 zones. It also creates a minimum lot size for the R2.5 zone, which is the same as that for new lots. This allows for consistent lot sizes for both existing and newly created lots.

For ease of reviewing these code changes, Table 610-1 from the current Zoning Code is provided below.

Table 610-1
Lot Dimension Standards

	RF	R20	R10	R7	R5
Minimum Lot Area	52,000 sq. ft.	12,000 sq. ft.	6,000 sq. ft.	4,200 sq. ft.	3,000 sq. ft.
Maximum Lot Area	151,000 sq. ft.	34,500 sq. ft.	17,000 sq. ft.	12,000 sq. ft.	8,500 sq. ft.
Minimum Lot Width	60 ft.[1]	60 ft.[1]	50 ft.[1]	40 ft.[1]	36 ft.[1]
Minimum Front Lot Line	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.
Minimum Lot Depth	60 ft.	60 ft.	60 ft.	55 ft.	50 ft.

Notes:
1] See 33.610.200.D.

RECOMMENDED CODE LANGUAGE, CONT.

~~2. In the West Portland Park subdivision, development that meets the regulations of this Title is allowed on lots of record, or combinations of lots of record, that meet the minimum size requirements of Table 110-5. Development may be allowed on lots of record that do not meet the minimum size requirements of Table 110-5 through Validation Review, see 33.854.~~

~~3. Lots of record reduced by condemnation or required dedication for right-of-way.~~

~~a. Development that meets the regulations of this Title is allowed on lots of record, or combinations of lots of record, that did meet the minimum size requirements of Table 110-4 in the past, but were reduced below one or more of those requirements solely because of condemnation or required dedication by a public agency for right-of-way, except in the West Portland Park subdivision.~~

~~b. In the West Portland Park subdivision, development that meets the regulations of this Title is allowed on lots of record, or combinations of lots of record, that did meet the minimum size requirements of Table 110-5 in the past, but were reduced below one or more of those requirements solely because of condemnation or required dedication by a public agency for right-of-way.~~

~~**D. Plots.** Development is prohibited on plots that are not lots, lots of record, or tracts.~~

33.110.212 When Primary Structures are Allowed

A. Purpose. The regulations of this section allow for development of primary structures on lots and lots of record, but do not legitimize plots that were divided after subdivision and partitioning regulations were established. The regulations also allow development of primary structures on lots which were large enough in the past, but were reduced by condemnation or required dedications for right-of-way.

B. Primary structures allowed. Primary structures are allowed as follows:

1. On lots created on or after July 26, 1979;

2. On lots or combinations of lots created before July 26, 1979 that meet the requirements of this paragraph, and on lots of record or combinations of lots of record that meet the requirements of this paragraph. The requirements are:

   a. In the RF through R5 zones the lot or lot of record or combination of lots or lots of record must:

      (1) Be at least 36 feet wide; and

      (2) Meet the minimum area requirements of Table 610-1;

   b. In the R2.5 zone, the lot or lot of record or combination of lots or lots of record must be at least 1,600 square feet in area.

COMMENTARY, CONT.

C. **Exceptions.**

1. This paragraph establishes the minimum standards for lots in West Portland Park, replacing Table 110-5, Minimum Dimensions for valid Lots and Lots of Record in West Portland Park.

2. This paragraph allows structures on lots and lots of record that do not meet dimensional requirements if the lot or lot of record was "segregated"—if it had it's own tax account on the effective date of the regulations. It also grandfathers in those lots that have begun the lot segregation process by the effective date if the process is completed within a year. In both cases, the design standards must be met. This allows development on stand-alone lots and on those that have been segregated (or begun the process), but does not allow the development of lots that are part of a larger tax account and can already be developed under existing requirements and standards.

RECOMMENDED CODE LANGUAGE, CONT.

C. Exceptions.

1. West Portland Park. In the West Portland Park subdivision, primary structures are allowed as follows:

   a. On lots created on or after July 26, 1979;

   b. In the R7 zone:

      (1) On lots or combination of lots created before July 26, 1979 that are at least 7,000 square feet in area; and

      (2) On lots of record or combination of lots of record that are at least 7,000 square feet in area;

   c. In the R5 zone:

      (1) On lots or combination of lots created before July 26, 1979 that are at least 5,000 square feet in area; and

      (2) On lots of record or combination of lots of record that are at least 5,000 square feet in area;

2. Lots and lots of record that do not meet dimensional requirements. Primary structures are allowed on lots and combinations of lots created before July 26, 1979 that do not meet the dimensional requirements of B.2 or C.1, and on lots of record and combinations of lots of record that do not meet the dimensional requirements of B.2 or C.1 if the requirements of this paragraph are met. If the requirements of this paragraph are not met, primary structures are prohibited. Modifications to the standards of this paragraph are allowed through Design Review. Adjustments are prohibited. The requirements are:

   a. The lot, lot of record, or combination of lots or lots of record must meet one of the following:

      (1) The lot, lot of record, or combination of lots or lots of record was under a separate tax account record from abutting lots or lots of record on [effective date of these regulations]; or

      (2) An application to authorize a separate tax account number was filed with the City before [effective date of these regulations] and the lot or combination of lots was under a separate tax account record from abutting lots or lots of record on [1 year after effective date of these regulations]; and

COMMENTARY, CONT.

C.2.b.

(1) Maximum height. New regulation.

(2) Main entrance. This regulation currently in 33.110.230.

(3) Garage door. New regulation, works with limitation on garage wall to 12' in length, currently in 33.110.232.

(4) Vehicle access. This regulation currently in 33.110.275.

(5) No parking required. This regulation currently in 33.266.110.B.3.

(6) Exterior finish materials. This regulation currently in Chapter 33.218, Community Design Standards.

(7) Trim. This regulation currently in Chapter 33.218, Community Design Standards.

(8) Eaves. This regulation currently in Chapter 33.218, Community Design Standards.

(9) Attached housing. This regulation currently in 33.110.240. There may be four attached houses built on four lots, but they must be attached in pairs, not a row of four.

RECOMMENDED CODE LANGUAGE, CONT.

b. Development on the lot or lot of record must meet the following standards:

(1) Maximum height. The maximum height allowed for all structures is 1.5 times the width of the structure;

(2) Main entrance. The main entrance that meets Subsection 33.110.230.C, Main Entrances in R10 through R2.5 Zones, must be within 4 feet of grade. For the purposes of this requirement, grade is the average grade measured along the foundation of the longest street-facing wall of the dwelling unit. See Figure 110-7;

(3) Garage door. In addition to meeting the requirements of 33.110.250.E.4, the garage door may not be more than 8 feet wide. If there is more than one door, the combined width may not be more than 8 feet;

(4) Vehicle access. Where the lot or lot of record abuts an alley, vehicle access to the lot must be from the alley;

(5) No parking required. No off-street parking is required.

(6) Exterior finish materials. The following standards must be met on all building facades:

- Plain concrete block, plain concrete, corrugated metal, plywood and sheet pressboard are not allowed as exterior finish material, except as secondary finishes if they cover no more than 10 percent of the surface area of each facade. Composite boards manufactured from wood or other products, such as hardboard or hardplank, may be used when the board product is less than 6 inches wide;

- Where wood products are used for siding, the siding must be shingles, or horizontal siding, not shakes;

- Where horizontal siding is used, it must be shiplap or clapboard siding composed of boards with a reveal of 3 to 6 inches, or vinyl or aluminum siding which is in a clapboard or shiplap pattern where the boards in the pattern are 6 inches or less in width;

(7) Trim. Trim must mark all building roof lines, porches, windows, and doors on all facades. The trim must be at least 3-1/2 inches wide. Buildings with an exterior material of stucco or masonry are exempt from this standard;

(8) Eaves. Roof eaves must project from the building wall at least 12 inches on all elevations; and

(9) Attached housing. Attached housing is allowed, but no more than two units may be attached;

COMMENTARY, CONT.

