



# MULTNOMAH COUNTY OREGON

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

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

AGENDA OF  
MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
FOR THE WEEK OF  
December 18 - 22, 1989

- Monday, December 18, 1989 - 7:00 PM - Gun Safety Ordinance  
David Douglas Performing Arts Center  
1400 SE 130th . . . . . Page 2
- Tuesday, December 19, 1989 - 9:30 AM - Formal and  
Planning Items . . . Page 3
- Tuesday, December 19, 1989 - 1:30 PM - Informal Meeting . . Page 4
- Thursday, December 21, 1989 - 9:30 AM - Gun Safety Ordinance  
World Trade Center Auditorium  
121 SW Salmon  
Portland . . . . . Page 5
- 1:30 PM - Formal . . . . . Page 6

-2-

Monday, December 18, 1989 - 7:00 PM

David Douglas Performing Arts Center  
1400 SE 130th

Continued First Reading - An Ordinance to regulate the possession of firearms in public places, to establish a safety training course for firearms users and to impose fees

Tuesday, December 19, 1989 - 9:30 AM

Multnomah County Courthouse, Room 602

1. Continued Public Hearing on the boundaries of the proposed Rockwood Water Peoples Utility District

\* \* \* \* \*

C 1-88 PERIODIC REVIEW

2. Resolution In the Matter of Submitting to the State the County's Local Review Order under ORS 197.640 (C 1-88)
3. First Reading - An Ordinance amending Multnomah County Comprehensive Framework Plan to comply with the Periodic Review requirements of the Oregon Department of Land Conservation and Development
4. First Reading - An Ordinance amending Multnomah County Code Chapter 11.05 to comply with the Periodic Review requirements of the Oregon Department of Land Conservation and Development
5. First Reading - An Ordinance amending Multnomah County Code Chapter 11.15 and selected Sectional Zoning Maps to comply with the Periodic Review requirements of the Oregon Department of Land Conservation and Development
6. First Reading - An Ordinance amending Multnomah County Code Chapter 11.45 to comply with the Periodic Review requirements of the Oregon Department of Land Conservation and Development

Tuesday, December 19, 1989 - 1:30 PM

Multnomah County Courthouse, Room 602

INFORMAL

1. Informal Review of Formal Agenda of December 21
2. Briefing concerning the 1989 Legislative Report Summary - Fred Neal
3. Policy direction from the Board regarding the proposal developed by Juvenile Justice Division for the Emergency Funds Reserve for Gang Involved Youth - Harold Ogburn, Howard Klink

PUBLIC TESTIMONY WILL NOT BE TAKEN AT INFORMAL MEETINGS

NOTE CHANGE OF LOCATION

Thursday, December 21, 1989

9:30 AM

WORLD TRADE CENTER AUDITORIUM  
121 SW SALMON  
PORTLAND, OREGON

ORDINANCES - NONDEPARTMENTAL

R-1 Continued First Reading - An Ordinance to regulate the possession of firearms in public places, to establish a safety training course for firearms users and to impose fees

\* \* \* \* \*

Thursday, December 21, 1989, 1:30 PM

Multnomah County Courthouse, Room 602

Formal Agenda

CONSENT CALENDAR

DEPARTMENT OF JUSTICE SERVICES

C-2 Liquor License Renewal applications submitted by Sheriff's Office with recommendation that same be approved as follows:  
a) Package Store - Super Market Express, 16100 SE Stark; Portland City Florist and Catering, 13607 SE Powell  
b) Retail Malt Beverage - Velvet Keg, 12131 SE Holgate

REGULAR AGENDA

BOARD OF COUNTY COMMISSIONERS

R-3 In the matter of the appointment of Luana Shipp and Laura Woodruff to the Community Health Council, term expiring June, 1992

R-4 In the matter of the appointment of Thomas Mason and Marc Sussman to the Community Corrections Advisory Committee, terms expiring July, 1992

- R-5 In the matter of the appointment of Martha J. White to the Portland Multnomah Commission on Aging, term expiring June, 1990
- R-6 In the matter of the appointment and reappointments to the Integrated Pest Management Advisory Committee:  
Appointment: Bruce A. Nelson, term expiring July, 1992.  
Reappointments: Dr. David Dunnette, Marua Doherty, Albert J. Warren, Dr. David G. Adams, and David Reggiani, terms expiring July, 1992

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-7 Order in the Matter of Offering to Surrender Jurisdiction to the City of Portland all County Roads within the areas annexed to the City of Portland between January 1, 1989, and June 30, 1989
- R-8 Order in the matter of the Conveyance to the City of Portland Various One (1) Foot Strips (Street Plugs) and Road Fund Related Property adjacent to Former County Roads Previously Surrendered to the City of Portland Owned by the County, Item 88-164 (And Bargain and Sale Deed)
- R-9 Request approval of private sale of Tax Foreclosed property as provided by ORS 275.200 of LOMA ACRES, Exc S 62' & Exc N 70' of E 147' of Lot 7, located north of 747 SE 148th Ave.
- R-10 Notice of Intent to apply for a \$300,000 grant from the Oregon Department of Fish and Wildlife by the Parks Services Division, to be used for the construction of Chinook Landing Boating Facility on the Columbia River

DEPARTMENT OF GENERAL SERVICES

- R-11 Resolution in the matter of the approving of the issuance and negotiated sale of \$4,100,000 Series 1989B Taxable Certificates of Participation; approving and authorizing the Certificate Purchase Agreement, the Lease-Purchase and Escrow Agreement, and the Preliminary Official Statement and Official Statement; and designating an Authorized Officer
- R-12 Budget Modification DGS #8 making an appropriation transfer in the amount of \$19,643 from General Fund Contingency to Assessment & Taxation (Tax Collection/Information Section), establishing one position of Finance Specialist 1, with funding being offset by revenue the County will receive from HB 2338

- R-13 Budget Modification DGS #9 making an appropriation transfer in the amount of \$200,000 from Data Processing Fund Contingency to Information Services, Capital Equipment, for the purchase of an upgrade to the County's existing Central Processing Unit (CPU)

DEPARTMENT OF HUMAN SERVICES

- R-14 In the matter of ratification of an Intergovernmental Agreement with the 6255th United States Army Reserve Dental Service Detachment, whereby reserve personnel will provide dental service to County prisoners at Corrections Health Clinic
- R-15 In the matter of ratification of an Intergovernmental Agreement between Tri-Met and Developmental Disabilities Program Office, for transportation services for Multnomah County residents only, for period July 1, 1989 to June 30, 1990
- R-16 In the matter of ratification of an Intergovernmental Agreement with the Regional Research Institute at Portland State University for \$41,873 and Aging Services, for evaluation of two demonstration projects (The Oregon Partners in Energy Chronic Arrearages Project funded by the State Community Services, and the Homeless Family Self Sufficiency Project funded by the U.S. Department of Health and Human Services), for period July 1, 1989 to June 30, 1990
- R-17 In the matter of ratification of 3 Intergovernmental Agreements to the State Community Services Contract, adding a total of \$188,894 to the County's omnibus contract, for period October 31, 1989 to June 30, 1990
- R-18 In the matter of ratification of an Intergovernmental Agreements with a) Gresham Elementary School, and b) Barlow-Gresham Union High School, to reimburse the County for performing semi-annual inspections of food service operations until August 31, 1991
- R-19 In the matter of ratification of an Intergovernmental Agreement amendment between Alcohol Treatment and Training Center, OHSU, and Multnomah County Alcohol and Drug Program Office, to pay for interpreter for hearing impaired DUII clients, for period July 1, 1989 to June 30, 1990

- R-20 Budget Modification DHS #25 making an appropriation transfer in the amount of \$2,400 within Juvenile Justice from Materials & Services to Capital Outlay, for the purchase of a Wang Word Processing System upgrade
- R-21 Budget Modification DHS #26 making appropriation adjustments for net total of \$40,460 in the Social Services (Children's Clinical Services) budget, reflecting actual program operating costs, and making adjustments in Personnel, related Materials & Services, telephone and building management line items

DEPARTMENT OF JUSTICE SERVICES

- R-22 Budget Modification DJS #12 reflecting additional revenues in the amount of \$117,562 (ROCN Anti Drug Grant) and \$39,188 (Equitable Sharing) to the the District Attorney's Office, to apprehend and prosecute drug offenders

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

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

Friday, 6:00 PM, Channel 27 for Paragon Cable (Multnomah East) subscribers

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

0501C.76-83



# MULTNOMAH COUNTY OREGON

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

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

## BOARD OF COUNTY COMMISSIONERS

Tuesday, December 19, 1989

9:30 a.m., Room 602

### AGENDA

#### C 1-88 Periodic Review

- (1) A resolution adopting amendments to the February, 1989 Proposed Local Review Order intended to comply with changes recommended by the State Department of Land Conservation and Development and other changes resulting from Planning Commission hearings;
- (2) Ordinances adopting related Code, Comprehensive Framework Plan, and Map amendments necessary to comply with the Periodic Review Requirements of ORS 197.640.

**First Reading - Hearing at which public testimony  
will be received**



# MULTNOMAH COUNTY OREGON

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

BOARD OF COUNTY COMMISSIONERS  
GLADYS McCOY • CHAIR OF THE BOARD  
PAULINE ANDERSON • DISTRICT 1 COMMISSIONER  
GRETCHEN KAFOURY • DISTRICT 2 COMMISSIONER  
RICK BAUMAN • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

December 9, 1989

## MEMORANDUM

**TO:** Board of County Commissioners

**FROM:** Lorna Stickel

**RE:** Periodic Review Hearing December 19, 1989 and January 9, 1990

You now have a copy of the proposed Final Period Review Order which the Planning Commission recommended on November 27, 1989 after holding one workshop and three hearings. The packet is very large and includes the Final Review Order, ordinances adopting the proposed changes to the Comprehensive Plan, the zoning code, and the zoning maps, and some Goal 5 resource review sheets. The Board had approved sending the Proposed Order to the State Dept. of Land Conservation and Development (DLCD) on February 14, 1989. We received comments back from the State on June 9, 1989. The Staff met subsequently with the state and received some clarification of their comments. From this period to now to the Staff has been working to draft changes to the proposed order to meet the requirements of the State comments and Planning Commission hearings have been completed. This memo will briefly outline some of the issues regarding this proposed Final Order and will summarize the major changes between the Board approved Proposed Order and the proposed Final Order.

### Topic # 1- The elimination of Golf Courses from the EFU Zone

The Planning Commission received a memorandum from Comm. Pauline Anderson asking the Commission to consider the removal of golf courses from the EFU zone designation because these uses constitute a change of circumstance. In addition 1,000 Friends through letter and in testimony requested this as did Portland Audubon in testimony and the Sauvie Island Conservancy through D. Matrazzo's testimony. The Planning Commission recommendation on this matter is as follows:

Golf Courses have been allowed in the EFU zone in Multnomah County since

1977. The language in ORS 215.283(2)(e) is permissive in nature in that a local governing body *may* allow golf courses in EFU zoned areas. So it is possible for the County to not allow them. The Staff does not recommend that the County remove them during the period review process for two reasons:

- 1) No analysis has been done of the effect of removing golf courses from EFU designations, and
- 2) There is no justification under the change of circumstances criteria for removing them. In the case of the former reason it would make sense to do an adequate evaluation of the effect of removing golf courses from EFU zoned areas. As a part of the study done by Touche Ross for a possible golf course at Blue Lake Park and analysis of the Portland Gold market indicated that there is an unmet demand for gold course facilities. One fact cited in the report was that Oregon ranked sixth in the nation in golfers per 18 holes, at 25% above the national average. The study also noted that municipal courses operated by the City of Portland "are being played at capacity during peak summer months and that they are required to turn interested golfers away due to a lack of facilities." Even with the four courses planned in the Portland area this study still found unmet demand for at least 4 more 18 hole courses. This study was done in January 1989. More analyses is needed of the ability of new courses to locate inside Urban Growth Boundaries. In regards to the latter issue of cumulative impact the Staff notes that there is approximately 20,000 acres of zoned EFU land in the County. Since 1977 two golf courses have been approved in EFU zoned areas (Sauvie Island at 145 acres and Crystal Springs at 155 acres). These two golf courses amount to 300 acres or .015% of the land zoned EFU. Of this 300 acres about 192 acres is Agricultural Capability Class III and 108 acres is Class III. The bulk of the land zoned EFU in Multnomah County is Agricultural Capability Class III followed by Class II. Within the tri-county Portland area there appear to be about 9 golf courses on EFU zoned land (Clackamas County 3, Washington County 3, and Multnomah County 2). Even at an average of 200 acres apiece (which is a high estimate) this amounts to 1,600 acres out of some 399,987 acres (625 Square Miles) of zoned EFU land in the tri-county area (from DLCDC figures) for a total of .004% of EFU acreage. These figures do not indicate a cumulative impact. The Staff does recommend that the Planning Commission take up the issue of potential cumulative impact of future applications for more golf courses based upon expression of interest by more course developers in all three of the metropolitan counties in recent years. This should be the next issue to be addressed in a separate study that would allow a areas of the County and interested parties to participate.

**Topic # 2 - The November 22, 1989 AG's opinion that Court Cases apply as  
"changes of circumstances" for the purposes of periodic review.**

Throughout our period review there has been discussion about whether certain court cases apply during the period review process. This issue has been raised in all other counties' periodic reviews. The position of most counties has been that they do not apply and so they were not addressed. 1,000 Friends of Oregon raised this issue with us in a letter of October 16, 1989. They and we agree that we are applying the *Doughton v. Douglas Co.* case requiring notice of administrative decisions where the standards are discretionary. Another critical case is the Lane Co case on Goal 4 resources. We have recommended some changes to our forest zones to tighten them up and 1,000 Friends agrees with those changes. However, we do not go all the way to meeting the requirements of that case for the reason that LCDC is very close to adopting the Goal 4 and rule changes that will direct counties as to how they are to change their treatment of forest lands so that we can all meet the requirements of the Lane Co. case in a consistent manner. The Planning Commission recommends that the County come into compliance with this case by beginning the process to apply the Goal 4 and rule amendments within one year after their effective adoption by the LCDC. Another major court case is known as the Curry County case. This one is much more problematical for our county or any county to comply with, primarily because it raises the issue of what is a rural use and what is an urban use, but it does not provide any direction to the counties as to how this distinction is to be made. The State has not provided and clarification of this issue. The Planning Commission recommendation is to not address this issue until such time as the State provides a clear statement of how counties should address the issue of development on rural exception lands. It is not proper statewide planning for each of the 36 Oregon counties to take their cut at how this distinction should be made. We have already participated from a Staff perspective in numerous attempts to help the state define what is a proper policy on such issues as rural centers, rural residential, urban influence areas, and isolated commercial and industrial uses. We should continue that effort and should recommend to the state that they segment out our exceptions areas from periodic review. At the time that statewide policies have been formulated we will address the exceptions areas and resubmit for period review termination on those areas. It is the Staff's belief that currently the majority of the exception areas are appropriately planned and zoned to prevent inappropriate urban uses from locating in those areas.

**Topic # 3 - Major changes between the February 1989 Proposed order and the proposed Final Periodic Review Order.**

A. GOAL 4, FOREST

1. Page 7: Two previous ordinance proposals requiring a closer tie between a resource related residence and forestry practices on the same property have been delayed until the anticipated new Goal 4 rules are adopted by LCDC.

B. LOT OF RECORD

1. Pages 101 (EFU), 104 (CFU), and 113 (MUF): Added a new "lot of record" amendment based upon advice from County Counsel.

C. HILLSIDE DEVELOPMENT AND EROSION CONTROL ORDINANCE

1. Pages 144-152: Several changes were made throughout the proposed code subdistrict.

D. EXPIRATION OF COMMUNITY SERVICE AND CONDITIONAL USES

1. Pages 152 (CS) and 156 (CU): Added new criteria for determining when the approval of CS or CU Uses has expired due to inactivity on the development.

E. WETLANDS

1. Page 66: Sand Lake and an unnamed lake/slough west of Wagonwheel Hole Lake on Sauvie Island have been added to the list of *Significant* Wetlands. Reference is made to a changed wetland protection section of the zoning code.
2. Pages 138 (WRG) and 142 (SEC): Changed the proposed wetland protection sections of the code in both the Willamette River Greenway and Significant Environmental Concern overlay districts. New language generally limits disruption or fill of wetlands more than earlier proposal.
3. Page 169: Added three sectional zoning maps to the list of maps containing SEC zone boundary amendments. The maps cover the two lakes added to the SEC list.

4. Page 181: Added the two aforementioned wetlands to the Plan Policy section list of *Significant Areas*.
5. Page 185: Some of the criteria for determining if a wetland is *Significant* was modified.

#### F. MINERAL AND AGGREGATE EXTRACTION

1. Page 59: There is a new listing of the "Economic, Social, Environmental, and Energy analysis" designations for the different mineral and aggregate sites in the County jurisdiction. Reference has also been added to a proposed amended Mineral Extraction section of the zoning code.
2. Pages 101, 108, 109, 116, 118, 119, 121, 122, 123, 125, 126, 128, 129, 131, and 133: A setback requirement for "noise sensitive uses" near existing or potential mineral extraction sites has been added.
3. Pages 157-163: All proposed revisions to the Mineral Extraction section of the code are new to the Local Review Order. Mineral extraction activities are proposed to be exempt from the general Conditional Use criteria for approval and be subject to more "clear and objective standards".
4. Page 183: Changed the Comprehensive Framework Plan Policy to reflect the Ordinance proposal for a special review process and standards.
5. Mineral Extraction ESEE Worksheets (separate document): There has been a complete revision of the February, 1989 "Economic, Social, Environmental, and Energy analysis" worksheets with several of the sites receiving different designations.

#### G. WILDLIFE HABITAT

1. Wildlife Habitat ESEE Worksheet (separate document): An ESEE worksheet for the study of a Tualatin Mountains wildlife corridor has been added.

#### H. SCENIC VIEWS

1. Scenic Views ESEE Worksheet (separate document): An ESEE worksheet for the study of scenic views of the Tualatin Mountains from Multnomah Channel and Sauvie Island has also been included.

**Topic # 4 - A few more proposed changes after the Planning Commission hearing**

The Staff will be recommending a couple of additional changes to the proposed Final Order that were not available in time for the Planning Commission hearing. We will be presenting those to the Board at our first Board hearing on December 19, 1989. Generally they include the following:

- 1) The addition of some different review criteria to our EFU zone that are mandated by a change in State law under HB 2682 and are already effective as of October 1, 1989.
- 2) The replacement of an additional criteria to the mineral and aggregate zoning code amendments which was initially proposed to the Planning Commission. The Staff recommended removing a provision which would have allowed the placement of conditions on mineral and aggregate operations which limit the use to protect conflicting Goal 5 uses identified in the ESEE analysis adopted by the County. We removed this because we were under the impression that this was not allowed by the Goal 5 administrative rule. A meeting with the DLCD Staff and AG representative corrected this erroneous impression and we now recommend adding back.
- 3) Based upon the same meeting referred to immediately above the Staff will also be recommending some changes to the ESEE Goal 5 (ESEE = Environment, Social, Energy, and Economic ) consequences analysis for the West Hills Wildlife Corridor, Scenic resources, and aggregate site. These changes will improve them by citing references and by adding a timing process for resolution of the required Goal 5 balancing process.

**MULTNOMAH COUNTY  
GOAL 5 INVENTORY  
(11/3/89)**

**TYPE OF RESOURCE:** Mineral and Aggregate - Mult. Co. Inv. Site #1, ODOT, (DOGAMI Site #1)

**LOCATION:**

Southeast 1/4 of Sec. 36, T. 3 N., R. 2 W.

**DESCRIPTION:**

The site is adjacent to Highway 30 and owned by the Oregon Department of Transportation. Information from DOGAMI publications indicates that past production from the site was 20,000 cubic yards and the future potential production could be 26,000 cubic yards of aggregate material. The site has been inactive since 1978. Location and extent of future reserves is not known.

**A. AVAILABLE INFORMATION INDICATES SITE IS IMPORTANT** (ability to yield more than 25,000 cubic yards of material in less than 5 years):

- NO-DESIGNATE 1A: DO NOT INCLUDE IN PLAN INVENTORY**
- YES - GO TO B**

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

- NO - DESIGNATE 1B : ADDRESS THE SITE IN FUTURE WHEN INFORMATION BECOMES AVAILABLE**
- YES - INCLUDE IN PLAN INVENTORY AND GO TO C**

**C. ZONING:**

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

- NO - DESIGNATE 2A : PRESERVE RESOURCE**
- YES - GO TO D**

**D.**

**MULTNOMAH COUNTY  
GOAL 5 INVENTORY  
(11/3/89)**

**TYPE OF RESOURCE:** Mineral and Aggregate - Mult. Co. Inv. Site #2, Krueger. (DOGAMI Site #2)

**LOCATION:** Southeast 1/4 of Sec. 36, T. 2 N., R. 2 W., Tax Lot '25'

**DESCRIPTION:**

DOGAMI I.D. #26-0059

This is a quarry that is owned by the Oregon State Highway Department and was established prior to the enactment of zoning regulations in Multnomah County. It has been used intermittently over the years for crushed rock, embankment and pit run material. In the 1970's the use was limited to pit run and reject material. Past production is estimated at 250,000 cubic tons. A 1978 DOGAMI report in 1978 estimated a future potential of only 30,000 more cubic yards at the site. However, in 1981 the Highway Department in an application for full scale re-activation of the quarry stated, without supporting test and exploration data, that the rock available was about 1 million cubic yards. A Hearings Officer decision of approval of Conditional Use 39-81 questioned the lack of verifying quantity information but reasoned that the available information indicated that "an economic deposit of the mineral resource exists" (MCC 11.15.7325). After receiving Hearings Officer approval of the proposal, the State Highway Department withdrew their application before the case went before the Board of County Commissioners on appeal. The site has since been inactive.

**A. AVAILABLE INFORMATION INDICATES SITE IS IMPORTANT (ABILITY TO YIELD MORE THAN 25,000 CUBIC YARDS OF MATERIAL IN LESS THAN 5 YEARS):**

**NO-DESIGNATE 1A: DO NOT INCLUDE IN PLAN INVENTORY**

**YES - GO TO B**

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

**NO - DESIGNATE 1B : ADDRESS THE SITE IN FUTURE WHEN INFORMATION BECOMES AVAILABLE**

**YES - INCLUDE IN PLAN INVENTORY AND GO TO C**

Any application for re-activation of this extraction site must also include more detailed information on the quantity and mapped location of the resource.

**C. ZONING:** Multiple Use Forest -19 zoning on the site and to the north and west. Exclusive Farm Use on properties to the east.

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

**NO - DESIGNATE 2A : PRESERVE RESOURCE**

**X YES - GO TO D**

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

Single family residences: In the MUF zone as a primary use on a lot of 38 acres, as a use under prescribed conditions on a new lot of between 19 and 38 acres with a forest or farm management plan, as a use under prescribed conditions on a lot of record of between 10 and 38 acres with a forest or farm management plan, or as a conditional use on a lot of record of less than 10 acres. Comparable standards are in the EFU zone for new dwellings.

A range of potential conditional uses and community service uses are listed in the subject zoning districts but to be approved the approval authority shall find that the proposed use "Will not adversely affect natural resources" (MCC 11.15.7120(B)). In the MUF zone the uses include churches, schools, cottage industries, service commercial, and tourist commercial establishments.

**DESCRIBE CONSEQUENCES OF ALLOWING CONFLICTING USES:**

***OAR 660-16-005 (2): "...Both the impacts on the resource site and on the conflicting use 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."***

**ECONOMIC:**

1. Impacts on resource: Potential loss of a site which, because it is close to the urban area and owned by the Highway Department, would provide a less expensive product for building and maintaining State roads.
2. Impacts on conflicting uses: Homes near the noise and dust or in close view of extraction activities will have lessened resale value.
3. Requirements of other applicable State Goals:
  - A. Transportation Goal 12: The main Multnomah County road impacted by the additional heavy loads would be Cornelius Pass Highway which is capable of handling the types of traffic expected according to the County Engineer.

**SOCIAL:**

1. Impacts on resource: Allowing conflicting uses would inevitably result in complaints and

possible disruption of an extraction operation because of noise and dust problems encountered by neighbors.

2. Impacts on conflicting uses: From testimony at public hearings on case CU 39-81, it was found that there are several homes on Zimmerman Road that are in direct line of sight with the quarry across Rock Creek Road. Also it was stated by one home owner that his residence had been struck by a flying rock during previous blasting activities. Noise and dust affects the full enjoyment of nearby homesites.

3. Requirements of other applicable State Goals: N/A

**ENVIRONMENTAL:**

1. Impacts on resource: Conflicting uses listed should have no environmental impact on the mineral and aggregate resource.

2. Impacts on conflicting uses: Unconfirmed testimony at CU 39-81 hearing stated that blasting activities in the past have affected private wells in the area.

3. Requirements of other applicable State Goals:

A. Other Goal 5 resources: There are no other inventoried Goal 5 resources on the site.

**ENERGY:**

1. Impacts on resource: Allowing noise and dust sensitive uses too close to the resource could alter the manner, location and extent of extraction activities, resulting in greater use of energy in the process.

2. Impacts on conflicting uses: N/A

3. Requirements of other applicable State Goals: N/A

**CONCLUSION: 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.**

**PROGRAM:**

**MULTNOMAH COUNTY  
GOAL 5 INVENTORY  
(11/3/89)**

**TYPE OF RESOURCE:** Mineral and Aggregate-Mult. Co. Inv. Site #3, Hidden Valley (DOGAMI Site #3)

**LOCATION:**

Northeast 1/4 of Sec. 29, T. 2 N., R. 1 W.

**DESCRIPTION:**

Past production exceeded 500,000 cubic yards. After all economically extractable material was removed the site was used as a sanitary landfill.

**A. AVAILABLE INFORMATION INDICATES SITE IS IMPORTANT** (ability to yield more than 25,000 cubic yards of material in less than 5 years):

- NO-DO NOT INCLUDE IN PLAN INVENTORY, DESIGNATE 1A**
- YES - GO TO B**

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

- NO - DESIGNATE 1B : ADDRESS THE SITE IN FUTURE WHEN INFORMATION BECOMES AVAILABLE**
- YES - INCLUDE IN PLAN INVENTORY AND GO TO C**

**C. ZONING:**

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

- NO - DESIGNATE 2A : PRESERVE RESOURCE**
- YES - GO TO D**

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

**MULTNOMAH COUNTY  
GOAL 5 INVENTORY**

(11/3/89)

**TYPE OF RESOURCE:** Mineral and Aggregate - Mult. Co. Inv. Site #4, Angell Bros. (DOGAMI Site # 4)

**LOCATION:** Northwest 1/4 of Sec. 28, T. 2 N., R. 1 W., Tax Lot '12'; Northeast 1/4 of Sec. 29, T. 2 N., R. 1 W.

**DESCRIPTION:**  
DOGAMI I.D. #26-0019

This operating rock quarry is located on the west side of State Highway 30, just north of the Sauvie Island Bridge. The present size of the approved extraction activities cover the majority of two tax lots totalling 73 acres in area. The easternmost parcel of 32 acres contains the processing equipment and stockpiles. The existing general mining and operations master plan calls for retaining the north and south knob type hills at the entrance for screening of the operation to viewing from the east.

A 1978 DOGAMI publication estimated that reserves of the mineral and aggregate resource were 7 million cubic yards of material. A study was submitted in August, 1989 in which H. G. Schlicker and Associates concluded that based upon their materials tests and eight boring locations an adjoining 278 acre area likely contains approximately 220 million cubic yards of very good aggregate material. Unavailable as of October, 1989 is an accurate mapped location of the resource on the future potential expansion area.

**A. AVAILABLE INFORMATION INDICATES SITE IS IMPORTANT (ABILITY TO YIELD MORE THAN 25,000 CUBIC YARDS OF MATERIAL IN LESS THAN 5 YEARS):**

**NO-DESIGNATE 1A: DO NOT INCLUDE IN PLAN INVENTORY**

**YES - GO TO B**

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

**NO - For the adjoining 278 acres -- DESIGNATE 1B : ADDRESS THE SITE IN FUTURE WHEN INFORMATION BECOMES AVAILABLE**

**YES - For the existing approved extraction area of 73 acres -- INCLUDE IN PLAN INVENTORY AND GO TO C**

**C. ZONING:** Multiple Use Forest - 19 and Multiple Use Forest - 38

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

**NO - DESIGNATE 2A : PRESERVE RESOURCE**

**X YES - GO TO D**

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

Single family residences: In the MUF-19 zone as a primary use on a lot of 38 acres, as a use under prescribed conditions on a new lot of between 19 and 38 acres with a forest or farm management plan, as a use under prescribed conditions on a lot of record of between 10 and 38 acres with a forest or farm management plan, or as a conditional use on a lot of record of less than 10 acres. The MUF-38 zone requirements are identical to the MUF-19 zone except that new lots must be at least 38 acres in area.

A range of potential conditional uses and community service uses are listed in the MUF zoning districts but to be approved the approval authority shall find that the proposed use "Will not adversely affect natural resources" (MCC 11.15.7120(B)). In the MUF zone such uses include churches, schools, cottage industries, service commercial, and tourist commercial establishments.

**DESCRIBE CONSEQUENCES OF ALLOWING CONFLICTING USES:**

***OAR 660-16-005 (2): "...Both the impacts on the resource site and on the conflicting use 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."***

**ECONOMIC:**

1. Impacts on resource: Potential loss of site which is the largest in operation in the County which also contains significant remaining reserves of the resource. The location, less than one mile outside the Urban Growth Boundary and with direct access to a State Highway, has many advantages in supplying this resource to the metropolitan area.
2. Impacts on conflicting uses: Homes and tourist commercial uses too near the noise or dust of an extraction operation will have reduced value.
3. Requirements of other applicable State Goals:
  - A. Transportation Goal 12: Direct access is onto State Highway 30 which is capable of handling all anticipated traffic.

## **SOCIAL:**

1. Impacts on resource: N/A
2. Impacts on conflicting uses: The nearest conflicting use, a caretakers residence, is over 500 feet from the site on the eastern side of the highway. No other homes are closer than 700 feet to any property line of the subject tax lots. Residences northeast of the gap in the ridge at the entrance to the mining operation are able to view the slopes under excavation.
3. Requirements of other applicable State Goals: N/A

## **ENVIRONMENTAL:**

1. Impacts on resource: N/A
2. Impacts on conflicting uses: Noise, dust particulates, and blasting are potential impacts on such sensitive land uses as homes, schools, and public parks.
3. Requirements of other applicable State Goals:
  - A. Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources:
    - (1). Fish and wildlife areas and habitat:
      - (a). Existing 73 acre approved extraction operation: An intermittent stream flows northeasterly through the center of tax lot '12' (the 32 acre parcel fronting on the highway). In conjunction with the present operation most of the length of the stream near the mining has been enclosed in a culvert. Although the stream is classified Class 1 by the State Department of Forestry, the decision to allow piping through the site was made because "the stream is not considered a 'fishing' creek because it dries up in late summer" and the State Department of Environmental Quality approved the water discharge system. The value of the mineral and aggregate resource in this location outweighs the value the stream may have for fish and wildlife habitat at this time, considering that at some time in the future the fish and wildlife potential can be restored. No significant wildlife area exists on the area currently approved for extraction activities.
      - (b). Adjoining 278 acres designated "1B" until mineral and aggregate resource more accurately mapped: The same stream discussed in (a) above flows through tax lot '11' (Sec. 29) where most of the test borings have been located. In addition, another Class 1 stream at the north end of the area under investigation is located on tax lots '6' and '8' (Sec. 29). The value of the northerly stream for fish habitat should be determined and weighed against the aggregate value at some time in the future.
      - (c). Questions have been raised by several organizations as to the possibility of a "Wildlife Corridor" in the West Hills that may provide migrating and intermingling of species between Forest Park and the Coast Range. If such a corridor exists, the impact on the corridor by an expansion of the subject operation would need to be answered.

(2). Outstanding scenic views and sites: Although the view of the West Hills from the east side of the Multnomah Channel is not a listed Goal 5 important scenic view, testimony from several citizens at public hearings points to some concern over the views of the subject property from Sauvie Island natural areas. Maintaining the present width of the entrance opening would lessen further concerns.

**ENERGY:**

1. Impacts on resource: Allowing noise and dust sensitive uses too close to the resource could alter the manner, location and extent of extraction activities, resulting in greater use of energy to the operator. This close-in site is energy efficient for transporting the materials to the largest market.
2. Impacts on conflicting uses: N/A
3. Requirements of other applicable State Goals: N/A

**CONCLUSION: THE RESOURCE AT THIS SITE SHOULD:**

**BE FULLY PROTECTED - DESIGNATE 3A.**

**NOT BE PROTECTED DUE TO OVERRIDING BENEFITS FROM  
ALLOWING CONFLICTING USES - DESIGNATE 3B.**

**X BE PARTIALLY PROTECTED BY CONDITIONS WHICH MINIMIZE THE  
IMPACT OF CONFLICTING USES - DESIGNATE 3C.**

**PROGRAM:**

The existing approved and operating 72 acre site is designated "3C" and when the current approval of Conditional Use 9-86 expires in 1991 (or sooner, at the operators discretion), the extraction activity could be continued with approval under a revised Mineral Extraction conditional use section of the zoning code that has clearer and more objective standards and no expiration date with continued extraction and reclamation.

The adjoining 278 acres is classified as "1B" until the resource is more accurately mapped and the relative value of the northerly Class 1 stream is determined. Multnomah County has set aside \$6,000 to be spent in 1990 in the contracting of a consultant in an attempt to verify the existence of the presence of a "Wildlife Corridor" to the west of the potential expansion area. If information is available from this or similar authoritative study, then such information should also be included in the ESEE analysis to be completed for the expansion.

**MULTNOMAH COUNTY  
GOAL 5 INVENTORY**

(11/3/89)

**TYPE OF RESOURCE:** Mineral and Aggregate - Mult. Co. Inv. Site #5, Multnomah Co.(DOGAMI Site #5)

**LOCATION:** Northwest 1/4 of Sec. 5, T. 1 N., R. 1 W., Tax Lot '14'

**DESCRIPTION:**

DOGAMI I.D. #26-0029

This site is owned by Multnomah County and is the location of the County shops near Skyline Blvd. In the past it has produced over 340,000 cubic yards of material. The 1978 DOGAMI report estimated that there is a future potential production of 300,000 more cubic yards. The extraction activities have been inactive since at least 1981.

**A. AVAILABLE INFORMATION INDICATES SITE IS IMPORTANT (ABILITY TO YIELD MORE THAN 25,000 CUBIC YARDS OF MATERIAL IN LESS THAN 5 YEARS):**

**NO - DESIGNATE 1A: DO NOT INCLUDE IN PLAN INVENTORY**

**YES - GO TO B**

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

**NO - DESIGNATE 1B : ADDRESS THE SITE IN FUTURE WHEN INFORMATION BECOMES AVAILABLE**

**YES - INCLUDE IN PLAN INVENTORY AND GO TO C**

**C. ZONING:** The site and surrounding properties are zoned MUF-19.

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

**NO - DESIGNATE 2A : PRESERVE RESOURCE**

**YES - GO TO D**

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

Single family residences: In the MUF zone as a primary use on a lot of 38 acres, as a use under prescribed conditions on a new lot of between 19 and 38 acres with a forest or farm management plan, as a use under prescribed conditions on a lot of record of between 10 and 38 acres with a forest or farm management plan, or

as a conditional use on a lot of record of less than 10 acres. Comparable standards are in the EFU zone for new dwellings.

A range of potential conditional uses and community service uses are listed in the subject zoning districts but to be approved the approval authority shall find that the proposed use "Will not adversely affect natural resources" (MCC 11.15.7120(B)). In the MUF zone the uses include churches, schools, cottage industries, service commercial, and tourist commercial establishments

**DESCRIBE CONSEQUENCES OF ALLOWING CONFLICTING USES:**

***OAR 660-16-005 (2): "...Both the impacts on the resource site and on the conflicting use 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."***

**ECONOMIC:**

1. Impacts on resource: Potential loss of a site which, because it is close to the urban area and owned by Multnomah County, would provide a less expensive product for building and maintaining County roads.
2. Impacts on conflicting uses: Homes near the noise and dust or in close view of extraction activities will have lessened resale value.
3. Requirements of other applicable State Goals: N/A

**SOCIAL:**

1. Impacts on resource: N/A
2. Impacts on conflicting uses: There is one existing home about 450 feet from the quarry. Other homes are much farther away near Skyline Blvd. Noise and dust associated with extraction operations prevent the full enjoyment of a home that is too close to such activities. There is no evidence on record with the planning department that there have been conflicts in the past.
3. Requirements of other applicable State Goals: N/A

**ENVIRONMENTAL:**

1. Impacts on resource: N/A
2. Impacts on conflicting uses: N/A
3. Requirements of other applicable State Goals:

A. Other Goal 5 resources: There are no other inventoried Goal 5 resources on the site.

**ENERGY:**

1. Impacts on resource: Allowing noise and dust sensitive uses too close to the resource could alter the manner, location and extent of extraction activities, resulting in greater use of energy in the process.
2. Impacts on conflicting uses: N/A
3. Requirements of other applicable State Goals: N/A

**CONCLUSION: THE RESOURCE AT THIS SITE SHOULD:**

**BE FULLY PROTECTED - DESIGNATE 3A.**

**NOT BE PROTECTED DUE TO OVERRIDING BENEFITS FROM  
ALLOWING CONFLICTING USES - DESIGNATE 3B.**

**X BE PARTIALLY PROTECTED BY CONDITIONS WHICH MINIMIZE THE  
IMPACT OF CONFLICTING USES - DESIGNATE 3C.**

**PROGRAM:**

The site is an important mineral and aggregate resource location and with the "3C" designation is appropriate for extraction activities pursuant to the standards contained in the amended CU Mineral Extraction subsection of the County Code, MCC 11.15.7305 - .7335.

**MULTNOMAH COUNTY  
GOAL 5 INVENTORY  
(11/3/89)**

**TYPE OF RESOURCE:** Mineral and Aggregate - Mult. Co. Site #6, Reeder Beach

**LOCATION:**

Section 26, T. 3 N., R. 1 W., east of N.W. Reeder Road

**DESCRIPTION:**

This was a built up sand area that was created by the deposition of dredge spoils derived from the dredging of the Columbia River channel in 1970. In 1981 a five year conditional use request was granted to remove 70,000 cubic yards of sand from the site. The conditional use has lapsed and it is most likely that nearly or all of the commercial quantity of sand has been removed.

**A. AVAILABLE INFORMATION INDICATES SITE IS IMPORTANT** (ability to yield more than 25,000 cubic yards of material in less than 5 years):

- NO-DESIGNATE 1A: DO NOT INCLUDE IN PLAN INVENTORY**
- YES - GO TO B**

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

- NO - DESIGNATE 1B : ADDRESS THE SITE IN FUTURE WHEN INFORMATION BECOMES AVAILABLE**
- YES - INCLUDE IN PLAN INVENTORY AND GO TO C**

**C. ZONING:**

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

- NO - DESIGNATE 2A : PRESERVE RESOURCE**
- YES - GO TO D**

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

**MULTNOMAH COUNTY  
GOAL 5 INVENTORY**

(11/3/89)

**TYPE OF RESOURCE:** Mineral and Aggregate - Mult. Co. Site #7, Chappell Clay

**LOCATION:** Southwest 1/4 of Section 30, T. 2 N., R. 1 W.

**DESCRIPTION:**  
DOGAMI I.D. #26-0064

This is a twelve and 1/2 acre operating clay removal quarry site on the easterly side of Cornelius Pass Road. The material removed under the approval conditions of CU 13-82, CU 13-82a, CU 7-86, and CU 5-88 has been used as cover material for the St. Johns Landfill. The approved area of extraction has been on tax lot '6' of lots 19 and 20, and lots 21 through 24, of Bayne Suburban Farms Subdivision. In February of this year the operator wrote to the planning department stating that there was approximately 50,000 cubic yards of readily available material remaining on those lots.

In a 1986 report prepared by Storch Corporation/Engineers it was estimated from looking at contour maps and aerial photos, but no test pits or resource mapping, that there was an additional 200,000 cubic yards of material on lots 25, 30 and 31 to the north of the present operation.

