

MEETING DATE: 6-8-93 *Planning*

516C.11

Monday		Tuesday		Wednesday		Thursday		Friday		S
		152 1 213		153 2 212		154 3 211		155 4 210		156
		9:30 Agenda Review JCC Library Extension 1:30 Columbia George Bridges Sharon Tinko 30mins 2:00 Board Meeting Agenda Content + Budget 30mins 2:30 Facilities Maint 3:00 Board Meeting		9:30 EMB/ASA Background Briefing (John) Bill Collins		9:30am Regular JGA - PPS \$300,000 High Risk Offenders (from 5-20-93) ICA - LINC/LITERY (from 5-20-93)				
18	158 7 207	159 8 206		160 9 205		161 10 204		162 11 203		163
		9:30 Briefing - Off. from back 30mins 1:30 Planning Bridal Veil Design				9:30am Regular				
01	165 14 200	166 15 199		167 16 198		168 17 197		169 18 196		170
	Flag Day 1000-1200 City/ County Joint Mtg 2nd Floor, Conf Rm C Portland Bloc	TL BRIEFING 1:30 Dispute Resolution Conf. Room (30min) 2:00pm TSCC HEARING 93-94 + Multnomah County Budget - Court House Rm 202		7:30 - 9:30 Joint Mtg BCC + Library/Board PB Conf Rm A - 14th fl.		9:30am Regular 1st Quarter Conference REQUESTS				
34	172 21 193	173 22 192		174 23 191		175 24 190		176 25 189		177
		9:30 BRIEFINGS LIBRARY ENTREPRENEURIAL INITIATIVES Team Update 1 HR. 1:30 Planning		1:30 EMB/ASA Briefing & Presentation BY INVITATION GUESTS GARY MAX BILL COLLINS 2 HRS		9:30am Regular DSS Contract Renewals				
87	179 28 186	180 29 185		181 30 184						
		9:30 BRIEFINGS 1:30 EMB/ASA Work Session (2 hrs)		9:30-11:30 EMB/ASA Work Session						

C-9-92a  
filing fee  
\$800  
last day  
to file  
notice of  
Review  
6-7-93  
4:30 pm  
pc



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

NOTICE OF REVIEW

CEC 4307 8/25/93 8:12:11

1. Name: Trust for Public Land, \_\_\_\_\_
2. Address: 1211 S.W. 6th Avenue, Portland, OR 97204  
*Last Middle First*
3. Telephone: ( 503 ) 228 - 6620  
*Street or Box City State and Zip Code*
4. If serving as a representative of other persons, list their names and addresses:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. What is the decision you wish reviewed (e.g., denial of a zone change, approval of a subdivision, etc.)?  
Adoption of Goal 5 ESEE Analysis & Protection Program for Bridal Veil.  
\_\_\_\_\_
6. The decision was announced by the Planning Commission on May 17, 1993
7. On what grounds do you claim status as a party pursuant to MCC 11.15.8225?  
We have testified on this matter previously and are landowners of  
most of the subject property. Our interests are adversely affected  
by the decision.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Please return this original form*

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

The Planning Commission erred in making a 3C decision by  
inadequately weighing competing uses and by not allowing  
competing uses to the extent they should have.  
The Planning Commission was not sufficiently clear in terms of the  
particular resources that are to be protected, of the rationale for  
protecting those resources, and the level of documentation required  
before demolition of certain resources.

9. Scope of Review (Check One):

- (a) ☒ On the Record  
(b) ☐ On the Record plus Additional Testimony and Evidence  
(c) ☐ De Novo (i.e., Full Rehearing)

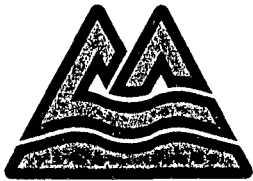
10. If you checked 9(b) or (c), you must use this space to present the grounds on which you base your request to introduce new evidence (Use additional sheets if necessary). For further explanation, see handout entitled *Appeal Procedure*.

Signed: Christopher L. Beck Date: 6-7-93

5-3-93 = 6:05-9:20 145 min		For Staff Use Only	
5-17-93 = 6:05-7:50 (300 minutes) x 3.50 = \$1,050.00 105 min			
Fee:			
Notice of Review = \$300.00			
Transcription Fee:			
Length of Hearings <u>300 min</u> x \$3.50/minute = \$ <u>1,050.00</u>			
Total Fee = \$ <u>1,350.00</u>			
Received by: <u>M. Hoss</u>		Date: <u>6/7/93</u>	Case No. <u>C9-92a</u>

Multnomah County  
Zoning Division

RECEIVED  
JUN - 7 1993



# MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK  
SUITE 1510, PORTLAND BUILDING  
1120 S.W. FIFTH AVENUE  
PORTLAND, OREGON 97204

## BOARD OF COUNTY COMMISSIONERS

GLADYS McCOY •	CHAIR •	248-3308
DAN SALTZMAN •	DISTRICT 1 •	248-5220
GARY HANSEN •	DISTRICT 2 •	248-5219
TANYA COLLIER •	DISTRICT 3 •	248-5217
SHARRON KELLEY •	DISTRICT 4 •	248-5213
CLERK'S OFFICE •	248-3277 •	248-5222

## AGENDA

### MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS

#### FOR THE WEEK OF

**June 7 - 11, 1993**

**Tuesday, June 8, 1993 - 9:00 AM - Board Briefings . . . . .Page 2**

**Tuesday, June 8, 1993 - 1:30 PM - Planning Items. . . . .Page 2**

**Thursday, June 10, 1993 - 9:30 AM - Regular Meeting . . . . .Page 2**

**PLEASE NOTE: TUESDAY AGENDA REVIEW SESSIONS HAVE BEEN ELIMINATED IN LIEU OF STAFF EXPLANATION AND RESPONSE TO BOARD QUESTIONS AT THE THURSDAY REGULAR MEETINGS, IN ORDER TO ALLOW THE VIEWING PUBLIC TO OBSERVE THE DELIBERATIVE PROCESS AND TO REDUCE THE AMOUNT OF TIME STAFF SPENDS IN THE BOARD ROOM.**

**Thursday Meetings of the Multnomah County Board of Commissioners are taped and can be seen at the following times:**

**Thursday, 10:00 PM, Channel 11 for East and West side subscribers**

**Thursday, 10:00 PM, Channel 49 for Columbia Cable (Vancouver) subscribers**

**Friday, 6:00 PM, Channel 22 for Paragon Cable (Multnomah East) subscribers**

**Saturday 12:00 PM, Channel 21 for East Portland and East County subscribers**

**INDIVIDUALS WITH DISABILITIES MAY CALL THE OFFICE OF THE BOARD CLERK AT 248-3277 OR 248-5222 OR MULTNOMAH COUNTY TDD PHONE 248-5040 FOR INFORMATION ON AVAILABLE SERVICES AND ACCESSIBILITY.**

Tuesday, June 8, 1993 - 9:00 AM

Multnomah County Courthouse, Room 602

BOARD BRIEFINGS

- B-1 Update on the 1993 Legislative Session. Presented by Fred Neal. 9:00 AM TIME CERTAIN, 30 MINUTES REQUESTED.
- B-2 Update on the Space Plan for the District Attorney's Office. Presented by Kelly Bacon. 9:30 AM TIME CERTAIN, 20 MINUTES REQUESTED
- B-3 Audit Report: Alcohol & Drug Treatment: Need for a Managed System. Presented by Multnomah County Auditor Gary Blackmer. 9:50 AM TIME CERTAIN, 1 HOUR REQUESTED.
- B-4 Update on the Business Income Tax/Business License Tax Consolidation Issues. Presented by Dave Boyer, Ben Buisman and Shirley Sanders. 10:50 AM TIME CERTAIN, 30 MINUTES REQUESTED.
- 

Tuesday, June 8, 1993 - 1:30 PM

Multnomah County Courthouse, Room 602

PLANNING ITEMS

The Following May 19, 1993, Decisions of the Planning and Zoning Hearings Officer are Reported to the Board for Review:

- P-1 LD 10-93 APPROVE, Subject to Conditions, a 5-Lot Land Division Plus a Future Street Plan for Property Located at 11641 SW MILITARY ROAD

The Following May 17, 1993, Decisions of the Planning Commission are Reported to the Board of County Commissioners for Review:

- P-2 C 9-92a APPROVE, the Goal 5 ESEE Analysis and Protection Program for Bridal Veil
- 

Thursday, June 10, 1993 - 9:30 AM

Multnomah County Courthouse, Room 602

REGULAR MEETING

CONSENT CALENDAR

JUSTICE SERVICES

SHERIFF'S OFFICE

- C-1 Ratification of an Intergovernmental Agreement, Amendment #1, Contract #800762, between Multnomah County Sheriff's Office and the Housing Authority of Portland to Modify the Termination Date and Reallocate Funding, for the Period January 1, 1992 through May 20, 1993

DEPARTMENT OF SOCIAL SERVICES

- C-2     Ratification of an Intergovernmental Agreement, Contract #100204, between Multnomah County Mental Health, Youth & Family Services Division Developmental Disabilities Program and the City of Portland Parks and Recreation for Work Activity Center Services to be Provided for Clients with Developmental Disabilities, for the Period July 1, 1993 through June 30, 1994
- C-3     Ratification of an Intergovernmental Agreement, Contract #100214, between Multnomah County Mental Health, Youth & Family Services Division Developmental Disabilities Program and the Oregon Commission for the Blind for Services to be Provided for Clients with Developmental Disabilities, for the Period July 1, 1993 through June 30, 1994
- C-4     Ratification of an Intergovernmental Agreement, Contract #100224, between Multnomah County Mental Health, Youth & Family Services Division Developmental Disabilities Program and the Portland Employment Project for Services to be Provided for Clients with Developmental Disabilities, for the Period July 1, 1993 through June 30, 1994
- C-5     Ratification of an Intergovernmental Agreement, Contract #100234, between Multnomah County Mental Health, Youth & Family Services Division Developmental Disabilities Program and Tri-Met to Provide Employment Transportation Services for Clients with Developmental Disabilities, for the Period July 1, 1993 through June 30, 1994
- C-6     Ratification of an Intergovernmental Agreement, Contract #100244, between Multnomah County Mental Health, Youth & Family Services Division, Child and Adolescent Mental Health Program and the Children's Services Division to Define the Terms and Conditions to Assure Provision of Treatment Foster Care Services to Children in the Custody of the Children's Services Division, for the Period July 1, 1993 through June 30, 1994
- C-7     Ratification of an Intergovernmental Agreement, Contract #100254, between Multnomah County Mental Health, Youth & Family Services Division, Child and Adolescent Mental Health Program and Clackamas County to Provide Psychiatric Services for Children and Adolescents, for the Period July 1, 1993 through June 30, 1994
- C-8     Ratification of an Intergovernmental Agreement, Contract #100264, between Multnomah County Mental Health, Youth & Family Services Division, Child and Adolescent Mental Health Program and the University Hospital to Provide Psychiatric Services for Children and Adolescents, for the Period July 1, 1993 through June 30, 1994
- C-9     Ratification of an Intergovernmental Agreement, Contract #100274, between Multnomah County Mental Health, Youth & Family Services Division, Mental and Emotional Disabilities Program and the Oregon Health Sciences University to Provide for Children and Adult Mental Health Services, for the Period July 1, 1993 through June 30, 1994

- C-10 Ratification of an Intergovernmental Agreement, Contract #100284, between Multnomah County Mental Health, Youth & Family Services Division, Alcohol and Drug Program and the Oregon Health Sciences University to Provide Services for DUII Clients, for the Period July 1, 1993 through June 30, 1994
- C-11 Ratification of an Intergovernmental Agreement, Contract #100294, between Multnomah County Mental Health, Youth & Family Services Division, Alcohol and Drug Program and Portland Public Schools, District #1 to Provide On-Site Alcohol and Drug Target Out-Patient Treatment Services to be Provided by a Sub-Contract Provider of Multnomah County, for the Period July 1, 1993 through June 30, 1994
- C-12 Ratification of an Intergovernmental Agreement, Contract #100344, between Multnomah County Mental Health, Youth & Family Services Division, Child and Adolescent Mental Health Program and Portland Public Schools to Provide Services to Partners Project Children who Require Special Assistance at School, for the Period July 1, 1993 through June 30, 1994

DEPARTMENT OF ENVIRONMENTAL SERVICES

- C-13 ORDER in the Matter of Cancellation of Land Sale Contract 15454 between Multnomah County, Oregon and GARY V. JAMES Upon Default of Payment and Performance of Covenants
- C-14 ORDER in the Matter of Cancellation of Land Sale Contract 15563 between Multnomah County, Oregon and LAWRENCE SANDVOLD Upon Default of Payment and Performance of Covenants
- C-15 ORDER in the Matter of Cancellation of Land Sale Contract 15564 between Multnomah County, Oregon and LAWRENCE SANDVOLD Upon Default of Payment and Performance of Covenants
- C-16 ORDER in the Matter of Cancellation of Land Sale Contract 15565 between Multnomah County, Oregon and LAWRENCE SANDVOLD Upon Default of Payment and Performance of Covenants
- C-17 ORDER in the Matter of Cancellation of Land Sale Contract 15588 between Multnomah County, Oregon and MICHAEL S. DEBNAM Upon Default of Payment and Performance of Covenants
- C-18 ORDER in the Matter of Cancellation of Land Sale Contract 15651 between Multnomah County, Oregon and DONALD B. WEST and REBECCA M. WEST Upon Default of Payment and Performance of Covenants
- C-19 ORDER in the Matter of the Execution of Deed D930889 Upon Complete Performance of a Contract to DOROTHY WILLIAMS-COLLINS
- C-20 ORDER in the Matter of the Execution of Deed D930890 Upon Complete Performance of a Contract to ROGER EVENSON



- C-21 ORDER in the Matter of the Execution of Deed D930891 Upon Complete Performance of a Contract to RODGER EVENSON
- C-22 ORDER in the Matter of the Execution of Deed D930892 Upon Complete Performance of a Contract to CHUN C. RIM
- C-23 ORDER in the Matter of the Execution of Deed D930894 Upon Complete Performance of Contract to DARRELL B. MCBRAYER
- C-24 ORDER in the Matter of Contract 15499R for the Sale of Certain Real Property to JANICE C. O'NEAL
- C-25 ORDER in the Matter of Contract 15726 for the Sale of Certain Real Property to RUSSELL L. TYRRELL
- C-26 ORDER in the Matter of Contract 15736 for the Sale of Certain Real Property to JEFFREY PAUL FISH
- C-27 ORDER in the Matter of Contract 15741 for the Sale of Certain Real Property to SHRIL D. LOMAX & DAVID J. LOMAX
- C-28 ORDER in the Matter of Contract 15749 for the sale of certain real Property to STEPHEN A. HOUZE & SUSAN M. SVETKY
- C-29 ORDER in the Matter of Contract 15750 for the Sale of Certain Real Property to STEPHEN A. HOUZE & SUSAN M. SVETKY
- C-30 ORDER in the Matter of Contract 15751 for the Sale of Certain Real Property to TIM C. HARSHMAN & JANET M. HARSHMAN

#### REGULAR AGENDA

#### NON-DEPARTMENTAL

- R-1 RESOLUTION in the Matter of Accepting Auditor's Report of Alcohol & Drug Treatment Need for a Managed System
- R-2 RESOLUTION in the Matter of Multnomah County Endorsing the Campaign to Pass Ballot Measure 1 that will Restore Urban Renewal Funding for Oregon Communities

#### MANAGEMENT SUPPORT

- R-3 Second Reading and Possible Adoption of a Proposed ORDINANCE Relating to the Pay Ranges and COLA Increases for Exempt Employees and Repealing Ordinance Nos. 733, 737 and 755

#### JUSTICE SERVICES

##### COMMUNITY CORRECTIONS

- R-4 Budget Modification DCC #29 Requesting Authorization to Transfer \$2,000 from Building Maintenance (7400) to Capital (8400) and \$3,500 from Training (6310) to Supplies (6230) to Allow for the Purchase of a Computer and Supplies for the Marriage & Family Services Computer System
- R-5 Budget Modification DCC #30 Requesting Authorization to Transfer \$5,000 from Personnel Savings to Contracts within the Diagnostic and Program Development Division Budget

- R-6 Budget Modification DCC #31 Requesting Authorization to Add \$42,000 from State Revenue for Temporary Services of an Executive Manager to the State Department of Corrections Assistant Director for Community Corrections within the Specialized Programs and Services Budget
- R-7 Budget Modification DCC #32 Requesting Authorization to Increase Parole Transition Subsidy Funds by \$8,705 within the Diagnostic and Program Development Division Budget

