

1 reversed the Planning Commission's decisions and approved the ZC and PD
2 requests.
3

4 On July 6, 1990, the applicant submitted an application to modify certain
5 conditions of approval and allow the project to be developed in two phases. The
6 Commission held a public hearing on an amendment request on August 13, 1990
7 (PD 1-90a). After receiving testimony, the Commission modified Condition #1 to
8 allow phasing of the project, and modified Conditions #2, #5 and #6. The Com-
9 mission adopted Findings supporting the decision at that same meeting. Sever-
10 al neighboring residents appealed the Commission's August 13, 1990 decision;
11 the Board held a *de novo* hearing on the matter on September 25, 1990. As a
12 result of testimony received at that hearing, the Board reversed the Commis-
13 sion's August 13, 1990 decision, denied phasing of the project, and modified Con-
14 dition #2 to insure that the required hydrologic study encompass the entire
15 property. The Board agreed with the Commission's decision to add a paragraph
16 to Condition #2 stipulating a 30-day time period to select a second consultant to
17 review the hydrologic study.
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20 I. APPLICABLE REVIEW STANDARDS 21

22 Two areas in the Zoning Ordinance specify criteria for ZC and PD applica-
23 tions. The first includes the criteria for a zone change in MCC .8230(D); the sec-
24 ond is MCC .6206 which includes the approval criteria for a Planned Develop-
25 ment.
26

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

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

9

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

- 11 (a) The proposed action fully accords with the applicable elements of
12 the Comprehensive Plan [MCC .8230(D)(3)];
- 13 (b) The applicable provisions of MCC 11.45 the Land Division Chapter;
- 14 (c) That any exceptions from the standards or requirements of the
15 underlying district are warranted by the design and amenities
16 incorporated in the Development Plan and Program, as related to
17 the purposes of the Planned Development subdistrict in MCC
18 .6200, which are:

19 *"To provide a means of creating planned environments through*
20 *the application of flexible and diversified land development stan-*
21 *dards; to encourage the application of new techniques and new*
22 *technology to community development which will result in supe-*
23 *rior living or development arrangements; to use land efficiently*
24 *and thereby reduce the costs of housing, maintenance, street sys-*
25 *tems and utility networks; to promote energy conservation and*
26 *crime prevention; to relate developments to the natural environ-*
 ment and to inhabitants, employers, employees, customers, and
 other users in harmonious ways."

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

- (e) The following environmental standards [in MCC .6214]:

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

- 1 (2) The elements of the Development Plan and Program shall pro-
2 mote the conservation of energy, and may include such factors
3 as the location and extent of site improvements, the orientation
4 of buildings and usable open spaces with regard to solar expo-
5 sure and climatic conditions, the types of buildings and the
6 selection of building materials in regard to the efficient use of
7 energy and the degree of site modification required in the pro-
8 posal.
- 9 (3) The Development Plan and Program shall be designed to pro-
10 vide freedom from hazards and to offer appropriate opportuni-
11 ties for residential privacy and for transition from public to pri-
12 vate spaces.
- 13 (4) The location and number of points of access to the site, the inter-
14 rior circulation patterns, the separations between pedestrians
15 and moving and parked vehicles, and the arrangement of park-
16 ing areas in relation to buildings, structures and uses shall be
17 designed to maximize safety and convenience and be compatible
18 with neighboring road systems, buildings, structures and uses.
- 19 (f) That the proposed development can be substantially completed
20 within four years of the approval or according to development
21 stages proposed as follows:
- 22 (1) The applicant may elect to develop the site in successive stages
23 in a manner indicated in the Development Plan and Program.
24 Each such stage shall satisfy the requirements of this Chapter.
- 25 (2) In acting to approve the Preliminary Development Plan and
26 Program, the Planning Commission may require that develop-
ment be completed in specific stages if public facilities are not
otherwise adequate to service the entire development.
- (g) The following Development Standards [in MCC .6212, 6216, and
.6218]:
- (1) A Planned Development District shall be established only on a
parcel of land found by the Planning Commission to be suitable
for the proposed development and of sufficient size to be
planned and developed in a manner consistent with the purpos-
es stated in MCC .6200.
- (2) Open space in a Planned Development District means the land
area used for scenic, landscaping or open recreational purposes
within the development.
- (a) Open space shall not include street rights-of-way, driveways
or open parking areas.
- (b) Locations, shapes and sizes of open space shall be consistent
with the proposed uses and purposes of the Planned Develop-

1 ment.