**A. AVAILABLE INFORMATION INDICATES SITE IS IMPORTANT (ABILITY TO YIELD MORE THAN 25,000 CUBIC YARDS OF MATERIAL IN LESS THAN 5 YEARS):**

**NO-DESIGNATE 1A:DO NOT INCLUDE IN PLAN INVENTORY**

**YES - GO TO B**

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

**NO - For any expansion of the existing operation DESIGNATE 1B : ADDRESS THE SITE IN FUTURE WHEN INFORMATION BECOMES AVAILABLE**

**YES - For the existing approved extraction area of 12.5 acres-- INCLUDE IN PLAN INVENTORY AND GO TO C**

**C. ZONING:** Rural Residential

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

**NO - DESIGNATE 2A : PRESERVE RESOURCE**

**X YES - GO TO D**

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

Single family homes on a lot of record or a new lot of 5 acres in area.

A range of potential conditional uses and community service uses are listed in the RR zoning district but to be approved the approval authority shall find that the proposed use "will not adversely affect natural resources" (MCC 11.15.7120(B)). In the RR zone such uses include churches, schools, cottage industries, service commercial, and tourist commercial establishments.

**DESCRIBE CONSEQUENCES OF ALLOWING CONFLICTING USES:**

***OAR 660-16-005 (2): "...Both the impacts on the resource site and on the conflicting use 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."***

**ECONOMIC:**

1. Impacts on resource: Allowing conflicting uses too close to the known resource could prevent full extraction of the material. This site, in the northwest portion of the County, is in a good location for providing clay to the St. Johns Landfill.
2. Impacts on conflicting uses: Homes and tourist commercial uses too near the noise or dust of an extraction operation will have reduced value.
3. Requirements of other applicable State Goals: Direct access is onto Cornelius Pass Road which is capable of handling all anticipated traffic.

**SOCIAL:**

1. Impacts on resource: N/A
2. Impacts on conflicting uses: The nearest conflicting uses are single family residences. Distances from the homes to the existing extraction area are 300 feet, 350 feet, 500 feet, and 700 feet.
3. Requirements of other applicable State Goals: N/A

**ENVIRONMENTAL:**

1. Impacts on resource: N/A
2. Impacts on conflicting uses: Noise and dust have adverse impacts on such sensitive land uses as homes, schools, and public parks.
3. Requirements of other applicable State Goals:

A. Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources:

- (1). Fish and wildlife areas and habitat:

McCarthy Creek which flows through lot 25 just north of the present extraction area has been identified as a Class 1 stream. As a condition of approval, the stream has been monitored for sediment content and stream flow since 1982 when the quarry was opened. No degradation of water quality has been found. The reclamation plan of the site has been reviewed by the Oregon Department of Fish and Wildlife.

- (2). Wetlands: The same creek shows on the National Wetland Inventory as a linear forested wetland.

**ENERGY:**

1. Impacts on resource: Allowing noise and dust sensitive uses too close to the resource could alter the manner, location and extent of extraction activities, resulting in greater use of energy to the operator.
2. Impacts on conflicting uses: N/A
3. Requirements of other applicable State Goals: N/A

**CONCLUSION: THE RESOURCE AT THIS SITE SHOULD:**

**BE FULLY PROTECTED - DESIGNATE 3A.**

**NOT BE PROTECTED DUE TO OVERRIDING BENEFITS FROM  
ALLOWING CONFLICTING USES - DESIGNATE 3B.**

**X BE PARTIALLY PROTECTED BY CONDITIONS WHICH MINIMIZE THE  
IMPACT OF CONFLICTING USES - DESIGNATE 3C.**

**PROGRAM:**

The existing 12.5 acre extraction area is designated "3C". It is expected that the operator of the quarry will deplete the clay from the present known resource area before the present approval period expires (on April 28th, 1991 or upon closure of the St. Johns landfill, whichever occurs first).

Potential expansion of the operation to the north is classified "1B" until more accurate information is obtained on the location of the resource. The exact location of the resource will also potentially impact the Class 1 stream which is between the present operation and any expansion area to the north.

**MULTNOMAH COUNTY  
GOAL 5 INVENTORY**

(11/3/89)

**TYPE OF RESOURCE:** Mineral and Aggregate - Mult. Co. Inv. Site #8, Howard Canyon

**LOCATION:** Along the section line between Section 36, T. 1 N., R. 4 E. and Section 1, T. 1 S. R. 4 E., See map with resource boundaries overlayed on Assessment and Taxation property line base map in inventory file.

**DESCRIPTION:**

DOGAMI I.D. #26-0065

This aggregate resource site is a cleared ridge top which runs in an east-west orientation just north of Howard Canyon. As confirmed in a study by H. G. Schlicker & Associates in which 31 testpits were dug, the basalt lava resource occupies the upper 50 feet or more of the ridgecrest and is more than 4200 feet long and more than 350 feet wide for most of its length. The amount of aggregate material exceeds 2.7 million cubic yards. The ground surface of the resource area ranges in elevation from 780 feet to 860 feet.

**A. AVAILABLE INFORMATION INDICATES SITE IS IMPORTANT (ABILITY TO YIELD MORE THAN 25,000 CUBIC YARDS OF MINERAL AND AGGREGATE MATERIAL IN LESS THAN 5 YEARS):**

**NO-DESIGNATE 1A: DO NOT INCLUDE IN PLAN INVENTORY**

**X YES - GO TO B**

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

**NO - DESIGNATE 1B : ADDRESS THE SITE IN FUTURE WHEN INFORMATION BECOMES AVAILABLE**

**X YES - INCLUDE IN PLAN INVENTORY AND GO TO C**

**C. ZONING:** Multiple Use Forest -38, Multiple Use Forest - 19, and Exclusive Farm Use

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

**NO - DESIGNATE 2A : PRESERVE RESOURCE**

**X YES - GO TO D**

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

Single family residences: In the MUF-19 zone as a primary use on a lot of 38 acres, as a use under prescribed conditions on a new lot of between 19 and 38 acres with a forest or farm management plan, as a use under prescribed conditions on a lot of record of between 10 and 38 acres with a forest or farm management plan, or as a conditional use on a lot of record of less than 10 acres. The MUF-38 zone requirements are identical to the MUF-19 zone except that new lots must be at least 38 acres in area. Comparable standards are in the EFU zone for new dwellings.

A range of potential conditional uses and community service uses are listed in the MUF zoning districts but to be approved the approval authority shall find that the proposed use "Will not adversely affect natural resources" (MCC 11.15.7120(B)). In the MUF zone such uses include churches, schools, cottage industries, service commercial, and tourist commercial establishments.

#### DESCRIBE CONSEQUENCES OF ALLOWING CONFLICTING USES:

***OAR 660-16-005 (2): "...Both the impacts on the resource site and on the conflicting use 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."***

#### ECONOMIC:

1. Impacts on resource: The consequence could be the loss of the only quarry site in the County east of the Sandy River available at the present time for commercial use.
2. Impacts on conflicting uses: Homes too near the noise and dust of extraction activities will have lessened resale value.
3. Requirements of other applicable State Goals:

A. Transportation Goal 12, To provide and encourage a safe, convenient and economic transportation system:

In testimony from the County Engineer during the Conditional Use 7-87 public hearings on the subject site it was stated that neither SE Howard or SE Knieriem Roads, the only two options for travel to and from the property, are of sufficient construction to withstand the extra load of gravel trucks on a constant basis without breaking up.

In test cores done on SE Howard Road it was found that the road consists of two inches of oil mat over nine inches of rock, construction very similar to a residential street standard, and therefore cannot withstand frequent heavy truck traffic. Also, for the one mile of SE Howard Road that gravel trucks would use, there are several areas of narrow road widths

and difficult sight distances that would need modifications in order to safely accommodate large truck traffic.

On the northward travel route option using SE Knieriem, the road width and sight distances are better than SE Howard but there is still the need for road bed and surface improvements similar to those for SE Howard for a length of one-half mile.

#### **SOCIAL:**

1. Impacts on resource: No portion of the resource site is more than one-half mile from a noise sensitive use. Therefore, an extraction operation would be subject to limitations on hours of operation and days of blasting (as proposed in the amended Mineral Extraction Code section).
2. Impacts on conflicting uses: The approximate distances from the closest existing residences to the mapped resource area are: one at 400 feet, one at 500 feet, two at 700 feet.
3. Requirements of other applicable State Goals: N/A

#### **ENVIRONMENTAL:**

1. Impacts on resource: N/A
2. Impacts on conflicting uses: Noise, dust particulates, and blasting are potential impacts on such sensitive land uses as homes, schools, and public parks if they are too close to the extraction operation.
3. Requirements of other applicable State Goals:
  - A. Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources:
    - (1). Fish and wildlife areas and habitat: There is a Class 1 stream immediately north of the resource ridge.. The mapped resource area does not include the stream and it appears that extraction can occur without disturbance of the stream.
    - (2). Wetlands: The Class 1 stream noted in (1) above also is identified as a wetland on the U.S. Fish and Wildlife "National Wetland Inventory".
  - B. Goal 7, Areas Subject to Natural Disasters and Hazards:

Conflicting testimony was submitted in the CU 7-87 hearings regarding potential slope hazards at the site.

- (1). A letter was submitted from a soil scientist who conducted a preliminary investigation of the site in 1986. The letter stated that "... due to the combination of site drainage, landscape position, and apparent stability, it does not appear that adverse geologic or natural effects to surrounding properties will occur as a result of the proposed operation". In that same year an Oregon Department of Geology and Mineral Industries reclamationist made a site visit and found no problem with

either the drainage, stability or reclamation potential of the site.

(2). A study submitted into the record by an engineering geologist indicated a slope hazard at the site due to the following:

- (a). Evidence of numerous landslides along the contact of the Boring Lava and the Troutdale Formation,
- (b). The presence of numerous springs and seeps which occur along the contact of the Boring Lava and the Troutdale Formation, and
- (c). The Troutdale Formation at this site is subject to failure when overburden is removed.

**ENERGY:**

- 1. Impacts on resource: Allowing noise and dust sensitive uses too close to the resource could alter the manner, location and extent of extraction activities, resulting in greater use of energy to the operator.
- 2. Impacts on conflicting uses: N/A
- 3. Requirements of other applicable State Goals: N/A

**CONCLUSION: THE RESOURCE AT THIS SITE SHOULD:**

**BE FULLY PROTECTED - DESIGNATE 3A.**

**NOT BE PROTECTED DUE TO OVERRIDING BENEFITS FROM  
ALLOWING CONFLICTING USES - DESIGNATE 3B.**

**X BE PARTIALLY PROTECTED BY CONDITIONS WHICH MINIMIZE THE  
IMPACT OF CONFLICTING USES - DESIGNATE 3C.**

**PROGRAM:**

The site is designated "3 C" and under the proposed Comprehensive Plan and Zoning Code amendments would be appropriate for mineral and aggregate extraction when in compliance with the standards of MCC 11.15.7325 through .7332.

The transportation, the proximity of existing residences, the Class 1 stream, and the slope stability issues noted in this ESEE worksheet will be addressed and resolved when an applicant meets the respective standards of the Mineral Extraction Code subsections (MCC 11.15.7325 (C) (1), (2), (4), (5), (6), (7), and (D)).

The aggregate resource will be protected from new noise and dust sensitive conflicting uses by the proposed increased setback requirements for such uses in each of the zoning districts near the mapped resource area.

**MULTNOMAH COUNTY  
GOAL 5 INVENTORY  
(11/3/89)**

**TYPE OF RESOURCE:** Mineral and Aggregate - Mult. Co. Inv. Site #9, Updegrave

**LOCATION:**

Southeast 1/4 of Sec. 13, T. 1 S., R. 4 E.

**DESCRIPTION:**

DOGAMI I.D. #:26-0066.

A "Grant of Total Exemption" was issued for the site by DOGAMI in July, 1987. The basis for the exemption was that "The site is less than one acre and a total of less than 5,000 cubic yards of mineral have been or will be removed per year (ORS 517.750(13)(b))". The permit was granted to Gene Updegrave, P.O. Box 12023, Estacada, OR, 97023 and lapsed in 1988. No information is available on existing reserves.

**A. AVAILABLE INFORMATION INDICATES SITE IS IMPORTANT (ability to yield more than 25,000 cubic yards of material in less than 5 years):**

- NO - DESIGNATE 1A: DO NOT INCLUDE IN PLAN INVENTORY**
- YES - GO TO B**

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

- NO - DESIGNATE 1B : ADDRESS THE SITE IN FUTURE WHEN INFORMATION BECOMES AVAILABLE**
- YES - INCLUDE IN PLAN INVENTORY AND GO TO C**

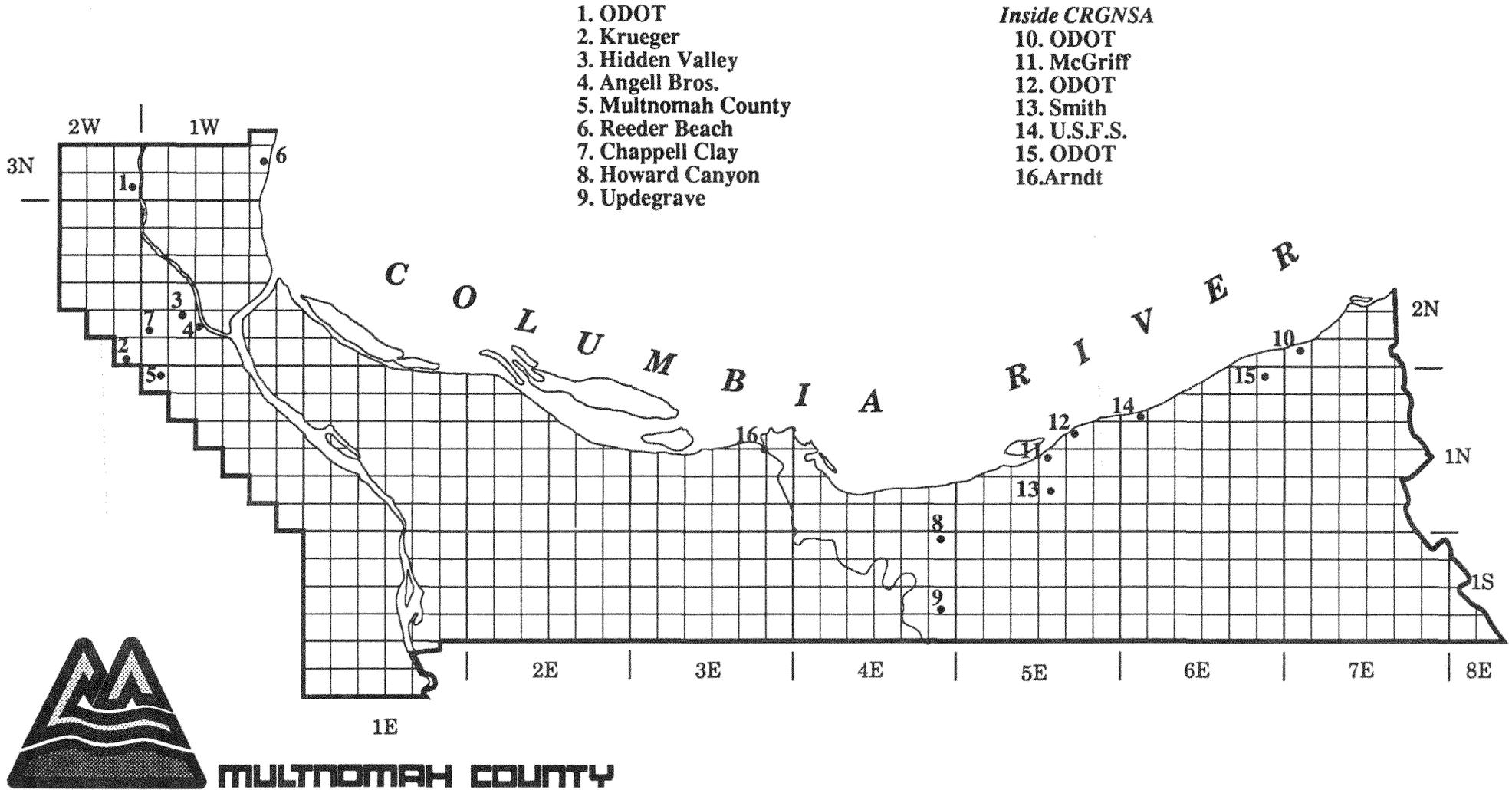
**C. ZONING:**

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

- NO - DESIGNATE 2A : PRESERVE RESOURCE**
- YES - GO TO D**

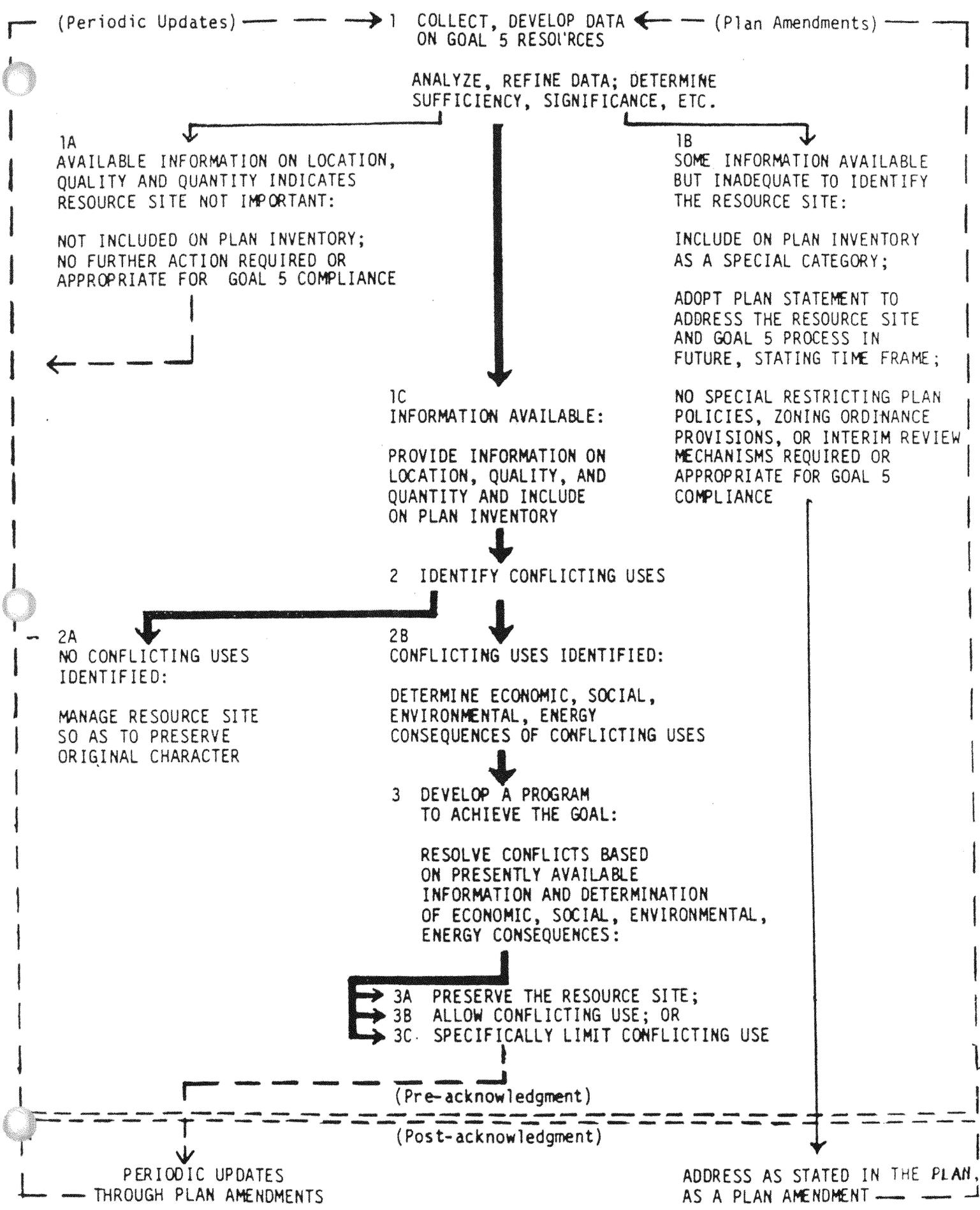
**D. DESCRIBE EXISTING OR POTENTIAL CONFLICTING USES:**

# MINERAL RESOURCES



*Note: There are also 7 additional National Forest sites within the CRGNSA not shown on this figure.*

**Figure 1.**



(Periodic Updates) → 1 COLLECT, DEVELOP DATA ON GOAL 5 RESOURCES ← (Plan Amendments)

ANALYZE, REFINE DATA; DETERMINE SUFFICIENCY, SIGNIFICANCE, ETC.

1A AVAILABLE INFORMATION ON LOCATION, QUALITY AND QUANTITY INDICATES RESOURCE SITE NOT IMPORTANT:  
NOT INCLUDED ON PLAN INVENTORY;  
NO FURTHER ACTION REQUIRED OR APPROPRIATE FOR GOAL 5 COMPLIANCE

1B SOME INFORMATION AVAILABLE BUT INADEQUATE TO IDENTIFY THE RESOURCE SITE:  
INCLUDE ON PLAN INVENTORY AS A SPECIAL CATEGORY;

ADOPT PLAN STATEMENT TO ADDRESS THE RESOURCE SITE AND GOAL 5 PROCESS IN FUTURE, STATING TIME FRAME;

1C INFORMATION AVAILABLE:  
PROVIDE INFORMATION ON LOCATION, QUALITY, AND QUANTITY AND INCLUDE ON PLAN INVENTORY

NO SPECIAL RESTRICTING PLAN POLICIES, ZONING ORDINANCE PROVISIONS, OR INTERIM REVIEW MECHANISMS REQUIRED OR APPROPRIATE FOR GOAL 5 COMPLIANCE

2 IDENTIFY CONFLICTING USES

2A NO CONFLICTING USES IDENTIFIED:  
MANAGE RESOURCE SITE SO AS TO PRESERVE ORIGINAL CHARACTER

2B CONFLICTING USES IDENTIFIED:  
DETERMINE ECONOMIC, SOCIAL, ENVIRONMENTAL, ENERGY CONSEQUENCES OF CONFLICTING USES

3 DEVELOP A PROGRAM TO ACHIEVE THE GOAL:  
RESOLVE CONFLICTS BASED ON PRESENTLY AVAILABLE INFORMATION AND DETERMINATION OF ECONOMIC, SOCIAL, ENVIRONMENTAL, ENERGY CONSEQUENCES:  
3A PRESERVE THE RESOURCE SITE;  
3B ALLOW CONFLICTING USE; OR  
3C SPECIFICALLY LIMIT CONFLICTING USE

(Pre-acknowledgment)

(Post-acknowledgment)

PERIODIC UPDATES THROUGH PLAN AMENDMENTS

ADDRESS AS STATED IN THE PLAN, AS A PLAN AMENDMENT

(DLCD Example)

ATTACHMENT

GOAL 5 WORKSHEET

Type of Resource: Historic Building

Description: Saloon built in 1880

---

1. Inventory Requirement

1-A: Available information indicates resource site not important: YES or NO.

If YES, designate site 1-A; action required: none.

If NO, proceed.

1-B: Available information is insufficient to determine importance of resource site: YES or NO.

If YES, designate site 1-B; action required: adopt policy to follow Goal 5 Rule requirements when information becomes available.

If NO, proceed.

1-C: Available information is adequate to indicate that the resource site is significant: YES or NO.

If YES, designate site 1-C; action required: Inventory

Location 450 Main Street

Quality Only example of pre-1900 architecture in county,  
building in fair condition

Quantity This is the oldest building in Beaver County

Proceed to 2

---

2. Conflicting Use Determination and Analysis

2-A: There are existing or potential conflicting uses at the site: YES or NO.

If NO, designate site 2-A; action required: adopt a policy to preserve resource site.

If YES, proceed.

2-B Describe the existing or potential conflicting uses at the site:

Demolition or alteration of building

Complete ESEE Analysis of Conflicting Uses:

Economic: Building could be restored for less than the cost of a new building. Restored building would attract tourists.

Social: Building is part of the history and culture of Salmonville

Environmental: No environmental consequences

Energy: No energy consequences

Conclusion of ESEE Analysis: Building should be protected, consistent with the economic use of the property for commercial purposes.

Proceed to 3

### 3. Program for Resource Protection

3-A Based on the ESEE analysis, the benefits from preserving the site outweigh those from allowing full conflicts: YES or NO.

If yes, designate site 3-A; action required: adopt policy and implementing measures to preserve site from conflicts.

If NO, proceed.

3-B: Based on the ESEE analysis, the benefits from allowing full conflicts outweigh those from preserving the site: YES or NO.

If YES, designate site 3-B; action required: none.

If NO, proceed.

3-C: Based on the ESEE analysis, the benefits from allowing limited conflicts and protecting the site to some degree are comparable: YES or NO.

If YES, designate site 3-C; action required: adopt policy and clear and objective implementing measures to protect site by limiting conflicts.

(See development ordinance, section, 8.0 )

# MULTNOMAH COUNTY GOAL 5 INVENTORY

11/15/89

**TYPE OF RESOURCE:** Wildlife Habitat and Travel Corridor

**LOCATION:** Study area of approximately 25 square miles in the northwest portion of the County. The area is bounded by the County line on the north and west, Highway 30 on the east, and approximately the Portland City limits on the south. See map.

**DESCRIPTION:**

Recent studies suggest that the wide variety of wildlife found in Forest Park may be directly attributable to the opportunity for species interaction with the Coast Range ecosystem. Such interaction is possible due to the rural, relatively undeveloped character of the Tualatin Range (West Hills), which enables this area to function as a "corridor" for animal movement. Thus, the wildlife diversity of Forest Park may result from either migratory patterns or general long-term recruitment from more rural reservoirs. If this is the situation, the location of the "corridor" should be located and recognized for its role in maintaining the species diversity of Forest Park.

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

NO-DESIGNATE **1A**: DO NOT INCLUDE IN PLAN INVENTORY

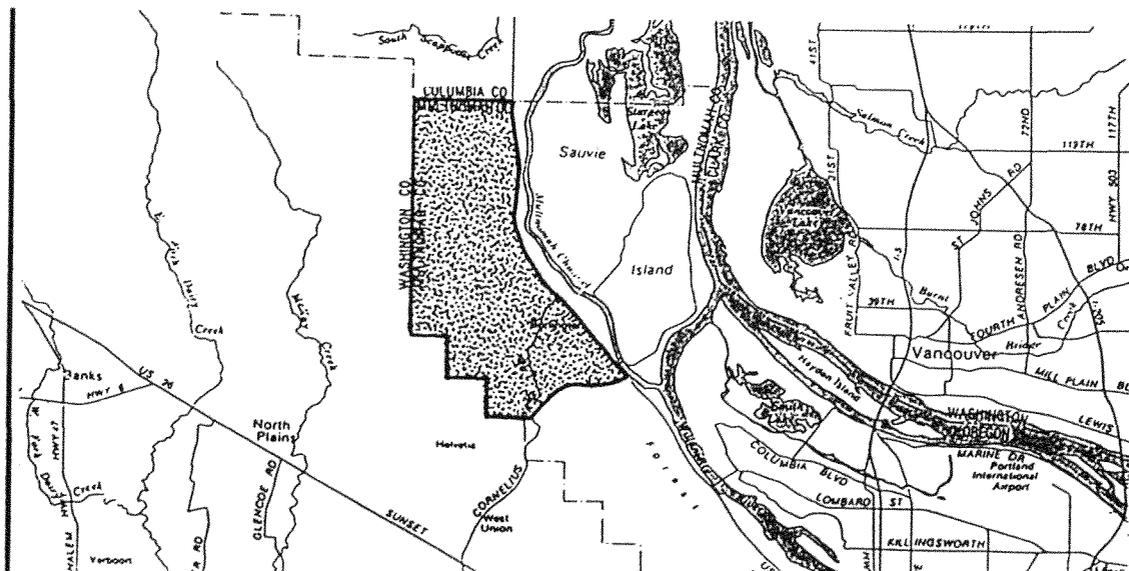
YES - GO TO B

**B. IS AVAILABLE INFORMATION SUFFICIENT TO DETERMINE THE SIGNIFICANCE OF SITE ?**

NO - DESIGNATE **1B** : ADDRESS THE SITE IN FUTURE WHEN INFORMATION BECOMES AVAILABLE

YES - INCLUDE IN PLAN INVENTORY AND GO TO C

The County has budgeted and expects to spend \$7,500 during fiscal year 1989-90 on a study of this issue. Phase 1 which is the initial research is currently underway.



MULTNOMAH COUNTY  
GOAL 5 INVENTORY

11/15/89

**TYPE OF RESOURCE:** Scenic View

**LOCATION:** Tualatin Mountains (West Hills) ridgeline to Highway 30 from the Portland City Limits to the County line.

**DESCRIPTION:** The evergreen forested Tualatin Mountains provide an outstanding scenic backdrop for users of the aquatic recreational opportunities on the Multnomah Channel and visitors to the State owned significant natural areas on Sauvie Island. Other attractions to Sauvie Island include the Bybee Howell House Historical Landmark and Columbia River public beaches. The retention of the present views of the mountain from selected locations would be beneficial to not only the recreational and tourist population, but also the residents in the area. The potential impact of additional mineral and aggregate extraction, public roads, or housing on the mountain will have different visual impacts from different vantage points. A program should be undertaken to determine the needed areas to retain as outstanding scenic views.

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

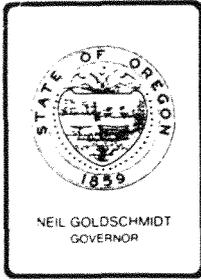
**NO - DESIGNATE 1A: DO NOT INCLUDE IN PLAN INVENTORY**

**X YES - GO TO B**

**B. IS AVAILABLE INFORMATION SUFFICIENT TO DETERMINE THE SIGNIFICANCE OF SITE ?**

**X NO - DESIGNATE 1B : ADDRESS THE SITE IN FUTURE  
WHEN INFORMATION BECOMES AVAILABLE**

**YES - INCLUDE IN PLAN INVENTORY AND GO TO C**



## Department of Land Conservation and Development

1175 COURT STREET NE, SALEM, OREGON 97310-0590 PHONE (503) 373-0050

November 22, 1989

TO: Land Conservation and Development Commission  
FROM: Susan Brody, Director *Susan Brody*  
SUBJECT: Attorney General's Opinion on Substantial Change in Circumstances for Purposes of Periodic Review

### Recommended Procedure

This is an information item for the Commission. No action is required. Gabriella Lang, Assistant Attorney General, will briefly describe the opinion and answer questions from the Commission. Following this presentation, the Commission should allow brief comments from interested parties.

### Background

The Attorney General's opinion responds to objections filed by 1000 Friends of Oregon related to Douglas County's periodic review. The objections argue that the 1000 Friends v. LCDC (Lane County), and 1000 Friends v. LCDC (Curry County) court decisions are substantial changes in circumstances for purposes of periodic review. I requested this opinion because of the significant implications for local government and the department and the likelihood of an appeal of the Commission's action.

The opinion concludes that these court decisions are substantial changes in circumstances. Comprehensive plans and land use regulations which do not comply with the goals as discussed in the court decisions must be revised through the periodic review process.

This opinion has significant implications for the LCDC/DLCD work program. These issues can be discussed at the January meeting when the Commission considers adoption of the work program.

SB:DB/deb  
<pr>

cc: County Planning Directors  
City Planning Directors

RECEIVED

DEC 01 1989

Multnomah County  
Zoning Division



DEPARTMENT OF JUSTICE

GENERAL COUNSEL DIVISION  
Justice Building  
Salem, Oregon 97310  
Telephone: (503) 378-6986

November 21, 1989

Susan Brody, Director  
Department of Land Conservation  
and Development  
1175 Court Street NE  
Salem, OR 97310-0590

Re: Opinion Request OP-6349

Dear Ms. Brody:

You have asked two questions about the application of the "substantial change in circumstances" factor for the periodic review of acknowledged comprehensive plans pursuant to ORS 197.640 to 197.650 and OAR 660-19-000 to 660-19-105.

1. Are the decisions in 1000 Friends of Oregon v. LCDC (Lane Co.), 305 Or 384, 752 P2d 271 (1988) (Lane County), and 1000 Friends of Oregon v. LCDC (Curry Co.), 301 Or 447, 724 P2d 268 (1986) (Curry County), "substantial change[s] in circumstances," ORS 197.640(3)(a), that a county must consider during periodic review?

Each of these decisions is a "substantial change in circumstances" in a city or county with a comprehensive plan or land use regulations based on assumptions about, respectively, Goal 4 or Goal 14, altered by these decisions so that the plan or regulations no longer comply with the goals. LCDC must make that determination based on the findings presented by a city or county in a periodic review submittal pursuant to ORS 197.640(3).

2. If the answer to the first question is yes, may LCDC decide that some court decisions are "substantial change[s] in circumstances" and others are not? If so, on what basis could such a determination be made?

LCDC may determine that certain court decisions are "substantial change[s] in circumstances" under ORS 197.640(3)(a) and that others are not. A court decision that alters the applicable law or otherwise changes the legal assumptions on

which a comprehensive plan or land use regulations are based, so that the plan or regulations no longer comply with the goals, is a "substantial change in circumstances." The commission may adopt rules stating criteria that will govern its determination whether a court decision is a "substantial change in circumstances." Alternatively, LCDC may elect to make that determination on a case-by-case basis. We offer suggestions regarding these alternatives in our discussion below.

## DISCUSSION

### 1. Background

Your questions arise from objections filed in the pending Douglas County periodic review. Periodic review is a regularly scheduled planning process that requires cities and counties to review their comprehensive plans to determine if any of the factors specified in ORS 197.640(3) apply, and then to take action to bring the plans into compliance with the goals. The purpose of periodic review is to ensure that comprehensive plans and land use regulations remain in compliance with the state-wide planning goals and coordinated with the plans and programs of state agencies. See ORS 197.640(1); Letter of Advice dated November 14, 1984, to James F. Ross, Director, Department of Land Conservation and Development (OP-5746) at 6.

ORS 197.640(3)(a) requires a city or county conducting periodic review to determine whether

"[t]here has been a substantial change in circumstances, including, but not limited to, the conditions, findings or assumptions upon which the comprehensive plan or land use regulations were based, so that the comprehensive plan or land use regulations do not comply with the goals[.]"  
(Emphasis added.)

The objections in the Douglas County proceeding specifically argue that the Lane County and Curry County cases are "substantial change[s] in circumstances" under ORS 197.640(3)(a) which the county must consider in its periodic review.

In Lane County, the Oregon Supreme Court held that the commission erred when it acknowledged a comprehensive plan and land use regulations that allowed the construction of dwellings as "necessary and accessory" to forest management merely on the basis of a forest management plan and without a showing that

such a dwelling was consistent with Goal 4. The court also held that the commission erred in acknowledging a comprehensive plan that allowed farm uses on forest lands.

In Curry County, the Oregon Supreme Court held that a county must take an exception to Goal 14 before it allows urban uses outside of an urban growth boundary (UGB) even if the county already has justified such uses as exceptions to Goals 3 and 4.

In response to the objections, Douglas County contends that it need not address changes in land use case law during the periodic review process unless and until the decision is incorporated into a new LCDC rule. The county maintains that under ORS chapter 197 the courts do not make new land use law but merely interpret existing law.

2. Court Decisions as "Substantial Change[s] in Circumstances" under ORS 197.640(3)(a)

To answer your specific questions regarding the Lane County and Curry County decisions, we first must determine whether any court decision per se can be a "substantial change in circumstances" for purposes of periodic review. For the reasons discussed below, we conclude that it can.

Nothing on the face of the relevant statutes or rules indicates any intent to exclude court decisions from the "substantial change in circumstances" factor. ORS 197.640(3)(a) defines substantial change in circumstances as "including, but not limited to, the conditions, findings or assumptions upon which the comprehensive plan or land use regulations [are] based, so that the comprehensive plan or land use regulations do not comply with the goals." (Emphasis added.) The emphasized language shows that the list is not exclusive and, therefore, that substantial changes in circumstances other than those listed may be considered.

LCDC has adopted rules to implement this statute and to help cities and counties determine when a substantial change in circumstances exists. See OAR 660-19-057.<sup>1</sup> Generally, a city or county must consider major developments or events since acknowledgment; cumulative effects resulting from plan and land use amendments; oversight or delay in implementing goal requirements; new inventory information; and consistency with new rules and statutes. Subsection (2) of the rule also allows cities and counties to consider additional factors:

Susan Brody  
Page 4  
November 21, 1989

"Nothing in subsections (1)(a) - (e) of this rule is meant to limit or prevent any person from raising other issues or objections involving the 'substantial change in circumstances' factor set forth in OAR 660-19-057, as long as such concerns are submitted consistent with the requirements of OAR 660-19-080."

This rule is broad enough to permit LCDC to require cities and counties to consider, as a "substantial change in circumstances," a court decision that results in a significant change in the conditions, findings or assumptions upon which a comprehensive plan was based.

Another line of analysis leads to the same answer. In construing ORS 197.640(3)(a), we must view that subsection in its context. See, e.g., Fish v. Bishop, 176 Or 210, 213, 156 P2d 204 (1945). In light of this principle, it is reasonable to conclude that the legislature intended the "substantial change[s] in circumstances" that cities and counties must consider under ORS 197.640(3)(a) to include, at a minimum, changes the effects of which are comparable to those specifically enumerated in other subsections of ORS 197.640(3).

We focus here on ORS 197.640(3)(b). That subsection requires a city or county conducting periodic review to consider new or amended goals, or land use policies adopted by LCDC as rules.<sup>2</sup> There appears to be no principled basis upon which to distinguish the impact of such changes in the law from the impact of changes resulting from court decisions interpreting and applying goals or rules. In each instance, the law that must be applied in a given situation has changed. Only the source of that change--administrative adoption versus judicial interpretation--differs. This distinction, however, is immaterial for purposes of ORS 197.640(3)(a).

Douglas County correctly observes that courts do not make substantive land use law. Nonetheless, judicial opinions interpreting and applying the goals and rules may alter previously held assumptions--sometimes incorporated in administrative orders or rules--about the meaning and effect of those provisions. In some instances, that change is at least as substantial as the adoption of a new or amended goal or rule. For example, former OAR 660-06-010(1)(b)(A) allowed farm uses and mineral and aggregate exploration on forest lands without the taking of an exception. As a result of the Lane County decision, that rule plainly was invalid, because Goal 4 does not permit such uses. Thus, to the extent that any acknowledged comprehensive plan or land use regulation was based upon that rule, the decision undermined an assumption

(the validity of the rule) upon which the plan or regulation was based, as a result of which the plan no longer complies with the goals. The impact is the same as if LCDC had amended the rule to provide explicitly that such uses are invalid under Goal 4. ORS 197.640(3)(b) requires a city or county to consider such an amendment. We conclude that under ORS 197.640(3)(a), a judicial decision with analogous impact on a particular comprehensive plan or land use regulation is a "substantial change in circumstance" that a city or county must consider during periodic review.<sup>3</sup>

We now turn to the two cases cited in the objection to Douglas County's periodic review. Lane County reversed significant commission goal interpretations relating to forest lands and uses on forest lands. Specifically, the court rejected LCDC's conclusion that Goal 4 permits dwellings on forest land where the dwelling complies with a forest management plan. The court held that LCDC erred in deciding that Lane County could rely on forest management plans in lieu of a case-by-case determination whether a dwelling was "necessary and accessory" to meet the stated interest of Goal 4 to conserve forest lands for forest uses. 305 Or at 396. The Lane County court also rejected the commission's conclusion that Goal 4 allows farm uses (as defined in Goal 3) on forest lands. 305 Or at 401. This case, therefore, fundamentally altered formally established assumptions about the interpretation and application of Goal 4 so that comprehensive plans and land use regulations based upon LCDC's prior interpretation no longer comply with Goal 4. Therefore, in cities and counties with such comprehensive plans and land use regulations, Lane County is a "substantial change in circumstances."