C. **Exceptions.**

3. Planned unit developments. Lots in planned unit developments where there is a development plan are exempt from the requirements of this section, and are subject to the requirements of the development plan.

4. This paragraph allows for structures when requirements cannot be met solely because of condemnation or required dedication for right-of-way.

D. **Plots.** Primary structures are prohibited on plots that are not lots, lots of record, or tracts.

E. **Nonconforming situations.** Existing development and residential densities that do not conform to the requirements of this chapter may be subject to the regulations of Chapter 33.258, Nonconforming Situations. Chapter 33.258 provides what is commonly referred to as "grandfather" rules.

RECOMMENDED CODE LANGUAGE, CONT.

3. Planned unit developments. Lots in planned unit developments are exempt from the requirements of this section.

4. Lots reduced by condemnation or required dedication for right-of-way.

   a. Generally. Primary structures are allowed on lots and lots of record and combinations of lots or lots of record that did meet the requirements of B.2 in the past, but were reduced below one or both of those requirements solely because of condemnation or required dedication by a public agency for right-of-way.

   b. In West Portland Park. In the West Portland Park subdivision, primary structures are allowed on lots and lots of record and combinations of lots or lots of record that did meet the requirements of C.1.b and c in the past, but were reduced below one or both of those requirements solely because of condemnation or required dedication by a public agency for right-of-way.

D. Plots. Primary structures are prohibited on plots that are not lots, lots of record, or tracts.

E. Nonconforming situations. Existing development and residential densities that do not conform to the requirements of this chapter may be subject to the regulations of Chapter 33.258, Nonconforming Situations. Chapter 33.258 also includes regulations regarding damage to or destruction of nonconforming situations .

COMMENTARY, CONT.

33.854 Validation Review

Because of the restructuring of Section 33.110.212, Where Primary Structures are Allowed, this chapter (33.854 Validation Review) is no longer necessary.

RECOMMENDED CODE LANGUAGE, CONT.

~~CHAPTER 33.854~~
~~VALIDATION REVIEW~~
~~(Added by: Ord. Nos. 175965 and 176333, effective 7/1/02.)~~

~~Sections:~~
~~33.854.010 Purpose~~
~~33.854.020 Procedure~~
~~33.854.030 Approval Criteria~~

~~33.854.010 Purpose~~
~~Validation Review allows development on lots and lots of record that do not meet the requirements of Section 33.110.212, Validation of Lots and Lots of Record, where such development is appropriate.~~

~~33.854.020 Procedure~~
~~Validation Review is processed through a Type II procedure.~~

~~33.854.030 Approval Criteria~~
~~Validation Review will be approved if the review body finds that the applicant has shown that all of the following criteria have been met:~~

~~**A.** On July 26, 1979, or any time since that date, the lot or lot of record did not abut any lot or lot of record owned by the same family or business. The intent of this criterion is to not allow ownerships to be split into building sites that do not meet the requirements of Table 110-4, or in West Portland Park, the requirements of Table 110-5;~~

~~**B.** If it is a lot of record, it met the dimensional requirements for new lots at the time it was created;~~

~~**C.** The proposed development is as compatible with the surrounding housing as is practicable. Compatibility is based on considerations such as placement on the site, size, height, number of stories, angle of roof pitch, architectural style, size and placement of accessory structures such as garages, building materials, and landscaping materials; and~~

~~**D.** Any requested adjustments are consistent with the purpose of this chapter, the purpose of Section 33.110.212, and the intent of the regulation being adjusted.~~

Land Division Items

DISCUSSION

A number of items related to the implementation of the new Land Division Code since July 1, 2002 were raised for consideration as part of the "Top Ten" and are included in this package of Code Amendments. Two of the issues identified are addressed earlier in this document due to the greater amount of discussion these raised: #A6.2d--Lot Validations and Lot segregations, and #A6.3--Maximum Building Coverage (Table 110-6).

The remaining issues are listed below:

Item #A6.1--Land division definition of "site"

<u>Lot Dimensional Standards</u>

Item #A6.2a--Duplexes in multidwelling zones, and

Item #A6.2f--Depth of R2 lots,

Item #A6.2e--Front lot line in C zones, and

New Item--Front Lot Lines for Attached Housing in Multi-Dwelling, C, and E Zones; and for all development in the RX Zone

<u>Density and Size Requirements for Nonconforming and Conditional Uses in Residential Zones</u>

Item #A6.2b--Nonconforming uses in R2.5 and Multidwelling zones and

Item #6.5--Conditional uses in RF through R5 zones

Item #A6.2c--Property line adjustments

Item #6.4--Lot consolidation

Item #6.7--Review of land divisions in multidwelling zones

Land Division Items: Definition of "Site" for Land Divisions

"Top Ten" Item #A6.1, Land Division definition of "site"

DISCUSSION AND COMMENTARY

This is a situation where the answers to the questions asked in the Impact Assessment process have led the staff to propose and Planning Commission to recommend a change in the Code even though the change will not implement policy objectives. The policy objective and problems with meeting it are explained below. Of the alternatives considered in the *Discussion Draft* to meet policy objectives, most were rejected as being too complex to write clearly and too complex to administer.

Prior to the Land Division Code Rewrite Project, the definition of site allowed applicants to divide only a portion of an ownership. Often applicants would take advantage of this provision to avoid creating a street, choosing instead to divide several abutting, oversized lots into a series of flag lots. This lotting pattern results in reduced connectivity. At the time of the Land Division Code Rewrite Project, increasing connectivity was a major policy emphasis in addition to increasing neighborhood livability by reducing the number of flag lots created and ensuring that houses more often face a street.

To achieve these policy objectives the definition of site was amended to require that all abutting lots within an ownership be included and reviewed during a land division. In this way the entire ownership could be looked at holistically, and the most logical lotting and street/connectivity pattern could be established. This requirement is also intended to ensure that environmental zoning regulations would not be circumvented by choosing to divide only the portion of an ownership that does not include the environmental overlay zone.

Unfortunately, amending the definition of site has not resulted in achieving the policy objective. The approach taken has been proved to be unenforceable and ineffective because applicants regularly avoid the requirement by placing commonly owned, abutting lots under different names. For example, an owner will change the name of the property owner in the tax records to a spouse's name or a partner's name in order to make it appear that the lots are not owned in common. Changing the ownership is thus chosen as an additional step in the land division process in order to avoid the requirement that the full ownership be subject to the land division. For these reasons, the Planning Commission recommends amending the definition of site.

It should be noted that in trying to develop a new approach to the definition of "site" for land division purposes, staff considered at least four different approaches in its *Discussion Draft*. Each of these approaches had its benefits and problems. The Planning Commission recommendation is the result of input received from reviewers on the *Discussion Draft* and *Proposed Draft* of Policy Package 1.

RECOMMENDED CODE LANGUAGE

AMEND CHAPTER 33.910, DEFINITIONS

33.910.030 Definitions
The definition of words with specific meaning in the zoning code are as follows:

Site. For land divisions, the site is the lots, lots of record, or tracts proposed to be divided or reconfigured. ~~an ownership. If a proposed land division includes more than one ownership, then all the ownerships are included as the site.~~ For all other purposes, the site is an ownership except as follows:

- If a proposed development includes more than one ownership, then all the ownerships are included as the site.
- If a proposed development includes only a portion of an ownership, and the balance of the ownership is vacant, then the applicant may choose to define the site as the portion of the ownership that is proposed for development.
- If a proposed development includes only a portion of an ownership, and there is other development on the ownership, then the applicant may choose to define the site as the portion of the ownership that is currently developed plus the portion proposed for development.