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-8 ORDER in the Matter of Road Surface maintenance of SE Sherman Street from SE 162nd Avenue to SE 159th Avenue and SE 159th Avenue from SE Division Street to Approximately 140' North of SE Sherman Street, Local Access Roads in Unincorporated Multnomah County

DPARTMENT OF HEALTH

- R-9 Request for Approval of a NOTICE OF INTENT to Apply for a \$12,000 Grant with the Centers for Disease Control for One Time Only Funds to Support a Water Fluoridation Conference

DEPARTMENT OF SOCIAL SERVICES

- R-10 In the Matter of the Approval of the Children and Youth Services Commission Plan Amendment
- R-11 Ratification of Intergovernmental Agreement Contract #100084, Between Multnomah County and Portland Public School District #1J, Providing Educational Services for Up to 30 High-Risk Juvenile Offenders Served Through a Subcontractor, for the Period July 1, 1993 through June 30, 1994 (Continued From June 3, 1993)
- R-12 Request for Approval of a NOTICE OF INTENT to Submit Grant Application for \$1,483,402 McKinney Funds for Homeless Singles Program through Housing and Community Services Division
- R-13 Request for Approval of a NOTICE OF INTENT to Submit Grant Application for \$3,820,071 McKinney Funds for Homeless Families with Children Program through Housing and Community Services Division
- R-14 Ratification of an Intergovernmental Revenue Agreement, Contract #102204, between Multnomah County Mental Health, Youth, and Family Services Division and the State Mental Health and Developmental Disability Services Division to Provide \$117,033,204 in Funds for County Mental health, Youth, and Family Services, for the Period July 1, 1993 through June 30, 1995

PUBLIC COMMENT

- R-15 Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

Meeting Date: June 8, 1993

Agenda No.: P-1

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM  
(For Non-Budgetary Items)

SUBJECT: Hearings Officer Decision Review

BCC Informal \_\_\_\_\_ BCC Formal June 8, 1993  
(date) (date)

DEPARTMENT DES DIVISION Planning

CONTACT Sharon Cowley TELEPHONE 2610

PERSON(S) MAKING PRESENTATION Planning Staff

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: 2 Minutes

CHECK IF YOU REQUIRE OFFICIAL WRITTEN NOTICE OF ACTION TAKEN: xx

BRIEF SUMMARY (include statement of rationale for action requested, as well as personnel and fiscal/budgetary impacts, if applicable):

LD 10-93 Review the Decision of the Hearings Officer of May 19, 1993, approving, subject to conditions, a 5-lot land division plus a future street plan for property located at 11641 SW Military Road

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL \_\_\_\_\_

Or

DEPARTMENT MANAGER *pc* *BH William*

(All accompanying documents must have required signatures)

BOARD OF  
COUNTY COMMISSIONERS  
MULTNOMAH COUNTY  
OREGON  
1993 MAY 27 AM 9:06



# MULTNOMAH COUNTY OREGON

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

## DIVISION OF PLANNING AND DEVELOPMENT

### Board Planning Packet Check List

File No. AD10-93

- ☒ Agenda Placement Sheet      No. of Pages 1
- ☒ Case Summary Sheet      No. of Pages 1  
☐ Previously Distributed      \_\_\_\_\_
- ☐ Notice of Review      No. of Pages \_\_\_\_\_  
\*(Maybe distributed at Board Meeting)  
☐ Previously Distributed      \_\_\_\_\_
- ☒ Decision      No. of Pages 24  
(Hearings Officer/Planning Commission)  
☐ Previously Distributed      \_\_\_\_\_

\*Duplicate materials will be provided upon request.  
Please call 2610.



CASE NAME 5-Lot Land Division and Future Street Plan

NUMBER LD 10-93

1. Applicant Name/Address

Anne Kingery (Chinook Investments)  
11641 SW Military Road, 97219

**ACTION REQUESTED OF BOARD**

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

2. Action Requested by applicant

Approval

3. Planning Staff Recommendation

Denial

4. Planning Commission or Hearings Officer Decision:

Approval with conditions

5. If recommendation and decision are different, why?

The staff found that the tentative plan and future street plan submitted by the applicant did not comply with all of the applicable approval criteria in the Land Division Ordinance. However, the Hearings Officer found that the proposal did in fact comply with the applicable criteria, subject to certain conditions of approval.

The main issue was whether SW Powers Court should be extended from the north across the subject site. Staff argued that Powers Court should be extended, and recommended denial because the applicant's proposal did not provide for the extension. The Hearings Officer found that extending Powers Court was not necessary in order for the proposed lots to have appropriate access.

Do any of these issues have policy implications?

No. The Hearings Officer simply reached a different conclusion from that reached by the staff after analyzing the evidence presented prior to the hearing as well as the evidence presented at the hearing.



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

**FINAL ORDER  
BY THE HEARINGS OFFICER**

5-lot Type I Land Division  
and Future Street Plan

**LD 10 - 93**  
**(Chinook Investments)**

Sectional zoning maps  
number 184 and 193

**I. SUMMARY**

The applicant requests approval of a preliminary plat for a Type I land division to divide 6.5 acres into five lots that exceed the dimensional requirements of the R-30 zone. Access to four undeveloped lots will be provided by an existing private street to Military Road; the applicant would pave and widen the private street generally to 20 feet. The other lot is developed and has direct access to Military Road.

The principal issue disputed in the case is how to provide access to the site and adjoining developable land. The proposed subdivision does not extend Powers Court, which stubs at the southwest edge of the site, or Northgate Court, which stubs at the middle of the west edge of the site. Because the applicant will make it impractical to extend those streets, and adjoining parcels to the south can be further divided consistent with the requirements of the R-30 zone, the applicant is required to submit a "future street plan" that shows how access can be provided to lots that can be created on and adjoining the site.

The applicant's future street plan provides for a shared drive to Terwilliger Boulevard for two lots that could be created from the west end of the site, use of the existing private street for three more lots that could be created southeast of the site, and creation of a cul de sac street that extends from Terwilliger to serve eight lots that could be created south of the site. County staff argued Powers Court should extend across the site, and recommended denial as a result. Another witness argued Northgate Court should extend across the site. The applicant argued against extending those streets, because they would require extensive grading, Powers Court on the site would not serve uphill lots as well as the private street, and neither street is needed to serve the site or potential lots to the south and southeast.

Hearings Officer Larry Epstein held a duly noticed public hearing on April 5, 1993 to receive testimony regarding the application. The hearings officer held open the public record until April 26 to receive additional written evidence.

**Location:** 11641 SW Military Road

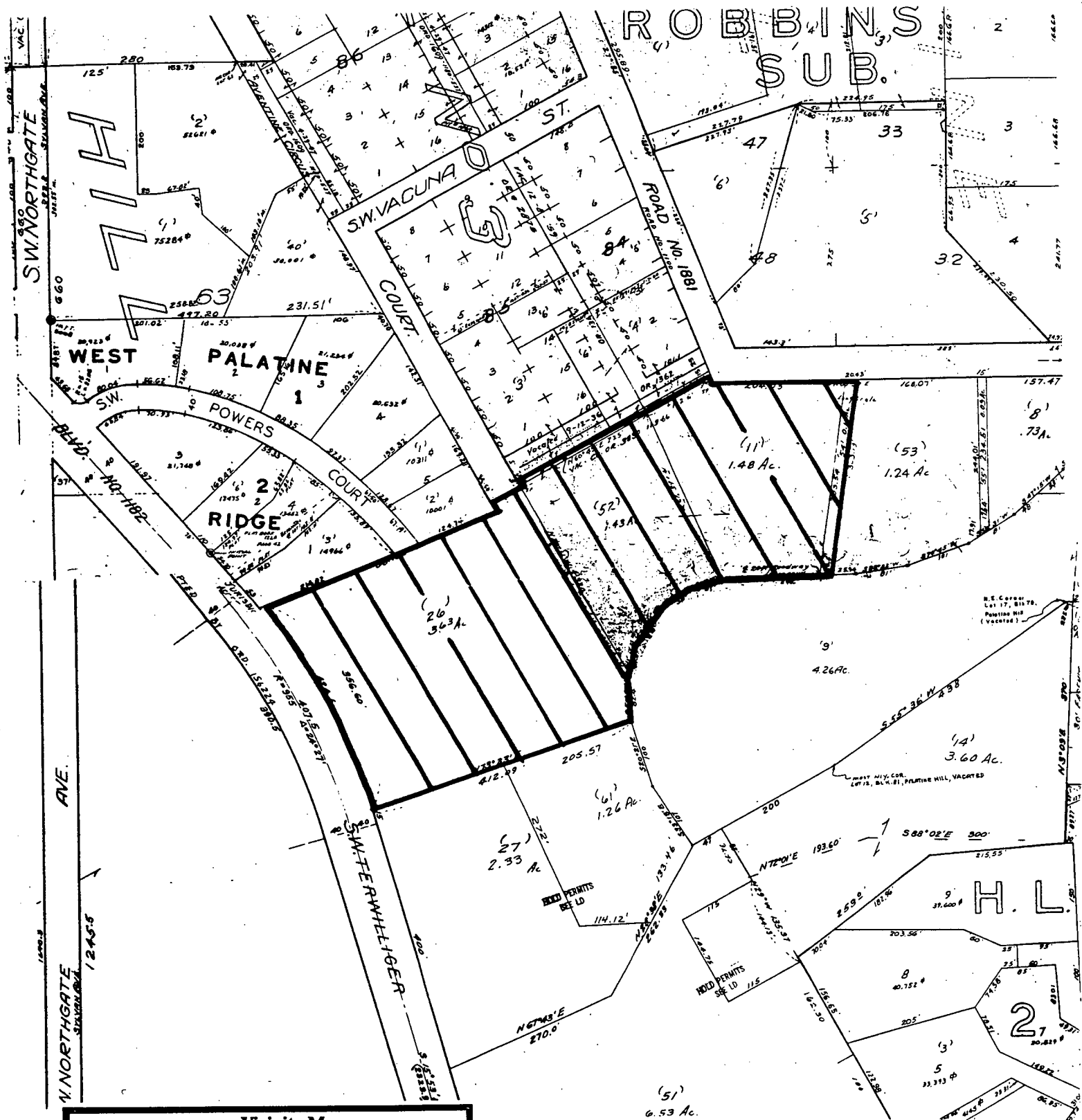
**Legal:** Tax lot '11', '26', '52' and '54', Section 34, T1S-R1E, WM,  
Multnomah County, 1992 Assessor's Map

**Site size:** 6.5 acres

**Owner/Applicant:** Anne Kingery (Chinook Investments)

**Zoning:** R-30, Single Family Residential (30,000 square foot min. lot size)

**Decision:** Approved subject to conditions



# Vicinity Map

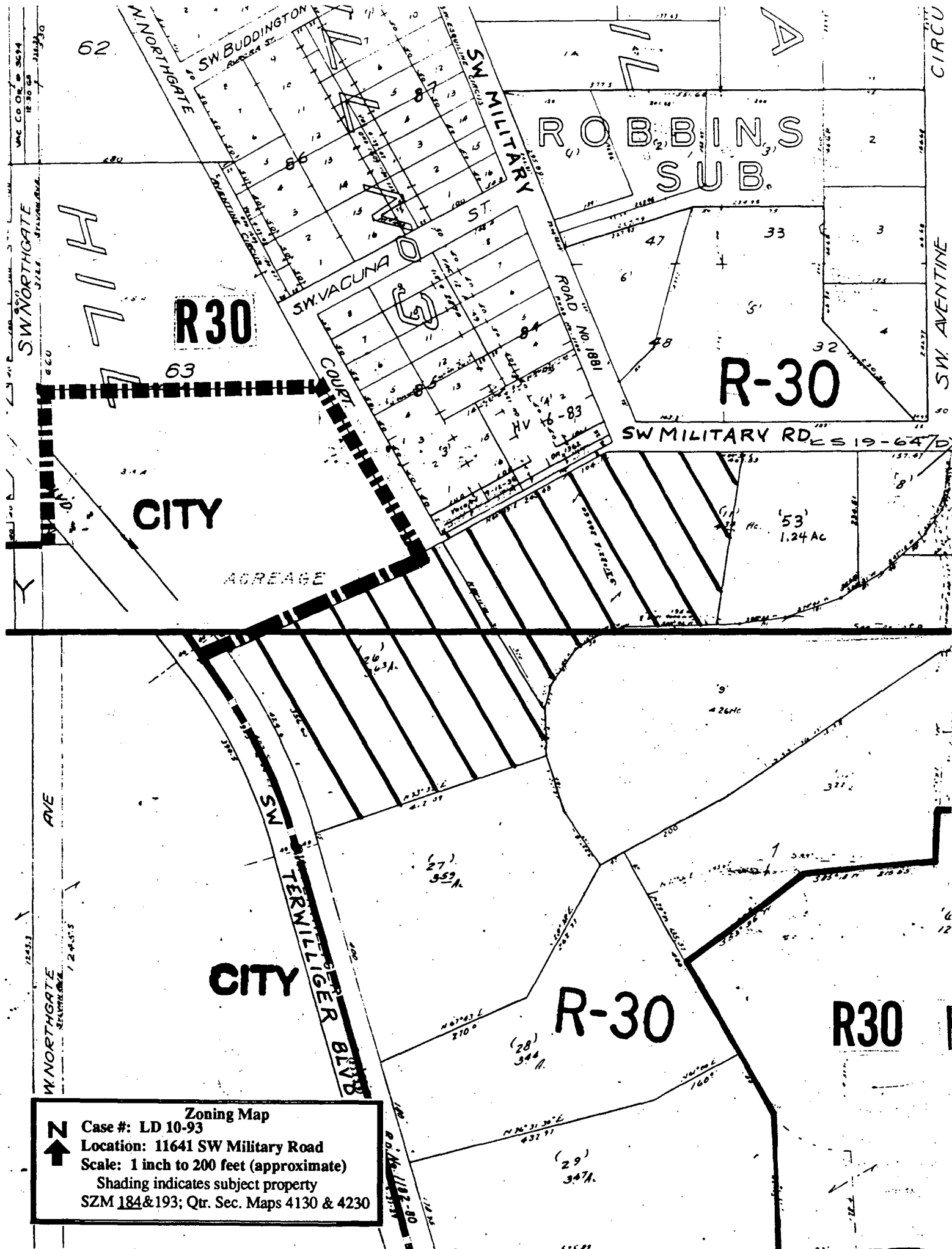
Case #: LD 10-93

Location: 11641 SW Military Road

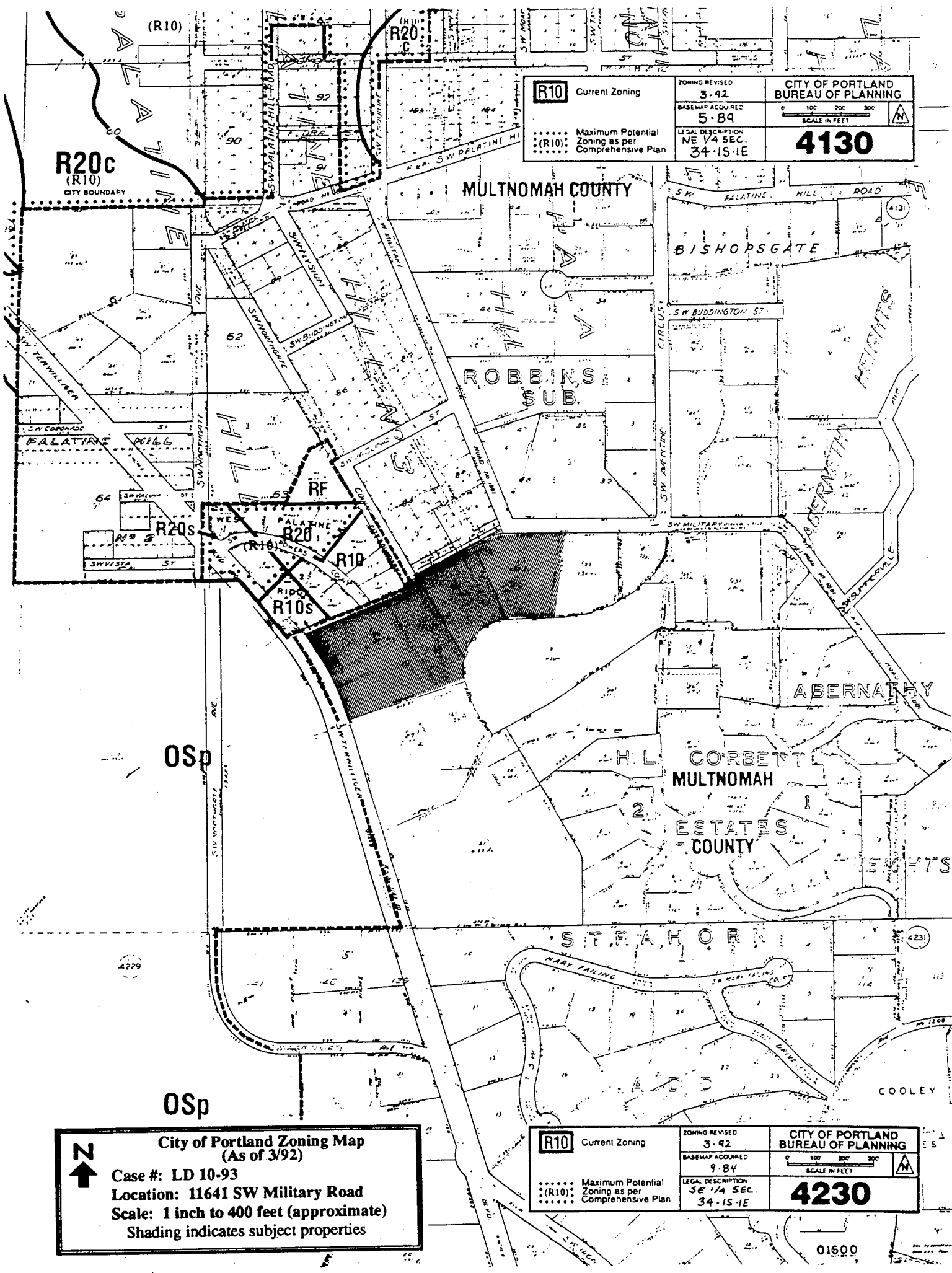
Scale: 1 inch to 200 feet (approximate)

