

## **ANNOTATED MINUTES**

Tuesday, February 25, 1997 - 9:30 AM  
Multnomah County Courthouse, Room 602  
1021 SW Fourth, Portland

### **BOARD POLICY DISCUSSION**

*Chair Beverly Stein convened the meeting at 9:35 a.m., with Vice-Chair Gary Hansen and Commissioners Sharron Kelley and Tanya Collier present, and Commissioner Dan Saltzman arriving at 9:38 a.m.*

- B-1      Discussion of Options Regarding Construction and Operation of New Jail and Alcohol and Drug Facilities in Light of Ballot Measure 47 Funding Restrictions. Presented by Sheriff Dan Noelle and Elyse Clawson.

***SHERIFF DAN NOELLE AND ELYSE CLAWSON PRESENTATION AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION. MS. CLAWSON TO RESEARCH WHETHER OTHER JURISDICTIONS WOULD BE WILLING TO LEASE ANY UNFILLED A&D BEDS FROM MULTNOMAH COUNTY. SHERIFF NOELLE TO CONTINUE WITH JAIL SITING PROCESS AS DIRECTED BY RESOLUTION 97-20, AND TO PREPARE RESOLUTION ARTICULATING HOW MANY A&D BEDS SHOULD BE CONSTRUCTED IN THE NEW FACILITY FOR BOARD CONSIDERATION AT A FUTURE REGULAR MEETING.***

*There being no further business, the meeting was adjourned at 10:36 a.m.*

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Tuesday, February 25, 1997 - 1:30 PM  
Multnomah County Courthouse, Room 602  
1021 SW Fourth, Portland

### **LAND USE PLANNING MEETING**

*Chair Beverly Stein convened the meeting at 1:35 p.m., with Vice-Chair Gary Hansen and Commissioners Sharron Kelley, Tanya Collier and Dan Saltzman present.*

P-1      CS 4-96      Report the Hearings Officer Decision Regarding Approval of a Conditional Use Permit for a Community Service Use, Subject to Conditions, on Property Located at 14445 NW CHARLTON ROAD, PORTLAND (SAUVIE ISLAND SCHOOL)

***DECISION READ, NO APPEAL FILED, DECISION STANDS.***

P-2      CS 3-96      DE NOVO HEARING Regarding Appeal of Hearings Officer Decision Approving a Conditional Use Permit for a Community Service Use, Subject to Conditions, on Property Located at 10351 NW THOMPSON ROAD, PORTLAND (BONNY SLOPE SCHOOL). TESTIMONY LIMITED TO 20 MINUTES PER SIDE.

***CHAIR STEIN EXPLAINED QUASI-JUDICIAL PROCESS. AT CHAIR STEIN'S REQUEST FOR DISCLOSURE, NO EX PARTE CONTACTS WERE REPORTED. AT CHAIR STEIN'S REQUEST FOR CHALLENGES AND/OR OBJECTIONS, NONE WERE OFFERED. PLANNER LISA ESTRIN PRESENTED STAFF REPORT. VIA TELEPHONIC CONFERENCE CALL FROM BEND, OREGON, HEARINGS OFFICER LIZ FANCHER PRESENTED CONDITIONS, FINDINGS OF FACT AND CRITERIA USED IN HER DECISION. STEVE OLSON AND CARL BEAN OF DULL OLSON WEEKES ARCHITECTS TESTIFIED IN SUPPORT OF AN AMENDMENT TO THE DECISION ALLOWING PHYSICAL EDUCATION CLASSES WITH NO SHOWER FACILITIES. NEIGHBORING PROPERTY OWNER BELA BOROK EXPRESSED CONCERN REGARDING CHILDREN GOING THROUGH HIS PROPERTY AND REQUESTED THE SCHOOL DISTRICT ERECT A FENCE. IN RESPONSE TO A QUESTION OF CHAIR STEIN, COUNTY COUNSEL SANDRA DUFFY ADVISED THAT MR. BOROK COULD VOICE HIS CONCERNS TO THE SCHOOL BOARD AT THE DESIGN REVIEW HEARING PROCESS. IN RESPONSE TO CHAIR STEIN'S REQUEST FOR CONTINUANCE AND/OR OBJECTION TO HEARING, NONE WERE OFFERED. HEARING CLOSED. MS. DUFFY RESPONSE TO BOARD QUESTIONS. COMMISSIONER SALTZMAN MOVED, SECONDED***

**BY COMMISSIONER KELLEY, TO AMEND THE HEARINGS OFFICER DECISION, CONDITION 2 GRANTING PHYSICAL EDUCATION CLASSES USE AS DESCRIBED IN THE APPLICATION. IN RESPONSE TO A QUESTION OF COMMISSIONER COLLIER, SCHOOL DISTRICT BOARD MEMBER MELVIN MOORE ADVISED SCHOOLS CANNOT LEGALLY REQUIRE STUDENTS TO SHOWER AFTER PHYSICAL EDUCATION. MS. FANCHER RESPONSE TO QUESTION OF MS. DUFFY. FOLLOWING BOARD DISCUSSION, AND AT THE SUGGESTION OF MS. DUFFY, COMMISSIONER SALTZMAN MOVED, SECONDED BY COMMISSIONER KELLEY, TO AMEND PREVIOUS MOTION TO INCLUDE LANGUAGE FROM HEARINGS OFFICER FINDING H REQUIRING SANITATION APPROVAL FOR USE OR EXPANSION OF THE EXISTING SEPTIC SYSTEM PRIOR TO ADDING SHOWERS. MOTION UNANIMOUSLY APPROVED, AS AMENDED. CHAIR STEIN ADVISED ALL PARTIES WILL RECEIVE A COPY OF THE BOARD'S WRITTEN DECISION, WHICH MAY BE APPEALED TO LUBA.**

*There being no further business, the meeting was adjourned at 1:50 p.m.*

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Tuesday, February 25, 1997 - 2:30 PM  
Multnomah County Courthouse, Room 602  
1021 SW Fourth, Portland

### **BOARD POLICY DISCUSSION**

*Chair Beverly Stein convened the meeting at 2:35 p.m., with Vice-Chair Gary Hansen and Commissioners Sharron Kelley, Tanya Collier and Dan Saltzman present.*

- B-2      Presentation of a Proposed Restructuring of Community Justice Sanctions Developed in Conjunction with the Courts, District Attorney and Sheriff. This Presentation Will Explain How the Department of Juvenile and Adult Community Justice Will Recommend Prioritizing Community Justice Resources and the Offender Population in Response to Ballot Measure 47 Cuts. Discussion of How Ongoing Communications Will Occur Among the Parties. Presented by Elyse Clawson and Bob Grindstaff.

**ELYSE CLAWSON, JUDGE FRANK BEARDEN, BOB GRINDSTAFF, DISTRICT ATTORNEY MICHAEL SCHRUNK AND SHERIFF DAN NOELLE PRESENTATIONS AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION.**

*There being no further business, the meeting was adjourned at 3:30 p.m.*

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Thursday, February 27, 1997 - 9:30 AM  
Multnomah County Courthouse, Room 602  
1021 SW Fourth, Portland

**REGULAR MEETING**

*Chair Beverly Stein convened the meeting at 9:35 a.m., with Commissioners Sharron Kelley, Tanya Collier and Dan Saltzman present, and Vice-Chair Gary Hansen excused.*

**CONSENT CALENDAR**

**AT THE REQUEST OF CHAIR STEIN, AND UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER COLLIER, ITEM C-11 WAS UNANIMOUSLY REMOVED FROM THE CONSENT CALENDAR.**

**UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER SALTZMAN CONSENT CALENDAR ITEMS C-1 THROUGH C-10 AND C-12 THROUGH C-15 WERE UNANIMOUSLY APPROVED.**

**DEPARTMENT OF COMMUNITY AND FAMILY SERVICES**

- C-1 Intergovernmental Revenue Agreement 103117 with the State Office for Services to Children and Families, Funding Capitated Mental Health Services for Children Not Served through Multnomah CAPCare Program
- C-2 Amendment 2 to Intergovernmental Revenue Agreement 103196 with the State Office for Services to Children and Families, Adding Funds to Extend Substance Abuse Services for Clients of the Family Support Team Project East County Branch through June 30, 1997

- C-3 Intergovernmental Revenue Agreement 103367 with Centennial School District, Funding Capitated Mental Health Services for Children Not Served through Multnomah CAPCare Program
- C-4 Intergovernmental Revenue Agreement 103377 with Portland Public School District, Funding Capitated Mental Health Services for Children Not Served through Multnomah CAPCare Program
- C-5 Intergovernmental Agreement 103407 with Mt. Hood Community College, to Purchase Private Linkages for Unemployment Solutions (PLUS) Project Services Intended to Move More People Off Welfare and into Employment; Reduce Welfare Recidivism; and Prevent At-Risk People from Becoming New Welfare Recipients
- C-6 Intergovernmental Revenue Agreement 103457 with the State Office for Services to Children and Families, to Support an Alcohol and Drug Evaluation Specialist as Part of the Child Abuse Multidisciplinary Intervention (CAMI) Project
- C-7 Amendment 2 to Intergovernmental Revenue Agreement 103755 with the City of Portland, for Eligibility Verification of the City's Water/Sewer Bill Discount Program and Crisis Assistance Program for Low Income Households
- C-8 Amendment 2 to Intergovernmental Revenue Agreement 102595 with the City of Portland, for Administration of the City's Water/Sewer Assistance Program and Water/Sewer Bill Discount Program and Crisis Assistance Program for Low Income Households

#### **DEPARTMENT OF ENVIRONMENTAL SERVICES**

- C-9 Amendment 1 to Intergovernmental Agreement 301606 with the City of Wood Village for the NE Glisan Street Waterline Improvements Contract, Reflecting a Change in Costs Assumed by the County
- C-10 Amendment 1 to Intergovernmental Agreement 301616 with the City of Fairview for the NE Glisan Street Waterline Improvements Contract, Reflecting a Change in Costs Assumed by the County
- C-12 ORDER Authorizing Execution of Deed D971379 Upon Complete Performance of a Contract to George Elias