Land Division Items: Lot Dimension Standards

"Top Ten" Item #A6.2a--Duplexes in multidwelling zones
"Top Ten" Item #A6.2f--Depth of R2 lots
"Top Ten" Item #A6.2e--Front Lot Line in C Zones
New item--Front Lot Lines for Attached Housing in Multi-Dwelling, C, and E Zones; and for all development in the RX Zone

DISCUSSION AND COMMENTARY

33.612.100.A Duplexes were inadvertently left out of this section of the code during the Land Division Code Rewrite Project. This amendment clarifies how density is calculated when duplex lots are proposed.

33.612.200.B; Table 612-1

NOTE: While all the new language in Table 612-1 is underlined, most of it is in the current regulations. The substantive changes are highlighted in gray. The recommended amendments are:

- Add lot dimension standards for lots to be developed with duplexes. Duplexes were inadvertently left out of this section of the code during the Land Division Code Rewrite Project and therefore don't have any standards. This amendment adds standards for duplexes, either attached or detached, in multi-dwelling zones. The recommended dimensions will ensure that lots are large enough to accommodate a duplex, but not so large that minimum density requirements would prohibit development of a duplex.

- Reduce minimum lot depth requirement in the R3, R2, and R1 Zones. This amendment makes it easier for alleys to be created for vehicular access from the rear of lots in these zones. Typically, blocks are 200 feet, and any alley/shared access, coupled with any landscaping to buffer neighbors adjacent to the alley, would need 20-30 feet. The existing code (80-100 ft. minimum lot depth) makes development of alleys unlikely without adjustments to lot depth requirements. It should be noted that, prior to the Land Division Code Rewrite Project, the minimum lot depth in the R2 zone was 80 feet.

- Add front lot line requirements for attached housing in all Multi-Dwelling Zones, and for all development in the RX Zone. Currently, there are no minimum front lot line requirements in the Zoning Code for these types of development in these zones. The effect of other bureaus' codes is to require street frontage; for example, water service must be from a street, not over an easement. However, because there is no requirement in the Zoning Code, applicants are misled. Adding a front lot line requirement of 10 feet ensures adequate access for services, and alerts applicants to the need for street frontage.

- Add lot dimensions for lots to be developed with attached housing in the IR zone. These standards were inadvertently left out of this section of the code during the Land Division Code Rewrite Project and therefore there are no standards. This amendment adds the same standards as in the RX Zone.

- Expand Table 612-1 to include lot dimension standards for all residential structure types. This is more clear than the current organization.

RECOMMENDED CODE LANGUAGE

AMEND CHAPTER 33.612, LOTS IN MULTI-DWELLING ZONES

33.612.100 Density

A. Single-dwelling or duplex development. When single-dwelling or duplex development is proposed for some or all of the site, the applicant must show how the proposed lots can meet minimum density and not exceed the maximum density stated in Table 120-3. Site area devoted to streets is subtracted from the total site area in order to calculate minimum and maximum density.

B. All other development. When development other than single-dwelling is proposed, minimum and maximum density must be met at the time of development.

33.612.200 Lot Dimension Standards

A. Purpose. [No change.]

B. Lot dimensions. Minimum lot dimensions are stated in Table 612-1.

~~1. Multi-dwelling development.~~ Minimum lot dimensions for lots that will be developed with ~~multi-dwelling~~ residential structures~~, or multi-dwelling development,~~ are stated in Table 612-1.

Table 612-1
Minimum Lot Dimensions

	R3	R2	R1	RH	RX	IR[1]
Lots to be developed with:						
Multi-Dwelling Structures or Development:						
Minimum Lot Area	6,000 sq. ft.	4,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.	none	10,000 sq. ft. +
Minimum Lot Width	50 ft.	33 ft.	70 ft.	70 ft.	none	70 ft. +
Minimum Lot Depth	~~80~~ 70 ft.	~~100~~ 70 ft.	~~100~~ 70 ft.	100 ft.	none	100 ft. +
Minimum Front Lot Line	50 ft.	30 ft.	70 ft.	70 ft.	~~none~~ 10 ft.	70 ft. +
Detached Houses						
Minimum Lot Area	3000 sq. ft.	3000 sq. ft.	3000 sq. ft.	3000 sq. ft.	3000 sq. ft.	3000 sq. ft.
Minimum Lot Width	36 ft.	36 ft.	36 ft.	36 ft.	36 ft.	36 ft.
Minimum Lot Depth	none	none	none	none	none	none
Minimum Front Lot Line	36 ft.	36 ft.	36 ft.	36 ft.	~~36 ft.~~ 10 ft.	36 ft.
Attached Houses						
Minimum Lot Area	1600 sq. ft.	1600 sq. ft.	800 sq. ft.	800 sq. ft.	none	none
Minimum Lot Width	none	none	none	none	none	none
Minimum Lot Depth	none	none	none	none	none	none
Minimum Front Lot Line	~~none~~ 10 ft.	~~none~~ 10 ft.	~~none~~ 10 ft.	~~none~~ 10 ft.	10 ft.	10 ft.
Duplexes						
Minimum Lot Area	6000 sq. ft.	4000 sq. ft.	4000 sq. ft.	2000 sq. ft.	none	2000 sq. ft.
Minimum Lot Width	50 ft.	33 ft.	33	none	none	none
Minimum Lot Depth	70	70	70	none	none	none
Minimum Front Lot Line	50	30	30	30	10	30

Notes:
[1] This regulation may be superseded by an Impact Mitigation Plan.

DISCUSSION AND COMMENTARY, CONT.

33.612.200.B.2 This amendment adds standards for nonconforming uses in multi-dwelling zones.

33.613.100

The current regulations require a front lot line at least 25 feet long for all development except attached housing. Lots to be developed with attached housing must have a front lot line at least 16 feet long. However, this limits the opportunities for live/work situations; attached residential that includes commercial space must meet the 25-foot standard, which isn't as workable for attached houses. The initial staff proposal was to reduce the front lot line requirement for all uses to 16 feet. However, further discussion about possible development configurations resulted in an amended staff recommendation, adopted by Planning Commission, to reduce the front lot line for all development in the C zones to 10 feet. This will ensure that all lots have some street frontage, but will increase flexibility in the code, and allow more creative development, including live/work situations. .

RECOMMENDED CODE LANGUAGE, CONT.

2. Nonconforming uses. Minimum lot dimensions for lots with nonconforming uses are the same as those for detached houses.

~~2. Detached houses. The minimum lot area required for lots to be developed with detached houses is 3,000 square feet. The minimum lot width and minimum front lot line required is 36 feet. There is no minimum lot depth requirement.~~

~~3. Attached houses in the R3 and R2 zones. The minimum lot area for lots to be developed with attached houses in the R3 and R2 zones is 1,600 square feet. There are no minimum lot width, minimum front lot line, or minimum lot depth requirements.~~

~~4. Attached houses in the R1 and RH zones. The minimum lot area for lots to be developed with attached houses in the R1 and RH zones is 800 square feet. There are no minimum lot width, minimum front lot line, or minimum lot depth requirements.~~

AMEND CHAPTER 33.613, LOTS IN COMMERCIAL ZONES

33.613.100 Minimum Front Lot Line Standard
Each lot must have a front lot line that is at least ~~25~~ 10 feet long~~except for lots that will be developed with attached houses. Lots that will be developed with attached houses must have a front lot line that is at least 16 feet long~~.

Land Division Items: Density and Dimensional Requirements for Nonconforming and Conditional Uses in R Zones

"Top Ten" Item #A6.2b--Nonconforming uses in R2.5 and multidwelling zones
"Top Ten" Item #6.5 Conditional Uses in RF through R5 zones

COMMENTARY

These two amendments clarify issues that have emerged since the Land Division Code Rewrite Project was adopted.

