



# MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS  
ROOM 605, COUNTY COURTHOUSE  
1021 S.W. FOURTH AVENUE  
PORTLAND, OREGON 97204

GLADYS McCOY •	Chair	• 248-3308
PAULINE ANDERSON •	District 1	• 248-5220
GRETCHEN KAFOURY •	District 2	• 248-5219
RICK BAUMAN •	District 3	• 248-5217
SHARRON KELLEY •	District 4	• 248-5213
JANE McGARVIN •	Clerk	• 248-3277

AGENDA OF  
MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
FOR THE WEEK OF  
**August 14 to August 18, 1989**

Tuesday, **August 15, 1989** - 9:30 AM - Planning Items . . . Page 2  
NO INFORMAL MEETING AT 1:30 PM

Thursday, **August 17, 1989** - 9:30 AM - Formal . . . . . Page 3

Tuesday, August 15, 1989 - 9:30 AM

Multnomah County Courthouse, Room 602

In the matter of the decisions of the Planning Commission of July 19, 1989, reported to the Board for acceptance and implementation by Board Order:

- PR 5-89 Approve, subject to conditions, a Comprehensive Plan amendment for portions of Tax Lots '7', '13' and '34', Section 22, 1S-3E, to grant land use exceptions to Statewide Planning Goals 3 (Agriculture) and 14 (Urbanization) for three road segments proposed outside the Urban Growth Boundary;
- CS 5-89 Approve, subject to conditions, a change in zone designation from EFU to EFU, C-S, community service, for approximately 155 acres to allow its inclusion in a proposed 18-hole public golf course, portions of which would lie within the Gresham City Limits, all for property located at 8005 SE 242nd Avenue (Hogan Road)

PUBLIC HEARING - In the matter of reviewing the Decision of the Planning Commission of June 10, 1989, Case LD 4-89, approving, subject to conditions, requested two-lot land divisions, to create lots of 283,270 and 115,500 square feet each, in an MR-4 zoning district, for property located at 20255 NE Halsey Street - HEARING ON THE RECORD, ORAL ARGUMENTATION NOT TO EXCEED 10 MINUTES PER SIDE  
- Appeal filed by adjacent property owner

Thursday, August 17, 1989, 9:30 AM

Multnomah County Courthouse, Room 602

Formal Agenda

REGULAR AGENDA

DEPARTMENT OF GENERAL SERVICES

- R-1 Budget Modification DGS #1 reclassification of six (6) Property Appraiser Supervisors to Program Supervisors in the Assessment & Taxation Division with additional funds coming from salary savings (Continued from August 10)

ORDINANCES - DEPARTMENT OF GENERAL SERVICES

- R-<sup>2</sup> Second Reading - An Ordinance relating to the Car Rental Tax; amending MCC 5.40.125 (to clarify exemption for vehicles rented by residents living in exemption area)

DEPARTMENT OF JUSTICE SERVICES

- R- 3 Liquor License application submitted by Sheriff's Office with recommendation that same be approved for Supermarket Express, 16100 SE Stark (Package Store, Change of Ownership)

INFORMAL BRIEFINGS

1. Informal Review of Formal Bid:
  - a. Study of Minority/Women Business Utilization in Public and Private Contracts
2. Library Briefing - Mike Dolan

PUBLIC TESTIMONY WILL NOT BE TAKEN AT INFORMAL MEETINGS

Thursday Meetings of the Multnomah County Board of Commissioners are recorded and can be seen at the following times:  
Thursday, 10:00 PM, Channel 11 for East and West side subscribers  
Friday, 6:00 PM, Channel 27 for Rogers Multnomah East subscribers  
Saturday 12:00 PM, Channel 21 for East Portland and East County subscribers



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JANE MCGARVIN • Clerk • 248-3277

August 15, 1989

Ms. Lorna Stickel, Planning Director  
Division of Planning & Development  
2115 SE Morrison  
Portland, OR

Dear Ms. Stickel:

Be it remembered, that at a meeting of the Board of County Commissioners held August 15, 1989, the following action was taken:

In the matter of the decisions of the Planning )  
Commission of July 19, 1989, Case PR 6-89, )  
CS 5-89 )

Larry Epstein, attorney for the applicant, indicated he was present to answer questions if the Commissioners had any. At the request of Commissioner Kelley, he then reviewed the Planning Commission's Decision, conditions of approval, and location of the three new roads that will be constructed through the property. While the land is currently zoned EFU, exclusive farm use, it is not currently used for exclusive farm use, and will also serve as a buffer between the City of Gresham and the rural area. The project will not be built until the City of Gresham gives their approval for the project as 16 of the 18 hole golf course and a maintenance building is in Multnomah County and the remaining two holes and the residential area is in the City of Gresham. They also have to receive approval from the Corps of Engineers regarding the wetlands area of the property. None of the property is located in Clackamas County.

Upon motion of Commissioner Kafoury, duly seconded by Commissioner Bauman, it is unanimously

ORDERED that the above-entitled decisions, including conditions and findings of fact be accepted and implemented by the Board of County Commissioners.

Very truly yours,

BOARD OF COUNTY COMMISSIONERS

By Jane McGarvin  
Jane McGarvin  
Clerk of the Board

jm  
cc: County Engineer  
Assessment & Taxation



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tions, requested two-lot land divisions, to )  
create lots of 283,270 and 115,500 square feet )  
each, in an MR-4 zoning district, for property )  
located at 20255 NE Halsey Street )

Hearing was held on the record with oral argumentation not to exceed 10 minutes per side. The appeal had been filed by an adjacent property owner.

Dave Prescott, Planning and Development Staff, explained that the case was a result of an earlier decision of a planned development, which required that there be a land division application to split the 6.5 acres for the garden apartment complex from the total 9.1 acre site. The Planned Development case has been appealed to LUBA. He then reviewed the conditions of approval for the land division, as well as the criteria that had to be met.

Thane Tiensen, attorney for Keith Eddy, appellant, discussed concerns that the Planning Staff violated the Land Use Goal concerning intergovernmental coordination and cooperation because it did not advise the City of Fairview concerning the proposed application before the staff report was prepared. He further discussed the Urban Planning Area Agreement amendment which the County and City recently signed. The staff report makes no mention of Policy 4 regarding intergovernmental coordination. He said that property values will be decreased if the multi-family development is built, and there will be an increase of traffic on 201st and on Halsey (160 round trips per day from the multi-family site, and there could be

60 round trips per day if the small parcel of 2-1/2 acres is also developed with multi-family housing), which will be in addition to the increased traffic that will be generated when the off-ramp is constructed off I-84 in 1992, located just 3-4 blocks to the east. Traffic impacts were not addressed in the staff report as this project will add between 190 - 230 round trips per day. Property owners in the area supported annexation of this area to the City of Fairview because they recognized the City would best be able to meet their needs, and a development like this would not be possible, as the City's Comprehensive Plan shows this property as being low density residential. He then urged the County to reverse the decision of the Planning Commission.

Marilyn Holstrum, Fairview City Administrator, said that the area in question shows on the City's Comprehensive Plan as being zoned single family residential since the City began its comprehensive plan process in 1979. She then discussed the City of Fairview's comprehensive planning process and indicated the City had assumed that it had responsibility for long range planning for the area within the City's Urban Growth Boundary, and that responsibility also included being notified and being part of the review process of applications affecting property within that Urban Growth Boundary. Because the City has been working on its Periodic Review Process, and their plan for this property is single family residential, they have based their capital improvements program projections for water and sewer also to be single family housing, rather than multi-family housing. She stated that by splitting off the 2 plus acres compounds the problem as the City could be faced with another medium density development. She then requested that no action be taken on planning applications in the urban growth boundary of Fairview until the issue is resolved about authority concerning this area.

Bill Monihan representing Frank Windust, developer, stated this property is not within the City of Fairview city limits, and as such is not zoned by them, nor under their control. The land is still in the unincorporated area and is zoned MR-4, Medium Density Residential. He explained that this property recently was the subject to an annexation request before the Boundary Commission, who deleted this property from the city's proposal. The City was all set to hold a hearing the week following the Boundary Commission hearing to down zone the subject property to low density residential, from the current County zoning of medium density residential. Mr. Monihan then reviewed several issues raised by the petition for review: was the County the proper entity to deal with the Planned Development, which he asserts that it is. He then reviewed the concerns addressed in the Notice of Review: conflict with the City of Fairview's Comprehensive Plan, violation of the Urban Planning Area Agreement between the City and the County, that the application

should have been considered by the City rather than the County, using the City's zoning designation of low density residential, rather than the County's MR-4 medium density residential zoning; conflict with the City's Facilities Plan as the City had planned for this property to be low density residential, even though the current County zoning was medium density residential. In addition the Notice of Review suggests that the findings are inadequate regarding water and sewer facilities, and street congestion, and the demand for multi-family units in the east county area.

Mr. Prescott stated that the Urban Planning Area Agreements have been discussed with the city and agreed to. Lorna Stickel, the Planning Director, wrote a memo which has been distributed to the Board, stating that under the agreement, the County retains zoning and plan designation authority on all land under its jurisdiction, and therefore the MR-4 zoning does apply, which is consistent with that agreement.

Commissioner Bauman asked what the Boundary Commission's reasoning was in deleting the subject property from the annexation request.

Mr. Monihan said he felt the Boundary Commission believed the City was trying to thwart the effort of a property owner to develop his property by bringing it into the City, and then immediately down zone the property thereby prohibiting the development.

Ms. Holstrum said she tried to explain to the Boundary Commission that the issue would be resolved by the County Commissioners of Multnomah County and the Courts. The City feels the decision to delete this property was inappropriate, and they are reviewing the action to determine further action.

Mr. Tiensen said the draft order states "the proposal should be modified to withdrawn TL 89 to allow the land use conflict to be resolved by the current appeals process (LUBA and/or the courts) and then approved." If he has suspected there was a problem with the annexation, he would have been at the Boundary Commission hearing also.

Ms. Holstrum said she is not certain that after the courts have made their decision, the property will automatically be annexed. She explained that Mr. Windust could come into the City when the development was built. She was left with the impression at the Boundary Commission hearing that Mr. Windust would sign an annexation petition once the development was complete. She was not aware the Boundary Commission would include this as a condition or in the final order.

Mr. Monihan stated there were 51 other small property in this annexation request. He requested that the Boundary Commission either deny the whole request, or carve this property out. They are not totally against annexation, but they do want to develop the property under medium density. They were prepared to go forward with the annexation until the City of Fairview appealed the Planned Development case.

Ms. Holstrum then answered questions concerning the City's Capital Improvement Program, including the fact that the program was based on this property being zoned low density residential. The program is based on density of the area, and in the case of sewers, the capacity of the wastewater treatment plant. In this case, the difference is 30 units for single family versus the 70 that is proposed medium density residential development on the 6.5 acres. That does not take into account the 2+ acres which could also be developed with medium density residential. If the Planned Development decision is upheld, they will have to recalculate the numbers and renegotiate with the City of Gresham for additional wastewater treatment plant capacity. She also explained that if the property is still within the unincorporated area when the property is developed, the hookup fees will go to Multnomah County, not the City of Fairview. Ms. Holstrum then answered questions concerning the City's understanding of the Urban Planning Area Agreement and their responsibilities under that contract. She stated that their understanding was that Fairview would take responsibility for all areas in its urban planning area, in its comprehensive planning process. They had responsibility for long range planning. When asked if that included specific zoning issues as well, she stated that they felt that with the Urban Planning Area Agreement, we had this responsibility, and was moving forward in good faith.

Commissioner Anderson read the last "whereas" of the Urban Planning Area Agreement which states, "Whereas the City [of Fairview] will eventually assume land use jurisdiction over the subject urban areas, and is therefore the logical entity to assume the lead role in long range comprehensive planning for the area". She felt that statement is open to some interpretation. She did not find anything in the agreement which set out specifically as to what "lead role" means. She asked where the City felt it had the planning responsibility for the area within the urban growth boundary.

Ms. Holstrum said it is a matter of interpretation. At the time the agreement was entered into, there was some discussion held regarding the urban planning area agreement, and the emphasis was on everyone moving forward with their comprehensive planning process, and who would take responsibility for those area that were in the County, but were to be annexed into the various cities. She

believes that Fairview assumed that it had the planning responsibility based on the verbage there. There are a lot of interpretations, they didn't see them at the time, and the City moved forward with its planning effort, and felt it had that responsibility. The case for the planned development on the 6.5 acres is being appealed to LUBA. There could be a development on the remain 2+ acres as well.

Mr. Monihan in response to Commissioner Anderson's question, stated that the pending sale for the 2+ acres is for a church use, rather than apartments. The sale cannot proceed until this minor land petition is approved. However, it is held up for quite a long period of time, it is possible the sale would fall through, and multi-family use might be the only proper use.

At this time, the issue was before the Board.

Commissioner Kafoury said it is important to decide who has the jurisdiction, and from talking with County Counsel, until annexations are complete, she is clear that the County retains jurisdiction. In addition, there are a lot of other issues to be considered. She is concerned that the Planning Staff has not been working with the small cities. In addition, there is an appeal pending on this property, which probably made the property unannexable at this time, and the Boundary Commission felt that LUBA should rule on the appeal before it goes ahead with the annexation.

Commissioner Kelley said she is concerned about the Urban Planning Area Agreement, that it is not clear about jurisdictional issues. Policy Four still applies.

John DuBay, Deputy County Counsel, responded to questions concerning the Urban Planning Area Agreement, and stated that as he reads the agreement, the city has undertaken the duty of going through the periodic review process for areas within their urban planning area. There are certain statutory requirements the cities must submit to LCDC. The agreement defines the process for periodic review, it is not to exercise the operational kinds of things such as issuance of permits, zoning decisions, etc. Those operational kinds of things is retained by the County until the property is annexed.

There was no rebuttal submitted by the appellants.

Commissioner Kafoury moved, duly seconded by Commissioner Bauman, that the decision of the Planning Commission be affirmed.

Commissioner Bauman said he is concerned that is there is appeal, the Multnomah County Board of Commissioners is stating that the County zoning does apply here. It is unfortunate these concerns

were not caught before an application was pending. The County is bound by the current zoning.

Commissioner Anderson asked why Fairview's concern was not addressed in the staff report.

Mr. Prescott said the issue of zoning was not an issue in the Urban Planning Area Agreement, that the County's zoning designation did apply. In addition, the issue appeared to have been raised in the Planned Development Case and dealt with. He wrote the decision, and found nothing else to add to it, as the zoning is MR-4.

The motion was considered, and it is unanimously

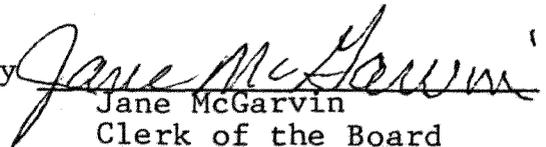
ORDERED that the Board affirm the Planning Commission's decision in Case LD 4-89.

Commissioner Kafoury requested that staff be encouraged to cooperate with the cities, and the intergovernmental cooperation be part of their process.

Mr. DuBay said the Board should schedule when this matter will be brought back for approval of the final order. Staff discussed the amount of time needed to prepare the final order, and agreed to come back with the final order, to include findings and conclusions, at the first opportunity.

Very truly yours,

BOARD OF COUNTY COMMISSIONERS

By   
Jane McGarvin  
Clerk of the Board

jm  
cc: County Counsel

Tuesday, August 15, 1989

*0645C*  
*Completed*

The Board of Commissioners of Multnomah County met at the Courthouse at 9:30 A.M. this date.

Present: Commissioner Gladys McCoy, Chair; Commissioner Pauline Anderson; Commissioner Gretchen Kafoury; Commissioner Rick Bauman; Commissioner Sharron Kelley.

The following proceedings were had:

In the matter of the decisions of the Planning )  
Commission of July 19, 1989, Case PR 6-89, )  
CS 5-89 )

Larry Epstein, attorney for the applicant, indicated he was

present to answer questions if the Commissioners had any. At the request of Commissioner Kelley, he then reviewed the Planning Commission's Decision, conditions of approval, and location of the three new roads that will be constructed through the property. While the land is currently zoned EFU, exclusive farm use, it is not currently used for exclusive farm use, and will also serve as a buffer between the City of Gresham and the rural area. The project will not be built until the City of Gresham gives their approval for the project as 16 of the 18 hole golf course and a maintenance building is in Multnomah County and the remaining two holes and the residential area is in the City of Gresham. They also have to receive approval from the Corps of Engineers regarding the wetlands area of the property. None of the property is located in Clackamas County.

Upon motion of Commissioner Kafoury, duly seconded by Commissioner Bauman, it is unanimously

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tions, requested two-lot land divisions, to )  
create lots of 283,270 and 115,500 square feet )  
each, in an MR-4 zoning district, for property )  
located at 20255 NE Halsey Street )

Hearing was held on the record with oral argumentation not to exceed 10 minutes per side. The appeal had been filed by an adjacent property owner.

Dave Prescott, Planning and Development Staff, reviewed the Planning Commission's decision, history concerning this property including the fact that a Planned Development application had been approved by the Board and subsequently appealed to LUBA, and the conditions of approval and findings of fact.

<sup>TienSON</sup>  
Thane ~~Thier~~son, attorney for Keith Eddy, appellant, discussed concerns that the Planning Staff violated the Land Use Goal concerning intergovernmental coordination and cooperation because it did not advise the City of Fairview concerning the proposed application before the staff report was prepared. He said that property values will be decreased if the multi-family development is built, and there will be an increase of traffic on 201st and on Halsey (160 round trips per day from the multi-family

site, and there could be 60 round trips per day if the small parcel of 2-1/2 acres is also developed with multi-family housing), which will be in addition to the increased traffic that will be generated when the off-ramp is constructed off I-84 in 1992, located just 3-4 blocks to the east. Traffic impacts were not addressed in the staff report. He then urged the County to reverse the decision of the Planning Commission.

Marilyn Holstrum, Fairview City Administrator, discussed the City of Fairview's comprehensive planning process and indicated the City had assumed that it had responsibility for long range planning for the area within the City's Urban Growth Boundary, and that responsibility also included being notified and being part of the review process of applications affecting property within that Urban Growth Boundary. Because the City has been working on its Periodic Review Process, and their plan for this property is single family residential, they have based their capital improvements program projections for water and sewer also to be single family housing, rather than multi-family housing. She then requested that no action be taken on planning applications in the urban growth boundary of Fairview until the issue is resolved about authority concerning this area.

Bill Monihan representing Frank Windust, developer, stated this property is not zoned by the City of Fairview, is not within the city limits, is not designated low density residential, and is not control by the City of Fairview under the Urban Planning Area Agreement. The land is in fact in the unincorporated area and is zone MR-4, Medium Density Residential, and the County continues to deal with land use issues. This property was the subject to an annexation request, and the Boundary Commission deleted this property from the proposal. In fact, the Tuesday following the Boundary Commission hearing at which this property was being considered, the City of Fairview had already scheduled a hearing to downzone this property to low density residential. As a result of the Boundary Commission's action to delete this property from the annexation proposal, no action was taken by the City concerning the zoning of this property as it was not within their jurisdiction. Mr. Monihan then reviewed several issues raised by the petition for review: was the County the proper entity to deal with the Planned Development, which he asserts that it is. The County's decision on that issue has now been appealed to LUBA by Mr. Eddy. He then reviewed the concerns addressed in the Notice of Review: conflict with the City of Fairview's Comprehensive Plan, violation of the Urban Planning Area Agreement between the City and the County, that the application should have been considered by the City rather than the County, using the City's zoning designation of low density residential, rather that the County's MR-4 medium density residential zoning; conflict with the City's Facilities Plan as the

City had planned for this property to be low density residential, even though the current County zoning was medium density residential. In addition the Notice of Review suggests that the findings are inadequate regarding water and sewer facilities, and street congestion. Mr. Monihan pointed out that the Rockwood Water District serves this area, and the County Sanitarian indicated that sewer lines are available to the property. There is no documentation that the traffic generated from this site will have an adverse impact on Halsey or 201st Streets. There was concern addressed regarding the protection of property values. He then read from Multnomah County Code 11.45.015 regarding the purpose of the Land Division Section being to protect property values, as well as to implement statewide planning goals. This proposal meets the County's goals to comply with the metro housing goals and provide for diversity of housing through the county. There was also a reference to need, which is not a criteria for approval of land divisions. However, a check of any real estate entity would show there is a demand for multi-family units in this area. He requested the Board deny the request, and agree that the proposal meets all county criteria, and the conditions that have been imposed on the develop will mitigate any potential adverse impacts which might have been identified.

Mr. Prescott stated that the Urban Planning Area Agreements have been discussed with the city and agreed to. Lorna Stickel, the Planning Director, wrote a memo which has been distributed to the Board, stating that under the agreement, the County retains zoning and plan designation authority on all land under its jurisdiction, and therefore the MR-4 zoning does apply, which is consistent with that agreement.

Commissioner Bauman asked what the Boundary Commission's reasoning was in deleting the subject property from the annexation request.

Mr. Monihan said he represented Mr. Windust at the Boundary Commission hearing, and he told them that the planned development case has been appealed to LUBA, and he believes the Boundary Commission recognized the City's attempt to thwart the process by petitioning for annexation, and their scheduled hearing to downzone the property would prevent the property owner from developing his property. They also recognized that the property was currently zoned medium density residential while the City intended to down zone the property to low density residential, thus reducing the value of the property.

Ms. Holstrum

8-15-89

LD 4-89

Dave Prescott, County Planning and Development Division. This is a case involving property at the NE corner of 201st and Halsey. The Board has seen this site previously with respect to a planned development proposal for a garden apartment complex that was approved by the Planning Commission as Pd 1-89, and that planning Commission decision was affirmed by the Board on May of this year. A couple of things, we have provided copies for reference, copies of the decision that you affirmed for the Planned Development case. A little bit about the chronology of this action. The planning commission heard the planned development case. One of the conditions for approval for Pd 1-89 was that the applicant obtain a land division. The reason for that being the garden apartment complex was proposed for 6-1/2 acres of the 9.1 acre site. Subsequently the applicant did apply for a land division. It was approved by the planning staff as a type 3 land division. That staff approval was appeal to the planning commission and the planning commission heard that case on June 10, and at that time affirmed the planning department approval of the development. As you know, the appellants have appealed the case to you for consideration today. Just briefly the site is zoned medium density residential. MR-4, consistent with the county comprehensive plan. And the requested land division would create two parcels -1 being the site of the garden apartment complex, with 6.5 acres. the 2nd parcel having a litting over 2.1 acres. The apartment parcel has its frontage on nE Halsey str. the 2nd parcel is located at the corner of 201st and Halsey. Just briefly, summarizing the conditions of approval for the land division: (can see the conditions in the decision.1, 2 3,). The body of the decision contains findings that address the approval criteria in the land division ordinance for a land dvision of this type. PC found that criteria are met, and upheld staff approval. Underlying planned development necessitate the land division was affirmed by the County Board.

10 minutes per side.

Thane Tiensen, attorney on behalf of Keith Eddy, who is adjacent property owner to the proposed development. To add if anything to the remarks that I made before the Planning Commisison in June, but in the event that you have not had the opportunity fully review the transcript of the proceedings, I do want to hit what I consider the main concerns that my client has and the reason why I am here. 11.45.380 (B) is the applicable charter commission that governs this type of petitions, and refer you to that as well as code section that it in turn refers tyou to, you find that you ar elooking at three requiremntns that must be met, and in my view were not. One is, and Marilyn Holstrum will probably addresss this in more detail. A requirement under the comprehe paln, policy 4, that there be intergovernmental coordination cooperation. It refers specifically to parcels that are in the process of undergoing an jurisdictional transition. That is precisely what we have here. I think in candor, I am not certain why staff approved this at the outset, without consulting with the City of Fairview. I don't know whether it slipped through the cracks or whether it was discovered later, and no one really wanted to fess up to doing it. But it is clear that somebody at the staff level should have notified the City of Fairview at the outset of this proposed development. I suspect the developer didn't

because he didn't want the city to know about it because he knew fully well that the area was about to be incorporated and annexed by the City of Fairview. But the fact of the matter is the city received notice just as any other property owner for the first time that this proposed development had been approved at the staff level. At that point, the city having just entered into an amendment to its urban planning area agreement with the County, which transferred the responsibility for periodic review and recognized that the city annexation of the area was pending became somewhat alarmed, and went to the county to try to find out if there was some way that they could none the less retain the planning responsibility for this area as well and insure that the area which they had planned and assumed would be developed for single family residences would continue to be developed in that fashion, because their capital budget, Marilyn will tell you, assumes that, and this could create some havoc with their planning process. But unfortunately, they were told that no, the area was rezoned some 15 years before, because of a planned development that fell through and nobody ever took any steps to remedy the rezoning that occurred, despite the fact that the County, was it acknowledges fully aware of the fact that the conflict existed between the city and the counties zoning for this particular area. So there was no intergovernmental coordination. In fact that is one of the things that struck me as I reviewed the staff report, there was no mention of policy 4 in it, despite the fact that it is clearly the central theme of our appeal, and the only reason the city of Fairview is concerned about it. But the requirements for petition require more than that. They require also there be a preservation of property values. I can assure the commission that the only reason that my client is petitioning this petition is because he feels as I am sure the facts will bear out, his property values will be exploited by this development. We have a high quality single family residential area that has existed for many years in this area. And it occurs to me that the reason the developer wants to locate in this area will prove to be a relatively upscale apartment complex, is to exploit the quality, the high quality of this nearby residential development. Again as the staff report is silent as to how the property values in this area will be preserved or enhanced by this development. It simply won't be. Moreover it is certainly that the county is in need of any further developments of this sort. I submit that it is not, and it is particularly true in this area. These are going to be apartments that I think are going to be renting in the 600-700 dollar a month area. They are likely to attract single couples without children, or else professional single parent, with a relatively high income. The petition itself would result in an additional, we have looked at the one parcel that is going to be developed, the larger 6.5 acres, apparently the projection is that will result in traffic of approximately 160 round trips per day. The smaller parcel, will result in what apparently will be 30 units, some 60 round trips per day. Now that in and of itself, would not appear to be significant, but what it ignores and again with the staff report is silent about, is the proposed 1992 off ramp of I-205 that is going to be located just 3-4 blocks away. This is not a proposal, it is going to happen, and it is going to result in significant traffic in this area, and when we are looking at a development that is going to add another 190 - 200, or 220, 230 round trips per day, obviously we are talking about a fairly

significant impact on a relatively small city. The City of Fairview. Again, there is no indication in the staff report as to how the street congestion will be minimized given this 1992 development on the I-205 freeway which has an offramp. The report is completely silent about it. These are the main concerns that my client has about the area. Obviously he is upset about the fact that a large apartment complex is going in next to his property. He has a lot of support within his complex. That was the main reason why they were supporting the adjacent property owners supported annexation by the City of Fairview. They recognized the city was the best able to meet their needs and they thought by working with the annexation process, a year or more ago when it first began, they wouldn't have to worry about a development of this nature, and lo and behold, they find, whoops, there is a little bit of oversight, and the county has ignored what appears to be at the staff level, certain elements of the comprehensive plan and it has failed in my view to completely recognize the effects on street congestion, property values of this petition. For the reasons set forth earlier, and set forth today, I urge the county to reject the proposed petition. I'll turn it over to Marilyn Holstrum for further remarks.