**ORDER 97-23.**

## **DEPARTMENT OF HEALTH**

- C-13      Renewal of Intergovernmental Agreement 201437 with Oregon Health Sciences University for the Continued Provision of Dental Services for Low-Income Persons Living with HIV/AIDS
- C-14      Renewal of Intergovernmental Agreement 201447 with Oregon Health Sciences University for the Continued Provision of Medical Services for Low-Income Persons Living with HIV/AIDS
- C-15      Renewal of Intergovernmental Agreement 201457 with Oregon Health Sciences University for the Continued Provision of Case Management Services for Low-Income Persons Living with HIV/AIDS

## **REGULAR AGENDA**

## **DEPARTMENT OF ENVIRONMENTAL SERVICES**

- C-11      ORDER Authorizing Execution of Deed D971411 for Repurchase of Tax Acquired Property to Former Owners Clara L. Haney and John E. Haney

***CHAIR STEIN EXPLANATION. UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER COLLIER, ORDER 97-24 IN THE MATTER OF THE EXECUTION OF DEED D971411 FOR REPURCHASE OF TAX ACQUIRED PROPERTY TO FORMER OWNERS ESTATE OF CLARA L. HANEY, AND JOHN E. HANEY WAS UNANIMOUSLY APPROVED.***

## **PUBLIC COMMENT**

- R-1      Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

***REX BURKHOLDER AND KAREN FROST MECEY COMMENTS IN SUPPORT OF BICYCLE TRANSPORTATION ALLIANCE REQUEST TO RECONSIDER DECISION TO DENY A PERMIT TO BRIDGE PEDAL, INC. FOR BRIDGE PEDAL EVENT IN ADDITION TO AUGUST 31, 1997 BIKE THE BRIDGE EVENT ORGANIZED BY WILLAMETTE LIGHT BRIGADE. BOARD COMMENTS AND DISCUSSION, ADVISING OREGON DEPARTMENT***

**OF TRANSPORTATION WILL ISSUE ONLY ONE PERMIT AND CITY OF PORTLAND WILL SUPPORT ONLY ONE EVENT. ERIK FISHMAN COMMENTS REGARDING LAST YEAR'S EVENT AND PLANS FOR THIS YEAR. FOLLOWING BOARD DISCUSSION AND AT THE REQUEST OF CHAIR STEIN, COMMISSIONER SALTZMAN TO CONTACT REPRESENTATIVES FROM BRIDGE PEDAL, INC. AND WILLAMETTE LIGHT BRIGADE TO SEE IF AN AMICABLE SOLUTION CAN BE FOUND WHEREBY BOTH ORGANIZATIONS PARTICIPATE IN THE AUGUST EVENT.**

**NON-DEPARTMENTAL**

- R-2 PROCLAMATION Recognizing ROSEMARY ANDERSON for Service at Portland Opportunities Industrialization Center in Multnomah County, Oregon

**COMMISSIONER KELLEY MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF R-2. VICE-CHAIR HANSEN'S STAFF ASSISTANT MIKE DELMAN READ PROCLAMATION. PROCLAMATION 97-25 UNANIMOUSLY APPROVED.**

**DEPARTMENT OF COMMUNITY AND FAMILY SERVICES**

- R-3 RESOLUTION in the Matter of Participation in Funding Activities of the Oregon Dispute Resolution Commission

**COMMISSIONER KELLEY MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF R-3. BOB DONOUGH EXPLANATION AND RESPONSE TO BOARD QUESTIONS. COMMISSIONER KELLEY COMMENTS IN SUPPORT. RESOLUTION 97-26 UNANIMOUSLY APPROVED.**

**DEPARTMENT OF ENVIRONMENTAL SERVICES**

- R-4 PUBLIC HEARING and Consideration of an ORDER Approving Transfer of Six Tax Foreclosed Properties to Metro, for Public Purposes

**COMMISSIONER SALTZMAN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-4. KATHY TUNEBOG EXPLANATION. JIM DESMOND EXPLANATION AND COMMENTS IN SUPPORT OF METRO'S ACQUISITION OF PROPERTIES FOR OPEN SPACES. JULIE MORROW TESTIMONY IN OPPOSITION TO METRO CREATING A TRAIL NEAR BURLINGTON NORTHERN RAILROAD PROPERTY ABUTTING HER PROPERTY, AND COMMENTS REGARDING LACK OF NOTIFICATION OF AVAILABILITY OF PROPERTIES FOR SALE. AT THE REQUEST OF CHAIR STEIN, MS. TUNEBOG EXPLAINED COUNTY'S STATUTORY NOTIFICATION PROCESS PRIOR TO FORECLOSURE AND SUBSEQUENT REPURCHASE AND/OR SALE OF PROPERTIES. AT THE REQUEST OF CHAIR STEIN, MR. DESMOND EXPLAINED METRO WOULD PROVIDE EXTENSIVE OPPORTUNITIES FOR PUBLIC INVOLVEMENT IN THE EVENT BNRR DECIDED TO ABANDON ITS TRACK AND METRO WISHED TO CREATE A TRAIL AND WAS SUCCESSFUL IN OBTAINING FEDERAL MONEY TO CONSTRUCT SAME. ORDER 97-27 UNANIMOUSLY APPROVED.**

R-5           ORDER Authorizing Private Sale of Certain Tax Foreclosed Property to Woodland Development, Including Direction to Tax Title for Publication of Notice Pursuant to ORS 275.225

**COMMISSIONER KELLEY MOVED AND COMMISSIONER SALTZMAN SECONDED, APPROVAL OF R-5. KATHY TUNEBOG EXPLANATION AND RESPONSE TO BOARD QUESTIONS. ORDER 97-28 UNANIMOUSLY APPROVED.**

R-6           First Reading of an ORDINANCE Amending the Exclusive Farm Use Zoning District and Related Subsections of Multnomah County Code 11.15 to Bring Multnomah County's Land Use Regulations into Compliance with Oregon Revised Statute Chapter 215 and Oregon Administrative Rule 660, Division 33 Requirements for Agricultural Land

**ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER SALTZMAN MOVED**



**AND COMMISSIONER KELLEY SECONDED, APPROVAL OF FIRST READING. SCOTT PEMBLE INTRODUCED PLANNER CHUCK BEASLEY. MR. PEMBLE EXPLANATION OF ORDINANCE AND ADDITIONAL STAFF RECOMMENDED AMENDMENTS. ATTORNEY MICHAEL ROBINSON TESTIMONY IN SUPPORT OF ORDINANCE ON BEHALF OF CLIENTS HENRY AND EULIA MISHIMA. MR. PEMBLE AND MR. ROBINSON RESPONSE TO QUESTIONS OF COMMISSIONER KELLEY. UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER COLLIER, STAFF RECOMMENDED AMENDMENTS TO PAGES 5, 6, 10, 13 AND 18 AS SUBMITTED IN WRITING WERE UNANIMOUSLY APPROVED. FIRST READING UNANIMOUSLY APPROVED, AS AMENDED. SECOND READING THURSDAY, MARCH 6, 1997.**

**PUBLIC CONTRACT REVIEW BOARD**

(Recess as the Board of County Commissioners and convene as the Public Contract Review Board)

R-7 ORDER Approving Exemption to Specify Brand Names for the Purchase of Dental Equipment

**COMMISSIONER KELLEY MOVED AND COMMISSIONER SALTZMAN SECONDED, APPROVAL OF R-7. FRANNA HATHAWAY EXPLANATION AND RESPONSE TO BOARD QUESTIONS. ORDER 97-29 UNANIMOUSLY APPROVED.**

R-8 ORDER Exempting from Formal Competitive Bidding a Change Order to Exceed the 20% Limitation for a Contract with Silco Construction Company

**COMMISSIONER SALTZMAN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-8. FRANNA HATHAWAY EXPLANATION AND RESPONSE TO BOARD QUESTIONS. ORDER 97-30 UNANIMOUSLY APPROVED.**

R-9            Second Reading and Adoption of an ORDINANCE Amending Ordinance 807 and Ordinance 861, Multnomah County Public Contract Review Board Rules

**ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER SALTZMAN MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF SECOND READING AND ADOPTION. FRANNA HATHAWAY EXPLANATION AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION. COMMISSIONER KELLEY'S MOTION TO AMEND FAILED FOR LACK OF A SECOND. ORDINANCE 875 UNANIMOUSLY APPROVED.**

(Adjourn as the Public Contract Review Board and reconvene as the Board of County Commissioners)

*There being no further business, the regular meeting was adjourned at 10:55 a.m. and the briefing convened at 11:00 a.m.*

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Thursday, February 27, 1997 - 10:30 AM  
Multnomah County Courthouse, Room 602  
1021 SW Fourth, Portland

### **BOARD BRIEFING**

B-3            Session Update on the 1997 Oregon Legislature. Presented by Sharon Timko and Gina Mattioda.