33.611.020

This amendment clarifies which standards apply to lots that will be developed with uses other than attached and detached houses.

33.611.100.E.3

This amendment clarifies that sites with conditional uses do not have to meet minimum density. For example, this situation arises when a large lot with a church on it is proposed to be subdivided. Because the new lot with the church on it would have to remain fairly large, the site as a whole would have a hard time meeting the minimum density requirements. See the illustration on page 60.

RECOMMENDED CODE LANGUAGE

AMEND CHAPTER 33.611, LOTS IN THE R2.5 ZONE

33.611.020 Where These Standards Apply
The standards of this chapter apply to lots in a land division in the R2.5 zone that will be developed with attached houses. Lots in a land division in the R2.5 zone that will not be developed with attached ~~detached~~ houses must meet the regulations for land divisions in the R5 zone in Chapter 33.610, Lots in RF through R5 zones.

33.611.100 Density Standards

A. through D. [No change.]

E. Exceptions to minimum density. Exceptions to minimum density standards are allowed in the following situations:

1. If minimum density is equal to maximum density, then the minimum is automatically reduced by one; ~~or~~

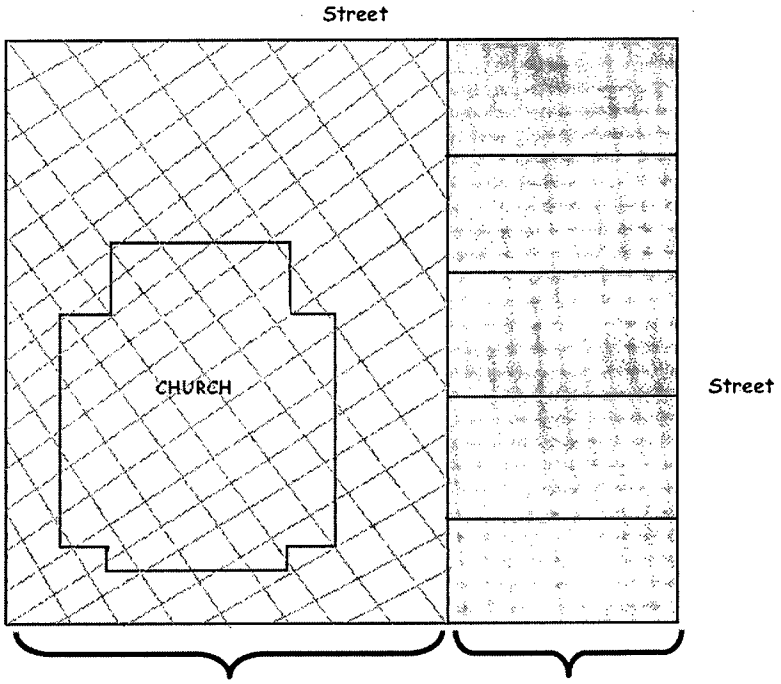
2. If minimum density is larger than maximum density then the minimum is reduced to one less than the maximum~~.~~ ;

3. The portion of the site that has a conditional use or Conditional Use Master Plan is not included in the site for calculations of minimum density.

COMMENTARY, CONT.

33.610.100.E

This amendment clarifies that sites with conditional uses do not have to meet minimum density.



This crosshatched area occupied by the church IS NOT included in the calculation of minimum density for this site.

The shaded parcel is proposed to be subdivided from the church parcel, to be used for residential development and must meet minimum density requirements.

33.610.200.C

This amendment clarifies that lots with conditional or institutional uses are exempt from the maximum lot area standard.

RECOMMENDED CODE LANGUAGE, CONT.

AMEND CHAPTER 33.610, LOTS IN RF THROUGH R5 ZONES

33.610.100 Density Standards

A. through D. [No change.]

E. Exceptions to minimum density. Exceptions to minimum density standards are allowed in the following situations. Adjustments to this subsection are prohibited:

1. If the minimum required density is equal to the maximum allowed density, then the minimum is automatically reduced by one; ~~or~~

2. If the minimum required density is larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum~~.~~ ;

3. The portion of the site that has a conditional use or Conditional Use Master Plan is not included in the site for calculations of minimum density.

33.610.200 Lot Dimension Standards

Lots in the RF through R5 zones must meet the lot dimension standards of this section.

A. and B. [No change.]

C. Maximum lot area. Lots larger than the maximum lot area standards stated in Table 610-1 are not allowed. Lots with a conditional use or Conditional Use Master Plan are exempt from this standard.

D. through F. [No change.]

Land Division Items: Property Line Adjustments

"Top Ten" Item #A6.2c, Property Line Adjustments

COMMENTARY

33.667.300.A.1

This amendment clarifies that the dimensional standards that apply to lots created through the land division process also apply to Property Line Adjustments.

Land Division Items: Property Line Adjustments

RECOMMENDED CODE LANGUAGE

AMEND CHAPTER 33.667, PROPERTY LINE ADJUSTMENT

33.667.300 Regulations
A request for a Property Line Adjustment will be approved if all of the following are met:

A. Properties. For purposes of this subsection, the site of a Property Line Adjustment is the two properties affected by the relocation of the common property line.

1. The Property Line Adjustment will not cause either property, or development on either property, to move out of conformance with any of the regulations of this Title, including those in Chapters 33.605 through 33.615 except as follows:

   a. If a property or development is already out of conformance with a regulation in this Title, the Property Line Adjustment will not cause the property or development to move further out of conformance with the regulation~~.~~;

   b. If both properties are already out of conformance with maximum lot area standards, they are exempt from the maximum lot area standard; and

   c. If one property is already out of conformance with maximum lot area standards, it is exempt from the maximum lot area standard.

2. The Property Line Adjustment will not result in the creation of a flag lot;

3. The Property Line Adjustment will not result in the creation of street frontage for a land-locked property;

4. If any portion of the site is within an environmental overlay zone, the Property Line Adjustment may not create a situation where either property cannot meet the development standards of Section 33.430.140, General Development Standards. If this requirement cannot be met, an Environmental Review as described in Sections 33.430.210 through 33.430.280 must be completed before the Property Line Adjustment is requested; and

5. The Property Line Adjustment will not result in the creation of a lot that is in more than one base zone.

B. and C. [No change.]

Land Division Items: Lot Consolidation

"Top Ten" Item #A6.4 - Lot consolidation

DISCUSSION AND COMMENTARY

The land division process is used to create lot lines—to divide land into new lots. Once those lot lines are created, they may be moved through a Property Line Adjustment (PLA). A PLA is an administrative, nondiscretionary process. Lot lines may be moved through a PLA only if all of the requirements of the Zoning Code continue to be met.

Currently, there is no process for removing lot lines, other than a land division. Requiring these lot consolidations to go through a land division process is onerous and expensive, for both staff and applicants. If all requirements of the Zoning Code continue to be met, a much simpler, faster, and less expensive process is appropriate. The Planning Commission recommends a new chapter to do this.

It should be noted that the process recommended here is different from the process used by Multnomah County to consolidate lots under one tax account. Such consolidations are handled by the County and not reviewed by the City. A tax consolidation does not affect the underlying, platted lot lines. The lot consolidation process recommended here does not replace the tax consolidation process, but provides a mechanism to change underlying, platted lot lines.

RECOMMENDED CODE LANGUAGE

CHAPTER 33.675
LOT CONSOLIDATION

Sections:

33.675.010 Purpose
This chapter states the procedures and regulations for removing lot lines within a site to create one lot. The regulations ensure that lot consolidation does not circumvent other requirements of this Title, and that lots and sites continue to meet conditions of land use approvals.

33.675.050 When These Regulations Apply
A lot consolidation may be used to remove lot lines within a site. The applicant may also choose to remove such lot lines through a land division. A lot consolidation may be required by other provisions of this Title.