McGarvin: You have used 7-1/2 minutes.

Holstrum: Madam Chair and commissioners, with the short time left, I won't bother you with the speech I have given to you before, and given twice before the Planning Commission. Just reiterate the fact that this area has been zoned single family residential in Fairview Comprehensive Plan since we began our comprehensive plan in 1979, that in response to the urban planning area agreement signed with the County in 1988, giving long range planning responsibility to Fairview and also, the fact that the county in giving those long range responsibilities, backed away from including that area in their comprehensive plan, leaving it to the city of Fairview to include, we have moved forward to continue our planning based on single family residential. Our capital improvement plan was based on providing water and sewer and other services to this area, based on single family residential. This is a minor petition before you. It is not exactly the same thing you had the last time I was standing before you, but it compounds the problem. We appealed the planned development for all the reasons that you have just heard and for the reasons that we are still honoring our comprehensive plan as we continue to do and we are honoring our capital improvements planning, but in splitting off this piece of property you are creating a new piece which is in excess of 2 acres, which again, as I mentioned, compounds the problem. We would have the ability if this was split off to be facing again another development of medium density, until this issue is resolved. With the limited time, I think I will just be available to answer any questions if you have them.

Anderson: Well the questions are outside your 10 minutes, so if you have more to say, Marilyn.

Holstrum: I have said it before, and I thank Mr. Tiensen . . .

Anderson: Alright. Thank you very much. We have another side to the question.

McGarvin: 45 seconds remaining for the appellants.

Monihan

Thane W. TienSON

Bill Monaghan representing Frank Windust, developer,  
responded to the Urban Planning Agreement

Monaghan, I represent the property owner in this action, Frank Windust. I am here today, this is the third time I have been here for this matter. One for the Planned Development, one for the annexation attempt. I would like to bring you up to date as to what this land is not. It is not zoned by the City of Fairview; not within the city of Fairview, as the City recently lost an attempt to annex it; it is not designated low density residential, as the appellants presentation claims; and it is not controlled by Fairview because of the Urban Planning Area Agreement. The land is in fact under the control of the County, and has been, and the urban planning area agreement does not provide otherwise. The County did not give up the ability to deal with land use applications as this Board determined on the appeal to the Planned Development. It is in the county, and the boundary commission recently affirmed that by deleting this property from an annexation attempt by the City of Fairview. The City was not able then to downzone the property to which it was prepared to do the following Tuesday evening after the Boundary Commission application on Thursday evening, about four weeks ago. As a result of our efforts to stop the annexation attempt, the City did not hold its hearing to deal with the downzoning of that property. The petition for review raises several issues which the Board has already acted upon when it determined that the County was the proper entity to deal with the planned

development. The Board rejected the City's appeal of that 70 unit complex. Mr. Eddy has appealed that matter to LUBA, and we are now waiting for the filing of the petition for review. We have accepted all of the terms of the land division. There is land dedication, there are land dedication, there are public improvement requirements, in the connection to public sewers. All of that has been accepted. We have met all the criteria of the land division standards. I would like to address now the grounds for reversal which are found in the notice of review. #1 - there is a claim that this action violates Fairview's Comprehensive Plan. Again, the City's plan conflicts with the County Plan. The County Plan is the one that governs, and the County Plan is the one that you need to be concerned about. There is a responsibility that the City conform its plan to your plan. There is an allegation made that the County should have done something. We allege that it should be the other way around. The County's designation of this property is multi-family, MR-4. That is what applies. There is also a statement in the grounds for reversal that the approval will violate the Urban Planning Area Agreement. Again, the Urban Planning Area Agreement did not delegate Land Use Planning responsibility for zoning and land use decisions to the City. The Long range planning responsibility given to the City was very limited. The City should plan by complying with the County zoning. There was a statement made by the City that their Facilities Plan was based on low density residential. Well it shouldn't be. The land isn't zoned low density residential. It is multi-family, and that is what they

should plan their capital facilities on. The third item was that the City's long range plan for public facilities was dictates that it be low density residential. That is item 3 on page 1 of the grounds for reversal. Again the City's long range plan for public facilities was flawed because of the use of low density residential as a criteria. the City based its estimates on low density. They knew of the conflict with the County zoning. The City also knew that it needed to annex the land before they had the ability to downzone it to low density. They never achieved that. The application has gone forward to this point. The City's efforts as we pointed out have been thwarted at the Boundary Commission, and at this point, the land still remains in the County. The City needs to adjust its plans based on the actual land use for the area, not the hoped for land use for the area. The notice also suggests that the findings are inadequate because the findings state that water and sewer lines are available. Without referencing adverse impacts. We contend there are no adverse impacts. Obviously the County feels that the facilities have capacity because in items 4 and 5 on page 6 of the decision, there is reference that services are available from the Rockwood Water District, as well as a notation from the County Sanitarian, both provided the normerly used approval forms. They completed them, they are in the record of this application. So there is not a problem them on adverse impacts. The appellant also cited three criteria they object to. They are addressed however on page 9 of the decision. One of them is street congestion. There is a statement that traffic generated from this site will have a

serious impact on both Halsey and 201st. Those statements are unfounded. There is no documentation to support that. It is a conclusion that the applicant has asserted, which is counter to the County's position on this matter. In addition, item 9, d (1) within the Staff decision, is a notation, that street congestion is minimized through dedication and improvements required by condition 3. So the appellant is not giving any consideration of the improvements that will be made as a result of this development, and as a result, traffic congestion will not be a problem. Next item, 4 (a), within the grounds for reversal, this reference to protecting property values. The land was zoned multi-family as I pointed out. It is still multi-family. Eventual development will be to the standards of the County. I think to take a look at the protect property values issue, you need to look fully at MCC 11.45.015. It reads as follows: The Land Division Ordinance is adopted for the purposes of protecting property values" but it doesn't stop there. It goes on and reads "furthering the health, safety and general welfare of the people of Multnomah County, implementing the state wide planning goals, and the Comprehensive Plan adopted under ORS. 192 and 215, and providing for classification and uniform standards for the division of land, etc". Therefore the protection of property values is not the only criteria. There is a requirement of compliance with state wide goals and comprehensive plan. The multi-family designation on this property is part of the county's attempt to comply with metro housing goals. Also the County has attempted to comply with ORS and providing for diversity of housing,

for providing multi-family as well as single family. So we can't just look at property values. We contend that the development that we are proposing is one that will not have an adverse impact on the property values. But it will deal with a lot of other concerns the county has. And you need to take all those into consideration.

There is another reference to one final item. And that is to the general welfare. There was a reference to need. Need is not criteria for approval of this land division. need is often thrown around as a criteria, but it is not necessary here. There is not a need to show this additional demand for multi-family units. There is not a need to show that there is additional mutli-fmaily land. We contend however, that should need be a criteria, a check with any real estate entities through out the area would find that there is a demand for multi-family land. One final item is what has been said about the land that would be severed off, the 2 plus acre piece, and what it would generate in terms of traffic, and number of units. At this time, that property is the subject to an option to purchase. It is not for a multi-family use. So, the allocations that there would be 30 units at this time, the planned use is not for 30 units of multi-family use. Finally, the entire content of the comprehensive plan and the various criteria that staff has addressed within the staff report and the decision, are those that y ou need to address, not the issue that the City of Fairview would like to have authority for this property, when they have no proper claim to it. So I think you need to take all those into consideration in making your decision today. We request that you deny the appeal because the reivew conducted by the staff was correct, and the Planning Commission was also correct. The prop0osal meets all county criteria, and the conditions for development that have been imposed upon the developer are such that we will be able to mitigate any potential adverse impacts that have been identified. Again, the

Urban Planning Area Agreement is one that you negotiated, you understand, and it is in favor of the county as to this property. I would be glad to answer any questions that you have.

Anderson: Staff had something they wanted to add. Dave.

Dave - only that the urban planning area agreement that has been discussed by both sides, does state, and you have a memo from Lorna Stickel outlining that, that the County does indeed retain zoning and plan designation authority and only upon such time as those plan and zoning designations were changed by this board would the ability exist for the area to have a single family zoning designation on it. the County MR-4 does indeed apply at this time, and for reasons stated in the memo, this is consistent with the Urban Planning Area Agreement.

Bauman: What was the reasoning for the action by the Boundary Commission Denial of the annexation. Are you privy to that.

Dave: I do not know.

Bauman: Both sides think they know.

Monaghan. I was present at that hearing. I represented Mr. Windust. We represented to the Boundary Commission that the fact the annexation was counter to a determination by this board that the land was medium density residential, and in fact the intent of the City of Fairview was to annex the property the following Tuesday night, downzone the property. There was quite a bit of concern by the Boundary Commission members that . . .

Bauman: Did you represent our position. . .

Monaghan: No I represent for Mr. Windust, that the Board had rejected the appeal of the Multi-family development and that in fact, you had asserted that the land is multi-family, it is not low density residential. And as a result of that, the item had been appealed to LUBA, there was a pending matter before LUBA, and the Boundary Commission recognized I believe, that this was an attempt to thwart that effort by bringing it into the City, downzone it in an attempt to make moot the application that was before the County. There was quite a bit of concerns . . .

Bauman: Was the Board's position in opposition to the annexation..

Monaghan No it was not.

Anderson: Our position was that we still had jurisdiction.

Bauman: I am also frustrated in terms of being a benchly for

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Fairview. I am a little concerned that we were used as a pawn in this annexation.

Monaghan: I don't think you were used as a pawn. What was represented to the Boundary Commission is that a decision had been made and the land was multi-family. The Boundary Commission determined that the City's, what the City was try to do was rezone it and take away the rights of the property owner, and was pointed out by at least the Chairman and at least 2 other members of the Commission, they felt that this was an attempt to split in half the value of the property without compensation by the City or anyone else.

Bauman: I would like to hear someone from Fairview describe what happened.

Holstrom: I just have one comment to make and then Mr. Thineson has the final order to read to you so that you will have the official response. But it was my very strong feeling that the only reason that was pulled out was based on this issue, and as often as I try to explain to them that this issue would be resolved by the County Commissioners of Multnomah County, and the Courts, how far it would go, that that was an issue that should not be heard and discussed and decided by that Board. The decision that they reached was fully on this issue alone. I felt it was very inappropriate and we are in the process of reviewing that decision right now, and determining

future action. But I would like you to hear from Mr. Thineson, the official order that came down.

Thineson: Let me be clear about this. I did go over to the Boundary Commission, and obtained a copy of what you can see is a draft order, but I can read it for you. It is real brief. The reason that they carved out this exemption, was "the proposal should be modified to withdrawn TL 89 to allow the land use conflict to be resolved by the current appeals process (LUBA and or the courts) and then approved." I must share Commissioner Bauman's concern at least that you were used as a pawn in this process, and frankly, I wasn't there, I wasn't aware there would be a problem with the annexation, and had I been, I can assure you that I would have been. My position is that is exactly what happened.

Bauman: I'm sorry, question. That last line, you said, the annexation will go forward after this other issue is resolved.

Thineson: And then approved. I think what the commission decided was the approval of this particular parcel would await LUBA and or the courts final decision, and then approved. I say, and then officially disposed of one way or the other. They say "and then approved" in here. You can look at it if you like.

Bauman: Is it fair to say there is no question this land will at some point in the near or not to near future be part of the City.

Thineson: That is not for me to say. I presume Marilyn would be in a better position to address that.

Bauman: The question is, do we resolve this issue before or after that.

Holstrom: It was not clear to me that evening at all, and in fact, I had not seen this order. I have been on vacation, and he got a copy of it. The way the Commission indicated that evening was that Mr. Windust indicated his decision to come into the city of Fairview, once his development was built, and with that in mind, the Commission went forward and indicated that they would pull it out at this time. And at some point, it would come in. I was left with the impression that evening, that Mr. Windust would sign an annexation petition once the development was complete, and we would go forward with annexation. I was not aware that they would put that as a condition or in the final order, and I don't know how in fact you do that, unless we resubmit an annexation proposal, and we cannot resubmit one without his signature, at this point, so, it wasn't clear to me. We are still not aware of how we will resolve that issue in the future.

Monaghan: I think I can clarify without argument. The, what hasn't been said here is the annexation was for more than this property. There were about 51 other small properties as well as this one. In fact, what we asked the Boundary Commission to do, was deny the entire annexation, or to carve our property out. They choose to carve our property out. They asked which one we favored the most. So the approval, I believe, and I haven't seen the draft final order, the approval is for all the annexation, without this one. There isn't an intent by the Boundary Commission that upon completion of the court action, there be an automatic annexation of this property. We represented to the Boundary Commission, we are not totally opposed to annexation. In fact, we had been prepared to go forward with the annexation before the appeal was filed by the City of Fairview. As a result, we think eventually the property will be annexed. It is not to say immediately upon development of the property. We are really not sure about that. But the final order, I am sure, is intended to approve all the other annexations, without this one parcel of property.

Kelley: I have some questions for Marilyn. You spoke about the Capital Improvement Programs that your city has developed. Could you share with me the plans for this particular proposal, and how it affects it more specifically than what I have in the written material.

Holstrum: Well the capital improvement plan plans for 20 years of

providing service to the entire city, and it has to take into account the existing sewer lines, the existing water lines, and in the case of water, where the water will come from. In this particular case, we have agreements with Gresham for sewage disposal, and we have an agreement with Rockwood Water regarding taking over the area, this area that was recently annexed from Rockwood Water upon annexation. The lines become ours. When you plan, you plan for the density of the land. As it is developed or not developed. And you plan for, in the case of sewers, the disposal of it or the capacity in the wastewater treatment plant. And in this particular case, we calculated into our plan for single family residential. The difference in numbers is somewhere around 30 units for single family, and their proposed 70, I believe for multiple family, not counting the 2 acre, the 2 plus acres, they are wanting to split off, which could also be developed. So there is a significant difference.

Kelley: What effect does it have on your capital improvement plan.

Holstrom: Well, what we have to do is go back and recalculate those numbers at some point to indicate that increase, and we have to calculate, we have to recalculate our agreement with the City of Gresham for additional wastewater treatment capacity.

Kelley: So you become fiscally responsible for the purchase, or does the applicant. I am trying to figure out, the cost of, and who is accountable, and responsible. Is it the city, or the applicant, or the landowner and the developer.

Holstrum: The city is ultimately responsible and the city recoups a lot of those costs through its fees. In this case, the fees will go to Multnomah County, and the City of Fairview will be responsible for, when it comes into the city of Fairview, ultimately for providing that capacity in the wastewater treatment plant without the benefit of getting the fees, for hookup that we would have gotten, which would have paid for a good portion of that. The fees for this development will now go to Multnomah County.

Kelley: I have another question, if I could. I would like to make reference if I can to the Periodic Review, and this urban planning area agreement. That that is apparently the reference, and we are apparently in that process now. Could you share with me if you could, was there any coordination on that periodic review process. It is going on now, was there any, and how does that affect this applicant.

Holstrum: We all started the process, the County, the cities in the county, went through and are going thru periodic review at the same time, and we started around 87, and in 88 the urban planning area agreements were signed, amended, updated from prior agreements.

That was the extent of the coordination with that, and in that agreement, it indicated that Fairview would take responsibility for all areas in its urban planning area, in its comprehensive planning process. And with that in mind, and with the other indication in that urban planning agreement, that we have long range responsibility for these, we moved forward. The answer to your question is beyond that urban planning area agreement, no there was no any discussion. We had a group that met monthly among the four cities and the county to talk about periodic review issues. But they were goal issues, and economic development issues, not this type of situation.

Kelley: No specific zoning issues.

Holstrum: No. So this has never been discussed and as far as the City was concerned, and we know find ourselves feeling fairly naive about the process, because we felt that with that urban planning area agreement, that we had this responsibility. And that we were moving forward with it in good faith.

Anderson: Don't go away Marilyn. I was looking, I am sorry we didn't have this earlier, the amendment to the urban planning area agreement. The last whereas says: "Whereas the City", that is Fairview, "will eventually assume land use jurisdiction over the subject urban areas, and is therefore the logical entity to assume the lead role in long range comprehensive planning for the area", and then the Now therefore be the parties agree, I would say that this is open to some interpretation, that Fairview actually does have the lead role in your comprehensive plan, although the agreement which follows does not set that out specifically as to what lead role means. And I am sure, I was wondering where you got the idea that you had the planning responsibility for this area, and I think probably this would indicate that you have it.

Holstrom: Well I think you are absolutely right. It is open to interpretation. But at the time the agreement was entered into and the time that some discussion was held regarding this urban planning area agreement, the emphasis was on everyone moving forward with their comprehensive plan and who would take responsibility for those areas that were in the County but were to be annexed into the various cities, and it wasn't just Fairview that had this agreement. And with those discussions and with this agreement, I think the City assumed that it had that responsibility based on the verbage there. I think you are right, there are a lot of interpretations now. We didn't see them at the time, and we moved forward with that planning effort, and felt we had that

responsibility.

Anderson: The original, the 6 acres that is going to be the garden court. . .

Holstrum: I believe it is 6 plus.

Anderson: 6 plus. That decision is being appealed to LUBA.

Holstrum: Yes.

Anderson: Would you expect that the smaller unit also will be appealed to LUBA.

Holstrum: I would expect that would be a very distinct possibility, in that they would combine them into one case. I would, Certainly the appeal is being made by the property owner, and I have not discussed it with him, but I think it is a distinct possibility it will be.

Anderson: Let's see, what else did I have for you. I think I need to talk to Mr. Monahan. You have not indicated what this small area is to be used for, have you.

Monahan: No I haven't, I have indicated it will not be used for multi-family purpose. There is a pending sale that could go to a

church use, a community services sort of use. But we are not sure that will actually go forward. We can't complete it until this minor land petition occurs.

Anderson: You are not saying that it couldn't be used to extend the garden . . .

Monahan: I can't say that because it is properly zoned for that use, and not knowing whether this sale is going to be completed. If this were held up for quite a long period of time, it is possible that that buyer would go away, multi-family use might be the only proper use. But at this time, if this minor land petition goes forward, it is my understanding from speaking to the property owner, that the sale is very close to being finalized for the church use.

Anderson: Well, I guess the reason I am asking the question and maybe it isn't yours to answer, but we made a decision in May, I guess it was, on the larger area. If indeed that was to be used for multi-family units, we would have to, it seems to me make the same decision this time. I, unless we have new material.

Monahan: Correct. This is my interpretation.

Kafoury: If we are in discussion now, I think the importance of it was the fact of deciding who has the jurisdiction, and I believe, confirmed with conversations with Counsel, that until the annexations are complete, that we did retain the jurisdiction. Notwithstanding, there is a whole lot of other issues here. There are issues about how the County Planning Staff works with the Small cities, and you know, it is continuing battle we have with staff of

trying to sensitize our people with our value, which is they should be in a cooperative partnership, and that is what that agreement states and it doesn't sound like that was done. And we continue to hear that which is not the developers fault. It is our internal problem, and how we have this relationship. Notwithstanding that procedural and value or whatever we would like to have be different, the facts are that we do retain the jurisdiction in this matter.

Anderson: Well I guess the question was then, because of our decision in May, this particular plot of land is not annexable, and if indeed it is not annexable, then of course we retain jurisdiction. I question the basis on which it was declared unannexable. And I have a problem with that although the decision obviously has been made, and legitimately made by the boundary Commission.

Kafoury indicated her agreement. But they do not reference our action in this final page, as I read it. They referenced the appeal, that it is going to LUBA. That is what they are referencing, it is not that the County Commissioners said they still retained, or had any implication about whether or whether it should not be annexed. They are saying there is an appeal, and a dispute over this property, and they wanted LUBA to rule on that before they would go forward with the annexation. So I don't think it was our, I don't think the Multnomah County Board was in the way of this.

Kelley: I was looking for ways to support the opponents on that,  
and I was really confused by the fact that the applicant became also  
an opponent. (tape change

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KELLEY: while it will be difficult with all of the written material that I have researched, not to support, and as I read policy for - and I'm sure you've heard this opinion over and over again, in fact it says, that the County's comprehensive framework planning component community plans in implementing the primary plan for unincorporated areas until and during any jurisdictional transition, so it is pretty clear, but I would also like to suggest that the amendment to the urban planning area agreement may not be sufficient and maybe should be rethought and maybe rewritten, because to me, all it says is that the neighboring jurisdictions all they have is a review process. And policy four still prevails. So then what I think we will have on a continuing basis perhaps is this chicken and egg kind of situation. Who's responsible anyway?

KAFOURY: Well that's why I thought it was important for us to be clear that until there is some legal change of status, that we are responsible.

ANDERSON: How do you interpret this, John? When it says: "Now therefore the parties hereto agree as follows: The City agrees to assume responsibility for meeting the requirements of comprehensive plan periodic review for the urban planning area pursuant to ORS 197. This will include at a minimum, at a minimum that is, the following: the preparation of any required amendments to the

comprehensive plan inventory and implementing ordinances, and the preparation of findings of other supporting material for the periodic review order. When they say at a minimum, does that mean that there are other things the City agrees to assume responsibility for that might include the planning for this area as they already have done?

DU BAY: Yes it could be. The requirements of periodic review very often come down from LCDC. As I read this agreement, the City has the obligation, or has undertaken the duty of going through the periodic review requirements for this area of the county - this area that is within the City of Fairview's urban planning area. And there are certain statutory requirements that they must submit to LCDC, and then LCDC then also has some concerns of their own, which they generally submit to the affected jurisdiction as to what particular concerns of theirs they want addressed. I would presume that this agreement concurs with those other concerns of LCDC to resolve conflicts of various kinds or to bring things current, whatever. But it is only the - as I read this agreement - it's to go through that process - a periodic review process to gather the data and submit it to LCDC, it's not to exercise the operational things - issuance of permits, zoning decisions such as that.

ANDERSON: Okay, these are required amendments rather than

amendments that they would apply were it annexed.

DU BAY: Yeah, those kind of operating - the jurisdictional operations of things can only occur after it is actually within the City. Until it is within the City, this agreement provides that they have some planning work that they must do.

KAFOURY: Are you ready for a motion, Madam Chair?

ANDERSON: I'm afraid so. Uh, it appears - did you have something more to say?

DU BAY: Only that she was in the process now, but there was 45 seconds left of time.

ANDERSON: Oh, will you tell \_\_\_\_\_ 45 seconds? Does the other side have any time?

McGARVIN: 35

DU BAY: No

ANDERSON: 35 seconds?

DU BAY: That is only to respond or rebuttal, or their rebuttal.

ANDERSON: Okay. All right I guess I am ready to entertain a motion.

KAFOURY: Then the motion is to uphold the planning commission's decisions? Is that how we are to phrase it? Review? What's the motion, John - to uphold the decision of the planning commission to...

DU BAY: To affirm....

KAFOURY: Affirm. Pardon. I would move we affirm the decision of the planning commission.

BAUMAN: I'll second that.

ANDERSON: It has been moved and seconded to affirm the position of the Planning Commission on this item.

BAUMAN: Madam Chair, just in case this gets used in any appellate process, in either of these votes today or several months ago, it's not affirming, never having seen the property and whether there should be multi-garden apartments or whether they should be single family, the question is which zoning applies, and I think we are in a position where we are affirming that yes, Multnomah County zoning

does apply here, and that there's been a conflict that was unfortunate was not caught sooner or that this didn't come up through the County system as opposed to the 3 system. I'm a little sad <sup>and</sup> that the annexation didn't occur, and that this could be resolved locally, but that certainly is not our decision. But in the meantime, I think we are bound by our current zoning which says \_\_\_\_\_.

ANDERSON: I have, I guess, one question of staff - why was not Fairview's concern about their agreement with the County addressed in the staff report?

Present: If our position, the staff's position was that for reasons stated I believe in the memo that I believe you received with the excerpt from the urban planning area agreement - the issue of zoning was not an issue in that the County's zoning designation did apply and that issue appeared to have been raised and dealt with in the plan development case itself that came up, and in reviewing the Land Division, I wrote that decision and then found nothing else to add to it and took the zoning as I found it, being MR 4. That's my answer.

ANDERSON: It seems so mechanical. All those in favor of the motion to affirm?

KAFOURY, BAUMAN, ANDERSON: Aye.

ANDERSON: Opposed? So ordered.

KAFOURY: Madam Chair, maybe as liaison or Sharron would be interested in this intervening time, I don't see any reason that we couldn't do some work with the planning staff to try to encourage the cooperation and just as an automatic part of their process, that when something like this comes in at a minimal, notification would be polite.

ANDERSON: I think I'm still a little uneasy.

KELLEY: Delighted.

KAFOURY: Yes.

ANDERSON: Good.

KAFOURY: You - that's what I said - you or Sharron.

DU BAY: One thing we probably should do is schedule this think for when it is coming back before the Board and there is a final order.

There has been some confusion about the mechanics of getting the final order signed, so there will be an order prepared with appropriate findings then it's coming back before the Board.

KAFOURY: Bring it back at the next planning meeting.

DU BAY: It will come up next - two weeks.

McGARVIN: Do you want next Thursday?

ANDERSON: \_\_\_\_\_

DU BAY: \_\_\_\_\_

\_\_\_\_\_ : How long does planning need to prepare that order?

DU BAY: Mr. Prescott?

PRESCOTT: Excuse me, I'm sorry.

\_\_\_\_\_ : How long does planning need to prepare a draft order?

PRESCOTT: I'm not sure that I understand the decision that was presented today. Did or does contain findings and conclusions,

which the Board can adopt or ..., but I'm not sure. I sense that you are asking for additional findings.

KAFOURY: We didn't reference any additional findings, we just affirmed the decision, so I don't know....

PRESCOTT: I would so no other or any other material that would need to be coming from the planning staff unless I'm missing something.

KAFOURY: I don't think so either. I think when we affirm we don't. It's usually when we put additional considerations on it or conditions.

DU BAY: You can, of course, adopt as many findings as you need. But--do you want any additional findings made?

KAFOURY: No, I don't.

ANDERSON: No.

DU BAY: Come back before the Board at the first opportunity then.

KAFOURY: Again, do we come back? I don't think we come back if we affirmed the decision.

DU BAY: Well, there should be an order signed. The decision has to be appealable to move for it to be signed or it should be a signed order.

ANDERSON: Okay. Luba may take care of it for us. Anything further for the good of the order?

Mr. Prescott said the issue of zoning was not an issue in the Urban Planning Area Agreement, that the County's zoning designation did apply. In addition, the issue appeared to have been raised in the Planned Development Case and dealt with. He wrote the decision, and found nothing else to add to it, as the zoning is MR-4.

The motion was considered, and it is unanimously

ORDERED that the Board affirm the Planning Commission's decision in Case LD 4-89.

Commissioner Kafoury requested that staff be encouraged to cooperate with the cities, and the intergovernmental cooperation be part of their process.

Mr. DuBay said the Board should schedule when this matter will be brought back for approval of the final order. Staff discussed the amount of time needed to prepare the final order, and agreed to come back with the final order, to include findings and conclusions, at the first opportunity.



# MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS  
ROOM 605, COUNTY COURTHOUSE  
1021 S.W. FOURTH AVENUE  
PORTLAND, OREGON 97204

GLADYS McCOY •	Chair	• 248-3308
PAULINE ANDERSON •	District 1	• 248-5220
GRETCHEN KAFOURY •	District 2	• 248-5219
RICK BAUMAN •	District 3	• 248-5217
POLLY CASTERLINE •	District 4	• 248-5213
JANE McGARVIN •	Clerk	• 248-3277

## BOARD OF COUNTY COMMISSIONERS

Tuesday, August 15, 1989

9:30 a.m., Room 602

### AGENDA

1989 AUG - 9 AM 11:41  
 BOARD OF COUNTY COMMISSIONERS  
 MULTNOMAH COUNTY  
 OREGON

The following Decisions are reported to the Board for acceptance and implementation by Board Order:

**PR 5-89**      **Approve, subject to conditions,** a Comprehensive Plan amendment for portions of Tax Lots '7', '13' and '34', Section 22, 1S-3E, to grant land use exceptions to Statewide Planning Goals 3 (Agriculture) and 14 (Urbanization) for three road segments proposed outside the Urban Growth Boundary;

**CS 5-89**      **Approve, subject to conditions,** a change in zone designation from EFU to EFU, C-S, community service, for approximately 155 acres to allow its inclusion in a proposed 18-hole public golf course, portions of which would lie within the Gresham City Limits, all for property located at 8005 SE 242nd Avenue (Hogan Road).

Continued

**Public Hearing - On The Record**

**LD 4-89** Review the Decision of the Planning Commission of June 12, 1989, **approving, subject to conditions**, requested two-lot land division, to create lots of 283,270 and 115,500 square feet each, in an MR-4 zoning district, for property located at 20255 NE Halsey Street.

**This Decision has been appealed by an adjacent property owner**

**Scope of Review:**

On The Record

**Oral Argument:**

Each side will have **10 minutes** to present oral argument before the Board.



AUG 17 1989

# 1

# MULTNOMAH COUNTY OREGON

DEPARTMENT OF GENERAL SERVICES  
PURCHASING SECTION  
2505 S.E. 11TH AVENUE  
PORTLAND, OREGON 97202  
(503) 248-5111

GLADYS McCOY  
COUNTY CHAIR

## MEMORANDUM

TO: Jane McGarvin, Clerk of the Board

FROM: Lillie M. Walker, Director, Purchasing Section

DATE: August 9, 1989

RE: FORMAL BIDS AND REQUESTS FOR PROPOSALS SCHEDULED FOR INFORMAL BOARD

1989 AUG - 9 PM 0  
 COUNTY CHAIRMAN  
 COUNTY COMMISSIONERS  
 OREGON

The following Formal Bids and/or Professional Services Request for Proposals (RFPs) are being presented for Commissioners' review, and scheduled for Informal Board Review August 15, 1989.

BID/RFP NO.	TITLE/DESCRIPTION	INITIATING DEPARTMENT
RFP# 9P0495	Title: Study of Minority/Women Business Utilization in Public & Private Contracts Description:	DGS/Purch.  Lillie Walker/ Buyer: Franna Ritz Phone: 5111 Contact: SAME AS ABOVE Phone:
	Title:  Description:	Buyer: Phone: Contact: Phone:
	Title:  Description:	Buyer: Phone: Contact: Phone:

cc: Gladys McCoy, County Chair  
Board of County Commissioners  
Linda Alexander, Director, DGS

Copies of the bids and RFPs are available from the Clerk of the Board.

TO: THE SKANNER

Please run the following Classified Advertisement as indicated below, under your "CALL FOR BID" section

MULTNOMAH COUNTY

Proposals Due: September 12, 1989 at 2:00 P.M.

Proposal No. RFP# 9P0495

Sealed proposals will be received by the Director of Purchasing, 2505 S.E. 11th Ave., Portland, OR 97202 for:

A Study of Minority/Women Business Utilization in Public & Private  
Contracts

Multnomah County reserves the right to reject any or all proposals.

Specifications may be obtained at: Multnomah County Purchasing Section

2505 S.E. 11th Avenue

Portland, OR 97202

(503) 248-5111

Lillie M. Walker, Director  
Purchasing Section

PUBLISH: August 23, 1989

DATE SUBMITTED \_\_\_\_\_

(For Clerk's Use)  
Meeting Date AUG 17 1989  
Agenda No. 12

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: Regular Library Work Session

Informal Only\* Aug/15/89 P.M.  
(Date)

Formal Only \_\_\_\_\_  
(Date)

DEPARTMENT Chair DIVISION \_\_\_\_\_

CONTACT Michael Dolan TELEPHONE X 3308

\*NAME(S) OF PERSON MAKING PRESENTATION TO BOARD \_\_\_\_\_

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Update and discussion:  
Negotiations with Library Association of Portland  
Central Library roof.

(IF ADDITIONAL SPACE IS NEEDED, PLEASE USE REVERSE SIDE)

ACTION REQUESTED:

INFORMATION ONLY  PRELIMINARY APPROVAL  POLICY DIRECTION  APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA 30 minutes

IMPACT:

PERSONNEL  
 FISCAL/BUDGETARY  
 General Fund  
 Other \_\_\_\_\_

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: Madyn McCoy

BUDGET / PERSONNEL \_\_\_\_\_

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) \_\_\_\_\_

OTHER \_\_\_\_\_  
(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back

DEPARTMENT OF GENERAL SERVICES

R-1 Budget Modification DGS #1 - Reclassification of six (6) Property  
Appraiser Supervisors to Program Supervisors in the Assessment &  
Taxation Division with additional funds coming from salary savings

(CONTINUED FROM AUGUST 10 - R-3)

ORDINANCES - DEPARTMENT OF GENERAL SERVICES

R-2 Second Reading - An Ordinance relating to the Car Rental Tax; amending  
MCC 5.40.125 (to clarify exemption for vehicles rented by residents  
living in exemption area)

(FIRST READING AUGUST 10 - R-5)

NOTE: Amended copy of Ordinance to delivered before August 17 meeting

DATE SUBMITTED \_\_\_\_\_

(For Clerk's Use)  
Meeting Date AUG 17 1989  
Agenda No. R-3

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: LIQUOR LICENSE

Informal Only\* \_\_\_\_\_  
(Date)

Formal Only 8-17-89  
(Date)

DEPARTMENT Sheriff's Office DIVISION \_\_\_\_\_

CONTACT Sgt. Ed Hausafus TELEPHONE 255-3600

\*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Bill Vandever

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Application for a PACKAGE STORE (change of ownership) license renewal for the Supermarket Express, 16100 SE Stark; applicants David H and Paula R. Beaty with recommendation for approval.

(IF ADDITIONAL SPACE IS NEEDED, PLEASE USE REVERSE SIDE)

ACTION REQUESTED:

INFORMATION ONLY     PRELIMINARY APPROVAL     POLICY DIRECTION     APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA CONSENT AGENDA

IMPACT:

PERSONNEL

FISCAL/BUDGETARY

General Fund

Other \_\_\_\_\_

1989 AUG - 8 PM 1:22  
CLERK OF COUNTY  
OREGON

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: Robert G. Shipper / wmt

BUDGET / PERSONNEL \_\_\_\_\_

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) \_\_\_\_\_

OTHER \_\_\_\_\_  
(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.



# Multnomah County Sheriff's Office

12240 N.E. GLISAN ST., PORTLAND, OREGON 97230

ROBERT G. SKIPPER  
SHERIFF

(503) 255-3600

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## MEMORANDUM

---

TO: BOARD OF COUNTY COMMISSIONERS

FROM: ROBERT G. SKIPPER  
Sheriff

DATE: August 1, 1989

SUBJECT: LIQUOR LICENSE RENEWAL

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Attached is the Package Store (change of ownership) liquor license renewal for the Supermarket Express, 16100 SE Stark, Portland. The applicant(s) David H. and Paula R. Beaty have no criminal record and I recommend that the application be approved.

EH/slr/21-AINT

Attachment



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

**DECISION**  
**July 19, 1989**

This Decision consists of Conditions, Findings of Fact and Conclusions

**CS 5-89, #630**  
**PR 5-89, #630**

**Community Service Request**  
**Comprehensive Plan Amendment**  
(18-Hole Public Golf Course-Plan Amendment)

Applicant requests change in zone classification from EFU, exclusive farm use district to EFU, C-S, community service for approximately 155 acres for development of most of a proposed 18-hole public golf course (the balance of the proposed golf course - approximately 20 acres - is within the City Limits of Gresham). The golf course is part of a larger project which includes a proposed 160 to 180 lots (approximately) in a single family residential subdivision inside the City Limits of Gresham.

Applicant further requests Comprehensive Plan amendment for Tax Lots '7', '13' and '34' to grant Goal 2 Exception to Statewide Planning Goals 3 (Agriculture) and 14 (Urbanization) for three road segments outside the Urban Growth Boundary (UGB) which will serve proposed urban development inside Gresham. Two of the roads are proposed to connect to SE 242nd Avenue (Hogan Road).

- Location:** 8005 SE 242nd Avenue (Hogan Road)
- Legal:** Tax Lots '7', '13', '14', '34' and '44', Sec. 22, 1S-3E 1987 Assessor's Map
- Site Size:** Approximately 155 Acres
- Property Owner:** Ray, Mary, Tom and June Shiiki, 8005 SE 242nd Avenue, Gresham, 97080  
James Biornstad, Sr., 7519 SE Hogan Road, Gresham, 97080  
Ron Oien, 7945 SE Hogan Road, Gresham, 97080
- Applicant:** Quincorp Investment Group, Inc., 5550 SW Macadam, Suite 220, 97201
- Comprehensive Plan:** Exclusive Farm Use
- Present Zoning:** Exclusive Farm Use District
- Sponsor's Proposal:** EFU, CS, Exclusive Farm Use, Community Service District

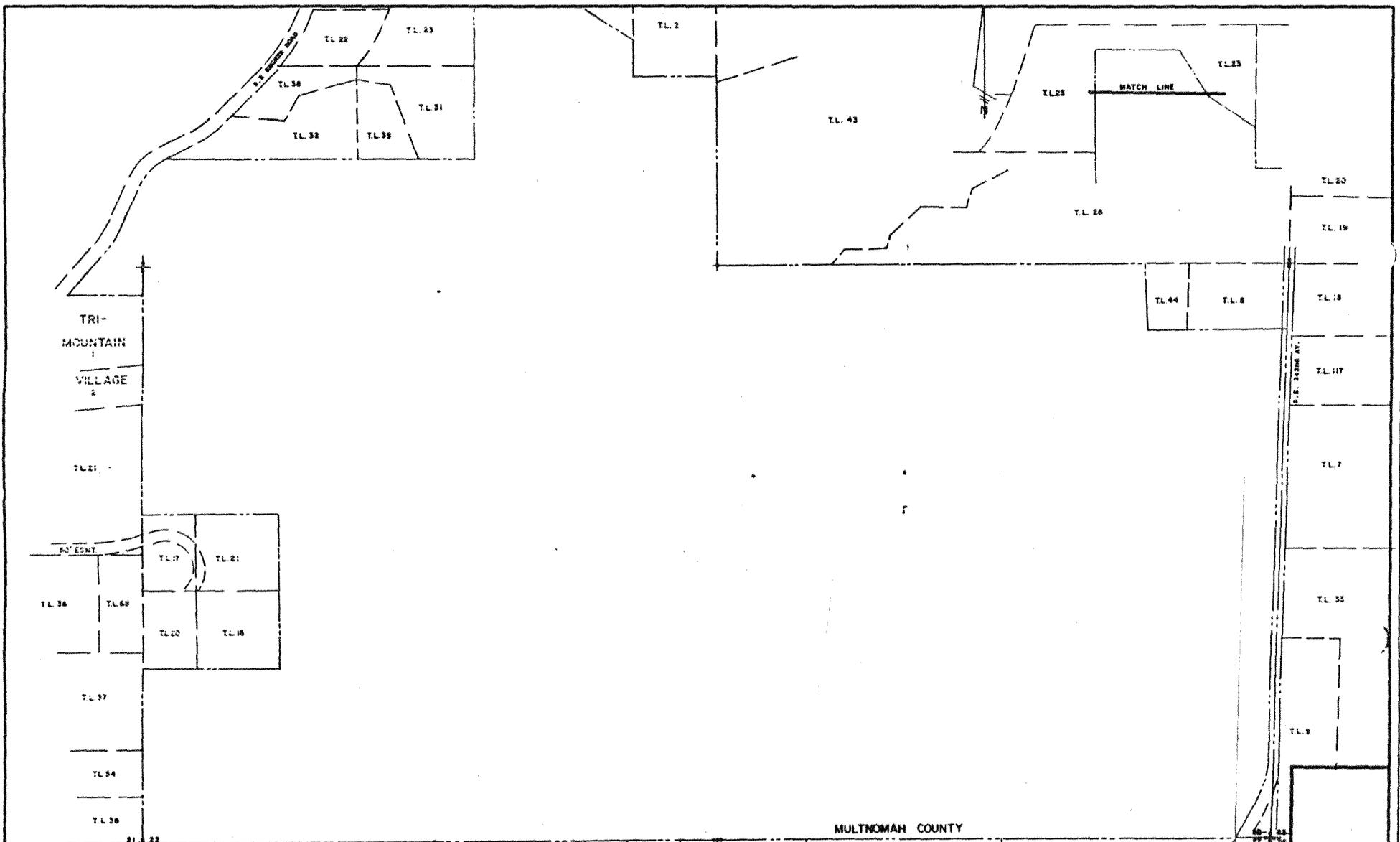
**PLANNING COMMISSION DECISIONS:**

**Approve**, subject to conditions, a change in zone designation from EFU to EFU/CS, Community Service, for approximately 155 acres, described as Tax Lots '7', '13', '14', '34', and '44', Section 22, 1S-3E (1987 Assessor's Map), to allow its inclusion in a proposed 18-hole public golf course, portions of which would lie within the Gresham city limits.

**Approve**, subject to conditions, a Comprehensive Plan amendment for portions of Tax Lots '7', '13', and '34', Section 22, T. 1S, R. 3E, to grant land use exceptions to Statewide Planning Goals 3 (Agriculture) and 14 (Urbanization) for three road segments proposed outside the Urban Growth Boundary.

**CS 5-89/PR 5-89**





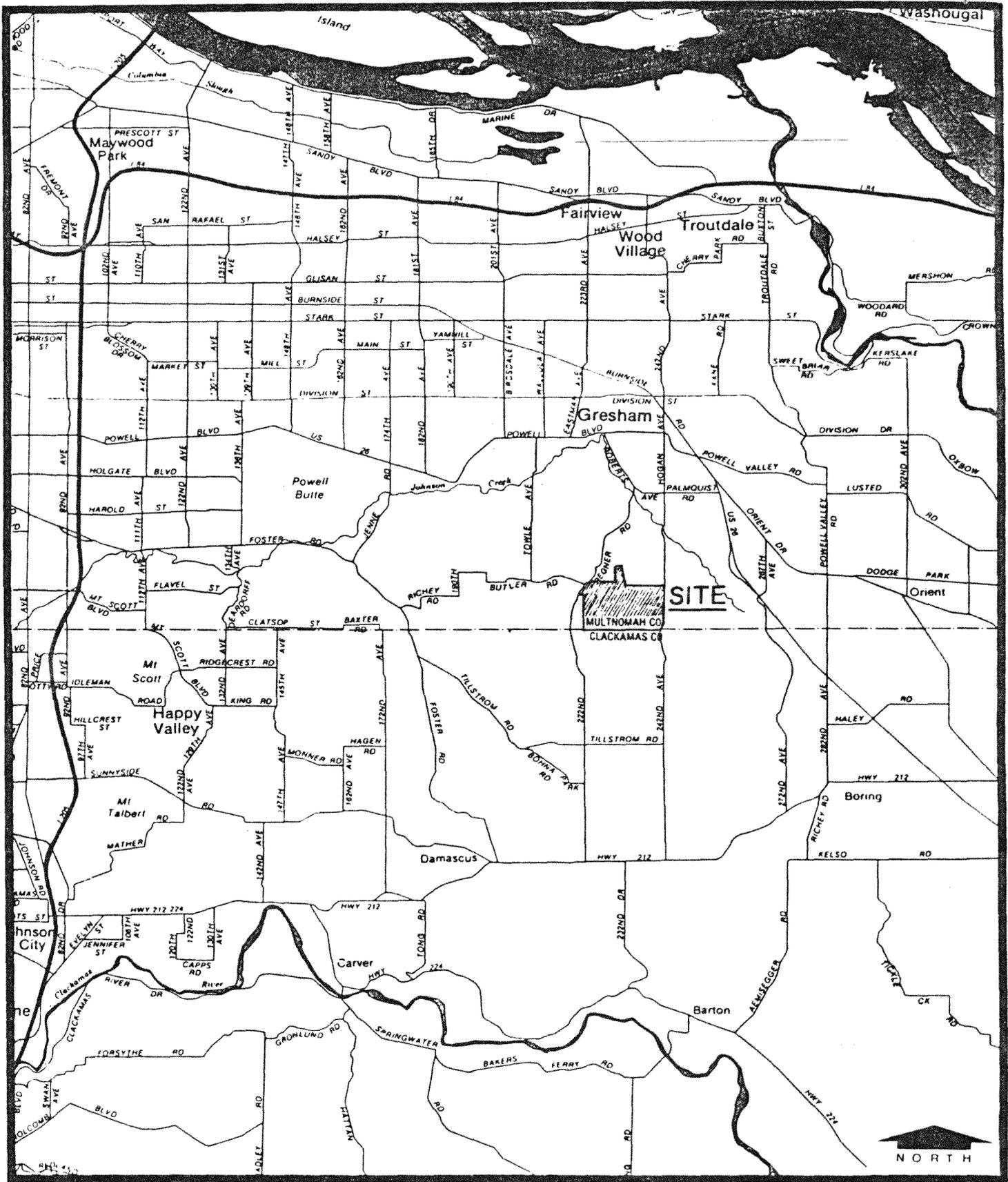
MULTNOMAH COUNTY  
CLACKAMAS COUNTY

CS 5-89/PR 5-89

DATE	NO.	REVISION	BY	CHECKED	DATE

**CRSS**  
CRS SURVINE  
PORTLAND, OREGON

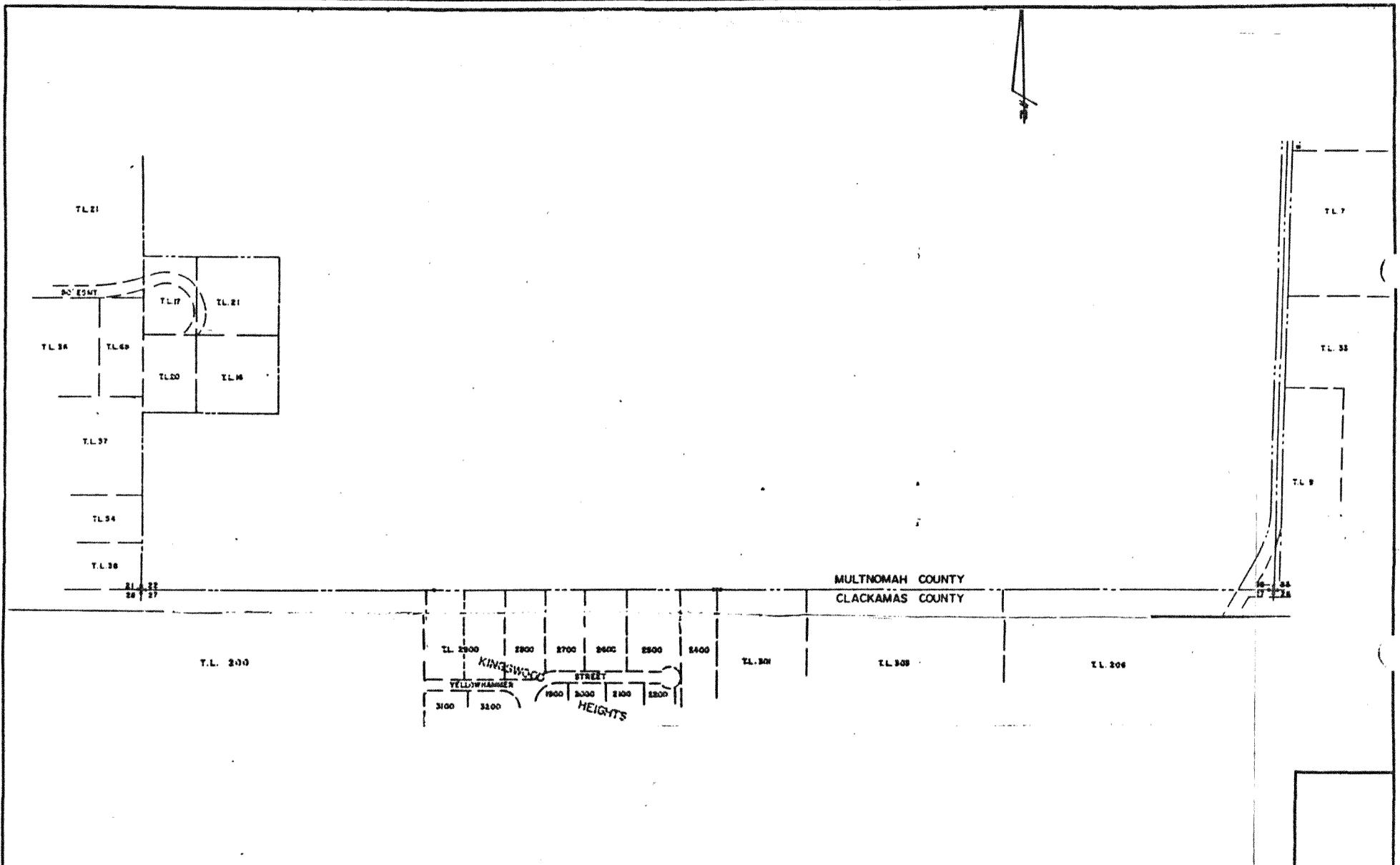
**Lotting Pattern/Surrounding Property**



VICINITY MAP

NTS

CS 5-89/PR 5-89

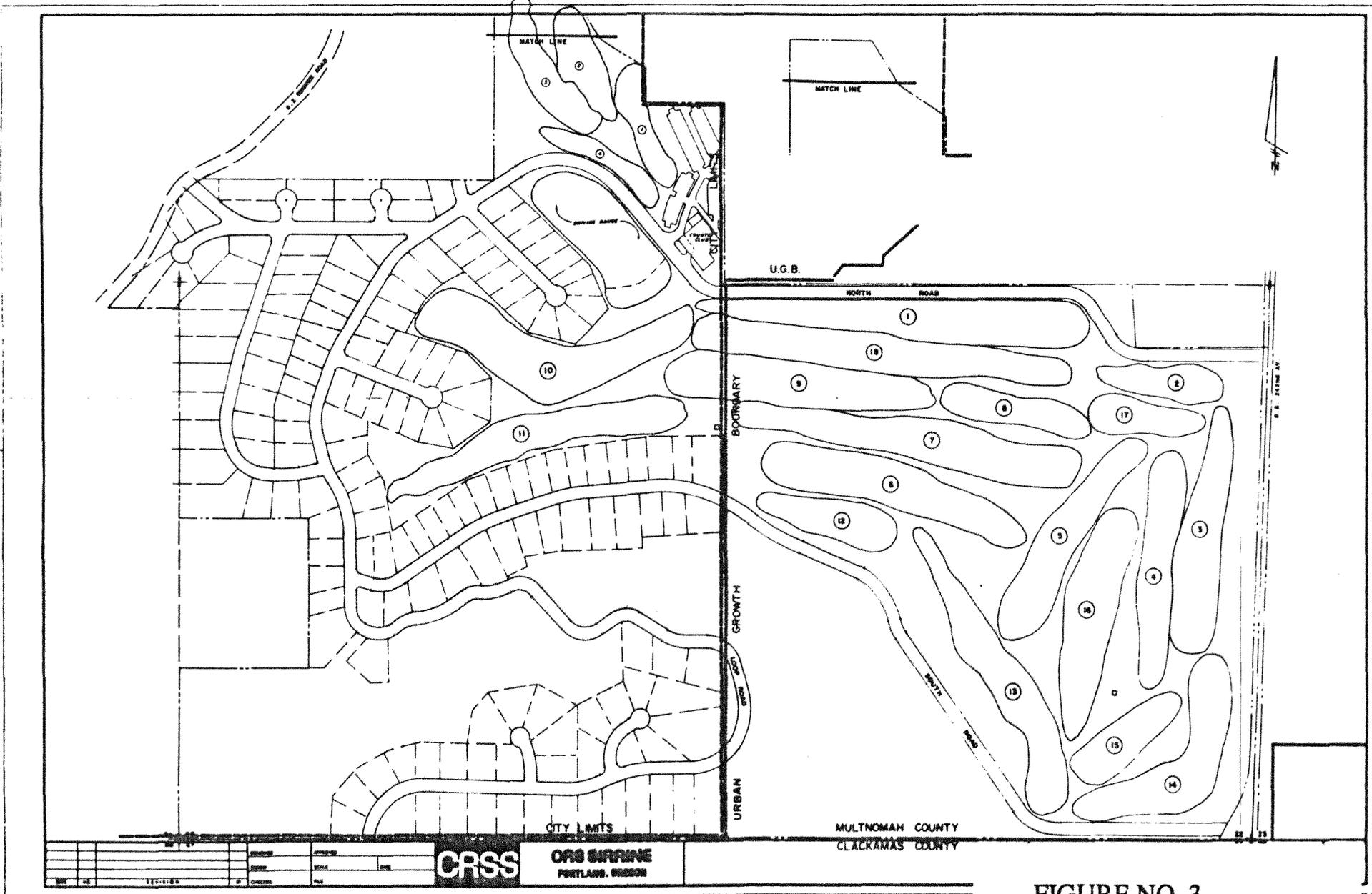


MULTNOMAH COUNTY  
CLACKAMAS COUNTY

DATE	NO.	REVISION	BY	CHECKED	FILE

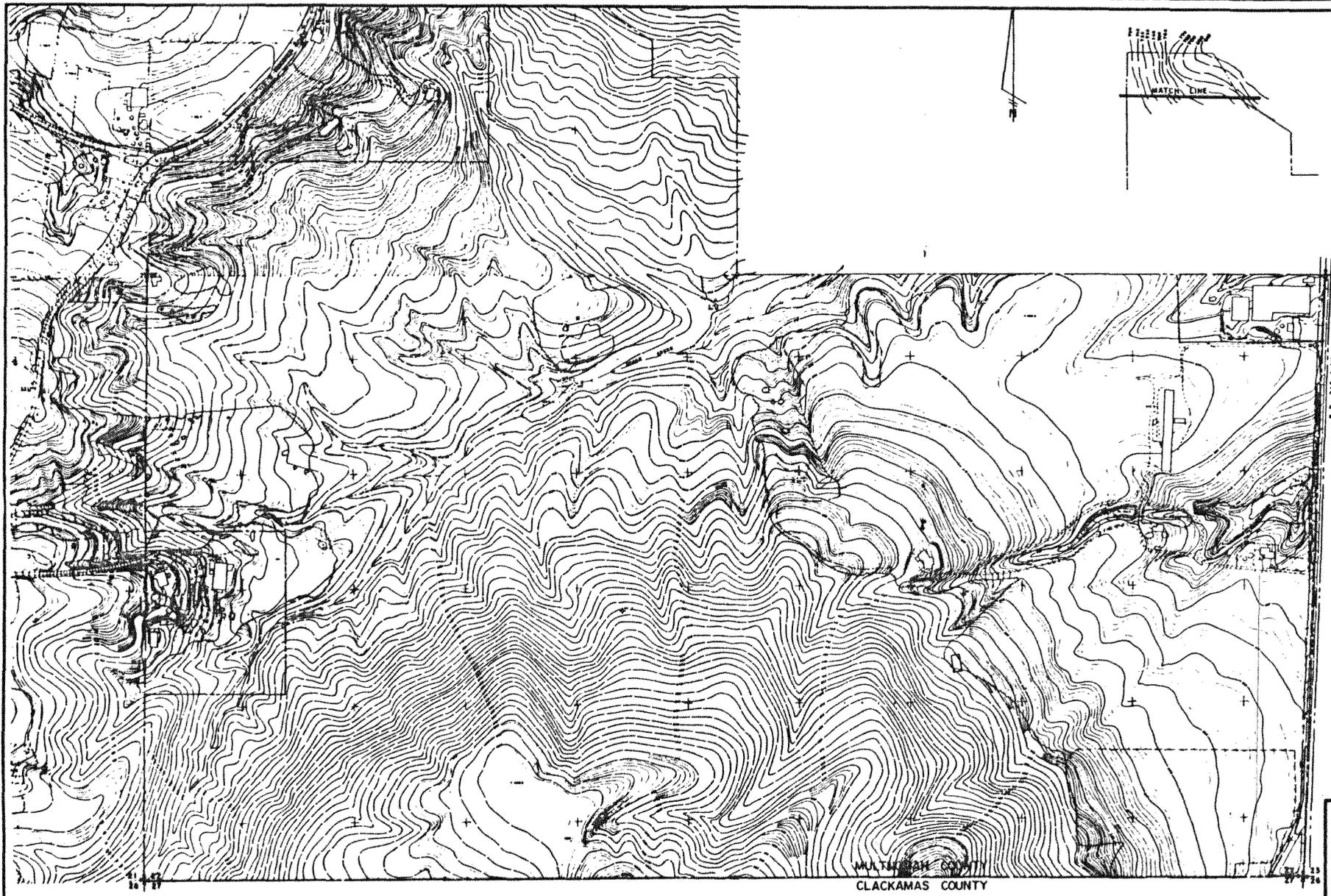
**CRSS**  
**CAS BIRKINE**  
 PORTLAND, OREGON