In Curry County, the Oregon Supreme Court reversed the commission's acknowledgment of Curry County's comprehensive plan and land use regulations. The court framed the issue as follows:

"The general question is whether cities, counties, and the Land Conservation and Development Commission (LCDC) must recognize in their planning decisions that land which cannot be used for commercial farming or forestry may have other uses short of intense urban development. The specific issue is what Oregon's land use planning law requires a county to do before the county allows 'urban uses' of lands located outside boundaries which have been established to contain future urban growth."

Curry County, supra, 301 Or at 449 (footnotes omitted). The court rejected the commission's conclusion that a county need

not take an exception to Goal 14 before allowing "urban uses" on land for which an exception for Goal 3 or Goal 4 already has been taken. 301 Or at 468-508.

The court expressly rejected several of the commission's goal interpretations and substituted its own interpretations. These "changes" in legal interpretation and application of Goal 14 can be summarized as follows:

- (1) When a county, through its comprehensive plan, converts "rural land" outside an established UGB to "urban uses," the county must either show compliance with Goal 14 or take an exception to Goal 14. 301 Or at 470-71.
- (2) Exceptions to Goals 3 and 4 do not themselves satisfy the requirements for an exception to Goal 14. Commitment to non-resource use does not necessarily establish commitment to "urban use." 301 Or at 487.
- (3) To support a Goal 14 exception under the "irrevocable commitment" standard a county must demonstrate that it is impracticable to allow any rural uses, not that it is impracticable to prohibit urban uses. 301 Or at 489-90.

This case substantially changed LCDC's previous interpretation and application of Goal 14, so that comprehensive plans and land use regulations based on that interpretation no longer comply with Goal 14. Therefore, in cities and counties with such comprehensive plans and land use regulations, Curry County constitutes a "substantial change in circumstances."

In sum, "substantial change in circumstances" as used in ORS 197.640(3)(a) includes court decisions that significantly change the legal assumptions underlying a comprehensive plan or land use regulations (e.g., the validity or established interpretation of a goal or rule), so that a plan or regulation based on such an assumption no longer complies with the goals.

In a city or county where a comprehensive plan or land use regulation was based on LCDC's interpretation of Goal 4 rejected in Lane County, so that the plan or regulation no longer complies with the goal, that case is a substantial change in circumstances. The same is true as to Curry County's effects on pre-existing assumptions about the interpretation of Goal 14.

Under ORS 197.640(4)(b), the Department of Land Conservation and Development must notify cities and counties of any planning

responsibilities necessary to bring their comprehensive plans and land use regulations into compliance with the goals.<sup>4</sup> Accordingly, it would be legally advisable for LCDC to address these decisions specifically. For instance, in response to Curry County, in the periodic review process LCDC could (1) direct a county to bring its plan and regulations into compliance with Goal 14 as construed by the court, or (2) adopt a goal, or amend Goal 14 and its implementing rules, to counter Curry County in conformance with the commission's policies. Such goal or rule amendments also would be periodic review factors under ORS 197.640(3)(b). We caution, however, that the determination whether a particular case is a "substantial change in circumstances" with respect to a specific comprehensive plan must be made by the commission (subject to judicial review). As we discuss below, it is within LCDC's authority further to define and explain the periodic review factors.

3. LCDC Authority to Determine Which Court Decisions Are "Substantial Change[s] in Circumstances"

It necessarily follows from the preceding discussion that LCDC may determine that certain court decisions are "substantial change[s] in circumstances" and that others are not. As we previously explained, under ORS 197.640(3)(a) a court decision is a "substantial change in circumstances" when it so alters the legal assumptions upon which a comprehensive plan or land use regulations were based (e.g., the validity or established interpretation of a goal or rule) that the plan or regulations no longer comply with the goals. Plainly, some court decisions will satisfy these criteria, and others will not.

LCDC lawfully may implement this principle in at least two ways. First, LCDC may adopt rules that incorporate this interpretation, and include criteria by which it will determine whether a specific court decision satisfies the statute.<sup>5</sup> These criteria might include, for example, whether a decision affirms or reverses a commission goal or rule interpretation; invalidates a goal or rule; interprets a provision not previously considered by the commission; or affects matters that are fundamental to the interpretation or application of the goals.

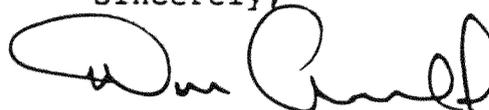
The amount of land affected by a court decision, however, would not be a lawful criterion. The key issue in determining whether any event, including a court decision, is a "substantial change in circumstances" is whether as a result of the change "the comprehensive plan or land use regulations do not comply with the goals." ORS 197.640(3)(a). As the court explained in Lane County, compliance of a comprehensive plan in most of the covered geographic areas does not excuse a non-minor,

Susan Brody  
Page 8  
November 21, 1989

non-technical failure to comply in a small area. Lane County, supra, 305 Or at 397. Therefore, even where a court decision affects only a small portion of the total area covered by a comprehensive plan, that decision constitutes a "substantial change in circumstances" if as a result of the decision the plan no longer complies with the goals.

In the alternative, LCDC could identify particular court decisions as "substantial change[s] in circumstances." In doing so, however, the commission must bear in mind that ORS 197.640(3)(a) focuses on the assumptions underlying individual comprehensive plans and land use regulations, and whether as a result of changes in those assumptions a plan or land use regulations no longer comply with the goals. Consequently, it is unlikely that a specific court decision will be a "substantial change in circumstances" for every city and county. For instance, a specific court decision may affect the application of a coastal or resource goal that would have no bearing on many counties. LCDC, therefore, may not generally designate a court decision as a "substantial change in circumstances" without expressly stating that the decision so qualifies only where a city or county based its comprehensive plan or land use regulations on legal assumptions altered by that decision.

Sincerely,



Donald C. Arnold  
Chief Counsel  
General Counsel Division

--  
DCA:LK:GIL:RDW  
cr:tmt/0879H

---

<sup>1</sup> OAR 660-19-057 states:

"(1) To determine whether a "substantial change in circumstances" exists, each local government's periodic review order must contain findings on the following:

"(a) Major developments or events which have occurred that the acknowledged plan did not assume or anticipate or major developments or events which have not occurred that the acknowledged plan did assume or anticipate. Local periodic review findings must

describe any occurrences such as the construction of or decision not to build a large project like a major reservoir, a regional shopping center, a major energy or transportation facility; a significant change in the local government's natural resources or economic base; significant unexpected population growth; significant consecutive decline in population growth rate; failure or inability to provide public facilities and services in accordance with the plan, etc.

"(b) Cumulative effects resulting from plan and land use regulation amendments and implementation actions on the acknowledged plan's factual base, map designations, and policies which relate to statewide goal requirements[.]

"\* \* \* \* \*

"(c) Oversight or a decision by the local government to delay or not carry out plan policies which relate to a statewide goal requirement. Local periodic review findings must describe why, for example, policies in the plan requiring a citizen involvement program evaluation, a revised inventory of natural hazards, or a date-specific, overall revision of the plan, etc., have not been completed.

"(d) Incorporation into the plan of new inventory material which relates to a statewide goal made available to the jurisdiction after acknowledgment. Local periodic review findings must list what applicable published state or federal reports have been made available to the jurisdiction after acknowledgment containing new inventory material, for example, on groundwater availability, air quality, big game habitat, census information, soil surveys, natural hazards, etc., and describe what steps, including any amendments to the plan's factual base, policies, map designations and land use regulations, have been taken in response to this information.

"(e) Consistency of the plan and land use regulations with new or amended statutes adopted since acknowledgment. Local periodic review findings must address new statutes adopted since initial acknowledgment and explain how the plan and land use regulations continue to meet the statutory requirements.

"(2) Nothing in subsections (1)(a) - (e) of this rule is meant to limit or prevent any person from raising other issues or objections involving the 'substantial change in circumstances' factor set forth in OAR 660-19-057, as long as such concerns are submitted consistent with the requirements of OAR 660-19-080."

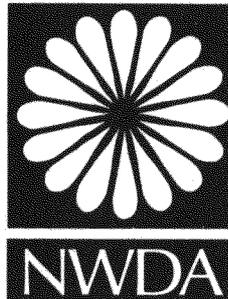
<sup>2</sup> Similarly, OAR 660-19-057(1)(e) requires cities and counties conducting periodic review to consider new or amended statutes adopted since acknowledgment. For essentially the same reasons stated in text, this rule is a permissible interpretation of ORS 197.640(3)(a).

<sup>3</sup> In some previous instances, LCDC has required local governments to address court decisions in the periodic review process. For example, LCDC required Gilliam County to address Doughton v. Douglas County, 88 Or App 198, 744 P2d 1299 (1987), in its periodic review.

<sup>4</sup> Douglas County also argues that it is not required to address matters which have not been included in the DLCD notice of periodic review. ORS 197.640(4). We do not address that issue here.

<sup>5</sup> As we have previously stated, LCDC has broad authority to interpret ORS 197.640(3)(a) through rulemaking. See OP-5746, supra, at 6-7; see also Newcomer v. Clackamas County, 94 Or App 33, 37, 764 P2d 927 (1988).

**NORTHWEST  
DISTRICT ASSOCIATION**  
1819 N.W. EVERETT STREET #205  
PORTLAND, OREGON 97209  
(503) 223-3331



December 18, 1989

Board of Multnomah County Commissioners  
1020 SW 4th  
Portland, Oregon 97204

Dear Multnomah County Commissioners:

The Board of the Northwest District Associations voted on December 11th to urge you to continue the current study of the wildlife diversity and movement in the northwest quadrant of the County north of Forest Park, and to avoid making decisions that would irrevocably interfere with future possible acts protecting a wildlife corridor to the coast range. It would be unwise to commit the County at this time to anything of that kind when the supporting studies will not be done for another year. We ask that decisions regarding the area north of Forest Park not be finalized until the corridor study has been accomplished.

Our neighborhood is the densest residential area in the Pacific Northwest and one reason it is able to prosper with a severe deficiency of developed city parks is that people here have Forest Park as a marvelous recreational and spiritual resource. We take a proprietary interest in that as a nature preserve and wish to see it maintain its present species diversity. Multnomah County will be able to take an honored place in government agencies worldwide which have recognized in time that they have a precious wildlife legacy to protect and pass on intact to future generations, if care is taken now to proceed thoughtfully and carefully.

Thank you for your attention,

Chris Wrench, Chair NWDA Health & Environment Committee

December 19, 1989

Multnomah County Periodic Review  
Natural Resources

Testimony from:  
Anna Vasil  
14110 N.W. Riverview Dr.  
Portland, Ore. 97231

(!) Recommendation:

Remove the 3(C) designation for the approved 73 acre area of the Angell Brothers Quarry Site #4.

Reasons:

The description of the 3(C) designation states that the ESEE consequences should be balanced as to allow conflicting uses but limit the conditional use. The conflicting uses of the Wildlife Corridor and Habitat and Scenic View in this area has not been studied so the balancing of these conflicting uses can not be determined.

(@) Recommendation:

Put a moratorium in clay removal in the additional acreage on the Angell Brothers Quarry Site #4 in the Goal 5 Inventory

Reasons:

- (A) The clay removal is rapidly destroying Wildlife and Scenic View Resources that are currently being studied.
- (B) METRO has opted for no final clay cover on the St. Johns Landfill.

Periodic Review December 19, 1989  
M. Jane Michaelson  
14200 N.W. Riverview Dr.  
Portland, OR 97231

Angell Bros. Quarry Site 4

(1) RECOMMENDATION

Amend Goal 5 inventory Social Impact (2) to reflect there is a residence within 700' of the Angell Bros. quarry property line and 18 other residences on Riverview Drive between 700' and 2500' from the quarry property line.

REASONS

Property Value

Dust & Noise

We have felt ignored when dealing with changes at the quarry.

(2) RECOMMENDATION

- a) Adopt the planning staffs original recommendation of setbacks for the quarry of 500' and 100'.(11.15.7325)  
(C) pg.161
- b) Retain original hours of operation (MCC,7325 (4) ) of 7am to 6pm 6 days a week and no operation on Sundays or holidays.

REASONS

a) Property value

b) Dust & Noise

(3) RECOMMENDATION

- a) Form a county based reclamation plan that will "return the property to use envisioned by the comprehensive plan (MCC,7325 (B) ) and the purposes of the County MCC,7315(D))
- b) Recognize mineral extraction as a temporary use... and that reclamation for future use of the land for other activities be recognized".

REASONS

- (1) We plan to purchase adjacent land for Timber Management and want surrounding areas to reflect Timber Management goals set by the Comprehensive Plan.
- (2) Timber is a valuable resource that is being depleted rapidly and needs to be renewed for future welfare of the county.

- (3) The county has the responsibility to form Reclamation Plans that doesn't surrender the uses envisioned by the Comprehensive Plan, to the Oregon Department of Geology.
- (4) TIGHTEN RESTRICTIONS ON BLASTING, to eliminate hazardous conditions as specified in Conditional Use Criteria (11.15.720(6))

REASONS

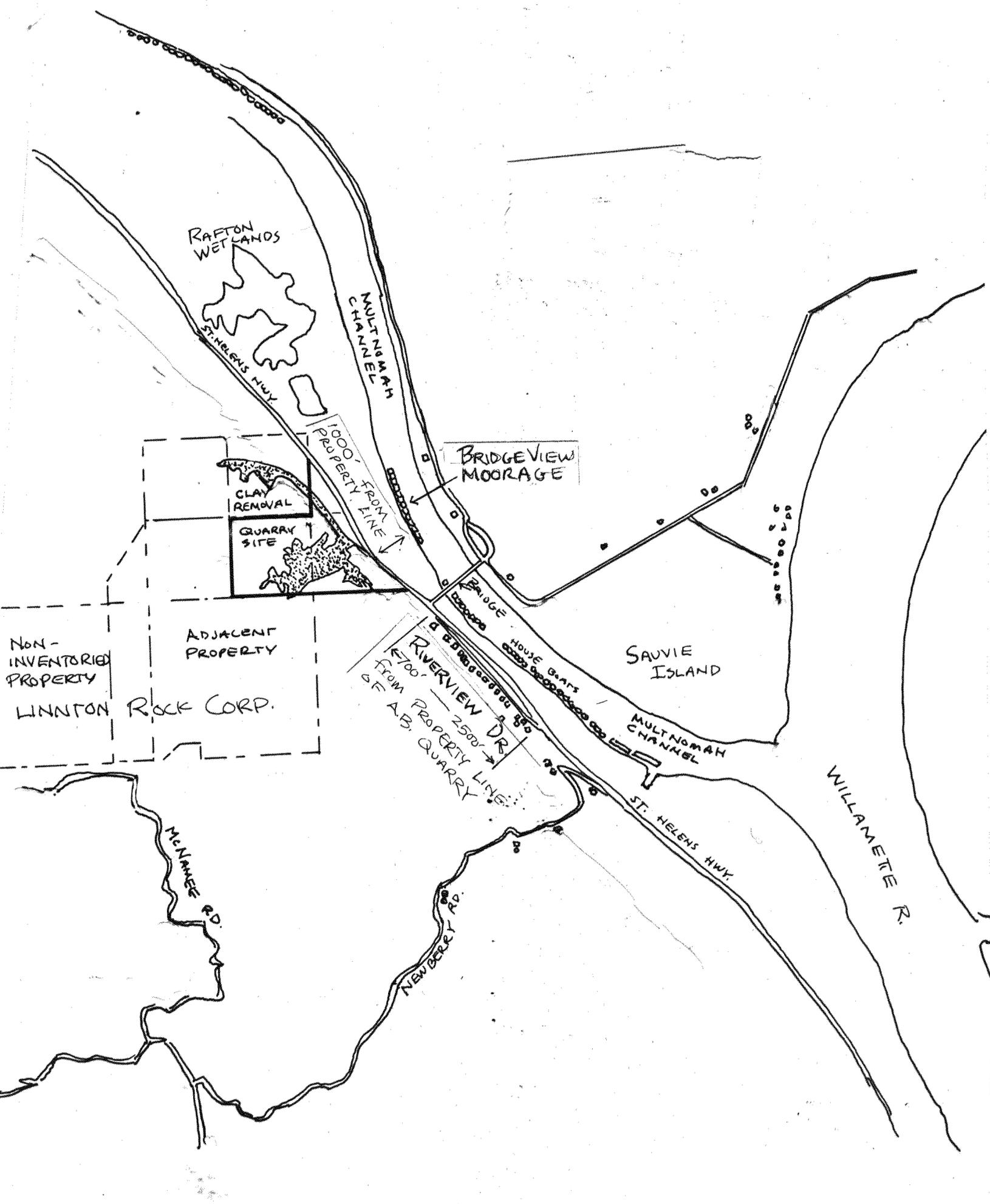
- (1) Rock slides onto Highway 30
- (2) Cracks in the road (Riverview Drive)
- (3) If the street collapses, the State will be in for a huge rebuilding cost and we as residents will have no way to get into our homes.
- (4) Bridgeview Moorage feels the blasting.

(5) RECOMMENDATION

- (a) Reduce numbers of trucks from the quarry.

REASONS

- (a) Traffic has increased substantially.
- (b) The noise level has increased from truck traffic
- (c) Hazard created trying to get on to Highway 30 from Riverview Drive, especially at peak hours.



RAFTON WETLANDS

MULTNOMAH CHANNEL

BRIDGEVIEW MOORAGE

CLAY REMOVAL QUARRY SITE

ADJACENT PROPERTY

NON-INVENTORIED PROPERTY

LINNTON ROCK CORP.

RIVerview DR.  
1000' FROM PROPERTY LINE  
2500' FROM QUARRY

BRIDGE

HOUSE GATE

SAUVIE ISLAND

MULTNOMAH CHANNEL

ST. HELENS HWY.

WILLAMETTE R.

McNAMEE RD.

NEWBERRY RD.



# MULTNOMAH COUNTY OREGON

---

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

BOARD OF COUNTY COMMISSIONERS  
GLADYS McCOY • CHAIR OF THE BOARD  
PAULINE ANDERSON • DISTRICT 1 COMMISSIONER  
GRETCHEN KAFOURY • DISTRICT 2 COMMISSIONER  
RICK BAUMAN • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

---

December 15, 1989

TO: Multnomah County Board of Commissioners

FROM: <sup>LG</sup> Joanne Garnett, Long Range Planner

RE: Wildlife Corridors

Attached please find some background material regarding the subject of wildlife corridors, which will be discussed during the December 19 Periodic Review hearing. You will find a copy of notes taken from the publication, In Defense of Wildlife: Preserving Communities and Corridors; a photocopy of an aerial photograph, encompassing a portion of northwest Multnomah County, the wildlife corridor study area, and Forest Park; and an article titled "New Initiatives for Wildlife Conservation: The Need for Movement Corridors."

Please let me know if you wish to receive any additional information regarding this topic. Thank you.

jeg

Att.

## Notes from In Defense of Wildlife: Preserving Communities and Corridors

### Overview

The main focus of this book is the need to save a series of large habitats and encourage the greatest possible [biological] diversity [of wildlife] by linking these habitats.

Corridors - Their use involves a more broad-based ecosystem approach as opposed to trying to protect one species at a time. There is a need for the conscious dedication of landscape corridors to link vital wildlife habitats. We can link major habitat fragments by means of dedicated corridors. Only through effective habitat conservation can endangerment be prevented and biological diversity be perpetuated.

Examples of ways to preserve strips of land for corridor use include hedgerows, private easements (property tax relief), abandoned railroad ROW, powerline easements, bicycle and jogging routes.

"Links between the remaining islands of our fragmented forests and other key wildlife habitats must be preserved if many species are to survive." A way to ensure the survival of many species is by the preservation of endangered habitats with their animal and plant communities intact -- the preservation of wildlife corridors is a multi-species, proactive approach.

More people are relating to wildlife as "nonconsumers", who are more likely to be observers, hikers, etc., rather than hunters, trappers, fishermeri.

Harris and Gallagher, New Initiatives For Wildlife Corridors: The Need For Movements Corridors

It is the naturally occurring combinations of biological structure that conservationists are concerned with preserving, not simply the genes or the species themselves. (So, gene banks aren't enough -- they don't allow the unique combinations that occur in nature). Inbreeding is resulting in destructive traits.

**GOAL:** to conserve biological diversity

Results of habitat fragmentation:

- \* Loss of deep-woods or area-sensitive (species requiring substantial tracts of forest to survive) animals
- \* Larger species that normally move widely and occur in low densities are lost
- \* When coupled with the loss of native large carnivores, fragmented and human-subsidized landscapes become dominated by alien or already common species

- \* Inbreeding depression is a consequence of low densities and isolated populations.

Wide-ranging species already suffer direct consequences of habitat fragmentation, primarily due to increased conflicts with people, highways, etc.

Overwhelming majority of animals must move around during some stage of their life cycle. It may be a move for cover, food, mates, or to get away from people.

Landscape ecology - This concept treats corridors as elements of ecologically sound landscapes and distinguishes between those that are wide enough to have internal habitat of their own, and those (e.g., fencerows) that connect other patches.

For a review of the legal implications of corridor implementation: L. Blackner. 1986. "Saving Pieces of Paradise: Wildlife Corridors." **Environmental and Land Use Law Section Reporter** 9(2): 28-32.

Vickerman, State Wildlife Protection Efforts. The Nongame Programs

Few states have acknowledged the level of effort (and amount of money) required to prevent extinction of native flora and fauna and to accommodate the growing demand for opportunities to view and photograph wildlife.

In Oregon, nonconsumptive wildlife recreation days increased from 7 million in 1976 to 27 million in 1986. The operative term seems to be "Watchable Wildlife."

The Oregon Tourism Division helped finance two projects initiated by the Defenders of Wildlife -- a wildlife viewing guide, and a study of the economic impact of nonconsumptive wildlife recreation.

The increasing level of participation in wildlife-oriented recreation (viewing, photography, bird feeding, etc.) is of tremendous significance for conservation, since these participants have an interest in maintaining wildlife populations. There is a need to quantify the demand for nonconsumptive uses and determine what kind of facilities will be needed to meet it. It is also important to determine the economic impact of this increasingly popular form of recreation and to develop funding strategies for the future. If economic benefits are clear, it may be easier to get financial investments obtained through political channels.

State and federal agencies need to abandon the assumption that the agencies exist only to raise certain wildlife species for hunters, and instead adopt the concept of ecosystem protection with all native species of plants and animals valued as important components. Habitat protection must be the essential goal. It is time to preserve biological diversity by stopping the decline of native wildlife and protecting the integrity of natural communities.



# New Initiatives for Wildlife Conservation

By Larry D. Harris  
and Peter B. Gallagher

## The Need for Movement Corridors

In the spring of 1986, a 195-pound male black bear from Big Cypress National Preserve embarked on an astounding journey through southwestern Florida. Captured as a nuisance animal in a rural area, the bear was equipped with a radio collar, released where he was found, and recaptured 100 miles north of his former range.

For eleven weeks, this bear wandered more than 200 miles under the gaze of scientists. He traveled a northerly course through six counties, crossed eight major highways and nearly a dozen other roadways, swam the Caloosahatchee River, and crossed numerous canals, fences, and farmlands. As he moved along abandoned railroad tracks and skirted densely populated suburbs—even loitering and observing the fireworks near a large Fourth of July outdoor picnic—he negotiated bee yards, turkey pens, and numerous roadside garbage containers. Ultimately, he had to be recaptured by state wildlife personnel near Lake Placid.<sup>1</sup>

The young southern Florida male had moved about as we would expect any bear to do. He moved to find food; he moved to locate cover. As a young male, he may have been moving to emigrate—a difficult task considering the fragmented habitats of the eastern United States—or he may have moved to reproduce, to share southern Florida genetic material with an uncollared central Florida female bear he encountered just before he was removed from the wild. Forces yet to be understood by biologists stimulated the bear to move and he went, even though there was no logical path to follow.<sup>2</sup>

From what we know about animal mortality in Florida, the bear's trip was extremely dangerous. Since 1976, documented bear roadkills have risen steadily, particularly among dispersing males (see figure 1). Florida Department of Natural Resources biologist Walt Thomson notes, "State Road 46 is basically functioning as a wildlife killing machine."

This article is Journal Series Number 9668 of the Florida Agricultural Experiment Station, Gainesville, Florida.

There is little doubt that the same trip taken by this bear's ancestors in 1956 or even 1976 in a more forested and less peopled landscape would have exposed them to significantly less danger.<sup>1</sup>

This is not only a problem for bears. Roadkills are the number one known cause of death for all of Florida's remaining large mammals except white-tailed deer. Sixty-five percent of known Florida panther deaths since 1981 have been roadkills. Roadkill is the major cause of death for the endangered Key deer isolated on Big Pine Key and the American crocodile on the northern Keys. In the water, motorboat collisions have long been documented as the principal human-related mortality factor for manatees.

Radio-telemetry studies on bears, panthers, and

numerous other species dramatically demonstrate the expansive tracts of habitat required for our resident wildlife to traverse their home ranges (see figure 2). Animals do not wait for the traffic signal to flash "Walk." Our refusal to incorporate movement corridors across human-dominated landscapes into our conservation strategies has made luck—enjoyed in great measure by this bear—the chief prerequisite for survival for much of Florida's wildlife. Sadly, given the interrupted landscapes and barriers to animal movement that increasingly dominate the eastern United States, it is extremely doubtful that any bear, panther, bobcat, mink, or otter—the low-density, top-of-the-foodchain, wide-movers—could ever duplicate our young Florida bear's recorded movement.

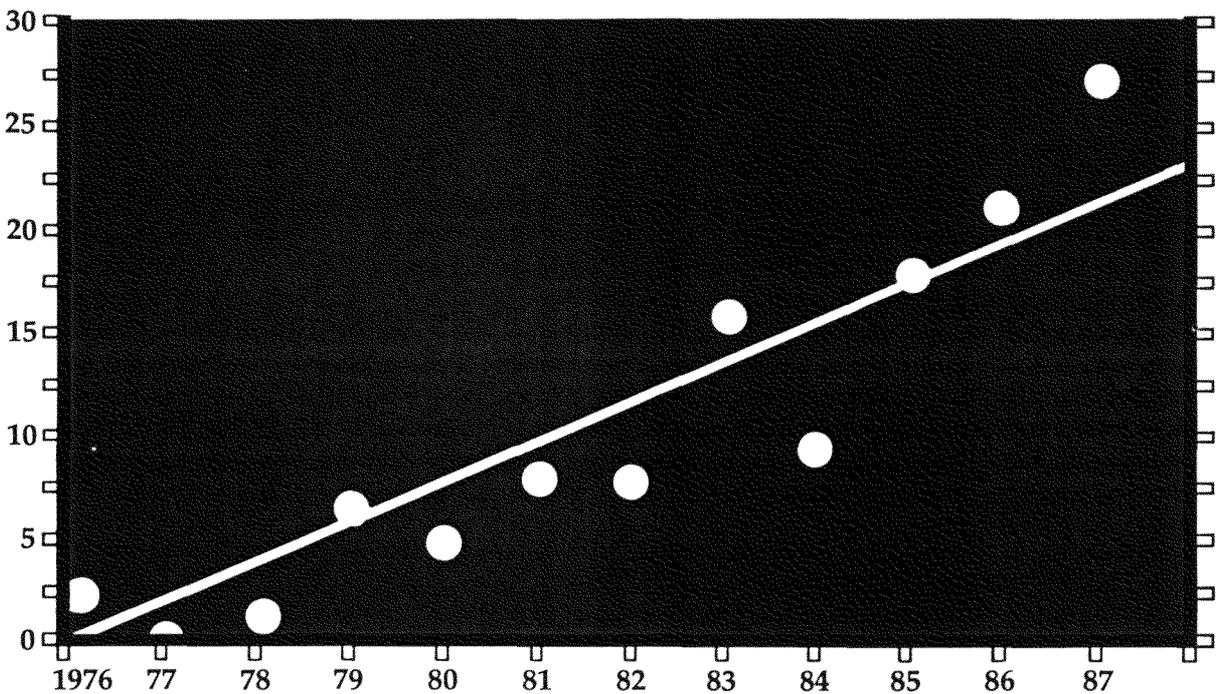


Figure 1. Black Bear Roadkills Collected in Florida, 1976-1987.

*Vehicle collisions are the number one known cause of mortality for most of Florida's large mammal species, including bear, panther, Key deer, and manatee (boat collisions). Mortality increases as vehicle traffic increases.<sup>1</sup>*

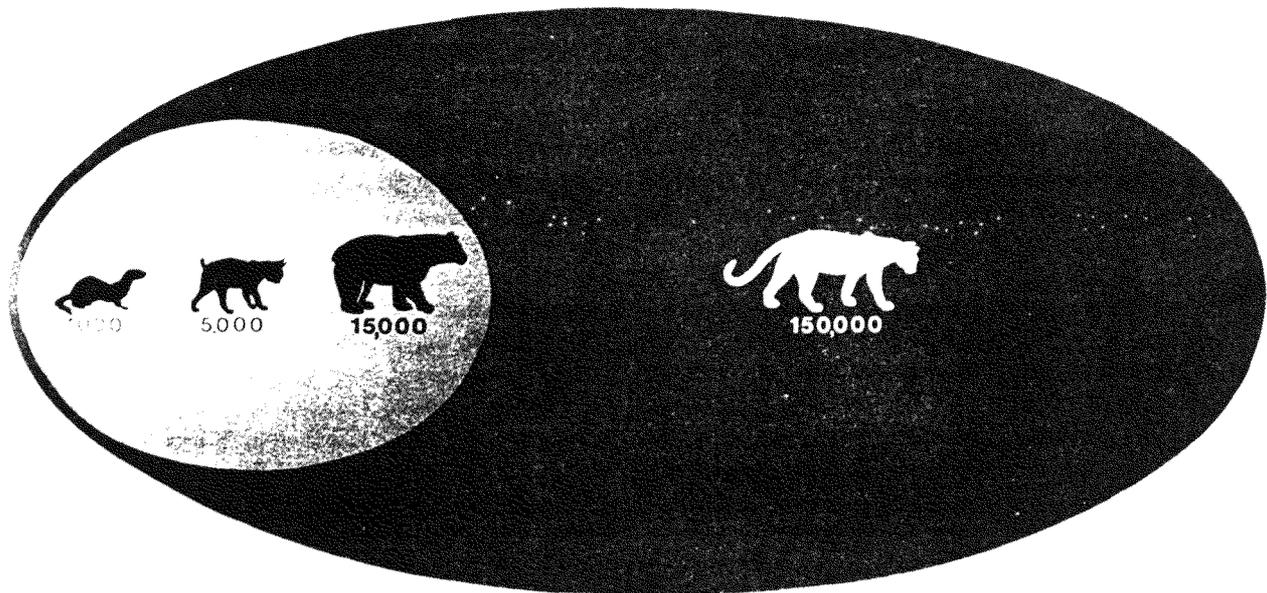


Figure 2. Approximate Ranging Areas in Acres for Otter, Bobcat, Black Bear, and Florida Panther. *Because the home range of individual animals of these species is large, they must traverse miles of hostile landscape riddled with roads and shopping centers. A male panther may range over 50 miles in his day-to-day movements.*

### Consequences of Habitat Fragmentation

As early as 1855, the French ecologist de Candolle observed, "The breakup of a large landmass into smaller units would necessarily lead to the extinction or local extermination of one or more species and the differential preservation of others." One hundred years ago, Bauer described the differences between biological communities of islands that occur near continents and those that are more distant and isolated. He observed that "the flora and fauna of the first group will be more or less harmonic . . . the flora and fauna of the second group will be disharmonic—that is to say, it will be composed of a mixture of forms which have been introduced accidentally from other places" (Bauer 1891).

Fragmenting landscapes into disjunct patches and restricting and isolating wildlife populations by amplifying the risks associated with movement have drastic consequences for the preservation of biological diversity. Biological diversity consists of the combinations of biological matter at many levels of scale, ranging from heritable traits that occur within species to the aesthetics of landscape configurations that attract millions of tourist dollars and

support numerous regional economies.

While some would argue we can always maintain genetic diversity in gene banks and species diversity in botanical gardens, zoos, or zoological parks, these approaches can never conserve the unique combinations that occur in nature and are maintained through the constant interplay of ecological forces. In the final analysis, it is the naturally occurring combinations of biological structure that conservationists are concerned with preserving, not simply the genes or the species themselves.

The powerful role contributed by specific combinations of biological diversity is easily demonstrated. For example, the heterozygous combination of genes (a dominant and a recessive) that imparts malaria resistance to humans is considered a positive benefit. But when we strip the heterogeneity from the combination and allow the same genes to occur in the homogeneous state (just recessives), the previously adaptive trait considered to be a benefit turns to the deadly combination that causes sickle-cell anaemia.

Inbreeding is one process leading to the expression of such destructive traits, and organisms that occur in small, isolated populations have few alter-

natives to inbreeding. In addition to the genetic consequences, fragmentation and isolation cause many other changes such as loss of species that only occur in large patches of uninterrupted habitat; endangerment of low-density, wide-ranging species; and invasion of alien species—in short, a methodical disintegration of our historic natural faunal character. America's wildlife is coming to resemble the disharmonic collection of opportunistic species referred to by Bauer a century ago.

Moreover, most of the tangible products and services derived from wildlife—such as abundant game harvests, protection from waves afforded by corals, or crop pollination—depend upon large and productive populations. Simply saving a species from extinction does not suffice to meet these needs. Preserving only a few remnant individuals or, more simply, their genetic diversity fails to address the larger problem of conserving biological diversity.

The critical stage in the transformation from harmonic wildlife communities to unstructured collections of species is habitat fragmentation. As formerly expansive and contiguous habitats are opened up, fragmented, and isolated, the landscape becomes a haven for human-adapted species and increasingly inhospitable to natural wildlife communities. Wilderness species are held hostage in habitat patches isolated by intensive human alterations of the landscapes such as agricultural and urban/suburban development.<sup>4</sup>

But other forces are also at work. The intrusion of roads, especially multilane interstates and primary highways carrying heavy loads of high-speed traffic, generally has devastating impacts on resident wildlife. When combined, these factors mean that the small mammals, snakes, turtles, salamanders, and frogs inhabiting two tracts of forest divided by a heavily traveled highway may be as effectively isolated from one another as are two populations separated by ten miles of range or forest. In the long run, these habitat fragmenting forces may be more degrading to North America's wildlife populations than actual loss of habitat acreage.<sup>5</sup>

Consider this triple jeopardy: At the same time that development reduces the total amount of habitat, squeezing remaining wildlife into smaller and more isolated patches, the high-speed traffic of

larger and wider highways eliminates more and more of the remaining populations.

Habitat fragmentation results in four major consequences for wildlife. First is the loss of deepwoods or area-sensitive species—animals whose occurrence and successful reproduction are highly dependent on the size of the habitat patch in which they occur. For example, numerous species of breeding birds simply do not breed in small patches of forest.<sup>6</sup>

Second, the larger species that normally move widely and occur at low densities under the best of conditions are quickly lost. For example, Florida panthers normally occur at densities of less than one individual per 50,000 acres, a situation caused, in part, by the long distances traveled by individual territorial cats. As they move over great areas, these animals become exposed to more of the dangers associated with humanized environments. Encounters with illegal hunting, traps, high-speed traffic, pets, and livestock predispose the animal to a shorter life span. It is partly because of these wide movements that panthers were considered nuisance animals in former times. All the larger carnivores—badger, fisher, wolf, cougar, bobcat, and bear—have either been eliminated or dramatically reduced and restricted throughout the eastern United States.<sup>7</sup>

Third, when coupled with the loss of native large carnivores, fragmented and human-subsidized landscapes (providing artificial sources of food and shelter) become dominated by alien or already common species. Generally, these species have adapted over thousands of years of close interaction with humans; therefore, they succeed in human-dominated environments. It is no mystery why European species such as pigeons, sparrows, starlings, rats, mice, and carp become such pests in our humanized environment. Similarly, increased populations of raccoons, skunks, opossums, armadillos, and free-ranging dogs and cats depredate the nests of ground-nesting birds, small mammals, turtles, and salamanders, including those of threatened and endangered species such as marine turtles.<sup>8</sup>

Most of these alien and common species survive because of their aggressiveness and tolerance of humans, causing additional problems for the rarer species. European starlings, English sparrows, and

red-bellied woodpeckers all compete with less aggressive cavity-nesting birds such as the bluebird. The brown-headed cowbird, a species that must lay its eggs in the nests of songbirds, was once excluded from the closed forests of the East. But as development opens up more and more forestland, the cowbird, which prefers fragmented and open landscapes, is expanding its range throughout the East and greatly increasing in abundance, parasitizing the nests of forest-dwelling songbirds that occur anywhere within 100 yards of openings.<sup>9</sup> Cowbird nest parasitism is a principal cause of the endangerment of Kirtland's warbler, and it probably was a factor in the recent extinction of Bachman's warbler.

Fourth, inbreeding depression is a logical consequence of low densities and isolated populations. Animal geneticists teach that in order to maintain genetic integrity within a strain, several hundred breeding animals are required. Biologists, in turn, witness the effects of inbreeding as lower levels of libido, fertility, and rates of successful reproduction. In studies where inbreeding has been measured, there is a direct relation between the degree of inbreeding and the weight of offspring and level of infant mortality. Even the weight and competitive advantage of those animals that survive to the weaning stage is diminished. So, regardless of whether a species is kept alive within the bounds of parks or refuges, there is no assurance that populations will remain viable over the long term.<sup>10</sup>

#### Refinements to Successful Conservation Programs

The present body of conservation laws, treaties, and policies; the combined efforts of state, federal, and nongovernmental organizations; and the increasing number of state and national parks, forests, and refuges have accomplished spectacular results. Not only are the populations of hundreds of species of wildlife improved over what they were a century ago, the sensitivity and concern of U.S. citizens about the role and importance of wildlife have never been as great as now. Conserving renewable resources such as water, wildlife, and wood is important policy by anyone's measure.

The extent of national parks, forests, wildlife refuges, and related state and federal rangelands and military bases now approximates one billion acres. Yet, our labyrinth of conservation structures

and activities is not sufficiently integrated or fine-tuned to save America's wildlife during the next century. In every region of the country, wide-ranging species already suffer the direct consequences of habitat fragmentation. Because large carnivores tend to range over wide distances and encounter conflict whenever they occur close to humans, even the biggest of our parks and refuges outside Alaska are but small habitat islands to them.<sup>11</sup>

To be sure, many of these problems either did not occur, could not be recognized, or were of lower priority during the first hundred years of our conservation history. Now, decades of land development around our conservation areas and the isolation of remnant populations by gigantic systems of roadways, powerlines, pipelines, and strip developments are increasingly the problems with which we must deal. Until recently, neither the prospects nor the implications of reserves becoming habitat islands in a human-dominated, high-speed landscape were adequately recognized. We are remiss in further delaying modifications to conservation programs and policies.

Fragmentation and isolation of habitats are critical problems that can be largely alleviated through a series of greenbelts, habitat linkages, wildlife corridors, and riparian buffer strips connecting key parks, refuges, and habitat islands.<sup>12</sup> Recognition of the problem coupled with a commitment to solution thrusts a few states—for example, Florida and Massachusetts—to the forefront of a new era in wildlife conservation. This commitment to solution has been stimulated in rapid-growth areas such as California and the Sunbelt South by the simultaneous phenomena of unrestrained human population growth, unabated increases in traffic and vehicle speeds over ever-expanding multilane highway systems, and increasing knowledge of the movement patterns of large wild animals.