33.675.010 Purpose
This chapter states the procedures and regulations for removing lot lines within a site to create one lot. The regulations ensure that lot consolidation does not circumvent other requirements of this Title, and that lots and sites continue to meet conditions of land use approvals. The lot consolidation process described in this chapter is different from (and does not replace) the process used by the county to consolidate lots under one tax account. A tax consolidation does not affect the underlying platted lots. A lot consolidation results in a new plat for the consolidation site.

33.675.050 When These Regulations Apply
A lot consolidation may be used to remove lot lines within a site. The applicant may also choose to remove lot lines through a land division.

33.675.100 Review Procedure

A. **Generally.** Lot consolidations are reviewed through Type I procedure.

B. **Sites in PUDs or PDs.** If any portion of the site is within a Planned Unit Development (PUD) or Planned Development (PD), an amendment to the PUD or PD is also required. The amendment to the PUD or PD must be reviewed concurrently with the lot consolidation.

33.670.200 Application Requirements
An application for a lot consolidation must contain the following:

A. **Application form.** Two copies of the completed application form bearing an accurate legal description, tax account numbers and location of the property. The application must include the name, address, telephone number, and original signatures of the applicant and all property owners and the nature of the applicant's interest in the property.

COMMENTARY, CONT.

RECOMMENDED CODE LANGUAGE, CONT.

B. Surveys.

1. A survey of the site prepared, stamped and signed by a registered land surveyor showing all existing property lines and structures. The survey may not be larger than 18 inches by 24 inches in size. The survey must be drawn to a scale no less than 1 inch = 200 feet, and no greater than 1 inch = 20 feet;

2. If the site is part of an existing plat, a copy of the recorded plat; and

3. A Final Plat Survey showing the single consolidated lot. Copies of the final plat survey must be drawn to scale and of a format, material, and number acceptable to the Director of BDS. The following statement must be on the Final Plat Survey: "This plat is subject to the conditions of the City of Portland Case File No. LUR... "

C. Other.

1. Legal descriptions. Two copies of the legal descriptions for each of the lots or tracts within the lot Consolidation site. The legal descriptions must be prepared and signed by a registered land surveyor; and

2. Title reports. A current title report issued by a title insurance company verifying ownership and detailing any deed restrictions; and

3. Narrative. A written narrative explaining how the regulations and approval criteria of this Chapter have been met;

4. Fees. The applicable filing fees.

33.675.300 Standards

A lot consolidation must meet the following standards:

A. Lots. Consolidated lots must meet the standards of Chapters 33.605 through 33.615, with the following exceptions:

1. Lot dimension standards.

   a. Minimum lot area. If the area of the entire lot consolidation site is less than that required of new lots, the lot consolidation site is exempt from minimum lot area requirements;

   b. Maximum lot area. If any of the lots within the lot consolidation site are larger than the maximum lot area allowed, the lot consolidation site is exempt from maximum lot area requirements;

   c. Minimum lot width. If the width of the entire lot consolidation site is less than that required of new lots, the lot consolidation site is exempt from minimum lot width requirements;

COMMENTARY, CONT.

33.730.060 Application Requirements

The code currently requires that final plats include a statement that additional City review is required for any changes made to the plat after BDS signs off. The County Surveyor is subject to limitations about what can be placed on a final plat, and will not accept a final plat with this statement on it. BDS is currently not enforcing this code requirement in order to allow final plats to be approved when they reach the County Surveyor.

RECOMMENDED CODE LANGUAGE, CONT.

d. Minimum front lot line. If the front lot line of the entire lot consolidation site is less than that required of new lots, the lot consolidation site is exempt from minimum front lot line requirements;

e. Minimum lot depth. If the depth of the entire lot consolidation site is less than that required of new lots, the lot consolidation site is exempt from minimum lot depth requirements.

2. Maximum density. If the consolidation brings the lot consolidation site closer to conformance with maximum density requirements, the consolidation does not have to meet maximum density requirements;

3. Lots without street frontage. If the lot consolidation consolidates lots that do not have street frontage with a lot that has street frontage, the consolidation does not have to meet minimum density and maximum lot area requirements;

4. Through lots. If any of the existing lots within the lot consolidation site are through lots with at least one front lot line abutting an arterial street, then the consolidated lot may be a through lot;

5. Split zoning. If any of the existing lots within the lot consolidation site are in more than one base zone, then the consolidated lot may be in more than one base zone.

B. Conditions of land use approvals. Conditions of land use approvals continue to apply, and must be met.

33.675.400 Recording an Approval
The Final Plat survey, legal descriptions, and the deed for the consolidated lot must be recorded with the County Recorder and Surveyor within 90 days of approval by the Director of BDS.

AMEND CHAPTER 33.730, QUASI-JUDICIAL PROCEDURES

33.730.060 Application Requirements

D. Required information for land divisions. [No change.]

1. and 2. No change.]

3. Final Plat. An application for a Final Plat must include all of the following:

a. Final Plat survey. Copies of a Final Plat survey drawn to scale and of a format, material, and number acceptable to the Director of OPDR. The following information must be on the Final Plat survey:

- The statement~~s~~:
  ~~—~~"This plat is subject to the conditions of City of Portland Case File No. LUR...";~~ and~~
  ~~— "Additional City review is required for any changes made to this plat after the signature date of the Office of Planning and Development Review representative. Such changes may require an additional review procedure; and~~
- Easements and tracts, including their purpose;

b. through h. [No change.]

Land Division Items: Review Thresholds for Land Divisions in Multi-Dwelling Zones

"Top Ten" Item #A6.7, Review of Land Divisions in Multi-Dwelling Zones

DISCUSSION AND COMMENTARY

33.660.110 Review Procedures

This amendment would replace "dwelling units" with "lots" as one of the factors looked at in determining which procedure is assigned to a proposed land division. This issue had much discussion during the Land Division Code Rewrite Project. With experience in applying the regulation (it has been in effect since July, 2002) the Bureau of Development Services finds that in the Multi-dwelling zones, the use of "dwelling units" leads to more Type III reviews than is warranted by the relative simplicity of the regulatory issues. Type III reviews are time-consuming and expensive and are intended to be used for situations with the most complexity or potential for unanticipated impacts.

The differentiation between lots and units has little consequence in the single dwelling zones because the number of lots is most often the same as the number of units (and in fact, the code currently equates the two: "In the RF-R2.5 zones, the number of dwelling units is the number of lots being proposed"). However, in the Multi-dwelling zones, the number of units is usually more than the number of lots. The use of "lots" as the distinguishing characteristic is being recommended because consideration of the number of lots is more closely correlated to the complexity of the land division issues on a given application, than is consideration of the number of dwelling units.

In the "new" code the thresholds for review are based on the minimum number of units required. A Type III review is required if there is a minimum of eleven or more dwelling units required. In a single-dwelling zone, if there are eleven or more dwelling units required, there is typically a street, because each of those units has to have frontage on a street. A Type III process can make sense in this case, because a <u>new</u> street serving that many dwellings/lots is fairly complex and has the potential for unanticipated impacts. However, in a multi-dwelling zone, the number of units is not reflective of the number of lots or if there is a street, since there can be multiple dwelling units on a single lot. Consider for example, a two lot partition, with a minimum density of six dwellings on each lot, with each lot fronting on an existing street. In this case, the "new" code also requires a Type III review even though the land division considerations are relatively simple.

A land division review is only considering issues related to the creation of lots and streets, such as infrastructure services for the proposed lots, proposed lot dimensions, the location of any proposed streets, etc. The design of future development is not part of the land division review.