CS 5-89/PR 5-89



**FIGURE NO. 3**  
 Amended Exception application  
 Crystal Spring Country Club





MULTNOMAH COUNTY  
CLACKAMAS COUNTY

DATE	NO.	REVISION	BY	CHECKED	DATE

**CRSS**  
CRS BIRKBE  
PORTLAND, OREGON

**Existing Topography & Drainage**

### Conditions of Approval:

1. Obtain Design Review approval of all proposed site improvements including, but not limited to, grading, clearing, landscaping, fencing and exterior building designs. Site work shall not proceed until required Design Review approvals are obtained or as determined by the Director. Specific design features represented in the CS application shall be reflected in the plans submitted for Design Review (i.e. fencing, landscaping, setbacks and buffers to minimize off-site effects from the use).
2. Approval of the CS, Community Service use, shall be conditioned upon receipt of a corresponding approval of the proposed golf course (or portions thereof) within the Gresham city limits.
3. Approval of the goal exceptions to permit development of the road segments outside the UGB shall be conditioned upon receipt of corresponding approvals of the streets proposed within Gresham to which the roads will connect. Development of the roads outside the UGB shall not commence until associated approvals from Gresham are obtained.
4. Prior to occupancy or final approval of the golf course improvements, consolidate the subject tax lots into a single parcel pursuant to County land division procedures.
5. This approval applies to that portion of the proposed golf course outside the Gresham city limits, with the specific structures and accessory uses identified in the application. Any future accessory uses not detailed herein shall require Planning Commission approval at a subsequent public hearing.
6. Prior to site development, grading plans shall be reviewed by the U.S. Army Corps of Engineers and the Division of State Lands to determine if site work proposed is subject to their regulatory or permit programs. Required permits from the above agencies shall be obtained or assured prior to development on the site, as determined by the Director.
7. Proposed road improvements (i.e., street widths, grades, intersection modifications, etc.) shall be subject to review and approval by the Engineering Services Division. This condition does not delegate authority to substantially modify the proposed street pattern without Planning Commission approval. Substantive modifications of proposed routes through the site require subsequent review by the Planning Commission.
8. Provide "non-access" reservations along the "north road" to preclude future access to non-urban designated properties north of the site; and along the "loop road" to preclude access to EFU property in the southwest portion of the site. These reservations shall be reviewed and approved by the Engineering Services Division.

9. If archaeological resources are discovered during site development, all work shall cease and the County Planning Division and the State Historic Preservation Office shall be notified. Resumption of work shall be subject to approval of the above cited agencies.
10. As part of Design Review, it should be insured that vegetation and lighting will not adversely effect the greenhouse operations on Tax Lots '44' and '8' adjoining the site.

### Findings of Fact:

#### 1. Background:

Applicant requests approval of a Community Service designation for most of a proposed 18-hole public golf course on a 155-acre site in unincorporated Multnomah County. The request also includes a Comprehensive Plan revision granting exceptions to Statewide Planning Goals 3 (Agriculture) and 14 (Urbanization) for three road segments.

The entire project - called "*Crystal Springs County Club*" - includes a subdivision proposal within the Gresham city limits (approximately 160 to 180 lots) as well as a clubhouse, driving range and parking areas associated with an 18-hole golf course. The project requires approvals from the county for portions of the golf course, its accessory uses and three roads which would extend outside the Gresham city limits. The project requires approvals from Gresham for the proposed subdivision, associated streets, and those portions of the golf course and accessory uses proposed within their city limits. The project, as proposed, also requires approval from the Portland Metropolitan Area Boundary Commission of extraterritorial utility line extensions. This would allow water line extensions to restrooms and water fountains on the golf course and outside the Urban Growth Boundary. And finally, future street plans and site access issues require coordination and agreement between Gresham and Clackamas County; this is due to a proposed street stub within the subdivision which abuts the Clackamas County boundary south of the project (reference Figure 4).

The applicant provides a more detailed "*Summary of applicant's request and related applications*" in an application packet for the Community Service designation. Also, an "*Amended*" packet provides a "*Summary of amendments to the application*" for the proposed exceptions to Statewide Planning Goals. These application packets are attached to this report and incorporated by reference except as modified herein.

On page 2 of the *CS application*, item "D", referring to Gresham's annexation of a

portion of the project area; that annexation was approved by the Portland Metropolitan Area Boundary Commission on June 1, 1989 (Reference Annexation #2616). It extended the Gresham city limits eastward to the Urban Growth Boundary. Therefore, the north-south segment of the UGB which divides the project area into "urban" and "rural" is coterminous with the Gresham city limits as of June 1, 1989.

## 2. Ordinance Considerations

When approving a CS use, the Planning Commission must find the applicant has demonstrated that the proposal meets the following community service use approval criteria:

- A. *Is consistent with the character of the area;*
- B. *Will not adversely affect natural resources;*
- C. *Will not conflict with farm or forest uses in the area;*
- D. *Will not require public services other than those existing or programmed for the area;*
- E. *Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;*
- F. *Will not create hazardous conditions; and*
- G. *Will satisfy the applicable policies of the Comprehensive Plan;*
- H. *Will satisfy such other applicable approval criteria as are stated in this Section." (Reference MCC 11.15.7015).*

Applicable rules and laws regarding exceptions to Statewide Planning Goals are detailed in applicant's "*Amended Application for Exceptions*" on pages 15, 16, 18, and 19. The following summarizes applicable considerations:

- A. County ordinance provisions place the burden of proof on the applicant to persuade that a proposed Comprehensive Plan revision is consistent with and complies with applicable elements of the Comprehensive Plan and is in the public interest.

- B. Oregon Administrative Rules and Oregon Revised Statutes describe "Exceptions" as Comprehensive Plan provisions that exclude specific properties or situations from some or all Statewide Planning Goals. The county must assure that findings of fact and a statement of reasons supported by substantial evidence justify an exception to a statewide goal.

There are two "types" of exceptions processes under OAR and ORS provisions. These are: 1) exceptions for lands that are *physically developed or irrevocably committed*; and 2) exceptions where sufficient *reasons* justify excluding certain lands from application of a goal. This request calls for a "Reasons Exception" since the facilities and uses which the exception would authorize are proposed rather than existing.

### 3. COMMUNITY SERVICE USE APPROVAL CRITERIA

The following section refers to applicant's proposed findings presented on pages 13-19 in the *Community Service application*.

#### A. Consistency With Area Character:

Staff Comments:

The applicant's findings relative to this criteria are incorporated by reference except as supplemented below.

The area east of the proposed golf course is zoned EFU, exclusive farm use. There are farm operations evident on nearby properties, though a number of non-farm residential development is apparent as well, particularly further east along Rugg Road. The EFU zoned area is not extensive. Rather, it is somewhat of an EFU enclave surrounded by *non-resource* lands. The 11" x 17" vicinity map attached (Exhibit 15) indicates zoning for properties in the unincorporated area of Multnomah County near the project site. The MUA, Multiple Use Agricultural lands north and further east of the site are *exception lands* and not subject to Statewide resource protection goals for agricultural and forest lands. The EFU area immediately east of the project site (east of 242nd Avenue) covers approximately 145 acres. Staff concurs that the golf course would provide a suitable transition between the agricultural and rural residential uses generally east and south of the site and the existing and planned urban development generally west and north of the site.

Lands south of the project site lie within Clackamas County and are outside

the Portland Metropolitan Area UGB. Clackamas County Planner, Doug McClain indicates the area south and southeast of the proposed golf course site is largely zoned RR-FF-5 (Rural Residential- Farm/Forest-5-acre minimum lot size) with some isolated parcels zoned "Transitional Timber". The nearest EFU lands within Clackamas County lie approximately one mile south of the County line.

## B. Effect on Natural Resources

### Staff Comments:

Staff concurs with applicant's findings relative to this approval criteria (reference pages 13-14 of the *CS application*) The following observations supplement applicant's findings.

There are several streams on the proposed golf course site. These streams and their associated bank areas contain riparian and wetland environments which represent natural resources on the subject site. Two streams appear on the U.S. Fish and Wildlife Service *National Wetlands Inventory*: Hogan Creek near the northwest corner of the county portion of the site; and a tributary of Johnson Creek, flowing easterly near the center of the site. The inventory identifies both streams as "*Palustrine, forested/broadleafed deciduous, Saturated/semipermanent/ seasonal water regime*".

The proposed grading plan indicates several alterations to streams on the site, including placing several stream segments in culverts and creating several detention ponds within the golf course area. Condition #6. requires review of grading plans by the Corps of Engineers, Division of State Lands and the Environmental Protection Agency to determine what permits may be required for proposed wetland alterations. The applicant indicates a meeting was held on the site with representatives of the State Fish and Wildlife Service and the Corps of Engineers regarding proposed grading plans and steps required to obtain a *National Wetlands Permit* (ref. Exhibit 5). Applicant has retained a wetlands biologist (Martin R. Schott of Beak Consultants Incorporated) to prepare a report detailing existing wetlands on the site. Condition #6. specifies that proposed grading can only proceed if required permits from state and federal agencies responsible for regulating development affecting wetland areas are approved or assured. Additionally, Design Review criteria #4 requires that ... "*The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve their functions.*" The proposed course, given the above noted qualifications, should not adversely effect natural resources on the

site.

If approved, the site would be subject to Design Review provisions of the Zoning Ordinance. These provisions provide a measure of protection for natural areas on the golf course site. For example, the southwest quadrant of the golf course property is a forested hillside. Under the base EFU zoning provisions, the area could be clear cut, dramatically altering the natural resources on the site without any County review. If the requested CS designation is applied, site alterations (including tree clearing) would be subject to County review.

### C. Conflicts with Farm or Forest Uses:

Staff Comments:

Staff concurs with applicant's findings regarding this criteria (reference page 14 of the *CS application*) except as supplemented below.

In finding 3 (b), applicant concludes that traffic can be accommodated on arterial and collector roads in the vicinity (reference page 14; *CS application*). This conclusion is supported by the Traffic Impact Analysis (Exhibit 10). County Engineering Staff have reviewed this analysis and generally concur with its conclusions. Intersection designs (with 242nd), typical road sections and other road design specifications may vary from the recommendations in the traffic analysis (reference Condition #7.).

The proposed golf course adjoins farm uses only along the east and a portion of the north property lines. The farm uses east of the site lie east of 242nd Avenue (Hogan Rd.). The road, by its very presence, provides a degree of separation and transition between the proposed golf course site and farm uses to the east. Design Review will also require screening and buffering of the fairways near the 242nd Avenue frontage. Commercial agricultural greenhouses operate on adjacent parcels near the northeast corner of the site. The proposed course will not conflict with this intense agricultural use since the adjacent greenhouses are separated topographically (i.e. they lie below the golf course property) and, if the course is developed as proposed, the greenhouses would be separated from the golfing activity by the "north road", as well as fencing and landscaping.

### D. Public Services

Staff Comments:

Applicant's findings regarding this criteria are incorporated by reference and supplemented below.

The Traffic Impact Analysis (Exhibit 10.) indicates 242nd Avenue (Hogan Road) can adequately accommodate the anticipated traffic from the development.

About a mile north of the site, 242nd Avenue (within Gresham) takes a somewhat precarious curve west of its otherwise straight north-south alignment - as the road crosses Johnson Creek. County Engineering Staff indicate a realignment and reconstruction of this road section has been authorized by the Board on June 29, 1989. The project is designed to correct an unsafe segment of this north-south *arterial* street. This street will serve as the primary access to the Crystal Springs site from central Gresham.

**E. Big Game Winter Habitat:**

Staff Comments:

Staff concurs; the subject site is not identified as a *big game winter habitat area* by the Oregon Department of Fish and Wildlife.

**F. Hazardous Conditions**

Staff Comments:

Staff concurs with applicant's findings (on page 15 of the *CS application*) regarding this criteria except as supplemented below.

Finding 6(c) concludes that ..."*roads will comply with applicable standards and area roads can accommodate traffic from the proposed use...*". Detailed road designs have not been reviewed by County Engineering Staff, and hence findings supporting this conclusion are not readily apparent. However, condition #7 requires that proposed road designs be reviewed and approved by Engineering Services. In addition, Engineering Staff indicate Clackamas County staff will be included in reviewing designs for a reconfigured Rugg Road/242nd Avenue intersection. These reviews by engineering and transportation experts should ensure necessary safety features are incorporated.

Finding 6(d) concludes that ..."*Fairways are setback a sufficient distance from the edge of the site ... to minimize the chance golf balls will be hit off the*

*Site.*" The setback distance is not specified, therefore the conclusion is unsupported. The fairways proposed near the 242nd Avenue frontage are generally setback 200-feet from the property line (as scaled-out on the proposed grading plan) Condition #1. requires Design Review of the golf course; this review will consider fairway setbacks and landscaping necessary to minimize stray golf balls off-site.

#### **G. Applicable Framework Plan Policies:**

The following Policies of the Comprehensive Framework Plan are identified as applicable to this proposal. Applicant provides findings relative to each identified policy on pages 15-19 of the *CS application*. These findings are incorporated by reference, except as modified and supplemented herein.

##### **Policy #2 - Off-site effects**

###### **Staff Comments:**

Staff concurs that conditions of approval are appropriate to assure the following:

1. That the site is developed and operated as represented, and;
2. That the course design fulfills zoning ordinance criteria (reference conditions of approval), and;
3. That adverse off-site effects are minimized.

Condition #2 also requires a corresponding approval of the golf course from Gresham since portions of the facility are within their city limits.

##### **Policy #9 - Agricultural Land Area**

###### **Staff Comments:**

Applicant's findings on page 16 of the CS application partially demonstrate the proposal's compliance with this policy. Staff offers the following supplemental findings.

Exhibit #7 identifies the site area on a soil survey map of the vicinity. Soil types appearing on the golf course site are listed below:

“7B - Cascade silt loam, 3 to 8 percent slopes”; a soil capability subclass **IIIw**;

“7C - Cascade silt loam, 8 to 15 percent slopes”; a soil capability subclass **IIIe**;

“7D - Cascade silt loam, 15 to 30 percent slopes”; a soil capability subclass **IVe**;

“7E - Cascade silt loam, 30 to 60 percent slopes”; a soil capability subclass **VIe**.

### **Policy #13 - Air and water quality and noise level**

#### **Staff Comments:**

Applicant concludes that ...*“The use will not have a perceptible impact on air quality and will not cause noise perceptible off the Site.”* This conclusion is not directly supported by findings of fact. The traffic analysis (Exhibit 10) indicates “Hogan Road” (242nd Ave.) presently averages approximately 5600 vehicles per day (refer to figure 3 in the analysis); and this volume is projected to increase to 9300 vehicles per day by 1999. Projections in the report indicate that traffic associated with the project site - including the 160 to 180 home-sites and the restaurant/clubhouse proposed within Gresham - will generate approximately 10% of the anticipated 1999 traffic volumes on 242nd Avenue (Hogan Road) north of the site. This suggests that the *total project* development will have some effect on air quality since it will bring additional auto use to the area - albeit negligible. This conclusion assumes that exhaust emissions from automobiles and other vehicles causes adverse air quality effects.

The “non-urban” area of the project (to which this CS request applies) is responsible for only a portion of the increased vehicle use projected. For example, when read together, figures 6 and 7 in the traffic analysis indicate the golf course (including the restaurant/clubhouse within Gresham) will generate 50% of the total traffic attributable to the project along 242nd Avenue north of the site (this road section carries the highest traffic volumes in the vicinity). The 50% figure represents an estimated 445 cars on a road segment with a projected daily volume of 9300 vehicles. Therefore, only 5% of the projected

traffic volumes on 242nd Avenue (north of the site) would be generated by the golf course. The above findings support a conclusion that the requested CS use will not significantly effect air quality.

The golf course, once developed, would be continuously maintained in perennial grass cover, with attendant shrubs and tree plantings (except for occasional soil disturbance to maintain irrigation or other underground utilities proposed on the site). Current and potential farming or forest practices permissible under the base EFU zone typically involve vegetation removal and plowing, annually exposing the soil to the elements. These farm and forest practices can generate increases in suspended particulates locally, particularly when late Spring or early Summer dry periods (i.e when fields are exposed) combine with windy conditions common in the east county area. Development of the site for a golf course will minimize this adverse air quality potential.

The site development may create noise perceptible off the site. Increased traffic volumes detailed above will increase the frequency of noises associated with motorized vehicles passing farms and homes in the area. As noted above, however, the proportion of projected traffic attributable to the golf course component is small. Increases in traffic noise will inevitably occur with or without the golf course if projected traffic volumes prove accurate. Other noise impacts which the course may create include the operation of machinery to maintain and groom the greens and fairways. This equipment noise, however, is similar to tractors and other farm machinery common to and compatible with agricultural and rural residential uses in the area.

#### **Policy #14 - Development Limitations**

##### **Staff Comments:**

Staff concurs with applicant's findings regarding this Plan Policy except as amended below (reference page 17 in the *CS application*).

In finding d(1), the applicant refers to Figure 6. This figure details proposed grading on the site. The plan is a large print, and therefore is not attached as an exhibit to this report.

Finding d(2) states that site grading shall ... "employ good professional practices" ... and that soil will be protected against erosion if not replanted after clearing. These conclusions are not supported by findings of fact. However, the Design Review procedure typically requires County review of grading

plans and landscape materials.

Condition #1. requires Design Review of the proposed site improvements, to include grading plans and erosion control measures on areas of the site with development limitations. The proposed configuration of the fairways (see Figure 4) largely avoids the steeply sloped portions of the site.

#### **Policy #16 - Natural Resources:**

##### **Staff Comments:**

The applicant concludes that ...” *the total effect [on groundwater] should be no more than the existing use of groundwater for agricultural purposes.*” This conclusion is based on use of an existing well in the northeast quadrant of the site for irrigation. Applicant has included a **Water Well Report** as Exhibit 4. It indicates the well produces up to 600 gallons per minute. Applicant indicates historic use of the well for irrigation has been approximately 500-gallons per minute. No new wells are proposed. Staff concurs that the long range availability and use of *domestic water supply watersheds* will not be limited or impaired by the proposed use of an existing well to irrigate the golf course.

#### **Policy #31 - Community Facilities and Uses:**

##### **Staff Comments:**

In finding f(1), applicant concludes the new roads will have adequate site distances and meet County standards. Condition #7 requires Engineering Services review and approval of proposed road and intersection improvements.

#### **Policy #36 - Transportation System Development Requirements**

##### **Staff Comments:**

Engineering Services Staff reviewed the Traffic Impact Analysis and generally concur with its findings and recommendations. Condition #7. requires review and approval of proposed road improvements abutting and within the site. Condition #3. requires corresponding approvals from Gresham for the streets to which the rural road segments will connect.

**Policy #37 - Utilities**

**Staff Comments:**

The subsurface disposal system proposed for the two restrooms would require approval from the County Environmental Soils Specialist rather than from the state DEQ office.

Exhibit 8 - the analysis of drainage impacts on the site - supports the applicant's conclusion that off-site flows will not increase as a result of the development.

**Policy #38 - Facilities:**

**Staff Comments:**

The findings regarding water availability and fire protection services appear conclusory. However, the applicant provides adequate findings on this subject on page 9 and 26 of the *AMENDED Application for Exceptions* (reference finding H(4) and g(1)).

**Policy #39 - Open Space and Recreation Planning**

Staff concurs with applicant's finding for this policy.

**4. Goal Exceptions Request**

Granting the requested exceptions to statewide planning goals will authorize use of resource designated land for roads serving urban development proposed within Gresham. The applicant provides findings regarding legal requirements affecting the requested exception on pages 15-18 and follows with an evaluation of the requested goal exceptions on pages 19-34 of the *AMENDED Application for Exceptions*. The findings and reasons provided are incorporated by reference except as amended and supplemented herein.

**A. Rules for Street Standards:**

Condition #7 requires review and approval of proposed street improvements

by the County Engineering Services Division.

**B. Public Interest Considerations:**

The applicant describes how the requested exceptions serve the public interest on pages 20 and 21 of the *Exceptions Application*. Staff concurs with these findings and conclusions.

**C. Comprehensive Plan Considerations:**

Applicant provides findings regarding applicable plan policies on pages 21-28 of the *Exceptions Application*. The findings are incorporated by reference except as amended below.

**Policy #2 - Off-site effects**

Conditions of approval augment applicant's findings regarding road improvements. Required non-access reservations along the north road and the loop road will prevent use of the proposed roads for access to adjacent rural properties.

**Policy #9 - Agricultural Land Area**

Staff concurs with applicant's findings regarding this policy.

**Policy #13 - Air and Water Quality and Noise Level**

Staff concurs with applicant's findings for this policy. Supplemental findings for this policy are also noted above under the discussion of CS approval criteria.

**Policy #14 - Development Limitations**

Staff requested that alternate routes within the UGB be identified and compared with proposed roads outside the UGB. The applicant should demonstrate that alternate routes are unavailable or unacceptable to adequately justify the exceptions. The two exhibits referred to in finding d(6) on page 25 of the *Exceptions Application* persuade that alternate routes within the UGB would have more deleterious effects on the land, requiring significantly greater cuts

and fills, and greater alterations to water courses. Therefore, the exceptions allow road alignments and designs which more clearly address the County's Development Limitation policies while providing access to uses allowed inside the UGB.

#### **Policy #16 - Natural Resources**

Conditions of approval requiring Design Review and review of proposed grading and stream alterations by other affected agencies will ensure natural resources are protected and negative effects of the road construction are minimized.

#### **Policy #36 - Transportation System Development Requirements**

Applicant's findings regarding this policy are accepted as written. Engineering Services staff concur with the proposed "collector" status for the north road.

#### **Policy #38 - Facilities**

Staff concurs with applicant's findings regarding this policy.

#### **Policy #39 - Open Space and Recreation Planning**

Applicant's findings for this policy are accepted as written.

#### **D. Compliance with Statewide Planning Goal 2, Part II (Exceptions)**

Staff concurs with applicant's findings regarding consistency with Statewide Planning Goal 2. Conditions of approval ensure that the roads outside the UGB do not provide direct access to adjacent rural lands.

#### **Reasons Supporting Exceptions to Goal 3 (Agriculture)**

Staff concurs with the reasons presented in the Exceptions Application (pages 29 and 30) supporting the South Road location. In finding 3(a)(5) on page 30, the Figure referred to is #4.

Staff concurs with the reasons offered in support of the Loop Road location (page 30).

### **Reasons Supporting Exceptions to Goal 14 (Urbanization)**

Staff concurs with the justifications offered in the Exceptions Application.

### **Alternate Routes Analysis**

The development of 160 to 180 home sites within Gresham requires adequate access for traffic circulation and provision of emergency services. Applicant has adequately demonstrated that the subject roads are necessary to serve the adjacent urban use and that alternate routes not requiring exceptions are unavailable or undesirable (reference pages 31 and 32).

### **Long Term Consequences of the Exceptions**

Staff concurs with the reasons offered in support of the **Loop Road**. A condition limiting access to EFU property adjacent to the Loop Road provides further protection from adverse effects.

Staff concurs with reasons offered in support of the **North Road** location. In addition to the proposed fencing and landscaping along the road, a condition requiring a non-access reservation along the north side of this road further limits future conflicts with rural zoned property north of the site.

Staff concurs with reasons provided in support of the **South Road** location. The route is within the golf course property and therefore will not facilitate additional development of adjacent rural properties. And the need for two accesses to 242nd (see Exhibit 9) for emergency service providers supports the proposed exception.

### **Compatibility With Adjacent Uses**

Applicant describes design measures which will assure proposed roads are compatible with adjacent uses. Conditions of approval will ensure that the mitigating measures proposed are incorporated into the site design.

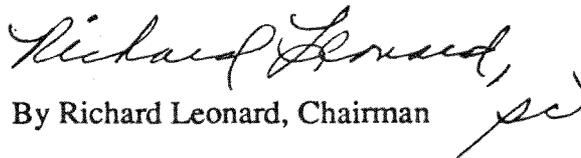
## CONCLUSIONS

The application, as conditioned and supplemented herein, complies with approval criteria for a Community Service designation.

The applicant has provided sufficient reasons to justify the requested Comprehensive Plan revision to allow Exceptions to Statewide Planning Goals for three roads on the site.

Conditions of approval are necessary to assure proposed development complies with applicable criteria, Comprehensive Plan policies, and State administrative rules, statutes and land use goals.