#### A Strategic Connection

When President Theodore Roosevelt designated Pelican Island along Florida's eastern coast as the nation's first official wildlife refuge, he could not have imagined what would eventually happen around it. He knew that southern Florida's wading bird populations had been plundered during the late 1880s, but he could not have known that the populations would be only one percent as great

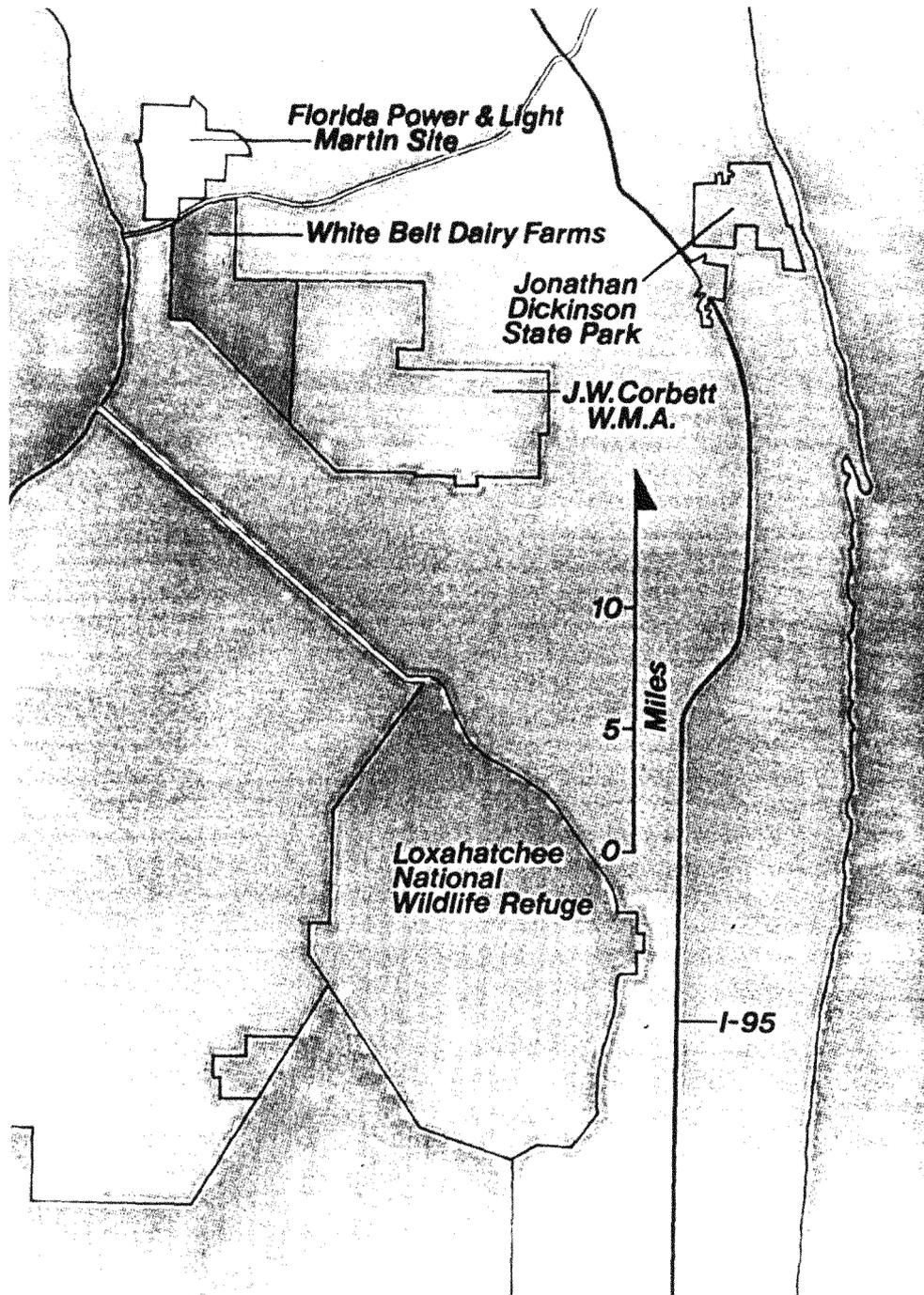


Figure 3. Protected Conservation Areas in Southeastern Florida.

*Loxahatchee National Wildlife Refuge is separated from the J.W. Corbett Wildlife Management Area complex by only five miles of private land.*

in the 1980s.

Also in southeastern Florida, the Loxahatchee National Wildlife Refuge is the second largest-wildlife refuge in the eastern United States. However, urban sprawl to the east, intensive agricultural use to the west, and rapidly encroaching development pressures to the north dictate that this area will soon be only a small island of natural habitat in a sea of disturbance. The 150,000 acres contained within its bounds can barely support a single Florida panther, much less a viable population.

Just to the north is the 58,000-acre J.W. Corbett Wildlife Management Area, bordered by a 22,000-acre state-owned conservation area, the White Belt Ranch. These extremely costly public investments are also too small to maintain, let alone contain, viable populations of black bear, Everglades mink, red wolf, or Florida panther.<sup>13</sup> The tragedy and the opportunity are that the Corbett complex is separated from the Loxahatchee and 2.5 million acres of contiguous southern Florida conservation lands by only five miles of private land (see figure 3). Adding a small parcel of perhaps 15,000 acres would link all these areas and make them suitable for Florida's remaining native large mammal species—an infinitesimal investment compared to the highly beneficial role these areas can play in "buffering" Everglades National Park from encroaching human populations to the north and east and rising sea levels from the south and west.

Four hundred miles north of the Corbett area is the 160,000-acre Osceola National Forest. Fifteen miles yet farther north (primarily in Georgia) lies the Okefenokee, the largest wildlife refuge in the eastern United States. Since time immemorial, this regional wilderness has functioned as an integrated swampland ecosystem. In 1989, the two areas will finally be legally connected. A bold policy decision by former U.S. Senator Lawton Chiles of Florida added \$7 million to the Forest Service appropriation in order to buy America's first strategic landscape linkage connecting two critical federal properties located in two different states and administered by two different federal departments (Interior and Agriculture). Figure 4 is an artist's rendition of this strategic linkage. The combined area, totaling nearly a million acres, provides the potential for reintroduction of captive-bred Florida panthers, whooping cranes, and red

*"Among our many efforts to coexist with animals, the idea of establishing interconnected habitats for wildlife is the most exciting and promising that I know of."*

Marjorie Carr, Florida  
Defenders of the Environment

wolves as well as sufficiently large space to maintain viable populations of numerous other endangered species, including the red-cockaded woodpecker.<sup>14</sup>

#### Legs, Wings, Flippers, and Fins

Since the time of Aristotle, humans have marveled at the movement of animals, but never before have we been more sensitive to the *need* for animals to move. Both individuals and entire populations move to escape the consequences of winter, to alleviate competition with their parents, and to disperse across the landscape. Like sea turtles, they may move thousands of miles to find the single nesting beach that they were born on 50 years earlier. They move to colonize new areas and to spread their genes into distant populations. They move for food, they move for cover, they move for mates, and they move for refuge from humans. The overwhelming majority of animals must move during some stage of the life cycle.

Salamanders, salmon, sturgeon, and striped bass move between freshwater environments, necessary for their egg and larval life stages, to terrestrial or saltwater environments that suffice for the adults. Alligators and turtles, on the other hand, must migrate onto land to lay their eggs, but the newborn move back to water for their livelihood.

Like animals, plants also need to move, mostly during the reproductive stages. Primitive plants depend on the wind to carry pollen from one individual to another. But wind and water proved too capricious for higher plants, and showy flowers evolved in order to attract beetles, bees, bats, and birds to cross-pollinate the plants. Literally hundreds of economically important plants such as raspberries, blueberries, and strawberries; trees such as apples, oranges, and maples; and crops such as clover, carrots, and cotton depend on animal movement for pollination.<sup>15</sup> Honeybees were introduced into America specifically to move pollen from one crop plant to another. And carry pollen they do. A single bee may visit more than 1,000 flowers to collect a load of pollen, and the average worker carries 10 to 15 loads per day (Winston 1987). Thus, as many as 10,000 flowers may be cross-pollinated by a single bee in a single day. Cross-pollination is roughly synonymous with outbreeding and is the opposite of inbreeding.

Unlike the honeybee that makes thousands of individual, short trips, animals such as panthers, black bears, elk, and caribou travel long distances. Although the average home-range size of all Florida panthers is only 150 square miles, a single dominant male may distribute his genes among individuals covering an area three times as large. He may need to walk as far as 20 miles in a single night. Even river otters may travel five miles a night.<sup>16</sup>

Numerous species that we take for granted simply will not occur in expansive conifer forests or agricultural and urban landscapes when their movement is impeded. Several studies demonstrate that gray squirrels will not occur in fragmented landscapes unless "stringers" (hardwood streamside corridors) allow for dispersal and foraging in otherwise inhospitable landscapes.<sup>17</sup> Turkey managers refer to these stringers as "turkey trots" because they allow turkeys to skulk across open areas that would otherwise constitute barriers to movement.<sup>18</sup> Canadian researchers report, "The most fundamental barrier affecting woodland species in farmland is the separation of forest fragments from each other by creation of crop fields between them. The resulting 'isolation effect' can range from almost complete removal of a species' habitat to limited barriers easily overcome . . . by movement corridors" (Henderson et al. 1985).

### Riparian Woods and Rheotaxis

One great principle of physics, gravity, is captured in the observation that "water runs downhill." A similar concept from biology is that of tropism and taxis. Organisms orient and move according to directional stimuli: Plants grow toward light (phototaxis), moths are attracted by smell (chemotaxis), and fish migrate against the current (rheotaxis). Thus, while rivers and streams drain the landscape from higher to lower elevations, many aquatic organisms move themselves, matter, and energy upstream—against the gradient. Sturgeon, salmon, and sea bass move from the sea up rivers to spawn and, in so doing, link the sea to freshwater systems in a "counter-current" or "upstream" direction. Through the processes of ingesting, digesting, and transforming plants and animals, carnivores move energy and matter up the trophic ladder. By foraging at low elevations and moving to higher elevations, animals move materials and energy against the gravitational field. Physicists define this as "work."

An example is found in the thousands of tons of nutrients per annum that are gleaned from estuaries, rivers, lakes, and streams and moved back up-slope by colonial water birds through ingestion and defecation. Otters and other furbearers do this work as well. Twenty-six of North America's 30 most common furbearers are either carnivores by diet or are classified as "carnivora" even though they forage more generally—for example, the black bear. The majority of these species are amphibious inasmuch as they are terrestrial mammals that live in close association with aquatic habitats. Animals such as mink and otter forage from the aquatic food chain but spend most of their time in terrestrial habitats. Similar to fish, they do work by moving energy and matter up the gradient against the gravitational field; they link aquatic systems to adjacent uplands.

Carnivores play other roles in the environment as well. Because of their predatory nature, the relatively low density of prey in the environment, and their large home ranges, predators normally utilize numerous habitat types. In this "inverse pyramid" of habitats, animals high in the food chain (such as top carnivores) utilize and integrate food sources from more habitats than animals lower in the food

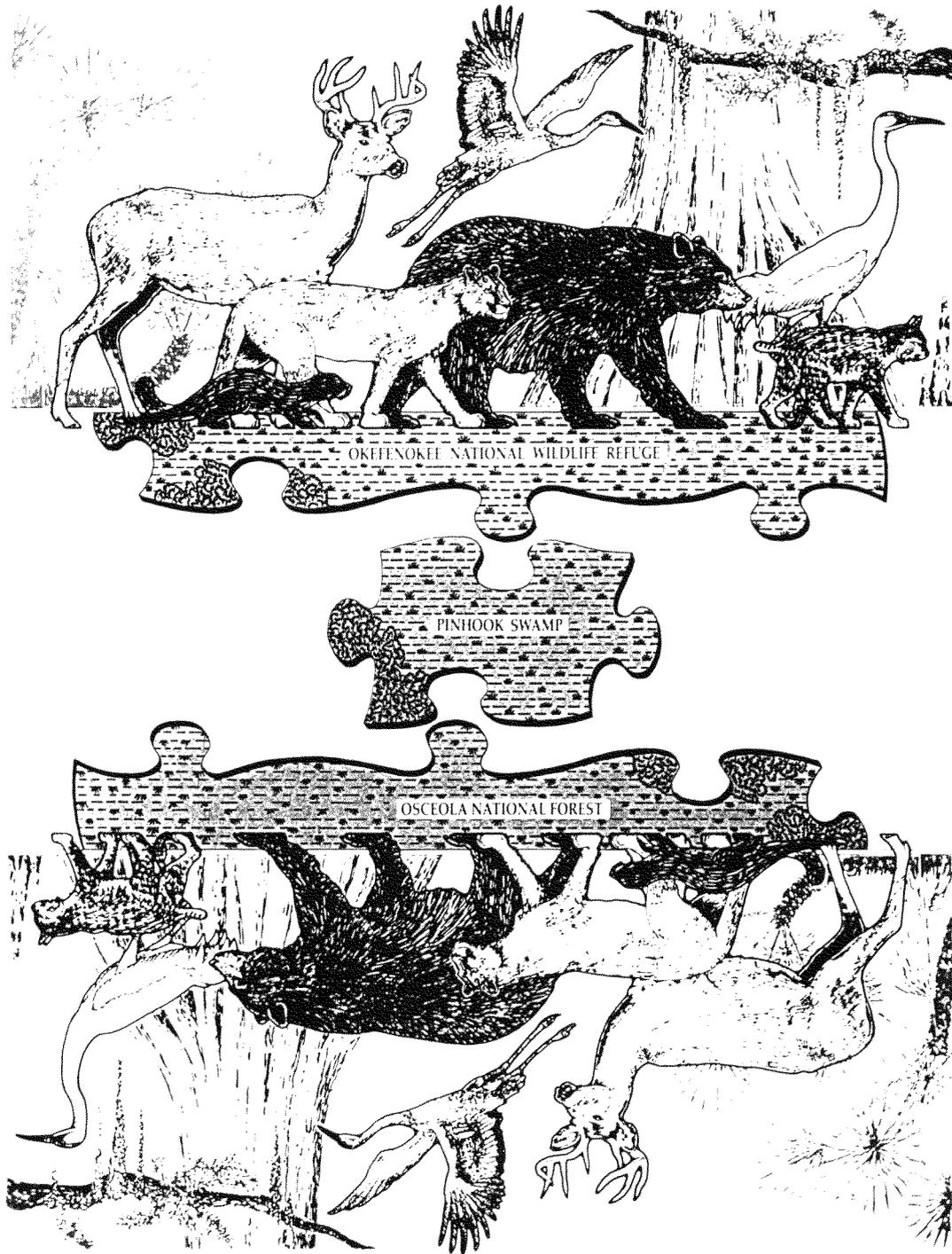


Figure 4. Protective Designation of Pinhook Swamp Creates a Strategic Linkage Between Osceola National Forest and Okefenokee National Wildlife Refuge.

Drawn by Merald R. Clark

chain (such as herbivores). The number of habitats that an animal ranges over and thus integrates is inverse to its level in the food chain and its abundance. The work wide-ranging animals perform by influencing the relative abundance and distribution of prey animals is generally overlooked by conservation agencies and organizations that define communities on the basis of a couple of dominant plant species. It stands to reason that decision-makers who do not appreciate the role mammalian carnivores play would not design a preserve system to protect them. (Figure 5 shows how animal population growth in Florida is now tending to be inversely related to size and trophic level.)

Rather than presuming the lower trophic levels do not need the higher ones, we must give greater attention to conserving entire faunal and floral assemblages that can function as a natural system. Because flowing water and other gravitational mechanisms move energy and matter toward the lower elevations and because so many animals are amphibious, the junction between land and water is by far the richest of our wildlife habitats. Numerous species of fish, amphibians, reptiles, mammals, and birds not only live there, they also use these riparian or streamside woods as landscape thoroughfares. Thus, even if rivers and riparian woods had no fisheries value, no recreation value, and no hydro-period regulation, water recharge, or cleansing value, we would still choose them as priority wildlife conservation areas. Even if humans were not involved at all, rivers, streams, and drainageways would still portray nature's own energy signature to be read as a resource management template. On the other hand, it is because these stream and riverfront woods have such diverse and strong interest groups that they should be our most quickly designated conservation corridors. Foresters, fisheries managers, recreationists, and water quality managers should all rally to the common goal.

Even though riparian woods represent our single best hope for creating a system of interconnecting corridors, they do not exhaust the opportunity list. Numerous cultural artifacts also meet the design criteria. Abandoned railroad rights-of-way and powerline, pipeline, and other easements can be utilized by mammals. Canopy roads, wooded

median strips of interstate highways, windbreaks, greenbelts, and wooded visual screens can be used as corridors by birds. Equestrian trails, jogging trails, and bicycle routes can be of value in urban areas, just as wooded fencerows play a role in rural landscapes. All represent linear connectors that permeate the landscape; all can play a role in an interconnected habitat island system.

We do not necessarily need to purchase these acreages in order to put them to use. In many cases, a form of conservation easement and negotiated land use that facilitates animal passage is all that is needed. We must direct a major effort toward development of incentives and rewards for private landowners who wish to contribute to conservation while keeping their land productive (Harris 1985).

### **Piecemeal Management for Movement**

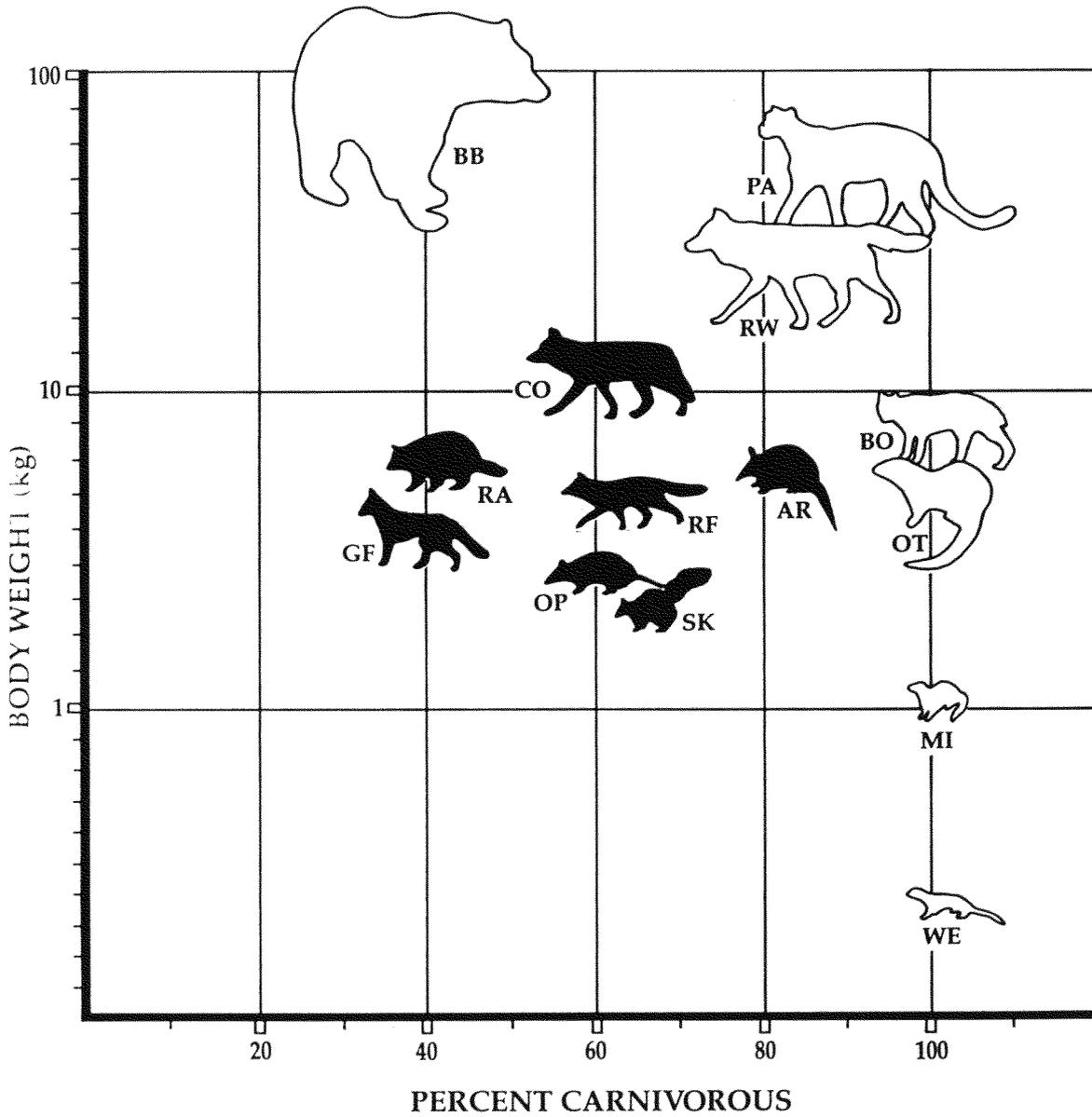
Scientific journals, agency policy manuals, and conservation law books are filled with examples and mandates for managing animal movement. Most early federal wildlife legislation dealt with protecting the migration habits of, and opportunities for, migrant species. As early as 1914, the federal government entered into an international treaty to protect the movement of migrant birds, and as late as 1987, the United States signed a treaty with Mexico to protect the international migration of monarch butterflies.<sup>19</sup>

Fisheries, waterfowl, and other migrant game management strategies have hinged on the need for birds and fish to migrate. The huge pipeline constructed to carry oil south from Alaska's northern slope was elevated specifically to allow movement of caribou and other tundra game animals. Interstate highway underpasses allow deer and elk to migrate in several western states, and an underpass system in Glacier National Park was designed to improve mountain goat access to mineral licks. Prior to underpass construction, goats were successful in crossing U.S. Route 2 only 74 percent of the time. Research after underpass construction revealed that 100 percent of crossing attempts were eventually successful.<sup>20</sup>

There are also numerous occasions where boundary configurations of parks, preserves, and refuges have been planned to accommodate wildlife movement. Olympic National Park was

Figure 5. Population Growth or Decline as Related to Body Size and Trophic Level for Selected Florida Mammals.

The solid silhouettes depict species, mostly mid-sized and omnivorous, that are increasing in numbers (gray and red fox, raccoon, coyote, opossum, skunk, and armadillo). The species depicted in outline, which tend to be larger or more specifically carnivorous, are declining in numbers or their status is in question (black bear, Florida panther, bobcat, mink, and weasel). The red wolf is already extinct in the wild.



designed to include a 50-mile river valley corridor linking the predominantly high elevation park to the Pacific Ocean shore. When President Harry Truman dedicated the park in 1953, he observed, "Olympic National Park . . . now becomes the only park in the world to extend from snow-capped mountains to ocean beaches." The purpose of the vertical valley corridor is to facilitate migration of deer, salmon, steelhead and other species.<sup>21</sup> In New Jersey, Pinelands National Reserve depends on "corridors near the boundaries of the pinelands and around major towns to delimit and reinforce the integrity of the entire pinelands as a unit. Corridors linking the southern and northern centers of the Pinelands also reinforce the integrity of the whole pinelands and are a special issue for species at the northern or southern edges of their ranges" (Good 1982).

In Costa Rica, a 15-mile-long, 2-mile-wide riverine corridor connects the lowland La Selva Biological Station with the montane Braulio Carrillo National Park (see figure 6). This creates an uninterrupted biological preserve rising from an elevation of 114 feet above sea level to more than 9,500 feet (Pringle et al. 1984). The same prescription was implemented in Tanzania so that elephants could migrate between Lake Manyara National Park and the Ngorongoro Conservation Area. International development agencies (e.g., USAID) required that landscape linkages be built into the Maheweli Ganga hydroelectric project in Sri Lanka so that elephants can continue to utilize traditional migration routes between reserves.

Following the recommendations of renowned conservationist George B. Schaller, the Chinese government "is considering an addition to Wolong as well as the creation of one large reserve in the Min Mountains by connecting the Tangjiahe, Baishuaijiang, Walang and Jiuzhaigou reserves. Where expansion is not feasible, the preservation or reestablishment of corridors of habitat can in some instances prevent neighboring but noncontiguous populations from becoming isolated" (Schaller et al. 1985).

It is clear from these examples that protecting migrant species and their freedom to move and designating landscape corridors to facilitate animal movement are established conservation practices in this country and abroad. However, our efforts

to date have been isolated instances directed at individual species or problems. With the exception of migratory bird management, there has been no overriding or unified philosophy to direct state or regional conservation planning.

#### Allowing Entire Faunas To Move

Thirty-eight years before the Declaration of Independence, approximately one hundred black slaves escaped from British plantations and established Fort Mose in Spanish Florida. This was the first free black settlement in North America. Several 18th century maps made by Spanish engineers show the fort in the center of high farmland, where the residents grew corn and millet. Today, however, the site of Mose occurs in a submerged marsh near the edge of the Atlantic, victim of the rising sea.<sup>22</sup>

When Theodore Roosevelt and other conservation leaders of the early 20th century spent holidays at the coast, Cape May, New Jersey was one of eastern North America's most famous resort beaches. Today, the beach is nearly gone, the city has dwindled, and the narrow strip of land that was formerly coastal plain has become part of the continental shelf, victim of the encroaching sea. Everglades National Park in southern Florida was America's first national park established to preserve wildlife and natural ecosystem diversity. It is also one of the first national parks to be jeopardized by rising sea levels and the advancing shore. Southern Florida's flat landscape means a one-foot rise in sea level causes a 10-mile northward migration of Florida Bay.<sup>23</sup> Climatologists now predict that, as a result of the greenhouse effect, the next one-foot rise in sea level may occur as early as the year 2015 (e.g., see Hansen et al. 1988). At best, State Road 27—presently taking visitors overland to Everglades National Park headquarters—will become a causeway across Florida Bay.

Thirty-five 100-foot-long aquatic underpasses are presently being constructed beneath the Interstate 75 extension across southern Florida from Naples to Fort Lauderdale. Farsighted decision-makers such as Senator Bob Graham and Governor Bob Martinez of Florida have seen this as an essential step to allow water, fauna, and flora to move beneath the otherwise barricading interstate embankment. In addition to allowing Everglades

Figure 6. A Riparian Corridor in Costa Rica Connecting La Selva Biological Station with Braulio Carrillo National Park.



ink and otter to move with their fisheries prey base, the underpasses will permit black bears and panthers to avoid the perils of ever-increasing automobile traffic loads and thousands of freshwater and estuarine species to migrate northward as the salt of Florida Bay crystallizes on remnant rootstocks of former forests. Without the underpasses, the I-75 extension would prevent these species from moving northward with the pull of receding glaciers and the push of a rising sea.

Accelerated rates of climate change and rising sea levels require implementation of conservation strategies to allow for the displacement of entire communities of plants and animals from their present locations. While north-south migration corridors will be necessary in most cases, mountainous areas and areas near the sea will require corridors that span elevational gradients. Natural landscape features such as floodplains, river valleys, and ridge tops have guided the movement of plant and animal associations for millenia and should now serve as our design templates for an integrated system of ecological preserves for the future.<sup>24</sup>

### The Next Steps

A new strategy is called for, one that transcends piecemeal land consolidation here, more riparian corridors there, and another underpass out yonder. We need to replace the 19th century notion that the job is done when we succeed in designating certain areas as parks, refuges, or national forests. At that point, the task has only begun. We must adopt realistic approaches regarding the need for natural ecosystems to change and interact with their surroundings. What happens to the habitat content within a preserve may be less important than what happens in the surrounding contextual setting. Not only do animals need to move back and forth in a dynamic landscape; the preserves themselves may need to move.

As long as we limit our focus to problems within park or refuge boundaries, even the largest parks and refuges will not conserve our native fauna: Most will be too small for viable populations. Some will experience natural disasters, and some will become submerged beneath the sea.

Without fanfare and frequently without notice, native faunal integrity will continue to erode. The public may never notice this erosion until the death of the last individual of a species claims all the attention; meanwhile, even the large conservation areas will be experiencing faunal collapse.

We may not need more public domain acres; but we most assuredly will need different acres and different configurations. Nearly 40 percent of the land area of the United States is already in public ownership, managed by state and federal agencies. We need to reevaluate conservation policies on this land, most of which is not administered to conserve biological diversity. Air Force bases and National Guard reservations may be just as critical to plant and animal movement as are national parks, forests, and wildlife refuges.

We may not need more programs; but we do need better program integration and agency cooperation. To date, our initiatives have been stacking up, but they have not been adding up. A modest increase in the federal excise tax on gasoline would help the balance of trade and the U.S. economy, reduce the burning of carbon fuels, and slow the greenhouse effect. It could help finance the construction and retrofitting of underpasses in federal highway systems, working for the conservation of America's biological resources rather than against them.

We need more than big linkages between big areas for big mammals; we also need citizens and administrators who understand the need for movement at all scales. Fencerows connecting woodlots

and abandoned acres are just as important to mid-western wildlife as streamside buffers are to western mountain species. Greenways accommodating linear outdoor recreation such as jogging, bicycling, horseback riding, canoeing, and cross-country skiing can be as useful for wildlife as they are for people.

We need not just analysis, but application; not just policies, but practical programs; not just individual actions, but integrated action. We do not need to set the United States aside as a tribute to the past; we need to develop new linkages that will function in the future.

---

*Larry D. Harris has taught and conducted research since 1972 at the University of Florida, specializing in forest management for biological diversity. He earned his M.S. and Ph.D. degrees in ecology and systems ecology from Michigan State University, with postdoctoral work in systems ecology through the U.S. International Biological Program. He is the author of more than 50 scientific publications and sits on several policy and research review boards on maintaining biodiversity. Dr. Harris's book *The Fragmented Forest*, published in 1984, won national and international awards for excellence.*

*Peter B. Gallagher has served as a staff writer for the *St. Petersburg Times* and is now engaged in free-lance writing assignments on environmental issues, particularly those affecting southern Florida. He is president of *Save the Panther, Inc.*, in Tampa, Florida.*

## Footnotes

<sup>1</sup> Technical details of the bear's movement are given in Maehr et al. 1988. An exemplary summary of black bear dispersal characteristics is given in Rogers 1987. The most recent compilations of relevant black bear information for the eastern United States are Maehr and Brady 1984 and Carlock et al. 1983. Wooding and Brady 1986 report Florida black bear roadkill statistics.

<sup>2</sup> Critics of the dispersal corridor approach commonly argue that even if we commit to preserving corridor habitats we would have no assurance that animals would use them. This criticism is ill-founded. Thousands of species migrate seasonally but not in random directions. For example, when roadkill statistics are plotted on maps, it is possible to discern "hot spots" where most of the fatalities occur. Chanin and Jefferies 1978 observe, "Mortality records collected by one of us (PRFC) show that in some areas, otters have repeatedly been found dead on the roads at the same spot over a number of years . . ." This same pattern holds for black bear and other species in Florida.

<sup>3</sup> Lalo 1987 presents a recent account of roadkill mortality on America's highways and puts the annual toll at 100 million animals per year. Oxley et al. 1974, Leedy 1975, Leedy et al. 1975, Adams and Geis 1981, and Mader 1984 should be consulted for entry into the literature on wildlife and highways. See O'Shea 1988 for manatee information and U.S. Fish and Wildlife Service 1987 and Belden 1988 regarding the Florida panther.

<sup>4</sup> Wilcox and Murphy 1985 state that "habitat fragmentation is the most serious threat to biological diversity and is the primary cause of the present extinction crisis." Major regional analyses of the problem are presented by Burgess and Sharpe 1981, Harris 1984, and Saunders et al. 1987. Additional key papers that address individual groups of animals or specific situations are Robbins 1979, Howe 1984, Lynch and Whigham 1984, Wilcove et al. 1986, Wilcove 1987, and Harris 1989.

<sup>5</sup> The full body of knowledge regarding the effects of habitat fragmentation and the importance of corridors derives from many different approaches. Critics commonly deny the consequences of habitat fragmentation and imply that linkages or interconnecting corridors are somehow artificial management contraptions. It is, in fact, the fragmented landscape that represents the artificial from the point of view of native fauna. Arguments that the theory of island biogeography has not been "proven" are equally erroneous inasmuch as abundant

empirical support for the value of habitat corridors derives from many sources, some predating MacArthur and Wilson's work by half a century.

Entry into traditional biogeography literature is provided by Darlington 1957. Primary theoretical issues are reviewed by Preston 1962, MacArthur and Wilson 1967, Simberloff 1974, Brown and Kodric-Brown 1977, and Margules et al. 1982. The combination of logic and observation leading to recommendations is put forth by Diamond 1975, Terborgh 1974, Wilson and Willis 1975, and Wilcox 1980, among others.

Entry into the extensive research and management literature can be pursued as follows: The oldest body of support and that which deals with the largest scale of time and space is paleontology. George G. Simpson (e.g., 1940; 1965) is perhaps most effective at articulating the importance of land bridges as dispersal corridors for terrestrial organisms. Both the continental (e.g., Adams 1902; Webb and Wilkins 1984) and the island (e.g., Darlington 1957) divisions of biogeography literature attest to the importance of direct linkages as dispersal avenues. Patterson 1984 and Heany and Patterson 1986 provide entry into the literature on regional patterns of mammal distribution as affected by dispersal corridors.

The importance of linear, interconnecting habitats such as fencerows, field borders, and roadside verges for wildlife in agricultural landscapes has been known for more than 50 years. A large body of literature dealing with many small game species exists (e.g., Grange and McAtee 1934; Sumner 1936; Lehmann 1937; Edminster 1938; Davison 1939 and 1941; Dambach 1942, 1945, and 1948; Graham 1944 and 1947; Petrides 1942).

One group of animals that has been particularly well studied and one for which virtually all authorities advocate the use of wooded corridors is the squirrels. For example, it was known nearly 50 years ago (see Baumgartner 1943, Allen 1943, and Flyger and Gates 1982) that squirrel populations of small and widely separated woodlots are sometimes "shot out" and restocking does not occur by dispersing squirrels unless travel lanes such as wooded fencerows are available.

There is a large literature associated with the wildlife corridor value of linear strips of forest such as streamside buffers, riparian forests, and shelterbelts (e.g., Munns and Stoeckeler 1946; MacClintock et al. 1977; Robbins 1979; Whitcomb et al. 1981; Arnold 1982; Landers 1985; Wilcove et al. 1986; Lynch 1987). Australian forest wildlife ecologists have focused a great deal on this topic. For example, Suckling 1982 observes, "The size of reserves is not relevant, provided they are linked by corridors of suitable habitat, as gene flow and dispersal can occur freely throughout. Within intensively managed forest areas a system of linked reserves is desirable

... " Loyn 1985 observes that "such retained areas provide a valuable system of mature habitats for flora and fauna. Their value can be enhanced by strategic linking of reserves and by deliberate selection of retained areas for value as wildlife habitat."

<sup>6</sup> As early as 1944, Charles Kendeigh distinguished between species that were characteristic of different forest types and those that were more opportunistic. He referred to the former as interior species and the latter as exterior species. More recently, authorities such as Chandler Robbins (e.g., 1979) have used the phrase "area-sensitive" to describe those species requiring substantial tracts of forest to survive. Technically, there is a distinction between interior species that require extensive tracts of closed-canopy forest and area-sensitive species that require large areas but may be more tolerant of forest management operations. Papers by Wilcove constitute up-to-date reviews of current scientific literature. Data-based papers specific to the Southeast are Harris and Wallace 1984, Cox 1988, and Harris 1989.

<sup>7</sup> Matthiae and Stearns 1981 describe the effects of forest fragmentation and its consequences on the large mammals of the north central states. Harris et al. 1982 describe the differential loss of the wide-ranging carnivores from the fragmented habitats of the Cascade Mountains. Maehr 1984 illustrates and Pelton 1986 describes how the loss of movement corridors has come to isolate and restrict the distribution of black bears to large tracts of federal lands in the eastern United States.

<sup>8</sup> The effects of raccoon predation on the nests of marine turtles, gopher tortoises, alligators, and game birds have been known for a considerable time. More recently, the effects of amplified levels of middle-sized omnivores as ground nest depredators have been identified as a critical factor in the demise of several species of migrant songbirds. This process of middle-sized omnivore amplification is sometimes referred to as "meso-mammal release" (see Soule et al. 1988, Harris 1988c, and Harris 1989).

<sup>9</sup> Stanley Temple and associates at the University of Wisconsin have published most extensively on the cowbird problem (e.g., Ambuel and Temple 1983; Brittingham and Temple 1984) as it relates to edge-effects management. Harris 1988d provides an overview of the issues that surround game management techniques such as patch cuts designed to create edge effects. Three additional papers in the same issue of *Conservation Biology* (Vol. 2, No. 4) portray the scope of the edge-effect controversy.

<sup>10</sup> Some of the best research results and summaries are

published by Ralls and associates (e.g., 1986; 1988). Dr. Melody Roelke is conducting research on the effects of inbreeding in Florida panthers (see U.S. Fish and Wildlife Service 1987). The collection of papers in Soule 1987 provides the most recent synthesis of management for viable populations.

<sup>11</sup> Individual national parks, wildlife refuges, and even the larger national forests are simply not large enough in and of themselves to support viable populations of numerous species of wildlife, especially the territorial and wide-ranging mammals. For example, only two or three national wildlife refuges in the eastern United States are large enough to support a single pair of panthers; none could support a viable population. Newmark 1987 describes the essentials of the extinction process in the parks of the western United States. Although his data base and analyses are now being criticized (e.g., Quinn et al. 1989), the underlying premise of his conclusions remains valid. Harris 1984 and Salwasser et al. 1987 describe the necessity of interagency management strategies in order to provide expanses of landscape sufficiently large to maintain viable populations and mitigate the problems of isolated parks.

<sup>12</sup> The various terms applied to linear conservation lands reflect diverse origins of the same general concept. **Greenways** is commonly used in urban and regional planning, and the process of creating greenway networks is referred to as greenlining. An entire school of planning philosophy hinges on naturally occurring environmental corridors (see Belknap et al. 1967, Katz and Sollen 1976, Walesh 1976, Davis and Glick 1978, Rubin and Emmerich 1981, Corbett 1983, Poynton and Roberts 1985, and Adams and Dove 1989).

The importance of **linear habitats** such as fencerows and windbreaks was introduced in note 5. Throughout much of Europe, especially in England, the utility of hedgerows as wildlife habitat has been a major concern for decades (see Doudeswell 1987 and Pollard et al. 1979). Highway verges, median strips, and rights-of-way have long been advocated for wildlife habitat (e.g., Latham 1956; Egler 1952, 1957; Smith 1970; Way 1970). Fisheries biologists are strong advocates of streamside buffer strips that protect aquatic habitats, and, more recently, the forestry profession has committed to the use of streamside buffers as a means of managing water quality and hydrology.

The concept of **landscape linkages** to connect existing parks and reserves seems to make more sense to the general public, legislators, and decision-makers who readily grasp the value of consolidating existing but soon-to-be isolated natural areas.

However, current emphasis on wildlife dispersal corridors is somewhat different from all of the above. The dispersal corridor concept presumes that these linear strips of habitat connect more substantive patches of habitat and function to facilitate the movement of animals from one point to another. This function (movement, dispersal, and gene flow among patches) allows populations and species to occur in landscapes where they could not otherwise occur (e.g., see Tassone 1981 for birds and Redford and Fonseca 1986 for mammals). Even though all linear strips of habitat may have value, their wildlife corridor function depends upon the degree to which they serve the needs for animals to move among otherwise separated patches or the degree to which they lead to landscape values that would not be attained without the connections.

The emerging discipline of **landscape ecology** treats corridors as important elements of ecologically sound landscapes and distinguishes between those that are wide enough to have internal habitat integrity of their own and those such as fencerows that simply connect other patches (see Noss 1983; Forman 1981, 1983, and 1987; and Forman and Godron 1986).

<sup>18</sup> The best entry into the literature on population viability is Soule 1987.

<sup>19</sup> Jackson 1976 and 1987 and Walters et al. 1988 present evidence that the colonization of adequate existing habitat by the endangered red-cockaded woodpecker will be facilitated by dispersal corridors. See Harris 1988b, 1988c, and 1988d for arguments in behalf of the implementation of these specific landscape linkages.

<sup>20</sup> See chapter 9 in Prescott-Allen and Prescott-Allen 1986 and Winston 1987 for entry into the literature on the biology and economic importance of pollination to American agriculture.

<sup>21</sup> See U.S. Fish and Wildlife Service 1987 and Belden 1988 for panther statistics. Harestad and Bunnell 1979 cite a large body of literature on home-range sizes for mammals. Jewell 1966 and Sanderson 1966 provide useful entries into the home-range literature.