Land Division Items: Review Thresholds for Land Divisions in Multi-Dwelling Zones

RECOMMENDED CODE LANGUAGE

AMEND CHAPTER 33.660, REVIEW OF LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

Review of Preliminary Plan

33.660.110 Review Procedures
Procedures for review of Preliminary Plans vary with the type of land division proposal being reviewed. ~~For the purposes of this section, the number of dwelling units will be calculated as follows: In the RF-R2.5 and IR zones, the number of dwelling units is the number of lots being proposed. In the R3-RX zones, the number of dwelling units is the minimum required density of the site.~~

A. Type III. Land divisions that include any of the following elements are processed through a Type III procedure:

1. Eleven or more ~~dwelling~~ lots ~~units, not including accessory dwelling units~~;
2. Four or more lots ~~dwelling units, not including accessory dwelling units~~, where any portion of the lots, utilities, or services are proposed within a Potential Landslide Hazard Area;
3. Environmental review;
4. A phased land division, as described in Chapter 33.633, Phased and Staged Plans;
5. Any portion of the site is in an Open Space zone.

B. Type IIx. Except as provided in Subsection A, above, land division proposals that include any of the following elements are processed through a Type IIx procedure:

1. Four to ten lots ~~dwelling units, not including accessory dwelling units~~;
2. Two or three lots ~~dwelling units, not including accessory dwelling units~~, where any portion of the lots, utilities, or services are proposed within a Potential Landslide Hazard Area;
3. Lots, utilities, or services are proposed within a Flood Hazard Area; or
4. The proposal includes a concurrent land use review assigned to a Type I, Type II, or Type IIx procedure except environmental review. If environmental review is required, then the application is processed through a Type III procedure.

C. Type I. All land divisions not assigned to a Type IIx or Type III, are processed through a Type I procedure.

ATTACHMENTS

Attachment 1: Flowchart of Model Process for Impact Assessment

Model Process for Consideration and Assessment of Land Use and Development Actions

IMPACT ASSESSMENT AND KEY QUESTIONS	PROCESS STEPS	KEY INPUT
First Stage Assessment *What is the issue or problem we are trying to address? Is there a mandate that requires a regulation or other non-regulatory response?* *What are the intended or desired outcomes? What community goals or aspirations are we trying to achieve? How will the outcomes advance the City's Comprehensive Plan?* *Is the issue of sufficient magnitude to justify developing new regulation or other non-regulatory tools? Is the issue just the "crisis du jour" or something more substantial?* *What entities will be generally affected by the potential proposed policies, requirements and/or regulations? Are there existing regulations and non-regulatory tools that affect the same entities that are duplicative, contradict, or overload the existing regulatory framework?* *Why should this be a priority for action? How will the City staff and fund the project?*	**Issue Identification and Initial Scoping**	Community/Stakeholders Bureaus Federal/State/Regulatory Mandates City Council Trends, Demographics Evaluation and Monitoring Results Advisory Boards and Commissions
	Bureau and Council Prioritization	Bureaus City Council Community/Stakeholder Input Budget Considerations Evaluation and Monitoring Results Advisory Boards and Commissions → NO FURTHER ACTION DELAY →
	Project Initiation and Project Scope Refinement	Community/Stakeholders Evaluation of Conditions Bureaus Advisory Boards and Commissions → NO FURTHER ACTION DELAY →
Second Stage Assessment *What regulatory and non-regulatory alternatives were considered? Why is the proposal the preferred solution/response? How does the proposal best respond to the objectives and goals identified in the first stage of the project?* *How were stakeholders and the community consulted throughout the process? What were their responses to the proposed changes and the alternatives considered?* *How does the proposed policy, regulation or requirement provide sufficient flexibility to address a variety of circumstances?* *What resources are required to implement the proposal and how will any proposed regulation be enforced?* *What are the general benefits of the policy, regulation, or administrative requirement and how do these benefits compare to and balance against the public, private, and community costs?* *How will the regulation's impact be monitored to determine effectiveness? What should success look like? What resources are needed to gather and evaluate performance data?*	**Project Development and Analysis**	Citizen or Technical Advisory Groups Community/Stakeholders Input from Internal and External Review of Early Drafts Implementing Agency(ies)
	* **Proposal and Impact Assessment**	→ Public Review Citizen or Technical Advisory Groups Community/Stakeholders Bureaus DRAC and Other Advisory Commissions
	Consideration of Proposal (at Planning Commission, City Council, Advisory Committee/Board, Bureau Level)	Public Hearings/Public Comment from Bureaus, Community/Stakeholders, etc. Worksession Discussions Additional Information as Requested from Bureau, Other City Entities, Community/Stakeholders
	Is Additional Analysis or Information Needed?	Yes — Significant No Yes — Minimal
	Adoption and Implementation	
Ongoing Assessment	**Evaluation and Monitoring**	* These two steps may be repeated, e.g. at Planning Commission and City Council

Attachment 2: Item #16—"a" overlay

Bureau/Staff Lead: BOP/Betsy Ames	**Code Item/Title:** Alternative Design Density (a) Overlay Zone--33.405	***Top Ten 2002:*** *#16*

Description of the Problem With the Code:

Much of what is in this overlay either conflicts with or duplicates what is elsewhere in the Code, such as the accessory dwelling unit provisions, and the regulations are generally confusing and some provisions are little used. In addition, the home occupancy requirements of the "a" overlay are difficult to enforce and can create problems for future property sales. As part of consideration of this item, staff would evaluate the various provisions and the mapping of the "a" overlay to determine whether all or part of the overlay should be deleted, modified, or incorporated into other sections of the Code, and whether the mapping of the "a" overlay should be revised or removed in areas it was applied through the Albina Community Plan, the Outer Southeast Plan, and the Sellwood Neighborhood Plan.

Possible Solution or Concept:

- Some provisions could be considered for elimination (e.g. Bonus Density for Design Review).
- Provisions which are often used could be considered for modification for inclusion in the Base zones (e.g. 33.405.060 Alternative Development Options in the R2 and R2.5 zones)
- Some provisions should be evaluated for duplication with the other provisions in the Zoning Code and modified and/or eliminated from the "a" overlay (e.g. Regulations for Accessory Dwelling Units)
- Mapping of the "a" overlay could be modified as appropriate.
- If we change any of the "a" overlay, we will also need to create a method to establish the legal non-conforming status of properties that have taken advantage of the "a" overlay.

Desired Outcome of Change:

Increased ease of implementation of the Zoning Code by elimination of redundancies and conflicts. Removal of provisions that result in density of infill development that is incompatible with the surrounding residential development.

Process and Timeline for Changing the Code:

This would require a revision of Title 33. A full legislative review process is required, including allowing public review of a draft proposal; hearing, review and recommendation by the Planning Commission, with final action by the City Council. Approximate timeline: 9-12 months.

Resources needed to process the code change: BOP estimates that this code change will require .6 FTE to process, due to higher than usual public notification requirements.

Who are the Stakeholders interested in this issue and how will they be involved in the code change process?

Interested Stakeholders:
Neighborhood Associations/Residents--would likely support removal of some of the provisions (such as bonus density) and advocate for keeping others (such as owner occupancy provisions and design requirements)

Property owners/developers--would likely support incorporating 33.405.070 (alternative Dev. Options in R2 and R2.5) into base zones since they provide increased flexibility, would likely support eliminating conflicts between ADU provisions, would likely be concerned with elimination of additional density provisions

OPDR staff--would advocate for eliminating the "a" overlay to reduce complexity and conflicts in the code

Public Involvement: Amendments to the Zoning Code are processed through a legislative procedure, as specified in Chapter 33.740 of the Portland Zoning Code. At a minimum, this procedure involves public hearings before the Planning Commission and City Council, with public notice requirements.