Signed July 19, 1989

  
By Richard Leonard, Chairman

Filed With the Clerk of the Board on July 31, 1989

### Appeal to the Board of County Commissioners

Any person who appears and testifies at the Planning Commission hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or before 4:30 PM. on Monday, August 14, 1989 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

*The Decision on this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, August 15, 1989 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development Division at 248-3043.*

# 3734  
# 3785



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

### NOTICE OF REVIEW

- 1. Name: Eddy , Keith , R.
- 2. Address: 20222 N.E. Broadway Ct. , Troutdale , OR 97060
- 3. Telephone: ( 503 ) 667 - 3313

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


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- 5. What is the decision you wish reviewed (e.g., denial of a zone change, approval of a subdivision, etc.)?  
LD -4-89 Commission approval of the Tentative Plan for the  
Type III Land Division at 20255 N.E. Halsey Street, Tax Lot 89,  
Section 28, T.In., R. 3E (Map #2851)

- 6. The decision was announced by the Planning Commission on June 12 19 89

- 7. On what grounds do you claim status as a party pursuant to MCC 11.15.8225?  
Party status is based upon MCC 11.15.8225(A)(1) because  
petitioner was entitled to notice under MCC 11.15.8820(c)(2)  


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

Please see attached listing.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. Scope of Review (Check One):

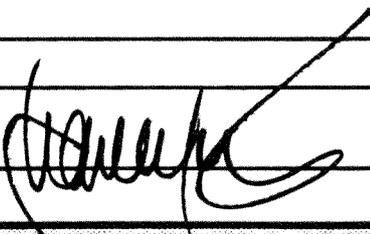
(a)  On the Record

(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*.

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Signed:  Date: July 3, 1989

For Staff Use Only		
Fee:		
Notice of Review =	\$150.00	
Transcription Fee:		
Length of Hearing	_____ x \$1.75/minute =	\$ _____
Total Fee =	\$ _____	
Received by: _____	Date: _____	Case No. _____

8. Grounds for Reversal of Decision

1. The proposal violates the City of Fairview's Comprehensive Plan designation for this area of Low-density Residential.
2. A decision by the Multnomah County Planning Commission to approve the tentative plan for the Type III Land Division will violate the Urban Planning Agreement reached between the City of Fairview and Multnomah County which delegates to Fairview the lead role in the long range planning for the area.
3. The Proposal fails to comply with the Intent of the Land Division Ordinance in the following ways:

- a) Facilitate adequate provisions for water supply, sewage disposal, drainage and other public services.

The City of Fairview's long range capital planning for this area has been based on single-family residential zoning, not multi-family. This development would have a significant impact on the city's water and sewer flow projections and its need for capital financing. The findings merely note that water and sewer lines are available. No finding sets forth the adverse impacts on those systems which will result from the proposal.

- b) Minimize Street Congestion.

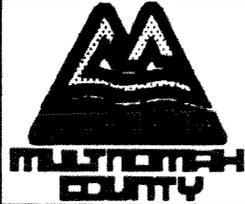
There is an estimated 158 additional vehicles that will use Halsey as a result of the first phase of the proposed development. The second phase will likely result in another 60 to 70 vehicles. Therefore, traffic generated from this proposed development will have a serious impact on both Halsey Avenue and 201st Street, both of which are two-lane thoroughfares. Multnomah County Transportation Department indicates no improvements are planned for either of these streets in the near future. The impact of some 220 vehicles onto Halsey is further complicated by the planned 207th interchange on Interstate 84 which will funnel traffic directly into this thoroughfare, within the next two years.

4. The Proposed Land Division fails to meet the following Ordinance purposes:

- a) Protecting property values. The proposed land division exploits adjacent, high-quality, single-family residential neighborhoods, thereby enabling the new development to charge higher rents. At the same time, however, property values in those neighborhoods will

suffer due to the diminishing attractiveness of the area as a single-family residential neighborhood.

- b) Furthering the General Welfare of the people of Multnomah County. There is no demonstrated need for housing of the nature intended in this proposal. In fact, the proposal ignores the wishes of nearby residents and the City of Fairview. Additionally, the proposal violates the intent and spirit of the Urban Planning Area Agreement with the City of Fairview, an agreement reached, in part, for the very purpose of increasing the General Welfare of the people.



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

## Decision

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

June 12, 1989

### LD 4-89, #483      Two-Lot Land Division

Applicant has appealed a Planning Director Decision, approving a two-lot land division to create lots of 283,270 and 115,500 square feet in the MR-4, medium density residential zoning district

**Location:** 20255 NE Halsey Street

**Legal:** Tax Lot '89', Section 28, IN-3E, 1989 Assessor's Map

**Site Size:** 9.15 Acres

**Size Requested:** Same

**Property Owner:** Frank Windust, Jr., Et Al  
36039 East Crown Point Highway, Corbett, 97019

**Applicant:** Keith Eddy  
20222 NE Broadway Court, Troutdale, 97060

**Comprehensive Plan** Medium Density Residential

**Zoning:** MR-4, Medium Density Residential (Parcel 2)  
MR-4, Medium Density Residential,  
Planned-Development (Parcel 1)

by _____	mailed on _____	71	Notices
	6-22-89	Decision Notices	

### PLANNING COMMISSION

**DECISION:** Approve, subject to conditions, requested two-lot land division to create lots of 283,270 and 115,500 square feet in an MR-4 zoning district, based on the following Findings and Conclusions.

LD 4-89

94-79/PLC 23-04 LR-10

LR-7

N  
↑  
Case #: LD 4-89  
Location: 20255 N.E. Halsey St.  
Scale: 1 inch to 200 feet  
Shading indicates subject property

CITY OF GRESHAM

LR-10

LR-10

LR-10

N E 201st AVENUE

DONEGAL ESTATE  
NE BROADWAY

MR-4

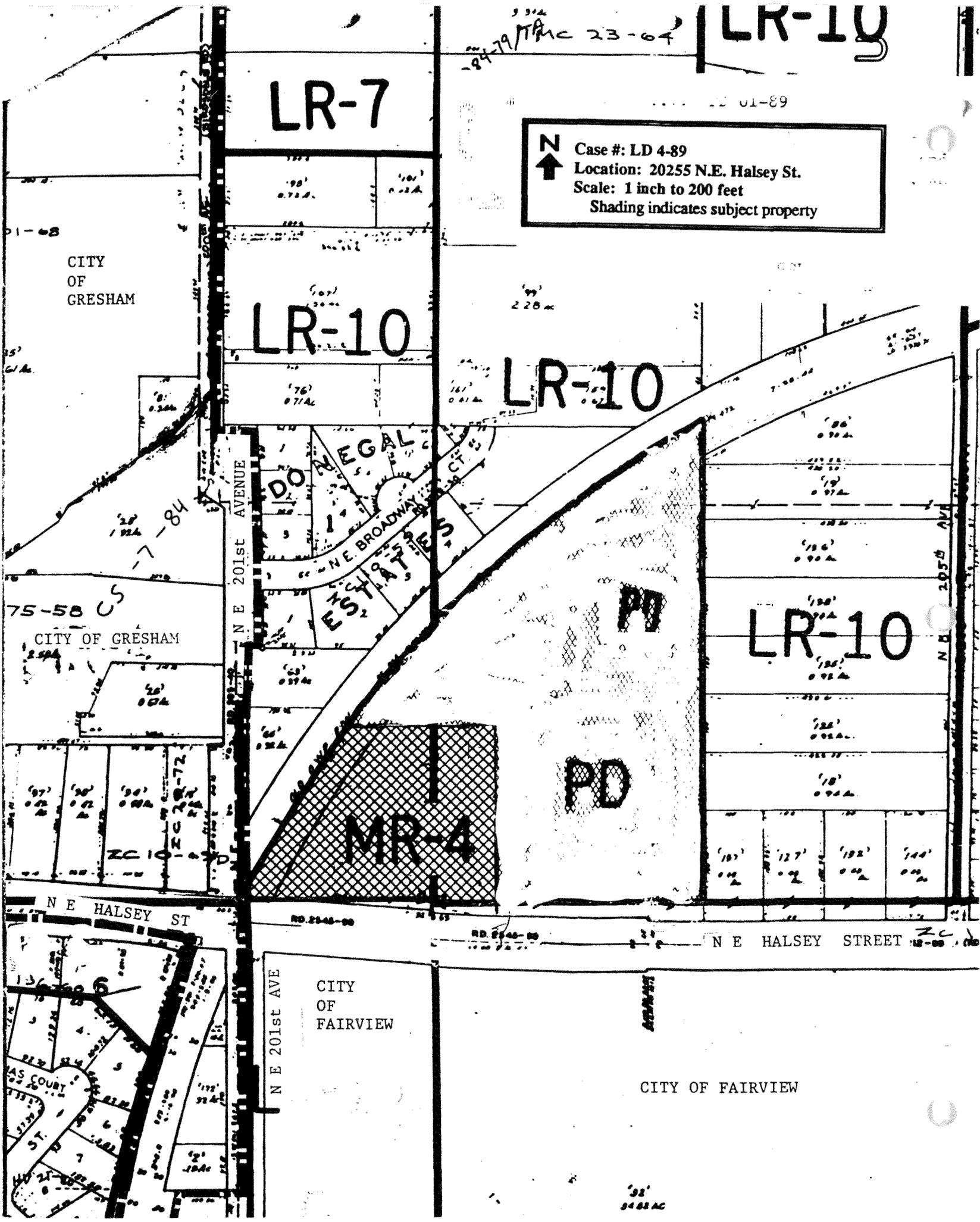
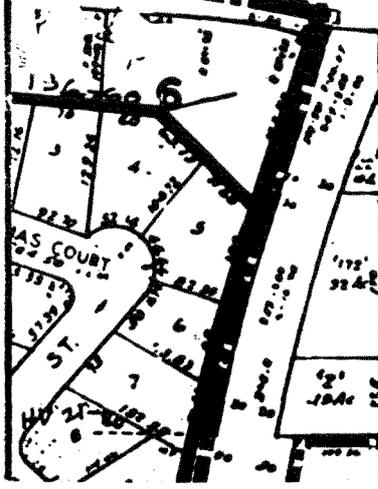
PD

CITY OF GRESHAM

N E HALSEY STREET

CITY OF FAIRVIEW

CITY OF FAIRVIEW



# TENTATIVE MAP PLAN

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Allen & Lutzhold*  
DIVISION  
OF LAND  
AND A. LUTZHOLD  
1989

**CERTIFICATE OF SURVEY**  
IN SECTIONS 28 & 29 T.1N., R.3E  
Multnomah County, Oregon  
Scale: 1" = 50' Feb. 1989  
**Reduced**

**LEGEND**

- DENOTES: Set 5/8" x 30" iron rod
- DENOTES: Found iron rod indicated

**REFERENCE SURVEYS**  
10514 34730 Plat  
DONGAL ESTATES  
C.C. No. 14057-11/13

ALLAN & LUTZHOLD, INC.  
SURVEYORS  
4827 N. E. 109th AVENUE  
PORTLAND, OREGON 97230  
503 - 284-0734

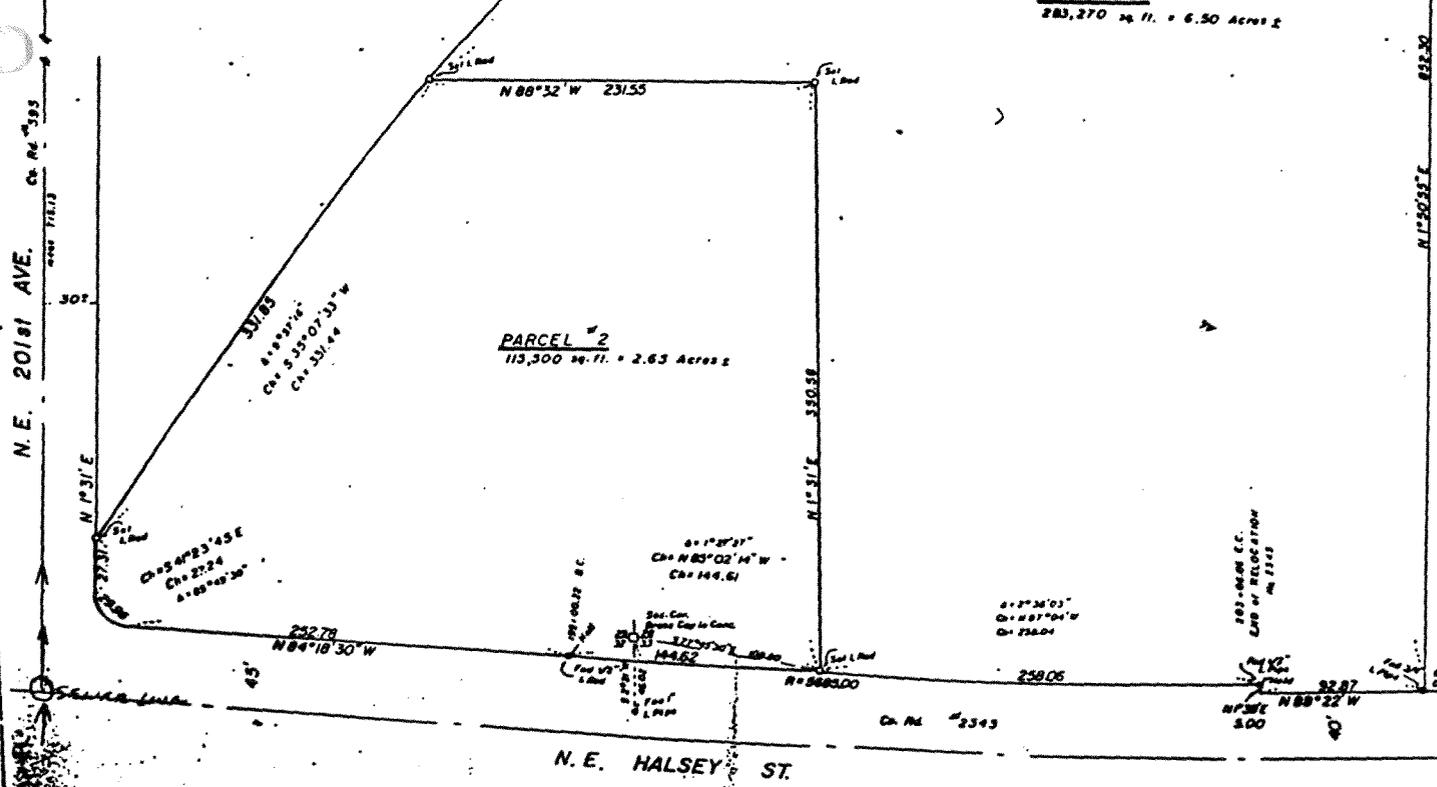
WISTFUL VISTA  
Right-of-Way  
770.31  
C&M 51° 30' 29" E  
C&M 765.06

**NARRATIVE:** Purpose of survey to divide a tract into two parcels.  
Began survey along the north line of A.V. Halsey St. using found right-of-way from end the section corner for control. Measured between iron to verify their location and ran random thru property to set corners and tie the monument at the angle in the Co. Taylor D.L.C.  
Basis of bearings found right of way from along the north line of A.V. Halsey street.  
Bearings from County Road No. 2545  
Set 5/8" x 30" iron rods with plastic cap marked L.S. 675.

**PARCEL 1**  
283,270 sq. ft. = 6.50 Acres ±

**PARCEL 2**  
113,300 sq. ft. = 2.63 Acres ±

Angle in  
Wm. Taylor D.L.C.  
Bress Cap Mon.



**Conditions of Approval:**

1. Within one year of the date of this decision, deliver the final partition map and other required attachments to the Planning and Development Division of the Department of Environmental Services in accordance with MCC 11.145.710. **The enclosed Summary Instruction Sheet contains detailed information regarding the final partition map and the remaining steps for completing the land division.**
2. Prior to recording the final partition map, complete a Statement of Water Rights in accordance with the provisions of Senate Bill 142 as adopted by the 1987 Oregon Legislature (instructions enclosed). Please contact the State Water Resources Department at 378-3066 for additional information.
3. Prior to recording the final partition map, comply with the following Engineering Services Division requirements:
  - A. Dedicate 5-feet of additional right-of-way along N.E. Halsey Street to provide a total of 45 feet from centerline where the subject property abuts said N.E. Halsey Street.
  - B. Dedicate additional right-of-way for a 25-foot radius at the intersection of N.E. 201st Avenue and Halsey street abutting the site.
  - C. Make the following improvements within the public right-of-way of N.E. Halsey Street:
    - (1) Construct a concrete curb 38 feet from centerline along the entire frontage of the subject property.
    - (2) Construct a concrete sidewalk 6 feet wide between the curb and the front property line of the subject property.
    - (3) Grade, rock and pave from the new curb to match the existing paving in N.E. Halsey Street.
    - (4) Construct storm drainage facilities as required.
  - D. Make the following improvements within the public right-of-way of NE 201st Avenue:
    - (1). Construct a concrete curb 22 feet from centerline along the entire frontage of the subejct property.
    - (2). Construct a concrete sidewalk six feet wide between the curb and the front property line of the subject property.
    - (3). Grade, rock and pave ;from the new curb to match the existing pavement in NE 201st Avenue.
    - (4). Construct storm drainage facilities as required.

- E. Contact Dick Howard at 248-3599 for design specifications and information regarding the surety bond to cover the improvements.
- F. Connect each parcel to the public sewer line located at the intersection of NE 201st Avenue and NE Halsey Street adjacent to the subject property in conjunction with issuance of building permits for each parcel.

**Findings of Fact:**

- 1. **Applicant's Proposal:** The applicant proposes to divide a vacant parcel containing 398,770 square feet into two smaller parcels. Parcel I would contain 283,270 square feet. Parcel 2 would contain about 115,500 square feet. A proposed 70-unit garden apartment complex on Parcel I received Planning Commission approval on March 13, 1989 (PD 1-89). As a condition of approval for the Planned-Development, the applicant was required to obtain approval of the subject land division.
- 2. **Site Conditions:** Site conditions as shown on the Tentative Plan Map are as follows:
  - A. **Slope:** The site is relatively flat and contains no slopes exceeding two percent.
  - B. **Street Dedication: (NE Halsey Street):** Parcel I abuts NE Halsey Street. The County Engineer has determined that in order to comply with the provisions of MCC 11.60 (the Street Standards Ordinance), it will be necessary for the owner to dedicate five feet of additional right-of-way in NE Halsey Street abutting the site pursuant to Condition 3.A.
  - C. **Street Dedication (NE 201st Avenue/Halsey Street Intersection):** Parcel 2 abuts the intersection of NE 201st Avenue and Halsey Street at its southwesterly corner. The County Engineer has determined that in order to comply with the provisions of MCC 11.60 (the Street Standards Ordinance), it will be necessary for the owner to dedicate additional right-of-way in NE 201st Avenue and Halsey Street to provide a 25-foot radius abutting Parcel 2 pursuant to Condition 3.B.
  - D. **Street Improvements (NE Halsey Street):** NE Halsey Street is not fully improved to County standards abutting Parcel 2. The County Engineer has determined that in order to comply with the provision of MCC 11.60 (the Street Standards Ordinance), it will be necessary for the owner to construct curbs and sidewalks and provide additional paving in NE Halsey Street abutting the subject property pursuant to Condition 3.B.
  - E. **Future Street Improvement (NE 201st Avenue):** NE 201st Avenue is not fully improved to County standards at this time. The County Engineer has determined in order to comply with the provisions of MCC 11.60 (the Street Standards Ordinance), it will be necessary for the owner to construct curbs and sidewalks and provide additional paving in NE 201st Avenue abutting the subject property pursuant to condition 3.D.
- 3. **Ordinance Considerations:** The applicable Zoning Ordinance criteria (MCC 11.15) are as follows:
  - A. The site is zoned MR-4, urban medium density residential district.

B. The following minimum area and dimensional standards apply per MCC 11.15.2753(G) and (H):

(1) The minimum front lot line length shall be 20 feet. Both parcels exceed this requirement since Parcel 1 has a front lot line length of approximately 350 feet, and Parcel 2 has a front lot line length of over 27 feet.

(2) The minimum lot width at the building line shall be 45 feet for an interior lot and 50 feet for a corner lot. Parcel 1 is an interior lot and exceeds the requirement because it has a width of over 350 feet at the street. Parcel 2 exceeds the requirement for a corner lot because it has a width of approximately 90 feet when measured at a distance 20 feet from the front property line abutting NE 201st Avenue.

(3) The minimum yard setbacks shall be 20 feet front, five feet side and 15 feet rear. The garden apartment complex approved under PD 1-89 exceeds these requirements. Any future proposed development for Parcel 2 will be required to meet these yard setback requirements.

4. Water Supply: The Rockwood Water District has verified that public water service is available to the site from an eight-inch line in NE 201st Avenue.

5. Sanitation: The County Sanitarian has verified that the site can be served by a sanitary sewer located in the intersection of NE 201st Avenue and Halsey Street. Condition 3.F requires both parcels to connect to the sewer at the time of building permit issuance.

6. The proposed land division is classified as a Type III because it is a minor partition abutting a street which has a centerline to property line width less than one-half width specified for that functional street classification according to the Multnomah County Street Standards Ordinance (MC 11.60). Northeast Halsey Street is classified under the Street Standards Ordinance as an arterial with a total right-of-way of 90 feet. The existing right-of-way width for NE Halsey Street is 85 feet along the easterly 92.87 feet of the subject property

7. Land Division Ordinance Considerations (MCC 11.45):

A. The proposed land division is classified as a Type III for the reasons stated in Finding 6.

B. MCC 11.45.390 lists the approval criteria for a Type III Land Division. The approval authority must find that:

(1) *The Tentative Plan is in accordance with:*

a) *the applicable elements of the Comprehensive Plan;*

b) *the applicable Statewide Planning Goals adopted by the Land Conservation and Development commission, until the Comprehensive Plan is acknowledged to be in compliance with said Goals under ORS Chapter 197; and*

c) *the applicable elements of the Regional Plan adopted under ORS Chapter 197.[MCC*

11.45.230(A)].

(2) *Approval will permit development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances.* [MCC 11.45.230(B)].

(3) *The tentative plan complies with the applicable provisions, including the purposes and intent of [the Land Division] chapter.*[MCC 11.45.230(C)].

(4) . . . *and that the tentative plan complies with the Zoning Ordinance.* (MCC 11.45.390).

C. In response to the above approval criteria for a Type II Land Division, the following findings are given:

(1) **Comprehensive Plan:** Finding 8 indicates that the proposal is in accord with the applicable policies of the Comprehensive Plan. The Multnomah County Comprehensive Plan has been found to be in compliance with Statewide Goals and the Regional Plan by the State Land Conservation and Development Commission.

(2) **Development of Property:** Approval of the land division will create Parcel 1 to accommodate the garden apartment development project previously approved by the Planning Commission and upheld by the Board of County Commissioners on appeal. The right-of-way dedications and street improvements required under Condition 3 will increase the opportunity for Parcels 1 and 2 to be developed in accordance with the Comprehensive Plan, development ordinances, and the approval granted by the Planning Commission and upheld by the Board of County Commissioners on appeal under PD 1-89. Land to the north and east of the site is zoned LR-10, Urban Low Density Residential District. There is no information to indicate that approval of the requested land division will affect the ability to develop that land in accordance with the LR-10 zoning..

(3) **Purposes and Intent of Land Division Ordinance:** Finding 9 indicates that the land division complies with the purposes and intent of the Land Division Ordinance.

(4) **Zoning Ordinance:** Finding 3 indicates that the tentative plan complies with the Zoning Ordinance.

8. **Applicable Comprehensive Plan Policies:** The following Comprehensive Plan Policies are applicable to the proposed land division. The proposal satisfies those policies for the following reasons:

A. As found by the Planning Commission and upheld by the Board of County Commissioners on appeal in the decision approving PD 1-89, the subject property is designated Medium Density Residential by the County's Comprehensive Plan. The approval will allow development of the site with garden apartments consistent with the Medium Density Residential designation.

B. **Policy No. 13, Air, Water, and Noise Quality:** The proposed use for Parcel 1 is a 70-unit garden apartment complex. There will be no more noise generated at the site than would be generated if the apartment complex were built without dividing the property. Public water is

available to the site from the Rockwood Water District. As stated in Finding 5, public sewer is available to the site, and both parcels will be required to connect to the sewer in conjunction with building permits pursuant to Condition 3.F.

- C. **Policy No. 14, Development Limitations:** As stated in Finding 2-A, the site is relatively flat and contains no slopes exceeding 2 percent. The site is not in the 100-year flood plain. As found by the Planning Commission and upheld by the Board of County Commissioners on appeal in the decision approving PD 1-89, no hazards have been identified which would be attributed to the development of the subject property.
- D. **Policy No. 15, Significant Environmental Concerns:** The subject property is not located in the Significant Environmental Concern zone.
- E. **Policy No. 16, Natural Resources:** No significant natural resources have been identified on the subject property, except for some evergreen trees along the property line that are proposed to be saved and incorporated with the site design.
- F. **Policy No. 19 Community Design:** As required by the Planning Commission and upheld by the Board of County Commissioners on appeal in the approval of PD 1-69, development on Parcel 1 will be subject to the County's Design Review process to assure compliance with this policy.
- G. **Policy No. 22, Energy Conservation:** The development of this property with attached housing will help reduce urban sprawl which is costly in energy use.
- H. **Policy No. 35, Public Transportation:** The nearest Tri-Met service in the area is by line No. 24, Halsey, with the nearest stop located at N.E. 201st Avenue and Halsey Street. Week-day service is at 15-minute intervals during peak hours and at 30-minute intervals during midday hours.
- I. **Policy No. 36, Transportation System Development Requirements:** As stated in Findings 2.B through 2.D, the County Engineer has determined that certain right-of-way dedications and improvements will be required in order for the proposed land division to comply with the provisions of MCC 11.60 (the Street Standards Ordinance). Those dedications and improvements are detailed in Condition 3.A through 3.D.
- J. **Policy No. 37, Utilities:** As stated in Finding 4, water service is available to the property. As stated in Finding 6, sanitary sewer is available to the property and connection to the sewer is a condition of approval.
- K. **Policy No. 38, Facilities:** The property is located in the Reynolds School District. Based on discussions with the Superintendent's office on May 25, 1989 the district anticipates that its facilities will be able to accommodate student enrollment from the proposed development. The district bases its position on the fact that the proposed units are not expected to house large number of school-age children, considering the projected rent level (\$585-600 per month) and the size and type of proposed units (1,000 square feet with 2 bedrooms). Fire protection is provided by Multnomah County Fire District No. 10, and police protection is provided by the Multnomah County Sheriff's Office.