**GINA MATTIODA AND SHARON TIMKO  
PRESENTATION AND RESPONSE TO BOARD  
QUESTIONS AND DISCUSSION.**

*There being no further business, the meeting was adjourned at 11:48 a.m.*

OFFICE OF THE BOARD CLERK  
FOR MULTNOMAH COUNTY, OREGON

**Deborah L. Bogstad**

Deborah L. Bogstad



## MULTNOMAH COUNTY OREGON

**BOARD CLERK**

OFFICE OF BEVERLY STEIN, COUNTY CHAIR  
1120 SW FIFTH AVENUE, SUITE 1515  
PORTLAND, OREGON 97204  
TELEPHONE • (503) 248-3277  
FAX • (503) 248-3013

**BOARD OF COUNTY COMMISSIONERS**

BEVERLY STEIN •	CHAIR	•248-3308
DAN SALTZMAN •	DISTRICT 1	• 248-5220
GARY HANSEN •	DISTRICT 2	•248-5219
TANYA COLLIER •	DISTRICT 3	•248-5217
SHARRON KELLEY •	DISTRICT 4	•248-5213

# MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS

# AGENDA

FOR THE WEEK OF

**FEBRUARY 24, 1997 - FEBRUARY 28, 1997**

*Tuesday, February 25, 1997 - 9:30 AM - Board Policy Discussion..... Page 2*

*Tuesday, February 25, 1997 - 1:30 PM - Land Use Planning.....Page 2*

*Tuesday, February 25, 1997 - 2:30 PM - Board Policy Discussion.....Page 2*

*Thursday, February 27, 1997 - 9:30 AM - Regular Meeting .....Page 3*

*Thursday, February 27, 1997 - 10:30 AM - Board Briefing .....Page 6*

*Thursday Meetings of the Multnomah County Board of Commissioners are \*cable-cast\* live and taped and can be seen by Cable subscribers in Multnomah County at the following times:*

*Thursday, 9:30 AM, (LIVE) Channel 30*

*Friday, 10:00 PM, Channel 30*

*Sunday, 1:00 PM, Channel 30*

*\*Produced through Multnomah Community Television\**

INDIVIDUALS WITH DISABILITIES MAY CALL THE BOARD CLERK AT (503) 248-3277, OR MULTNOMAH COUNTY TDD PHONE (503) 248-5040, FOR INFORMATION ON AVAILABLE SERVICES AND ACCESSIBILITY.

AN EQUAL OPPORTUNITY EMPLOYER

Tuesday, February 25, 1997 - 9:30 AM  
Multnomah County Courthouse, Room 602  
1021 SW Fourth, Portland

**BOARD POLICY DISCUSSION**

- B-1      *Discussion of Options Regarding Construction and Operation of New Jail and Alcohol and Drug Facilities in Light of Ballot Measure 47 Funding Restrictions. Presented by Sheriff Dan Noelle and Elyse Clawson. 1.5 HOURS REQUESTED.*
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Tuesday, February 25, 1997 - 1:30 PM  
Multnomah County Courthouse, Room 602  
1021 SW Fourth, Portland

**LAND USE PLANNING MEETING**

- P-1      CS 4-96      *Report the Hearings Officer Decision Regarding Approval of a Conditional Use Permit for a Community Service Use, Subject to Conditions, on Property Located at 14445 NW CHARLTON ROAD, PORTLAND (SAUVIE ISLAND SCHOOL)*
- P-2      CS 3-96      *DE NOVO HEARING Regarding Appeal of Hearings Officer Decision Approving a Conditional Use Permit for a Community Service Use, Subject to Conditions, on Property Located at 10351 NW THOMPSON ROAD, PORTLAND (BONNY SLOPE SCHOOL). TESTIMONY LIMITED TO 20 MINUTES PER SIDE.*
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Tuesday, February 25, 1997 - 2:30 PM  
Multnomah County Courthouse, Room 602  
1021 SW Fourth, Portland

**BOARD POLICY DISCUSSION**

- B-2      *Presentation of a Proposed Restructuring of Community Justice Sanctions Developed in Conjunction with the Courts, District Attorney and Sheriff. This Presentation Will Explain How the Department of Juvenile and Adult Community Justice Will Recommend Prioritizing Community Justice Resources and the Offender Population in Response to Ballot Measure 47 Cuts. Discussion of How Ongoing Communications Will Occur Among the Parties. Presented by Elyse Clawson and Bob Grindstaff. 1 HOUR REQUESTED.*

Thursday, February 27, 1997 - 9:30 AM  
Multnomah County Courthouse, Room 602  
1021 SW Fourth, Portland

**REGULAR MEETING**

**CONSENT CALENDAR**

**DEPARTMENT OF COMMUNITY AND FAMILY SERVICES**

- C-1      *Intergovernmental Revenue Agreement 103117 with the State Office for Services to Children and Families, Funding Capitated Mental Health Services for Children Not Served through Multnomah CAPCare Program*
- C-2      *Amendment 2 to Intergovernmental Revenue Agreement 103196 with the State Office for Services to Children and Families, Adding Funds to Extend Substance Abuse Services for Clients of the Family Support Team Project East County Branch through June 30, 1997*
- C-3      *Intergovernmental Revenue Agreement 103367 with Centennial School District, Funding Capitated Mental Health Services for Children Not Served through Multnomah CAPCare Program*
- C-4      *Intergovernmental Revenue Agreement 103377 with Portland Public School District, Funding Capitated Mental Health Services for Children Not Served through Multnomah CAPCare Program*
- C-5      *Intergovernmental Agreement 103407 with Mt. Hood Community College, to Purchase Private Linkages for Unemployment Solutions (PLUS) Project Services Intended to Move More People Off Welfare and into Employment; Reduce Welfare Recidivism; and Prevent At-Risk People from Becoming New Welfare Recipients*
- C-6      *Intergovernmental Revenue Agreement 103457 with the State Office for Services to Children and Families, to Support an Alcohol and Drug Evaluation Specialist as Part of the Child Abuse Multidisciplinary Intervention (CAMI) Project*
- C-7      *Amendment 2 to Intergovernmental Revenue Agreement 103755 with the City of Portland, for Eligibility Verification of the City's Water/Sewer Bill Discount Program and Crisis Assistance Program for Low Income Households*

- C-8      *Amendment 2 to Intergovernmental Revenue Agreement 102595 with the City of Portland, for Administration of the City's Water/Sewer Assistance Program and Water/Sewer Bill Discount Program and Crisis Assistance Program for Low Income Households*

**DEPARTMENT OF ENVIRONMENTAL SERVICES**

- C-9      *Amendment 1 to Intergovernmental Agreement 301606 with the City of Wood Village for the NE Glisan Street Waterline Improvements Contract, Reflecting a Change in Costs Assumed by the County*
- C-10     *Amendment 1 to Intergovernmental Agreement 301616 with the City of Fairview for the NE Glisan Street Waterline Improvements Contract, Reflecting a Change in Costs Assumed by the County*
- C-11     *ORDER Authorizing Execution of Deed D971411 for Repurchase of Tax Acquired Property to Former Owners Clara L. Haney and John E. Haney*
- C-12     *ORDER Authorizing Execution of Deed D971379 Upon Complete Performance of a Contract to George Elias*

**DEPARTMENT OF HEALTH**

- C-13     *Renewal of Intergovernmental Agreement 201437 with Oregon Health Sciences University for the Continued Provision of Dental Services for Low-Income Persons Living with HIV/AIDS*
- C-14     *Renewal of Intergovernmental Agreement 201447 with Oregon Health Sciences University for the Continued Provision of Medical Services for Low-Income Persons Living with HIV/AIDS*
- C-15     *Renewal of Intergovernmental Agreement 201457 with Oregon Health Sciences University for the Continued Provision of Case Management Services for Low-Income Persons Living with HIV/AIDS*

**REGULAR AGENDA**

**PUBLIC COMMENT**

- R-1      *Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.*

## **NON-DEPARTMENTAL**

- R-2        *PROCLAMATION Recognizing ROSEMARY ANDERSON for Service at Portland Opportunities Industrialization Center in Multnomah County, Oregon*

## **DEPARTMENT OF COMMUNITY AND FAMILY SERVICES**

- R-3        *RESOLUTION in the Matter of Participation in Funding Activities of the Oregon Dispute Resolution Commission*

## **DEPARTMENT OF ENVIRONMENTAL SERVICES**

- R-4        *PUBLIC HEARING and Consideration of an ORDER Approving Transfer of Six Tax Foreclosed Properties to Metro, for Public Purposes*
- R-5        *ORDER Directing Publication of Notice of Private Sale of Certain Tax Foreclosed Property to Woodland Development and Authorizing Chair to Execute a Deed Conveying Property to Purchaser*
- R-6        *First Reading of an ORDINANCE Amending the Exclusive Farm Use Zoning District and Related Subsections of Multnomah County Code 11.15 to Bring Multnomah County's Land Use Regulations into Compliance with Oregon Revised Statute Chapter 215 and Oregon Administrative Rule 660, Division 33 Requirements for Agricultural Land*

## **PUBLIC CONTRACT REVIEW BOARD**

*(Recess as the Board of County Commissioners and convene as the Public Contract Review Board)*

- R-7        *ORDER Approving Exemption to Specify Brand Names for the Purchase of Dental Equipment*
- R-8        *ORDER Exempting from Formal Competitive Bidding a Change Order to Exceed the 20% Limitation for a Contract with Silco Construction Company*
- R-9        *Second Reading and Adoption of an ORDINANCE Amending Ordinance 807 and Ordinance 861, Multnomah County Public Contract Review Board Rules*

*(Adjourn as the Public Contract Review Board and reconvene as the Board of County Commissioners)*

*Thursday, February 27, 1997 - 10:30 AM*  
**(OR IMMEDIATELY FOLLOWING REGULAR MEETING)**  
*Multnomah County Courthouse, Room 602*  
*1021 SW Fourth, Portland*

**BOARD BRIEFING**

*B-3      Session Update on the 1997 Oregon Legislature. Presented by Sharon  
Timko and Gina Mattioda. 1 HOUR REQUESTED.*



1:30 pm

(Above Space for Board Clerk's Use ONLY)

## AGENDA PLACEMENT FORM

**SUBJECT:** Report to the Board the Hearings Officer's decision on CS 4-96.

Requested By:

5 minutes

**BLDG/ROOM:** 412 / 109

**PERSON(S) MAKING PRESENTATION:** Stuart Farmer

### ACTION REQUESTED

☐ Other

**SUGGESTED AGENDA TITLE**

Permit for a Community Service Use, subject to conditions.