Attachment 3: Item #37—Exclude eaves from building coverage

Bureau/Staff Lead: BOP/Betsy Ames	**Code Item Title:** Definition of Building Coverage (Eaves) -- 33.910.030	***Top Ten 2002:*** *#37*

Description of the Problem With the Code:

The maximum building coverage limits in the Zoning Code are intended to regulate the overall bulk of structures on a site. The term "building coverage" is defined in Chapter 33.910 (Definitions) generally as the area that is covered by buildings or other roofed structures, including eaves. In order to maximize the footprint of a building, it is often necessary for the builder/architect to eliminate or substantially reduce eave overhangs in order to conform with the maximum building. This adversely impacts the design and appearance of the structure. The alternative is to apply for an adjustment review to allow the eave overhang.

Possible Solution or Concept:

Modify the definition of building coverage in Chapter 33.910 to eliminate reference to eaves, or at least to eaves that extend less than a specified distance from the building wall. Eaves do not typically substantially add to the bulk of development on a site, and with current stormwater management requirements, do not increase the amount of stormwater flowing off a site.

Desired Outcome of Change:

1. Allows greater flexibility in the design and size of roofed structures on a site without adversely impacting the legislative intent of the building coverage regulation.
2. Enhances the appearance and design of roofed structures.
3. Reduces the large number of adjustment applications that applicants currently seek when eave overhangs result in development exceeding the maximum building coverage standard.

Process and Timeline for Changing the Code:

This would require a revision of Title 33. A full legislative review process is required, including allowing public review of a draft proposal; hearing, review and recommendation by the Planning Commission, with final action by the City Council. Approximate timeline: 0-6 months

Resources needed to process the code change:

BOP estimates that this code change will require .15 - .2 FTE to process.

Who are the Stakeholders most likely to be interested in this issue and how will they be involved in the code change process?

Interested Stakeholders

Principal stakeholders who will benefit from this amendment include homeowners; homebuilders; residential, commercial and industrial property-owners; as well as architects, land use consultants and engineers who submit building plans. The amendment will facilitate and streamline the development review process, while still ensuring the intent of the development standard is met. The amendment is also a timesaver for OPDR staff by reducing the large number of adjustment applications that must be processed when the eave overhang increases building coverage above the allowed maximum.

Public Involvement

Amendments to the Zoning Code are processed through a legislative procedure, as specified in Chapter 33.740 of the Portland Zoning Code. This procedure at minimum involves public hearings before the Planning Commission and City Council, with public notice requirements.

Attachment 4:

Bureau/Staff Lead: BOP/Betsy Ames	Code Item/Title: Various Items in the Land Division Code--Title 33	Top Ten 2002: #A6.1--A6.6

Description of the Problem With the Code:

#A6.1. Definition of "Site":
The definition of site, as it applies to land divisions needs clarification. A land division of one lot requires inclusion of all contiguous lots under the same ownership. All the ownership is subject to the land division regulations. The definition needs further refinement to more directly address the initial concerns that resulted in changes to the definition through the Land Division Rewrite. The idea behind this new site definition is to prevent a piecemeal approach to land divisions that often happens in residential zones. In the past, applicants owning a group of abutting lots sometimes chose to do several separate land division applications in an attempt to circumvent the City's requirements (such as having to create a street, or having to go through a Type III process if two flag lots are proposed, or Environmental Overlay requirements, etc.).
The requirement that the whole ownership be included in the land division is problematic for large landowners, because the requirements (such as tree preservation, seeps and springs, surveying the entire boundary, etc.) apply to the whole ownership, not just the portion of their ownership that they intend to divide. The challenge is to identify the situations in which it is important to be able to consider the whole ownership when evaluating the lot layout.

#A6.2. Lot Dimensions:
a. Duplexes in Multi-Dwelling Zones: There are no lot dimension standards for duplexes in Multi-Dwelling zones.
b. Nonconforming Uses: There are no lot dimension standards for nonconforming uses in R2.5 and Multi-Dwelling zones.
c. Property Line Adjustments: Dimension standards apply to land divisions, however, a Property Line Adjustment is not a land division, so it's not clear which standards apply.
d. Lot Validation Dimensions vs. Regular Lot Dimensions: Valid lot standards in R20, R10, and R7 smaller than regular lot standards, making lots undevelopable even when meeting minimum lot dimension standards.
e. Front Lot line in Commercial Zones: 16' minimum front lot line required for attached house lots; 25' minimum front lot line required for all other lots. Development on lots created with 16' front lot line therefore limited to attached houses, even though they are in a Commercial Zone. Prevents live/work situations.
f. Depth of R2 Lots: The minimum lot depth for R2 lots increased from 80' to 100', making many sites nonconforming and requiring Adjustments for division of these lots. Most blocks are 200 feet wide, so a 100-foot lot depth often precludes having an alley tract. Alley tracts could be created, but they would have to get an Adjustment to the minimum lot depth, another review and expense, (= disincentive).

#A6.3. Maximum Building Coverage (Table 110-6):
Changes to the maximum building coverage allowance in Single-Dwelling zones resulted in a reduction in allowed building coverage on large lots when compared to what was previously allowed. Re-examine the allowed building coverages on larger lots for consistency with Council intent. Also, the calculations in Table 110-6 are complicated and could be revised for easier implementation.

#A6.4. Lot Consolidation:
A replat process is needed for consolidating lots. Requiring an applicant to go through the land division process is excessive for a situation where lots simply need to be consolidated and old lot lines eliminated. Subjecting such situations to the land division process is also problematic given the new definition of site, and the new standards for maximum lot size and minimum density.

#A6.5. Conditional Uses in Single-Dwelling Zones:
An existing or proposed conditional use (such as a religious institution or cemetery) wanting to split off a portion of its site runs into problems with: a) the maximum lot size standard; b) the minimum density requirement (this is especially problematic because Adjustments to minimum density are prohibited).

#A6.6. Landslide Hazard Areas:
Land divisions in mapped Potential Landslide Hazard Area must go through a Type IIx or Type III review. This mapped area is very general and broad, and includes some flat sites. A Type IIx or Type III review procedure is excessive for sites in this mapped area that are flat. A Pre-application and the Neighborhood Contact requirement are triggered by Type IIx and Type III reviews.

#A6.7. Land Divisions in Multi-Dwelling Zones.
Currently, land divisions in multi-dwelling zones require a complex and expensive Type III review, even in situations where only very few lots are involved and no development is currently proposed.

Possible Solutions or Concepts:

#A6.1:
It might make sense to only apply this requirement to Residential Zones. Other considerations, even in residential zones could include:
a) if the abutting lots are already developed to their maximum density,
b) whether the site is in a Flood Hazard area, Landslide Hazard Area or the Environmental Zone, in which case it would be important to be able to consider all alternative arrangements of lots.

#A6.2:
a. Add lot dimension standards for duplexes in Multi-Dwelling zones.
b. Add lot dimension standards for nonconforming uses in R2.5 and Multi-Dwelling zones (a lot size that would be large enough to not preclude development of the types intended in the zone, once the nonconforming use goes away and the site is redeveloped).
c. Clarify which lot size standards apply to Property Line Adjustments
d. Clarify which standards of Title 33 apply to Validated Lots
e. One solution would be to have a 16' front lot line for all attached buildings in Commercial Zones, not just "attached houses". Need to allow narrow attached commercial development as well as live/work situations in attached buildings in Commercial Zones.
f. Reduce minimum lot depth for R2 lots.

#A6.3:
Look at examples, comparing what resulting from old requirement to new requirement, and identify problem areas. Revise table as needed to accomplish Council's intent.

#A6.4:
Establish a simple, fast process for replatting lots. It could be a hybrid of the Property Line Adjustment process and the land division process. Per state law, it would need to be at least a Type I review. There are several typical scenarios that would need to be addressed with some variation in the process and standards. For example, a street vacation that results in landlocking a lot would require a replat to eliminate the landlocked lot and consolidate with other lots that have street frontage. There are several other typical scenarios that would benefit from a replat process. These would need to be considered individually, so that appropriate issues are considered and other extraneous requirements are eliminated.