Shading indicates subject properties

Qtr. Sec. Maps 4130 & 4230 (1991)







<b>R10</b> Current Zoning	ZONING REVISED 3-92	<b>CITY OF PORTLAND BUREAU OF PLANNING</b>
	BASEMAP ACQUIRED 5-89	
	LEGAL DESCRIPTION N 1/4 SEC. 34-15-1E	
..... Maximum Potential Zoning as per Comprehensive Plan	<b>4130</b>	

**N**  
City of Portland Zoning Map  
(As of 3/92)

Case #: LD 10-93  
Location: 11641 SW Military Road  
Scale: 1 inch to 400 feet (approximate)  
Shading indicates subject properties

<b>R10</b> Current Zoning	ZONING REVISED 3-92	<b>CITY OF PORTLAND BUREAU OF PLANNING</b>
	BASEMAP ACQUIRED 9-84	
	LEGAL DESCRIPTION SE 1/4 SEC. 34-15-1E	
..... Maximum Potential Zoning as per Comprehensive Plan	<b>4230</b>	

SCALE—1"=100'

BASE MAP - CITY OF PORTLAND AERIAL SURVEY, FEB. 1992.

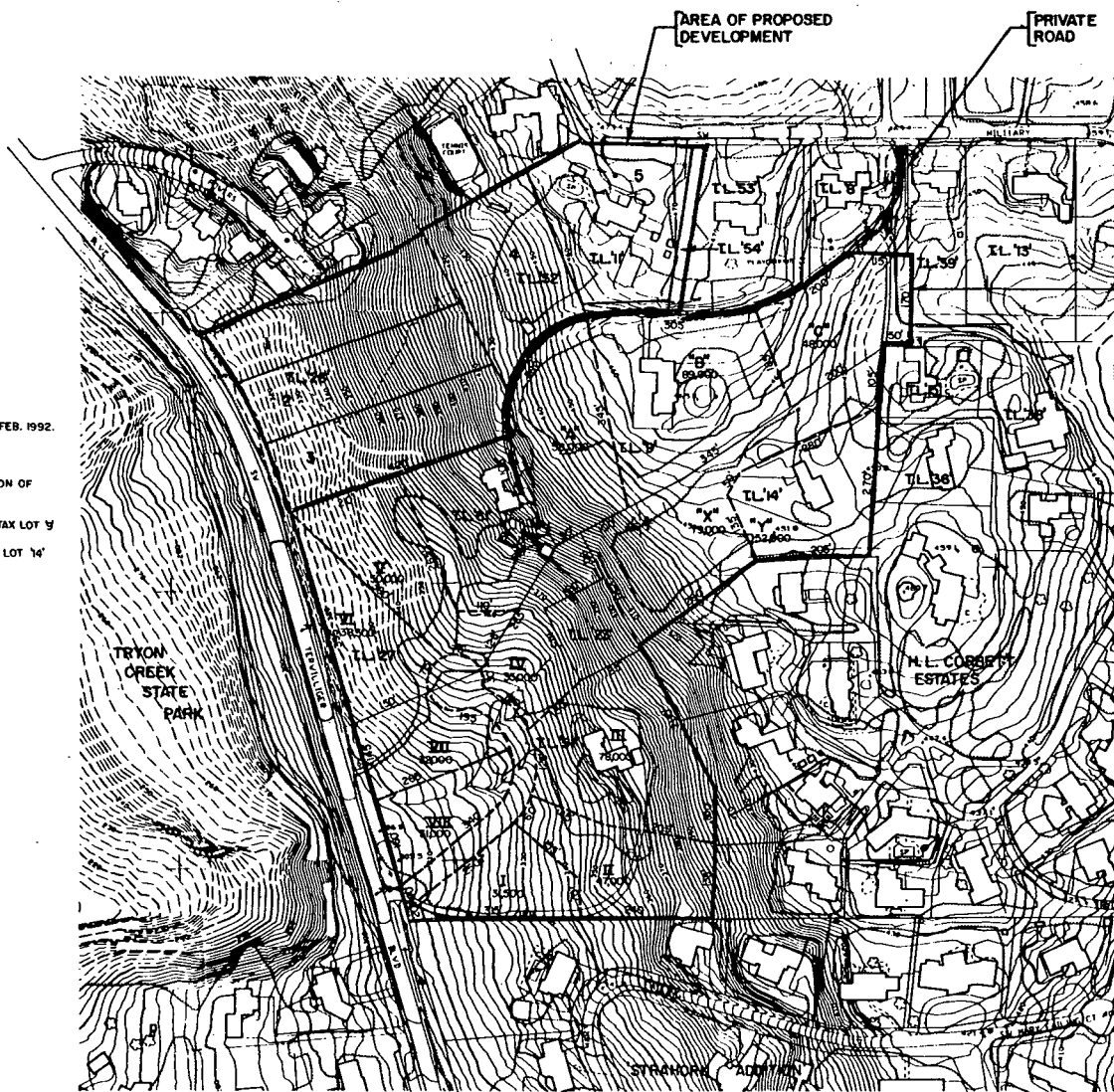
LOTS 1, 2, 3, 4 & 5 - THE PROPOSED DEVELOPMENT

LOT I THROUGH XIII-POTENTIAL FUTURE DIVISION OF  
TAX LOTS 27 AND 31

LOTS A, B & C - POTENTIAL FUTURE DIVISION OF TAX LOT 9

LOTS X & Y - POTENTIAL FUTURE DIVISION OF TAX LOT '14'

LOT 5 HAS ACCESS DIRECT TO MILITARY ROAD.



— [ BOUNDARY OF  
FUTURE STREET PLAN.

REVISIONS

## CHINOOK INVESTMENTS

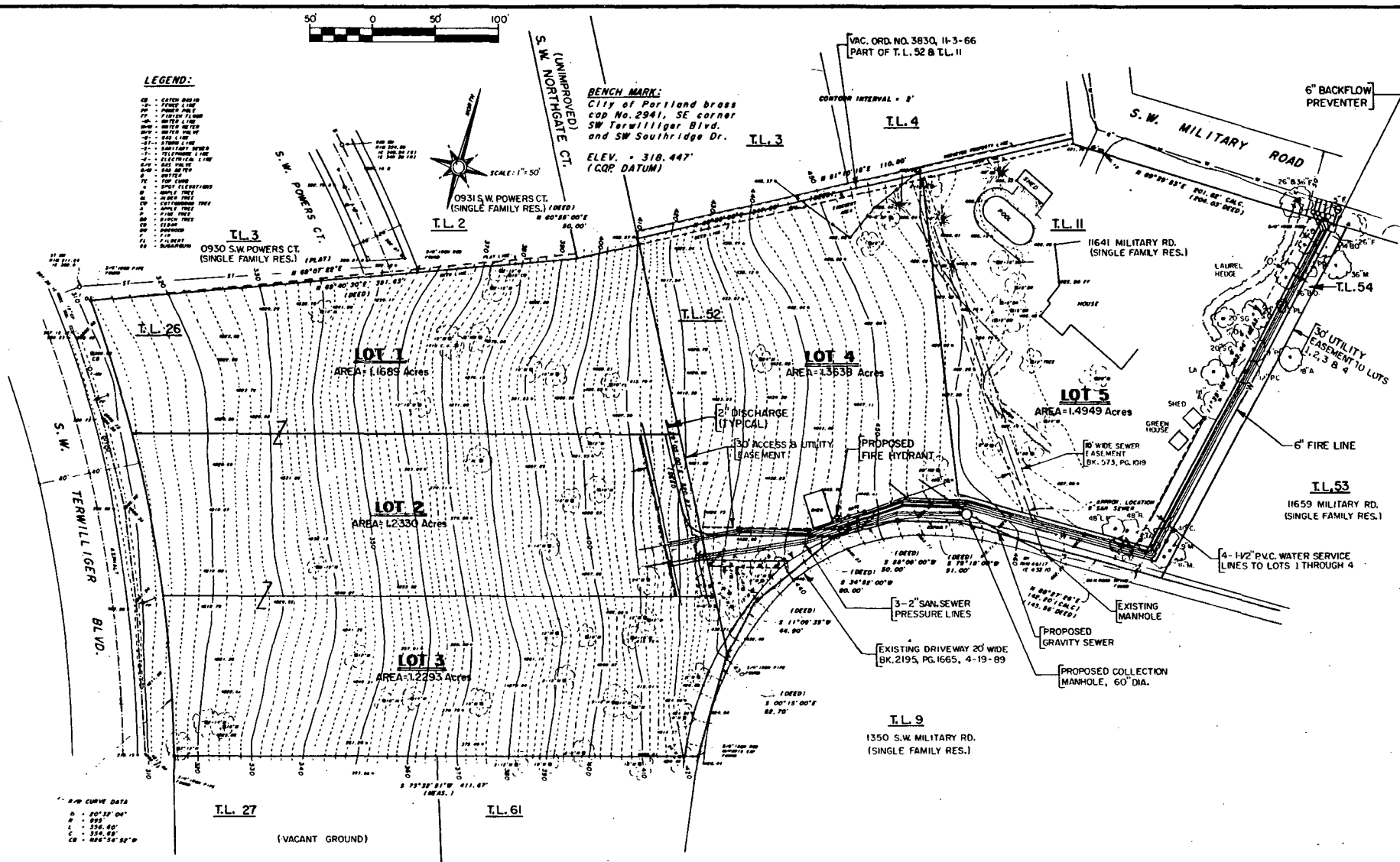
**ZAROSINSKI - TATONE  
ENGINEERS, INC.**

1737 S E 8TH AVENUE, PORTLAND, OREGON 97202



**FUTURE STREET  
PLAN**

DATE	2-16-93
SCALE	1"=100'
DESIGN	R.R.
BY	1315-17



**ZAROSINSKI-TATONE  
ENGINEERS, INC.**

3737 S. E. EIGHTH AVE. PORTLAND, ORE. 97202  
PH: (503) 235-8795

LOCATED IN THE E-1/2 OF SEC. 34

T.I.S., R.I.E., W.M.

MULTNOMAH COUNTY, OREGON

**LARRY BROWN INC.**

2545 S.W. 85TH CT. PORTLAND, OREGON 97225  
PH: 292-4455

### TENTATIVE PLAN MAP

1315-17

CO. MAP NO. 4130

## **II. FINDINGS OF BASIC FACTS**

### **A. Applicant's Proposal:**

#### **1. Land Division:**

a. The applicant proposes to subdivide land containing 283,140 square feet (6.5 acres) into 5 lots. Lots 1-4 are vacant and would range in size from 50,837 square feet (1.17 acres) to 59,407 square feet (1.36 acres). Lot 5 has a house on it and would contain 65,118 square feet (1.49 acres).

b. The driveway for the existing residence on Lot 5 has direct access to Military Road. Access to Lots 1-4 is proposed over an existing private street that extends northeast to Military Road. The private road now has a roughly 10-foot wide surface and changes from a paved surface to a gravel surface at about the east edge of Tax Lot '53'. The slope of the road varies from less than 2 percent to as much as 19 percent, although only about 50 feet of the 1000-foot long road has slopes of 19 percent, and most of the road is sloped 10 percent or less. The applicant will pave the private street so it is generally 20 feet wide from Military Road to the south edge of Lot 3 and will provide a turn-around and fire hydrant adjoining the street on proposed Lot 4. A width of less than 20 feet is proposed for a 60-foot long section to preserve existing significant trees in the easement.<sup>1</sup> See the oversized drawings of "Private Road Topography" dated February 26, 1993.

c. Each lot will be served by public water and sewer systems and will be used for a single family detached dwelling. Although specific building plans were not submitted, the hearings officer assumes the buildings will comply with applicable setbacks. Compliance can be assured through the building permit review process.

d. The applicant submitted a construction management plan dated April 20, 1993 by Brian Clopton Excavating Inc. The plan indicates construction equipment and supplies can be stored on Lot 4, and material cleared from Lots 1-3 can be loaded onto trucks that enter the site from Powers Court. Access also can be provided directly to Military Road across a temporary road through Lots 4 and 5.

#### **2. Future Street Plan:**

a. **Generally.** The applicant is required to submit a Future Street Plan to show how access can be provided to lots that can be created in the Future Street Plan area at some future time under the present R-30 zoning. The Future Street Plan area includes the subject site and Tax Lots '9', '14', '23', '27', '51' and '61' for a total of about 783,200 square feet (just under 18 acres).

b. **Applicant's proposal.** Under the applicant's Future Street Plan, Tax Lots '27' and '51' could be divided into eight lots served by a public cul-de-sac street that extends from Terwilliger Boulevard where the driveway for Tax Lot '51' intersects the street. Tax Lots '9', '14', and '23' could be divided into a total of five lots and would be served by the same private street that is to serve the four proposed lots on the subject site.

---

<sup>1</sup> Fire service for the site is provided by the Lake Oswego Fire Department. The Fire Marshal testified by letter dated April 2, 1993 that the applicant should install an 8-inch water line, fire hydrant, and turn-around (minimum 40-foot outside radius and 20-foot inside radius) approximately where shown on the "Private Road Topography" drawing, and a uniform 20-foot wide road section should be improved pursuant to section 10.204(a) of the 1991 Uniform Fire Code, incorporated herein by reference. It is not clear whether the Fire Marshal would allow a variation in the width of the street to preserve trees.

(1) The applicant argued this future street plan has the least potential adverse impact on natural conditions, because it largely relies on the existing private street and minimizes the length of street necessary to serve potential lots. This consequently minimizes associated grading, tree removal, and storm water drainage problems caused by increased impervious area.

(2) Harry C. Murphy appeared on behalf of Eric Hoffman, who owns land north of the site, to testify in favor of the applicant's proposal.

**c. Staff proposal.** County staff argue that the future street plan and preliminary plat should extend Powers Court from its stub at the southwest edge of the site across the site so it can meet a northerly extension of the public cul de sac street shown on the applicant's future street plan. This would create a loop street paralleling Terwilliger Boulevard. The same number of lots and approximately the same lot configurations could be created using the staff's future street plan.

(1) Portland Urban Services Program Manager John Bonn testified by memorandum dated January 7, 1993 that Powers Court was intended to continue south from the existing stub to a cul de sac. Because access to Powers Court is possible, access directly to Terwilliger should not be permitted. Portland Office of Transportation staff member Kevin Brady testified by memorandum dated March 24, 1993 that "SW Powers Court should be continued through the site in order to meet the objective of street connectivity," arguing that the grades for Powers Court north and south of the site are about the same as the grades on the site; therefore, their connection is possible.

(2) Attorney Michael Robinson introduced a letter dated April 26, 1993 on behalf of the owners of adjoining land. He argued street connectivity is not an applicable approval standard under Policy 36 (Transportation System Development Requirements).

(3) John Storrs testified orally and John Mather testified by letter dated April 26, 1993 in favor of the staff proposal, arguing that the private road is not adequate to serve all of the lots that could be created adjoining it, due to its condition, slope and sight distance constraints.