## SIGNATURES REQUIRED

**Elected Official:**

**or**

**Department Manager:**

MULTNOMAH COUNTY  
OFFICIAL

KB Linn E. Nicholas



BOARD HEARING of February 20, 1997

TIME 9:30pm

CASE NAME Community Service Request

NUMBER

CS 7-94

1. Applicant Name/Address

Sauvie Island School  
14445 NW Charlton Road  
Portland 97231

2. Action Requested by Applicant

Approval for permanent placement of modular classroom units on Grade School property. Units would be used for K-8 classes only.

3. Planning Staff Recommendation

Approval

4. Hearings Officer Decision:

Approval

5. If recommendation and decision are different, why?

N/A

**ACTION REQUESTED OF BOARD**

- ☒ Affirm Plan.Com./Hearing Officer  
☐ Hearing/Rehearing  
☐ Scope of Review  
☐ On the record  
☐ De Novo  
☐ New Information allowed

**ISSUES**  
(who raised them?)

- a. Impact on pupils of spraying on adjacent agricultural lands. (opponents).  
b. Drainage impacts to road and adjacent properties (opponents).  
c. On-street parking during school events (opponents).  
6. Do any of these issues have policy implications? Explain.

No, none of the issues raised affect any Comprehensive Plan policy.

# MULTNOMAH COUNTY, OREGON

## DECISION OF LAND USE HEARINGS OFFICER

**Case File:** CS 4-96

**Proposed Action(s) and Use(s):** Conditional Use Permit for Expansion of Community Service School Use

**Location of Property:** 14445 NW Charlton Road,  
Portland, Oregon 97231

**Zoning Designation:** MUA-20, CS

**Plan Designation:** Multiple Use Agriculture, Community Service

**Applicant/Owner:** Sauvie Island School District

**Site Size:** 5.4 acres

**Hearings Officer:** Liz Fancher

### I. DECISION

The Hearings Officer hereby **APPROVES** the Applicant's request for a conditional use permit for the expansion of a community service use, as outlined in the Applicant's application. This approval is granted subject to the conditions of approval contained in Section II of this decision. This approval is based upon the findings of fact and conclusions of law contained in the Staff Report prepared by Bob Hall dated December 18, 1996 for CS 3-96, as modified by the findings and conclusions contained in this decision. In the event that there is a conflict between the provisions of this document and the staff report, the provisions of this decision shall control.

### II. CONDITIONS OF APPROVAL

1. Approval of this use shall expire two years from the date of this decision unless substantial development or utilization has taken place. MCC 11.15.7010(C).
2. Approval is granted for the use described in the land use application. Any substantial change in the use shall require a new Community Service Use review and conditional

use permit. Specifically, new conditional use approval is required if students in Grades 9, 10, 11 or 12 are to attend the Sauvie Island School.

3. Approval is granted upon the condition that the Owner apply for and obtain Multnomah County Design Review approval for the proposed use. The Applicant shall demonstrate compliance with the comprehensive plan provisions identified as relevant to design review by this decision and the plan.
4. Approval of this conditional use applicant does not constitute approval of the existing stormwater drainage system. During the design review process, the Applicant shall demonstrate that the drainage system is capable of handling the run-off from modular units without creating hazardous conditions, such as flooding area roads. If the Applicant is unable to demonstrate that the existing system is unable to meet this standard, the Applicant shall be required to design and install a drainage system to replace or supplement the existing system or improvements to the existing system to correct all hazardous conditions. The Applicant may be required to utilize a French drain system, drainage swale or other on-site drainage system approved by the Planning and Building Departments. The Applicant shall maintain this system, throughout the entire time that the modular units are located on the subject property, so as to prevent flooding of roadways and other hazardous conditions. The drainage system used to drain stormwater from the modular units shall comply with all applicable environmental regulations and laws and MCC 11.15.7015(6) and either Part E or Parts F and G of Policy # 37 of Multnomah County's comprehensive plan.
5. As a part of final Design Review, the Sauvie Island School District shall develop, submit and obtain approval of an on-site parking plot plan, as required by MCC 11.15.6108. The plan shall comply with all applicable requirements of MCC 11.15.6100-.6148.
6. Prior to final Design Review, Applicant shall dedicate an additional 5 feet of right-of-way for Charlton Road along the frontage of the school's property with Charlton Road, as requested by the Engineering Services Department of the County. The Applicant must also execute a binding consent to participate in a local improvement district to construct and pay for road improvements to Charlton Road, to County standards, on the Declaration of Deed Restriction form included in the record of this land use application.
7. The Applicant shall at all times maintain a functioning on-site septic system which complies with all environmental laws and regulations. Compliance will be determined by the City of Portland Sanitation Permits section or such other agency designated by Multnomah County to administer County environmental regulations.
8. A maximum of 200 students in preschool and in Grades K - 8 may be enrolled to attend school on the subject property at any one time. Students in Grades 9 - 12 may

not attend school on the subject property. A new conditional use approval shall be required if school attendance exceeds the capacity limitations of this condition of approval.

9. During design review, the Applicant shall demonstrate that safe access to and from Charlton Road is provided for vehicles using school access points when vehicles are parked along Charlton Road adjacent to the access points. In the alternative, the Applicant shall establish that parking prohibitions have been adopted by Multnomah County to prohibit on-street parking along all areas of Charlton Road where parked vehicles will interfere with safe access to or from the subject property.
10. The Applicant shall plant street trees on the subject property, in the locations designated by the County's design review approval, as required by Part E of Policy #36.
11. The Applicant shall demonstrate, during design review, that the sidewalk system for the subject property complies with MCC 11.60.
12. The Applicant's design review application shall demonstrate compliance with the Bicycle Corridor Capital Improvements Program. If the Program does not require improvements, the Applicant must establish that fact to the satisfaction of the County decision maker who renders the design review decision.
13. The Applicant's site design review application shall demonstrate compliance with the standards of MCC 11.15.7025.

### **III. EXHIBITS**

- A Applicant Submittals**
  - A1 Multnomah County General Application, 8/2/96
  - A2 Applicant Response to Approval Criteria, 8/2/96
  - A3 Site Plan (Attachment B of A-2)
- B Multnomah County Code**
  - B1 11.15.2122, et. seq., Multiple Use Agriculture
  - B2 11.15.7005, et. seq., Community Service
- C Notification Information**
  - C1 Preapplication notice
  - C2 Affidavit of Posting 12/6/96
  - C3 Notice of Hearing 11/27/96
  - C4 Mailing list for 11/27/96 Notice

- D Written Public Comments Prior to 12/11/96 (None)**
- E Service Provider Forms**
- E1 School District Review
  - E2 Certification of Private On-Site Sewage Disposal System
  - E3 Fire District Review
  - E4 Police Service Review
  - E5 Certificate of Water Service
- F Staff Reports**
- F1 Report for 12/18/96 Hearing
- G Other Submittals 12/11/96 to 12/18/96**
- G1 Deed Restrictions for Charlton Road from Engineering Services
  - G2 Stark Ackerman letter
- H Submittals at Hearing**
- H1 Maps and Diagrams of Placement of Modular Units
  - H2 Dorothy Rick letter of 12/18/96
- J Post-Hearing Submittals**
- J1 Second copy of 1/10/95 memorandum to Jason Abraham from Oregon Field Services
  - J2 Second copy of 1/11/96 letter from Jason Abraham to Bob Workman
  - J3 5 numbered photographs of school drainage system provided by Applicant
  - J4 Dorothy Rick film of drainage system
  - J5 12/31/96 letter to Tom Ruhl from Ron Murray, Fire Chief
  - J6 1/2/97 letter from Eric Eisemann of WPS to Bob Hall, with color coded map
  - J7 Plumbing Inspection Request Form dated 11/11/95
  - J8 Second set of service provider responses
  - J9 1/2/97 fax cover sheet and letter from John H. Nelson to Bob Hall
  - J10 12/31/97 letter from Tom Ruhl to Multnomah County
  - J11 12/20/96 letter from Flora Habibi to Multnomah County
  - J12 12/30/96 letter from Eileen D. Fahey
  - J13 1/2/97 letter from John Nelson to Liz Fancher
  - J14 1/16/97 fax cover sheet letter from John Nelson to Bob Hall
  - J15 1/16/97 letter from John Nelson to Liz Fancher
  - J16 1/9/97 letter from Dorothy Rick to Liz Fancher
  - J17 1/8/97 letter from Robert Wiley to Liz Fancher
  - J18 Film/videotape of school site submitted by Dorothy Rick

#### IV. FINDINGS AND CONCLUSIONS

The Hearings Officer makes the following additional findings of fact and conclusions of law to support her decision to approve the above-referenced land use application and to impose the conditions of approval listed above:

##### 1. Status of Prior Permit Review

The County previously issued a temporary permit to the Applicant to utilize the modular units as classrooms in TP 3-95. That approval was limited to a period of one year. The approval for the modular units has now expired. The County staff report states that the issuance of a temporary permit resolved certain legal issues and that the issues resolved in that permit application "remain resolved" for purposes of this application. The Hearings Officer disagrees with this position and declines to grant the prior decision preclusive effect against the opponents in this conditional use application. Instead, the Hearings Officer will consider the findings of the Hearings Officer as evidence in this proceeding and make her own determination on the merits of this application. The Hearings Officer's position is supported by the legal case of *Nelson v. Clackamas County*, 19 Or LUBA 131 (1990) in which LUBA held that land use proceedings are, as a general rule, not subject to the legal theories of claim and issue preclusion. The reason that these rules are not applied is that the Oregon land use process places a premium on expeditious, as opposed to error-free decision making.

##### 2. Conditional Use Criteria in Zoning Ordinance

- A. MCC 11.15.7015(1) requires that community service uses must be consistent with the character of the area. The Hearings Officer modifies the following Applicant proposed finding contained in the Staff Report: "The District also agrees with the hearings officer's decision in TP 3-95 that the two modular units will not create impacts beyond that already associated with the existing school facility." The Hearings Officer finds that the denial of this application would not decrease the number of students attending the school because the main school building has the capacity to serve all students currently attending the school. Approval of the application will, however, increase the potential enrollment of the school and this potential impact must be addressed by this application.
- B. MCC 11.15.7015(2): There are no comprehensive plan-identified natural resources on the subject property.
- C. The Applicant has thoroughly surveyed the area of Sauvie Island that is located within approximately ½ mile of the school site to identify conflicts between farm and forest uses in the area and the modular units. These findings are

contained in a letter dated January 2, 1997 (Exhibit J-6). The Hearings Officer accepts the facts, findings and conclusions found in the Farm/Forest Conflicts section of Exhibit J-6 (pages 1 through 3) as findings and conclusions of the Hearings Officer. A copy of that document is included with this decision.