**9. Purpose and Intent of Land Division Ordinance.**

- A. MCC 11.45.015 states that the Land Division Ordinance...*"is adopted for the purposes of protecting property values, furthering the health, safety and general welfare of the people of Multnomah County, implementing the Statewide Planning Goals and the Comprehensive Plan adopted under Oregon Revised Statutes, Chapters 197 and 215, and providing classifications and uniform standards for the division of land and the installation of related improvements in the unincorporated area of Multnomah County."* The proposed land division satisfies the purpose of the Land Division Ordinance for the following reasons:
- (1) The size and shape of the proposed lots accommodate proposed residential development in accordance with the present zoning and as approved by the Planning Commission and upheld by the Board of County Commissioners on appeal in the approval of PD 1-69, thereby protecting property values.
  - (2) Finding 4.J. indicates that adequate public water supply is available for the proposed land division. Finding 5 indicates that public sewer is available to the property, and connection to the sewer will be required in conjunction with development pursuant to Condition 3.F. Finding 8.K. indicates that fire and police protection are available to the subject property. For these reasons, the proposal furthers the health, safety, and general welfare of the people of Multnomah County.
  - (3) Finding 8 indicates that the proposed land division complies with the applicable elements of the Comprehensive Plan. Since the Comprehensive Plan has been found to be in compliance with Statewide Planning Goals by the State Land Conservation and Development Commission as stated in finding 7.C.(1), the proposed land division complies with the Statewide Planning Goals and the Regional Plan.
  - (4) The proposal meets the purpose of *"providing classifications and uniform standards for the division of land and the installation of related improvements"* because the proposal is classified as a Type III Land Division and meets the approval criteria for Type III Land Divisions as stated in findings 3 through 9. Condition 3 assures the installation of appropriate improvements in conjunction with the proposed land division.
- B. MCC 11.45.020 states that the intent of the Land Decision Ordinance is to...*"minimize street congestion, secure safety from fire, flood, geologic hazards, pollution and other dangers, provide for adequate light and air, prevent the overcrowding of land and facilitate adequate provisions for transportation, water supply, sewage disposal, drainage, education, recreation and other public services and facilities."* The proposal complies with the intent of the Land Division Ordinance for the following reasons:
- (1) Street congestion is minimized through dedications and improvements required by Condition 3.
  - (2) As stated in finding 8.K., public fire protection is available to the property. The property is not located within the 100 year floodplain, and there are no slopes exceeding two percent. The division of the property will not increase air pollution levels beyond what those levels would be if the apartment complex were constructed without dividing the property.. For these reasons, the proposal secures safety from fire, flood, geologic haz-

ard, and pollution.

- (3) The proposal meets or exceeds the area and dimensional standards of the MR-4 zoning district as explained in finding 3, and thereby provides for adequate light and air and prevents the overcrowding of land.
- (4) Street and public transportation are addressed in findings 2.B-E, , 8.H and 8.I. Water supply and sanitary sewer are addressed in finding 8.J. Education, fire protection and police service are addressed in 8.K. Based on the above findings, the proposed land division facilitates adequate provision for transportation, water supply, sewage disposal, drainage, education, and other public services and facilities.

**Conclusions:**

1. Based on finding 8, the proposed land division satisfies the applicable policies of the Comprehensive Plan.
2. Based on finding No. 3, the proposed land division complies with the zoning ordinance.
3. Based on findings 3 through 9, the proposed land division satisfies the approval criteria for Type III Land Divisions.

Signed June 12, 1989



By Richard Leonard, Chairman

Filed With the Clerk of the Board on June 22, 1989

**Appeal to the Board of County Commissioners**

Any person who appears and testifies at the Planning Commission hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or before 4:30 p.m. on Monday, July 3, 1989 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 S.E. Morrison Street

*The Decision on this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, July 11, 1989 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development Division at 248-3043.*

BOARD OF  
COUNTY COMMISSIONERS  
1989 SEP 27 11 10 AM  
MULTNOMAH COUNTY  
OREGON

**BEFORE THE BOARD OF COUNTY COMMISSIONERS**

**FOR MULTNOMAH COUNTY, OREGON**

In the Matter of LD 4-89, review of a )  
Decision of the Planning Commission, )  
approving with conditions, a two-lot land )  
division, for property at 20255 NE Halsey )  
Street )

**FINAL ORDER**

The record of PD 1-89 is incorporated as )  
a part of the record of this appeal )

On August 15, 1989, the Board of County Commissioners conducted a public hearing, On the Record, in the above entitled matter. At the conclusion of the public hearing, the Board voted to affirm the decision of the Planning Commission of June 12, 1989 and approve the requested two-lot land division, based on the attached Conditions of Approval, Findings of Fact and Conclusions.

BOARD OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY, OREGON

Dated August <sup>24</sup> 22, 1989

By *Gladys McCoy*  
Presiding Officer

**LD 4-89, #483      Two-Lot Land Division**

Applicant has appealed a Planning Director Decision, approving a two-lot land division to create lots of 283,270 and 115,500 square feet in the MR-4, medium density residential zoning district

**Location:**                    20255 NE Halsey Street

**Legal:**                        Tax Lot '89', Section 28, 1N-3E, 1989 Assessor's Map

**Site Size:**                   9.15 Acres

**Size Requested:**         Same

**Property Owner:**        Frank Windust, Jr., Et Al  
36039 East Crown Point Highway, Corbett, 97019

**Applicant:**                 Keith Eddy  
20222 NE Broadway Court, Troutdale, 97060

**Comprehensive Plan**    Medium Density Residential

**Zoning:**                     MR-4, Medium Density Residential (Parcel 2)  
MR-4, Medium Density Residential,  
Planned-Development (Parcel 1)

Board of County Commissioners' Decision:

**Approve, subject to conditions,** requested two-lot land division to create lots of 283,270 and 115,500 square feet in an MR-4 zoning district, based on the following Findings and Conclusions.

### Conditions of Approval:

1. Within one year of the date of this decision, deliver the final partition map and other required attachments to the Planning and Development Division of the Department of Environmental Services in accordance with MCC 11.145.710. **The enclosed Summary Instruction Sheet contains detailed information regarding the final partition map and the remaining steps for completing the land division.**
2. Prior to recording the final partition map, complete a Statement of Water Rights in accordance with the provisions of Senate Bill 142 as adopted by the 1987 Oregon Legislature (instructions enclosed). Please contact the State Water Resources Department at 378-3066 for additional information.
3. Prior to recording the final partition map, comply with the following Engineering Services Division requirements:
  - A. Dedicate 5-feet of additional right-of-way along N.E. Halsey Street to provide a total of 45 feet from centerline where the subject property abuts said N.E. Halsey Street.
  - B. Dedicate additional right-of-way for a 25-foot radius at the intersection of N.E. 201st Avenue and Halsey street abutting the site.
  - C. Make the following improvements within the public right-of-way of N.E. Halsey Street:
    - (1) Construct a concrete curb 38 feet from centerline along the entire frontage of the subject property.
    - (2) Construct a concrete sidewalk 6 feet wide between the curb and the front property line of the subject property.
    - (3) Grade, rock and pave from the new curb to match the existing paving in N.E. Halsey Street.
    - (4) Construct storm drainage facilities as required.
  - D. Make the following improvements within the public right-of-way of NE 201st Avenue:
    - (1). Construct a concrete curb 22 feet from centerline along the entire frontage of the subeject property.
    - (2). Construct a concrete sidewalk six feet wide between the curb and the front property line of the subject property.
    - (3). Grade, rock and pave ;from the new curb to match the existing pavement in NE 201st Avenue.
    - (4). Construct storm drainage facilities as required.

- E. Contact Dick Howard at 248-3599 for design specifications and information regarding the surety bond to cover the improvements.
- F. Connect each parcel to the public sewer line located at the intersection of NE 201st Avenue and NE Halsey Street adjacent to the subject property in conjunction with issuance of building permits for each parcel.

**Findings of Fact:**

1. **Applicant's Proposal:** The applicant proposes to divide a vacant parcel containing 398,770 square feet into two smaller parcels. Parcel I would contain 283,270 square feet. Parcel 2 would contain about 115,500 square feet. A proposed 70-unit garden apartment complex on Parcel I received Planning Commission approval on March 13, 1989 (PD 1-89). As a condition of approval for the Planned-Development, the applicant was required to obtain approval of the subject land division.
2. **Site Conditions:** Site conditions as shown on the Tentative Plan Map are as follows:
  - A. **Slope:** The site is relatively flat and contains no slopes exceeding two percent.
  - B. **Street Dedication: (NE Halsey Street):** Parcel I abuts NE Halsey Street. The County Engineer has determined that in order to comply with the provisions of MCC 11.60 (the Street Standards Ordinance), it will be necessary for the owner to dedicate five feet of additional right-of-way in NE Halsey Street abutting the site pursuant to Condition 3.A.
  - C. **Street Dedication (NE 201st Avenue/Halsey Street Intersection):** Parcel 2 abuts the intersection of NE 201st Avenue and Halsey Street at its southwesterly corner. The County Engineer has determined that in order to comply with the provisions of MCC 11.60 (the Street Standards Ordinance), it will be necessary for the owner to dedicate additional right-of-way in NE 201st Avenue and Halsey Street to provide a 25-foot radius abutting Parcel 2 pursuant to Condition 3.B
  - D. **Street Improvements (NE Halsey Street):** NE Halsey Street is not fully improved to County standards abutting Parcel 2. The County Engineer has determined that in order to comply with the provision of MCC 11.60 (the Street Standards Ordinance), it will be necessary for the owner to construct curbs and sidewalks and provide additional paving in NE Halsey Street abutting the subject property pursuant to Condition 3.B.
  - E. **Future Street Improvement (NE 201st Avenue):** NE 201st Avenue is not fully improved to County standards at this time. The County Engineer has determined in order to comply with the provisions of MCC 11.60 (the Street Standards Ordinance), it will be necessary for the owner to construct curbs and sidewalks and provide additional paving in NE 201st Avenue abutting the subject property pursuant to condition 3.D.
3. **Ordinance Considerations:** The applicable Zoning Ordinance criteria (MCC 11.15) are as follows:
  - A. The site is zoned MR-4, urban medium density residential district.

- B. The following minimum area and dimensional standards apply per MCC 11.15.2753(G) and (H):
- (1) The minimum front lot line length shall be 20 feet. Both parcels exceed this requirement since Parcel 1 has a front lot line length of approximately 350 feet, and Parcel 2 has a front lot line length of over 27 feet.
  - (2) The minimum lot width at the building line shall be 45 feet for an interior lot and 50 feet for a corner lot. Parcel 1 is an interior lot and exceeds the requirement because it has a width of over 350 feet at the street. Parcel 2 exceeds the requirement for a corner lot because it has a width of approximately 90 feet when measured at a distance 20 feet from the front property line abutting NE 201st Avenue.
  - (3) The minimum yard setbacks shall be 20 feet front, five feet side and 15 feet rear. The garden apartment complex approved under PD 1-89 exceeds these requirements. Any future proposed development for Parcel 2 will be required to meet these yard setback requirements.
4. Water Supply: The Rockwood Water District has verified that public water service is available to the site from an eight-inch line in NE 201st Avenue.
5. Sanitation: The County Sanitarian has verified that the site can be served by a sanitary sewer located in the intersection of NE 201st Avenue and Halsey Street. Condition 3.F requires both parcels to connect to the sewer at the time of building permit issuance.
6. The proposed land division is classified as a Type III because it is a minor partition abutting a street which has a centerline to property line width less than one-half width specified for that functional street classification according to the Multnomah County Street Standards Ordinance (MC 11.60). Northeast Halsey Street is classified under the Street Standards Ordinance as an arterial with a total right-of-way of 90 feet. The existing right-of-way width for NE Halsey Street is 85 feet along the easterly 92.87 feet of the subject property
7. **Land Division Ordinance Considerations (MCC 11.45):**
- A. The proposed land division is classified as a Type III for the reasons stated in Finding 6.
  - B. MCC 11.45.390 lists the approval criteria for a Type III Land Division. The approval authority must find that:
    - (1) *The Tentative Plan is in accordance with:*
      - a) *the applicable elements of the Comprehensive Plan;*
      - b) *the applicable Statewide Planning Goals adopted by the Land Conservation and Development commission, until the Comprehensive Plan is acknowledged to be in compliance with said Goals under ORS Chapter 197; and*
      - c) *the applicable elements of the Regional Plan adopted under ORS Chapter 197.*[MCC

11.45.230(A)].

(2) *Approval will permit development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances.* [MCC 11.45.230(B)].

(3) *The tentative plan complies with the applicable provisions, including the purposes and intent of [the Land Division] chapter.*[MCC 11.45.230(C)].

(4) . . . *and that the tentative plan complies with the Zoning Ordinance.* (MCC 11.45.390).

C. In response to the above approval criteria for a Type II Land Division, the following findings are given:

(1) **Comprehensive Plan:** Finding 8 indicates that the proposal is in accord with the applicable policies of the Comprehensive Plan. The Multnomah County Comprehensive Plan has been found to be in compliance with Statewide Goals and the Regional Plan by the State Land Conservation and Development Commission.

(2) **Development of Property:** Approval of the land division will create Parcel 1 to accommodate the garden apartment development project previously approved by the Planning Commission and upheld by the Board of County Commissioners on appeal. The right-of-way dedications and street improvements required under Condition 3 will increase the opportunity for Parcels 1 and 2 to be developed in accordance with the Comprehensive Plan, development ordinances, and the approval granted by the Planning Commission and upheld by the Board of County Commissioners on appeal under PD 1-89. Land to the north and east of the site is zoned LR-10, Urban Low Density Residential District. There is no information to indicate that approval of the requested land division will affect the ability to develop that land in accordance with the LR-10 zoning..

(3) **Purposes and Intent of Land Division Ordinance:** Finding 9 indicates that the land division complies with the purposes and intent of the Land Division Ordinance.

(4) **Zoning Ordinance:** Finding 3 indicates that the tentative plan complies with the Zoning Ordinance.

8. **Applicable Comprehensive Plan Policies:** The following Comprehensive Plan Policies are applicable to the proposed land division. The proposal satisfies those policies for the following reasons:

A. As found by the Planning Commission and upheld by the Board of County Commissioners on appeal in the decision approving PD 1-89, the subject property is designated Medium Density Residential by the County's Comprehensive Plan. The approval will allow development of the site with garden apartments consistent with the Medium Density Residential designation.

B. **Policy No. 13, Air, Water, and Noise Quality:** The proposed use for Parcel 1 is a 70-unit garden apartment complex. There will be no more noise generated at the site than would be generated if the apartment complex were built without dividing the property. Public water is

available to the site from the Rockwood Water District. As stated in Finding 5, public sewer is available to the site, and both parcels will be required to connect to the sewer in conjunction with building permits pursuant to Condition 3.F.

- C. **Policy No. 14, Development Limitations:** As stated in Finding 2-A, the site is relatively flat and contains no slopes exceeding 2 percent. The site is not in the 100-year flood plain. As found by the Planning Commission and upheld by the Board of County Commissioners on appeal in the decision approving PD 1-89, no hazards have been identified which would be attributed to the development of the subject property.
- D. **Policy No. 15, Significant Environmental Concerns:** The subject property is not located in the Significant Environmental Concern zone.
- E. **Policy No. 16, Natural Resources:** No significant natural resources have been identified on the subject property, except for some evergreen trees along the property line that are proposed to be saved and incorporated with the site design.
- F. **Policy No. 19 Community Design:** As required by the Planning Commission and upheld by the Board of County Commissioners on appeal in the approval of PD 1-69, development on Parcel 1 will be subject to the County's Design Review process to assure compliance with this policy.
- G. **Policy No. 22, Energy Conservation:** The development of this property with attached housing will help reduce urban sprawl which is costly in energy use.
- H. **Policy No. 35, Public Transportation:** The nearest Tri-Met service in the area is by line No. 24, Halsey, with the nearest stop located at N.E. 201st Avenue and Halsey Street. Week-day service is at 15-minute intervals during peak hours and at 30-minute intervals during midday hours.
- I. **Policy No. 36, Transportation System Development Requirements:** As stated in Findings 2.B through 2.D, the County Engineer has determined that certain right-of-way dedications and improvements will be required in order for the proposed land division to comply with the provisions of MCC 11.60 (the Street Standards Ordinance). Those dedications and improvements are detailed in Condition 3.A through 3.D.
- J. **Policy No. 37, Utilities:** As stated in Finding 4, water service is available to the property. As stated in Finding 6, sanitary sewer is available to the property and connection to the sewer is a condition of approval.
- K. **Policy No. 38, Facilities:** The property is located in the Reynolds School District. Based on discussions with the Superintendent's office on May 25, 1989 the district anticipates that its facilities will be able to accommodate student enrollment from the proposed development. The district bases its position on the fact that the proposed units are not expected to house large number of school-age children, considering the projected rent level (\$585-600 per month) and the size and type of proposed units (1,000 square feet with 2 bedrooms). Fire protection is provided by Multnomah County Fire District No. 10, and police protection is provided by the Multnomah County Sheriff's Office.

## 9. Purpose and Intent of Land Division Ordinance.

A. MCC 11.45.015 states that the Land Division Ordinance...*"is adopted for the purposes of protecting property values, furthering the health, safety and general welfare of the people of Multnomah County, implementing the Statewide Planning Goals and the Comprehensive Plan adopted under Oregon Revised Statutes, Chapters 197 and 215, and providing classifications and uniform standards for the division of land and the installation of related improvements in the unincorporated area of Multnomah County."* The proposed land division satisfies the purpose of the Land Division Ordinance for the following reasons:

- (1) The size and shape of the proposed lots accommodate proposed residential development in accordance with the present zoning and as approved by the Planning Commission and upheld by the Board of County Commissioners on appeal in the approval of PD 1-69, thereby protecting property values.
- (2) Finding 4.J. indicates that adequate public water supply is available for the proposed land division. Finding 5 indicates that public sewer is available to the property, and connection to the sewer will be required in conjunction with development pursuant to Condition 3.F. Finding 8.K. indicates that fire and police protection are available to the subject property. For these reasons, the proposal furthers the health, safety, and general welfare of the people of Multnomah County.
- (3) Finding 8 indicates that the proposed land division complies with the applicable elements of the Comprehensive Plan. Since the Comprehensive Plan has been found to be in compliance with Statewide Planning Goals by the State Land Conservation and Development Commission as stated in finding 7.C.(1), the proposed land division complies with the Statewide Planning Goals and the Regional Plan.
- (4) The proposal meets the purpose of *"providing classifications and uniform standards for the division of land and the installation of related improvements"* because the proposal is classified as a Type III Land Division and meets the approval criteria for Type III Land Divisions as stated in findings 3 through 9. Condition 3 assures the installation of appropriate improvements in conjunction with the proposed land division.

B. MCC 11.45.020 states that the intent of the Land Decision Ordinance is to...*"minimize street congestion, secure safety from fire, flood, geologic hazards, pollution and other dangers, provide for adequate light and air, prevent the overcrowding of land and facilitate adequate provisions for transportation, water supply, sewage disposal, drainage, education, recreation and other public services and facilities."* The proposal complies with the intent of the Land Division Ordinance for the following reasons:

- (1) Street congestion is minimized through dedications and improvements required by Condition 3.
- (2) As stated in finding 8.K., public fire protection is available to the property. The property is not located within the 100 year floodplain, and there are no slopes exceeding two percent. The division of the property will not increase air pollution levels beyond what those levels would be if the apartment complex were constructed without dividing the property.. For these reasons, the proposal secures safety from fire, flood, geologic haz-

ard, and pollution.

- (3) The proposal meets or exceeds the area and dimensional standards of the MR-4 zoning district as explained in finding 3, and thereby provides for adequate light and air and prevents the overcrowding of land.
- (4) Street and public transportation are addressed in findings 2.B-E, , 8.H and 8.I. Water supply and sanitary sewer are addressed in finding 8.J. Education, fire protection and police service are addressed in 8.K. Based on the above findings, the proposed land division facilitates adequate provision for transportation, water supply, sewage disposal, drainage, education, and other public services and facilities.

**Conclusions:**

1. Based on finding 8, the proposed land division satisfies the applicable policies of the Comprehensive Plan.
2. Based on finding No. 3, the proposed land division complies with the zoning ordinance.
3. Based on findings 3 through 9, the proposed land division satisfies the approval criteria for Type III Land Divisions.

A TRANSCRIPT OF A PORTION OF THE  
PLANNING COMMISSION MEETING OF  
JUNE 12, 1989  
LD 4-89

COMMISSIONERS: Fry - Leonard - Alterman

STAFF: S. Cowley - B. Hall - D. Prescott - I. Ewen

Prescott: Thank you. Members of the Commission, my name is Dave Prescott; I'm with the Planning Staff, and LD 4-89 is a case that is related to a case that you heard earlier this year. On March 13th the Planning Commission approved a Planned Development known as PD 1-89, which approved a 70-unit garden apartment complex on this property. You'll recall one of the conditions of approval of that planned development was that the applicant apply for and obtain a land division to separate the 70-unit garden apartments from the rest of the property. And, that was why the subject land division was applied for.

Your Staff Report has a section titled "Background" that lists the chronology of events following the March 13th Planning Commission approval of the garden apartment complex. The Planning Staff approved LD 4-89 creating two parcels of property. That happened on April 7th. On April 17th the staff approval of the land division was appealed to the Planning Commission. Also note, of course, that the Planning Commission approval of the garden apartments was also appealed to the Board of County Commissioners. The Board of Commissioners heard the appeal of the apartment complex on May 23rd, and at that time the Board of Commissioners upheld the Planning Commission's earlier approval of the apartment complex. So, what we're seeing or what we're dealing with tonight is the appeal of the land division.

The Staff's April 7th written decision approving the land division is attached to your Staff Report in its entirety,

and you'll not it lists findings 1 through 6 and then lists conclusions. Next you'll see the Notice of Review in which the attorney for the appellant states that the staff decision did not contain findings addressing all of the approval criteria in the Land Division Ordinance. Staff would say that, while the findings in the original land division approval did address compliance with the zoning, which is one of the approval criteria for a Type III Land Division, Staff does agree that there were specific land division ordinance approval criteria that were not specifically addressed as such in that initial approval. For that reason, Staff has prepared an additional set of findings which continue the numbering from the original Staff Report starting with Finding No. 7, continuing through 9. And you'll see that in a document titled "Additional Findings for LD 4-89.

Its Staff's position that the request to divide the property is consistent with the Planning Commission's earlier approval of the garden apartment complex. Further, that the land division does in fact meet the criteria in the Zoning Ordinance for lot size and lot shape. The proposal exceeds the area and setback requirements of the MR-4 zone, and, in the additional findings document that you see, you will find the applicable policies of the Comprehensive Plan addressed. Its Staff's position that the proposal does comply with those Comprehensive Plan policies and likewise, the proposal, for the reasons listed in finding No. 8 complies, Finding No. 8 lists the Comp Plan policies and the land division's compliance with them. Finding No. 7 lists other approval criteria in the Land Division Ordinance. Finally, the purpose and intent of the Land Division Ordinance is addressed in Finding No. 9. We sought to lay those out and show how this proposal meets them. There's quite a lot of language in there, and as we pointed out, you will find that many of the earlier findings in the original Staff Report addressed items such as water service, sewer service, the availability of those services, street improvements that will be required by the Engineering Services Division, as well as availability of fire protection, police protection, and public schools.

We will answer any questions you may have concerning the proposal, but we feel that, for the reasons listed in the findings, that the proposed land division should be approved and we would recommend the Planning Commission uphold that position approving LD 4-89. We will answer questions if you have them.

Leonard: Thank you. Any questions of Staff.

Alterman: I have one. I notice on the Notice of Review that the applicant/appellant asked for review simply on the record and not for an additional hearing or any additional testimony. Is that correct on our procedure? I've never run into a Notice of Review to us before.

Prescott: This is something you have not seen before. The best reason I can explain it is that, about a year ago our Staff was advised by County Counsel that on administrative approvals such as land divisions of this type, we are required to notify owners of property within a given distance, actually the same distance as we notify owners of property on items that go to the Planning Commission, which means that when the Staff Decision was \_\_\_\_\_, a notice went out to all the folks who own property within 250 feet of the site and they had the same, they had an opportunity to appeal the decision within ten days. And, to my knowledge, this is the first Staff approval of a land division that has been appealed to the County Planning Commission in the time that I've been here, and, it is simply a fact that we, you may see more appeals of this type and that's the best answer I can give of why you're seeing a Notice of Review here when you haven't had one before.

Spetter: Inaudible.

Leonard: So, its a procedural question for what we're doing here tonight. Its a question of whether we're going to take new testimony or not.

Spetter: Inaudible.

Alterman: So, this is simply an error in checking the box of appeal to us.

Leonard: We're effectively holding a full hearing on this question.  
Any other questions of Staff? Thank you.

Is the applicant or the applicant's representative here?

Tienson: Good Evening. I'm Thane Tienson, on behalf of petitioner Keith Eddy and, Mr. Eddy is here, as well as Marilyn Holstrom on behalf of the City of Fairview, who would also like to be heard on this appeal. My name is Thane Tienson. I'm an attorney, practicing at 101 SW Main in Portland.

Leonard: You're representing the appellant?

Tienson: I'm representing petitioner Keith Eddy who is a neighboring property owner.

Alterman: Its also a first for us. This is the first time that the applicant has been an opponent \_\_\_\_\_.

Tienson: Its a first for me as well, so, we're all rookies.

Leonard: Normally, our process is to hear from the person who wants to see the action carried-out and that's normally our process. I think in keeping with that general procedure, Mr. Eddy would be viewed as an opponent of the proposal rather than the applicant of the proposal.

Tienson: That's fine. I'll be glad to step aside.

Leonard: Why don't we proceed on that basis if we've got the applicant for the original partition. Is the applicant for the original partition or a representative here?

Windust: My name is Frank Windust, Jr. My address is 37938 SE Rickert Road. I am the applicant for the land division. I have nothing to add to the Staff Report but if there are any questions I would be happy to answer them.

Leonard: Are there any questions for Mr. Windust?

Thank you. There may be more.

Anyone else in favor of the proposed partition that would like to speak at this time? Seeing none, anyone opposed to the proposed partition?

Mr. Tienson.

Tienson: Thank you. I just today received the additional findings in support of the proposed recommendation. It's my position that the additional findings, although, certainly are an improvement upon the original findings in that they actually contain some findings of fact and are not mere conclusions, are, nonetheless, not sufficient to satisfy the requisite requirements for an approval. Specifically, MCC11.45.380(B), which is the applicable charter provision that governs these types of procedures requires findings and conclusions and, I'm quoting, ...*"which shall specifically address the relationships between the proposal and the criteria for approval listed in Section 390."* Again, you refer to Section 390, it requires findings by the Director that the criteria set forth in Sections 230, paragraphs A through C and H, are satisfied and that the Zoning Code is satisfied. Referring to Section 230, paragraph A, it requires that the tentative plan be in accordance with, among other things, the applicable elements of the County Comprehensive Plan. And, it's our position that this proposed tentative plan is not in compliance with the applicable elements of the Comprehensive Plan despite what the Staff Report contains. I'm specifically concerned, as is Marilyn Holstrom, about Policy 4 of the Comprehensive Plan, which is not mentioned at all in the Staff Report, and I'm frankly disturbed by it because it's central to the whole process of transferring responsibility for planning and for Periodic Review to the cities which are going to assume full responsibility for these areas under annexation.

As the Commission is probably aware, the area in question is in the annexation process now by the City of Fairview, and annexation is impending. Nonetheless, the

City of Fairview was not consulted in any way by the developer prior to approval. Nor by the county. It merely received notice, as would any other property owner and had to appear. Policy for deals with inter-governmental cooperation, and I would urge you to review it in detail before passing upon the proposed recommendation, because it requires, among other things, that the county recognize that its Comprehensive Plan and component Community Plans, and this goes back to, the old, this area in question, goes back to the old Rockwood/Wilkes area, that the implementing ordinances will be the primary plan for unincorporated areas **only until** and during any jurisdictional transition. And, that's, of course, what we have now. And, we have a jurisdictional transition, from the county to the City of Fairview, and yet that was entirely ignored in this process. Policy 4 goes on to state in paragraph D, that the county is to establish and participate in an cooperative process to address the future of urban service provision issues. And again, that was not done in this case. That's important, because, as you will hear in more detail from Marilyn Holstrom, from the City of Fairview, the City of Fairview specifically contemplated that this area would not be developed for medium density but rather would be developed for single family homes; and its capital budget contemplated that. The county knew that. The county has known that for years. And yet, it went on to administratively approve this, and now is engaged in what I consider a self-serving effort to bolster its previous decision that's already been made and ignore the urban area planning agreement that the County Commission entered into just last September.