(4) The applicant argued extension of Powers Court would require substantial grading to accommodate 25 to 30 percent cross slopes. Based on Petitioner's Exhibits A and D, a 7½-foot high cut slope uphill of the road would extend 40 feet east of the right of way at a 2:1 slope. A 7½-foot deep fill slope downhill of the road would extend 30 to 80 feet west of the right of way at a 2:1 to 3:1 slope. The applicant argued this would render much of the lots unbuildable, and that, to enter a home on the uphill lots at a living-area level, the preferred access would be to the private road even if those lots have frontage on Powers Court. The applicant also argued additional grading and pavement for Powers Court would exacerbate storm water impacts. The applicant argued extending Powers Court 380 feet across the site would create far more environmental impacts than would construction of the shared driveway to Terwilliger to serve potential lots that could be developed from Lots 1-3. The applicant notes that, if Powers Court is extended across the site, only two lots could be developed west of that street. The staff plan does not provide access to more lots than the applicant's plan. Moreover, the applicant argued that access by private street is common in the Dunthorpe area served by Military Road, although the applicant did not provide substantial evidence to support this argument.

**d. Northgate Court.** A representative of the owner of Tax Lot '8' proposed a third alternative for access to the site. That is, to extend Northgate Court from where it stubs into the site to serve the four proposed new lots. Northgate would provide access to Vacuna Street and hence to Military Road. Future divisions of land southeast and south of the site would have access as shown on the applicant's future street plan.

(1) Vacuna Street now has a narrow pavement/gravel surface for part of its length. The rest of Vacuna and all of Northgate Court is undeveloped. No lots have vehicular access to Northgate Court. Properties abutting that street have access to Military Road or to the developed portion of Vacuna Street.

(2) The applicant introduced a letter dated April 21, 1993 from John Middleton and a letter dated April 20, 1993 from Anthony Wright regarding the Northgate Court alternative. They observe that such a route would be more disruptive, because it is longer and would have to cross slopes of 20 to 40% requiring up to 10-foot cuts and fills and retaining structures. Mr. Wright opines that the cuts would be geologically unstable.

(3) Attorney Michael Robinson introduced a letter dated April 26, 1993 on behalf of the owners of adjoining land. He argued against the Northgate Court route, arguing it is circuitous and therefore does not comply with fire protection standards in MCC 11.45.020 or with Policy 22 (Energy Conservation).

## **B. Site Conditions and Vicinity Information:**

### **1. Surrounding land uses:**

Land north, east and south of the site is developed with large single family detached homes on oversized lots. Six homes east and southeast of the site now have access to the private street that is proposed to serve four proposed lots on the site and three additional lots that could be created in the future from other property. West Palatine Ridge, a developed subdivision in the City of Portland, abuts the north edge of Lot 1. SW Powers Court, a public street in West Palatine Ridge, now ends at the north edge of Lot 1. West of the site across Terwilliger Boulevard is Tryon Creek State Park.

### **2. Slope:**

a. Portions of site contain slopes of between 20 and 30 percent. The site is in the Slope Hazard Area, based on the County's Geologic and Slope Hazard Maps (Figures 3 and 3A, Shannon and Wilson, September, 1978). Based on those maps, the site contains landslide deposits.

b. The applicant submitted a geotechnical reconnaissance by Anthony Wright dated February 21, 1993. Based on that letter, the site is not subject to extensive creep or landslide instability, although surficial soil creep occurs in an isolated location on proposed Lot 3. Regarding access, Mr. Wright opined that extension of Powers Court "would not be desirable due to cuts and fills within potential landslide debris deposits." Among other things, he recommends the applicant dig 2 or 3 test trenches over the upper portions of proposed lots 1 through 4 to further evaluate landslide potential; specific building foundation measures should be used to address landslide potential; cut slopes should be no steeper than 1:1, with retaining features where needed; storm water from roofs and driveways should be directed to storm sewers; and building and road plans should be reviewed and grading should be observed by an engineer.

### **III. HEARING AND RECORD**

#### **A. Hearing.**

Hearings Officer Larry Epstein received testimony at the public hearing about this application on April 5, 1993. The hearings officer held open the public record until April 26 to receive additional written evidence. A record of that testimony and evidence is included herein as Exhibit A (Parties of Record), Exhibit B (Taped Proceedings), and Exhibit C (Written Testimony). These exhibits are filed at the Multnomah County Department of Environmental Services.

#### **B. Summary of selected relevant testimony.**

1. David Prescott testified for the County and summarized the staff report and introduced a memorandum dated April 2 from Lake Oswego Fire Marshal John McCauley in which Mr. McCauley recommends certain conditions of approval if the preliminary plat is approved. On April 26, Mr. Prescott submitted other conditions recommended by County staff if the hearings officer approves the preliminary plat.

2. John Middleton, Larry Brown and Frederick Kingery testified for the applicant. Mr. Middleton introduced Exhibits A through D, and summarized the written argument in Exhibit E and the application. Mr. Brown also responded to public testimony. Harry Murphy appeared for Eric Hoffman in support of the application.

3. Mike Robinson appeared for owners of unidentified adjoining land. He offered no substantive testimony, but subsequently submitted a letter dated April 26 against extension of Northgate Court.

4. Lloyd Randall appeared on behalf of owners of Tax Lot '8' to argue in favor of development of Northgate Court as an alternative to the future street plans proposed by the applicant and staff. He suggested owners of tax lot '8', '9' and '14' agree to share the cost of building Northgate Court.

5. John Storrs appeared on his own behalf. Mr. Storrs owns Tax Lot '61' and is the last house served by the private road the applicant plans to use for four of the proposed lots. Mr. Storrs argued the private road is too narrow and steep to safely accommodate additional traffic. He preferred the Powers Court extension to reduce traffic on the private road.<sup>2</sup> He also raised concerns about construction impacts on the private road. John Mather, who owns Tax Lot '9', submitted a letter dated April 26 in which he made similar arguments. He also noted that the private road will have to accommodate traffic from lots that can be created from tax lots south of the road. He argued the carrying capacity of the road should be reserved for that development.

---

<sup>2</sup> The applicant argued that, even if Powers Court is extended across the site, access for proposed Lots 1 through 3 will continue to be to the private road, because homes will be situated near the north end of those lots to use the least sloped portion of the lots and to enjoy the best views from those lots. Also, the grading north of a Powers Court extension would be likely to push homes on proposed Lots 1 through 3 farther north on those lots than the minimum setback in the district, making access to a main living area from the private road more convenient and desirable than from a lower level (i.e., Powers Court). The record includes a title report that the hearings officer finds confers a right of access to the private road from residential development on the subject site.

#### IV. APPLICABLE APPROVAL CRITERIA<sup>3</sup>

##### A. Land Division Ordinance Considerations (MCC 11.45).

1. MCC 11.45.080 defines a Type I land division to include the following:

*... an Urban Area subdivision of 10 lots or less where the Planning Director determines that. . .[t]he proposal either eliminates or makes impractical the continuation of an existing street or the provision of needed access to adjacent property;" [and]*

*... [a] land division proposal which, as determined by the Planning Director, will have a substantial impact on the use or development of nearby property such that determination at a public hearing is required, considering . . . plans or programs for the extension of the street or utility systems on or near the proposed division . . ."*

a. The proposed preliminary plat is a Type I land division, because it eliminates the extension of SW Powers Court from its present terminus at the north edge of the subject site. Also, the Planning Director determined that the proposed Future Street Plan requires consideration at a public hearing because of the impact it will have on the development of nearby property.

2. MCC 11.45.150 requires a Future street Plan to *"show the proposed continuation of streets in the Type I Land Division in sufficient detail to demonstrate that future division of the adjacent area in compliance with the provisions of [the Land Division Ordinance] is reasonably possible."*

a. The proposed Future Street Plan does show how access can be provided to lots that can be created from the site and adjoining land. Therefore, it complies with MCC 11.45.150. The principal issue in the case is whether the applicant's future street plan complies with other applicable standards.

3. MCC 11.45.230 lists the approval criteria for a Type I Land Division. The approval authority must find that:

##### *A. The Tentative Plan is in accordance with:*

*(1) Applicable elements of the Comprehensive Plan;<sup>4</sup>*

*(2) 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*

<sup>3</sup> Quotes from the Multnomah County Code (MCC) and Comprehensive Plan are printed in boldface italics.

<sup>4</sup> In this case, the applicable Comprehensive Plan Policies are Policy 13 (Air and Water Quality and Noise Level), Policy 14 (Development Limitations), Policy 22 (Energy Conservation), Policy 24 (Housing Location), Policy 35 (Public Transportation), Policy 36 (Transportation System Development Requirements), Policy 37 (Utilities), and Policy 38 (Facilities). The Staff Report addresses all of these policies except Policy 24. The application includes a response to all these policies (including Policy 24) and to other policies the hearings officer finds are not relevant.



**(3) Applicable elements of the Regional Plan adopted under ORS Chapter 197. [MCC 11.45.230(A)]**

**B. 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)]**

**C. The Tentative Plan or Future Street Plan complies with the applicable provisions, including the purposes and intent of this Chapter; [MCC 11.45.230(C)]**

**D. The Tentative Plan or Future Street Plan complies with the Zoning Ordinance or a proposed change thereto associated with the Tentative Plan proposal; [MCC 11.45.230(D)]**

**E. If a subdivision, the proposed name has been approved by the Division of Assessment and Taxation and does not use a word which is the same as, similar to or pronounced the same as a word in the name of any other subdivision in Multnomah County, except for the words "Town", "City", "Place", "Court", "Addition" or similar words, unless the land platted is contiguous to and platted by the same applicant that platted the subdivision bearing that name and the block numbers continue those of the plat of the same name last filed; [MCC 11.45.230(E)]**

**F. The streets are laid out so as to conform, within the limits of the Street Standards Ordinance, to the plats of subdivisions and maps of major partitions already approved for adjoining property unless the approval authority determines it is in the public interest to modify the street pattern; [MCC 11.45.230(F)]**

**G. Streets held for private use are clearly indicated on the Tentative Plan and all reservations or restrictions relating to such private streets are set forth thereon. [MCC 11.45.230(G)]**

**H. Approval will permit development to be safe from flooding and known flood hazards. Public utilities and water supply systems shall be designed and located so as to minimize or prevent infiltration of flood water into the systems. Sanitary sewer systems shall be designed and located to minimize or prevent:**

**(1) The infiltration of floodwater into the system; and**

**(2) The discharge of matter from the system into flood waters. [MCC 11.45.230(H)]**

**B. Zoning Ordinance (MCC 11.15).**

1. MCC 11.15.2842 through .2846 contain the standards for the R-30 zone. MCC 11.15.2842(A) allows a single family dwelling and accessory structures on a lot in the R-30 zone. MCC 11.15.2844 contains the following dimensional standards and restrictions for development in the R-30 zone:

Minimum lot size	30,000 square feet
Minimum front yard setback	30 feet
Minimum side yard setback	10 feet
Minimum rear yard setback	30 feet
Maximum structure height	35 feet
Maximum lot coverage	25 percent

2. MCC 11.15.6800, *et seq.*, contains solar access standards. A lot complies with this chapter if it has a north-south dimension of 90 feet or more, and has a front lot line that is oriented within 30 degrees of a true east-west axis; or if a protected solar building line is designated on the plat or on documents recorded with the plat; or if solar performance-oriented standards are imposed on future structures. A subdivision complies with this section if 80% or more of the newly created lots comply with this standard. A lot is exempt from the standard if it is sloped 20 percent or more in a direction greater than 45 degrees east or west of true south.

#### **IV. FINDINGS OF FACT AND LAW**

##### **A. Compliance with MCC 11.45.230(A).**

**1. Statewide Goals and Regional 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. Therefore, to the extent that the proposal satisfies the applicable policies of the Comprehensive Plan, the proposal is also consistent with Statewide Goals and the Regional Plan.

**2. Applicable Comprehensive Plan Policies:** The preliminary plat complies with the following applicable Comprehensive Plan Policies:

**a. Policy 13 (Air and Water Quality and Noise Levels) provides:**

*It is the county's policy to require, prior to approval of a legislative or quasi-judicial action, a statement from the appropriate agency that all standards can be met with respect to air quality, water quality and noise levels.*

(1) The proposal complies with Policy 13, because the application includes a statement from the Palatine Hill Water District that it can provide potable water service to the site and a statement from the Dunthorpe Riverdale Service District #1 that it can provide sewer service to the site. A final drainage and erosion control plan is required before development consistent with the Hillside Development and Erosion Control chapter (MCC 11.15.6700). Therefore, all standards can be met with regard to water quality.

(2) The proposed development is not required to obtain a permit for air quality or noise impacts, because the development does not generate traffic or noise in an amount that triggers such permit requirements.

**b. Policy 14 (Development Limitations) provides:**

*The County's policy is to direct development and land form alterations away from areas with development limitations except upon a showing that design and construction techniques*

*can mitigate any public harm or associated public cost, and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:*

- A. Slopes exceeding 20%;*
- B. Severe soil erosion potential;*
- C. Land within the 100-year flood plain;*
- D. A high seasonal water table within 0-24 inches of the surface for 3 or more weeks of the year;*
- E. A fragipan less than 30 inches from the surface; or*
- F. Land subject to slumping, earth slides or movement.*

(1) The site is subject to this policy, because it contains land with slopes of more than 20 percent, has severe erosion potential, a fragipan less than 30 inches from the surface, and land subject to earth movement, based on the Geologic and Slope Hazard Map and topography maps of the site and surrounding area.

(2) The geotechnical reconnaissance dated February 21 shows that design and construction techniques can mitigate public harm or adverse effects by minimizing cut slopes and removal of vegetation, by complying with recommendations of the geotechnical report and with requirements of the Hillside Development and Slope Hazard overlay district, by providing lots that are large enough to vary building location based on slope and geologic conditions, and by employing erosion control methods.

(3) To the extent that development of Powers or Northgate Court will increase development of steeply sloped and geologically sensitive lands on and/or off the site, such development is less consistent with this policy than the future street plan proposed by the applicant. The future street plan proposed by the applicant will direct development and land form alterations away from areas with development limitations. Therefore, the applicant's future street plan best complies with this policy. Based on the geotechnical report dated April 20, design and construction techniques cannot mitigate the adverse visual and geophysical impacts associated with developed Northgate Court off-site.

**c. Policy 22 (Energy Conservation) provides:**

*The county shall require a finding prior to approval of a legislative or quasi-judicial action that the following factors have been considered:*

- A. The development of energy-efficient land uses and practices;*
- B. Increased density and intensity of development in urban areas...*
- C. An energy-efficient transportation system linked with increased mass transit, pedestrian and bicycle facilities;*

***D. Street layouts, lotting patterns and designs that utilize natural environmental and climactic conditions to advantage...***

(1) The application considers the development of energy-efficient land uses and practices by complying with the solar access regulations of MCC 11.15.6800, although three of the lots are exempt due to west-facing slope. The north-south depth of all lots exceeds 125 feet, so a protected solar building line or solar performance standard could be used. The applicant has not chosen to do so, and is not required to do so by MCC 11.15.6800. Therefore, although the application complies with the solar regulations, solar access to the lots is minimally protected if at all. None of the future street plans would have better compliance with solar access standards.

(2) The division of fully serviceable land in the urban area into lots increases the density and intensity of development in urban areas and constitutes an energy-efficient practice, because, as compared to housing outside the urban area, it reduces typical trip length and per unit infrastructure costs and investments. The plat inherently complies with this aspect of the policy.

(3) There is a dispute whether the preliminary plat and future street plan result in an energy-efficient transportation system and whether they result in street layouts, lotting patterns and designs that use natural environmental and climactic conditions to advantage.

(4) County staff argue the extension of Powers Court across the site would enable creation of a loop street when adjoining land to the south develops. Such a loop street, they argue at page 11 of the Staff Report, would enable lot size closer to the 30,000 square foot minimum. They imply that more lots could be created, but the record shows all three street plan alternatives result in the same number of lots. There is nothing inherently better about lots sizes closer to the 30,000 square foot minimum if it does not result in more lots. Therefore, the hearings officer finds none of the street plans complies with this aspect of the policy more than the others.

(5) Extension of Powers Court or Northgate Court would reduce the number of vehicle trips on the private road; but is not relevant to this policy.

(6) Extension of Powers Court across the site would allow that road to be extended south off-site to Terwilliger Boulevard. That would provide two routes to Terwilliger from the site, West Palatine Ridge, and the subdivision that can be developed south of the site. That has obvious public safety implications, but does not result in significantly greater energy efficiency. It could enhance access to mass transit if a bus route stops at either Terwilliger Boulevard intersection. But there is no such stop now, and the hearings officer cannot conclude from the record that such a stop would be created. The record shows the nearest transit stop is for route 39 on Palatine Hill Road via Military Road. Therefore, mass transit connection is improved by improving the private road to Military Road, rather than by building Powers Court. There is no bicycle path to which the Powers or Northgate Court extensions would connect. Therefore, neither of the alternatives enhances access to or connectivity of bicycle paths.