- D. The Hearings Officer finds that the addition of the modular classrooms to the school site increases the amount of stormwater run-off generated by the school property. This run-off must be properly controlled in order to prevent the creation of a hazardous condition on Charlton Road by the flooding of that road by run-off, the pooling of water in the ditches and at the access driveways of the school site. The Applicant points out that only 8% of the run-off from the school site is caused by the new modular units. This fact is, however, of no assistance to the Applicant as the Applicant has chosen to use an existing drainage system. The use of that system by the new use, whatever its present condition, must be adequate to handle the run-off from the modular units. Opponent Dorothy Rick submitted a film/videotape of the site which shows extensive flooding on area roads. The dates on the films indicate, however, that this flooding occurred prior to December 20, 1995 when the Applicant installed a new drainage pipe across Charlton Road to prevent water from gathering on Charlton Road. Later film footage and photographs provided by the Applicant show that water runs over the school's driveway entrance and in ditches alongside Charlton Road but do not show any flooding of Charlton Road. This determination is not, however, intended to serve as an approval of the existing stormwater system. The County's design review ordinance requires review and approval of the Applicant's stormwater drainage system and such review has been required in this approval in order to assure that the system will not create hazardous conditions. That review shall determine that the drainage system proposed by the Applicant does not create hazardous conditions, such as flooding roadways. The County may require corrections to the existing system to correct any hazardous conditions identified during the design review process. Additionally, a supplemental or replacement system may be required as a condition of site plan review by the County if needed to correct drainage problems.

### 3. Comprehensive Plan Policies

Not all comprehensive plan policies serve as approval criteria for plan amendment and zone change applications. Some plan policies direct local government legislation, rather than guide the course of quasi-judicial plan and zoning ordinance amendments. As a result, each plan policy must be reviewed to determine whether the a policy is intended to serve as an approval criterion for a particular land use application.

*Stewart v. City of Brookings*, \_\_\_ Or LUBA \_\_\_ (LUBA No. 96-001, June 27, 1996); *Ellison v. Clackamas County*, 28 Or LUBA 521, 525 (1995); *Tektronix, Inc. v. City of Beaverton*, 18 Or LUBA 473, 489 (1989); *Standard Insurance Co. v. Washington*



*County*, 16 Or LUBA 30, 34, 38 (1987); *Citizens for Better Transit v. Metro Service District*, 15 Or LUBA 482, 487 (1987). The Hearings Officer, therefore, has reviewed the Plan policies cited in the Staff Report to determine which are approval criteria for this application. The Hearings Officer has also made findings of compliance with Plan policies below, for provisions of Plan policies which require such findings.

- A. Policy #10 is not an approval criterion for review of this application as it provides direction to Multnomah County regarding the County's selection of areas for multiple use agricultural zoning, not to the siting of community services in rural residential areas.
- B. Parts A-D of Policy 13 are not approval criteria for this conditional use application. Those parts of the policy guide County actions regarding air, noise and water quality matters but do not contain approval criteria. The second full, unnumbered, paragraph of Policy 13 is an approval criterion for quasi-judicial land use applications. The noise standard provisions of this section, including paragraphs 1 - 3, do not, however, apply to the proposed use because the proposed noise sensitive use is not located in a noise impacted area and the proposed use is not a "noise generator," as such term is defined by County land use regulations.
- C. Policy #14 does not apply to development of the subject property as the slope of the property does not exceed 20%, the site is not subject to severe soil erosion potential, does not include land within the 100 year flood plain, does not experience a high seasonal water table within 0-24 inches of the surface for 3 or more weeks of the year, does not have a fragipan of less than 30 inches from the surface and is not subject to slumping, earth slides or movement.
- D. Policy #19 directs the County to adopt and apply a design review process to land development and to apply it to development application. Policy #19 is not, however, a policy which serves as an approval criterion for conditional use applications. The County has complied with this policy by adopting an ordinance to require the Applicant to obtain design review approval for site improvements.
- E. Policy #20 indicates that the County supports higher density and mixed land uses within the framework of scale, location and design standards. The Applicant does not propose an increase of residential density. The use proposed would, however, allow for a future increase in the number of students who attend school on the subject property, thereby increasing the density of use of the property. The County supports mixed uses in the MUA zone by the variety of uses it allows in the MUA zone. Those uses include the proposed community service school use.

- F. The Hearings Officer has considered the factors listed in Policy #22 prior to approving this land use application. As to Part A of Policy 22, the Hearings Officer notes that the continued use and limited expansion of the school will conserve energy, as compared to the construction of a new school facility to provide the additional classroom space. The Hearings Officer adopts the following findings in lieu of the findings provided by the Applicant and Staff for Parts B-E of Policy #22: Part B of Policy #22 applies to urban areas only. It does not apply to review of this application because the subject property is located in a rural area. Approval of this application furthers the goals of Part C of Policy #22 because the Applicant provides a comprehensive school bus system for its students. Part D of Policy #22 is not applicable to this review because it does not propose any change to street layouts, lotting patterns or designs. Further, Part E of Policy #22 does not apply to the classroom use as the use does not involve the development and use of renewable energy resources.
- G. Policy #31, Part A states that it is the County's policy to support the development of community facilities and a scaling of uses to meet the needs of the community and to reinforce the community. The approval of this application will allow the Applicant to better meet the needs of its students and the community by providing additional space for the school and community uses which use the school buildings. This small expansion of an existing facility provides for incremental, orderly development of school facilities as contemplated by Policy #31, Part B. No major site development activities are required for the proposed use, whereas the development a new site would require these activities. Expansion at the existing site allows a sharing of school infrastructure (wells, septic system, parking facilities, etc.) and playgrounds. This furthers the goal of Policy #31, Part C to support the efficient use of existing community facilities.
- H. Approval of this application will support the location of community facilities on the existing Sauvie Island School District bus routes, an existing transportation system operated by the District, as contemplated by Policy #31, Part G. The District's system has the capacity to transport all District students who will travel to this school to and from school, as evidenced by the current provision of this service to the school (the school use requested in the application is being operated without land use approval). The school adjoins a collector street, NW Reeder Road. This location gives the school the ability to directly access the collector street. Parking lot design and site access will be determined during design review and parking plot plan review. The proposed school expansion will not occur within 1/4 mile of a public transit system stop, as encouraged by Policy 31, Part G. Policy 31 is, however, a locational policy which the comprehensive plans indicates should be construed in a flexible manner, in the interest of accommodating policies which are found to be in the

public interest and capable of harmonious integration into the community. Greater leeway is granted to proposals which involve small, rather than large changes. The Hearings Officer finds that the pending application involves a small change. As expansion of the school at an existing site, rather than in a new location, will result in substantial cost savings by allowing shared use of playfields, auditoriums and cafeterias and will be served by a public school bus system, the Hearings Officer finds that the County's goal of locating schools within 1/4 mile of a public transit stop is outweighed by the public benefit of conserving District and taxpayer resources. Further, as the school provides bus service for its students, there is little need for public transit service to this rural school.

- I. Policy #31, Part H directs the County to restrict the siting of community facilities in locations where site access would cause dangerous intersections or traffic congestion considering roadway capacity, existing and projected traffic counts, speed limits and number of turning points. This policy is directed toward site access only and does not impose requirements regarding the overall safety of area streets, beyond their use as an access to the community service use. Testimony was received from neighbors which indicates that the school site lacks sufficient parking facilities to accommodate all vehicles associates with school events on the school campus. As a result, vehicles park along Charlton Road. The neighbors believe that this on-street parking is unsafe. The Hearings Officer is concerned that such on-street parking may adversely impact the sight distance from vehicles leaving or entering the school site and pose a safety problem which is related to site access. As a result, the Hearings Officer has required the Applicant to demonstrate during the design review process that the accesses to the subject property will provide safe access in compliance with County street access policies and design review criteria. Specifically, the Applicant shall either demonstrate, during design review, that safe access to and from Charlton Road is provided for vehicles using school access points when vehicles are parked along Charlton Road adjacent to the school's access points or shall establish that parking prohibitions have been adopted by Multnomah County to prohibit on-street parking along all areas of Charlton Road where parked vehicles will interfere with safe access to or from the subject property. The Applicant's attorney argued that Part H of Policy #31 applies to new sites only because it refers to the siting of schools rather than the siting and expansion of schools. Part K of Policy #31 refers to the "siting and expansion" of community facilities. The lack of the term "expansion" could lead to such a conclusion if it were not for the fact that Part K is the only part of Policy #31 which applies to expansions and it is written as a reference to all other plan policies which may apply when community service facilities are sited or expanded. As a result, the Hearings Officer finds that the use of the term "expansion" in Part K is intended to summarize what types of actions are addressed by Policy #31 and to require that Policy #31 projects also

address other plan policies. Part H and other sections of Policy #31, therefore, include initial siting decisions as well as expansions at existing facilities.