That urban area planning agreement, the amendment to it that was signed September 6, 1988 by the County Commission, at that time transferred to Periodic Review responsibility for this area, where this development is planned, to the City of Fairview. The amendment is very explicit in that it transfers an **exclusive** urban planning area to the City of Fairview. This is an **exclusively** designated area for the City of Fairview to assume responsibility for. And, the agreement goes on to recognize that issues need to be addressed in a coordinated fashion as part of an integrated urban plan. The whole theme, and

every whole provision contained within this amendment recognizes that the City of Fairview is going to assume responsibility for certain areas in unincorporated Multnomah County and that the process for planning for those areas ought to be transferred as readily and as expeditiously as possible in an exclusive manner to the City, and yet that's completely ignored by not only this development but also by the Staff in dealing with it. And, again, the Report that you have before you is completely silent on that very important aspect of the Comprehensive Plan.

The purposes and intent of the Chapter must also be satisfied as part of any land division, and the Report, in a very superficial manner, concludes that in fact the intent of the Chapter has been satisfied. Well, I respectfully disagree. Specifically, as the Report you have in front of you recognizes, one of the provisions and one of the purposes and intent of the Chapter is to protect property values. This division \_\_\_\_\_ **Change of Tape** \_\_\_\_\_ a person who may stand to benefit financially by the development every single property owner in the area opposes this development. It exploits the high-quality, single family residential neighborhood that's there now. We're going to see relatively high rent apartments built that are likely to attract single family, or excuse me, double-income, no children couples. The rents will be higher because they're able to take advantage of the nice single family residential neighborhood that's currently there. It will, of course, in so doing, impair the existing character of the neighborhood. But, in no way, does this development protect property values. I can assure that Mr. Eddy would not be before you tonight as a petitioner if he in fact felt that his property values were being protected by this development.

Another purpose and intent of this Chapter is to further the general welfare of the county. I submit that there is no demonstrated need for this type of housing, at least there's none contained in the Staff Report. And, again, I submit that it is not furthering the general welfare of the county to violate the intent and the spirit and the expressed provisions of the urban planning agreement that the county entered into with the City of Fairview. And to

ignore the wishes of all the nearby residents who oppose the development.

Interestingly, none of these issues are, again, are even addressed in the Staff Report. Section 11.45.020 also requires that any land division in part ..."*minimize street congestion*", and while it true that there have been some requirements made of the developer that would in some way minimize the street congestion, the Staff Report is silent on the fact that in 1992, a scant two-and-a-half years away, we're going to see a major off-ramp off of the I-205 freeway just five blocks away from this proposed development. That is going to significantly add to the already congested traffic that you have. Now we have a proposed land division that's going to add, I think by everyone's acknowledgement, a 158 or so vehicles per day to the larger part of the division, and another we've got another two-and-a-half acre parcel or so that is likely to be developed in the same manner; that's likely to add another 30 or so units and 60 more cars; and again, there's no real address of this street congestion issue despite the fact that the purposes and intent of the Chapter require it and the Report even acknowledges as such.

Marilyn Holstrom will tell you that the water supply, the sewage disposal and the public services that City of Fairview will be required to provide to these two parcels and the likely development that will occur is something that was not at all addressed by the county in approving this development, and, yet, that too is one of the purposes and intent of this Chapter concerning land division to ensure that there is an adequate provision for water supply, sewage disposal, drainage and other public services, again ignoring the significant burden that this development will impose on the City of Fairview.

Leonard: Any questions for Mr. Tienson?

Fry: I have two.

Tienson: Yes. I will go ahead and address the questions.

Leonard: Mr. Fry. Did you say, do you represent Fairview or not?

Tienson: I don't represent the City of Fairview technically tonight, but Marilyn Holstrom does, and I think she wants the City of Fairview to be recognized as a co-petitioner. I'll let her speak for herself and in behalf of the City and I think she will be following me to the microphone.

Fry: Can I have a second question? In reading the Staff Report background history maybe you can add to it, maybe Staff will add to it, but the Board of County Commissioners on May 23rd held a hearing and basically affirmed the decision of the Planning Commission. Was that decision ever appealed further?

Tienson: It has not yet been appealed. As you are probably aware, the appeal period does not begin to run until the Order is itself filed. I just received a copy of the Order in the mail Friday. I can tell you that my client, Mr. Eddy, has instructed me to proceed with an appeal. I can tell you that the City of Fairview is, its my understanding, is joining with us on the appeal to LUBA. So, no appeal has not as yet been filed but we have 21 days from last Friday to do so and we intend to do so.

Fry: So their intention is to, at this time, appeal the decision of the Planning Commission, reaffirmed by the County Commissioners?

Tienson: That is correct.

Fry: Thank you.

Tienson: The only thing I would add is, lets not ignore the effect of this land division. Again, we're talking about two proposed developments. One, we've got in a more concrete fashion, we've got a proposal for 70 units that are likely to add approximately 140/158 people, 158 vehicles, but we also have this other parcel that, although smaller, is nonetheless likely to end up in the same category, that is with another garden-style apartment development with another 30 or so units and another 60 or so vehicles, and this too was not addressed in the Staff Report and its yet nonetheless an obvious effect of and consequence of the

land division itself. But, I am disturbed, as is the City of Fairview, by the complete and wholesale ignorance of this urban planning area agreement, the Policy 4 and the Comprehensive Plan that requires intergovernmental coordination and the Staff Report that is totally silent and yet we know, as a matter of fact based on the earlier \_\_\_\_\_ that the county has known for years that the City of Fairview zoned this area single family residential, planned for it in all its capital planning, and that the annexation of the area was impending, and now its merely a matter of weeks before it probably occurs and, again, the Staff Report is completely silent on it. I don't believe, for that reason and the other reasons that I've set forth, that the land division does satisfy the ordinance requirements and I urge that it be denied on that basis.

Leonard: Okay. Lets hear from anyone else in opposition to the proposed partition.

Holstrom: Mr. Chairman, I'm Marilyn Holstrom, City Administrator for the City of Fairview, 300 Harrison Street, Fairview, Oregon. Here a second time before you to discuss the planned development that was granted by you, by your Board, several months ago and now again, a minor partition, or land division.

To give you a very brief history to how we came to be here in front of you. The City adopted their Comprehensive Plan in 1979; the county, pretty much at the same time, adopted theirs. At that time apparently there was a discrepancy which has been known by staff at both the city and the county since that time. In 1979, the city and the county adopted an urban planning agreement that spoke to all the urban planning issues and then the amendment was written and signed by both parties in 1988. Mr. Tienson spoke to you about that; and, specifically, it told the City of Fairview to move forward and develop long range planning efforts for that area, which the city has done. We felt in good faith that that area was within the City of Fairview's \_\_\_\_\_ and we've done, we've moved forward to include it in all our planning issues. As the county's going through its planning area, its Periodic Review, right now, so is the City of

Fairview. We have included this in the City of Fairview's Periodic Review area. The county has not. And in fact, in today's mail came a letter that I was copied on which was sent to Lorna regarding the county's Periodic Review, and it congratulates her on the fact that it was a well done document. And there's a paragraph that notes in it, and I'll specifically read a few lines from it, the fact that the entire area within the Metro UGB is exempted from the county's Periodic Review, and it goes on to say that the county has negotiated agreements, planning agreements, with the cities of Portland, Gresham, Fairview, Wood Village and Troutdale. The new agreements provide that the entire area within the Metro UGB is within the planning area of these cities. All of the cities have moved forward in good faith that their Periodic Review would include these areas. Their long range planning efforts were to include all the areas that the county was not including. So, Fairview did that also.

I think that the most important thing to talk about is the fact that the city has included this area in its capital improvement plan. It just completed capital improvement planning for the next 20 years. It was adopted by the Fairview City Council just within the past couple of weeks. This area which has been listed for the past 9 years as single family development has been noted in that and all the planning for capital improvement is listed based on the numbers that you come up with for single family residential. And for an area that's approximately 9 acres, you're talking about the low 30's for units. When you talk about medium density you have before you a plan that included 70 units, and if this land division is granted you're talking possibly about 30 more. All of this is in contradiction to what the city's been planning. Your Staff Report notes that the water and sewer lines are in the ground. It does not speak to how the water gets into the lines or who pays for the waste water treatment at the sewage. That's the responsibility of the City of Fairview, and through its capital planning, has arranged for all of those things to be done on a single family basis. Certainly not for medium density.

And I guess the very largest issue we have to face here is the traffic. It was mentioned before that we have a major off-ramp being planned which will start construction in 1992. Comes off at 207th Street off the Banfield. This comes on to Halsey, which, in that area, the county has indicated no plans for widening. Yet your planned development will put onto that road, a two-lane road, 158 new cars and if this land division is granted, we're talking about a potential of 60 more. On a street which has no future plans for widening of a major intersection coming off of the Banfield Freeway.

I think that the fact that we've gone in good faith through these years that this is our area for long range planning, that we've started annexation procedures and we've now filed our petitions, they're in the process of being reviewed right now, will probably be within the city within the end of July, that all of this with good faith was done thinking that this area would be within the city's ability to develop the way we saw it and the way the area feels it should remain. And character of the area is very important to the City of Fairview. Its very important also to the neighbors in that vicinity. We would ask you to look very hard at this land division. We asked you several months ago to look very hard at the planned development request. That one is still in litigation, and we're very concerned about both of them. They have an extremely significant impact on the City of Fairview. And I'm open to questions.

Leonard; Any questions?

Fry: Just one. Did the owner of Parcel 1 and Parcel 2, have they agreed to be annexed by Fairview?

Holstrom; They're included in the package of tax lots that were submitted in. We did not get signatures from them. We do have over 50% of the area residents, however, property owners signed.

Fry: Thank you.

Leonard: Any other questions?

Fry: I guess I should ask you. Does Fairview anticipate appealing the decision of the County Commission affirming the Planning Commission's decision?

Holstrom: The City of Fairview City Council, gave me authorization to join in the LUBA appeal.

Fry: Thank you.

Leonard: Okay. To clarify. That would be the appeal of the planned unit development which was approved by the Planning Commission earlier this year.

Holstrom: Yes.

Leonard: And, appealed and upheld at the County Commission level?

Holstrom: Yes.

Leonard: Okay. Thank you. Anyone else wishing to testify against the partitioning of the parcel here?

Seeing none, we will close the public portion of this hearing. Are there any further questions of the Staff at this point?

Yes. Commissioner Fry.

Fry: A couple of questions. What if this partition, essentially as I understand it, Staff has approved this partition, so it is in fact approved; and then, the applicant is, the action requested by the applicant is to overturn the Staff's decision. Is that essentially what's happened here?

Prescott: That is correct. The applicant being the person who filed the Notice of Review.

Fry: Right. So the partition is in fact approved and we're being asked to perhaps overturn that. The second question I have....

Prescott; So. Staff approved the land division and the neighboring property owner appealed that staff approval and that property owner is asking you to overturn the Staff's approval of the land division.

Fry: Okay. If, what is the effect of us upholding the Staff's decision on this partition, assuming that the Land Use Board of Appeals overturns the County Commissioner's decision? Can this partition stand alone if this whole thing went back to, say, prior to the decision that was made?

Prescott: The land division could stand unless the Planning Commission's approval of it were appealed to the County Board of Commissioners and either overturned by the County Board or later overturned by LUBA if the Board were to uphold your approval and then LUBA were to overturn it.

Fry: So this partition could stand alone given that the other issue went the other way .....

Prescott; That is my understanding. Yes.

Fry: Okay. The last question is, do we need to see a transportation or street layout or anything like that is this is a land division? Wouldn't that be a part of this process?

Prescott: In this particular land division, are you referring to a Future Street Plan?

Fry: Exactly.

Prescott: In this case that was not a requirement, and the reason that it was not is that the language in the Land Division Ordinance that addresses Future Street Plan speaks of area adjacent to the proposed land division that is capable of further re-division within up to a 40-acre super-block if you will, or an area of adjacent land. In this case the lands that are adjacent to the land division are, as we put down in the Report, currently zoned LR-10, and I think you'll find that most of the properties are actually in lots that meet the LR-10 requirements, so there really

isn't the opportunity to re-divide those adjacent lands and that's why you see no Future Street Plan in this case.

Fry: So, in theory, access is coming off of Halsey Street for both Parcel 2 and 3 but theoretically you could have, could you have access of of 201 to Parcel 2, or Parcel 1 if there is a different type of partition?

Prescott: Just looking at the Tentative Plan Map it looks like access is more likely going to be off of Halsey, just looking at the amount of street frontage you have on 201st, but, that's an issue that hasn't been addressed yet. It would come up in the design of any project that might occur on the westerly parcel.

Fry: Okay. The last question is, I remember in the hearing, there was concern about whether the property owner really did own to the center line of the vacated Oregon right-of-way, or, its Oregon Washington Railroad right-of-way?

Prescott: We have checked the Assessment and Taxation computer files; we have access to those from our office, and both the tax lot that comprises the bulk of the subject property as well as the applicant's half, if you will, of the former right-of-way, are listed on the computer files in the ownership of Mr. Windust. And, we do have a note from the office of Assessment and Taxation indicating that those two properties are in his ownership and that they will be combined into a single tax account. That's the understanding that I have at this time from Assessment and Taxation Division, but I have checked the files and when you punch up the numbers for the tax accounts for the right-of-way and the rest of the property they both do show up under Mr. Windust's name.

Fry: Thank you.

Leonard: Any other questions of Staff at this time?

Thank you.

Deliberation of the Commission.

Fry: I've got a procedural question here. I don't know if you remember, but I did vote against this the first go-around. And there's three of us. I wonder \_\_\_\_\_

Alterman: Commissioner Leonard wasn't present for our exciting meeting when you \_\_\_\_\_ that.

Leonard: I heard there was problems of passing the Chair to .....

Alterman: We had some interesting parliamentary \_\_\_\_\_. That would be a fair way to put it.

Fry: I guess I feel that since I did vote against it the first go-around, and for reasons that I don't really see changing, and I suppose the partition could stand alone from the other issue, in that sense.

Leonard: Well, I'll throw a couple of thoughts into this. The earlier planned development was approved by the Commission and one of the conditions of approval was to carry out a partitioning which would split the property into two parcels, which would basically follow the zoning districts. And, that's what the applicant proceeded to do, so the appellant has changed that Staff approval of the partitioning which questions now whether that partition was proper in light of all the facts available.

Fry: I guess my problem is that I've been persuaded, personally, just speaking for myself, on the argument of the coordination between governments and the issues raised by the City of Fairview. So I find myself in a difficult position.

Leonard: Commissioner Alterman.

Alterman: I shared a few of Commissioner Fry's concerns but I think that has been mostly been taken out of our hands by the county conditions. Approval of a previous item on this in which they have found, they have agreed with our previous finding, that this met, I should say the previous approval of the PD, met the applicable approval criteria which are rather similar to those we've got for this land

division. For that purpose, and without the expectation that Commissioner Fry will second it, I will move to adopt the Staff Report and Additional Findings we have here.

Leonard: Commissioner Fry.

Fry: Well, I'll second the motion for the purpose of discussion.

Leonard: Okay. Discussion on the motion.

Fry: The, essentially discussion from my point of view is, although I still feel that the original action may not withstand the process of appeal and, you know, my crystal ball says that the county may get overturned on this one, where I'm coming down is I don't, although the partition is a condition of that approval I also object to the partition being used as a mechanism to get to the underlying issues, which, it seems to me, have to be resolved at the state level since through the decision of the Land Use Board of Appeals. So, that, I guess the bottom line here is that I will vote in favor of the partition given the understanding that in my mind I have separated the partition away from the original issue, which I feel still needs to, is unresolved in my mind.

Leonard: Okay. Further discussion. Call for the question.

All those in favor of the proposal to partition signify by saying "aye".

It passes unanimously.

The appeal procedure on this, there is an information sheet at the rear of the room, and you have 21 days to act.



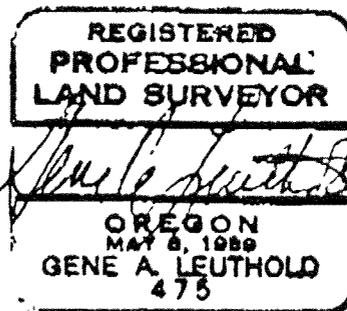
PARCEL # 1

A Tract of land in the Southwest  $\frac{1}{4}$  of Section 28 and the Northwest  $\frac{1}{4}$  of Section 33  
T. 1 N., R. 3 E., W.M. Multnomah County, Oregon described as follows:

Beginning at a point in a 5685.0 foot radius curve in the North line of N.E. Halsey  
St. that is South  $77^{\circ} 45' 30''$  East 108.80 feet from the Southwest corner of the  
Southwest  $\frac{1}{4}$  of Section 28; thence North  $1^{\circ} 31'$  East 350.58 feet; thence North  $88^{\circ} 32'$   
West 231.55 feet to a point in the centerline of vacated Wistful Vista right of way;  
thence on the arc of a 1910.08 footm radius curve to the right ( the chord of which  
bears North  $51^{\circ} 39' 29''$  East 765.08 feet) a distance of 770.31 feet; thence South  
 $1^{\circ} 50' 55''$  West 852.30 feet to a point in the North right of way line of N.E. Halsey  
St. ; thence along said North line North  $88^{\circ} 22'$  West 92.87 feet; thence North  $1^{\circ} 38'$   
East 5.00 feet to a point of curve; thence on the arc of a 5685.0 foot radius curve  
to the right (the chord of which bears North  $87^{\circ} 04'$  West 258.04 feet) a distance  
of 258.06 feet to the point of beginning

Containing 283,270 sq. ft. or 6.50 acres more or less...

PD 1-89



LR-10

9479 MAC 23-64

LR-7

north

CASE:..... PD 01-89  
 SEC MAPS:..... 2850, 2851, 2950, & 2951  
 SITE LOCATION:... SE 1/4 SEC 29, T1N, R3E and  
 SW 1/4 SEC 28, T1N, R3E, W1  
 SZM's SHOWN:..... 483, 484, 489, & 490  
 MAP SCALE USED:.. 1 inch to 200 feet

NOTE: Underlining above denotes maps within which the subject property is located.

LR-10

LR-10

LR-10

MR-4

N E 201st AVENUE

DOMEGAL  
 NE BROADWAY  
 ESTATE

CITY OF GRESHAM

CITY OF GRESHAM

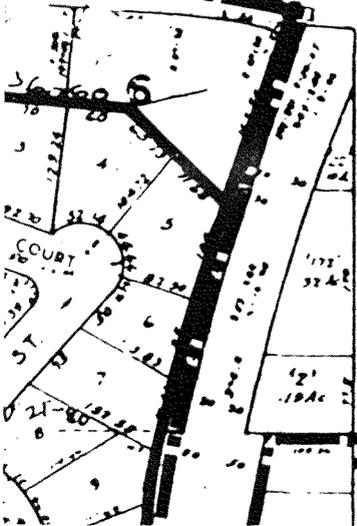
CITY OF FAIRVIEW

CITY OF FAIRVIEW

N E HALSEY ST

N E HALSEY STREET

N E 201st AVE



5-58

84

72

10

6

5

4

3

2

68

6

97

98

99

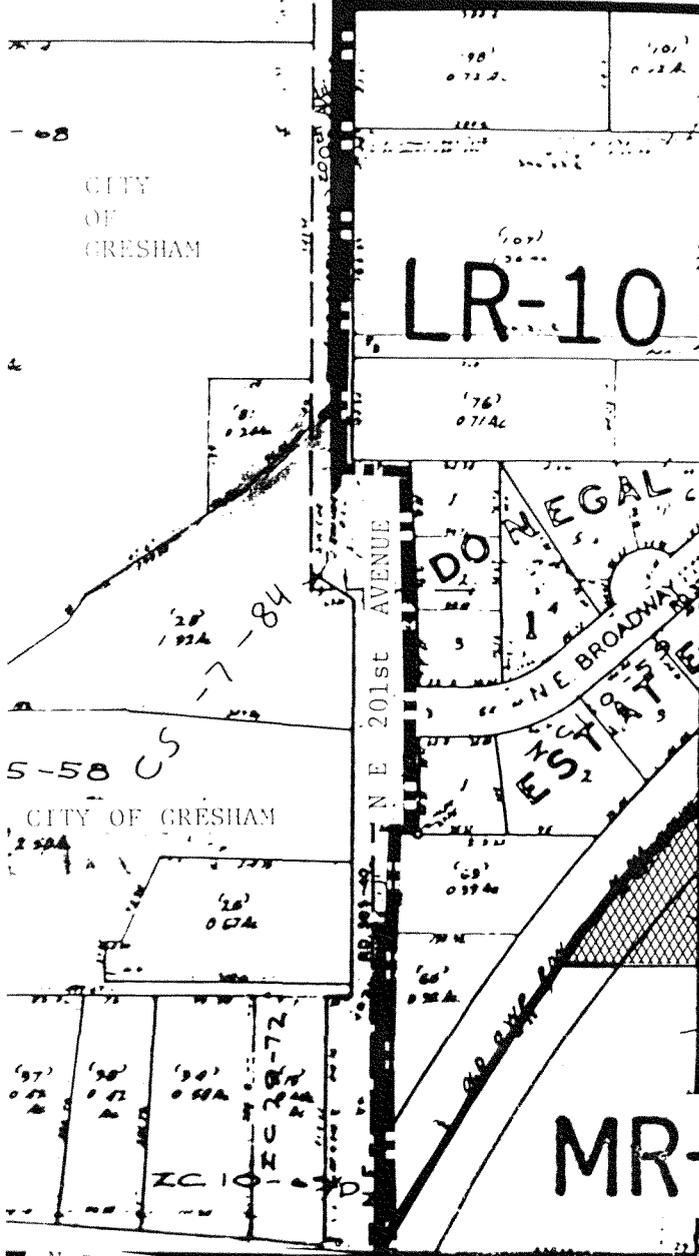
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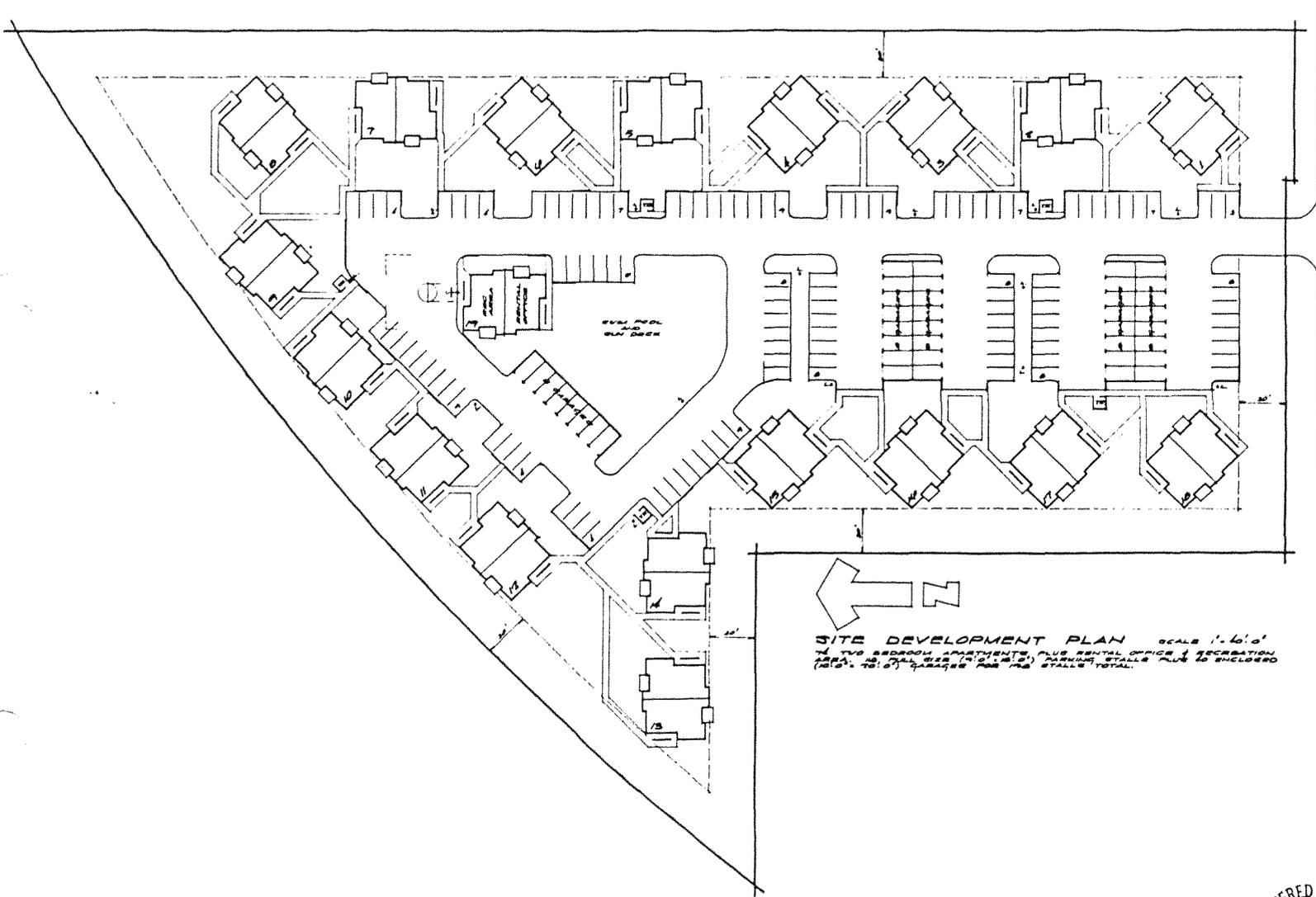
101

102

103

104





N. E. MALONEY STREET

PD I-89

SITE DEVELOPMENT PLAN SCALE 1/4" = 1'-0"  
 14 TWO BEDROOM APARTMENTS, PLUS RENTAL OFFICE & RECREATION  
 AREA. 18 CAR GARAGES (12'x16'x12') PARKING STALLS PLUS 10 ENCLOSED  
 (10'x12'x12') GARAGES FOR 28 CAR STALLS TOTAL.

74 FOR CBH  
**TOD DE KANTER**  
 Architect  
 728 N.E. 34th Place, Coos Bay, OR 97113  
 P.O. Portland, OREGON 97232 258-4178  
 777-2844



## Conditions of Approval:

1. Obtain Design Review approval of proposed site improvements and landscaping.
2. Fulfill Engineering Services requirements for right-of-way improvements along NE Halsey Street and right-of-way dedications as applicable.
3. Complete land division procedures according to MCC 11.45 prior to issuance of building permits.