#A6.5:
Allow exception to minimum density and maximum lot size for the portion of the site that would continue to contain the existing or proposed Conditional Uses/Institutional Uses. This would eliminate the need for more adjustment reviews.

#A6.6:
The challenge is how to separate those sites that need a higher level of review and those that don't. Options include looking at percent slope of the site and within a certain distance of the site, and if there are no slopes exceeding a (yet to be defined) percentage, allow a Type I review. Alternatively, if the process is not changed to a Type I, and remains a Type IIx, eliminate the pre-application requirement.

#A6.7:
Review whether a Type IIx review might be more appropriate than the current Type III review required for multi-dwelling zone land divisions with 11 or more units.

Desired Outcome of Change:

Ensure objectives of the Land Division Code Rewrite project are met without unintended consequences, such as making certain lots undevelopable, even though they meet minimum lot standards; preventing desirable live/work situations; creating non-conforming sites that require additional adjustment reviews; allowing less building coverage on larger lots than before; unnecessarily encumbering re-platting for the purpose of lot consolidation; and requiring review for landslide hazards on flat site. Ease implementation of the Code.

Process and Timeline for Changing the Code:

This would require a revision of Title 33. A full legislative review process is required, including allowing public review of a draft proposal; hearing, review and recommendation by the Planning Commission, with final action by the City Council. Approximate timeline for entire #A6 Land Division package: 6-9 months.

Resources needed to process the code change:

Estimate requiring .6 FTE for Planning and .2 FTE for OPDR to process the entire A6 package of code changes.

Who are the Stakeholders most likely to be interested in this issue and how will they be involved in the code change process?

Interested Stakeholders:

Large Industrial and Commercial land owners--Likely supportive of clarification of definitions of site (#A6.1), of proposed re-platting/lot consolidation process (#A6.4); and proposed Type IIx for multi-dwelling land divisions (#A6.7)

Developers -- Likely supportive of clarification of site (#A6.1), of lot dimensions (#A6.2), of simplifying and potentially increasing maximum building coverage (#A6.3), of proposed re-platting/lot consolidation process (#A6.4), and proposed Type I review for selected sites in Landslide Hazard Areas (#A6.6), and proposed Type IIx for multi-dwelling land divisions (#A6.7)

Neighborhood representatives -- Likely supportive of clarification of lot dimensions (#A6.2); would likely advocate for required Neighborhood Contact regarding sites within landslide hazard areas (#A6.6); would be interested in outcomes of maximum building coverage which was subject of testimony during LDCR (#A6.3); may object to proposed Type IIx review for land divisions in multi-dwelling zones.

Homebuilders and homeowners - Likely supportive of clarification of maximum building coverage (#A6.3); and Type IIx for multi-dwelling land divisions (#A6.7)

Owners of affected institutions (religious institutions or cemeteries) — Likely supportive of proposed change to Conditional uses in Single Dwelling Zone (#A6.5)

Public Involvement: Amendments to the Zoning Code are processed through a legislative procedure, as specified in Chapter 33.740 of the Portland Zoning Code. At a minimum, this procedure involves public hearings before the Planning Commission and City Council, with public notice requirements.

Attachment 5: Item #A37—Nonconforming Situation Review

Bureau/Staff Lead: BOP/Betsy Ames	**Code Item/Title:** Nonconforming Situation Review Criteria -- 33.258.080	**Top Ten 2002**: #A37

Description of the Problem With the Code:

1. Nonconforming uses are created when the zoning designation on a site is changed, or when zoning regulations change. When a use becomes nonconforming, changes to the use are allowed only if approved through a Nonconforming Situation Review. One of the approval criteria associated with this land use review requires the applicant to demonstrate that with mitigation measures the proposed change will result in a net **decrease** in any detrimental impacts the existing use has on the surrounding area. In addressing this criterion, the applicant must address such factors as hours of operation, vehicle trips, noise, dust and odors. Even if the proposal results in the nonconforming use continuing to operate in the same manner as it has in the past, with no increased impacts on the surrounding neighborhood, the proposal cannot be approved as there is not a demonstrated decrease in impacts. This approval criterion is inconsistent with the purpose of the nonconforming regulations, which in part is intended to allow nonconforming uses to continue and to ensure that zoning regulations will not cause unnecessary burdens. The burden of meeting these approval criteria is great, particularly given that the zone change that made the use nonconforming was often beyond the control of the applicant.

Possible Solution or Concept:

1. Nonconforming Situation Review. Amend the existing criterion so that applicant must demonstrate that with mitigation measures the proposed change will not result in a net **increase** in any detrimental impacts on the surrounding area.

Desired Outcome of Change:

1. Nonconforming Situation Review.
   a. Reduces the burden of maintaining and operating a nonconforming use.
   b. Encourages property-owners and tenants to make the necessary investment in maintaining an existing nonconforming use, while still mitigating for any detrimental impacts on the surrounding area.

Process and Timeline for Changing the Code:

This would require a revision of Title 33. A full legislative review process is required, including allowing public review of a draft proposal; hearing, review and recommendation by the Planning Commission, with final action by the City Council. Approximate timeline: 6--9 months

Resources needed to process the code change:

BOP estimates .1 FTE will be required to process this code change.

Who are the Stakeholders interested in this issue and how will they be involved in the code change process?

Interested Stakeholders

1. Nonconforming Situation Review. Principal stakeholders who will benefit from this amendment include owners and tenants of nonconforming uses (both commercial and residential). Surrounding properties owners and tenants may also benefit from increased investment in and resulting physical improvements to nonconforming uses.

Public Involvement

Amendments to the Zoning Code are processed through a legislative procedure, as specified in Chapter 33.740 of the Portland Zoning Code. This procedure at minimum involves public hearings before the Planning Commission and City Council, with public notice requirements.

Attachment 6: Item #10—Reduce minimum caliper of trees

Bureau/Staff Lead: BOP/Betsy Ames	**Code Item/Title**: Plant Materials: Reduce the minimum required caliper of trees -- 33.248.030.C	**Top Ten 2002**: #10

Description of the Problem With the Code:

Zoning Code specifies quantity and size of trees and other planting materials. Providing alternative plant materials often requires a discretionary land use review. Most problematic is the minimum size required for trees. Many stakeholders have reported that larger trees are not available on the Portland market.

Possible Solution or Concept:

Immediate reduction of the size requirement for trees to a size readily available in the Portland area. Provide flexibility to the Director of OPDR to allow alternate plant materials

Desired Outcome of Change:

Allow easier compliance with tree planting standards for small business and other developers. Allow flexibility in compliance in order to be responsive changes in plant materials available in the market.

Process and Timeline for Changing the Code:

This would be a revision to Title 33. Therefore a full legislative review process is required including allowing public review of a draft proposal; hearing, review and recommendation by the Planning Commission with final action by City Council. Processing time would be approximately 6 months.

Resources needed to process the code change:

BOP recommends taking this item forward as part of a package of proposed amendments to Title 33, to make the most efficient use of limited staff and other resources. Estimate this code change will require .1 FTE to process.

Who are the Stakeholders likely to be most interested in this issue and how will they be involved in the code change process?

Interested Stakeholders:
1. City Forester/BES/ODPR/PDC--involved in proposal development, review
2. Urban Forest Commission--review/comment on proposal
3. Environmental advocates--review/comment on proposal
4. Neighborhood land use advocates--review/comments
5. Developers, small businesses, small business advocates--review /comment

Public Involvement: Amendments to the Zoning Code are processed through a legislative procedure, as specified in Chapter 33.740 of the Portland Zoning Code. At a minimum, this procedure involves public hearings before the Planning Commission and City Council, with public notice requirements.

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