<sup>22</sup> The literature on North American squirrels is particularly compelling in this regard. All major tree squirrel authorities during the last 50 years have advocated the use of corridors as a squirrel management technique (e.g., Allen 1943; Baumgartner 1943; Hedrick 1973; Flyger and Gates 1982; McElfresh et al. 1980; Dickson and Huntley 1987; Nixon et al. 1980). Allen 1943 observes that "nothing is more evident in the excellent fox squir-

rel range of southwestern Michigan than the good lines of communication provided by bur oaks, hickories, and other trees in field boundaries and along roadsides."

<sup>23</sup> Fahrig and Merriam 1985. See also Wegner and Merriam 1979, Merriam 1984, and Henderson et al. 1985. The Australian wildlife conservation literature is equally stocked with empirical studies (e.g., Barnett et al. 1978; Middleton 1980; Saunders 1980; Suckling 1984).

<sup>24</sup> Numerous national and international level working groups consisting of world-renowned ecologists and conservationists have endorsed the concept of landscape linkages and wildlife dispersal corridors as a viable conservation strategy. Two U.S. Congress Office of Technology Assessment working groups have endorsed the concept (Office of Technology Assessment 1984, 1985).

In 1982, a group of 35 scientists and managers met to find ecological solutions to environmental management concerns in Pinelands National Reserve; they strongly advocated the use of riparian corridors to link pineland fragments (Good 1982).

In 1983, a working group of leading ecologists charged with assessing priorities for the new discipline of landscape ecology stressed the importance of movement of plants and animals and other materials between landscape patches (Risser et al. 1984).

An Australian national symposium on the conservation value of remnant native vegetation concludes, "The value of these corridors in the Australian landscape is, as yet, poorly documented but Bennett (chapter 4), Reecher et al. (chapter 14), Bridgewater (chapter 15), and Saunders and Ingram (chapter 22) all discuss the role of corridors in the context of management of remnants for conservation" (Saunders et al. 1987). The Australian Academy of Science had previously published a strategic plan for a national system of ecological reserves in Australia and had stressed "the need to provide for the kinds of animals which lead very mobile lives and which . . . depend upon the existence of chains of appropriate habitat over very wide areas" (Ride 1975).

The World Conservation Strategy prepared by the International Union for Conservation of Nature and Natural Resources (IUCN), United Nations Environment Programme (UNEP), and the World Wildlife Fund (WWF) endorses the conclusion that interconnected nature reserves will experience lower extinction rates than unconnected ones (International Union for Conservation of Nature and Natural Resources 1980). See also Diamond 1975.

The President's Commission on Americans Outdoors 1987 gives overwhelming support for the concept of greenways and park and preserve linkages. The U.S.

Environmental Protection Agency's draft report to Congress on mitigation of climate change effects asks that "Federal and State wildlife and fishery managers begin to consider climate change effects in siting refuges and to examine setting up migratory corridors to improve the ability of various species to move to new habitat areas" (Crawford 1988).

<sup>20</sup> A large literature dealing with the use of migration corridors and highway underpasses exists for several big game species. For entry, see Singer 1975, Reed et al. 1974 and 1975, Klein 1980, Reed 1981, Singer and Doherty 1985, Eide et al. 1988, and Curatolo and Murphy 1988.

<sup>21</sup> A director of the National Park Service observed that "it is highly important that parks should not be treated as isolated reserves, but as integral parts of the complex economic, social and ecological relationships of the region in which they exist" (Hartzog 1972). U.S. Fish and Wildlife Service 1984 promulgates the establishment of "corridors connecting the wildlife communities which would be permanently protected by the FWS in fee, although less-than-fee status is desirable on some tracts." The chief of the Forest Service, F. Dale Robertson, recently signed the record of decision on a spotted owl management strategy that is predicated on a system of stepping stone islands and physical habitat linkages to create a network of habitat areas spanning the 500 miles of the spotted owl's range. Many state conservation agencies have established policies aimed at purchasing or protecting movement corridors (e.g., Atchafalaya linkup 1985). At least one court of law has ruled against a development that negatively impacted an elk migration corridor (*Methow Valley Citizens Council et al. v. U.S. Forest Service Regional Forester et al.* 1987), and a lawyer has written on the legal implications of corridor implementation (Blackner 1986).

<sup>22</sup> Professor Kathleen Deagan and associated archeologists at the Florida Museum of Natural History have been excavating the site since 1987. Purdy 1988 includes documentation of climate, vegetation, and sea level change and some of the consequences for recent human cultures in Florida. See Pilkey et al. 1984 and Wells and Peterson 1987 for the effects of East Coast sea level rise during the last two hundred years.

<sup>23</sup> The elevational rise from Florida Bay to Lake Okeechobee is about 15 feet in 150 miles, approximately equivalent to a rise of one foot per 10 miles or one foot per 50,000 feet.

<sup>24</sup> See Peters and Darling 1985 for a review of consequences. Yale University Press is now publishing the

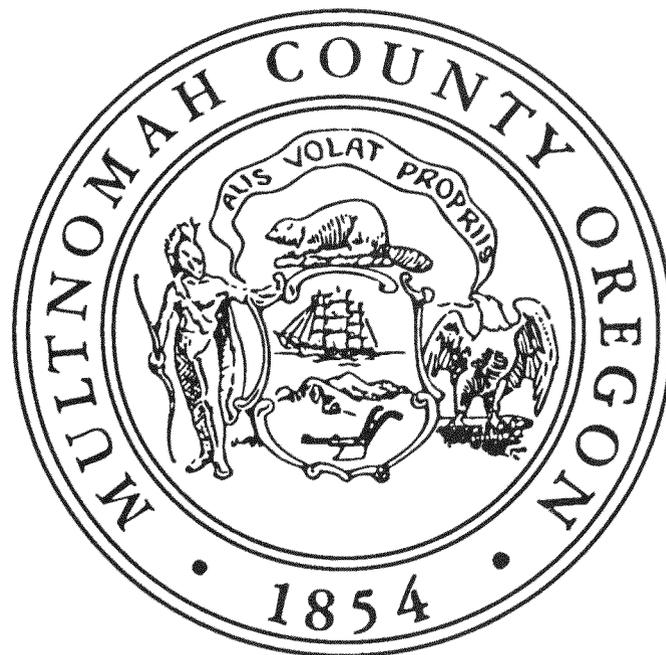
results of an authoritative 1988 symposium on the biodiversity consequences of climate change resulting from the greenhouse effect. Hunter et al. 1989 conclude, "Nature reserves should be connected as much as possible by large-scale (continental) corridors that would allow species to change their geographic distributions in response to climatic changes."

## Selected Bibliography

- Adams, C. 1902. Southeastern United States as a center of geographical distribution of flora and fauna. *Biological Bulletin* 3: 115-131.
- Adams, L., and A. Geis. 1981. Effects of highways on wildlife. Report No. FHWA/RD-81/067. Federal Highway Administration, U.S. Department of Transportation, Washington, D.C.
- Adams, L., and L. Dove. 1989. Wildlife reserves and corridors in the urban environment, a guide to ecological landscape planning and resource conservation. In press. National Institute for Urban Wildlife, Columbia, Maryland.
- Allen, D. 1943. Michigan fox squirrel management. Game Division Publication 100. Michigan Department of Conservation, Lansing, Michigan.
- Ambuel, B., and S. Temple. 1983. Area-dependent changes in bird communities and vegetation of southern Wisconsin forests. *Ecology* 64: 1057-1068.
- Arnold, G. 1982. The influence of ditch and hedgerow structure, length of hedgerows, and area of woodland and garden on bird numbers on farmland. *Journal of Applied Ecology* 20: 731-750.
- Atchafalaya linkup. 1985. *Louisiana Conservationist* 37 (4): 28-29.
- Barclay, J., and S. Hobson. 1989. Identification and management of wildlife corridors in Connecticut. In press. *Environmental Auditor* 1.
- Barnett, J., R. How, and W. Humphreys. 1978. The use of habitat components by small mammals in eastern Australia. *Australian Journal of Ecology* 3: 277-285.
- Bauer, G. 1891. On the origin of the Galapagos Islands. *American Naturalist* 25: 217-229, 307-326.
- \_\_\_\_\_. 1897. New observations on the origin of the Galapagos Islands, with remarks on the geological age of the Pacific Ocean. *American Naturalist* 31: 661-680.
- Baumgartner, L. 1943. Fox squirrels in Ohio. *Journal of Wildlife Management* 7: 193-202.
- Belden, R. 1988. The Florida panther. *Audubon Wildlife Report* 4: 515-532.
- Belknap, R., J. Furtado, R. Forster, and H. Blossom. 1967. Three approaches to environmental resource analysis:

# LOCAL REVIEW ORDER

December, 1989



**MULTNOMAH COUNTY  
DEPARTMENT OF ENVIRONMENTAL SERVICES  
DIVISION OF PLANNING AND DEVELOPMENT  
2115 S.E. MORRISON STREET  
PORTLAND, OREGON 97214  
(503) 248-3043**

## TABLE OF CONTENTS

Introduction .....	1
Background Information .....	1
Factor I – Substantial Change in Circumstances .....	6
I.A – Major Unanticipated Developments or Events .....	6
LUBA and Court Decisions .....	6
Columbia River Gorge National Scenic Area Act .....	8
I.B – Cumulative Effects of Plan Amendments and Implementation Actions .....	10
Plan and Land Use Regulation Amendments and Goal Exceptions .....	10
Implementation Actions Resulting in the Conversions of Agricultural and Forest Lands to Non-Resource Use .....	14
Protection of Willamette River Greenway and Goal 5 Resources .....	14
Increases in Densities in Rural Residential Exception Areas .....	17
Review of Land Use Decisions .....	20
Effects of Houseboat Moorages on Water-Related and Water-Dependent Uses .....	27
I.C – Decision to Delay or Not Carry Out Plan Policies .....	30
I.D – Availability of New Inventory Information .....	31
I.E – Other Issues Involving a Substantial Change in Circumstances .....	37
National Flood Insurance Program .....	37
New and Revised ORS's .....	37
METRO Solid Waste Plan .....	51
Factor II. – New or Amended Goals or Rules Adopted Since Date of Acknowledgment .....	53
Goal 2 – Land Use Planning .....	53
Goal 2 – OAR 660, Division 4 .....	53
Goal 3 – Agricultural Lands OAR 660, Division 5 .....	54
Goal 4 – Forest Lands OAR 660 Division 6 .....	56

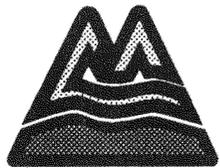
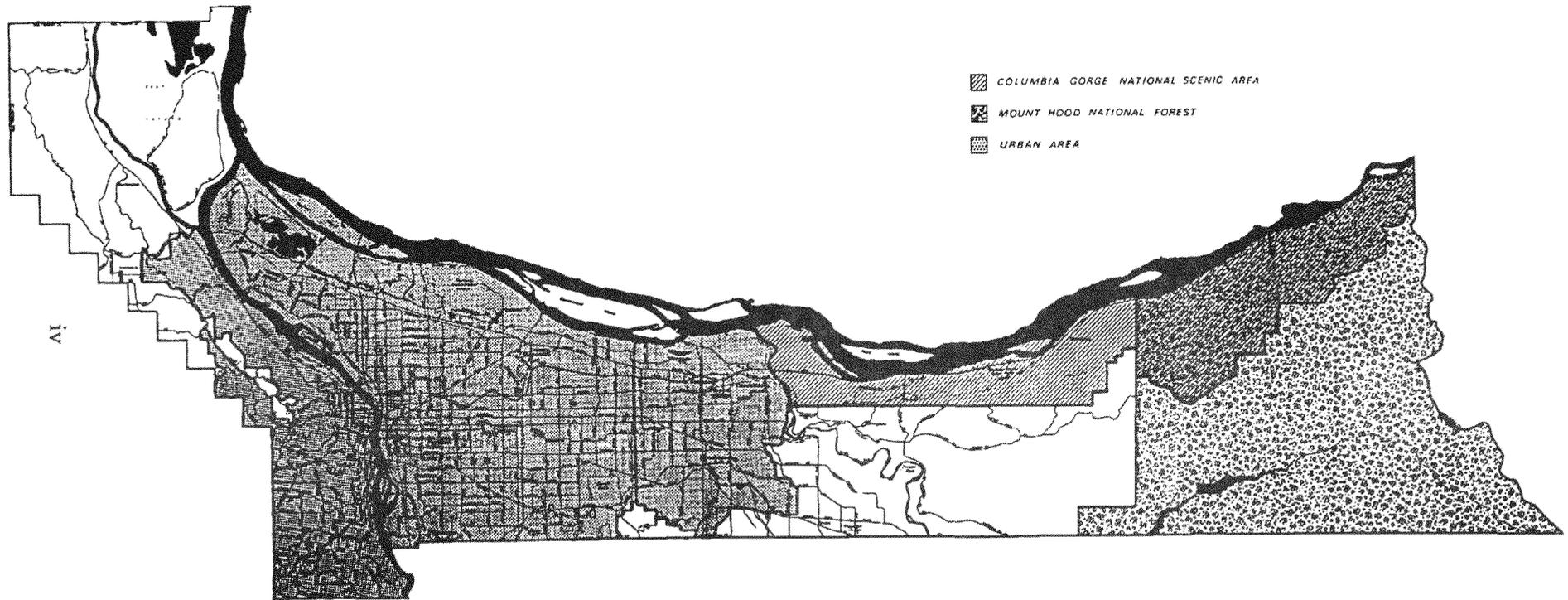
*(Table of Contents Continued)*

Goal 5 – Open Spaces/Natural Resources OAR 660 Division 16 .....	57
Open Space .....	57
Mineral and Aggregate Resources .....	59
Energy Sources .....	61
Fish and Wildlife Habitat .....	62
Natural Areas .....	63
Scenic Views and Sites .....	65
Water Areas and Wetlands .....	66
Wilderness Areas .....	70
Historic Resources .....	70
Cultural Areas .....	72
Recreation Trails .....	74
Wild and Scenic Waterways .....	74
Factor III. – State Agency Plans and Programs .....	76
Department of Environmental Quality .....	76
Department of Forestry .....	78
Department of Transportation .....	78
Water Resources Department .....	79
Factor IV. – Additional Planning Tasks Required at the Time of Acknowledgment or Agreed to in Receipt of State Grant Funds .....	80
Non-Mandatory Programs .....	81
Department of Energy .....	81
Department Environmental Quality .....	81
Department of Forestry .....	81
Water Resources Department .....	83
Department of Land Conservation and Development .....	83
Department of Geology and Mineral Industries .....	84
Proposed Amendments to Multnomah County Code .....	87
Chapter 11.05 .....	88
Chapter 11.45 .....	89
Chapter 11.15 .....	90
Definitions .....	91
EFU .....	92
CFU .....	103
F-2 .....	106
MUA-20 .....	108
MUF .....	110
RR .....	115
RC .....	117

*(Table of Contents Continued)*

UF .....	119
LDRGP .....	120
MHRGP .....	121
R-40 .....	123
R-30 .....	124
R-20 .....	125
R-10 .....	127
R-7 .....	128
R-4 .....	130
A-2 .....	132
PD .....	134
WRG .....	135
SEC .....	140
Hillside Development and Erosion Control .....	144
CS .....	152
CU .....	156
RPD .....	163
Action Proceedings .....	163
Non-Conforming Uses .....	167
SEC Sectional Zoning Map Amendments .....	169
Amendments of Comprehensive Framework Plan Volume II. – Policies .....	170
Policy 1 .....	170
Policy 10 .....	171
Policy 12 .....	173
Policy 15 .....	176
Policy 16 .....	180
Policy 18 .....	190
Policy 39 .....	193
Policy 40 .....	196
Amendments of Comprehensive Framework Plan Volume I. – Findings .....	(under separate cover)

# AREAS EXEMPT FROM 1989 PERIODIC REVIEW



**MULTNOMAH COUNTY**



## LOCAL REVIEW ORDER

### Introduction

ORS 197.640 requires cities and counties to review their comprehensive plans and land use regulations periodically and make changes necessary to keep plans and regulations up-to-date, in compliance with the statewide planning goals, and coordinated with the plans and programs of state agencies. Local governments must adopt findings in the form of a local review order responding to four periodic review factors and enact necessary measures to bring their plan and regulations into compliance with the periodic review factors. This local review order provides findings and recommends amendments to Multnomah County's plan and implementing ordinances in order to satisfy the periodic review requirements of ORS 197.640 and OAR 660, Division 19, "Periodic Review."

### Background Information

- A. Multnomah County's comprehensive plan and implementing ordinances were acknowledged to be in compliance with the Statewide Planning Goals on October 30, 1980.
- B. The comprehensive plan, zoning map, and zoning code were updated in September, 1983 by Ordinances 394 and 395.
- C. Urban Periodic Review Delay:

On August 28, 1987 Multnomah County received two periodic review notices, one for lands outside the Urban Growth Boundary and one for lands inside. Prior to this date the County met with DLCDD staff and the City of Portland to work out the details of how periodic review should be applied to the lands inside the Urban Growth Boundary in the face of the County's Resolution 'A' which calls for the County to reduce urban services, including planning, in order to encourage the urban lands to be annexed to the urban services providers, which are the cities. As a result of this meeting a letter was sent to the County and to Portland on November 4, 1987. An additional letter was received on January 27, 1988 from DLCDD Director Jim Ross which reiterated our agreement to delay

some aspects of periodic review for both Portland and Gresham. It is our conclusion from these directives that Multnomah County will delay its periodic review for the urban areas which are delineated in urban service area agreements. This is with the exception of statutory changes which are required for the County to implement. In addition, some selected aspects of periodic review were felt by the County to need more immediate attention (such as a hillside development and erosion control ordinance). The following materials apply to our periodic review agreements:

1. November 4, 1986 letter from D.L.C.D.
2. City of Gresham

Multnomah County adopted an Inter-Governmental Agreement with Gresham on July 14, 1986 which transferred all planning service to Gresham based upon a declining payment formula. Gresham's annexation program has successfully annexed 84% of the population within their service area and 95% of the land area. Only developed, single family zoned areas remain to be annexed. The County and Gresham also adopted an amendment on August 1, 1988 to this agreement to reflect a firm urban service boundary in mid-east Multnomah County between Portland and Gresham. The Gresham Urban Planning Area Agreement was amended to reflect this boundary on May 31, 1988. The small area remaining probably needs no further planning study than that done by Gresham in its Periodic Review, which will be applied at the time of annexation.

3. City of Portland

Multnomah County and Portland amended their urban planning agreement on February 5, 1987 to reflect a new urban services boundary and commit Portland to prepare any needed Public Facilities Plan for their service area. The Portland annexation program is about 50% complete at this time with 12,000 acres out of 24,000 annexed and 57,000 population out of 107,000 now in the city. Attached to this Order is a copy of the Bureau of Planning's December 1986 report outlining the adopted amendments referred to above. In addition, on September 6, 1988 an amendment was adopted by the County which changed the zoning conversion chart found in the Urban Planning Area Agreement. Portland's Periodic Review Order addresses the effect of this amendment on their newly annexed areas.

4. Cities of Troutdale, Fairview, and Wood Village

On September 6, 1988 the County adopted new urban planning area service boundaries with the cities of Troutdale, Fairview, and Wood Village. In addition, the Fairview amendment specified that Fairview would prepare any needed amendments to the Comprehensive Plan as a result of periodic review. A draft amendment has been prepared to include similar language for our agreement with Wood Village which will be adopted. Troutdale has informally accepted this same responsibility and cites in their ordinance that

they will be the urban service provider for their urban service area.

As a result of these agreements and amendments and letters from DLCD, Multnomah County has taken the position that many aspects of periodic review as they apply to the unincorporated urban areas do not apply to this periodic review. Ample opportunity is needed to allow annexation programs to proceed, and in fact, some 70,000 people have been annexed into cities since 1983. A great many more people and acres are expected to be annexed by the next periodic review. At the time of the next County periodic review, the unannexed areas will be dealt with for periodic review factors either by the cities under contract or agreement with the County or, in the absence of a framework for timely annexation, by the County.

The County will continue to apply its current Comprehensive Plan and development code to the urban areas (and under contract with Gresham for the small area still unincorporated). In this way the County still implements Goals 1 and 2, including any exceptions process. In addition, it will apply a new hillside development and erosion control ordinance under Goal 7 and has already adopted a new floodplain ordinance. The County also complies with Goal 6 for any new developments, and Goal 13 with its existing standards and new solar access ordinance. Also, the County is still a service provider under Goal 12, Transportation, with its Transportation Division. There is a Master Road Inter-Governmental Agreement that details how roads and funds will be transferred to the City of Portland after annexation. However, the County Transportation Division is still a service provider in the unincorporated area and in the east county cities. Currently no changes are being proposed in the Plan section on transportation, except a reference to the Mt. Hood Parkway. It is this corridor selection process which is necessary before the County Master Transportation Plan can be completed, since arterial and collector streets are integrally tied to the possible changes if an expressway is planned. In addition, the County will apply Goal 14 to any urban expansion proposals. Goal 15 is applied to a small urban section of the Greenway and some changes are proposed to the Greenway Ordinance which will apply to this area (see attached development code proposed amendments).

The County updated its Comprehensive Plan in 1983 through the Post-Acknowledgement process. Included in that update was a change to Policy 4 on inter-governmental coordination which reflects the County's Resolution 'A' on urban services and its need to retain legal planning requirements in the urban areas.

## **Periodic Review Findings and Conclusions**

- A. In anticipation of receiving the periodic review notice from DLCD, a Planning Commission training session on periodic review was held on August 10, 1987.
- B. On August 26, 1987 a meeting of the County Committee for Citizen Involvement in Land Use was held to gather suggestions on methods of improving citizen involvement in the periodic review process.

- C. The Periodic Review Notice dated August 28, 1987 was received by the County in early September.
- D. A January 11, 1988 Planning Commission meeting included a briefing and discussion of progress made on completing the review requirements.
- E. A Community Planning Workshop on periodic review was held at West Orient School the night of December 13, 1988.
- F. A Community Planning Workshop on periodic review was held at Corbett Middle School the night of December 14, 1988.
- G. A Community Planning Workshop on periodic review was held at Sauvie Island School the night of December 15, 1988.
- H. The Planning Commission adopted the Proposed Local Review Order at a public hearing held on January 23, 1989.
- I. The Board of County Commissioners held a public hearing on February 14, 1989 and passed a resolution adopting the Proposed Local Review Order as the County's official response to the DLCD notice.
- J. The Planning Director received an DLCD Review of the Proposed Local Review Order dated June 9, 1989.
- K. The Planning Director and Staff met with the DLCD Director and Staff on June 23, 1989 regarding specific issues contained in the DLCD Review of the Proposed Local Review Order.
- L. The Planning Director received a letter clarifying certain points contained in the DLCD Review of the Proposed Local Review Order on June 27, 1989.
- M. A public hearing on the adoption of the Final Local Review Order and proposed plan, implementing ordinances, and zoning map amendments was held on June 27, 1989 by the Board of County Commissioners and was continued until October 17, 1989.
- N. A Planning Commission Workshop on Period Review issues was held on September 25, 1989.
- O. The Board of County Commissioners reviewed proposed changes in response to the DLCD Review of the Proposed Local Review Order and clarifying letter on October 17, 1989 and continued consideration until December 5, 1989.
- P. Two Planning Commission hearings were held on October 23 and November 13, 1989 to consider the Final Periodic Review Order and recommended adoption of the Order by the Board of County Commissioners on November 13, 1989.
- Q. The Board of County Commissioners considered the Planning Commission reso-

lutions at a public hearing on December 5, 1989 and December 19, 1989.

- R. There are four factors, under OAR 660, Division 19, which must be addressed in the local periodic review of the Comprehensive Plan and implementing ordinances. These apply to Multnomah County as described in the remainder of this document.

## PERIODIC REVIEW FACTORS

### I. FACTOR ONE: SUBSTANTIAL CHANGE IN CIRCUMSTANCES

#### I.A. Major Unanticipated Developments or Events

Applicable Rule: OAR 660-19-055(3)(a)

*Major developments or events which have occurred that the acknowledged plan did not assume or anticipate or major developments or events which have not occurred that the acknowledged plan did assume or anticipate. Local periodic review findings must describe any occurrences such as the construction of or decision not to build a large project like a major reservoir, a regional shopping center, a major energy or transportation facility; a significant change in the local government's natural resources or economic base; significant unexpected population growth; significant consecutive decline in population growth rate; failure or inability to provide public facilities and services in accordance with the plan, etc.*

#### I.A.1 Findings:

Under "Subfactor One-A" of the Periodic Review Notice, DLCD found that the County should consider two circumstances which may have changed such that the County's plan or land use regulations might not now comply with the state goals. First is the need to review the plan and code for consistency with several LUBA and Court decisions regarding land uses in the farm and forest zones. Second was an assessment of the plan in relation to the Columbia River Gorge National Scenic Area Act and related Oregon legislation.

#### I.A.1(a) LUBA and Court decisions affecting land uses on farm and forest resource lands:

##### I.A.1(a)(i) Goal 3 (Agricultural Lands):

On January 27, 1988, James Ross, Director of DLCD, indicated in a letter to us that Multnomah County should evaluate its plan in light of:

*Kerwin Doughton v. Douglas County* LUBA 86-015;

*Goracke v. Benton County* 74 Or App (1985); and

*Matteo v. Polk County* 11, Or LUBA (1984).

His letter notes that the *Goracke* and *Matteo* decisions are incorporated in LCDC Goal 3 administrative rule (OAR 660, Division 5). Therefore, our evaluation is here limited to the *Doughton* decision and OAR

660, Division 5.

Multnomah County's EFU Zoning District allows single family residences as outright permitted uses on lots of 76 acres on Sauvie Island and 38 acres elsewhere in the County without notice as required by *Doughton*. However, since the January 21, 1988 letter from James Ross to Bruce Bartow regarding the *Doughton* case, Multnomah County has treated such residences as *Uses Under Prescribed Conditions* and mailed notice to all properties within 500 feet of the subject property as required by MCC 11.15.2010(C)(5). We propose to comply with both the *Doughton* decision and the Ross directive by amending the Primary Use section of the EFU Zoning District by removing *residential use in conjunction with farm use* [11.15.2008(C)] and placing those uses in the *Use Under Prescribed Conditions* section [proposed 11.15.2010(A)] which requires the notification provision mentioned above.

Section II.A.6 describes our compliance with *Goracke* and *Matteo* in the discussion on OAR 660, Division 5.

**IA.1(a)ii Goal 4 (Forest Lands):**

The LUBA and Court decisions that would have the most bearing on the County's plan and code provisions for forest lands are the *Lamb v. Lane County*, 7 Or LUBA 137 (1983) and the Supreme Court case *1000 Friends of Oregon v. LCDC (Lane Co.)* (1988). In response to the Courts direction in the Lane County cases Multnomah County originally proposed four changes to the forest resource areas Plan and zoning regulations. The changes were all part of a strategy to ensure that approval of resource-related dwellings would be more closely tied to the need to carry out resource uses on the property. Upon review by DLCD, however, it was determined that two of the proposed changes should be delayed until adoption of amendments to State Planning Goal No. 4 and related OAR's. The two changes proposed at this time as follows:

- (1) Due to some of the questions raised by the Courts as to the amount of labor necessary for timber production, it is proposed that the provision allowing for an additional single family dwelling for the "housing of help required to carry out a primary use" be deleted as a "Use Under Prescribed Conditions" in both the CFU and MUF zoning districts (MCC 11.15.2050(B) and .2170(B)).
- (2) It is also proposed to delete all references to "Rural Planned Developments" from the MUF plan and zone sections (pages 51 and 52 of the Policies volume of the Framework Plan and section MCC 11.15.2172(C)(3)(a) of the code). (See also section I.B.1(e)(iii) of this order for more information on the RPD proposed deletion).

## **I.A.1(b) Columbia River Gorge National Scenic Area Act**

The Columbia Gorge National Scenic Area was established in 1986 under P.L.99-663. The two purposes of this Act are:

- (1) To establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge; and
- (2) To protect and support the economy of the Columbia River Gorge area by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner that is consistent with paragraph (1).

The County recognizes that the Columbia Gorge National Scenic Area Act PL 99-663 (the Act) applies within the NSA Boundary of Multnomah County. The County will coordinate with the Columbia River Gorge Commission and U.S. Forest Service in preparing the management plan and will fulfill its role under the federal and state legislation.

Lands within the NSA are divided into Urban, Special Management (which are the more critical lands), and General Management areas (which include the rural communities of Corbett, Bridal Veil, Dodson and Warrendale). The Scenic Area extends up the east bank of the Sandy River to Dabney State Park. The Act requires the creation of a Management Plan which will establish land use designations and uses within the Special and General Management areas. The Scenic Area Management Plan is scheduled for adoption in July, 1990. The County will then adopt land use ordinances to implement the plan; those should be enacted by Spring of 1991 under the Act. The County then assumes implementation of the Scenic Area Plan with respect to land development activities. State legislation has also been proposed which mandates State agency consistency with the Act and the Plan when adopted. It also calls for an evaluation of the Scenic Area Plan by the Department of Land Conservation and Development for submission to the 1991 Legislative Session. At that time, the State land use system may be modified to fit the unique circumstances of a Federal and Bi-state approved land use plan. The County will participate throughout the NSA planning process and will coordinate all land use activities during the period prior to adoption of the land use ordinances.

The County has chosen under ORS 197.640 to exclude the Columbia Gorge N.S.A. in Multnomah County from its periodic review. However, the County recognizes the NSA in its Comprehensive Plan Policy No. 16 which, in part, proposes to adjust the Significant Environmental Concern District boundary to coincide with the NSA boundary (see attachment on Comprehensive Plan Policy changes).

**I.A.2 Conclusion:**

The County finds that its Plan is not in conformance with some aspects of the cited Court decisions. Amendments are proposed which we believe will bring us into conformance.

## **I.B. Cumulative Effects of Plan Amendments and Implementation Actions**

Cumulative effects resulting from plan and land use regulation amendments and implementation actions on the acknowledged plan's factual base, map designations, and policies which relate to statewide goal requirements.

Applicable Rule: OAR 660-19-055(3)(b):

*For local governments responsible for plans outside urban growth boundaries, periodic review findings must: describe the cumulative effects of plan and land use regulation amendments, including goal exceptions, and implementation actions resulting in the conversion of agricultural and forest lands to non-resource use; on protection of Goal 5 and Willamette Greenway resources; on the protection of coastal resources including dredge material disposal and estuarine mitigation sites; on significant increases in densities in rural residential exception areas; and on other specific statewide planning goal matters that the Director includes on the local government's periodic review notice.*

### **I.B.1 Findings:**

Following is a discussion of the four topics described above and one additional subject that was added in the review notice by DLCD staff.

#### **I.B.1(a) Cumulative Effects of Plan and Land Use Regulation Amendments and Goal Exceptions:**

**I.B.1(a)(i)** Since acknowledgement on October 30, 1980 there have been six plan map amendments in the rural areas of the County. Three of the amendments were initiated by the property owners and three were proposed by the planning staff. The largest of the owner petitioned cases (PR 5-82) was the change in the designation of West Hayden Island from "Natural Resource, Multiple Use Forest" to "Urban". The 760 acres are now within the Urban Growth Boundary. In PR 6-83, 58 acres were changed from Natural Resources, Agriculture to Natural Resource, Multiple Use Forest and in PR 6-86 a Goal 3 exception was taken. Two of the staff proposed changes were in response to changes in the Urban Growth Boundary and de-annexations from the City of Portland that added 153 acres to the County's jurisdiction. Forty of the acres were subsequently designated Natural Resource, Multiple Use Forest and the remaining 113 acres were added to the Exclusive Farm Use inventory (PR 5-81 and PC 7-84).

The biggest change to the acknowledged plan map was made during a 1983 Comprehensive Plan Map and Text update (case no. PC 23-81). This legislative action was a refinement of the 1980 Plan which re-examined the built-up rural areas and applied the Goal 2 exceptions rule where it was appropriate; based upon the fact that such areas were built

upon and/or irrevocably committed to non-farm use.

The PC 23-81 exceptions to Goal 3 resulted in a decrease of 3.1 percent of Exclusive Farm Use zoned acres, an increase of 5.3 percent of the Multiple Use Agriculture-20 zone acres, and a .4 percent increase in Rural Center zoned acreage. The exceptions to Goal 4 decreased the Multiple Use Forest zoned acres by 8.9 percent while increasing Rural Residential acreages by 211 percent. Rural Center acres also increased by 2.7 percent. In total, PC 23-81 shifted about 4,100 acres in 42 different locations from resource zones to exception land zones. Two figures, No. 1 and No. 2 show the divergent pattern of the plan amendments. As was pointed out in the PC 23-81 exceptions statement and which has been confirmed by the later permit activity, those areas were already for the most part built upon and the change in zone did not result in any significant increase in housing permits or allow any significant new concentration in dwellings [see I.B.1(d)].

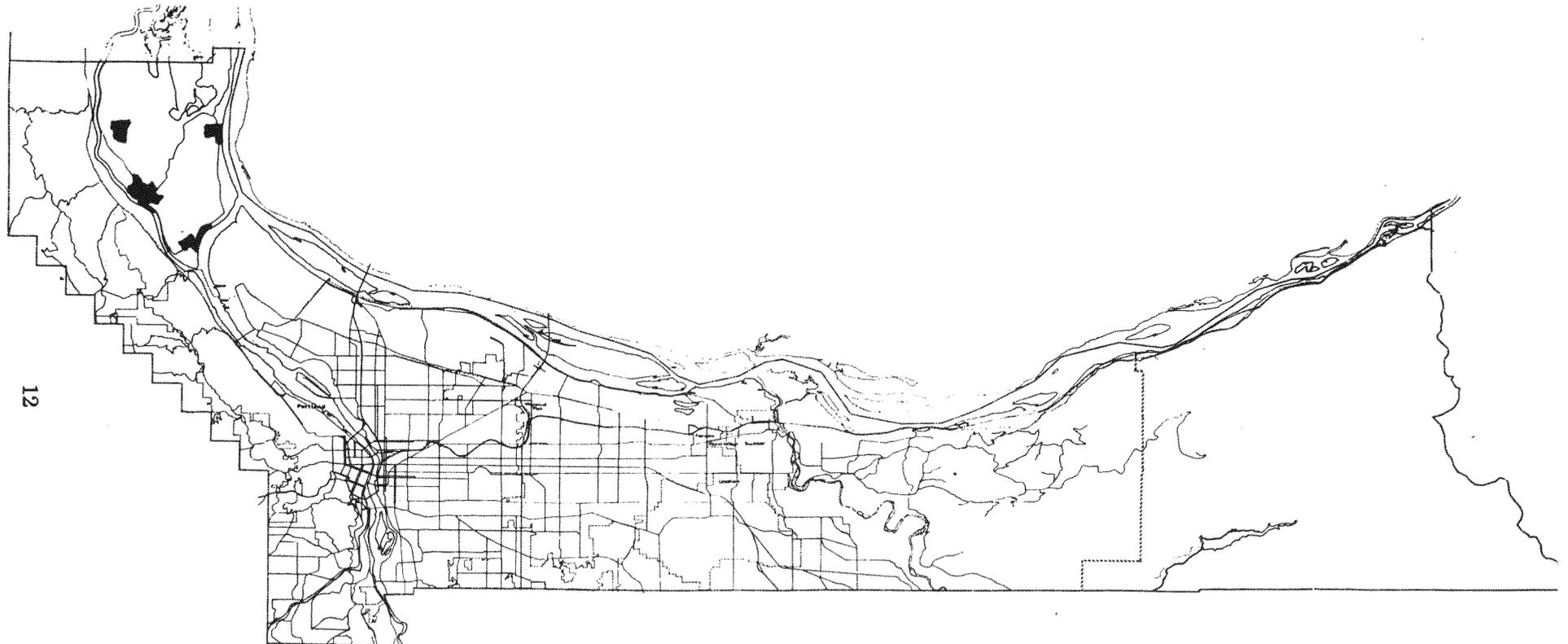
Except for the 1983 Plan Update changes, the only plan amendment which did not result in just a different resource plan designation or receive an urban designation as a result of an urban growth boundary expansion was a single six acre Goal 3 exception request that allowed one new house.

**I.B.1(a)(ii)** Rural land use regulation amendments since 1980 have been very few in number. Only five minor changes were enacted:

1. Ordinance 281, 9/8/81: Increased area requirement and restricted number of potential "Lots of Exception",
2. Ordinance 395, 9/13/83: Eliminated some Community Service uses in the Commercial Forest Use zone and added a mortgage lot provision to the Commercial Forest Use and Multiple Use Forest zones,
3. Ordinance 402, 11/8/83: Added houseboats as a Conditional Use in the Multiple Use Agriculture-20 and Multiple Use Forest zones. The use had been omitted in an oversight in the adoption of new zoning districts in 1980,
4. Ordinance 452, 1/15/85: Added some light manufacturing uses as a Conditional Use in the Rural Center zone, and
5. Ordinance 509, 4/15/86: Added a few new land uses to the Exclusive Farm Use zone as allowed by State Statute changes.

Most of the above amendments were made to either further restrict non-resource uses in resource zones or to correct oversights. The addition of some light manufacturing uses as a Conditional Use in the Rural Center zone has resulted in only one such new business.

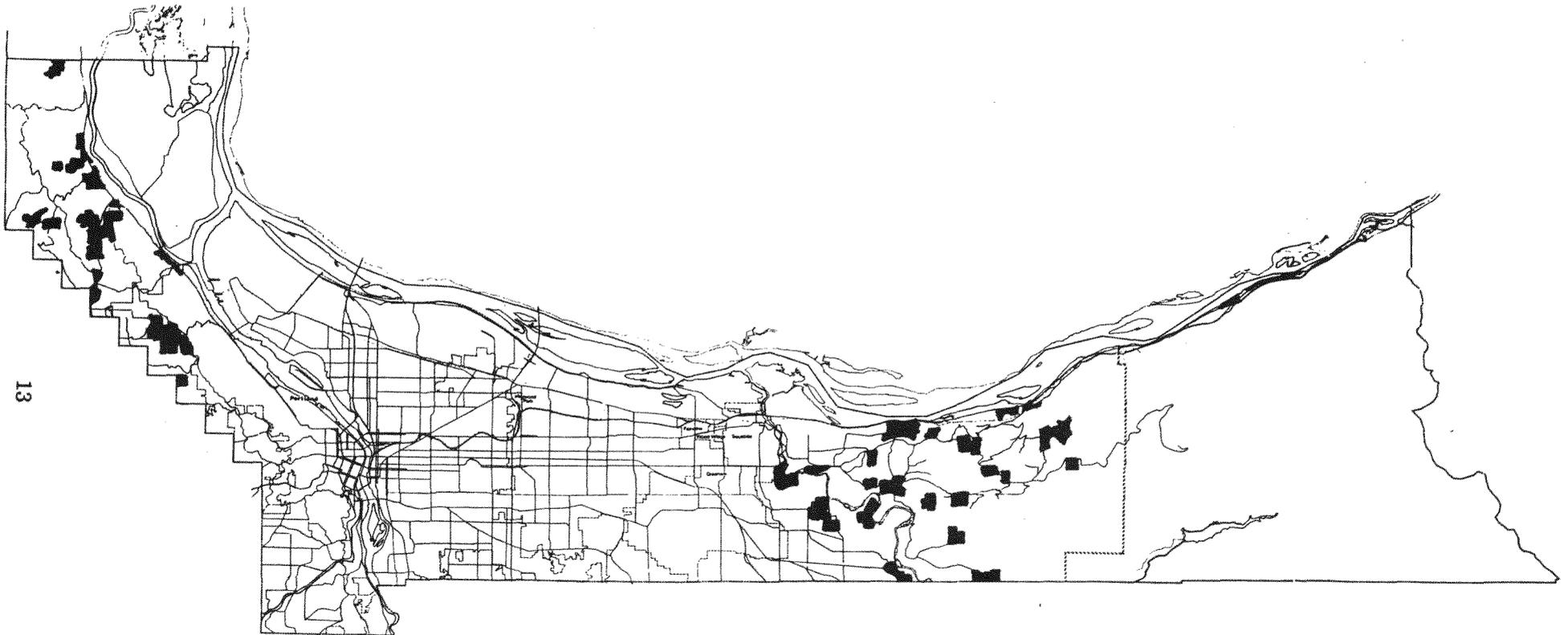
# 1983 GOAL 3 EXCEPTION AREAS



**MULTNOMAH COUNTY**

Figure 1.