## Findings of Fact:

1. **Applicant's Proposal:** CBH Company proposes construction of a 74-unit apartment complex with a recreation area and rental office. The request would apply a PD overlay to the subject property. The proposed project consists of 18, two-story buildings and one single-story building. **(NOTE: This decision allows 17 4-plex structures rather than the 18 proposed in the application.)** The buildings contain 4 units each. The single story structure will contain a sales office and a recreation area. Plans include a swimming pool for residents of the project.

Applicant provides the following description of their project:

*"This project will be targeted toward the high-end apartment renter. The rent structure is estimated at \$595.00 per month. The design has been used in many of our projects in the last few years. The City of Gresham has presented us an award for design excellence for the same type of complex we are proposing in Multnomah County. The current zoning does not allow for this type of garden apartments. We are going through the planned development process in order to permit this design to be used on this site.*

*The plan development process in the county was intended to be used to encourage the application of new techniques and technology to community development arrangements with lasting values. The use of separate garden-type apartment buildings provide for much needed private outdoor space. It also enhances view potentials because there is no solid massing of buildings on the site."*

The proposal includes a requested bonus above the density permitted in the base MR-4 zone. The total site is 282,384 square feet. The current zoning will allow a total of 70 units. Section 11.15.6218 permits density bonuses up to 25% when projects fulfill approval criteria. The request would add 4 units above the 70 permitted in the base MR-4 zone. This represents a 5.7% increase in density.

## 2. Ordinance Considerations:

- A. MCC 11.15.6206 specifies approval criteria for planned development proposals. The following section provides findings for each applicable criteria.

**DECISION**  
**March 13, 1989**

**5 of 11**

**PD 1-89**

- (1) The requirements of MCC .8230(D)(3), applicable elements of the Comprehensive Plan:

Staff Comments:

The proposal site is designated Medium Density Residential in the county's Comprehensive Plan. The PD request will allow development of the site with "garden apartments" consistent with the medium density residential designation.

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

Staff Comments:

The subject proposal requires a Minor Partition under the Land Division Chapter. The partition request has been filed with the Planning office as of this writing. Condition No. 3 requires land division approval prior to issuance of any building permits for the proposed development.

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

Staff Comments:

The MR-4 district does not provide for "garden apartment" structures. Rather, multi-family housing in the MR-4 provisions requires side-by-side siting of units. The PD request will allow the garden apartment style of structure to be developed on the subject parcel. This type of structure frees-up greater portions of the site for open space, landscaping and recreation amenities. The proposed PD overlay provides..."superior living or development arrangements"...on the subject site by permitting apartment units to be stacked one above the other in the two-story 4-plex structures.

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

Staff Comments:

The proposed site plan with the garden-style apartments allows greater portions of the site to be developed as open space, landscaping and recreation amenities than would otherwise be available if the parcel were developed under the base MR-4 zoning specifications (i.e., side-by-side units).

- (5) The provisions of MCC .6214. Relationship of the planned development to the environment.

*"The site itself is fairly flat with a slight drop at the northern property line. There are some evergreen trees along this property line that will be saved and incorporated with the site design. The balance of the site has a lot of ground cover growing with wild shrubbery. We will be clearing the site completely and providing a well developed landscape plan. The project is anticipated to begin around the first of April and be completed by the end of 1989."*

Staff Comments:

The requested PD overlay will facilitate a development more sensitive to the natural environment than would be permitted under the base MR-4 zone. This is due to the development of the site with the garden-style apartment structures which allows greater portions of the site to be landscaped and retained as open space. Applicant indicates that some existing evergreen trees near the north property line will be retained and incorporated into the site design. Condition No. 1 requires Design Review approval of proposed site improvements.

The development as modified by this decision will allow development of the site with 17 individual 4-plex structures providing solar exposure for most of the individual apartments, thereby promoting energy conservation.

No hazards have been identified which would be attributed to the development of the site.

Adjacent properties are of various sizes, some undeveloped, but with a scattering of single family dwellings, particularly to the northwest of the site. Multiple family units are located southwest and west of the site. Reynolds High School is located on the south side of NE Halsey Street across from the street from the site. The proposed site layout maximizes safety and convenience and displays a compatible design with neighboring road systems, buildings and uses as follows.

The plan includes a generous, 30-ft. setback along the entire perimeter for all proposed structures; the MR-4 zone requires only a 20-foot front, 15-foot rear and 5-foot side setbacks. The proposed 4-plex structures are staggered and angled to add interest and space between the structures and display a building scale similar to the single family character of surrounding properties to the northwest and east. The parking area for the project is accessed solely through NE Halsey Street, a designated arterial street. The project places no traffic direct-

ly onto 201st Street or on surrounding neighborhood local streets.

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

Staff Comment:

Applicant indicates the project would be initiated in Spring of 1989 with completion expected by the end of the year.

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

Staff Comments:

**Open Space:** The proposed PD overlay will facilitate an apartment project on the site with larger open areas than would be feasible under the base MR-4 zoning provisions. Condition No. 1 requires Design Review of proposed site improvements to assure that open space areas on the site are suitably improved for the intended uses and that natural features worthy of preservation are incorporated into the site design.

**Density Computation for Residential Development:**

MR-4 provisions specify 4,000 square feet per unit for "multi-plex" structures. This represents an allowable density of 70 dwelling units on the subject site (282,384 sq.ft. divided by 4,000 equals 70.60 units). The zoning code defines a multi-plex structure as "a row house or town house apartment structure."

MCC .6218(B) specifies conditions under which density bonuses may be permitted up to 25% above the allowable density in the base zone. The request would add four units to the total site representing a 5.7% increase in density. Applicant has not demonstrated the proposal's consistency with approval criteria for a density bonus. Specifically, the submittal lacks findings relative to the need for the additional four units; the proximity to commercial, employment and community services; and the characteristics of the site development which will insure the project is complimentary to surrounding land uses.

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

Staff Comments

The proposal fulfills purposes of the Planned development overlay by providing medium density housing with greater open space amenities and small scale structures compatible with surrounding land uses. Approval of the request will result in superior living arrangements on

the site and more efficient use of the property.

- (9) Modifications or Conditions of Approval are necessary to satisfy the purposes stated in MCC .6200.

Staff Comments:

As stated earlier, three conditions of approval are recommended. Condition Number 1 requires design review of proposed site improvements, Number 2 requires street improvements along NE Halsey Street abutting and the site and No. 3 requires land division approval through the County Planning Department for the proposed partitioning pursuant to this application.

**B. Additional Findings:**

The City of Fairview has submitted comments regarding the requested PD proposal in a letter dated March 6, 1989 and attached as Exhibit A. The following comments respond to issues raised by the City of Fairview:

- (1) The subject property is located within an area proposed for annexation into the city of Fairview. It is noted in the March 6, 1989 letter that the subject parcel is designated as "Low Density Residential" in the Fairview Comprehensive Plan. However, the county's plan designation for this site as medium density residential dates back to 1974 when an apartment project was approved on the subject parcel (reference PD 11-72). In the urban planning area agreement between Multnomah County and the City of Fairview dated June 21, 1979, Item No. 4 states:

*"The city has identified no specific conflicts with the Multnomah County Comprehensive Framework Plan for the designated urban planning area of this agreement. For those areas designated 'Urban' by the Comprehensive Framework Plan, Multnomah County is in the process of preparing and adopting community plans. Portions of the Columbia and Rockwood communities lie within the designated urban planning area for the city of Fairview. The city has reviewed draft copies of these communities' plans and has identified no specific conflicts with the proposed land use designations. Upon annexation, the city will adopt the same land use designation as shown upon the county Comprehensive Plan unless and until the city changes said land use designation, pursuant to acceptable legal procedure (ORS 215.130(2)(A))." (emphasis added)*

Based on these facts, staff contends that the current county plan and zone designations apply to the property; no plan or zone change requests have been proposed for the site by Fairview or others and

) applicant's request fulfills the intent of the medium density residential designation.

Application submittals indicates the City of Gresham can serve the site with a 20-inch diameter sewer line within the Halsey Street right-of-way. The Rockwood Water District indicates an 8-inch line within the 201st St. right-of-way can provide 90 P.S.I. of water service to the subject site.

In item 2 on page 2 of Fairview's letter, it is suggested that approval of the PD would violate the Urban Planning Area Agreement between the County and the City. The agreement, however deals only with long range planning activities associated with Periodic Review; it does not delegate quasi-judicial land use decisions in any unincorporated areas to Fairview. It should also be noted that proposed plan designation changes could be proposed to the County by Fairview under the terms of the agreement; no proposals have been received.

In item 3. on page 2 of Fairview's letter, it is noted that long range capital planning for the area has been based on the City's expectation of single family development of the subject site. It is unfortunate that the County's medium-density residential designation of the property was not considered in the City's planning, however, the fact remains that this decision allows a development with no deviation (i.e. 70-units) from the level of residential development permitted under the County's plan and zone designations on the site.

## Conclusions

1. With the exception of using the garden apartment building style, the development as approved (i.e. no density bonus) complies with MR-4 zoning provisions.
2. The four unit increase in density has not been adequately justified pursuant to approval criteria.
3. Development of the site with garden apartment structures permits more land to be developed as open space and landscaping.
4. As conditioned and modified herein, the proposal complies with PD, planned development approval criteria.

In the matter of PD 1-89,

Signed March 13, 1989



By Richard Leonard, Chairman

Filed With the Clerk of the Board on March 23, 1989

**Appeal to the Board of County Commissioners**

Any person who appears and testifies at the Planning Commission hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or before 4:00 p.m. on Monday, April 3, 1989 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

*The Decision on this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, April 4, 1989 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development Division at 248-3043.*



## MULTNOMAH COUNTY OREGON

DIVISION OF PLANNING & DEVELOPMENT / 2115 S.E. MORRISON / PORTLAND, OREGON 97214

August 14, 1989

### Memorandum

**To:** Board of County Commissioners

**From:** Lorna Stickel

**Re:** Amendment to Fairview Intergovernmental Agreement in relation to Land Division Appeal on LD 4-89.

In 1988 The Board approved amendments for the Urban Area Planning agreements with Portland, Troutdale, Wood Villiage and Fairview. This amendment formalized the geographic areas which each of these cities considered to be their urban service boundaries. In addition , for each of the three smaller east County cities language was added which made them responsible for doing periodic review work in areas that were inside these boundaries but still unincorporated. However, it was understood by all cities that any changes in County plan designations or code changes would have to be brought before the County Planning Commission and Board for adoption (see section 4 of the attached Fairview amendment) if these jurisdictions wished these changes to apply prior to the annexations of these lands. In the case before you as in the appeal of the Planned unit development affecting this same land Fairview has argued that the amendment of the Urban Planning Area Agreement gave them the ability to apply their plan designations when only they have adopted them. No intergovernmental agreement that the County has signed with any city has given that city the legislative power to adopt new plan designations without County adopotions to apply these changes. Therefore, the County land use designations and codes must apply to the land in question until such time as Fairview petitions the County to make the requested changes, or the land is annexed and removed from County jurisdiction.



# MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS  
ROOM 605, COUNTY COURTHOUSE  
1021 S.W. FOURTH AVENUE  
PORTLAND, OREGON 97204

GLADYS McCOY • Chair • 248-3308  
PAULINE ANDERSON • District 1 • 248-5220  
GRETCHEN KAFOURY • District 2 • 248-5219  
CAROLINE MILLER • District 3 • 248-5217  
POLLY CASTERLINE • District 4 • 248-5213  
JANE McGARVIN • Clerk • 248-3277

September 6, 1988

Ms. Lorna Stickel, Planning Director  
Division of Planning & Development  
2115 SE Morrison  
Portland, OR

Dear Ms. Stickel:

Be it remembered, that at a meeting of the Board of County Commissioners held September 6, 1988, the following action was taken:

In the matter of ratification of an amendment to )  
the Urban Planning Area Agreement with the City )  
of Fairview BCC 4-88 )

Upon motion of Commissioner Casterline, duly seconded by Commissioner Kafoury, it is unanimously

ORDERED that said amended Urban Planning Area Agreement be ratified.

BOARD OF COUNTY COMMISSIONERS

By Barbara E. Jones  
Barbara E. Jones  
Asst. Clerk of the Board

bj  
cc: Assessment & Taxation  
Engineering  
City of Fairview

AMENDMENT TO URBAN PLANNING AREA AGREEMENT

CITY OF FAIRVIEW - MULTNOMAH COUNTY

The City of Fairview and Multnomah County enter into this agreement pursuant to the authority granted in ORS 190 for the purpose of amending Urban Planning Area Agreement by defining an exclusive urban planning area for the City of Fairview and providing for the transition of Comprehensive Plan periodic review responsibilities for this area.

WHEREAS, the existing Urban Planning Area Agreement between Multnomah County and the City of Fairview does not define an exclusive urban planning area nor does it speak to Comprehensive Planning responsibilities in such an area; and

WHEREAS, a number of long range planning issues need to be addressed in this area for Comprehensive Plan periodic review purposes; and

WHEREAS, these issues need to be addressed in a coordinated fashion as part of an integrated urban area plan; and

WHEREAS, the Board of County Commissioners, through Multnomah County Resolution "A", has stated that the County's intent is to no longer provide urban services in unincorporated Multnomah County; and

WHEREAS, the City and County recognize that the urban planning area defined herein will eventually be annexed to the City; and

WHEREAS, the City will eventually assume land use jurisdiction over the subject urban areas and is therefore the logical entity to assume the lead role in long range comprehensive planning for the area.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. The urban planning area of the City of Fairview shall be as set forth in Exhibit "A".
2. The City agrees to assume responsibility for meeting the requirements of comprehensive plan periodic review for the urban planning area pursuant to ORS 197. This will include, at a minimum, the following:
  - A. The preparation of any required amendments to the Comprehensive Plan, inventory and implementing ordinances.
  - B. The preparation of findings and other supporting material for the required periodic review order.
3. The County agrees to cooperate in providing to the City any necessary background information and data available in County files, records or documents.

4. The County agrees to schedule, coordinate and provide the required notices for legislative presentations and hearings before the County Planning Commission and Board of County Commissioners related to periodic review activities.
  
5. The terms of this agreement shall be effective as of date of adoption and may be amended only upon the written consent of the parties.

Fred M. Carlson  
 Mayor, City of Fairview

Date 7-1-87

Gladys McCoy  
 Multnomah County Chair McCoy

9/6/88  
 Date

\_\_\_\_\_  
 Commissioner Anderson

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Commissioner Miller

\_\_\_\_\_  
 Date

Stretchen Kafoury  
 Commissioner Kafoury

9/6/88  
 Date

Polly Casterline  
 Commissioner Casterline

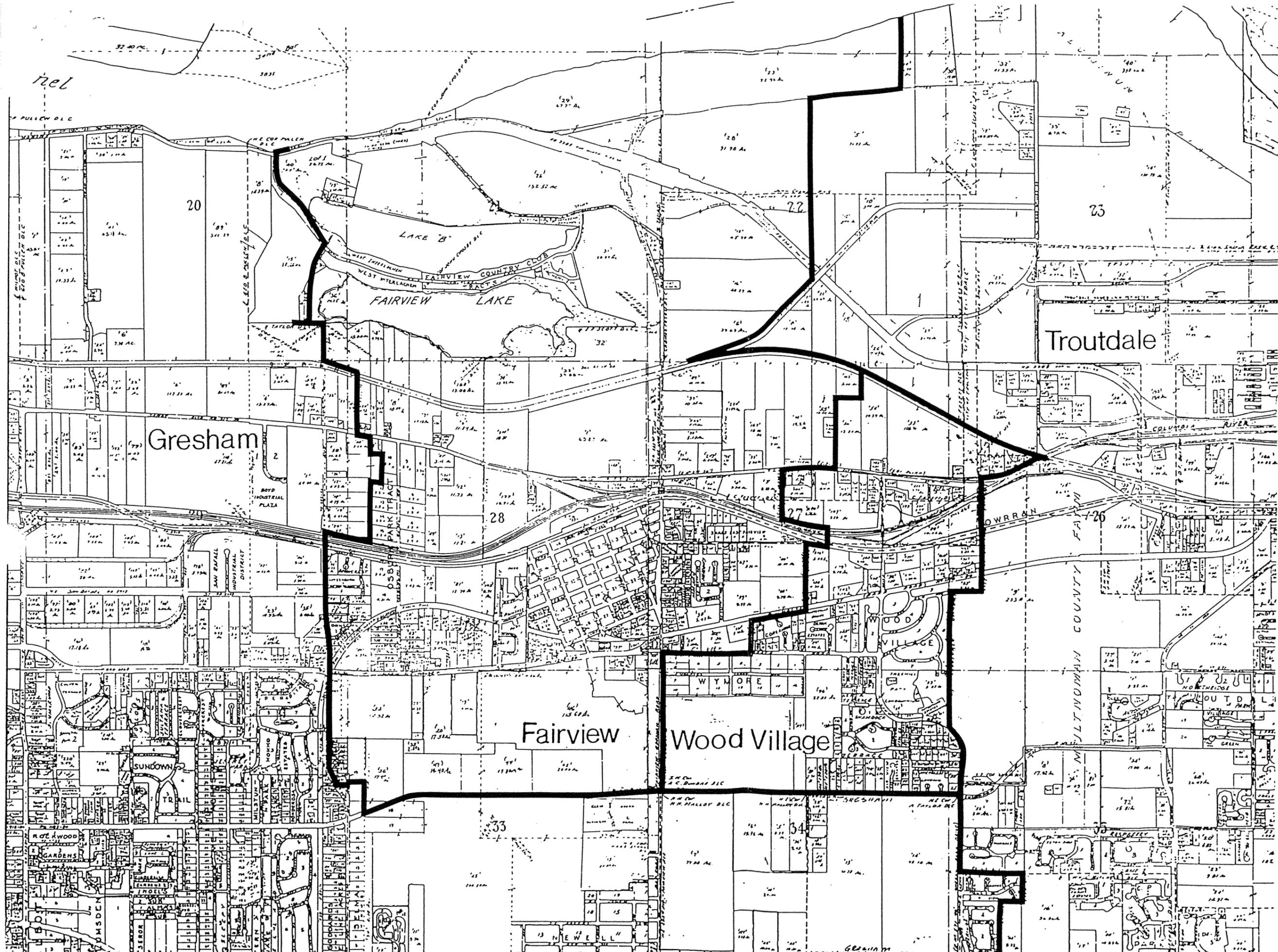
9/6/88  
 Date

(Seal)  
 September 6, 1988

Approved

by Larry DuBois  
 Lawrence Kressel,  
 Multnomah County Counsel

URBAN PLANNING AREA  
AGREEMENT BOUNDARIES  
FOR FAIRVIEW, WOOD  
VILLAGE, AND TROUTDALE



INCORPORATING ALL  
AMENDMENTS TO JANUARY,  
1979 MAP AS OF AUGUST,  
1988



FINAL ORDER

RE: BOUNDARY CHANGE PROPOSAL NO. 2645 - Annexation of territory  
to the City of Fairview.

Proceedings on Proposal No. 2645 commenced upon receipt by the Boundary Commission of a resolution and property owner/registered voter consents from the City on June 23, 1989, requesting that certain property be annexed to the City. The resolution and property owner/registered voter consents meets the requirements for initiating a proposal set forth in ORS 199.490, particularly Section (2)(a)(B).

Upon receipt of the petition the Boundary Commission published and posted notice of the public hearing in accordance with ORS 199.463 and conducted a public hearing on the proposal on July 27, 1989. The Commission also caused a study to be made on this proposal which considered economic, demographic and sociological trends and projections and physical development of the land.

The Commission reviewed this proposal in light of the following statutory guidance:

"199.410 Policy. (1) The Legislative Assembly find that:

(a) A fragmented approach has developed to public services provided by local government and such an approach has limited the orderly development and growth of Oregon's urban areas to the detriment of the citizens of this state.

(b) The programs and growth of each unit of local government affect not only that particular unit but also the activities and programs of a variety of other units within each urban area.

(c) As local programs become increasingly inter-governmental, the state has a responsibility to insure orderly determination and adjustment of local government boundaries to best meet the needs of the people.

(d) Local comprehensive plans define local land uses but may not specify which units of local government are to provide public services when those services are required.

(2) The purposes of ORS 199.410 to 199.519 are to:

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(a) Provide a method for guiding the creation and growth of cities and special service districts in Oregon in order to prevent illogical extensions of local government boundaries;

(b) Assure adequate quality and quantity of public services and the financial integrity of each unit of local government;

(c) Provide an impartial forum for the resolution of local government jurisdictional questions; and

(d) Provide that boundary determinations are consistent with local comprehensive planning, in conformance with state-wide planning goals. However, when the proposed boundary commission action is within an acknowledged urban growth boundary, the state-wide planning goals shall not be applied. The commission shall consider the timing, phasing and availability of services in making a boundary determination.

199.462 Standards for review of changes; territory which may not be included in certain changes. (1) In order to carry out the purposes described by ORS 199.410 when reviewing a petition for a boundary change, a boundary commission shall consider economic, demographic and sociological trends and projections pertinent to the proposal, past and prospective physical development of land that would directly or indirectly be affected by the proposed boundary change and the goals adopted under ORS 197.225."

The Commission also considered its policies adopted under Administrative Procedures Act (specifically 193-05-000 to 193-05-015), historical trends of boundary commission operations and decisions, and past direct and indirect instructions of the State Legislature in arriving at its decision.

#### FINDINGS

(See Findings in Exhibit "A" attached hereto).

#### REASONS FOR DECISION

(See Reasons for Decision in Exhibit "A" attached hereto).

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ORDER

On the basis of the Findings and Reasons ~~For Decision~~ listed in Exhibit "A", the Boundary Commission approved Boundary Change Proposal No. 2645 as modified on July 27, 1989.

NOW THEREFORE IT IS ORDERED THAT the territory described in Exhibit "B" and depicted on the attached map, be annexed to the City of Fairview as of the date of approval.

PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT  
BOUNDARY COMMISSION

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Chairman

Attest: \_\_\_\_\_

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FINDINGS

Based on the study and the public hearing the Commission found that:

1. The territory to be annexed is located generally on the west edge of the City, contains 53.13 acres, 52 single family residences, 2 multi-family units, an estimated population of 130 and is evaluated at \$3,982,100.
2. The territory to be annexed is within the Fairview Urban Planning Area (UPA) and represents a logical extension of City services. The annexation would eliminate jurisdictional confusion over who is responsible for providing service to the area and thereby improve the services to the area.
3. Approval of the Proposal creates an unincorporated island containing 11 properties. The property owners were notified of the City Council and Boundary Commission hearings on the annexation. The City intends to annex the island using the Island annexation method later this summer.
4. The Boundary Commission has three adopted policies. The first of these policies states that the Commission sees cities as the primary provider of urban services. Recognizing that growth of cities may cause financial problems for districts, the second policy stipulates that the Commission will help find solutions to these problems. The third policy states that the Commission may approve illogical boundaries in the short term if these lead to logical service arrangements in the long term.
5. The territory is within the boundary of METRO and within the regional Urban Growth Boundary (UGB).
6. The site is designated Urban on the acknowledged Multnomah County Comprehensive Land Use Plan and is designated for Low Density Residential use on the Wilkes Community Plan. The territory is zone R-10, R-7 and MR-4. The territory is substantially developed with single family homes.

The City of Fairview has an acknowledged plan for its current city limits. State Law, (ORS 215.130) provides that "land use and zoning designations on areas annexed to cities will continue in effect unless, or until the city has by ordinance or provision provided otherwise." The Fairview/Multnomah County Urban Planning Area Agreement (UPAA) states that "upon

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annexation, the city will adopt the same land use designations as shown upon the county comprehensive plan unless or until the city changes said land use designation, pursuant to acceptable legal procedure (ORS 215.130(2)(a))." The territory is within the City's Area of Interest as identified in the City-County UPA. Subsequent to annexation Fairview plans to zone the area R-7.5.

7. The territory is within the Rockwood Water District. The District currently serves the territory from a 14-inch line located in NE 201st Avenue. The City has an inter-governmental agreement with the Rockwood Water District. This agreement provides that withdrawal of lands from the District will not occur until all City annexations are complete.
8. Gresham owns and operates the regional treatment plant for this area. The plant treats the effluent from the City of Gresham, the unincorporated area north and west of Gresham and the City of Fairview by contract. This agreement specifies Fairview's share in the capacity of the plant. Gresham is expanding the sewage treatment plant. The City of Fairview voters approved a bond measure to finance the additional capacity that will be needed to meet Fairview's future needs, including this area.

None of the homes within the annexation are sewered. A Gresham trunk line is located in NE 205th Avenue. Homes on that street are required to connect to the line within a year. The remainder of the homes are to be connected to sewers by the year 2005, as ordered by the Environmental Quality Commission. Fairview will operate the sewer collection system within the City and residents will be customers of the Fairview. The specifics of the timing and construction of the sewer system will be jointly planned by Fairview and Gresham. The new system will be financed through the formation of Local Improvement Districts.

9. The territory is within the boundary of Multnomah County RFPD #10. The City of Fairview is part of the District. The closest station is the District's Troutdale station.

RFPD #10 has an intergovernmental agreement with the City of Portland for the provision of fire services. Portland now employs all of the District's personnel and will take over the District's stations and equipment as the City annexes 50% of each station's service area. As Portland and Gresham become the fire service providers in mid-Multnomah County the

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District will consist of the rural portions of the District and the cities of Fairview, Wood Village, and Troutdale. The cities of Fairview, Wood Village and Troutdale are currently examining how best to provide fire services to their constituents. They are considering continued service from RFPD #10, contracts with Gresham or Portland, forming their own fire department, volunteer departments and contracting with a private firm.

10. The City of Fairview has three full-time police officers who vary their hours depending upon demand and reports of incidents. These officers patrol the City streets approximately 120 hours per week with back-up from the Multnomah County Sheriff's Department.
11. The territory is within the boundary of Multnomah County Service District #14 for street lights. The City is also within the District.
12. Fairview has three City parks. Two small park sites are located near NE 223rd Avenue. A six acre park, located at the north end of NE 213th Avenue was developed last year. The City received grants to clean up a creek on the site and to further prepare the site for park development. The City installed lighting, play equipment and picnic tables.
13. Fairview contracts with a private consulting firm for land use planning services. Building inspection, electrical and plumbing codes enforcement are provided by the City of Troutdale through a contract.
14. A conflict as to plan and zoning designations on TL 89 and southern portion of TL 200 exists between Mult. Co. and the City of Fairview. Mult. Co.'s plan identifies this area as suitable for multi-family whereas Fairview's plan identifies the area as suitable for single-family. The owners of these lots oppose the annexation because the City has indicated if annexed they will rezone the property to single-family. The property owners have successfully pursued their multi-family designation at the county planning and county board level. The issue is now being appealed to LUBA.

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REASONS FOR DECISION

Based on the Findings the Commission determined that:

1. The proposal should be modified to withdraw TL 89 to allow the land use conflict to be resolved by the current appeal process (LUBA and/or the courts) and then approved.
2. The proposal conforms with city, county and regional planning.
3. The City has an adequate quantity and quality of services available to serve the territory.
4. The area is contiguous to the city and represents a logical direction for City expansion in that it is within the territory the City considered in its Comprehensive Plan and is covered by the City/County UPAA.
5. The annexation is in accord with the Boundary Commission policy on incorporated status.

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