- J. Policy #31, Part J will be satisfied as the Hearings Officer has required that the proposed use obtain design review approval as a condition of approval of this application.
- K. Policy #34 provides direction to the County, not to land use applicants. Part A is inapplicable to this application as it directs the County to maintain a traffic classification system, an act which cannot be fulfilled by the Applicant. Part B indicates that streets should be improved to County street standards but does not direct the improvement of roads for this or other development proposals. Part C indicates that the County, not the Applicant, should place priority on maintaining existing roadways. Part D directs the County to develop new traffic facilities when certain conditions are met. No part of Part D directs land use applicants to develop new facilities. The County is directed by Part E to provide a safe and convenient pedestrian network and crossings. The County fulfills a part of its responsibilities under Part E by requiring land use applicants to submit to the design review process. Part F is inapplicable to this conditional use application as the school is not located on an arterial or a major collector street, so access control or consolidation is not required by this policy. Reeder Road is a rural collector street, not a major collector street. Part G is directed to the County, not the Applicant. The Applicant's use of a school bus system, however, reduces the community's reliance on the automobile. Part H is a directive to the County, not to the Applicant. Finally, the Hearings Officer rejects the finding in the staff report regarding Policy #34 which indicates that the addition of two classrooms to the Sauvie Island school imposes no additional impact on the existing roadway system. The Hearings Officer finds that the two new classrooms increase the capacity of the school site. The two new classrooms have the potential for adding a minimum of 4 new vehicle trips per day: two trips for each of the teachers who will use the new classrooms. This increase is not, however, relevant to compliance of this application with Policy #34.
- L. Policy #36, Part A requires that additional right-of-way be dedicated when needed for a street to meet the standards of Policy #34 and Chapter 11.60. A right-of-way width of 50' is required by Chapter 11.60, per evidence in the record of the hearing. Charlton Road has a right-of-way width of 40'. As a result, an additional 5' of right-of-way is needed to establish a right-of-way of 25' from the center of Charlton Road along the frontage of the school with Charlton Road. The Applicant has agreed to dedicate this additional right of way to the County, if and when Charlton Road is improved. The Hearings Officer finds, however, that the additional right-of-way is needed at this time to accommodate the on-street parking needs of the school facility. The modular

units are used for after school activities and said activities often require on-street parking on Charlton Road. A 40' wide right of way allows very little room for on-street parking. As a result, the Hearings Officer finds that there is an essential nexus between the requirement that the Applicant dedicate an additional 5' of right-of-way on Charlton Road to the County and the impact of the development on the public road. Further, the Hearings Officer finds that the exaction is roughly proportional to the impact imposed by the school. School activities require on-street parking and the width required is the minimum amount of right-of-way needed, on one side of the street, to accommodate such parking.

- M. Part B of Policy #36 indicates that points of ingress and egress should be consolidated through joint access agreements. The Hearings Officer finds, however, that the two access points that presently serve the site are the minimum necessary to safely handle the peak load traffic experienced by the school when school opens and closes. The dual entrances allow traffic to enter in one location and leave in another, a highly efficient pattern. Compliance with Part C is assured by the County's parking and loading area requirements. Compliance with these requirements will be required by the County in its design review process. An off-street bus loading area is provided on campus, as contemplated by Part D. No on-site shelter for riders is provided. The Hearings Officer finds, however, that this part of Policy #36 is applicable to public transportation systems that are available to the general public, not to the special limited public use transportation system provided by District school buses and that the requirement of shelters for riders is not applicable to this application.
- N. Part E of Policy #36 requires the planting of street trees. The Applicant has been required to plant street trees as a condition of approval of this application, in the locations designated by the County's design review approval.
- O. The sidewalk system for the subject property will be reviewed during site plan review. The conditions of approval of this application require the Applicant's plan to demonstrate compliance with MCC 11.60 and its pedestrian circulation provisions, during said review. This requirement will assure compliance with Policy F of Policy #36.
- P. Part G of Policy #36 requires the Applicant to implement the Bicycle Corridor Capital Improvements Program. The requirements of this plan were not addressed by the Applicant or by any other party to this application. The Applicant will be required to demonstrate compliance with the Program, however, during design review as a condition of approval of this application to assure compliance with this plan policy. Part H of Policy #36 does not apply to the school expansion as the use is not a new commercial, industrial or

business development. Part I of Policy #36 is also inapplicable to this application as no road adjoining the subject property is a new street.

- Q. The conditions described in Parts A, B and D of Policy #37 do not exist on the subject property. Subsection C of Policy #37 lists the conditions that exist on the subject property -- a private water system and a DEQ approved subsurface sewage disposal system. The Applicant has demonstrated that the proposed use is connected to a private well and water storage system is adequate to serve the proposed school use. The system provides for all school water needs and services an indoor school water sprinkler system. There is an existing approved on-site subsurface sewage disposal system that has been approved for use by the school system by the City of Portland, the entity authorized by DEQ to enforce DEQ regulations in Multnomah County. The 1995 authorization notice issued by the City of Portland's Bureau of Buildings authorizes use of the septic system by up to 200 students, the maximum number of students which the District projects will use the school buildings. The Applicant has agreed that this approval should limit use of the school site to 200 students. This limitation has been imposed as a condition of approval. Attorney Stark Ackerman has claimed that a reexamination of the septic system must occur prior to approval of this conditional use application. This Hearings Officer finds that her review of this application and the documents submitted regarding the septic system is the reexamination referenced in the approval of the temporary permit. Additional evidence is not, however, required to adequately address the feasibility of the septic system. The January 10, 1995 review conducted by Oregon Field Services and the facts included in the record of this application establish the following facts which support the conclusion that the school's septic system may serve as many as 200 students (Grades 9-12 excluded): (1) There is an average use of 7.6 gallons per day per student at the school for grade school and junior high school students; and (2) no students in Grades 9-12 will be allowed to attend the school; and (3) the Bureau's conservative estimate of the drainfield's capacity is that it will handle 1600 GPD; and (4) a population of 200 students will generate 1520 gallons per day, a flow below the capacity of the septic system.
- R. The Applicant has chosen to demonstrate compliance with Parts F & G, rather than Part E of Policy #37.
- S. Parts F and G of Policy #37 may be assured by conditions of approval. The County's water drainage permit process, when combined with the design review process, will require that a surface drainage system be installed which will not adversely affect neighboring properties or streets. MCC 11.15.7850 (6). Part G will be satisfied by this proposal, if all required permits are obtained and environmental regulations are followed. Such compliance has been required as a continuing condition of approval of this application.

Further, evidence in the record demonstrates that storm water is directed onto the Bailey Nursery property where it drains into the ground. The record establishes that the nursery property is located approximately ½ mile from the Multnomah Channel, the nearest waterway. The Rick film and maps of the area convince the Hearings Officer that it is highly unlikely that run-off from the site would reach the channel over the top of the island, unless the entire island were flooded by water from the channel. Environmental regulations governing stormwater disposal will, if properly followed, prevent pollution of all adjacent streams, lakes and ponds. The school's drainage system empties onto the adjoining Bailey nursery property where nursery stock is raised. This drainage occurs with the consent of Bailey Nursery and acts to irrigate the nursery's fields. No alteration of that drainage pattern is required by this conditional use permit. The Hearings Officer concludes that there is an adequate energy supply for the school use based upon the fact that the school and modular units are currently served by electricity. The development level projected by the plan is the same as currently exists (the same number of classrooms) so no additional demands will be made of the energy system as result of approval of this proposal. Communication facilities currently serve the school site.

- T. Subsection B of Policy 38 is met as the school district has a sprinkler system to suppress fires in its school buildings and an on-site water system with ample water capacity.
- U. Subsection B of Policy 40 does not apply to this application as the proposed use is not a commercial, industrial or multiple family development.

## 5. Specific Opponent Comments

- A. Stark Ackerman letter. In addition to the concerns addressed in earlier findings, Ms. Ackerman, on behalf of Betty Stiefbold, claimed that the County must consider the impact of the addition of the two modular units upon the compliance of the application with County land use approval standards if the addition of the units causes noncompliance with school site standards. The Hearings Officer agrees with this position and has applied this approach to review of this application, particularly to review of the stormwater drainage system and septic system.
- B. Dorothy Rick 1/9/97 letter. Ms. Rick stated that she is concerned about the impact of spraying on the Bailey Nursery's property and the use of the nursery property for drainage of the school site on area wells. The Hearings Officer is, however, unable to find that this governmentally permitted practice is a hazard to the health of area residents based upon Ms. Rick's concern alone. The practice of draining the school property onto the nursery's property

occurred prior to the siting of the modular units and there is no proof that the relatively small increase in drainage caused by the addition of the two classrooms would cause groundwater contamination. Further, groundwater quality is not protected by the comprehensive plan policies which regulate stormwater drainage. If the practice of draining stormwater onto the fields causes pollution of area wells, area residents may seek redress of the problem through the appropriate governmental agency or through the civil court system.

- C. Robert Wiley 1/8/97 letter. The Hearings Officer considered all materials provided directly to her by all parties. She did not consider any materials that were in the record of the temporary permit application that were not copied and entered into the record of this proceeding. Mr. Wiley expressed concern about the risk of exposure of children to chemicals used by Bailey Nursery. The nursery, which bears the risk of potential liability for these practices if children were harmed by the sprays, provided information regarding its use of fertilizers, herbicides, pesticides and the like but did not express concern that the siting of the modulars would adversely affect its farm practices. MCC 11.15.7015 (3) protects farm activities, not other potentially conflicting uses such as schools. As a result, the impact of the farm practices on the health of school children is only an issue under that criterion to the extent that it impacts accepted farm practices. The record of this matter establishes that there is no such negative impact on farm practices. The Hearings Officer also finds that the record of this application contains insufficient evidence upon which to conclude that the agricultural practices in the area surrounding the school will create a hazardous condition which is prohibited by MCC 11.15.7015 (6). The nursery site lies downhill from the school so chemicals sprayed onto the nursery property will not drain onto the school grounds. Further, the school has experienced no known problems from the nursery's use of chemicals.

Mr. Wiley states that on street parking presents a safety hazard. This hazard is, however, an existing problem caused by use of the school facilities for after-school activities. Most of said activities are conducted in the main school building, not in the modular units. As such, there is an insufficient connection between approval of this application and the parking problem to warrant denial of this application because it *creates* a hazardous condition. The Hearings Officer has, however, required that Applicant dedicate additional right-of-way for the road under different approval standards to allow the County to provide a wider area for parking adjacent to the roadway in the future as the expansion of the facility will make it possible for the school to enhance this existing problem. Mr. Wiley is also concerned that approval of the school will create a traffic problem in the area.