# 1983 GOAL 4 EXCEPTION AREAS



**MULTNOMAH COUNTY**

Figure 2.

### **I.B.1(b) Implementation Actions Resulting in the Conversions of Agricultural and Forest Lands to Non-Resource Use:**

During the approximately seven and one-half years between October 30, 1980 and May 31, 1988 there were 58 non-farm dwelling permits issued in the Exclusive Farm Use, Commercial Forest Use, and Multiple Use Forest resource zoning districts. All of the applications were reviewed as Conditional Uses at public hearings. All of the approvals were for homes to be sited on lots of record of less than ten acres that existed prior to acknowledgement. The 58 permits amounted to 40 percent of the total new housing permits issued in the resource zones. Figure No. 3. shows the number of non-resource dwelling permits by section. As illustrated, no more than three dwelling permits were issued in any one square mile area. With the number of Lots of Record diminishing within the resource zones, we would expect even fewer permits to be issued in succeeding years.

The non-resource dwelling permits issued were for small acreages in separate ownerships that were not and most likely would not ever be in valuable and productive resource use. No new or unexpected land use patterns have resulted from the approvals.

County Counsel, however, has identified a possible problem with the interpretation of the Lot of Record subsections in the EFU, CFU and MUF districts. Therefore, changes are proposed to those subsections to insure consistency with past policy.

### **I.B.1(c) Protection of Willamette River Greenway and Goal 5 Resources:**

Since acknowledgement the County has approved 13 Willamette River Greenway applications, one of which has expired. The remaining dozen are shown on Figure 4. Following is a short description of the different land uses or structures:

Section 26, T1S, R1E: Two single family residences,

Section 35, T1S, R1E: One single family residence, one addition to a single family residence,

Section 14, T2N, R1W: One single family residence,

Section 26, T2N, R1W: One office expansion,

Section 27, T2N, R1W: One temporary mobile home; An inert foundry sand disposal area,

Section 28, T2N, R1W: One storage building in an existing wrecking yard,

# NON-RESOURCE DWELLING PERMITS IN RESOURCE ZONES 11/80 to 7/88

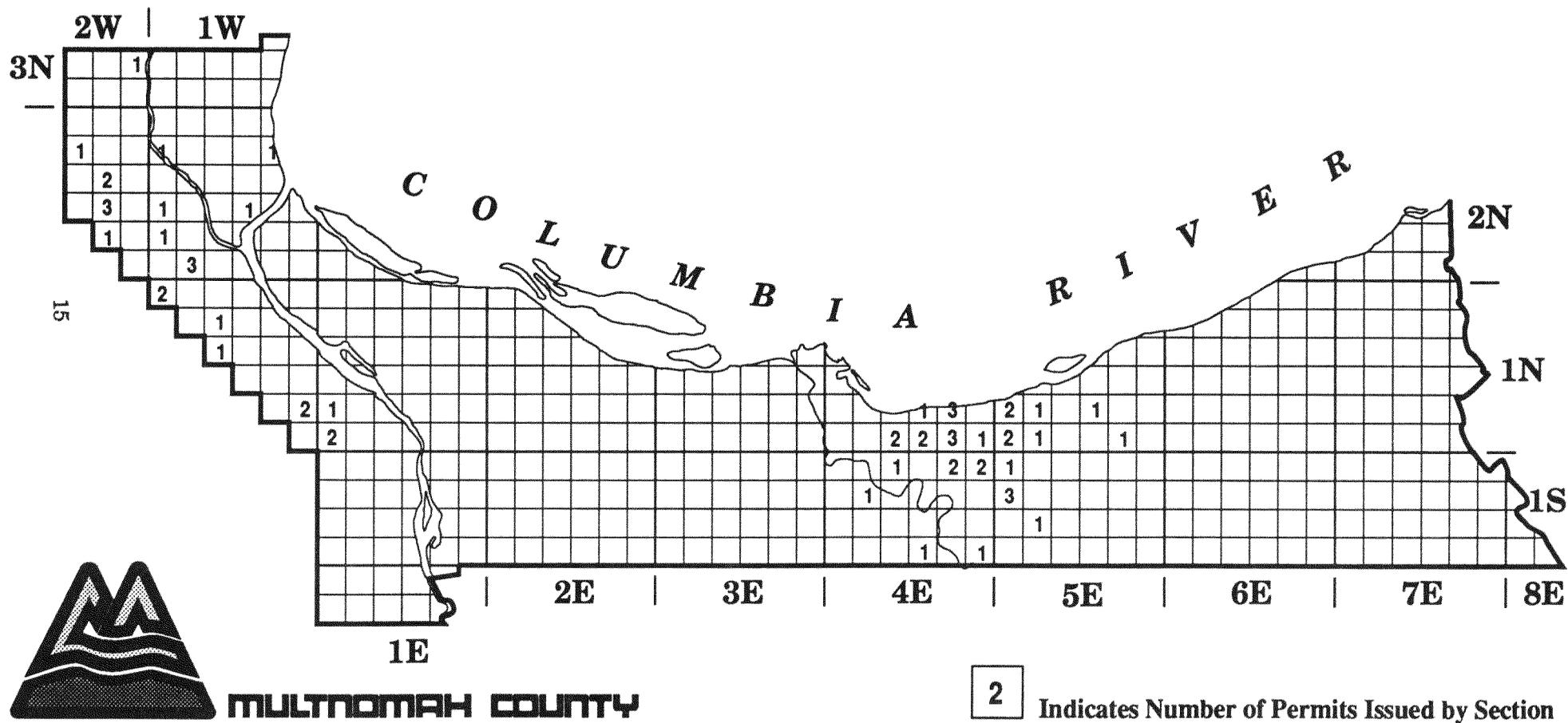


Figure 3.

# WILLAMETTE RIVER GREENWAY PERMITS

11/80 to 7/88

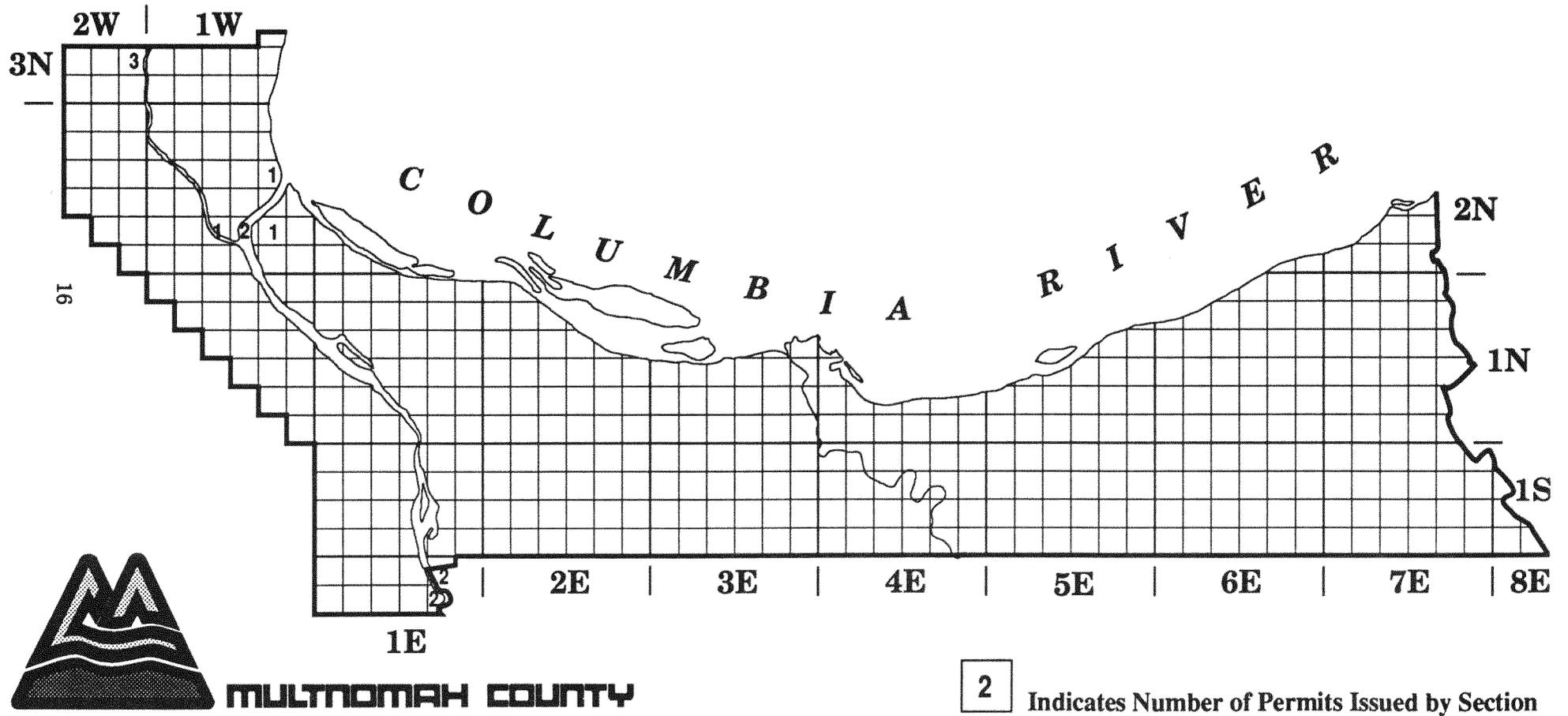


Figure 4.

Section 25, T3N, R2W: One houseboat moorage of 19 houseboats and 38 boathouses, one houseboat moorage of 16 houseboats and 35 boathouses, and one temporary mobile home.

The only major developments approved have been the two houseboat and boathouse moorages in Multnomah Channel, neither of which have been constructed. The areas designated for houseboats in the channel have not changed from the acknowledged plan. As discussed in more detail in section I.B.1(f) to follow, County Planning staff is continuing to monitor the effects houseboats have on the Multnomah Channel in regard to Willamette Greenway and Goal 5 policies.

There have been seven new homes approved within big game winter habitat areas. Six of the seven were resource related dwellings and all were built upon Lots of Record. For each of the approvals, one of the two following steps occurred before a permit was issued:

- The Oregon Department of Fish and Wildlife was mailed notice of the proposal and given opportunity for comment, or
- A letter was required from the Oregon Department of Fish and Wildlife certifying that the impacts of the proposed development were acceptable with regard to the habitat area.

No contact or letter expressing negative impact concerns was ever received by the County. Five of the dwellings were located in Sec. 27, T. 1N., R. 5E.; and one in each of Sections 33, T. 1N., R. 5E. and 7, T. 1S., R. 5E..

Another Goal 5 Resource listed in the 1983 Updated Comprehensive Plan Findings is the Sandy River Canyon. The river is part of the State Scenic Waterways Program and the boundary of the State designation is shown on the County Zoning and Plan maps. All permits and proposals for development are therefore required to be reviewed by the State Parks and Recreation Division before any approval is given.

No development permits have been approved for the Significant Environmental Concern designated Government/McGuire/Lemon/and Sand Islands in the Columbia River.

No alteration or demolition permits have been issued for any historical site or structure presently recognized as significant by Ordinance No. 239. For further information on the County's process of adding to that list see section II.A.8(i).

**I.B.1(d) Increases in Densities in Rural Residential Exception Areas:**

Prior to 1955 Multnomah County had no zoning or subdivision ordinances

regulating the subdividing of land in rural areas. Even after such ordinances were put in place, until 1975 the largest minimum lot size requirement was two acres. Consequently, the County contains many scattered partially filled rural subdivisions. The infilling taking place in those pre-existing subdivisions is the only location of any concentration of new housing in the exception areas.

The three exception area zoning districts are the Multiple Use Agriculture-20 (20 acre minimum lot area), Rural Residential (5 acre minimum), and Rural Center (1 acre minimum). All three zone district texts recognize the ability to construct a dwelling on nearly all lots of record. As evidence of how tightly the boundaries of the three districts are drawn around the existing Lots of Record, only ten of the 142 housing permits issued between November, 1980 and June, 1988 were on new lots created under the present zoning lot area requirements. Those new dwelling permits included 8 in the Rural Center zone, 59 in the rural Residential zone, and 75 in the Multiple Use Agriculture zone. As shown by Figure 5., the only locations in which more than six homes per square mile were added in the exception areas were the Bonny Slope Subdivision, west of the City of Portland and the Proctor Subdivision, east of the City of Gresham.

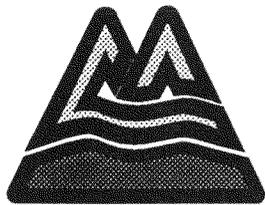
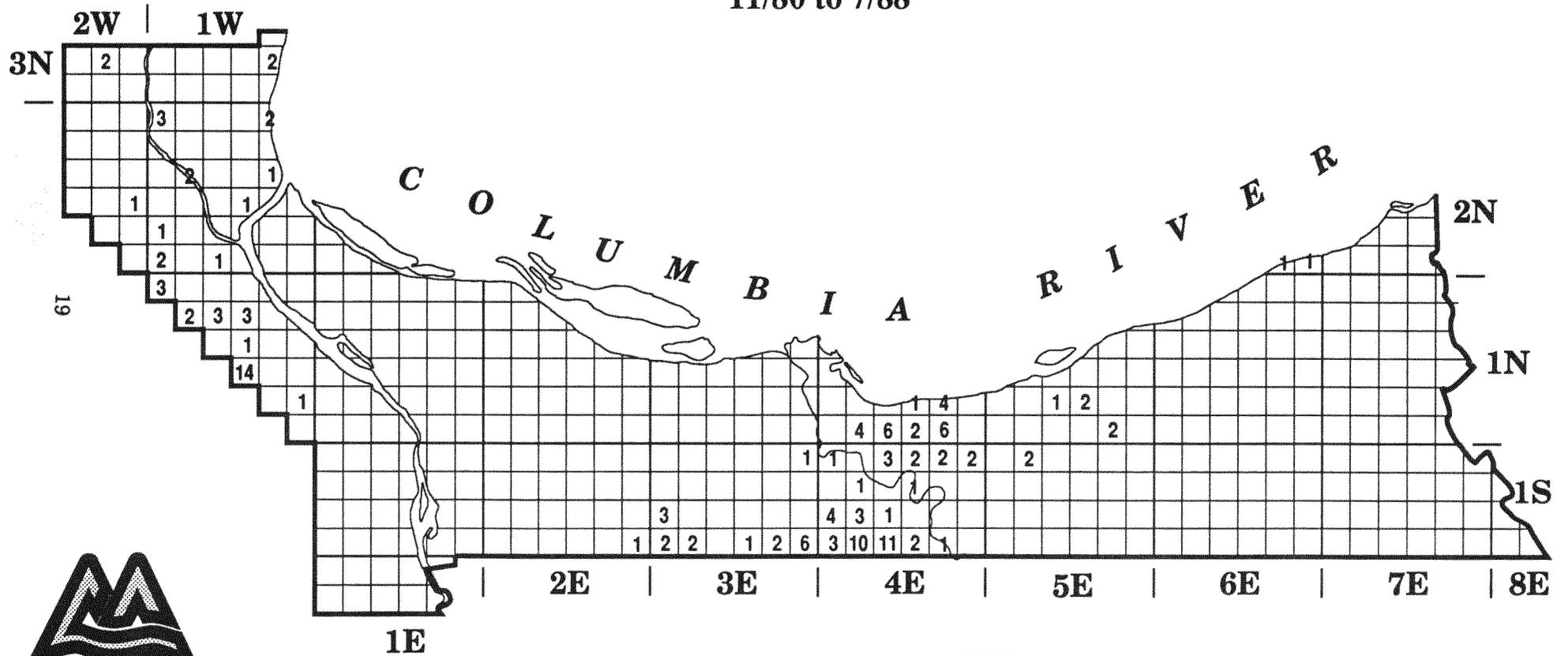
The Bonny Slope Subdivision, platted in 1923, is located in Section 22, Township 1 North, Range 1 West adjacent to the Portland city limits. The subdivision covers almost one-half square mile and presently contains 85 houses. During the past 7 and one-half years 14 new homes have been added, all on lots of record. Under the Rural Residential 5 acre zoning there is a maximum of 30 more dwellings that could be built on the remaining vacant Lots of Record. If all the lots were built upon, the average acreage per home would decrease from the present 3.8 acres to 2.8 acres. The subdivision is served by public roads and is within fire and water service districts.

The only other concentration of new homes in exception areas is located one and one-half miles east of Gresham in Sections 20 and 21, Township 1 South, Range 4 East. Five of the ten dwelling permits issued in Section 20 and eight of the 11 issued in Section 21 were on Lots of Record in the Proctor Subdivision. Proctor was platted in 1912 and contains 86 homes. The MUA-20 zoning placed on the area does not allow the creation of any new lots in this subdivision.

Proctor contains approximately 80 vacant Lots of Record. Many of those vacant lots, however, are too small to qualify for building permit approval because they are not large enough to accommodate the required on-site septic systems. As a result, it is difficult to estimate the exact number of potential dwellings. It can be stated though that the 13 new homes built since November, 1980 have not placed any demand on area services that was not expected.

# TOTAL DWELLING PERMITS IN EXCEPTION ZONES

11/80 to 7/88



MULTNOMAH COUNTY

**2** Indicates Number of Permits Issued by Section

Figure 5.

**I.B.1(d)(i)** As shown on the aforementioned map and based upon the very low rate of creation of new parcels in the exception areas, the following conclusions are made:

- The scattering of the 142 new dwellings into 52 different square mile sections has not resulted in significant increases in densities.
- Nearly all new dwellings are being placed on pre-existing lots of record.
- There has been no demand for services beyond those anticipated in the Comprehensive Plan.
- Because almost all of the new dwellings in the Multnomah County "rural residential exception areas" are on existing lots of record, the pattern of development and effect on future expansion of the urban growth boundary is essentially unchanged from that which existed prior to acknowledgement.

**I.B.1(e) Review of Land Use Decisions to determine Adequacy of County Code in Achieving the Intent of the Plan.**

**I.B.1(e)(i) Dwelling Permit Activity:**

From acknowledgement in November, 1980 to mid-1988 there were a total of 288 new dwelling permits issued in the rural areas. Figure 6. shows the number of permits issued within each square mile section. The 288 new homes are an increase of 7.7 percent over the 3,755 dwellings that existed at acknowledgement. The increase therefore is one percent per year. Figure 7. displays both the total new homes shown on Figure 6. with the total number existing in 1980. Additional maps showing dwelling permit activity in the resource zones follows as Figures 8. and 9.

Issuance of rural dwelling permits is evenly divided between the exception and resource zoned areas. A breakdown of permits within each zoning district is as follows:

<u>Exception Zone Permits</u>		<u>Resource Zone Permits</u>	
Rural Center:	8	Multiple Use Forest:	102
Rural Residential:	59	Commercial Forest:	7
Multiple Use Agriculture	<u>75</u>	Exclusive Farm Use:	<u>37</u>
Total	142	Total	146

See the preceding section I.B.1(d) for more information on Exception Zone densities. In section I.B.1(b) is a discussion of the non-farm permits issued in the resource zones. Subtracting those 58 non-farm

# TOTAL DWELLING PERMITS IN RESOURCE AND EXCEPTION ZONES

11/80 to 7/88

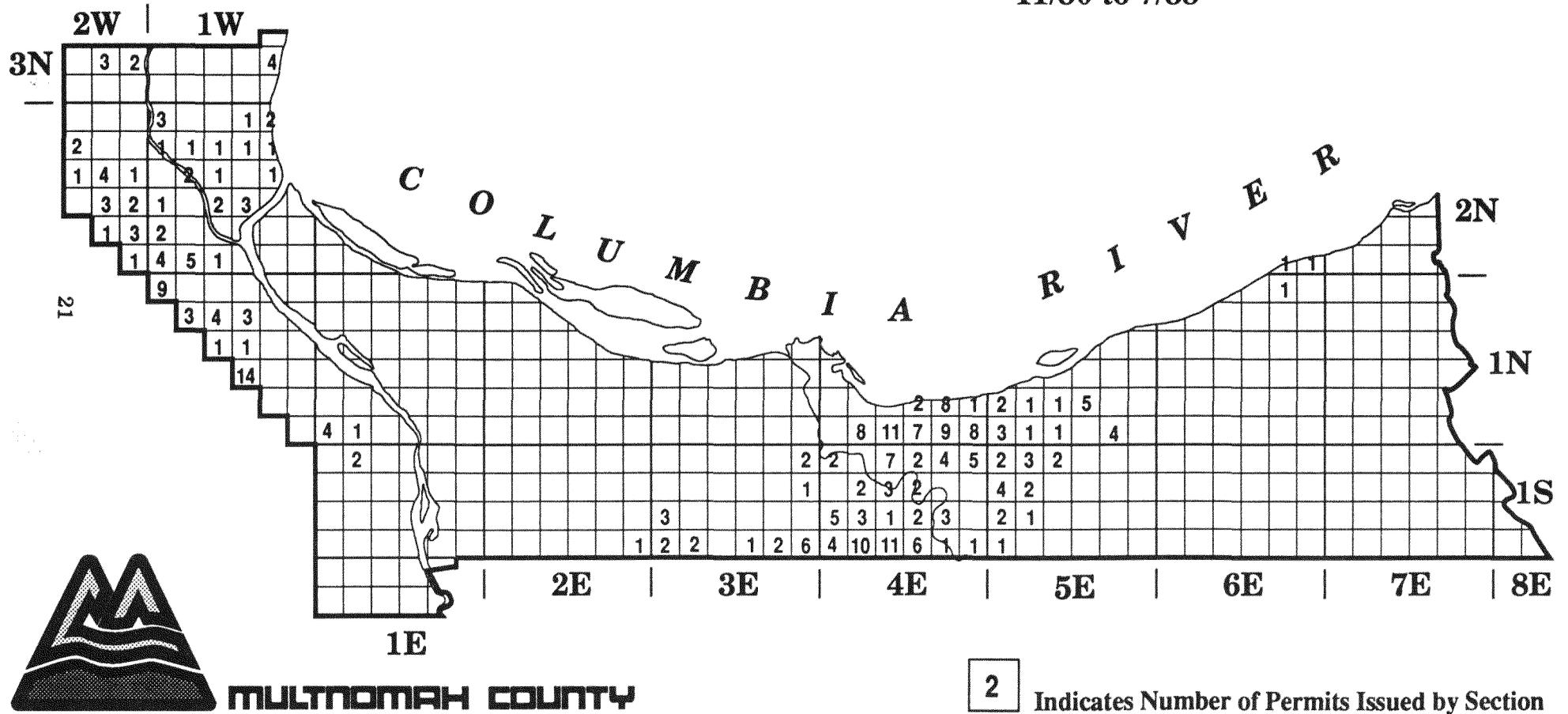


Figure 6.









permits from the 146 total permits, results in a total of 88 permits that were issued as resource related dwellings. Approvals for resource dwellings were granted because either the parcels of land were large enough to meet the "Primary Use" minimum lot size of the zone (38, 76, or 80 acres) or because the applicant met the approval criteria for a farm or forest management plan after submittal of a "Use Under Prescribed Conditions" application. Additional discussion of Resource dwellings is in Sec. I.A.1(a).

An examination of the different maps showing dwelling permit totals reveals three areas of slightly more intense permit activity within the County. Two of the areas are the two exception zone subdivisions referred to in I.B.1(d). The third area receiving the most new dwellings is the intermingled exception and resource zoned areas near the Corbett Rural Center. No more than 11 new homes were placed in any square mile section although the annual percent increase in density ranged from 1.5 percent to 3 percent. A slowing of the density increases near Corbett however, has recently become evident and is expected to continue ever since this rural center and vicinity were designated part of a General Management Area within the boundary of the Columbia River Gorge National Scenic Area. At this time, all building and development proposals are reviewed not only by the County for conformance with zoning regulations but also are reviewed by the United States Forest Service and Gorge Commission for conformity with the National Act.

#### **I.B.1(e)(ii) Land Divisions and Lots of Exception**

During the time period covered by this order, there were 86 new parcels of land created in the rural zones of the County which did not already contain a dwelling. Because not all of those parcels have been built upon since they were created, it can be easily demonstrated that the great majority of the 288 total new dwellings were on lots of record.

Most of the rural zoning districts contain a provision for a "Lot of Exception". This allows for the partitioning of an otherwise under-sized parcel upon a determination at a public hearing that the proposed parcel is situated upon land generally unsuitable for farm or forest production use and maintains the overall land use pattern of the area. (The Exclusive Farm Use and Commercial Forest Use zones do not contain this provision.)

A review of past lot of exception cases reveals that a total of only three parcels in the Rural Residential zone and two parcels in the Multiple Use Forest zone have been created for new dwellings in this manner. As long as the rate of such approvals remains that low, no change in the regulation is deemed necessary.

### **I.B.1(e)(iii) Rural Planned Development**

An analysis of the Rural Planned Development section of the County Code (MCC 11.15.7704--7760) has resulted in a conclusion that the provision does not meet the Comprehensive Plan policies for allowing dwellings in resource zones and violates the general density standards for exception zones. The purpose statement of this zoning overlay district seeks to provide "...procedures for the orderly development of rural land demonstrated as not suitable for agricultural or forest use, but adequate for rural residential purposes...". This purpose is not appropriate for Multiple Use Forest resource lands. Also, the doubling of allowed densities that are possible could raise some urbanization density questions in the Rural Center zone. Included as a part of Proposed Ordinance Amendment Attachment is ordinance language deleting the RPD section of the code in its entirety.

In order to fulfill some of the objectives for which the rural Planned Development section was originally adopted, it is proposed in the attached ordinance to allow the current Planned Development (PD) code section to also apply to the exception zoning districts (RC, RR, and MUA-20).

The density bonuses allowed in the urban zones, however, would not apply. This change would allow some flexibility in the placement of homes while not increasing the total potential number of dwellings. This flexibility often results in utility placement and other service provision cost savings.

### **I.B.1(f) Effects of Houseboat moorages on water-related and water-dependent uses.**

The Multnomah Channel (of the Willamette River) northwest of Portland is the only area outside the UGB where houseboats are currently maintained. County records indicate approximately 150 houseboats were located in Multnomah Channel in 1980. A September, 1987 survey found 206 houseboats in the Channel, with seven vacant houseboat moorage spaces. An additional 35 houseboat spaces have been approved but not yet constructed (250 total potential). Multnomah Channel flows approximately eight miles within Multnomah County, representing approximately 16 miles of shoreline. Existing and approved houseboat moorages (1987) occupy approximately 2.75 miles of shoreline. Staff estimates houseboats occupied two miles of shoreline in 1980.

Estimates of water surface devoted to houseboats are difficult and inaccurate. Some general observations can be made however:

- Older (pre-1975) houseboats are generally much smaller than newer floating homes;

- County zoning provisions require more water and land area for new houseboats than that ordinarily provided in older moorages;
- Older moorages, though less consumptive of land and water areas, appear overly congested and aesthetically more disruptive to the natural and scenic qualities within the WRG;
- The older moorages typically do not require minimum spacing between the floating homes. Due to the greater density of this building pattern, their consumption of water surface appears more absolute.

The County has designated two areas in the Multnomah Channel for future houseboat moorage development. The southern area — approximately one and one-half miles long — extends from Portland City limits, along the west shore of the Channel, to a point one-half mile north of the Sauvie Island Bridge. Most of this stretch has already been developed for houseboat and other moorages. The zone may have sufficient shoreline area for 40 – 50 additional houseboat moorages, though demand for other moorages for boats or boathouses may decrease the eventual number of houseboats.

The northern area — approximately one and three-quarters mile long — extends from Rocky Point, along the west shore of the Channel, to the County boundary. This area has substantial undeveloped shoreline. In addition to the 35 houseboat moorages approved but not yet constructed, it appears 75–90 additional houseboat moorages could be developed under current County Code provisions.

Water related and water dependent uses (i.e. boating and boat moorages, fishing, shipping, log storage, etc.) compete with houseboat moorage uses for available water surface and for adjacent land areas needed for parking, sewage disposal and other associated uses. Most water related and water dependent uses are less restricted than houseboats and hence those uses have far more land and water areas available as potential development sites. For example, several miles of shoreline properties along Multnomah Channel, and the Willamette and Columbia rivers (on Sauvie Island) have MUA designations which permit boat moorages and marinas as conditional uses. Since acknowledgement the two houseboat moorage projects approved have included “boathouse” moorages as well.

County Planning staff attended meetings during 1987 and 1988 related to the issues of houseboat developments and their associated impacts. These meetings, initiated by the U.S. Army Corps of Engineers, have been attended by representatives from the U.S. Fish and Wildlife Service, Division of State Lands, DLCD, City of Portland, Oregon Department of Environmental Quality, National Marine Fisheries Service, U.S. Environmental Protection Agency, Oregon State Parks Division. The Corps called these agency representatives together to try and develop a consistent

“regional permit” for new houseboat and (perhaps) boat moorage proposals. The County will continue to coordinate and consult with these affected agencies regarding houseboats and other water related or water dependent development proposals.

**I.B.2 Conclusion:**

The cumulative effects discussed above have not resulted in the need to create major changes to the Plan and its implementing ordinances. The County concludes that we are in substantial compliance with this Rule.

## **I.C. Decision to Delay or Not Carry Out Plan Policies**

Applicable Rule: OAR 660-19-055(3)(c)

*Oversight or a decision by the local government to delay or not carry out plan policies which relate to a statewide goal requirement. Local periodic review findings must describe why, for example, a revised inventory of natural hazards, or a date specific, overall revision of the plan, etc., have not been completed.*

### **I.C.1 Findings:**

Multnomah County has not identified any rural area plan policies which have not been carried out, nor were any identified in the Notice from DLCD.

### **I.C.2 Conclusion:**

The County proposes no changes related to this factor.

## **I.D Availability of New Inventory Information**

Applicable Rule: OAR 660-19-055(3)(d)

*Incorporation into the plan of new inventory material which relates to a statewide goal made available to the jurisdiction after acknowledgment. Local periodic review findings must list what applicable published state or federal reports have been made available to the jurisdiction after acknowledgment containing new material, for example, on groundwater availability, air quality, big game habitat, census information, soil surveys, natural hazards, etc., and describe what steps, including any amendments to the plan's factual base, policies, map designations and land use regulations, have been taken in response to this information.*

### **I.D.1 Findings:**

In response to the requirement to list applicable state and federal reports used to update the County's rural comprehensive plan, a bibliography has been compiled; applicable sources have been cited in the revised text.

#### **I.D.1(a) Oregon Department of Transportation**

##### **I.D.1(a)(i): Mt. Hood Parkway:**

A concept for a new primary connector road between I-84 and U.S. 26 was developed out of the 1987-88 Multnomah County Master Transportation Plan Study. This Study represents the periodic review of Multnomah County's and Metropolitan Service District (MSD) street classification plans contained within their Comprehensive Framework Plan and Regional Transportation plans respectively. The study was conducted by Multnomah County with participation by Oregon Department of Transportation, the Metropolitan Service District, Clark County, and the four east county cities of Fairview, Troutdale, Wood Village, and Gresham. By using the MSD's main frame transportation simulation models (EMMB-12) year 2005 traffic demands were assigned to the existing and anticipated 2005 street system designs to discern potential capacity problems. Neither street system could accommodate future travel demand within acceptable levels of service.

Subsequent modeling confirmed two needs: First, three full-direction interchanges are needed east of 181st to the Sandy River on I-84. Second, a new connector that could convey traffic between I-84 and U.S. Highway 26 (Mt. Hood Highway) was needed to alleviate congestion on the surface arterial streets. This connector, the Mt. Hood Parkway, would need the design characteristics of a limited access expressway to relieve congestion on the surface arterial streets (i.e., 4-lane limited access with 45 mph and 50 mph design features).

Initially, 36 alternative Parkway corridors connecting I-84 with U.S. 26 were identified and evaluated. By means of a technical and citizen advisory committee process the technical and social/economic merits of the project were evaluated. Ultimately the corridor options were reduced to three alternatives.

The need for the I-84/U.S. 26 connector was recognized by the Portland region with the inclusion of the corridor in the Regional Transportation Plan and the Oregon Department of Transportation's (ODOT) Six Year Highway Improvement Plan. Funds have been provided by ODOT in their six year program to do both corridor level engineering and environmental work. Between January 1989 and June 1992, ODOT will administer a coordinated program to select a parkway corridor and design in a manner consistent with state and federal guidelines. This coordinated program involves Multnomah County, the Metropolitan Service District, and the four east county cities in the development and selection of an alternative. At the appropriate times during the process Multnomah County, the Metropolitan Service District and the affected east county cities will initiate procedures to amend local plans in a manner consistent with state guidelines.

**I.D.1(a)(ii) New Information:**

- Six Year Highway Improvement Program (1989-1994).

The six year Highway Improvement Program (August 1988) identifies three "construction" projects, six "development projects", and a number of "considered projects" in Multnomah County service area. These projects are consistent and in accord with Multnomah County transportation plans and studies.

- Oregon Aviation System Plan.

The Oregon Aviation System Plan is an eight volume document that discusses a variety of subjects related to airport operations. We have reviewed this Plan and find it does not apply to rural Multnomah County, because the County has no airports within its jurisdiction.

- Statewide Comprehensive Outdoor Recreation Plan (SCORP) 1983.

References to SCORP '83 have been added to the findings document. The recreation needs forecasting and provision for all except Regional Parks, however, have been shifted to the cities for the area and population inside the Urban Growth Boundary.

The 18 state parks located in the County are listed in the Findings Volume of the Plan and mapped in the Policies Volume.

## **I.D.1(b) Department of Environmental Quality**

Several new reports from the Department of Environmental Quality have been issued since Plan acknowledgement. As suggested in the Periodic Review notice, we have obtained copies of the following:

- Atlas of Oregon Lakes
- Air Quality Report
- Water Quality Assessment
- Sensitive Aquifers Map
- Hazardous and Solid Waste Report

Review of these reports, in conjunction with further communication with DEQ staff, has resulted in several changes to the Comprehensive Plan's Findings document. Most of the environmental quality concerns addressed by DEQ staff are currently found in different sections of the Findings document.

Soil erosion and septic tank limitations, for example, are located under the heading "Land Characteristics and Development Constraints" (Comprehensive Framework Plan-I, pp. 10-15). Solid waste disposal is discussed along with sanitary sewers, water service, and fire protection under "Public Facilities and Services" (Comprehensive Framework Plan-I, pp. 201-210).

There is necessarily some overlap when organizing the various issues that make up a topic of this nature. In revising the Plan, an attempt is made to maintain some of that overlap where it is important to establish and articulate certain relationships between the natural environment and the impacts of development or land use activities. We will amend the diverse sections of the Plan which deal with issues of environmental quality, reiterating information where necessary but avoiding redundant variations on a theme. Imprudent approvals of cesspools in the past have resulted in groundwater quality problems, for example, and this will be discussed in the water quality findings. The obvious solution of providing sanitary sewer systems, however, is an issue of public facilities and services, and so will be examined under that heading.

The existing Findings considers air and water quality along with noise on a "Resource Quality" chapter (Comprehensive Framework Plan-1, pp.39-62). The revised document will maintain these topics together in an "Environmental Quality" heading designed specifically to address statewide planning Goal 6. Other aspects of environmental quality will again be addressed elsewhere in the Plan's revised Findings: soil erosion and soil properties under Natural Hazards; watersheds as a Goal 5 resource; and solid waste disposal and the provision of wastewater treatment and stormwater management remaining within Public Facilities and Services.

The revised Findings document will include an updated discussion of air quality based on information contained in the 1986 *Air Quality Report*. As requested by the DEQ, specific mention will be made of the Portland-Vancouver AQMA's non-attainment status with regard to ozone standards. Likewise, an additional finding will address the special requirements for major industries emitting over 40 tons of volatile organic compound.

Water quality findings will be updated to include a discussion of lakes identified in the *Atlas of Oregon Lakes*. As requested by DEQ, the Plan's discussion of sewage treatment facilities and failing on-site sewage treatment systems will be updated, and will include a statement that state and federal funding for such systems is limited. The Mid-Multnomah County cesspool problem concerns the delivery of urban services. We will include on the Plan's revised Findings document a statement regarding the responsibility of Portland and Gresham in the provision of sewage services to this area.

We have reviewed the updated noise source inventory, and find no sources listed for areas under County jurisdiction. Prior to annexations in the Hayden Island and Columbia South Shore areas, the County was an active participant in developing the noise abatement implementations plan for the Portland International Airport. The County instituted a Noise Impact Overlay Zone in conjunction with that Plan, in order to mitigate noise impacts. For noise problems not associated with the airport, the Zoning Ordinance addresses these concerns through the conditional use process and the provisions of design review. Existing Comprehensive Plan Policies are adequate in the treatment of noise pollution (Comprehensive Framework Plan-II, pp. 56-57).

Solid waste disposal is a sub-heading under the Public Facilities and Services section. It will be updated to include new information regarding the complex solid waste disposal situation in the Portland metropolitan area. The roles of METRO and DEQ as well as the County will be outlined in light of several new pieces of legislation passed since Plan acknowledgment, specifically the landfill siting measure (SB662), and the Opportunity to Recycle Act (SB405). Multnomah County was actively involved in the DEQ process to develop landfill siting criteria and standards, and participated on the technical advisory committee charged with overseeing formulation of METRO's Waste Reduction Plan. The County also took on the role of wasteshed representative in response to state recycling regulations, providing a program of recycling education and promotion, and instituting intergovernmental agreements with the cities of Portland and Gresham for efficient provision of recycling collection service in the urban unincorporated areas.

#### **I.D.1(c) Water Resources Department**

The County is currently in conformance with the Willamette Basin Plan.

The Willamette Basin and Sandy Basin will be the subject of new Basin Programs in 1988-89. The County will coordinate with the Water Resources Department on the formulation of these plans. The County requested a number of years ago that the Sandy needed its own basin plan and that request will now be met. No new groundwater studies are available outside the UGB, and no new minimum stream flows have been set or new water supply reports for the County. The major changes may occur later as a result of new basin programs. The County has updated its Findings section and feels that it is adequate at this time.

#### **I.D.1(d) Economic Development Department**

The OEDD suggested acquisition and use of their 1986 *State & National Trends Report: Oregon Economic Trends Project* as well as METRO's 1988 publication *The Regional Factsbook* to update the County's Comprehensive Plan on economics. Extensive changes have been made in this section with emphasis on state and national trends locally affecting the rural areas. We therefore conclude that the County is in compliance for its rural review.

#### **I.D.1(e) Portland State University - (Population Research Center)**

The 1987 certified population estimates from the Population Research and Census have been used in the Findings document update, along with new information (1986) from METRO regarding demographics, housing, economics and public facilities/services.

#### **I.D.1(f) U.S. Fish and Wildlife Service (Wetlands Inventory Maps)**

Multnomah County has been in possession of draft copies of the National Wetlands Inventory (NWI) Maps since about 1985. The far east portion of the County (comprising mostly National Forest Lands) is the only area not covered by the inventory. In February, 1988, the County received paper copies of nine updated NWI maps, some of which showed considerable reduction in identified wetlands.

The NWI maps, being overlays on small scale 1:24,000 U.S. Geological Survey base maps, present difficulty in identifying specific properties which may contain the wetland areas. Therefore, the planning staff initiated a project to convert the NWI information to a form that can be easily used by staff at the initial inquiry stage of a permit or land use application. First, through Benjamin V. Harrison, Asst. Regional Wetlands Coordinator, U.S. Fish and Wildlife Service, the County was able to obtain from the NWI national headquarters photographed mylar copies of just the wetlands overlay. Then photographic work was contracted with Western Image Systems in March, 1988 to produce new mylars of the NWI maps at a scale of 1:12,000 (1"=1,000') which doubled their size and matched the scale of one type of County Assessor property maps available. For the Sauvie Island and Multnomah Channel areas, (containing

the majority of wetlands in the County jurisdiction), the maps were further enlarged to match 1"=600' property maps. Copies of these maps showing the USF&W identified wetlands on individual properties can now be easily reproduced. A set of these maps is used at the zoning and permits counter to alert both property owners and the planning staff when wetland issues should be raised. Property owners with development inquiries at that point are also referred to the Division of State Lands and U.S. Corps of Engineers for information about the state and federal permit process. Additional use of the NWI maps is discussed in section II.A.8(g).