(7) There is a pedestrian facility, i.e., sidewalk, on one side of Powers Court west of the site. Extending that street through the site would enhance the pedestrian connection to Terwilliger Boulevard, because the sidewalk would presumably be extended across the site, too. But there is no sidewalk on Terwilliger. Therefore, such a street extension would not do much to enhance pedestrian access, because there would not be an improved pedestrian path at the west end of Powers Court to which a sidewalk on the

site would connect. Although the Powers Court extension would marginally enhance pedestrian access better than the other future street plan alternatives, the hearings officer finds that enhancement is not determinative given the other aspects of the policy.

(8) The hearings officer finds the applicant's future street plan utilizes natural environmental conditions better than the alternative future street plans, because the applicant's plan requires fewer changes in the natural environment. That enables more of the existing vegetation to be preserved, thereby taking advantage of natural temperature regulation provided by such vegetation. It reduces energy consumed in grading and road bed preparation and requires less asphalt and energy than the alternative future street plans.

**d. Policy 24 (Housing Location) provides:**

*The County's policy is to accommodate the location of a broad range of housing types in accordance with:*

*A. The applicable policies in this Plan; and*

*B. The locational criteria applicable to project scale and standards.*

(1) The proposed preliminary plat will create 5 lots, one of which already is developed. Assuming average family size of 2.5, the project will result in an increase in population of 10 people. Therefore, the preliminary plat is a "minor residential project" based on the definition in the policy. The following locational standards apply to such a project:

**A. Access.**

*(1) Site access will not cause dangerous intersection or traffic congestion, considering the roadway capacity, existing and proposed traffic counts, speed limits, and number of turning movements.*

*(2) There is direct access from the project to a public street.*

**B. Site Characteristics.**

*(1) The site is of a size and shape which can reasonably accommodate the proposed and future allowable uses in a manner which emphasizes convenience and energy conservation.*

*(2) The unique natural features, if any, can be incorporated into the design of the facilities or arrangement of land uses.*

*(3) The land intended for development has an average site topography of less than 20% grade, or it can be demonstrated that through engineering techniques, all limitations to development and the provision of services can be mitigated.*

**C. Impact of the Proposed Change on Adjacent Lands.**

- (1) The scale is compatible with surrounding uses.**
- (2) It will reinforce orderly and timely development and delivery of urban services.**
- (3) Privacy of adjacent residential development can be protected.**
- (4) The project can be integrated into the existing community.**

(2) The applicant argues the private road can safely accommodate traffic from the four undeveloped lots if the road is improved to a paved width of 20 feet. Several neighbors with access to that road dispute that conclusion. They argue the road is too narrow and steep and that whatever unused capacity exists should be reserved for development of other lots. Neither argument is supported by expert opinion or statistics about traffic volume, sight distance, accident history or the like.

(a) The hearings officer finds that the private road can accommodate traffic from the site if it is improved as represented by the applicant.

(b) The road now serves 6 homes, although 4 of the homes only share the north 200 feet of the 1000-foot long road. Adding four new homes on the subject site would increase average daily trips (ADT) on the road to 100 trips (assuming 10 ADT per home, based on the ITE Trip Generation Manual).

(c) If Tax Lots '9', '14' and '23' are divided as shown on the applicant's future street plan, then 30 additional ADT will use the private road, bringing the total ADT to 130 trips.

(d) Although there is no standard in the County Code for the number of dwellings that can be served by a private road, the hearings officer finds that the private road in this case, once improved as represented, can safely accommodate 130 ADT, because it is a small absolute number of trips. By analogy, the hearings officer notes that a similar or greater number of trips typically is generated by a 20+unit multi-family project, based on the ITE Manual, typically with no more than a 20-foot access drive. If such a drive is safe in that context, it can be presumed to be safe in this context.

(e) There is no evidence that such a small number of trips is inherently unsafe given the level of planned improvements to the road, or that the road has a history of accident or hazardous conditions that would be exacerbated by the proposed use. On the contrary, the improvements to be made by the applicant will enhance traffic safety at least proportionate to the impact of the additional traffic created by the project. Although a portion of the private road is sloped more than 15%, that portion is relatively short. Although vegetation along the private road could obstruct sight distance to an extent, the hearings officer finds a prudent driver will not travel at speeds that make the road hazardous due to those constraints.

(f) If parking is prohibited on the private road, as recommended by the Lake Oswego Fire Marshal, then the full 20-foot width of the road can be used for travel. That provides more than enough space for two-way traffic. On a typical 32-foot wide public street, parking is permitted on both sides. If a typical car is 8

feet wide, then a typical local street actually has travel lanes that total less than 20 feet. If that width is adequate for a public street (which is assumed to be able to safely accommodate ADT of more than 1000 trips), then it is adequate for a private street that has far less traffic. A condition is warranted prohibiting parking on the private street to preserve the maximum amount of roadway for travel purposes.

(3) The project has direct access to a public street (Military Road) via a private road. The hearings officer finds that fulfills locational criteria A(2).

(4) The hearings officer finds that the site is of a size and shape that can accommodate the proposed and potential lots consistent with the dimensional standards of the R-30 zone in a manner that emphasizes energy conservation, based on the findings regarding Policy 22 (Energy Conservation), and that provides convenient access to streets and public transit.

(5) The site does not contain unique natural features.

(6) Much of the site is sloped more than 20%. The applicant has demonstrated that limitations created by those slopes can be mitigated, based on the statements by Mr. Wright, provided the applicant complies with the recommendations in those statements. The hearings officer finds that conditions of approval are warranted requiring compliance with those recommendations. Also compliance with MCC 11.15.6700, et seq., will ensure steep slope conditions are addressed. A condition is warranted ensuring such compliance occurs.

(7) The scale of the development is compatible with surrounding uses and can be integrated into the community, because the size of proposed lots exceeds the minimum lot size in the R-30 zone, and because the use proposed for the site is the same as and is developed at a scale similar to uses on surrounding parcels and, i.e., single family detached dwellings on relatively large lots.

(a) By minimizing construction of new streets, (i.e., by not extending Powers or Northgate Court across the site), the applicant's future street plan reduces the disruption to the site and surrounding area resulting from the project.

(b) To enhance compatibility, a condition of approval is warranted requiring the applicant to comply with the construction management plan dated April 20. That is, construction traffic should not use the private road for access when other access is available, and construction of the private road should be coordinated with owners of adjoining land to minimize use conflicts and to ensure access to that land is maintained.

(8) The subdivision and future street plan will reinforce orderly and timely development and delivery of urban services, because all lots will be served by public sewer and water systems and will have access to a public street that can accommodate the increase in traffic.

(a) It was argued by County staff and others that the future street plan does not reinforce orderly and timely development, because it does not provide for the extension of Powers Court across the site.

(b) However, the hearings officer finds that it is not necessary to extend Powers Court across the site to provide access to lots on or off the site. The applicant's future street plan provides for a cul de sac street to serve developable land south of the site. That is sufficient to ensure land to the south can be developed in an

orderly and timely manner. Extending Powers Court so it can intersect with that street when extended off-site, making it a loop street instead of a cul de sac, is not necessary to provide access to lots that can be developed south of the site.

(9) The privacy of adjoining dwellings can be protected by the setbacks required in the R-30 zone and by vegetation on and adjoining the site.

**e. Policy 35 (Public Transportation)** provides (in part):

*The County's policy is to support a safe, efficient and convenient public transportation system...*

(1) Tri-Met Line #39 provides service between Lewis & Clark College and downtown Portland on SW Palatine Hill Road about 1/2-mile north of the site. Line #35 provide service between Oregon City and downtown Portland on SW Macadam Avenue about 3/4-mile east of the site.

(2) The proposed preliminary plat and future street plans comply with this policy by increasing density in the urban area and by improving access to Military Road, from which there is access to public transportation.

(3) The site is not part of a transportation corridor, and none of the future street plans increases the potential number of lots; therefore, none of the future street plans substantially better complies with this policy.

(a) If Powers Court is extended, it would help warrant a future transit route along Terwilliger Boulevard. But the ridership resulting from the extension of the street would be negligible because of the small number of lots involved; therefore, the Powers Court extension has little value to transit access.

(b) The applicant's future street plan enhances pedestrian access to Military Road by widening and paving the private road, and hence to Palatine Hill Road. To that extent it enhances transit access. But the distance between the site and Palatine Hill Road would render that pedestrian improvement of minimal value to transit access.

**f. Policy 36 (Transportation System Development Requirements)** provides:

*The County's policy is to increase the efficiency and aesthetic quality of the trafficways and public transportation by requiring:*

*A. The dedication of additional right of way appropriate to the functional classification of the street...*

*B. The number of ingress and egress points shall be consolidated through joint use agreements...*

*C. Street trees to be planted...*

*D. A pedestrian circulation system as given in the sidewalk provisions, Chapter 11.60.*



(1) Military Road and Terwilliger Boulevard adjoining the site comply with the right of way requirements for their functional classification. Therefore, the applicant is not required to dedicate additional right of way for abutting streets.

(2) The preliminary plat does not result in additional ingress or egress points except onto the private road. The applicant's future street plan results in a new shared-use driveway onto Terwilliger Boulevard from the two lots that can be created from the west portion of the site. The other street plans do not result in that driveway; to that extent, they better fulfill that aspect of this policy. But the policy does not prohibit new access points; it requires their joint use. The applicant's future street plan is consistent with this policy by consolidating the access point for the two potential lots and by consolidating access for other lots at one point onto the existing private street. All of the future street plans result in a new intersection with Terwilliger Boulevard for a street serving eight lots that can be created south of the site.

(3) Street trees are not required along the private road, and substantial vegetation already exists along the Military Road frontage and will be preserved. Substantial vegetation also exists along the Terwilliger Boulevard frontage. If that vegetation is preserved and is otherwise appropriate, it could substitute for street trees. If existing vegetation along the frontage is removed or is inappropriate, street trees could be planted there as a condition of approval pursuant to MCC 11.60.470.

(4) MCC 11.60 requires sidewalks abutting public streets. However, there are no sidewalks along Military Road or Terwilliger Boulevard adjoining or in the vicinity of the site. The applicant would comply with this aspect of the policy by providing sidewalks adjoining the Military Road and Terwilliger Boulevard frontages. Such improvements are required by MCC 11.60. However, the Director could grant a variance waiving construction of a sidewalk, because such an isolated sidewalk section would not enhance public safety and would require removal of substantial mature vegetation that provides aesthetic benefits. That also would comply with the policy, because Chapter 11.60 allows it.

(5) The Staff Report states:

*The County Engineer has determined that continuation of Powers Court through the subject site would be required in order for the proposed land division to comply with the provisions of the Street Standards Ordinance (MCC 11.60).*

Staff do not provide more specific citation to MCC 11.60 to support that statement, and the hearings officer was unable one. Policy 36 does not expressly promote "street connectivity." Even if Powers or Northgate Court is extended across the site, it would not result in significantly enhanced access for vehicles or pedestrians. Extension of Powers Court to create a loop street would help ensure emergency access could be provided along the street, but that is not relevant to Policy 36. Extension of Powers or Northgate Court across the site would reduce traffic volume on the private road. But that is irrelevant to Policy 36 as long as the street is improved consistent with the Street Standards and Uniform Fire Code. The hearings officer finds that extending Powers or Northgate Court is not necessary to comply with this policy.

(6) The Director can require the applicant to terminate Powers Court with a cul de sac on the site to fulfill Uniform Fire Code and Street Standards requirements for a cul de sac street (Rules for Street Standards section 1.100). Such a condition is warranted to comply with the Street Standards.

**g. Policy 37 (Utilities)** requires the county to find, prior to approval of a legislative or quasi-judicial action, that:

***A. The proposed use can be connected to a public sewer and water system, both of which have adequate capacity; ...***

***B. There is adequate capacity in the storm water system to handle the run-off; or***

***C. The run-off can be handled on the site or adequate provisions can be made;***

***D. The run-off from the site will not adversely affect the water quality in adjacent streams, ponds or lakes or alter the drainage on adjoining lands.***

***E. There is an adequate energy supply to handle the needs of the proposal and the development level projected by the plan; and***

***F. Communications facilities are available.***

(1) The proposed lots will be connected to public water and sewer systems with adequate capacity, based on the certification of water service by the Palatine Hill Water District and the certification of sewer service by the Dunthorpe Riverdale Service District #1. The preliminary plat illustrates how and where water and sewer lines will be extended to serve each lot. A condition of approval is warranted requiring such service.

(2) The record does not include a statement from a public agency or other evidence showing that there is adequate capacity in the storm water system to accommodate run-off from the site. The County Engineer advised staff that connection to the existing storm sewer in Terwilliger Boulevard would not be acceptable, but did not explain why. The applicant did not rebut the County Engineer's expert opinion. Therefore, the hearings officer finds that there is not adequate capacity in the storm water system in Terwilliger Boulevard to handle the run-off.

(3) The applicant's geotechnical engineer recommended that storm water from roofs and paved areas be collected and discharged to the storm sewer. Contrary to this recommendation, (but consistent with the County Engineer's advice), the applicant proposed to discharge storm water from each lot on the lot. The applicant did not submit soils data or a preliminary plan for such features. It is not clear from the record whether the engineer's recommendation was conservative and advisory in nature (in the interests of avoiding any *potential* drainage problems on-site) or whether it was intended as a mandatory measure necessary to avoid significant *anticipated* drainage problems.

(a) The hearings officer finds that the site as a whole and each proposed lot is large enough to accommodate measures to collect and retain storm water on-site if such a system is engineered to reflect specific soil and slope conditions and anticipated volumes of run-off.

(b) Given the conflict between the geotechnical engineer's recommendation and the applicant's drainage plans and the lack of soils data in relation to a specific drainage plan, the hearings officer finds that soil that would be affected by drainage features should be identified and evaluated by an engineer with expertise in such matters.

The engineer should determine what drainage measures are necessary to accommodate storm water on-site, preferably on the lot that generates it, based on surface and subsurface soil permeability, landslide potential, anticipated worst case storm water volumes and rates, and other relevant factors, subject to review and approval by the County Engineer and to the applicable provisions of the Hillside Development and Slope Hazard overlay zone (for areas where the average slope is more than 25%).

(c) To ensure that run-off can be handled on-site, the applicant should be required to provide those facilities approved by the County Engineer or to require by covenant or a notation on the plat that such features or alternatives approved by the County Engineer must be provided as part of the building permit for each lot. Appropriate easements and joint maintenance responsibilities should be created if storm water from one lot is discharged on or crosses another lot.

(4) Run-off from the site will not adversely affect surface water bodies on or adjoining the site, because there are none. Run-off will not alter the drainage on adjoining lands, provided an on-site storm water system is designed and implemented as discussed above.

(5) Energy and communications utilities will serve the proposed lots, based on written statements in the record by Portland General Electric and US West Communications and the location of such utilities on and adjoining the site.

**h. Policy 38 (Facilities)** requires the county to find, prior to approval of a legislative or quasi-judicial action, that:

*A. The appropriate school district has had an opportunity to review and comment on the proposal.*

*B. There is adequate water pressure and flow for fire fighting purposes; and*

*C. The appropriate fire district has had an opportunity to review and comment on the proposal.*

*D. The proposal can receive adequate local police protection in accordance with the standards of the jurisdiction providing police protection.*

(1) The property is located in the Riverdale School District. The district had an opportunity to review and comment on the proposal, based on the School District Review form.

(2) There is adequate water pressure and flow for fire fighting purposes provided the applicant extends water service to a fire hydrant on the site, based on the Certification of Water Service and the Fire District Review form.

(3) The site is in Multnomah Joint Fire Protection District 11, and is served by the Lake Oswego Department of Fire Services. The district has had an opportunity to review and comment on the proposal, based on the Fire District Review form and the memorandum from Fire Marshal John McCauley dated April 2.

(4) The site can be served by the Multnomah County Sheriff, based on the Police Service Review form.

**B. Compliance with MCC 11.45.230(B).**

1. There is a dispute about whether the applicant's future street plan and associated preliminary plat comply with this criterion.

a. The applicant argues there is no adjacent property under the same ownership, and lots that can be created from the proposed lots on the site and from adjoining properties can have access to Terwilliger Boulevard or to the private road to Military Road without extending Powers or Northgate Court across the site.

b. County staff argue Powers Court was built to the north edge of the site when the West Palatine Ridge subdivision was platted, and was intended to be extended southward in conjunction with development of the subject site. The applicant's plan will preclude that extension. Staff argue Powers Court can be extended across the site, based on the grade of existing and potential Powers Court north and south of the site; therefore, it should be extended. Staff also argue the Powers Court extension would provide better opportunities for division of the properties into lots with direct public street access and with sizes more consistent with the existing R-30 zoning. In contrast, they argue, the proposed Tentative Plan and Future Street Plan as submitted would result in fewer lots overall, and would require greater dependency on a private street for access.

c. The hearings officer finds that MCC 11.45.230(B) does not require the applicant to extend Powers or Northgate Court across the site just because they stub into the site and can be extended across the site. That is not what the section says. It requires that access be provided to lots that can be created from the site and adjoining land. The applicant's future street plan shows how access can be provided. That is all this section requires. Therefore, the applicant's preliminary plat and future street plan comply with this section.

d. The hearings officer finds the staff erred by concluding the applicant's future street plan will result in fewer lots than a plan that provides for extension of Powers Court. The same number of lots can be developed under both plans. If one plan resulted in more lots, it would change the hearings officer's analysis.

e. The hearings officer also finds that it is irrelevant that the size of some proposed lots will be closer to the 30,000 square foot minimum lot size in the zone if it does not also result in more lots. There is nothing in the County Code or Comprehensive Plan that staff have identified that discourages access via a private street. As long as the private street can accommodate expected traffic volumes, it can be used to provide access to proposed and potential lots.