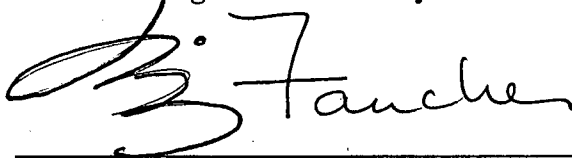


- D. Letter of 12/18/96 from Dorothy Rick. Ms. Rick's concerns regarding the ethical standards of Board members are not relevant to determining compliance of this land use application with relevant land use criteria. The Hearings Officer has limited approval of the school to use by preschool through Grade 8. No high school use is allowed. The waterfowl habitat in the area of the school is not protected by MCC 11.15.7015 (5) as wildlife habitat is not big game winter habitat. The unsafe traffic conditions posed by vehicle parking on Charlton Road and Reeder Road are related to activities that are primarily related to the existing school facility, not by the modular units. The alleged actions of Mr. Workman in making the units permanent are not related to any identified approval criterion of this application. Lighting of the site will be addressed during design review. Ms. Rick should submit her comments on this issue to the County during the County's review of the Applicant's design review application. The County's comprehensive plan does not require that all stormwater drainage be contained on site, so an approved system which disposes of water off-site is acceptable if permitted by other stormwater regulations not addressed in the land use process.

6. **Requirements Not Addressed in Staff Report**

- A. MCC 11.15.7020 Uses. A public school is a community use that may be permitted in any zoning district when approved at a public hearing.
- B. MCC 11.15.7025 Restrictions. Evidence in the record establishes that the subject property is of sufficient size to allow the Applicant to site the modular units in full compliance with the requirements of this code section. Compliance with these standards shall be demonstrated in the Applicant's design review application.

**Dated and signed this 3rd day of February, 1997.**



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Liz Fancher  
Multnomah County Hearings Officer

Steve Olson, Dull Olson Weekes

Melvin G. Moore,

Northwest Region Education  
Service District

CARL BEAN - DID NOT SPEAK

**PLEASE PRINT LEGIBLY!**

**MEETING DATE** \_\_\_\_\_

**NAME** \_\_\_\_\_

**ADDRESS** \_\_\_\_\_

**STREET**

**CITY**

**ZIP CODE**

**I WISH TO SPEAK ON AGENDA ITEM #** \_\_\_\_\_

**SUPPORT** \_\_\_\_\_ **OPPOSE** \_\_\_\_\_

**SUBMIT TO BOARD CLERK**

**PLEASE PRINT LEGIBLY!**

**MEETING DATE** 2-25-97

**NAME**

BEA BOROK

**ADDRESS**

15971 NW TULLAMORRIE WAY  
**STREET**

**CITY**

Port Can. Or.

**ZIP CODE**

**I WISH TO SPEAK ON AGENDA ITEM #**

Tel. 531-0705

CS 3-96

**SUPPORT**

**OPPOSE**

**SUBMIT TO BOARD CLERK**

Meeting Date: FEB 25 1997  
Agenda No: P-2  
Est. Start Time: 1:30pm

(Above Space for Board Clerk's Use ONLY)

### AGENDA PLACEMENT FORM

**SUBJECT:** DeNovo Hearing in the Matter of an Appeal of the Hearings Officer's decision on CS 3-96.

**BOARD BRIEFING**      Date Requested:  
                                 Amt. of Time Needed:  
                                 Requested By:

**REGULAR MEETING**      Date Requested:      February 25, 1997  
                                 Amt. of Time Needed:      1 hour

**DEPARTMENT:**      DES      **DIVISION:** Transportation & Land Use Planning  
**CONTACT:**      Lisa Estrin      **TELEPHONE:** 248-3043 Ext. 22597  
                                 **BLDG/ROOM:** 412 / 109

**PERSON(S) MAKING PRESENTATION:** Lisa Estrin / Liz Fancher

### ACTION REQUESTED

☐ Informational Only      ☐ Policy Direction      ☐ Approval      ☒ Other

### SUGGESTED AGENDA TITLE

DeNovo Hearing in the Matter of an Appeal of the Hearings Officer's decision regarding an approval of a Conditional Use Permit for a Community Service Use, subject to conditions.

### SIGNATURES REQUIRED

**Elected Official:** \_\_\_\_\_

or

**Department Manager:** \_\_\_\_\_

*Lane E. Nicholas*

BOARD OF  
COUNTY COMMISSIONERS  
97 FEB - 7 AM 10:01  
MULTNOMAH COUNTY  
OREGON



MULTNOMAH COUNTY

**BOARD HEARING OF FEBRUARY 25, 1997**

**TIME 1:30am**

**CASE NAME:** Bonny Slope School

**NUMBER:** CS 3-96

**1. Applicant Name/Address**

Dull Olson Weekes Architects, Carl Bean  
319 SW Washington Street, Suite 200  
Portland, OR 97204

**2. Action Requested by Applicant**

Approval of a Conditional Use Permit for Community Service Use to Convert an existing building into a small alternative middle school for use by the Washington County Education Service District in the Rural Residential zoning district.

**3. Planning Staff Recommendation**

Staff recommended approval of the application subject to conditions of approval.

**4. Hearings Officer Decision**

Approved the applicant's request subject to the conditions of approval.

**5. If recommendation and decision are different, why?**

**ISSUES**

*(who raised them?)*

**6. The following issues were raised:**

The school district's representative proposed at hearing to modify the requested number of students from 30-60 students to a larger number of individuals. Information submitted by the applicant indicated that as many as 70 students might attend the school. The Hearings Officer modified Condition #2 to allow a maximum of 70 students to attend the school on a single day.

In addition, the application stated that no physical education classes would be held at the school. The district representative requested that PE classes be allowed. The Hearings Officer found that the applicant is bound by the representations made in the application and conditioned that no physical education classes, shower or after-school sports activities may be provided on the subject property.

**7. Do any of these issues have policy implications? Explain:** None identified at this time.

**Action Requested of Board**

☐ Affirm Hearings Officer Dec.

☐ Hearing/Rehearing

Scope of Review

On the record

☒ De Novo

☐ New information allowed

**DULL OLSON WEEKES**  
PLANNING SECTION  
**ARCHITECTS**

BOARD OF  
COUNTY COMMISSIONERS  
97 JAN 29 PM 12: 56  
MULTNOMAH COUNTY  
OREGON

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 07-29-2016 BY 60322 UCBAW/BJS



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

Case File: CS 3-96

# NOTICE OF REVIEW

1. Name: Dull Olson Weekes Architects, Carl Bean
2. Address: 319 <sup>Last</sup> SW Washington <sup>Middle</sup> #200 Portland <sup>First</sup> OR 97204
3. Telephone: (503) 726 - 6950

11#  
ZONING  
TOTAL  
0000-001  
5419 808  
500.00  
500.00  
1/27/97  
3:52PM

4. If serving as a representative of other persons, list their names and addresses:

Bud Moore  
Beaverton School District  
16650 SW Menlo Rd.  
Beaverton, OR 97006

5. What is the decision you wish reviewed (e.g., denial of a zone change, approval of a subdivision, etc.)?

Conditional Use Permit for Community Service School Use

6. The decision was announced by the Planning Commission on 1-15, 1997

7. On what grounds do you claim status as a party pursuant to MCC 11.15.8225?

I am the applicant representing the  
E.S.D. and Beaverton School District.

PLANNING SECTION  
MULTNOMAH COUNTY

97 JAN 27 PM 2:54

RECEIVED



8. Grounds for Reversal of Decision (~~use additional sheets if necessary~~):

Reference Condition of Approval No. 2: The applicant wishes to review the last sentence, which states "Further, no physical education classes, shower or after-school sports activities may be provided...". The applicant stated at the hearing that the owner intends to provide fitness activities at the school site both inside the building and on the playfields. The building contains no shower facilities, and none are planned with this project.

9. Scope of Review (Check One):

(a) ☒ On the Record

(b) ☐ On the Record plus Additional Testimony and Evidence

(c) ☐ *De Novo* (i.e., Full Rehearing)

10. If you checked 9(b) or (c), you must use this space to present the grounds on which you base your request to introduce new evidence (Use additional sheets if necessary). For further explanation, see handout entitled *Appeal Procedure*.

**Signed:**

Date:

### For Staff Use Only

**Fee:**

Notice of Review = \$500.00

Transcription Fee:

Length of Hearing x \$3.50/minute = \$

Total Fee = \$

Received by:

Date:

Case No.

97 JAN 13 PM 3:05

MULTNOMAH COUNTY  
PLANNING SECTION**MULTNOMAH COUNTY, OREGON****DECISION OF LAND USE HEARINGS OFFICER**

**Case File:** CS 3-96

**Proposed Action(s) and Use(s):** Conditional Use Permit for Community Service School Use

**Matter Appealed:** November 20, 1996 Decision of Planning Director Denying MC 3-96

**Location of Property:** 10351 NW Thompson Road, Portland, Oregon

**Zoning Designation:** Rural Residential (RR)

**Plan Designation:** Rural Residential

**Site Size:** 3.83 acres

**Applicant:** Dull Olson Weekes Architects, Carl Bean  
319 SW Washington St. Suite 200  
Portland, Oregon 97204

**Owner:** Beaverton School District  
16650 SW Merlo Road  
Beaverton, OR 97006

**Hearings Officer:** Liz Fancher

**I. DECISION**

The Hearings Officer hereby **APPROVES** the Applicant's request for a conditional use permit for a community service use, as outlined in the Applicant's application and subject to the conditions of approval contained in Section II of this decision. This approval is based upon the findings of fact and conclusions of law contained in the Staff Report prepared by Lisa Estrin for CS 3-96, as modified by the findings and conclusions contained in this decision.