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

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

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

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

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

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

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

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

- Satisfaction of the need for additional urban area housing of the type proposed;
- The location of housing which is convenient to commercial, employment and community services and opportunities;
- The creation of a land use pattern which is complementary to the community and its identity, and to the

community design process;

- The conservation of energy;
- The efficient use of transportation facilities; and
- The effective use of land and of available utilities and facilities.

(ii) The permitted number of dwelling units may be increased over those computed above upon a finding by the Planning Commission that:

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

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

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

II. FINDINGS OF FACT

This property is located at the southwest corner of the intersection of SE 136th Avenue and SE Holgate Street. This undeveloped site has been in the ownership of David Douglas School District since 1965. The site slopes downward from south to north. The northerly portion, known as Holgate Lake, experiences occasional flooding. The area on the property subject to flooding has been greatly reduced as a result of extensive filling. Properties on all sides of the site are developed for residential purposes.

1 The applicant originally proposed developing the property with a 124-unit
2 mobile home park at a density of approximately one unit per 8,860 square feet.
3 Applicant amended the proposal and reduced the total units to 117. While indi-
4 vidual lot sizes will be less than that allowed by the present LR-10 and LR-7,
5 the resulting site density is not significantly different than allowable under
6 existing zoning. The difference results from the proposed provision of open
7 space, common areas and a water feature.

8
9 The proposed development includes the completion of the public street sys-
10 tem for the surrounding area. Engineering Services is requiring that SE 133rd
11 Avenue and SE Raymond Street end in a *cul-de sac*, with provisions for emer-
12 gency access to the interior streets of the development. SE Long Street will end
13 in a *cul-de sac* at the westerly boundary of the project. The main access to the
14 development will be from SE Holgate Boulevard and 136th Avenue.

15
16 Interior development is proposed to be comparable to that of the "Meadow-
17 land" mobile home development at 160th and SE Powell Blvd. The perimeter
18 will be fenced, areas around individual sites will be landscaped, a common stor-
19 age area will be provided, and an office/clubhouse is proposed. Each site will be
20 provided a garage or carport area, and all units must be of a minimum size of
21 950 square feet.

22 23 **III. EVALUATION OF THE APPLICATION**

24
25 After hearing testimony, arguments and weighing the evidence, the Board
26 finds the ZC and PD proposal satisfies the approval criteria and review stan-

1 dards as set forth below. The Board further finds that the requests to phase
2 the project and amend conditions of approval (PD 1-90a) are not consistent
3 with the prior approval of the project on May 29, 1990 and the requested
4 changes to the decision are rejected.

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

8 B. *Public Need:* There is a public need for providing additional areas
9 within the County where manufactured homes may be located. As the
10 cost of site built homes increases to an average of nearly \$65 per
11 square foot, fewer residents are able to afford them. Manufactured
12 units, then, which average around \$25 per square foot become an
13 attractive option, to which more of the population is turning as wit-
14 nessed by the low vacancy rates in existing developments.

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

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

21 (b) No. 14—Development Limitations: The northern portion of this
22 site is within a designated flood hazard area. However, a large por-
23 tion of that area has been filled with earthen material over the
24 years. The flood elevation of this area is identified by FEMA as
25 being 210 feet above MSL. A 1963 topographic map indicates that
26 the lowest elevation of the site was 190.1 feet. After inspection of

1 the property, staff concluded it is possible the depth of fill material
2 for a significant portion of the flood hazard area may have raised
3 the ground elevation above the 210 foot elevation.

4 The Board heard testimony from surrounding property owners
5 regarding their concern that the fill necessary to raise portions of
6 this site above the 100 year flood plain would increase the flooding
7 potential on their properties, as would proposed development above
8 the 100-year flood elevation. The applicant provided an analysis
9 from Ogden Beeman & Associates indicating that the fill would not
10 have a significant impact with respect to flooding potential on sur-
11 rounding properties. Planning Staff received and the Board heard
12 conflicting information from the Department of Land Conservation
13 and Development, the Army Corps of Engineers and the Federal
14 Emergency Management Agency. The Board does not find any of
15 this information convincing; therefore, conditions of approval for
16 this proposal require that certification be obtained from a regis-
17 tered professional, licensed to practice in Oregon, that the fill
18 required by this project and the other associated hydrologic effects
19 from development of the entire property will not increase the flood-
20 ing potential on surrounding properties [see IV(2)].