**C. Compliance with MCC 11.45.230(C).**

1. MCC 11.45.015 states that the Land Division Ordinance:

*[I]s 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."*

2. The proposed land division and future street plan satisfy the purpose of the Land Division Ordinance for the following reasons:

a. Each proposed lot is of a size and shape that can accommodate a single family dwelling and accessory structure consistent with the dimensional requirements of the R-30 zone. This protects property values and furthers the general welfare interest in promoting compatibility and consistency of land uses in a given area.

b. Each proposed lot can be served by public utilities and facilities consistent with applicable County Code provisions, based on findings regarding Policies 37 (Utilities) and 38 (Facilities). Each proposed and potential lot can be provided with access, based on findings regarding Policies 22 (Energy Conservation), 24 (Housing Location) and 36 (Transportation System Development Improvement Requirements). This furthers the public health and safety by ensuring services and access needed to accommodate existing and future development will be provided.

c. The proposal complies with 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 I Land Division and is subject to the improvement requirements associated with such a development action.

3. MCC 11.45.020 states that the intent of the Land Division Ordinance is to:

***[M]inimize 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.***

4. The proposed land division and future street plan satisfy the intent of the Land Division Ordinance for the following reasons:

a. Because each proposed and potential lot will have access to a public or private street that can accommodate that traffic, the proposal does not result in street congestion. The hearings officer concedes the applicant's proposal will increase the volume of traffic on the private street. However, the hearings officer construes the word "congestion" to require more than simply an increase in traffic volume. To find that a project will cause congestion, the record must show that the volume of traffic from the project will exceed the carrying capacity of the affected streets or reduce the level of service of intersections affected by that traffic. The hearings officer believes that traffic from the proposed and potential lots with access to the private street will not exceed the safe carrying capacity of that street or reduce the level of service at affected intersections, based on the findings regarding Policy 24 (Housing Location).

b. Based on the findings for Plan Policies 13 (Air and Water Quality and Noise Levels), 24 (Housing Location), 14 (Development Limitations), and 37 (Utilities), the proposal addresses water pollution, flood and geologic hazards, and fire protection.

c. Because proposed lots comply with the dimensional standards of the R-30 zone and the solar access standards (to the extent applicable) and will be subject to minimum setbacks, the proposal provides for adequate light and air and prevents the overcrowding of land.

d. Based on the findings for Policies 22 (Energy Conservation), 24 (Housing Location), 35 (Public Transportation) and 36 (Transportation System Development Requirements), adequate provisions are made for streets and public transportation.

e. Based on the finding for Policies 13 (Air and Water Quality and Noise Levels), 14 (Development Limitations), 37 (Utilities) and 38 (Facilities), adequate provisions are made for water supply and sewage disposal, storm drainage, schools, fire protection and police service.

**D. Compliance with MCC 11.45.230(D).** The proposed and potential lots comply with the dimensional requirements of the R-30 zone and with the applicable provisions of the solar access chapter. Therefore, the preliminary plat and future street plan comply with the Zoning Ordinance

**E. Compliance with MCC 11.45.230(E).** The applicant did not propose a name for the subdivision. Therefore a condition of approval is warranted to ensure the Assessment and Taxation Division determines the plat name conforms with applicable statutes and ordinances, including MCC 11.45.230(E), before a final plat is recorded.

**F. Compliance with MCC 11.45.230(F).**

1. The preliminary plat does not conform to the plats of subdivisions already approved for adjoining property, because it does not provide for the extension of Powers Court either to a cul de sac on the site or across the site and does not provide for extension of Northgate Court.

2. The hearings officer hereby finds that it is in the public interest to modify the street pattern so that Powers and Northgate Court are not extended across the site, because:

a. To build Northgate Court and Vacuna Street or Powers Court would have significant adverse environmental, aesthetic and energy conservation impacts, based on Mr. Wright's April 20 memorandum and Mr. Robinson's April 26 letter, findings II.A.2.c(4) and II.A.2.d(2), and findings for Policies 14 (Development Limitations), 22 (Energy Conservation) and 24 (Housing Location).

b. It is not necessary to build Northgate or Powers Court across the site to provide access to the proposed and potential lots consistent with the Street Standards.

(1) The private road can safely accommodate the volume of traffic reasonably likely to result from development of the proposed and potential lots with access to that road, based on findings for Policy 24 (Housing Location).

(2) A shared driveway to serve two lots that could be created from the west portions of proposed Lots 1 through 3 is consistent with the Street Standards and Land Division Ordinance, and is not contrary to the public interest, provided it has adequate sight distance and approach improvements.

(3) Existing lots in West Palatine Ridge and potential lots south of the site can be served by separate, roughly 600-foot long cul de sac streets that intersect Terwilliger Boulevard without crossing the site.

(a) A cul de sac street has only one point of access. If the road is blocked, such as by an accident, access for ordinary and emergency purposes

beyond that point will be impeded. A loop road has two directions of access. If one direction is blocked, access from the other direction is not impeded. A cul de sac is inherently less accessible than a loop road to that extent. However, the Street Standards allow cul de sac roads. It is not inconsistent with the Street Standards to provide for them.

(b) In this case, a cul de sac street to serve West Palatine Ridge and potential lots south of the site is consistent with the Street Standards and is in the public interest, because the streets are or will be improved to public standards, they are only about 600 feet long, and they serve or will serve a relatively small number of dwellings.

3. Existing Powers Court west of the site terminates in a road stub. That reflects an intent to extend the street onto the site. For the foregoing reasons, the hearings officer concludes extending the road across the site is not in the public interest. However, a street stub is not a safe design for a road terminus based on the Street Standards provisions for a cul de sac street. Therefore, the hearings officer finds that it is in the public interest to vary the Street Standards only if the applicant dedicates right of way for and builds a cul de sac for Powers Court on the site consistent with the Street Standards or modifications thereto permitted by the County Engineer.

#### **G. Compliance with MCC 11.45.230(G).**

1. County staff argue that the application does not comply with this section, because private street does not comply with the definition of a private street in MCC 11.45.010(AA). That section defines "private street" as:

*[A] street which is either a private driveway or an accessway, which is under private ownership and which passes through or alongside the full length or width of a separate lot or parcel, either existing or proposed.*

Staff argue the road that provides access to Lots 1 through 3 is not a private street, because it passes alongside only a portion of the width of Lot 3 and does not pass alongside any part of the length or width of Lots 1 and 2.

2. The hearings officer finds the preliminary plat clearly identifies streets to be held for private use and the application contains covenants that set forth reservations and restrictions relating to the private street. That is all section 11.45.230(G) requires.

3. The hearings officer finds that the access to proposed Lots 1 through 3 is a street, as defined by MCC 11.45.010(GG). As such, it either must be public or private. It is not public; therefore, it must be private. Because MCC 11.45.010(AA) and (GG) conflict when it comes to a privately owned road that does not traverse the full length or width of a lot, the hearings officer resolves that conflict in favor of subsection (GG), because it is the broader definition. To construe the conflict in favor of subsection (AA) would be illogical; it would refuse to recognize as a street something which clearly is a street. To accept the construction urged by County staff would ignore the reality that the street exists and is private. Ultimately, the County should consider amending subsection (AA) to be consistent with subsection (GG).

**H. Compliance with MCC 11.45.230(H).** This criterion is not applicable, because the site does not contain or adjoin land in a floodplain, and flood waters will not affect the site.

## **V. CONCLUSIONS AND ORDER**

### **A. Conclusions.**

The proposed land division and Future Street Plan comply with the applicable approval criteria of MCC 11.45.230, based on findings in section II, III and IV of this final order. The hearings officer finds the principal issue in this case --- whether to extend Powers Court or Northgate Court across the site --- should be resolved by not extending either street, principally to minimize the impact of the development on the natural environment and to reduce the potential for earth movement by minimizing grading necessary for the project, and because neither street is needed to provide access to proposed or potential lots given other access options.

### **B. Order.**

In recognition of the findings and conclusions contained herein, and incorporating the Staff Report and other reports of affected agencies and public testimony and exhibits received in this matter, the hearings officer hereby approves LD 10-93 and the applicant's proposed future street plan, subject to the following conditions of approval.<sup>5</sup>

1. Within one year of the effective date of this final order, or extensions permitted by law, the applicant shall deliver the final plat and other required attachments to the Planning and Development Division of the Department of Environmental Services in accordance with ORS Chapter 92 as amended. Refer to the applicant's and surveyor's Instructions for Finishing a Type I Land Division.

2. Before the Planning Director signs the final plat, the applicant shall comply with the following requirements, except as modified pursuant to law by the County Engineer:

a. Dedicate to the County right of way as necessary to create a cul de sac for Powers Court on the site. The cul de sac shall have a 50-foot radius right of way, unless modified by the County Engineer.

b. Improve the right of way for Powers Court as follows, unless modified by the County Engineer, pursuant to road plans that are prepared by a professional engineer licensed in Oregon, approved by the County Engineer, and consistent with applicable requirements of the Hillside Development and Slope Hazard overlay district.

(1) Build a concrete curb with a 41-foot radius from the center of the cul de sac.

(2) Build a 5-foot sidewalk between the curb and the property line around the cul de sac and along the extension of the street on the site.

(3) Grade, rock and pave the roadway portion of the cul de sac and any connecting portion of the street on the site.

(4) Construct storm drainage facilities as required by the County Engineer.

---

<sup>5</sup> Note that the conditions of approval do not include requirements otherwise imposed by law. The applicant should consult with County staff to identify such other requirements.



(5) Install street lighting and street trees required by the Street Standards.

c. Extend public water and sewer service to each lot.

3. Before the Planning Director signs the final plat, the applicant shall submit to the Planning and Development Division plans for the private road to serve lots 1 through 4. The plans shall be prepared by a professional engineer licensed in Oregon and shall be consistent with applicable requirements of the Hillside Development and Slope Hazard overlay district.

a. The road plans shall comply with the Uniform Fire Code.

b. The minimum paved width shall be 20 feet unless the Fire Marshal approves a lesser width.

c. The road shall include an emergency vehicle turn-around approved by the Lake Oswego Department of Fire Services or Fire Marshal.

d. The applicant shall install a fire hydrant at a location approved by the Lake Oswego Department of Fire Services or Fire Marshal and an 8-inch water line to serve that hydrant.

e. The applicant shall designate the private road as a fire lane and shall post the road with no parking signs.

f. The applicant shall submit a stamp, letter or other evidence that the Lake Oswego Department of Fire Services or Fire Marshal has approved the road plans in writing.

4. Before the Planning Director signs the final plat, the applicant shall:

a. Submit grading and storm water drainage plans for the site to the County Engineer for review and approval. The plans shall be prepared by a professional engineer licensed in Oregon with expertise in soils and geologic engineering. The plans or accompanying documents shall identify and evaluate soil and subsurface conditions where drainage features are proposed, quantify the volume and rate of storm water reasonably likely to be generated by development on the site, and show that storm water from each lot can be retained on the site, preferably on the lot that generates it, without causing or contributing to earth movement or causing significant erosion. The plans shall be consistent with applicable requirements of the Hillside Development and Slope Hazard overlay district.

b. Construct the drainage features on the approved plans or require by covenant with the deeds to the property or a notation on the face of the plat that such features, or modifications approved by the County Engineer, be constructed as part of the building permit process for each lot.

c. Grant appropriate easements if storm water features for one lot cross or discharge water onto another lot.

5. Before the Planning Director grants zoning approval for the first building permit on Lots 1 through 4, the applicant shall submit to the Planning Director a written statement by a professional engineer licensed in Oregon that certifies grading and construction undertaken pursuant to plans approved under conditions 2 through 4 was performed to the specifications shown in the approved plans.

6. The applicant shall identify on one copy of the final plat building envelopes for Lots 1 through 4 consistent with the future street plan and applicable setbacks without a variance.

7. The applicant shall undertake development on the site consistent with the management plan submitted by Brian Clopton dated April 20, 1993 or modifications to that plan approved by the Planning Director. In particular, construction traffic associated with the project shall not use the private road when other access is practicable given the nature of the work to be done. Also, construction of the private road improvements shall be coordinated with owners of other properties with access to that road at least by informing such owners of work to be done at least 48 hours before that work is done and by adjusting work tasks and timing to the extent practicable to accommodate reasonable requests of those owners. Also, the applicant shall ensure that vehicular access to all properties is maintained during construction of the private road to maximum extent possible.

8. The applicant shall amend the face of the plat to note that approval of the final plat does not guarantee a dwelling can be built on any of the approved lots. Proof of compliance with all applicable zoning standards is required before a building permit is approved, including compliance with the Hillside Development and Slope Hazard overlay zone for portions of the site with an average slope of more than 25 percent.

9. The applicant shall comply with recommendations of the geotechnical reconnaissance dated February 21 except to the extent those recommendations are modified by a professional engineer licensed in Oregon with expertise in soils and geologic engineering based on additional information.

Dated this 19<sup>th</sup> day of May, 1993.



By Larry Epstein/AICP  
Multnomah County Hearings Officer

Filed With the Clerk of the Board on May 21, 1993.

Meeting Date: June 8, 1993

Agenda No.: P-2

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM  
(For Non-Budgetary Items)

SUBJECT: Planning Commission Decision Review

BCC Informal \_\_\_\_\_ BCC Formal June 8, 1993  
(date) (date)  
DEPARTMENT DES DIVISION Planning  
CONTACT Sharon Cowley TELEPHONE 2610  
PERSON(S) MAKING PRESENTATION Sandy Mathewson

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: 000

CHECK IF YOU REQUIRE OFFICIAL WRITTEN NOTICE OF ACTION TAKEN: xx

BRIEF SUMMARY (include statement of rationale for action requested, as well as personnel and fiscal/budgetary impacts, if applicable):

C 9-92a Review the Decision of the Planning Commission of May 17, 1993, in the matter of a Goal 5 ESEE Analysis and Protection Program for Bridal Veil

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL \_\_\_\_\_

Or

DEPARTMENT MANAGER pc BH Williams

(All accompanying documents must have required signatures)

CLERK OF  
COUNTY COMMISSIONERS  
1993 MAY 27 PM 9:07  
MULTNOMAH COUNTY  
OREGON



**MULTNOMAH COUNTY OREGON**

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

**DIVISION OF PLANNING AND DEVELOPMENT**

**Board Planning Packet Check List**

File No. C9-92a

☒ Agenda Placement Sheet      No. of Pages 1

☒ Case Summary Sheet      No. of Pages 1  
☐ Previously Distributed \_\_\_\_\_

☐ Notice of Review      No. of Pages \_\_\_\_\_  
\*(Maybe distributed at Board Meeting)  
☐ Previously Distributed \_\_\_\_\_

☒ Decision      No. of Pages 18  
(Hearings Officer/Planning Commission)  
☐ Previously Distributed \_\_\_\_\_

\*Duplicate materials will be provided upon request.  
Please call 2610.



TIME 9:30 am

NUMBER C9-92a

**CASE NAME: BRIDAL VEIL  
GOAL 5 ESEE ANALYSIS AND PROGRAM**

**1. Applicant Name/Address:**

Multnomah County

**2. Action Requested by applicant:**

Adopt the Goal 5 Inventory as a supplemental document to the Comprehensive Plan, designate the site "3-C", and adopt the Task Force Recommendations and Preservation Program for Bridal Veil (significant historic resource #15).

**ACTION REQUESTED OF BOARD**

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

**3. Planning Staff Recommendation:**

Designate Bridal Veil "3-C" and adopt the Goal 5 Inventory, Task Force Recommendations and Preservation Program based on the Findings and Conclusions in the Planning Commission Decision.

**4. Planning Commission Decision:**

Same.

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

**ISSUES**

*(who raised them?)*

Do any of these issues have policy implications? Explain.