## II. CONDITIONS OF APPROVAL

1. Approval of this use shall expire two years from the date of this decision unless substantial development or utilization has taken place in accordance with MCC 11.15.7010(C).
2. Approval is granted for the use described in the land use application. Any substantial change in the use shall require a new Community Service Use review and conditional use permit. The school use approved is for a school of approximately 60 students. In no event, may the number of students served by the school during any one day exceed 70 students. Further, no physical education classes, shower or after-school sports activities may be provided on the subject property.
3. Students attending the school shall be transported to the school facility by district bus.
4. Approval is granted upon the condition that the Owner apply for and obtain Multnomah County Design Review approval for the proposed use, prior to issuance of any building permit or use of the subject property for "at risk" students. During such review, the Owner shall demonstrate that the proposed site design complies with Comprehensive Plan Policy #14
5. As part of design review, the applicant shall develop and submit an on-site drainage system to manage the run-off from the paved areas and building roofs. The system shall utilize a french drain system, drainage swale or other on-site drainage system approved by the Planning and Building Departments.
6. As a part of final Design Review, the Bonny Slope School shall develop, submit and obtain approval of an on-site parking and circulation plan that complies with the County code (particularly MCC 11.15.6100-.6148) and which reduces any hazardous conditions caused by vehicular/pedestrian conflicts.
7. Prior to final Design Review, the School District shall show compliance with required sight distances for driveways and shall modify the site plan to show the dedications and physical improvements required within the abutting public street right-of-way, as determined necessary by the County Engineer.
8. Prior to issuance of a building permit, the School District shall show compliance with all dedication requirements or in-lieu of fees required by the County Engineer. Those fees and requirements shall be determined and imposed by the County as a part of the Design Review process.

9. The School District shall comply with the on-site septic system requirements of the City of Portland Sanitation Permits section and shall obtain an alteration permit prior to occupancy of the property for the approved use.

### **III. EXHIBITS**

#### **A Applicant Submittals**

- A1 Multnomah County General Application, 9/10/96
- A2 Applicant Response to Approval Criteria, 8/7/96
- A3 Hillside Development Form -1  
By Foster Geotechnical PC, November 15, 1996
- A4 Aerial Photo
- A5 Site Plan

#### **B Multnomah County Code**

- B1 11.15.2202, RR
- B2 11.14.7004, Community Service

#### **C Notification Information**

- C1 Preapplication notice 10/26/95 for PA 20-95
- C2 Affidavit of Posting 12/6/96
- C3 Notice of Hearing 11/27/96
- C4 Mailing list for 11/27/96 Notice

#### **D Written Public Comments - None**

#### **E Service Provider Forms**

- E1 Fire District Review
- E2 Police Service Review
- E3 School District Review
- E4 Certificate of Water Service
- E5 Certification of Private On-Site Sewage Disposal
- E6 Authorization Notice for Connection to an Existing Subsurface System
- E7 Authorization Notice for Bonny Slope School 10/22/96

#### **F Staff Reports**

- F1 Report for 12/18/96 Hearing

#### IV. FINDINGS AND CONCLUSIONS

The Hearings Officer makes the following additional findings of fact and conclusions of law to support her decision to approve the above-referenced land use application and to impose the conditions of approval listed above:

##### 1. **Comprehensive Plan Policies**

Not all comprehensive plan policies serve as approval criteria for plan amendment and zone change applications. Some plan policies direct local government legislation, rather than guide the course of quasi-judicial plan and zoning ordinance amendments. As a result, each plan policy must be reviewed to determine whether the a policy is intended to serve as an approval criterion for a particular land use application. *Stewart v. City of Brookings*, \_\_\_ Or LUBA \_\_\_ (LUBA No. 96-001, June 27, 1996); *Ellison v. Clackamas County*, 28 Or LUBA 521, 525 (1995); *Tektronix, Inc. v. City of Beaverton*, 18 Or LUBA 473, 489 (1989); *Standard Insurance Co. v. Washington County*, 16 Or LUBA 30, 34, 38 (1987); *Citizens for Better Transit v. Metro Service District*, 15 Or LUBA 482, 487 (1987). The Hearings Officer, therefore, has reviewed the Plan policies cited in the Staff Report to determine which are approval criteria for this application. The Hearings Officer has also made findings of compliance with Plan policies below, for provisions of Plan policies which require such findings.

- A. Policy #8 is not an approval criterion for review of this application as it provides direction to Multnomah County regarding the County's selection of areas for rural residential development, not to the siting of community services in rural residential areas.
- B. Parts A-D of Policy 13 are not approval criteria for this conditional use application. Those parts of the policy guide County actions regarding air, noise and water quality matters but do not contain approval criteria. The second full, unnumbered paragraph of Policy 13 is an approval criterion for quasi-judicial land use applications. The section does not, however, apply to the proposed use because the proposed use is not located in a noise impacted area and the proposed use is not a "noise generator," as such term is defined by County land use regulations.
- C. Policy #14 applies to development of the subject property. This policy must be considered during the design review process for the subject property when development activities are being reviewed. Compliance with Policy #14 has been required as a condition of approval of this application.
- D. Policy #19 directs the County to adopt and apply a design review process to land development. Policy #19 is not, however, a policy which serves as an approval

criterion for this land use application. The County has complied with this policy by adopting an ordinance to require the Applicant to obtain design review approval for site improvements.

- E. The Hearings Officer has considered the factors listed in Policy #22 prior to approving this land use application, as required by Policy #22.
- F. Policy #23 is a direction to the County and is not an approval criterion for this land use application. The approval of this application will, however, further the aims of this policy.
- G. This decision imposes a condition of approval requiring compliance with County sight distance standards for all school accesses to Thompson Road. The imposition of this condition will assure that the proposed use will comply with Policy #31H. Policy #31H requires the County to restrict the siting of community facilities in locations where site access would cause dangerous intersections. As Thompson Road curves and winds around the subject property and portions of the school site are heavily wooded, sight distance may be a problem at the school road entrances.
- H. Subsection B of Policy #37 is met by the Applicant as the Applicant has established that the proposed use is connected to a public water system and that approval of an on-site subsurface sewage disposal system can be obtained for the site from agencies authorized to enforce DEQ regulations. Approval of this application has also been conditioned upon approval of an alteration permit, as outlined in Exhibit E7 to assure compliance with Plan Policy #37.
- I. Compliance with subsections F and G of Policy #37 has been established by the Applicant and County staff. The County's water drainage permit process will assure that all run-off will be contained on site or by adequate, County approved methods. The County's regulations will prevent run-off from the site from adversely affecting the water quality in adjacent streams, ponds, lakes or from altering the drainage of water onto adjacent lands by containing the water on site.
- J. The Applicant has also established that there is an adequate energy supply to handle the levels of use projected by the Plan and that communications facilities are available, as required by Policy #37 H & I.
- K. Subsection A of Policy 40 does not require dedication of bicycle or pedestrian paths as no such paths are designated for the subject property and its surrounding area by the Bicycle Corridor Capital Improvements Program and Map. Subsection B of Policy 40 does not apply to this application as the proposed use is not a commercial, industrial or multiple family development. Subsection C of

Policy #40 does not require the installation of bicycle parking facilities as students will be bussed to the school site from distant locations, from which bicycle riding is not a viable transportation option.

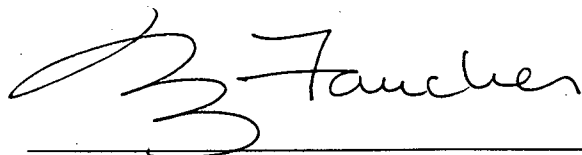
2. The Applicant has objected to the staff report's condition of approval #2 which limits school occupancy to 60 students. The Applicant requested approval of a school use which will serve from 30 to approximately 60 students. Information submitted by the applicant in support of the application indicates that as many as 70 students might attend and occupy the Bonny Slope School (Exhibit E7) and it is this number of students which was considered by the City of Portland's Bureau of Buildings when it reviewed and commented upon the septic feasibility of the school site. At the hearing, the Applicant indicated that the District would like to serve as many as 70-75 students at the site.

Oregon Land Use Board of Appeals decisions hold that an applicant is bound by the representations it makes in the land use process which are relevant to approval criteria, even if compliance with the applicant's representations is not required by conditions of approval. *Wilson Park Neighborhood Assn. v. City of Portland*, 27 Or LUBA 106, remanded on other grounds, 129 Or App 33 (1994); *Perry v. Yamhill County*, 26 Or LUBA 73, aff'd 125 Or App 588 (1993); *Friends of the Metolius v. Jefferson County*, 25 Or LUBA 411 (1993). The Applicant's representations about a use are used by the County to determine whether a use complies with all relevant County land use approval criteria and for giving notice to project neighbors. As a result, land use approval is limited to the use proposed by the Applicant in its application, not some more intensive use, which may be allowed by the Hearings Officer. The size of the student population is critical in reviewing the impact of the proposed use on public infrastructure and upon sewage and other utility facilities.

The fact that the application for the school use indicated that a maximum of *approximately* 60 students would be served by the school indicates to the Hearings Officer that some number of students, over and above 60, might be accommodated on the school site. The Hearings Officer finds that the phrase "approximately" 60 could be read broadly to allow as many as, but no more than, 70 students at the school, the number of students the District told the City's Environmental Soils Specialist would be located at the school (Exhibit E7). Condition of approval #2 has been revised accordingly.

3. The application indicates that there will be no physical education classes or after school sports offered at the school. This fact is relevant to approval of the application as it was relied upon by Jason Abraham, Environmental Soils Specialist, in rendering his decision that the school site could handle its own septic disposal needs on site. As such, the Hearings Officer revised condition of approval #2 to prohibit such activities unless a new land use approval is obtained from the County.

**Dated and signed this 7th day of January, 1996.**

A handwritten signature in cursive script, appearing to read "Liz Fancher". The signature is written in dark ink and is positioned above a horizontal line.

---

Liz Fancher, Multnomah County Hearings Officer