#### **I.D.2 Conclusion:**

The County has incorporated into the Comprehensive Plan all new inventory information mandated by the Periodic Review Notice.

## **I.E Other Issues Involving a Substantial Change in Circumstances**

Applicable Rule: OAR 660-19-055(4)

*Nothing in OAR 660-19-055(3)(a-d) is meant to limit or prevent any person from raising other issues or objections involving the "substantial change in circumstances" factor set forth in OAR 660-19-055(2)(a) as long as such concerns are submitted consistent with the requirements of OAR 660-19-055.*

### **I.E.1 Findings:**

#### **I.E.1(a) National Flood Insurance Program:**

The 1986 revisions to the federal regulations governing the National Flood Insurance Program (NFIP) referred to in the Periodic Review Notice became effective on October 1, 1986. NFIP criteria required that participating jurisdictions revise their floodplain management regulations to be consistent with the federal Act by April 1, 1987. Multnomah County submitted a draft amendment to the Federal Emergency Management Agency (FEMA) and DLCD on December 23, 1986. An ordinance incorporating the required amendments went to Planning Commission hearings and then was adopted by the Board of County Commissioners on March 24, 1987 as Ordinance No. 549. Copies of the adopted ordinance were sent to FEMA and DLCD.

Written approval of the County's actions was received on January 26, 1988. A letter from Charles Steele, Chief, Natural and Technological Hazards Division, FEMA, Region X stated: "Our review of Ordinance Number 549 determined that the adopted ordinance brings the County into full compliance with current Federal regulations, and that your eligibility in the program will be continued."

#### **I.E.1(b) New and Revised Statutes adopted by the Oregon Legislature since Multnomah County's acknowledgement.**

**ORS 179.010, Corrections Facilities Siting:** Establishes an Emergency Corrections Facilities Siting Authority to make corrections facility siting decisions subject to the Governor's approval. As outlined in Section 2 of House Bill 3092, "...the need for additional corrections facilities was not apparent when the statewide land use planning goals were developed and when many of the comprehensive land use plans were acknowledged." Consequently, "...siting of such facilities could involve prolonged proceedings to obtain related plan amendments and zoning approvals." In order to avoid these "prolonged proceedings", this law vests the "authority" with super-siting powers, similar to that given the DEQ in siting a solid waste facility in the Portland metropolitan area. This is set forth in Section 9 of House Bill 3092: "...the decision of the authority, if approved by the Governor, shall bind the state and all counties, cities and political

subdivisions in this state as to the approval of the site and the construction and operation of the proposed corrections facility." Because of the nature of the super-siting powers of this law, we find there is nothing in the County's Comprehensive Plan and implementing ordinances which contradicts this statute. Therefore, we conclude the Plan to be in compliance with ORS 179.010.

**ORS 197.020, Discrimination:** Requires that "...age, gender, or physical disability shall not be an adverse consideration in making a land use decision as defined in ORS 197.015(10)." This statute shall be incorporated into the Zoning Ordinance verbatim, as MCC 11.15.8240(H).

**ORS 197.180 and Sec. 13, Ch. 826, Oregon Laws (HB 2758), EFU Reports:** Multnomah County has complied with this statute by reporting to DLCD, on the appropriate forms, all actions that have occurred in the EFU Zoning District during every reporting period.

**ORS 197.295 to .313, Housing:** Defines "Needed Housing" and requires the County to provide for certain housing types in urban growth areas. ORS 197.295(4) defines a mobile home park as a lot, tract, or parcel with four or more spaces for rent within 500 feet of one another. No changes are necessary to the current County Zoning Ordinance definition of mobile home parks because it is substantially the same as the ORS definition.

Under ORS 197.303(1), "Needed Housing" includes attached and detached single family housing, multi-family housing for both owner- and renter-occupied housing, manufactured homes, and government assisted housing. ORS 197.307 requires the County to permit the above type of housing in urban zones that have sufficient buildable land to meet the need for each type of housing. Under ORS 197.312, the County cannot exclude or prohibit various types of needed housing from all residential zones. All of the above type of needed housing are addressed by Policies 21, 23, 24 and 25 of the Comprehensive Framework Plan as adopted in 1980 and amended in 1983. No changes in the above policies are necessary to comply with the above statutory changes. Attached single family residences are allowed under prescribed conditions in all urban low density residential zones under MCC 11.15.2480(H). Multiple family residences are allowed as uses under prescribed conditions and as conditional uses in LR-7 zones (.2608 and .2610) as well as in LR-5 (.2628 and .2630). Mobile homes are allowed on individual lots as uses under prescribed conditions in LR-7 zones under .2608(G), LR-5 zones under .2628(F), MR-4 zones under .2748(F) and MR-3 zones under .2768(F). Mobile home parks are allowed as conditional uses in LR-7 under .2610(D); LR-5 zones under .2630(D), in MR-4 zones under .2750(C), and in MR-3 zones under .2770(C). The County Zoning Ordinance does not distinguish between government assisted housing and other housing; hence, the ordinance does not prohibit government assisted housing. For the reasons stated above, no changes in the County Zoning Ordinance are necessary in order to comply with ORS 197.295 to .313.

**ORS 197.445 to .465, Destination Resorts:** Authorizes county plans to provide for the siting of destination resorts on certain lands and under certain circumstances. Close scrutiny of the "certain lands" and "certain circumstances" under which destination resorts would be allowed reveals only a very narrow window of eligible lands within Multnomah County. The Columbia Gorge National Scenic Area and the extensive regional Urban Growth Boundary for the metropolitan area are the two main factors which severely limit the applicability of this statute. For this reason, the County chooses not to implement an ordinance providing for the siting of destination resorts.

**ORS 197.480 to .490, Mobile Home Parks:** Subsection (1)(A) of ORS 197.480 requires the counties to provide for mobile home parks as an allowed use by zoning ordinance and by comprehensive plan designation on buildable lands within the urban growth boundary. The County satisfies this requirement because mobile home parks are allowed as conditional uses in LR-7 zones under MCC 11.15.2610(D), in LR-5 zones under .2630(D), in MR-4 zones under .2750(C), and in MR-3 zones under .2770(C).

Subsection (1)(b) of ORS 197.480 requires mobile home parks to be allowed in areas planned and zoned for a residential density of 6 to 12 units per acre. The County satisfies this requirement because the LR-7, LR-5, MR-4 and MR-3 zones encompass a density range of between 6.2 and 16.1 units per acre.

ORS 197.480(2) through (4) pertain to a required inventory of mobile home park sites in areas zoned for commercial, industrial or high density residential development. Also required is a projection of need for mobile home parks based on population projections, household income levels and housing market trends of the region. The purpose of the inventory is to establish the need for areas to be planned and zoned to accommodate the potential displacement of mobile home parks from commercial, industrial and high density residential areas. For the County to conduct the inventory described above at this time would be premature and inappropriate. With the rapid pace of annexations of unincorporated urban land to Portland, Gresham, Fairview and Troutdale, it is expected that in just a few years very little, if any, unincorporated urban area will remain. Until such time that the cities encompass the entire area within the urban growth boundary, the population and land area of the unincorporated area will change with each annexation. Therefore, the "projection of need" in Multnomah County should be the sole responsibility of the cities into which the remaining urban land in the County is gradually being annexed. As long as the County provides the mechanism for placing the mobile home parks in areas that are zoned for 6-16 units per acre, as is presently the case, the projections should not be required.

ORS 197.480(5)(a) allows the counties to establish "clear and objective criteria and standards" for the placement and design of mobile home

parks. The County has established such criteria and standards for mobile home parks in low density residential districts (MCC 11.15 2496-.2498), in medium density residential districts (.2706-.2708) and in planned development (.6200-.6226).

ORS 197.480(5)(b) states that if a county requires a public hearing for approval of mobile home parks, the adopted criteria and standards must be the sole issue to be determined at the hearing. The County complies with this provision because the zoning ordinance approval criteria and development standards in .2496-.2498 and .2706-.2708 and .6200-.6226 are the only criteria and standards considered in public hearings on mobile home parks.

ORS 197.480(5)(c) prohibits a county from adopting approval and development standards that would preclude the development of mobile home parks. The County complies with this provision as is evidenced by the fact that the County has approved a number of mobile home parks that were found to meet the above referenced criteria and standards.

ORS 197.485 prohibits a county from refusing to allow placement of a mobile home in a mobile home park solely due to the age of the mobile home when the park is in a zone with a residential density of 8-12 units per acre. The County complies with this provision because MCC 11.15.2708(J)(2) requires a mobile home in a park in a medium density district (7.2-16.1 units per acre) only to comply with the state construction and equipment standards in effect when the mobile home was constructed.

ORS 197.490(1) prohibits a county from allowing establishment of a mobile home park in a commercial or industrial zone. The County complies with this provision because the zoning ordinance does not allow mobile home parks within commercial or industrial zones. ORS 197.490(2) allows access to a mobile home park to be located in a commercial or industrial zone if no other access is available. The County complies with this provision because the zoning ordinance does not prohibit the use of land in a commercial or industrial zone for access to a mobile home park.

For the reasons stated above, no changes in the Zoning Code are necessary to comply with ORS 197.480 to .490.

**ORS 197.640, Periodic Review Procedures:** The County has no reference to periodic review contained in its policy document. It is the County's intent to comply with periodic review requirements and proposes policy language changes to reflect this.

The change to section 197.640(9) refers to the ability of Multnomah County to postpone periodic review for the Columbia Gorge NSA until land use ordinances are approved pursuant to the Columbia River Gorge National

Scenic Area Act PL 99-663. The County received this delay by letter from DLCD on January 27, 1988. Consequently our periodic review order does not address all aspects of periodic review for the Gorge NSA. However, most rural ordinance amendments will apply within the Gorge NSA. Major new findings are not proposed at this time, but one policy language change is proposed to reflect the County's recognition of the Scenic Area Act. In addition to this Comprehensive Plan amendment, the County's SEC (Significant Environmental Concern) boundary will be changed by amendment of Sectional Zoning Maps, to reflect the new Gorge NSA boundary. The old SEC boundary was a reflection of the Oregon Statutory definition of the Columbia Gorge which is now eliminated.

**ORS 197.732, Goal Exceptions:** The goal exceptions criteria and rules are discussed in section II.A.1.

**ORS 197.752, Lands Available For Urban Development:** Under Policy 32 it is the County's intent that public services and facilities plans and capital improvements programs will (1) result in the coordination of land use planning and provision of appropriate types and levels of public facilities, and (2) result in timely development of public services and facilities in urbanizable areas.

In the County's jurisdiction, there are no areas within the U.G.B. in which key urban facilities are immediately available that are not also zoned for urban development. The County does utilize "Urban Future" zoning districts that hold some areas in 10 or 20 acre lot areas for single family residence and farm use until key services are available, at which time Plan policies recognize the ability and need for the change to an urban development zoning district.

**ORS 197.767, Wetland Definition - Exclusion:** Although wetland protection is a part of the "Significant Environmental Concern" overlay zone and Policy 15 of the Plan, there is no definition of wetland in either document at this time. A new proposed ordinance is discussed in section II.A.8(g) which does make reference to the subject O.R.S. statute definition exclusion.

**ORS 197.762 (HB 2288):** This section modified the requirements regarding the contents of the notice and conduct of quasi-judicial land use hearings. The County will comply with the provisions of this statute through the proposed revisions of MCC 11.15.8220 and .8280 and the amendment by the Planning Commission of their *Rules of Procedure*.

**ORS 197.825, Appeals in the Columbia River Gorge NSA:** This section provides a different review process for LUBA and Circuit Court regarding land use appeals in the Columbia Gorge NSA. The County will abide by this process. No plan changes are felt necessary for this change.

**ORS 215.010, Parcel:** Expands the definition of "parcel" to include a unit of

land created "in compliance with all applicable planning, zoning and partitioning ordinances and regulations or by deed or land sales contract, if there were no applicable planning, zoning or partitioning ordinances or regulations." The County Land Division Ordinance definition of "parcel" appears in MCC 11.45.010(R) and means a "unit of land that is created by a *partitioning of land*" (italics added). Since the County Land Division Ordinance definition of "partitioning" is consistent with the state definition of "partitioning", no change in the County Land Division Ordinance definition of "parcel" is felt to be necessary at this time.

**ORS 215.044, Solar Access:** Authorizes local governments to protect solar access to properties and buildings. The County adopted solar access regulations on June 21, 1988 (reference Ordinance 549). The regulations were developed over two years by the Portland-Vancouver Metropolitan Area Solar Access Project. The provisions apply to new single family development within the UGB.

**ORS 215.050, Forest Practices:** Prohibits counties from regulating forest operations outside UGB's pursuant to ORS 527.722. As set forth in ORS 527.722, counties are still permitted to regulate the following on forest lands: establishment or alteration of structures not associated with forest operations; establishment or alteration of dwellings; physical alterations of the land as a consequence to uses not auxiliary to forest practices; and partitioning or subdividing of land. The designation and Comprehensive Plan policies for all categories of rural land were examined in the context of the language and intent of this statute. Plan policies for each category of rural land recognize the importance of maintaining an adequate land base for commercial resource production, for both agriculture and forestry. In all land use categories, including rural residential, farming and forest practices are set forth as examples of primary uses which should be listed in the corresponding zones. Subsequently, the Zoning Ordinance lists "propagation or harvesting of forest products" as a primary, or outright, use in all rural zones. Because no public hearing is required, there is no opportunity, nor need, to attach conditions to such uses. Thus we find forest practices remain unregulated by Multnomah County in rural zones. We therefore conclude the Plan and implementing ordinances to be in compliance with ORS 215.050 and, necessarily, ORS 527.722.

**ORS 215.110, Implementation of Comprehensive Plans:** Authorizes and recommends a range of possible ordinances which may be enacted by a local government for the purpose of implementing a comprehensive plan. Of those listed, Multnomah County has adopted ordinances regulating zoning, street classification, subdivision and partitioning of land, renaming public thoroughfares, protecting solar access, and numbering property. In accordance with ORS 215.110(6), none of these enacted ordinances was empowered with retroactivity. We therefore conclude the County to be in compliance with ORS 215.110.

**ORS 215.130, Urbanization and Annexations:** The County already has agreements with the cities of Portland, Gresham, Troutdale, Wood Village and Fairview that require the application of County Plan and Zones until the cities adopt their own Plans and zoning. In addition, a separate agreement dated April 3, 1985 details how Gresham will apply the County Plan and zones. Portland and Multnomah County have refined the zoning conversion process through some new Urban Planning Area Agreement amendments. No other changes are needed at this time.

**ORS 215.170, Urban Growth Area Agreement:** Provides cities with the authority to regulate subdivision and partitioning of land in adjacent unincorporated areas by means of urban growth area management agreements with the County. Multnomah County has entered into such inter-governmental agreements with the Cities of Portland, Gresham, Fairview, Troutdale and Wood Village providing for the regulation of land use outside city limits and within the metropolitan area urban growth boundary acknowledged under ORS 197.251. We therefore conclude that Multnomah County is in compliance with ORS 215.170.

**ORS 215.203, Cultured Christmas Trees:** Multnomah County does not fully comply with the provisions of this statute, in that, the EFU zone has not specifically recognized the growing of cultured Christmas trees as a farm use. The proposed 11.15.2008(A) would provide total compliance.

**ORS 215.213; .288; .313 to .337, Marginal Lands:** The County has chosen not to implement the marginal lands provisions and operates its Exclusive Farm use zones through ORS 215.283.

**ORS 215.214, Siting Solid Waste Facilities:** This is perhaps the most opaque and unintelligible passage we've yet encountered in Oregon law. We understand it would allow a local government the opportunity to site a solid waste facility on designated agricultural lands as a specific Goal 3 exception, rather than as a conditional use allowed within EFU zones in compliance with Goal 3. Multnomah County chooses not to take a Goal 3 exception specifically for the purpose of siting a solid waste facility on agricultural lands. Proposed changes to the text of the zoning ordinance will incorporate the language of ORS 215.213(2)(k) as a conditional use listed in the Exclusive Farm Use zone. This will satisfy the optional nature of the statute under discussion here, and will bring Multnomah County into compliance with ORS 215.214.

**ORS 215.223, Procedure for Adopting Zoning Ordinances** Multnomah County is proposing to amend the Zoning Code to conform to the requirements of this statute by amending sections (A) and (C) of MCC .8220.

**ORS 215.233, Non-Conforming Uses:** The County has a code section (MCC 11.15.8805) on non-conforming uses which although it largely complied with the State Statutes was more restrictive in some aspects. County practice over past years had been to follow the more permissive

aspects of the Statute and to use the contested case requirements for alterations that may be permitted, but no standards were enumerated. The County has kept records on non-conforming uses since 1955. Other development patterns occurring since the zoning chapter was adopted are treated as legally established pre-existing uses under MCC 11.15.7605. The County now proposes new code standards for non-conforming uses that implements the state statute language, clarifies the discretionary aspects of the statute, and establishes standards for the contested case proceedings. These new sections may be found at MCC 11 15.8805–.8810.

**ORS 215.236, Valuation of EFU Properties:** Multnomah County has accomplished the intent of this statute through interdepartmental notification. The Assessor's Office is notified of all building permit and land division approvals, and, upon such notification, establishes the appropriate valuation and collects any taxes due. However, proposed MCC 11.15.2012(B)(3)(k) would insure full compliance.

**ORS 215.253, Restrictive Ordinances Affecting Farm Use Zones:** Multnomah County has not complied with this statute because some legitimate farm uses (e.g., the raising of fowl, swine or feed-lots) have been required to be approved as Conditional Uses. Proposed MCC 11.15.2008(A) will result in compliance.

**ORS 215.263, Review of EFU Land Divisions:** Subsection (1) directs the counties to require, by ordinance, that all land divisions within EFU zones receive review and approval or disapproval by the governing body or its designate. Presently, some EFU minor partitions are exempt from formal County review. Therefore, a proposed amendment to MCC 11.45.100(F) will make all minor partitions of land classified as Exclusive Farm Use (EFU) subject to the Type III Land Division review process.

Subsection (2) states that a county may approve a proposed division of land to create parcels for farm use if it finds that either (a) the division is appropriate for continuation of an "existing commercial agricultural enterprise" or (b) the resulting parcels are not smaller than the minimum lot size acknowledged by LCDC for the county. Presently, the Zoning Ordinance only allows land divisions in EFU zones if the resulting parcels meet the minimum EFU lot area requirements. The Land Division Ordinance only allows division of land if the proposed division meets all applicable Zoning Ordinance requirements. Since both the zoning and the land division ordinances have been acknowledged by LCDC, the County already complies with ORS 215.263(2)(d). Therefore, no zoning ordinance change is felt to be necessary at this time to expand divisions of land allowed in EFU districts to include creation of parcels for continuation of "existing commercial agricultural enterprises."

Subparagraph (7) directs that a county shall not approve any division of a lot or parcel for a farm help dwelling. MCC 11.15.2010(B) already pro-

hibits a farm help dwelling from occupying a lot by itself. Therefore, no zoning ordinance change is needed in order to comply with ORS 215.263(7).

Subsection (8)(a) states that a county may approve a proposed division of land in an EFU zone to create a parcel with an existing dwelling to be used as a residential home for handicapped persons if the dwelling has been approved under ORS 215.283(3). MCC 11.15.2012(B)(3) makes a non-resource residence a conditional use on a Lot of Record in the EFU zone subject to approval criteria that are identical to those found in ORS 215.283(3). A Lot of Record is, by definition, a lot with an area less than the minimum required in the EFU zone. The County does not distinguish between residential homes for handicapped persons and other single family dwellings. Therefore, it is already possible to have a residential home for handicapped persons anywhere in the EFU zone that a regular single family residence could be located. Therefore, no change in the zoning ordinance is felt to be necessary with respect to residential homes for handicapped persons in EFU zones.

**ORS 215.283, EFU Uses:** Multnomah County allows, or proposes to allow, the uses of this statute in the following manner:

ORS 215.283(1)(a)	is allowed by current	11.15.2012(A)(1)
ORS 215.283(1)(b)	is allowed by current	11.15.2012.(A)(2)
ORS 215.283(1)(c)	is allowed by current	11.15.2008(B)
ORS 215.283(1)(d)	is included in proposed	11.15.2012.(A)(3)
ORS 215.283(1)(e)	is included in proposed	11.15.2010(C)
ORS 215.283(1)(f)	is included in proposed	11.15.2010(A) 11.15.2010(B) and 2014.
ORS 215.283(1)(g)	is allowed by current	11.15.2012(4)
ORS 215.283(1)(h)	is included in proposed	11.15.2008(I)
ORS 215.283(1)(i)	is allowed by current	11.15.2012(B)(15)
ORS 215.283(1)(j)	is included in proposed	11.15.2008(D)
ORS 215.283(1)(k)	is included in proposed	11.15.2008(E)
ORS 215.283(1)(l)	is included in proposed	11.15.2008(F)
ORS 215.283(1)(m)	is included in proposed	11.15.(G)
ORS 215.283(1)(n)	is included in proposed	11.15.2008(H)
ORS 215.283(1)(o)	is included in proposed	11.15.2012(B)(6)
ORS 215.283(2)(a)	is allowed by current	11.15.2012(B)(1)
ORS 215.283(2)(b)	is allowed by current	11.15.2012(B)(2)
ORS 215.283(2)(c)	is allowed by current	11.15.2012(A)(5)
ORS 215.283(2)(d)	is allowed by current	11.15.2012(A)(6)
ORS 215.283(2)(e)	is allowed by current	11.15.2012(A)(7)
ORS 215.283(2)(f)	is included in proposed	11.15.2012(A)(3)
ORS 215.283(2)(g)	is allowed by current	11.15.2012(B)(14)
ORS 215.283(2)(h)	is allowed by current	11.15.2012(B)(8)
ORS 215.283(2)(i)	is allowed by current	11.15.2012(B)(9)
ORS 215.283(2)(j)	is included in proposed	11.15.2012(A)(8)

ORS 215.283(2)(k)	is included in proposed	11.15.2014(F)
ORS 215.283(2)(l)	is included in proposed	11.15.2012(A)(3)
ORS 215.283(2)(m)	is allowed by current	11.15.2012(B)(15)
ORS 215.283(2)(n)	is included in proposed	11.15.2012(B)(12)
ORS 215.283(2)(o)	is allowed by current	11.15.2012(B)(13)
ORS 215.283(2)(p)	is included in proposed	11.15.2012(A)(9)
ORS 215.283(2)(q)	is included in proposed	11.15.2012(A)(10)
ORS 215.283(2)(r)	is included in proposed	11.15.2012(A)(11)
ORS 215.283(2)(s)	is not allowed	
ORS 215.283(3)	is included in proposed	11.15.2012(B)(3)

**ORS 215.293, EFU Complaint Condition:** Multnomah County proposes to include this statute as MCC 11.15.2012(B)(3)(j).

**ORS 215.416 [Sections (5) and (6)], Hearings Notice :** Section (5) requires that public hearings shall be conducted only after proper notice has been given to the applicant and other persons as provided by law. Reference is made to ORS 197.762 regarding conduct of such notice.

ORS 197.762 Development Of Property Within Urban Growth Boundary — Hearing Requirements: Section (1) sets forth the requirements for an appeal procedure.

- (a) Requires appellant or applicant to present an issue to governing body with adequate opportunity to respond.
- (b) Provide notice to the applicant and other persons as required by law.
- (c) Requires notice to do the following:
  - (i) Describe the issue in general.
  - (ii) Identify the location by street address (or other easily identifiable means).
  - (iii) State date, time, and location of the hearing.
  - (iv) State that failure to raise an issue in person or by letter precludes the right to appeal.
  - (v) Be mailed at least 10 days before the hearing or administrative decision on the application.

Section (2) requires that a statement be made at the beginning of a hearing to those in attendance that:

- (a) Describes the applicable criteria.

(b) Testimony given must be directed to the applicable criteria.

(c) Failure to address a criterion precludes appeal on that criterion.

Section (5) states that public hearings shall be conducted only after proper notice has been given. Reference is made to ORS 197.762 regarding the mechanics of such notice.

ORS 197.762 limits the hearing requirements to property within the Urban Growth Boundary. Further, Section (1) deals with the requirements for an appeal, not a hearing.

Subsection (b) requires notice to applicant and other persons as required by law. Multnomah County's procedure is not in compliance with that noted under ORS 215.223, Section (3), but is the same for all sites, whether they are within the Urban Growth Boundary or are rural. Amendments are proposed to 11.15.8220 to achieve compliance.

Section (2) of ORS 197.762 requires that certain statements be made at the beginning of hearing on a specific item. Multnomah County's *Rules of Procedure* adopted under MCC 11.15.8125 and 11.05.080 provide for the conduct of public hearings. Those Rules incorporate the requirements of ORS 197.762.

Section (6) of ORS 215.416 requires notification be provided to owners of Public Use Airports (as defined by the Department of Transportation) if the site under consideration for the land use hearing is:

- Within 5,000 feet of the side or end of a runway of an airport classed as a *visual airport*, or
- Within 10,000 feet of the side or end of a runway of an airport classed as an *instrument airport*.

Multnomah County does not usually notify owners of airports unless the property under consideration is closer than 250 feet to the airport property boundaries. Multnomah County Code is not in compliance with this requirement. Amendments to MCC 11.15.8220(A) and(C) are proposed to bring us into compliance.

**ORS 215.422, Appeal Procedures, etc.:** Outlines procedures for reviewing decisions of hearings officer or other authority, and the notice and establishment of fees for appealing decisions. Also discusses and sets limits on *ex parte* contact. The Zoning Ordinance incorporates these statutory procedures as MCC 11.15.8260 through 11.15.8295. *Ex parte* contact is discussed in MCC 11.15.8250, in conformance with state law. Thus, we conclude Multnomah County to be in compliance with ORS 215.422.

**ORS 215.428, 120-Day Rule:** Stipulates that final action on a permit or

zone change application is required within 120 days after the application is deemed complete. Examination of the Zoning Ordinance section on Board Decisions (MCC 11.15.8280) reveals no such time limit currently expressed. We find it necessary, therefore, to amend this section of the Zoning Ordinance to bring the County into compliance with ORS 215.428. The new subsection will be MCC 11.15.8280(E).

**ORS 215.448, Home Occupations:** Section (1) permits the governing body to allow the establishment of a home occupation in any zoning district, including rural zoning districts that allow residential uses, if the home occupation:

- (a) Will be operated by a resident of the property.
- (b) Will employ no more than five full or part time persons.
- (c) Will be operated in:
  - (i) The home , or
  - (ii) Other buildings normally associated with uses permitted in the zoning district in which the site is located.
- (d) The home occupation will not interfere with existing uses on nearby lands.

Home Occupation as defined by Multnomah County's Zoning Ordinance (MCC 11.15.0010) differs significantly from that of ORS. In Multnomah County a home occupation:

- Is a lawful activity not otherwise provided for by zoning.
- Is an activity carried on within the dwelling or accessory building (such as a garage or shed).
- Will be operated by the occupant (of the residence).
- Will have no employee(s).
- Activity will be secondary to the use of the property for residential purposes.
- There will be no outside advertising or display of merchandise.
- No sale of merchandise is to be made from the premises.
- Definition implies that there will be no customers coming to the premises.
- The home occupation activity must be undetectable from any property line.

Home Occupation as described under ORS 215.448 is not similar to Home Occupation as defined under MCC 11.15.0010. Home Occupations in Multnomah County are a "Use Under Prescribed Conditions" in the Urban Low Density Residential, Medium Density Residential, and High Density Residential Districts. In the rural zoning districts home occupations are classed as "Accessory Uses".

Multnomah County wishes to maintain the residential character of residentially zoned areas. This would not be possible under ORS 215.448. Therefore, we choose not to adopt regulations for Home Occupations as permitted under ORS.

**ORS 240.010 to .060, Regional Economic Development:** The purpose of the Regional Economic Development Act is to encourage the development of strategies that address the economic problems of each region of the state and to more effectively utilize the available resources through regional strategy programs. Multnomah County has chosen to participate in this program by joining with six other counties, the City of Portland, the Metropolitan Service District, and the Port of Portland to form the "Oregon Tourism Alliance". As the name indicates, the Oregon Tourism Alliance's focus will be on developing the tourism potential within the region. Of note is the County's unique position, as the site of the Oregon Convention Center, to receive 125,000 new visitors a year. To date, no County land use regulation hindrances have appeared in the process of evaluating the different tourism projects proposed as a part of the Alliance's program.

**ORS 418.817, Family Day Care:** Provides that day care providers operating within their home may accommodate up to 12 children (including children of the provider). The use shall be considered an allowed residential use in all commercial and residential zones. The provision does not apply to farm, forestry or industrial zones not intended for residential or commercial purposes. The County's ordinance requires a new definition of "family day care" to reflect the "...not more than 12 children" provisions of ORS 418.817. In addition, the following zones require amendments adding "family day care" as an allowable accessory use within a residence: (*Note: only effected zones outside the UGB are listed*):

- RC – Rural Center,
- RR – Rural Residential.
- MUA-20 – Multiple Use Agriculture

**ORS 443.530-550, Residential Facilities:** Authorizes and sets standards for counties (and cities) to adopt siting procedures for residential facilities housing up to 11 elderly or physically or mentally handicapped persons. The County's zoning ordinance permits a "residential care facility" as a CS, Community Service use in all zones except EFU, Exclusive Farm Use and F-2, agriculture districts. CS uses may be permitted if approved through conditional use procedures. The County Zoning Ordinance

defines "residential care facilities" differently than ORS 443; an amended definition (attached) will insure County consistency with state law.

**ORS 443.580-600, Residential Homes:** Defines "residential home" as a dwelling housing up to five physically or mentally handicapped persons plus staff people. The provisions require that residential homes be permitted in all commercial and residential zones. The County Zoning Ordinance permits a residential home in all residential zones where single family residences are outright uses. The County's definition of "residential home" will be amended to more accurately reflect ORS "home" definitions (see attached). Restrictions on residential homes in multi-family, commercial and farm/forest zones are the same as single family detached residences.

**ORS 446.003 (17)(a-c), Mobile Homes:** Subsection (17) defines the terms "mobile home" as meaning either (a) a "residential trailer" or (b) a "mobile house" or (c) a "manufactured home." Each of the three types is defined as a structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, and is being used for residential purposes. Residential trailers are defined as being constructed before January 1, 1962. Mobile houses are defined as being constructed between January 1, 1962 and June 15, 1976, and meeting the construction requirements of Oregon Mobile Home Law in effect at the time of construction. Manufactured homes are defined as being constructed in accordance with federal manufactured housing construction and safety standards in effect at time of the construction.

Under MCC 11.15.0010, "mobile home" is defined as a structure transportable in one or more sections, each built on a permanent chassis, and which is designed to be used for permanent occupancy as a dwelling.

Many of the zoning districts in the County allow mobile homes, either on individual lots or in mobile home parks. The Zoning Ordinance language that allows mobile homes requires the mobile home either to be "manufactured after June 15, 1976 and carry a state insignia indicating compliance with applicable Oregon State mobile home construction or equipment standards" or to "comply with the standards of the building code or as prescribed in ORS 446.002 through 446.200, relating to mobile homes."

The definition for "manufactured home" contained in ORS 446.003 (17)(c) describes the type of mobile homes to which the above zoning ordinance language refers. However, "residential trailers" and "mobile houses" as defined in subsections (a) and (b), respectively, are not included in the above referenced zoning ordinance language.

The zoning ordinance contains a definition for "manufactured homes" but that definition states that it is only for purposes of the zoning ordinance chapter relating to flood hazard areas. Since the definition for "manufac-

ture home" contained in ORS 446.003(17)(c) is consistent with the above referenced zoning ordinance language, the definition for mobile home contained in the zoning ordinance is proposed to be amended to include "...manufactured home as defined in ORS 446.003(17)(c)". Such an amendment would make the County Zoning Ordinance definition for mobile home consistent with the ORS definition for mobile home. "Residential trailers" and "mobile houses" as defined in ORS 446.003(17)(a) and (b) are not currently allowed by the zoning ordinance on individual lots in LR-7, LR-5, MR-4 or MR-3 zones or in mobile home parks in LR-7 zones and would not be allowed under the proposed amendment.

**ORS Ch. 884, Sec. 9 to 13, Lots of Record:** Immediately upon passage of Senate Bill 419 in 1981, all staff members were provided copies of the bill to be inserted into their individual zoning code books. Before the act was repealed July 1, 1985, there was only one such dwelling permit issued under the lot of record provision in section 10, (case number LR 1-82). Since the sunset date of July 1, 1987 for building permits issued under this statute has passed, there is no reason to include these ORS sections in the County Zoning Code.

#### **I.E.1(c) METRO Solid Waste Plan**

Although the METRO Solid Waste Plan was adopted after the County received its periodic review notice, and there is no citation of METRO's functional responsibilities under solid waste in the notice, the County wishes to respond to METRO's expressed concern in their December 22, 1988 letter. Although the County is delaying its aspects of Goal 11 for the urban areas, METRO's role in the provision of solid waste facilities should be addressed.

The METRO Council adopted its Solid Waste Management Plan October 27, 1988. This Plan requires that local governments provide appropriate zoning to allow planned solid waste facilities. The County allows waste collection, transfer, processing, or recovery facilities as Community Service Uses (Conditional Uses) in any zone upon application. In addition, the County amended its Zoning Code in December 1984 (Ord. 445) to allow regional sanitary landfills under specific standards. In the County's Policy 31, METRO's authority to prepare a solid waste plan is recognized. The County amended this section in 1984 to make specific reference to standards for sanitary landfills. The County recognizes that its zoning code could use some improvement in the standards section of its code. METRO is in the process of drafting model ordinances for jurisdictions to revise their codes for various solid waste facilities. The County will commit to revising its code as the models become available.

The following Comprehensive Plan amendment is proposed:

Policy 31: add the following to the amended section on Solid Waste Management:

The County will comply with METRO's Regional Solid Waste Management Plan by providing appropriate clear and objective zoning code provisions for all solid waste facilities in addition to the above referenced standards for regional sanitary landfills.

**I.E.2 Conclusions:**

The County has examined the Comprehensive Framework Plan for consistency with state statutes, the National Flood Insurance Program, and the METRO Solid Waste Management Plan. We find that we are in substantial compliance, and have proposed changes where necessary.

**I.F Summary Conclusion – Factor One:**

The County has conducted a comprehensive review of Factor One for changes in circumstances. This review has resulted in proposed changes to the Comprehensive Plan and its implementing ordinances, and one change to Zone and Plan maps to reflect the new Columbia River Gorge National Scenic Area Boundary.

## **II. FACTOR TWO: NEW OR AMENDED GOALS OR RULES ADOPTED SINCE THE DATE OF ACKNOWLEDGMENT**

Applicable Rule: OAR 660-19-055(2)(b)

*Previously acknowledged provisions of the comprehensive plan or land use regulations do not comply with the Goals because of Goals subsequently adopted or statewide land use policies adopted as rules interpreting Goals under ORS 197.040.*

### **II.A Findings:**

The following new and amended goals and rules, applicable to Multnomah County are listed and discussed below:

#### **II.A.1 Goal 2 Land Use Planning (amendments, exceptions process), adopted 12/30/83:**

The County has applied the requirements of Goal 2 Exceptions and Rules to plan amendments that involve exceptions. However, there is no specific reference to these requirements in our ordinances. In addition the County has not articulated standards for quasi-judicial plan revisions; also the standards for legislative Plan and zone changes cite repealed State statutes. Therefore, changes are proposed to MCC 11.05.120, .180, and .290.

#### **II.A.2 Goal 3 Agricultural Lands (amendment, marginal lands option), adopted 12/30/83**

Not applicable.

#### **II.A.3 Goal 4 Forest Lands (amendment, marginal lands option), adopted 12/30/83**

Not applicable.

#### **II.A.4 Goal 8 Recreation Needs (amendment, destination resort sites), adopted 10/19/84**

The County chooses not to use this provision.

#### **II.A.5 Goal 2 - Land Use Planning Rule (OAR 660, Division 4-exceptions), adopted 07/21/82 and amended**

With one exception noted below, all aspects of the amended exceptions rule are enforced by the County. In order to clarify this policy in writing the County proposes the changes recommended in section II.A.1 of this order. These changes make direct reference in County Code to all of the pertinent Statute and rules on Goal exceptions.

The County further proposes to amend its Willamette River Greenway zone at MCC 11.15.6372(P) to include the standards of OAR 660-04-22(4) by reference.

The County is not proposing to take any new exceptions during the periodic review process.

Amendment to the Zoning Code for WRG

MCC 11.15.6372(Q) Add the bolded language:

A building setback line of 150 feet from the ordinary low waterline of the Willamette River shall be provided in all rural and natural resource districts, except for non-dwellings provided in conjunction with farm use and except for buildings and structures in conjunction with a water-related or a water-dependent use. **Any exceptions to this setback must be processed as a Goal exception under the standards of OAR 660-04-022(4).**

#### **II.A.6. – Agricultural Lands Rule, OAR 660, Division 5:**

Multnomah County does, or will through proposed ordinance amendments, comply with the various provisions of this rule as follows:

##### **660-05-010 Identifying Agricultural Land**

The County has inventoried all land *suitable for farm use* and designated such lands as Exclusive Farm Use. That inventory has been acknowledged. No changes in the areas so designated are proposed.

##### **660-05-015 Minimum Lot Size Standard**

The County originally established a 38 acre minimum lot size in the EFU District in accordance with 660-05-015(3)(a), but, under Compliance examination, was directed to better protect the unique farm land qualities of Sauvie Island. Therefore, a 76 acre minimum lot size was established for that area. In addition, the County adopted a variable lot size standard to allow the creation of lots of between 38 and 76 acres on Sauvie Island and 19 and 38 acres elsewhere in the EFU District upon approval of farm management plans under 660-05-015(b). Those lot sizes have adequately preserved our agricultural base as there have been only 11 out of the 86 subdivided lots in the entire rural area that have been approved in the EFU District.

However, we propose to eliminate 11.15.2010(C)(2) which allows new lots of between 38 and 76 acres on Sauvie Island and 19 and 38 acres elsewhere in the EFU District upon approval of farm management plans. Our experience has been that the management plans are often prepared mainly for the purpose of land division and sales and do not insure that

the resulting less than normal minimum lot size parcels will be used for commercial agricultural purposes.

We also propose to add 11.15.2017 which would allow property line adjustments between existing properties. That addition was made upon suggestion by Jim Sitzman of DLCD in a letter dated February 10, 1988.

**660-05-020 Application of the Minimum Lot Size Standard to the Creation of New Lots**

The County applies the minimum lot size standards uniformly in all farm land division requests, allowing consideration of only those divisions that equal or exceed the minimum lot size of 76 acres on Sauvie Island or 38 acres elsewhere in the EFU District. Lot sizes of less than those minimums are only allowed for selected non-farm land divisions (*e.g.*, schools and churches) under 11.15.2020.

Since the County does not have a variable lot size, the standards of *Goracke v. Benton County* do not apply.

**660-05-025 Application of the Minimum Lot Size Standard to Pre-Existing Lots**

Multnomah County has complied with this section in the manner in which it has approved dwellings on pre-existing lots. Those on lots greater than 76 acres on Sauvie Island and 38 acres elsewhere in the EFU District have been allowed as Primary Uses, while those on lots of between 38 and 76 acres on Sauvie Island and 19 and 38 acres elsewhere in the EFU District have been allowed only upon approval of farm management plans.

**660-05-030 Dwellings Customarily Provided in Conjunction with Farm Use**

Farm related dwellings are currently allowed on pre-existing lots of any size. Those on lots in excess of the minimum have undergone no tests, while those on lots of less than the minimum have had to meet the standards of 11.15.2010(A). MCC 11.15.2010(A) is proposed to be amended to include the *Matteo* and *Doughton* tests for farm dwellings only on lots equal to or in excess of the minimum lot size.

**660-05-040 Dwellings Not Customarily Provided in Conjunction with Farm Use**

Multnomah County requires that proposals for dwellings not in conjunction with farm use be evaluated at a public hearing by the Planning Commission under the standards of 11.15.2012(B)(3). Subparts (a) through (d) and (f) are identical to the standards of ORS 215.283(3).