**DECISION OF THE  
MULTNOMAH COUNTY PLANNING COMMISSION**

In the Matter of a Goal 5 ESEE Analysis       )  
and Protection Program for Bridal Veil       )

**RESOLUTION  
C 9-92a**

On December 29, 1992 the Board of County Commissioners supported a recommendation by the Planning Commission to amend the Comprehensive Framework Plan to add Bridal Veil to the inventory of significant historic resources. The county is required to complete the State Goal 5 planning process by conducting an ESEE analysis and implementing an appropriate level of protection for the site. A Task Force was formed to assist in completing the Goal 5 process and to make a recommendation of the appropriate level of protection for the site after considering the significance of individual site elements.

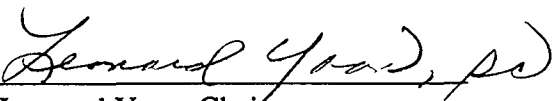
After appropriate notice, the Planning Commission held a public hearing on May 3, 1993 to receive public testimony on the matter. After hearing testimony, the Commission closed the oral portion of the hearing, but kept the record open until May 10, 1993 to allow additional written evidence or rebuttal of evidence submitted during the hearing. The record was held open an additional 4 working days (until May 14, 1993) to allow parties to submit written rebuttal of any new material submitted during the first open record period. Evidence received during both extension periods was distributed to the Commission on May 11 and May 14, 1993.

On May 17, 1993, the Commission met for deliberation. Based upon the record and testimony, the Planning Commission adopts by reference the attached Findings and Conclusions and Task Force Recommendations. The Commission finds that the proposal to designate the site 3-C satisfies the approval criteria pursuant to OAR 660-16-010 (3), and adopts the attached Goal 5 Inventory as a supplemental document to the Comprehensive Plan.

The motion to approve this Resolution received a Planning Commission vote of 5 in favor and 2 opposed.

**NOW, THEREFORE BE IT RESOLVED** that the Multnomah County Planning Commission hereby recommends that the Board of County Commissioners designate Bridal Veil 3-C and adopt the Goal 5 Inventory and Task Force Recommendations.

Approved this 17th day of May, 1993



Leonard Yoon, Chair  
Multnomah County Planning Commission



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

**C 9-92A**  
**PLANNING COMMISSION DECISION**  
**May 17, 1993**

Adoption of Goal 5 ESEE Analysis and Protection Program  
for Bridal Veil

**Proposal:** Adopt, as a supplemental document to the Comprehensive Framework Plan, the ESEE analysis and protection program which achieves Statewide Planning Goal 5 for Bridal Veil (significant historic resource site #15).

**Location:** Bridal Veil Road and Crown Point Highway

**Legal:** Lots 7-15 of the First Addition to Bridal Veil; tax lots '2', '3', '11', '19' and the portion of tax lot '18' lying east of and including Bridal Veil Creek; plus a portion of the railroad right-of-way between the I-84 interchange and Bridal Veil Creek, all in Section 22, TiN, R5E. (see attached Map)

**Site Size:** approximately 30 acres

**Comprehensive Plan Designation:** Special Management Area, Public Recreation, Recreation Intensity Class 3, Coniferous Woodland

**Zoning:** GS-PR, Public Recreation, Gorge Special Management Area

**Recommendation:** Adopt the 'Goal 5 Inventory Worksheet' for Bridal Veil as a supplemental document to the Comprehensive Framework Plan and support the Task Force Recommendations and Preservation Process based on the following Findings and Conclusions.

**I. BACKGROUND:**

On December 29, 1992 the Board of County Commissioners acted on a recommendation by the Planning Commission and amended the Comprehensive Framework Plan to add Bridal Veil to the inventory of significant historic resources. As a consequence, the county must complete the Goal 5 planning process for the resource. To assist in this process, a Task Force was formed which included representatives from state and federal agencies, private organizations and experts in historical preservation. The Task Force held a total of seven meetings, including a visit and survey of the site and buildings. Their recommendations and proposed preservation process are attached to this report.

## II. CRITERIA:

Chapter 660, Division 16 of the Oregon Administrative Rules (OAR) sets forth the procedures for complying with Statewide Planning Goal 5. Once a site has been included in the comprehensive plan inventory, the county must identify conflicting uses.

*OAR 660-16-005: "It is the responsibility of local government to identify conflicts with inventoried Goal 5 resource sites. This is done primarily by examining the uses allowed in broad zoning districts established by the jurisdiction (e.g., forest and agricultural zones). A conflicting use is one which, if allowed, could negatively impact a Goal 5 resource site. Where conflicting uses have been identified, Goal 5 resource sites may impact those uses. These impacts must be considered in analyzing the economic, social, environmental and energy (ESEE) consequences:*

*"(1) Preserve the Resource Site: If there are no conflicting uses for an identified resource site, the jurisdiction must adopt policies and ordinance provision, as appropriate, which insure preservation of the resource site.*

*"(2) Determine the Economic, Social, Environmental, and Energy Consequences: If conflicting uses are identified, the economic, social, environmental and energy consequences of the conflicting uses must be determined. Both the impacts on the resource site and on the conflicting uses must be considered in analyzing the ESEE consequences. The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate, at this stage of the process. A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain why decisions are made for specific sites."*

*OAR 660-16-010: "Based on the determination of the economic, social, environmental and energy consequences, a jurisdiction must 'develop a program to achieve the Goal'. Assuming there is adequate information ....on the nature of the conflicting use and ESEE consequences, a jurisdiction is expected to 'resolve' conflicts with specific sites in any of the following three ways listed below. Compliance with Goal 5 shall also be based on the plan's overall ability to protect and conserve each Goal 5 resource....*

*"(1) Protect the Resource Site: Based on the analysis of the ESEE consequences, a jurisdiction may determine that the resource site is of such importance, relative to the conflicting uses, and the ESEE consequences of allowing conflicting uses are so great that the resource site should be protected and all conflicting uses prohibited on the site...Reasons which support this decision must be presented in the comprehensive plan, and plan and zone designations must be consistent with this decision.*

*"(2) Allow Conflicting Uses Fully: Based on the analysis of the ESEE consequences and other Statewide Goals, a jurisdiction may determine that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. This approach may be used when the conflicting use for a particular site is of sufficient importance, relative to the resource site. Reasons which support this decision must be presented in the comprehensive plan, and plan and zone designations must be consistent with this decision.*



*"(3) Limit Conflicting Use: Based on the analysis of the ESEE consequences, a jurisdiction may determine that both the resource site and the conflicting use are important relative to each other, and that the ESEE consequences should be balanced so as to allow the conflicting use but in a limited way so as to protect the resource site to some desired extent. To implement this decision, the jurisdiction must designate with certainty what uses and activities are allowed fully, what uses and activities are not allowed at all and which uses are allowed conditionally, and what specific standards or limitations are placed on the permitted and conditional uses and activities for each resource site. Whatever mechanisms are used, they must be specific enough so that affected property owners are able to determine what uses and activities are allowed, not allowed, or allowed conditionally and under what clear and objective conditions or standards. Reasons which support this decision must be presented in the comprehensive plan, and plan and zone designations must be consistent with this decision."*

## **FINDINGS**

### **III. CONFLICTING USES:**

Identification of conflicting uses is done by examining whether the uses allowed by zoning would interfere with preservation of the resource. Bridal Veil is within a Special Management Area of the Columbia River Gorge National Scenic Area, and the zoning designation is Public Recreation (zoning abbreviation GS-PR). All of the uses which are allowed, allowed under prescribed conditions or allowed as a conditional use in the GS-PR zone were examined for possible conflicts with preservation. Possible uses include agriculture and forest uses, recreation and natural resource activities, accessory buildings, and transportation and utility projects. Whether or not these uses would conflict with preservation would depend upon their design. Under certain conditions they could be compatible with or enhance preservation and interpretation of the historic resources at Bridal Veil. They would conflict with preservation if they resulted in any of the following:

1. Demolition. Any use which would result in removal or destruction of some or all of the buildings.
2. Incompatible alteration. Addition of modern elements or changes to individual buildings, allowing new development within the site which is not compatible with the historic period, or removal of some of the buildings without consideration of their spatial relationship to the site would detract from the historic characteristics and aura of the resource.
3. Abandonment and/or neglect, resulting in deterioration and possible destruction of the resource.
4. Recreational Use. Conversion of the site to public recreational or natural area uses which interfere with historic preservation or result in demolition of buildings.

There is an additional area of conflict relating to scenic issues. The NSA Management Plan has identified "key viewing areas" from which the public views Scenic Area landscapes, including

Bridal Veil State Park, the Historic Columbia River Highway and I-84. Due to the deteriorated condition and high visibility of the mill buildings and some of the larger houses from these key viewing areas, there has been pressure to demolish these buildings because they detract from the scenic view.

#### **IV. ESEE CONSEQUENCES:**

##### **ECONOMIC:**

###### **Impacts of Preserving Site and Buildings:**

Funding is the key component in whether the buildings at Bridal Veil will be preserved. Substantial cost would be involved to stabilize the mill buildings, and restoration or rehabilitation is probably unfeasible. The houses are for the most part still in fairly good condition, and stabilization costs might be low. Restoration or rehabilitation costs would be higher, and would depend on the intended use of the buildings. Estimates to bring all 14 houses up to code range from \$510,000 (Bingham Construction, Inc.) to \$800,000 (county Facilities and Property Management). Restoration to original condition increases the estimates to \$1 million and \$1.4 million respectively. Both estimates felt that the mill buildings were beyond repair.

It is doubtful whether the majority of the buildings will ever be used again for residential or industrial purposes, due to incompatible zoning and owner restrictions. So the effectiveness of historic protection may be influenced by whether there is an alternative economic use for the site and buildings. If not economically used, there may be an inability to maintain the buildings, leading to further deterioration.

###### **Impacts of Allowing Conflicting Uses:**

There are economic costs associated with demolition of buildings, including labor and material disposal costs.

Ownership of the site as well as its eventual use will effect how the property is taxed. Public ownership, whether by State Parks or the Forest Service, will lead to loss of tax revenue.

Natural resource based uses such as a park or natural area and/or development of wetlands and fish habitat that are similar to what is proposed by the present owners, would have significant costs associated with their development, but would be unlikely to yield any direct economic benefits.

##### **SOCIAL:**

###### **Impacts of Preserving Site and Buildings:**

Bridal Veil provides a link with the past. It provides an opportunity for learning about an earlier lifestyle as well as having connections to the timber industry which played a major role in the

development of the county. Preserving the site could provide both educational and recreational opportunities. Visiting historic and cultural sites is ranked as the second most desired activity of people visiting the Columbia River Gorge, according to tourism studies. Bridal Veil also has symbolic value to many people. Removal of the buildings and change of use at the site would destroy these social values.

The postal services benefit local residents as well as others who request the Bridal Veil postmark on their wedding invitations. This service, however, is not necessarily linked to the building currently used as the Post Office, and could be moved elsewhere within the historic area.

The mill buildings as is are a safety hazard and visual eyesore from key viewing areas within the NSA.

#### Impacts of Allowing Conflicting Uses:

Demolition of the mill buildings would cause a social impact from the loss of the physical artifacts of the mill history and loss of the tie to the original purpose of the town. Demolition of other buildings would detract from the appearance of a townsite, including the social and economic stratification illustrated by the manager's and worker's houses. Incompatible development within the site boundaries would also detract from the aura of an historic town. Incompatible exterior alteration of existing buildings could reduce the overall historic character of the site.

Some of the other possible uses of the site have social benefits. Creation of a public recreation area, whether in the form of a natural area park or much more intensively developed facility, would provide social and recreational opportunities to Gorge visitors.

#### ENVIRONMENTAL:

##### Impacts of Preserving Site and Buildings:

The environmental consequences which would occur if the Bridal Veil site and buildings are preserved focus on scenic issues and perhaps water quality. Allowing the mill buildings and houses along the Scenic Highway to remain in an unmaintained and deteriorating condition seriously detracts from scenic views. Rehabilitation or restoration of the buildings and cleaning up the site would improve its scenic appearance.

The eventual use of the buildings will effect the degree of environmental consequence. For instance, if the dwellings are to be inhabited a new sewage disposal system may be required to protect water quality. Its development might require substantial earth movement or removal of vegetation.

Air quality, vegetation, noise and other environmental factors would likely remain the same if the resource is preserved.

### Impacts of Allowing Conflicting Uses:

Demolition of buildings or removal of pavement and debris surrounding the mill site may cause environmental problems from erosion, stream degradation and disposal of materials. There is a possibility of hazardous materials associated with former milling activities which could be disturbed during activities to convert the site to other uses. Removal of these materials would be environmentally beneficial.

Other possible uses for the site would have varying degrees of environmental consequences. Conversion back to a natural area with a free flowing stream, natural vegetation and wetland areas would be environmentally positive. Removal of buildings and revegetation of the site would have some benefits to scenic appearance.

Conversion to a park with access to Bridal Veil Falls would likely require road and parking improvements and development of a sewage disposal system to protect the site from increased use by people.

### ENERGY:

#### Impacts of Preserving Site and Buildings:

Use of the buildings will effect the amount of energy consumed. Generally, restoring or rehabilitating a structure uses less energy and materials than constructing new buildings. Older buildings, however, are often less energy efficient than new buildings when heating requirements are considered.

#### Impacts of Allowing Conflicting Uses:

Energy impacts relate to the amount of energy that would be expended to convert the site to a different use. Some possible uses, such as a park or interpretive center, might increase traffic in this part of the NSA.

## **CONCLUSIONS:**

### **V. APPROPRIATE LEVEL OF PROTECTION**

Based on the ESEE analysis described above, Bridal Veil should be partially protected by limiting conflicting uses (designate 3-C). The justification for this designation and the appropriate degree of protection are as follows:

1. The Bridal Veil cemetery should be protected because of its social significance and nature of use as a burial ground. Proposals for new uses on adjacent properties should be examined for any conflicts which would negatively affect the cemetery.

2. The Bridal Veil postmark provides community identity and has social value associated with its use on wedding invitations. Consequently, the postal services should be retained within the townsite, although it could be relocated to one of the houses. There is still some question as to the significance of the post office building and what its original use and location were. Because of this uncertainty, consideration should be given to relocating the building elsewhere on the site. The building should be demolished only if relocation will not fit in with the final plan for preserving other components of the site.

3. Preservation of the mill buildings and mill area is not as important as allowing other uses for that portion of the site. Reasons are the degree of deterioration, concurrent liability and safety issues, visual appearance from the Bridal Veil State Park overlook and I-84, and the prohibitive cost to restore the buildings. However, full documentation of the buildings should be required prior to demolition, any building materials found to be of historic importance should be salvaged and preserved, and archeological research and removal of historic materials found under the substructure of the buildings should occur.

4. House #20 is located at some distance from the main clustering of worker's houses. It is modern in appearance, and there is uncertainty whether it is a remodeled worker's house or of more recent construction. Consequently, it does not have the historic value of the other houses, and could be removed.

5. An undetermined number of the remaining houses and the church should be retained and restored to illustrate, interpret and represent the early mill town. The amount of funding available will affect the ultimate number of buildings to be restored. A complete and intensive analysis of individual structures by the future restoration/management group would allow them to determine which of the buildings are most feasible to preserve in light of their preservation/interpretive goals.

6. The *Preservation Area Map* indicates the portions of the site that may be converted to public recreational use and the area where buildings shall be retained while funding is secured for their restoration and management, in accordance with the *Preservation Process*.

## VI. PLAN TO ACHIEVE PROTECTION:

The *Task Force Recommendations and Preservation Process* and Program section of the *Goal 5 Inventory* will govern any planning decisions made concerning Bridal Veil. The *Preservation Process* provides guidelines and time limits to obtain commitments for stewardship, restoration and management. This process was designed to allow a private group a reasonable amount of time to search for and secure funding for restoration and management of the buildings. If funding proves to be unavailable, the process would allow demolition rather than require retention of deteriorating buildings which would detract from NSA qualities. The Program section of the *Goal 5 Inventory* provides both guidelines and the requirements which would be used for any proposed land use action affecting the site. The requirements include documentation prior to demolition, interpretive signs, protection of the cemetery, commitment to the *Preservation Process* and protection of the site from incompatible new uses.

The recently enacted NSA ordinance section of the Multnomah County Code provides protection to cultural and historic resources at a level that fulfills the Goal 5 requirements. This protection is implemented through the site review process whenever an application for a new use is filed (see attached Historic Resources Review Process and MCC 11.15.3818 -.3820). Briefly, if

there is a significant resource on the property, an assessment must be made of the effect the proposed new use will have on the resource. There must be either no effect or no adverse effect to the resource or the new use will not be approved.

MCC .3818 -.3820 complies with OAR 660-16-010 because it places specific limits on permitted and conditional uses, the specific limits being no adverse effects to significant resources. These standards provide clear guidance to the property owner - any use allowed in the GS-PR district would be allowed provided it had no adverse effect on the resource (and met other code requirements).