21 (c) No. 16—Natural Resources: With the exception of the flood hazard
22 area identified in (b) above, there are no natural resources that
23 have been identified which would be effected as a result of the pro-
24 posed zone change and planned development.

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

1 (e) No. 22—Energy Conservation: This proposal would allow the opti-
2 mum use of solar access for its residents. North-south street and
3 east-west site layout results maximum solar potential for the units.
4

5 (f) No. 24—Housing Location: This proposal allows the infill of vacant
6 urban land with a housing type that is currently in great demand.
7

8 (g) No. 25—Mobile Homes: Development of this property with a
9 mobile home complex under the provisions of the Planned Develop-
10 ment subdistrict satisfies this policy.
11

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

- 14 • Dedicate and improve *cul-de-sacs* at east end of SE Long Street,
15 SE Raymond Street, and the north end of SE 133rd Avenue.
16 The *cul-de-sacs* on SE Raymond Street and SE 133rd Avenue
17 shall connect to the internal street system of the project, but be
18 designed to prevent through vehicular traffic while allowing
19 emergency access.
- 20 • Relocate proposed main entrance west as far as practical to
21 maximize sight distance on SE Holgate Blvd.
- 22 • Create new access point approximately 200 ft. south of SE Hol-
23 gate Blvd. on SE 136th Avenue.
- 24 • Right-of-way dedications and street improvements to county
25 standards will be required (e.g.: 60 ft. of right-of-way with a 44
26 ft. overall pavement section, curb and sidewalks for SE 136th
Avenue, and 80 ft. right-of-way with a 66 ft. overall pavement
section for SE Holgate Blvd.).
- If the internal street connects to SE 133rd Avenue, it must be
improved to its intersection with SE Raymond Street
- The improvements of the private streets are not subject to
County standards for public streets.

1 (i) No. 37—Utilities: Water is provided by Gilbert Water District who
2 indicates they are capable of serving the project with water at 50
3 pounds pressure. Sewage disposal will be via public sewer which is
4 available at SE 136th and Holgate. Drainage is handled on-site by
5 means of dry wells or as specified in the hydrologic study required
6 under Condition #2. All necessary power and communication facili-
7 ties are available along both street frontages.

8
9 (j) No. 38—Facilities: David Douglas School District has been
10 informed of this request and has made no response. Fire protection
11 is provided by Fire District No. 10 and police protection by the
12 Multnomah County Sheriff.

13
14 D. Additional Planned Development Considerations: A number of the
15 Planned Development approval criteria are discussed in (C) above and
16 a number of others are not applicable to this proposal since they
17 involve the processing of special requests which are not being made by
18 this applicant (*e.g.*, land division, density increase, *etc.*). Those that
19 remain are satisfied as follows:

20
21 (a) *System of Ownership* — It is proposed that this project remain
22 under single ownership. That has been found to be the best
23 method of insuring that open space is adequately preserved and
24 maintained.

25
26 (b) *Size* — This parcel is of sufficient size (25.22 acres) to be suitable to

1 accommodate the development as proposed. It allows a system of
2 mainly private streets, sizable areas of open space, and energy effi-
3 cient dwelling location.

4
5 (c) *Development and Placement of Open Space* — This is an item that
6 is best controlled through the Design Review Process. The
7 approval is conditioned to insure that these items will be provided.

8
9 (d) *Density* — The proposed density is less than that which could be
10 achieved through a subdivision of the land, and far less than that
11 possible through the planned development process.

12
13 (e) *Satisfaction of Planned Development Purpose* — This proposal is an
14 efficient use of undeveloped urban land. It employs development
15 techniques different than that of a conventional subdivision by cre-
16 ating a circulation pattern that is mainly in private ownership;
17 consequently not a maintenance burden of the public. It allows for
18 energy efficient orientation of units and provides amenities in the
19 form of useable open space and a central recreation area. All nec-
20 essary public support services and facilities are directly available to
21 the site and no additional public funds are necessary to achieve
22 program implementation.

23
24 (f) *Development Timetable* — The development is proposed to be com-
25 pleted within four years without phasing(ZC 1-90/PD 1-90). A sub-
26 sequent request (PD 1-90a) to split the project into two phases was

1 rejected by the Board due to the complex and potentially hazardous
2 effects on the hydrology of the site and area from even partial
3 development of the site. Further, the Board finds that the negotiat-
4 ed agreement between the Applicant and the Neighbors (in May,
5 1990) called for the hydrologic study on the entire property prior to
6 any site development.

8 IV. CONDITIONS OF APPROVAL

9
10 (1) SE Raymond and SE 133rd shall terminate in *cul-de-sacs* (or other
11 suitable terminations as approved by the Fire District) constructed on the
12 subject property. Those *cul-de-sacs* shall be designed in a manner which
13 prevents normal through vehicular traffic, but allows emergency access to
14 and through the development. Deed restrictions shall be provided for a
15 future *cul-de-sac* at the easterly end of SE Long Street.

16
17 (2) Prior to any development activity on the site, the applicant shall
18 provide a study conducted by a professional (*i.e.*, engineer, hydrologist,
19 geologist, *etc.*) registered to practice in the State of Oregon which certifies
20 that all existing fill and the fill proposed by this development, and all
21 modifications thereof, will not increase the flooding potential on sur-
22 rounding properties. The study shall assess and consider the hydrologic
23 impacts associated with the proposed development on the entire 25.52
24 acre site. The data collection methods, analytical techniques, and conclu-
25 sions of that study shall be reviewed by a second professional with like
26 qualifications who is chosen with the agreement of the people in atten-

1 dance at the negotiating session of May 14, 1990. If the second profes-
2 sional disagrees with the methodology or conclusions of the study, the
3 matter shall be returned to the Board of County Commissioners for fur-
4 ther consideration.

5
6 In the event an agreement cannot be reached on the selection of the
7 second professional within thirty days of the submission of the first study
8 to the Division of Planning and Development, the Board shall arbitrate.

9
10 (3) All existing and any new fill associated with roadways, building
11 foundations and any other areas requiring compacted fill shall be tested
12 and meet soil compaction and quality standards as determined by a regis-
13 tered soils engineer and as approved by the Building Official.

14
15 (4) An on-site storm water drainage system shall be developed with
16 sufficient capacity to detain storm water in dry-wells or retention ponds
17 so no net increase in off-site discharge of storm water flow results from
18 development of the site. An engineering certification shall be included as
19 part of Design Review which assures satisfaction of this condition.

20
21 (5) Areas of existing fill and any new areas of fill that may be required
22 by the development plan shall be constructed in accordance with a transi-
23 tion grading plan to the adjacent lower properties and based on the fol-
24 lowing formula:

25
26 (a) In areas where fill will result in a final finished grade that is 10

1 feet or less higher in elevation than the adjacent property elevation
2 at the property boundary, the development plan shall show a tran-
3 sition slope of no steeper than 3 feet horizontal to 1 foot vertical.

4 (b) In areas where fill will result in a final finished grade that is high-
5 er than 10 feet from the adjacent property elevation at the property
6 boundary, the final development plan shall show a transition slope
7 of not steeper than 5 feet horizontal to 1 foot vertical.
8

9 (6) All fill slopes facing adjacent property boundaries shall be land-
10 scaped and maintained with plant materials that are characteristic of
11 vegetation within the immediate area. This landscaping shall include
12 plantings of trees and shrubs that will break up the uniform slope of the
13 fill.
14

15 (7) Conditions 1, 2, 3, 4 and 5 shall be implemented under the Design
16 Review procedures specified in MCC 11.15.7805-.7870. Any reconfigura-
17 tions of the site plan made necessary by the conditions above shall not
18 allow the site to be developed with more than 117 single family houses.
19

20 V. CONCLUSIONS AND DECISION

21

22 Based on the above findings and evaluation, the Board of Commissioners
23 concludes that the proposed ZC and PD comply with the applicable standards of
24 the Multnomah County Code. Therefore, the Board of Commissioners hereby
25 reverses the Planning Commission decisions in this matter and approves the
26 Zone Change and Planned Development requested in ZC 1-90/ PD 1-90.

1 Based on the above findings and evaluation, the Board of Commissioners
2 concludes that the proposed amended conditions and phasing of the project does
3 not comply with the applicable standards of the Multnomah County Code.
4 Therefore, the Board of Commissioners hereby reverses and modifies the Plan-
5 ning Commission decisions in this matter and modifies the decision in PD 1-90a.
6

7 DATED this 16th day of October, 1990



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Gladys McCoy, Multnomah County Chair

14 REVIEWED AS TO FORM:
15 LAURENCE KRESSEL, COUNTY COUNSEL
16 FOR MULTNOMAH COUNTY, OREGON

17 By:
18 John DuBay, Chief Deputy County Counsel
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