By \_\_\_\_\_  
Leonard Yoon, Chair  
Multnomah County Planning Commission

Filed with Clerk of the Board on May 26, 1993

### **Appeal to the Board of County Commissioners:**

Any person who appears and testifies at the 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. Monday, June 7, 1993 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

*The Decision in this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, June 8, 1993 in Room 602 of the Multnomah County Courthouse. For further information call Multnomah County Planning and Development at 248-3043.*

# MULTNOMAH COUNTY GOAL 5 INVENTORY

**TYPE OF RESOURCE:** Historic mill town

**LOCATION:** Bridal Veil townsite and mill area bounded by Bridal Veil Creek on the west, the Bridal Veil cemetery on the east, the railroad tracks on the north and the Crown Point Highway on the south, including lots 7-15 of the First Addition to Bridal Veil, tax lots '2', '3', '11', '19' and the portion of tax lot '18' lying east of and including Bridal Veil Creek, plus a portion of the railroad right-of-way between the I-84 interchange and Bridal Veil Creek, all in Sec. 22, T1N, R5E.

**IMPACT AREA:** Same as site, no surrounding property will be affected

**DESCRIPTION:**

**Site #15: Bridal Veil.** Company mill town in the Columbia River Gorge, established in the 1880's. Associated with the logging of Larch Mountain, the mill processed timber and wood products for close to 100 years. Contains examples of worker housing, a church/community hall, mill buildings, community cemetery and post office.

**A. AVAILABLE INFORMATION INDICATES SITE IS IMPORTANT:**

☐ **NO** - Designate **1A**: do not include in plan inventory

☒ **YES** - go to B

**B. IS AVAILABLE INFORMATION ON LOCATION, QUALITY AND QUANTITY SUFFICIENT TO DETERMINE THE SIGNIFICANCE OF THE SITE ?**

☐ **NO** - Designate **1B** : address the site in future when information becomes available

☒ **YES** - Include in plan inventory; go to C

**C. ZONING:** GS-PR, Public Recreation, Gorge Special Management Area

**BASED ON ZONING, ARE THERE CONFLICTING USES?**

☐ **NO** - Designate **2A** : preserve resource

☒ **YES** - go to D

**D. DESCRIBE EXISTING OR POTENTIAL CONFLICTING USES:**

1. Demolition of buildings.
2. Alteration to individual buildings or changes to the townsite which are incompatible and not in character with the historic appearance and setting.
3. Abandonment or neglect, resulting in deterioration or eventual loss of resource.
4. Scenic appearance of some buildings from key viewing areas in the NSA.
5. Public recreational uses allowed by GS-PR zoning designation which might interfere with preservation of buildings.

**E. DESCRIBE CONSEQUENCES OF ALLOWING CONFLICTING USES (ESEE ANALYSIS):**

**ECONOMIC:**

Substantial costs would be involved to restore the buildings, especially the mill buildings which are in extremely poor condition. However, preservation and restoration of some of the buildings may be more economically feasible than demolition and building new interpretive facilities. There is a possible economic impact from liability related to the condition of the buildings. Demolition would have economic impacts related to material salvage and disposal costs. Conversion of the site to a park or natural area would have development costs.

**SOCIAL:**

Bridal Veil provides educational opportunities related to interpretation of the social and economic life of a timber mill town. Demolition of the mill buildings would destroy the physical aspects of the mill history and industrial purpose of the town. Preserving some of each housing style would illustrate the social stratification shown by the manager's houses being located above the smaller worker's houses. Demolition or incompatible alteration could damage the historic characteristics and aura of the town.

The post office services are recognized as providing an important social benefit to area residents and wedding parties.

Public use of the site could provide additional social and recreational opportunities to NSA visitors.

**ENVIRONMENTAL:**

There may be hazardous materials in and around the mill buildings which would be disturbed during demolition or conversion of that area to another use. Its removal would be environmen-



tally beneficial. Erosion and water quality problems on some areas of the site might result if buildings are demolished. The scenic appearance of the site would be improved with either demolition or restoration of the buildings. Neglect and continued deterioration detract from the scenic qualities.

#### ENERGY:

The houses would benefit by upgrading energy efficiency if their future use includes occupancy. Some energy would be involved if the buildings are demolished and the site converted to a different use.

#### F. THE RESOURCE AT THIS SITE SHOULD:

☐ Be fully protected - designate **3A**

☐ Not be protected due to overriding benefits from allowing conflicting uses - designate **3B**

☒ Be partially protected by conditions which minimize the impact of conflicting uses - designate **3C**

#### G. PROGRAM:

1. The mill buildings may be removed due to poor condition. House #20 may be removed due to lack of historic integrity. This will allow a large portion of the site to be converted to other uses and improve scenic appearance. Photographic documentation of the buildings, salvage of historic materials, and archaeological investigation shall be required prior to demolition.

2. The cemetery shall be protected by not allowing uses on adjacent properties that would have an adverse effect on its preservation. Documentation and interpretation are encouraged.

3. The postal services should be retained due to the history and popularity of the Bridal Veil postmark. This service could be relocated to one of the houses. Consideration should be given to moving the building currently used as the post office to elsewhere on the site if this would fit in with a management program. Demolition would be a last resort.

4. The remaining houses and church / community hall shall be retained while ownership and funding issues are negotiated. A lease arrangement is suggested, between a public agency or steward who would purchase the property, and a private group who would be responsible for obtaining funding for restoring buildings and managing the built area. Funding availability will influence the number of buildings ultimately retained. The *Bridal Veil Preservation Process* provides a guide and reasonable time limits for public / private commitments. If a suitable steward or funding for restoration cannot be found, the buildings will continue to deteriorate. Consequently, demolition will be considered if no funding is available by 7-1-95. The *Preservation Area Map* indicates the site area and buildings that shall be retained and the area that can be converted to other uses.

5. Demolition of the church and houses should not be allowed unless a good faith effort has been made by the property owners and potential stewards to comply with the preservation process. Any proposal must comply with the scenic, natural, cultural, and recreational goals of the NSA to be considered a good faith effort.
6. The buildings should be secured by locking doors and boarding up any broken windows while stewardship and funding are sought. An on-site caretaker is encouraged.
7. Photographic and other documentation as appropriate shall be a requirement prior to any demolition of buildings. Such documentation shall be forwarded to the Oregon Historical Society or other similar repository.
8. The cultural resources review process found in MCC 11.15.3818 - .3820 shall be used to protect the buildings and historic characteristics of the site from incompatible new uses. The review process requires a proposed new use to show it will have no effect or no adverse effect on the resource.
9. Interpretive signs describing the history of the town and mill area shall be included in any new use of the site.
10. The *Bridal Veil Task Force Recommendations* shall be used to guide interpretation, restoration and future development of the site.

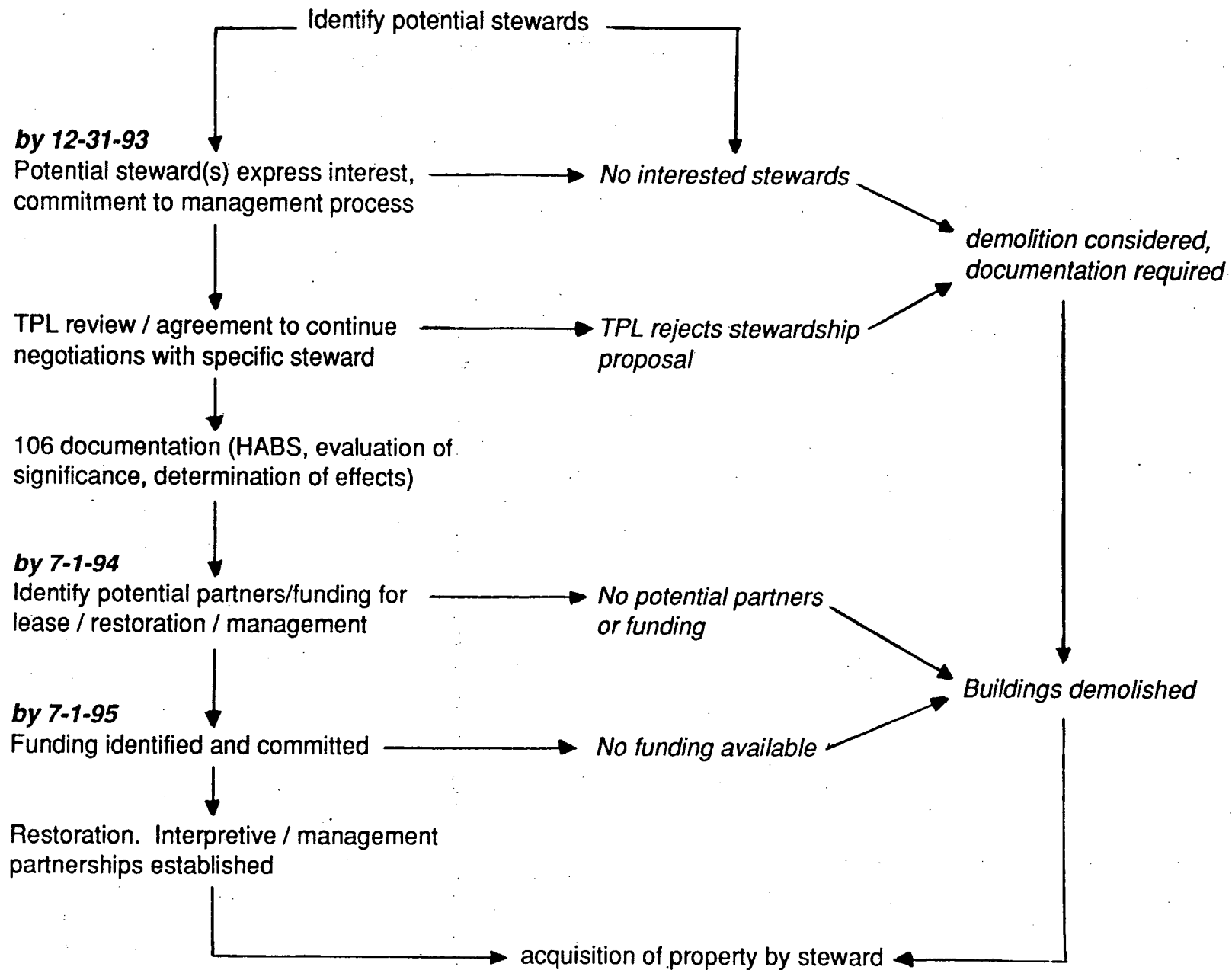
33

33

33



## BRIDAL VEIL PRESERVATION PROCESS



## **BRIDAL VEIL TASK FORCE RECOMMENDATIONS**

**To:** Planning Commission  
Board of Commissioners

**From:** Bridal Veil Task Force

**Re:** Report and recommendations for historic interpretation of Bridal Veil

### **BACKGROUND:**

The Bridal Veil Task Force was formed to determine the level of historic protection most appropriate to the site in light of the significance of individual elements. Task Force members included representatives from state and federal agencies, private organizations and individuals with historic expertise (see attached roster). A total of seven meetings were held, including a site visit. Following are the conclusions and recommendations reached by a majority of the Task Force:

### **PRESERVATION GOALS:**

1. Preserve Bridal Veil history and interpret on-site and on-ground in a realistic, valid and interesting atmosphere;
2. Combine / achieve goals of both historic preservation and natural area recreation;
3. Provide another "destination resource" in the Gorge to both relieve and take advantage of visitation to Multnomah Falls;
4. Determine a realistic program / funding to achieve goals; share responsibilities;
5. Continue post office operation;
6. Enhance Columbia Gorge Scenic Highway.

### **INTERPRETIVE THEMES:**

1. Early life in a company town / isolation;
2. Community development of Bridal Veil in the Gorge;

3. Early settlement in Gorge;
4. Bridal Veil Lumber Company / Palmer Company.

## **ELEMENTS OF CULTURAL HERITAGE / ECOTOURISM / NATURAL AREA RECREATION**

**Cemetery:** Should be fenced, marked and maintained. Document burials, brochure.

**Mill buildings:** Photograph, HABS documentation prior to demolition. Do archaeological investigation prior to any earth movement. Preserve flume. Consider marking location of mill buildings on site, with pathway through and directional signing.

**Post Office and open area:** Access from highway, area for parking, interpretative signing, provide directions to both natural area and Bridal Veil Cultural Heritage resources. Whatever restrooms are provided should be available to all visitors to either portion of site.

**Other buildings:** Retain an undetermined number of houses, the ultimate number to be determined by funding availability. Interpretive and other uses which might occur in some of the houses includes:

1. Interpretation of economic and social hierarchy of mill company town exhibited by housing type and location (manager's houses and worker's cottages);
2. Early life in company town;
3. Postal services. Actively promote wedding invitations, work in concert with weddings in church / community hall;
4. Resident manager / caretaker's home for security;
5. Interpret lumbering on Larch Mountain;
6. Interpret settlement / landscape of Columbia Gorge;
7. Hiker / Visitor Center;
8. Interpret Native American activity in Gorge.

**Palmer mill site:** Conduct archaeological investigation. Prepare photo / written history / documentation. Provide and mark directions for hiking trip up to site.

## **PRESERVATION PROCESS:**

The Task Force has designed a preservation process to guide potential owners and those seeking to preserve and restore the site. One assumption of the process (based on property

owner restrictions) is that the property will eventually be acquired by a public agency. Representatives of the USFS and State Parks Department have indicated that it is unlikely that those agencies would take responsibility for restoring and managing the buildings, but might agree to a lease arrangement whereby a private organization had responsibility for acquiring funding, restoring and managing the buildings.

The preservation process involves finding a public agency who not only expresses an interest in acquiring the property, but agrees to a process which would allow a private group to search for restoration and management funding. The private group would conceivably enter into a lease agreement allowing them responsibility for the built portion of the site once the public agency became the land owner.

The Task Force recognizes that without an economic investment the buildings will continue to deteriorate. To prevent the possibility of dilapidated buildings remaining as eyesores, time deadlines have been included in the preservation process. The bottom line is that if there is no funding committed for restoration by 7-1-95, the buildings can be demolished. The Task Force feels this is a reasonable timeframe to allow a private group to obtain commitments without being overly burdensome to the current property owner.

## BRIDAL VEIL TASK FORCE

Mike Boynton  
USFS, Columbia River Gorge Scenic Area

Catherine Galbraith  
historic preservationist

Alfred Staehli  
Historic Preservation League of Oregon

Chuck Rollins  
Crown Point Historical Society

Joe Pesek  
Oregon Department of Fish and Wildlife

Chris Beck  
Trust for Public Land

Kathy Schutt  
State Parks and Recreation Department  
and/or  
Deborah Schallert  
State Parks Region 1 Coordinator

Lennart Swenson  
Friends of the Columbia Gorge

### Assistance provided by:

Jim Sitzman  
Department of Land Conservation and Development

Henry Kunowski  
State Historic Preservation Office

Sandy Mathewson  
Multnomah County Planning



C-9-92a  
jeing fee  
\$800  
Lashay  
to file  
notice of  
Review  
6-7-93  
4:30 pm  
for



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

NOTICE OF REVIEW

023 6257 4/07/93 88121

1. Name: Trust for Public Land, \_\_\_\_\_

2. Address: 1211 S.W. 6th Avenue, Portland, OR 97204

3. Telephone: ( 503 ) 228 - 6620

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

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

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

Adoption of Goal 5 ESEE Analysis & Protection Program for Bridal Veil.

6. The decision was announced by the Planning Commission on May 17, 1993

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

We have testified on this matter previously and are landowners of  
most of the subject property. Our interests are adversely affected  
by the decision.

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

*Please return this original form*

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

The Planning Commission erred in making a 3C decision by inadequately weighing competing uses and by not allowing competing uses to the extent they should have. The Planning Commission was not sufficiently clear in terms of the particular resources that are to be protected, of the rationale for protecting those resources, and the level of documentation required before demolition of certain resources.

9. Scope of Review (Check One):

- (a) ☒ On the Record  
(b) ☐ On the Record plus Additional Testimony and Evidence  
(c) ☐ De Novo (i.e., Full Rehearing)

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

Signed:

Christopher L. Beck

Date:

6-7-93

5-3-93 = 6:05 - 9:20 195 min		For Staff Use Only	
5-17-93 = 6:05 - 7:50 105 min		(300 minutes x \$3.50 = \$1,050.00)	
Fee:			
Notice of Review = \$300.00			
Transcription Fee:			
Length of Hearings 300 min x \$3.50/minute = \$1,050.00			
Total Fee = \$ 1,350.00			
Received by: <u>M. Hoess</u>		Date: <u>6/7/93</u> Case No. <u>C9-92a</u>	

Multnomah County  
Zoning Division

RECEIVED  
JUN - 7 1993