We will comply with ORS 215.236 with adoption of proposed 11.15.2012(B)(3)(k). We do not choose to allow for land divisions for non-farm dwellings as provided by ORS 215.263(4).

**II.A.7 – Goal 4 – Forest Lands Rule, OAR 660, Division 6, adopted 09/01/82:**

**II.A.7(a)** The rule requires the following:

- (1) An inventory of lands suitable for forest uses and a determination and mapping of the productivity of those lands for commercial use;
- (2) Designation of inventoried lands on the Comprehensive Plan Map as forest lands; and
- (3) Retention of forest uses on designated forest lands.

**II.A.7(b)** The County finds as follows:

- (1) A map entitled *Multnomah County Forest Lands: Cubic Foot Site Class Map* was completed in September, 1981. This map shows the forest lands in the County by cubic foot site class of Douglas Fir in accordance with the U.S. Forest Service manual *Field Instruction for Integrated Forest Survey and Timber Management Inventories – Oregon, Washington and California, 1974*.
- (2) The inventoried forest lands are designated as either Commercial Forest or Multiple Use Forest on the Comprehensive Plan Map.
- (3) Forest uses are retained on designated forest lands by ordinances that require the following:
  - A minimum lot size of 38 acres (MUF) and 80 acres (CFU),
  - On lots between 19 and 38 acres in the MUF-19 zone and on “Lots of Record” 10 acres or larger in the MUF and CFU zones, a dwelling is permitted only “in conjunction with” a primary use as described in an approved resource (forest or farm) management program,
  - All Community Service and Conditional Uses in the forest zones must:
    - be consistent with the character of the area;
    - not adversely affect natural resources; and
    - not conflict with farm or forest uses in the area.
- (4) Due to rulings in some court decisions involving forest lands in other

counties, Multnomah County is proposing to further restrict the placement of dwellings in the CFU and MUF zones as outlined in the previous section I.A.1.(a)(ii) of this Periodic Review Order.

## **II.A.8 Goal 5 – Open Spaces/Natural Resources Rule, OAR 660 Division 16, adopted 06/29/81:**

### **Introduction**

Review of the Comprehensive Framework Plan in the context of applying the Goal 5 Rule has resulted in extensive revisions to Plan Findings and Policies. In the existing Plan documents, treatment of Goal 5 resources tends to be scattered among various sections. Overall attention to these resources has been uneven, inconsistent, and at times, incoherent. Revisions to the Plan will assemble all Goal 5 resources together in one section within both the Findings and Policy volumes.

The proposed new Findings volume of the Plan lists all Goal 5 resources in a separate subsection of Section II: Natural Environment. Likewise, for the revised Policy volume, all policies pertaining to Goal 5 resources have been set forth within Policy 16, which has been reorganized to become Multnomah County's "Goal 5 Policy". This should result in a less disjointed approach to implementing Goal 5.

The following discussion examines each of the twelve components of Goal 5. For each resource category, existing Plan Findings and Policies are reviewed for compliance with resource inventory requirements. Reference is made to any new information that has become available since acknowledgement. Necessary revisions to both Findings and Policies are then proposed.

In conclusion, the County has committed a major part of its Periodic Review effort to revising the Comprehensive Plan due to Goal 5 Rule amendments. With these revisions the County will be in compliance with OAR 660-16.

### **II.A.8(a) Open Space:**

Open Space resources are not addressed consistently in the Findings and Policy volumes of the County's Plan.

Multnomah County's Findings document makes no specific mention of "open space" other than a reference to a zoning ordinance requirement of at least 200 square feet of open space per unit in new multi-family development proposals (Comprehensive Framework Plan-I, p. 227).

There is a map (Comprehensive Framework Plan-I, p. 38) depicting "Significant Resource Sites." The 1983 "Goal 5 Resource Inventory" describes these sites in more detail, and lists open space as a resource category

occurring in all 10 mapped sites. In the Policies Volume of the Comprehensive Framework Plan (Comprehensive Framework Plan-II), Policy 15 establishes the SEC and WRG overlay zones for most of the inventoried sites (Comprehensive Framework Plan-II, pp. 60-65), although open space is not listed as a "value" on page 60, nor as a "...factor of significant environmental concern..." on the chart on page 62.

The Policies document also includes "open space" within "recreation" in Policies 39 and 40 (Comprehensive Framework Plan-II, pp. 171-175). A map entitled "Significant Areas" delineates "parks and open spaces" (p. 172a). However, a definition (p. 172) describing open space as "... all land that supports vegetation rather than structures..." does not correlate with the limited areas shown on the map.

The Findings document will describe "Open Space Resources" and include the Goal 5 definition of open space. Findings detailing where open spaces occur and methods to protect these resources will be included.

Open Space Resources will be defined as resource designated lands and include several other Goal 5 resource sites (e.g., Fish & wildlife habitats, natural and wilderness areas, water areas, wetlands, historic sites - excluding structures, recreation trails, scenic views and sites, and wild and scenic waterways).

Given the above described changes to the Findings and Plan documents, the County finds that Open Space Resources are adequately and appropriately addressed as follows:

- (1) The County's EFU, CFU, and MUF designations fulfill the Open Space concepts of Goal 5. These designations conserve agricultural and Forest lands and thereby conserve the scenic and natural values associated with those uses.
- (2) Further protection of Open Space resources is derived from several overlay districts in the County. The Significant Environmental Concern (SEC), Willamette River Greenway (WRG), Flood Way (FW), and Flood Fringe (FF) overlays restrict development along rivers and other water features in the County. These overlays also restrict development of wetlands and other low-lying areas near rivers and other streams.
- (3) Since acknowledgement, no additional lands have been identified that need designation and protection as forest or farm lands.
- (4) Uses conditionally allowed in Farm or Forest zones must be reviewed against applicable Comprehensive plan policies and acknowledged design review and/or conditional use processes required by the County.

- (5) Planned Development (PD) provisions also provide a tool to protect open space on sites with development constraints or significant natural features.

### **II.A.8(b) Mineral and Aggregate Resources:**

The Findings Document information is out of date and has been re-inventoried as was suggested in a letter from the State Department of Geology and Mineral Industries (DOGAMI, Nov. 1987). In 1978 DOGAMI inventoried a total of 57 sites within the County. Currently, only five of the sites identified in that DOGAMI report are within that portion of the County subject to this Review Order (*i.e.*, not within an incorporated city, the Mt. Hood National Forest, or the Columbia River Gorge NSA).

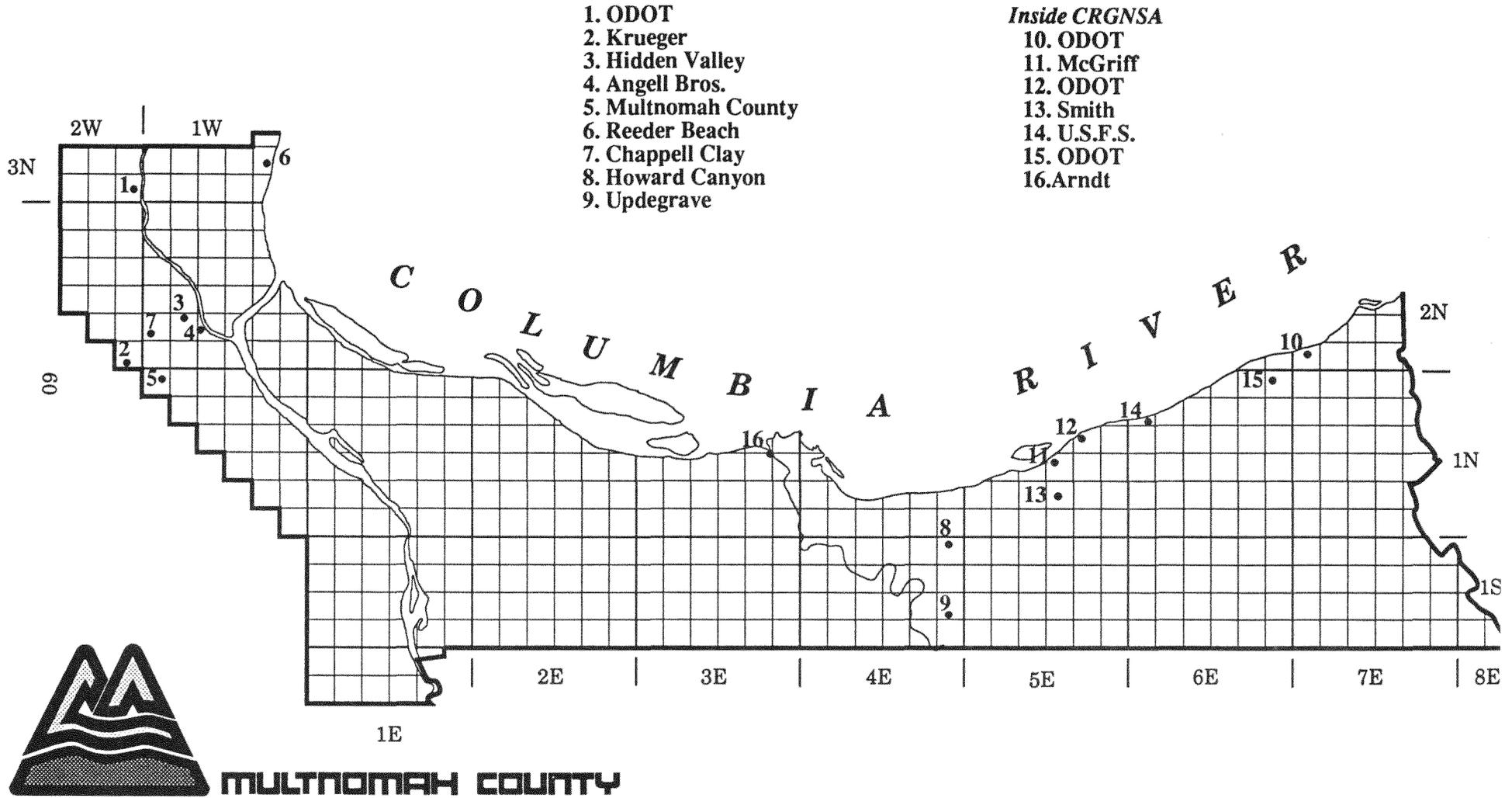
Since the DOGAMI report four new sites have been identified: two in the rural Northwest, and two east of the Sandy River. A total of nine sites, therefore, are being evaluated in this Order (see Figure 10.). Seven additional sites are mapped within the Columbia River Gorge NSA. Analysis of those sites is being deferred due to postponement of Periodic Review requirements for that portion of the County. The Columbia River Gorge Commission is now conducting natural resource inventories which includes an analysis of the mineral and aggregate resources within the NSA.

A summary of the Economic, Social, Environmental and Energy Analysis of the nine inventoried sites subject to this Order is as follows:

1. ODOT — "1B"
2. Krueger — "1B"
3. Hidden Valley — "1A"
4. Angell Brothers — "3C" for existing operation area and "1B" for future expansion area until the location of the resource is more accurately mapped.
5. Multnomah County — "3C"
6. Reeder Beach — "1A"
7. Chappel Clay — "3C" for existing operation area and "1B" for future expansion area.
8. Howard Canyon — "3C"
9. Updegrave — "1A"

Mineral extraction is presently processed as a conditional use; as such, must demonstrate consistency with the character of the surrounding area. The conditional use process is proposed to be amended to recognize mineral and aggregate resources as a special type of conditional use, not subject to that standard. The revised process is intended to bring the County's process in line with the requirements of OAR 660-16-010.

# MINERAL RESOURCES



*Note: There are also 7 additional National Forest sites within the CRGNSA not shown on this figure.*

**Figure 10.**

## II.A.8(c) Energy Sources:

The Plan's current Findings Document discusses both non-renewable and renewable sources of energy (Comprehensive Framework Plan-I, pp. 21-23 and pp. 183-187). According to the Plan, the only site specific energy resource in the County is Bonneville Dam. Other potential energy sources that have been identified include wood heat, solar power, wind power, municipal waste, and conservation measures.

A written communication from the State Department of Geology and Mineral Industries (DOGAMI, Nov. 1987) relates that, "Oil and gas exploration wells have been drilled in the past, and the County may have potential geothermal resources." Further investigation of drilling reports has found that the oil and gas explorations have all resulted in "dry wells." No recent exploration permits have been issued by DOGAMI (May, 1988).

A map published by DOGAMI in 1982, *Geothermal Resources of Oregon*, indicates that most of Multnomah County is in an area "...favorable for the discovery ... of thermal water of sufficient temperature for direct heat applications." Within this broad region is a smaller cell, centered on the Corbett-Hurlburt Road area, that is "...known or inferred to be underlain ... by thermal water of sufficient temperature for direct heat applications." This assessment is based on the location of a warm well at Camp Collins (21°C), and the Corbett Warm Spring (23°C). A 1984 Report by the Oregon Department of Energy, *Controlling Energy Costs - A Manual for Local Government*, has somewhat downgraded the County's ranking in a map which indicates "low geothermal potential." Further communication with DOGAMI (May, 1988) has confirmed that prospects for geothermal development are limited to low temperature, direct use application (space heating, heat pumps). While the potential exists, no such development has occurred at this time. Should one be proposed, The Zoning Ordinance allows for geothermal development as a conditional use under the Mineral Extraction section.

Hydroelectric energy represents the only site specific energy source able to be mapped in compliance with Goal 5 inventory requirements. In addition to Bonneville Dam, Bull Run Powerhouse and several small-scale hydroelectric projects are active in Multnomah County. The County is not involved with regulating hydroelectric facility development, and has chosen not to adopt the State's model hydroelectric siting standards for local governments. With the exception of federal BPA projects, any hydroelectric facility in the County must be licensed by the state Water Resources Department. This agency has provided the County (May, 1988) with a current list of these projects, indicating locations, potential output (in theoretical horsepower and kilowatts) and date of license. Because possible conflicting uses are addressed at the time a license is issued, these sites have been mapped and designated as "2A" for the purposes of Goal 5. As long as state requirements are met, the sites are protected for

the duration of the license. The Findings Document will be updated to include this new information.

Other renewable energy sources (wood heat, wind power, solar power) are not site specific resources. For this reason, existing language in the Comprehensive Plan which recognizes their current and potential use is adequate for Goal 5 purposes. On a more tangible note, the County was an active participant in the BPA sponsored Solar Access Project, involving 22 metropolitan area jurisdictions in the adoption of a uniform Solar Access Ordinance for residential development.

#### **II.A.8(d) Fish and Wildlife Habitat:**

Fish and wildlife habitat is one Goal 5 resource category that receives adequate attention in the existing Comprehensive Framework Plan. The Findings document outlines habitat requirement for fish, big game, furbearers, upland game birds, waterfowl, and non-game animals (Comprehensive Framework Plan-I, pp. 25-30). Population estimates are given, along with a discussion of factors which tend to impact habitat quantity and quality.

Sensitive wildlife habitat areas were mentioned as part of the Goal 5 process for significant resources. These areas are outlined in a matrix indicating ownership and protective zoning measures. Habitat protection is listed as a criteria in the following sections of the Zoning Ordinance: Willamette River Greenway (WRG), Significant Environmental Concern (SEC), Community Service (CS), Conditional Use (CU) and Design Review (DR).

The Oregon Department of Fish and Wildlife has supplied the County with updated maps regarding sensitive big game habitat, raptor nesting sites, special waterfowl areas, and occurrences of habitat for certain non-game species of interest, such as the pika and the Larch Mountain salamander. This updated information will be noted in the revised Findings document.

The existing Policies document addresses fish and wildlife resources in Policies 15 and 16. In Policy 15, "critical and unique wildlife habitat" is listed as a factor of significant environmental concern (Comprehensive Framework Plan-II, pp. 62-63), while Policy 16 calls for the protection of fish and wildlife habitat areas (Comprehensive Framework Plan-II, p. 66). In revising the Policies document, an attempt will be made to simplify matters by containing provisions for fish and wildlife habitat protection within the reorganized Policy 16 devoted to Goal 5 resources. We have reviewed the Zoning Ordinance measures and find them adequate for implementing these habitat protection policies.

Recent studies suggest that the Tualatin Mountains, or West Hills area of the County may serve as an important corridor for wildlife movement. The great diversity of species found within the City of Portland's Forest

Park may be due primarily to the ability of wildlife to interact with populations in the larger natural area of the Coast Range. The rural, relatively undeveloped character of northwest Multnomah County, therefore, would play a key role in maintaining the richness of the Forest Park ecosystem.

The West Hills area has for some time been recognized as containing important wildlife habitat. The following is from the 1974 Sauvie Island/West Hills study conducted for the County by Skidmore, Owings, and Merrill: "The habitat in the West Hills consists of dense stands of conifer and alder. These lands support innumerable bird species, over 14 amphibian and reptile species, and over 25 mammal species. Mammals include black-tailed deer, bear, fox, bobcat, raccoon, and weasel."

The relationship of this area with Forest Park was noted in a 1982 study for the Oregon Parks Foundation by wildlife biologist Marcy Cottrell Houle:

*A primary factor behind Forest Park's species richness is due to its location: at the present time, wide corridors of natural habitat inter-link Forest Park with the rural Coast Range. These corridors, extending from Forest Park's northwestern boundary, are presently free from urbanization, and allow for recruitment of flora and fauna from other natural species pools.*

Further strengthening of the West Hills-Coast Range connection was cited in the 1986 Wildwood Landfill Site Study by CH2M-Hill, which recognized that the West Hills area is "...part of the Oregon Coast Range biological province and contains vegetation and wildlife habitats typical of that region." Most recently, a 1988 map commissioned by the Metropolitan Service District (METRO) delineating Portland metropolitan "natural areas", indicates the presence of a "natural corridor" expanding to the northwest along the West Hills area of northwest Multnomah County.

The County recognizes the potential of the West Hills area to function as an important wildlife corridor. An ESEE analysis of the potential corridor area indicates that further information regarding wildlife resources and habitat requirements is needed. Therefore, the entire potential corridor area has been designated "1B".

#### **II.A.8(e) Natural Areas:**

The Oregon Natural Heritage Program's 1977 report *Oregon Natural Areas Data Summary* forms the backbone of the County's natural areas inventory. Those areas identified by ONHP as having natural area values were included in the current Plan's matrix "Areas and Factors of Significant Environmental Concern" within Policy 15 (Comprehensive Framework Plan-II,p.62). Consequently, either the SEC or the WRG overlay zone was applied to each of these areas. Natural Areas are also addressed in existing Policy 16, which calls for a commitment to protect

the "long-range availability and use" of "ecologically and scientifically significant natural areas."

Elsewhere, the Plan currently addresses natural areas together with wilderness (Comprehensive Framework Plan-I, p.33). There are some confusing definitions in The Findings Document which will be clarified. The definition from the Statewide Goals publication will be incorporated into the new Findings section on natural areas.

The Oregon Natural Heritage Program, in association with the Nature Conservancy, was contacted for any updated or revised information pertaining to natural areas. The County requested a computerized file search be conducted of the ONHP data base (June 1988). The original 1977 *Data Summary* was then re-assessed in the context of these new data.

Due to the postponement of Periodic Review requirements for that portion of the County within the Columbia River Gorge National Scenic Area, the natural areas inventory is limited to six sites. A Goal 5 worksheet has been completed for each site, resulting in the following designations:

<u>Name</u>	<u>ONHP#</u>	<u>Goal 5 Designation</u>
Sandy River Gorge	MU 1	2A
Rafton Tract	MU 9	3C
Sand Island	MU 23	3C
McGuire Island	MU 40	3C
Virginia Lakes	MU 45	3C
Sauvie Island Wildlife Area	MU 71	2A

In addition to these six sites, several locations in the Columbia River Gorge National Scenic Area are likely candidates for natural area designation. The Columbia Gorge Commission is now in the midst of conducting natural resource inventories. Data collected by the Commission will be utilized during the next Periodic Review. Also, the US Forest Service has proposed designating a research natural area within the Bull Run Watershed. The Draft Land and Resource Management Plan for the Mt. Hood National Forest should be adopted within the next year. If approved, this would be the first officially designated federal research natural area in Multnomah County.

Those natural areas on the County's current inventory will be described in a separate section of the new Findings document. Potential areas in the Columbia River Gorge and Bull Run Watershed will be noted for future reference. In revising the Policies document, natural areas, like all Goal 5 Resources, will be shifted to the reorganized Policy 16, leaving Policy 15 solely to address the Willamette River Greenway.

## II.A.8(f) Scenic Views and Sites:

Scenic views and sites abound in Multnomah County. Most notably, The Columbia River Gorge National Scenic Area covers 99 square miles of the County (22% of the land area) extending along the Columbia River from the Sandy River east to the County line near Bonneville Dam. Scenic views and sites in the NSA are being inventoried as part of the Columbia Gorge Commission's evolving management plan for the scenic area.

In addition, the Draft Environmental Impact Statement for the Mt. Hood National Forest Management Plan includes a discussion of scenic resources.

The Sandy River Gorge received a scenic designation in 1973 through The State Scenic Waterway Act. Recent federal legislation provides further recognition of the river as a "wild and scenic waterway". The State Department of Energy Rivers Study also has scenic ratings for several waterways in the County.

Scenic resources in the rural areas of the County are found generally in all agricultural and forested areas. Specific sites and areas are discussed in the Findings Document. The Findings document will describe "Scenic Areas" and include the Goal 5 definition of Scenic Areas. Scenic areas will be described generally as resource designated lands and include several other Goal 5 resource sites (eg., natural and wilderness areas, water areas, wetlands, recreation trails and wild and scenic waterways). Reference IV.B.1, II.E.8 and II.E.12 for additional discussion on scenic areas.

Given the above described amendments to the Findings document, the County finds that Scenic Areas are adequately addressed as follows:

- (1) The County's EFU, CFU, and MUF designations generally protect scenic resources; these designations conserve agricultural and forest lands and thereby conserve the scenic values associated with those land uses. These tools protect scenic qualities found generally on Sauvie Island, the Northwest Hills, and farm and forest lands east of Gresham.
- (2) Several scenic areas are further protected through overlay provisions in the zoning ordinance. The SEC, WRG, FW and FF overlays restrict development along rivers and other water features in the County. These overlays also restrict development of wetlands and other low-lying areas near rivers and other streams. These provisions protect scenic values along Multnomah Channel, the Sandy River, in the Columbia River Gorge and on Sauvie Island.
- (3) Uses conditionally allowed in farm or forest zones must be reviewed against applicable Comprehensive Plan policies and acknowledged Design Review and Conditional Use criteria. These reviews provide

tools to protect scenic resources in rural areas of the County. The State Forest Practices Act controls timber harvesting and the location of dwellings in forest areas.

- (4) Planned Development (PD) provisions also provide a tool to protect scenic resources on non-resource designated lands with development constraints or significant natural features.
- (5) The recently enacted Federal Rivers Bill controls development within one-quarter mile of the Sandy River (upstream of the Stark Street Bridge) and prohibits the construction of dams along this scenic reach of the river.
- (6) The Columbia River Gorge National Scenic Area Act includes Interim Guidelines which control development and protect scenic values prior to adoption and implementation of a management plan in the NSA.

#### **II.A.8(g) Water Areas and Wetlands:**

As previously discussed in section I.D.(1)(f), the County has been able to, by photographic enlargement, make the U.S. Fish and Wildlife National Wetlands Inventory (NWI) Maps easier to use in identifying specific properties containing the water areas and wetlands. Property owner and staff inquiries concerning the presence of a wetland which will likely need review by the U.S. Corps of Engineers and Division of State Lands is accomplished on a continuing basis from the 1"=600' and 1"=1,000' property maps with the NWI overlay. These maps cover the entire County area.

The County's most recent inventory of important water and wetland areas was accomplished during the 1988 calendar year. The area of the County within the National Columbia River Gorge Scenic Area was not a part of the inventory because the U.S. Forest Service is presently conducting resource inventories of the area as required by federal legislation. Also, state legislation allowed deferral of periodic review issues in the Gorge (ORS 197.640(a)). However, because the entire Columbia Gorge already is covered by a Significant Environmental Concern overlay zone, the proposed changes to the SEC zoning regulations will still take effect in that region of the County. Similarly, although the 1988 wetlands inventory also does not include areas within the Urban Growth Boundary (see section entitled "Background"), the following urban wetlands which are presently listed in the Plan and zoned SEC will also be covered under the proposed regulation amendments:

1. Smith and Bybee Lakes
2. West Hayden Island
3. Blue Lake
4. Columbia River shore area.

Starting with the assumption that the National Wetland Inventory is so complete as to show essentially all important water and wetland areas as well as those areas of lesser importance, the NWI was used as a base from which to begin the County's own inventory of important sites. The enlarged NWI mylar overlays were then projected onto 1"=200' aerial photographs. This gave both a total accounting of the wetlands covered by the NWI and, in the majority of situations, produced a boundary outline which closely matched vegetation breaks visible on the photo. Except for the aforementioned deferral areas and the U.S. National Forest lands, aerial photos were prepared that covered the entire County.

These aerial photos, along with the property maps with the same NWI overlay, and the existing Goal 5 inventory were then given to Ester Lev, an experienced wetlands consultant. Ms. Lev, during the spring and early summer months of 1988 then conducted an on-site inspection of the wetland areas indicated on the aerial photos. Field notes taken at the sites included the following:

1. wetland boundary line modifications as needed on the aerial photos,
2. cross out of nonexistent or insignificant wetlands on the aerial photos,
3. physical parameters of the site,
4. vegetation,
5. wildlife,
6. human uses,
7. suggested management of the site,
8. sketch map, and
9. a detailed "Wildlife Habitat Assessment" (WHA) rating sheet which included water, food, and cover components.

The consultant's final report showed the following ranking of the wildlife habitat assessment rating for each wetland (possible 96 points):

<u>Wetland</u>	<u>Points</u>	<u>Zoning Designation</u>
1. Sandy River Gorge	84	MUF-19 & 38, SEC, CS, FH
2. Virginia Lakes	79-81	EFU, WRG, FF
3. Rafton/Burlington Bottoms	74	MUA-20, WRG, FF

4. Sturgeon Lake	71-73	MUA-20, SEC, FF
5. Multnomah Channel	65	EFU & MUA-20, WRG
6. Government Island	64	MUF-19, SEC, CS, FF, NI
7. Northwest Hills Streams	63	CFU, MUF-19 & 38, RR
8. Dairy Creek, Gilbert River, and Misc. Drainageways on Sauvie Island	56	EFU
9. McGuire Island	55	MUF-19, SEC, CS, FF, NI
10. Sand Lake	49	EFU
11. Howell Lake	47	EFU, WRG, CS
12. Small Unnamed Lake/ Slough west of Wagon Wheel Hole Lake	47	EFU
13. Agricultural Ditches and Sloughs on Sauvie Island	37-40	EFU
14. Wagon Wheel Hole Lake	37	EFU, FF

Of the above list, numbers 1, 4, 6, and 9 are part of the present listing of "Areas of Significant Environmental Concern" in the Comprehensive Plan. It is therefore proposed, as part of the plan amendments accompanying this Order, to add numbers 2, 3, 5, 10, 11, 12, and 14 to the Significant Environmental Concern list of a reformatted Policy 16. It is also proposed that because numbers 2, 3, 5, and 11 are all within the Willamette River Greenway overlay zone that the same wetland protection regulations be proposed to be included in the WRG zone as are proposed for the SEC zone; eliminating the need to add the SEC overlay zone on top of the WRG overlay zone. The proposed wetland protection measures are in sections .6372(M) and .6420(L) of the zoning code.

Wetland areas numbered 7, 8 and 13 above and similar stream wetland and riparian situations are proposed to be protected by a zoning ordinance amendment, MCC .6404(C), which would require the SEC development review process for any new building, structure, or physical improvement within 25 feet of the normal high water level of a Class I stream (Forest Practice Rules definition), regardless of the zoning designation of the site. By including only the Class 1 Stream classification of the agricultural ditches and sloughs in listing number 13, the smaller and lower rated waterways drop out of the protective SEC provisions while the larg-

er and more important linear wetlands are included.

As an assist in determining the "Significance" of a wetland it is proposed in Comprehensive Plan Policy 16-G to use the aforementioned "Wildlife Habitat Assessment" (WHA) rating system as a guideline. A wetland area which rates near 45 points on the WHA and which is a designated "2A", "3A", or "3C" site by the Goal 5 "Economic, Social, Environmental, and Energy analysis" should be considered for SEC or WRG overlay zone protection. The 45 points break is just under half the possible points.

Wagon Wheel Hole Lake, (37 points) is proposed to be included in the SEC listed sites because it is presently zoned SEC on the easterly one-third of the lake and, more importantly, it is between Sturgeon Lake and the unnamed lake/slough to the west that received a WHA rating of 47 points. The resulting continuous SEC zoning would provide better protection of riparian movement between all the associated or nearby wetlands.

All of the smaller wetlands in number 13 that are not Class 1 Streams will receive protection from the EFU, 76 acre minimum parcel size, zoning on Sauvie Island. This zoning will limit conflicting uses because all non-farm related land uses are conditional uses and must be shown to "...not adversely affect natural resources.", MCC .7120(B) and .7015(B). The regulation of farm related impacts on wetlands is the responsibility of the Division of State Lands and the U.S. Army Corps of Engineers.

Additional wetland protection changes proposed to the zoning code include the following:

1. Adding the same definition of wetland used by the U.S. Corps of Engineers and Division of State Lands.
2. Boundaries of "Significant" wetlands listed in Policy 16, Strategy C, will be shown on 1"=200' aerial photographs.
3. A new "Significant" Wetlands section is proposed to be added to the SEC overlay zoning district regulations. Some of the provisions include criteria requiring that to allow the disturbance of a "Significant" wetland the proposed development:
  - Be water-dependent,
  - Demonstrate that the purpose of the project cannot be reasonably accomplished on another site,
  - Will result in as few adverse impacts as is practical to the wetland's functional characteristics,
  - Will provide a buffer area,
  - Will provide replacement wetlands for any loss.

## **II.A.8(h) Wilderness Areas:**

The following statement is found in the Plan's Findings document:

"The Eagle Creek Wilderness Study Area is totally within the Mt. Hood National Forest and must go through the U.S. Congress to be established as a wilderness." (Comprehensive Framework Plan-V. I, p.33)

In its periodic review notice, DLCD suggests that the County "discuss conflicts with the proposed Eagle Creek Wilderness area and clarify the County's position on Wilderness Designation."

In 1984, Congress created the "Columbia Wilderness" essentially encompassing what had been referred to in the County Plan as the Eagle Creek Wilderness Study Area. This newly created wilderness area represents a type of Goal 5 resource not previously found in Multnomah County. Consequently, the resource has been mapped and a Goal 5 Worksheet has been completed, resulting in a 2A classification. Since wilderness is an extremely restrictive land use designation that can only be applied to an area of federal land by an act of Congress, it is the County's determination that, for all practical purposes, there are no conflicting uses. Specific regulations regarding wilderness use are administered by whichever federal land management agency has jurisdiction over each particular area. In this case it is the Mt. Hood National Forest. Because the County does not have regulatory control over national forest lands, potential conflicting uses derived from the zoning ordinance do not apply.

The County will follow the remainder of DLCD's suggestion by adopting within the Plan's Findings Document the official definition of "wilderness areas" as listed in the statewide Goals publication, as well as a discussion of the value of wilderness in a predominantly urban county. A finding in recognition of the new Columbia Wilderness will replace the statement regarding the Eagle Creek Wilderness Study Area. A policy will be incorporated supporting wilderness designation for all wilderness study areas that are found to be suitable under the definition.

## **II.A.8(i) Historic Resources:**

The current Findings document of the Comprehensive Plan makes no mention of historic resources. This is not to say, however, that the County has never made an effort to identify historic sites and structures. In 1978, in an attempt to comply with Goal 5 requirements at that time, the planning staff conducted a limited survey of historic sites. In a simultaneous but independent project, the Board of County Commissioners had formed an Historical Sites Advisory Committee, whose main goal was to identify historic sites and install informational plaques at the more prominent locations. This committee also established criteria for applying to potential historic sites as part of their inventory process. The

County Planning Commission later incorporated these criteria into Policy 18 of the Comprehensive Plan (Comprehensive Framework Plan-II, pp. 72-75).

The 1978 inventory by the planning staff resulted in the adoption of an ordinance in 1980 officially designating eighteen historic sites. Of these, 5 have been subsequently annexed to cities, leaving 13 on the County roster. These 13 historic sites, along with an additional property designated in 1988, will be addressed in the revised Findings document.

The process of applying protective measures through the Zoning Ordinance is currently confusing. There exists an overlay zone (Heritage Preservation - HP) set up specifically to provide protection for designated historic sites. Of the 13 historic sites, however, only 3 are zoned HP. This is due to an overlapping concern for historic resources which has found its way into several other overlay zones. As pointed out in the Planning Commission Resolution designating the sites as historic, those 10 sites which are not zoned HP "...are presently zoned either Willamette River Greenway (WRG), Significant Environmental Concern (SEC), Community Service (CS), or a combination of these zones. Each of these districts has provisions for the protection of any site designated as historic."

Policies of the Comprehensive Plan likewise are redundant in their treatment of historic resources. Policy 15 holds that the County will designate as Significant Environmental Concern (SEC) those areas having, among other values, "historic value, e.g. historic monuments, buildings, sites or landmarks" (Comprehensive Framework Plan-II, pp.60). Strategies within Policy 15 go on to stipulate the use of "A historic preservation overlay district which should be applied to areas or specific sites not otherwise designated for protection under CS, SEC, or other zoning" (Comprehensive Framework Plan-II, p.63). Policy 18 requires "the preservation of significant historical landmarks and districts" (Comprehensive Framework Plan-II, p.73), and outlines the Historical Site Criteria developed by the County's Historical Sites Advisory Committee. Strategies here also direct the zoning ordinance to "include an Historic Preservation Overlay District which will provide for the protection of identified historic areas and sites" (Comprehensive Framework Plan-II, p.74).

In revising the Comprehensive Plan, all policies and strategies regarding historic resources will be placed in Policy 16i, within the reorganized Policy 16 devoted to Goal 5 Resources. Directives calling for the application of SEC, CS or WRG zoning will be amended, such that all historic sites will receive an HP overlay designation. We find this will limit confusion over the adequate provision of protective measures for historic resources, by fully utilizing the Historic Preservation district for its intended purpose. (The current discrepancy between "Heritage" and "Historic" Preservation Districts found in the Comprehensive Plan and Zoning Ordinance will be rectified in favor of the Comprehensive Plan's "Historic Preservation District." It may only be a question of different labels for identical

products, but we wish to avoid confusion).

We have reviewed the County's 1978 inventory of historic resources and find it inadequate. Not only does it fail to comply with Goal 5, but it was conducted without any technical assistance, resulting in incomplete and inconclusive data.

During the spring of 1988, the County embarked upon a program designed to fully comply with Goal 5 and to arrive at a complete, professional evaluation of historic resources. To begin, the planning staff requested from the Department of Assessment and Taxation a computer-generated listing of all properties with structures older than 50 years. Each of these properties, totalling approximately 900, was mapped on a set of cadastral maps at a scale of 1"=1,000'. The location of the structure on the property was determined using 1986 aerial photography and the recently completed land use inventory.

In March, 1988, we hired the firm of Koler/Morrison, Historic Preservation and Planning Consultants, to devise a program and conduct the research necessary for a comprehensive survey and inventory of the County's historic resources. The approved Work Plan consists of two phases: Survey and Inventory. The survey process comprising Phase I has now been completed. This involved visiting each of the 900 "potential" sites and recording, photographing, and drafting site plans for those structures deemed most likely to be determined significant historic resources. The end product of Phase I is a set of reports complete with site plans and photographs for 68 properties which are best classified as 1B resource sites for the purposes of Goal 5 compliance. Further research and evaluation are necessary to determine the relative significance of these survey sites.

Phase II, the Inventory phase, entails assembling documentary source materials, conducting a literature search, formulating a Historic Context for the County, conducting research on individual resources, and making determinations of significance. It will be implemented in the near future, with funding assistance from SHPO. Once this phase has been completed, the County will have a valid Goal 5 inventory of historic resources, ready for the process of conflicting use and ESEE analyses.

#### **II.A.8(j) Cultural Areas:**

The Findings Volume is currently mute on the subject of cultural areas or archeological sites. The Plan's Policies document, however, makes several references to this resource category.

Under existing Policy 15, it has been the County's policy to designate as areas of significant environmental concern (SEC) any area having, among other public values listed, "archeological value, e.g., areas valued for their historical, scientific and cultural value" (Comprehensive Framework

Plan-II, p. 60).

As previously mentioned in the discussion dealing with historic sites, under Policy 18, Community Identity, there is a requirement calling for "...the preservation of significant historical landmarks and districts, and archeological and architectural sites which have been so designated by a federal or state agency..." (Comprehensive Framework Plan-II, p. 73).

The County has never conducted an inventory of archeological sites, although certain locations are known from information on file. Several of the more important sites along the Columbia River are now within city jurisdictions. Excluding the Columbia River Gorge National Scenic Area and the urban areas, the area with the highest probability for finding significant archeological resources in Multnomah County is Sauvie Island. The locations of several village sites are known, but have not been formally recognized in the Comprehensive Plan. Sunken Village, an immersed site along Multnomah Channel near the Sauvie Island Bridge, was recently nominated as a national landmark to be placed on the National Register of Historic Places.

The Office of the State Archaeologist maintains an inventory of archeological sites for each county. Nearly all of these sites are known only at a reconnaissance level. For Goal 5 purposes, this would place them in a "1B" classification. Furthermore, the sensitive nature of archeological resources necessitates strict discretion in the dissemination of this information. Therefore, the revised Findings document will discuss the County's archeological resources in broad and very general terms, noting that further study by professionals is of utmost importance for evaluating the significance of known sites as well as those which may yet be discovered.

Regarding the issue of local governments applying protective measures through zoning or other means, Multnomah County has followed closely the discussions and recommendations of the Goal 5 Archeological Committee. It is our understanding that these recommendations have not been implemented at the state level. It is our position that the evaluation and protection of archeological resources is a matter of statewide concern, and certainly extends beyond the expertise of local planners. Therefore, by way of interim policy guidelines, it will be the County's policy to protect to the greatest extent possible, archeological sites of known location. This will be articulated as Policy 16j, within the reorganized Policy 16 devoted to Goal 5 Resources. Over the next year we will work on a system of ensuring land development proposals do not adversely affect these sites. This may include earmarking these sites on zoning maps available to staff only; developing a matrix of high - moderate - low impact land uses relative to a geographic scale of high - moderate - low potential for discovering sites; and the possibility of requiring an archeological survey as a condition for certain high impact land use proposals.

## II.A.8(k) Recreation Trails:

There is no mention of this resource category within the current Plan's Findings document. Policy 39, however, contains this directive:

*Coordinate with appropriate public and private agencies and individuals to resolve any potential conflicts which may arise over the development of or protection of the Oregon Recreation Trails System. In Multnomah County, potential state recreation trails include the Portland to the Coast Trail, the Sandy River Trail, the Columbia Gorge Hiking Trail, the Northwest Oregon Loop Bicycle Trail, and the 40 Mile Loop. (Comprehensive Framework Plan-II, p. 173)*

With the exception of the 40 Mile Loop, which is now entirely within the jurisdiction of various cities, a Goal 5 worksheet has been completed for all of these trails. This has resulted in the following designations:

Portland to the Coast Trail	1B
Sandy River Trail	1B
Columbia Gorge Trail	1B
Northwest Oregon Loop	Bicycle

For those trails designated as "1B" sites, the Plan will note their general location and will address them as Goal 5 inventory sites at some point in the future, when a more definitive route has been established.

As outlined in a DLCD memo, the Goal 5 process does not apply to bicycle routes, so long as they are recognized in the Plan's Findings, and a Policy is in effect assuring "coordination with ODOT in the resolution of conflicts with these trails."

The potential hiking trails will be described in the Plan's Findings document in compliance with the Goal 5 rule. A statement will also be included which makes reference to the listing of these trails in SCORP '83. Language currently in Policy 39, which recognizes the trails and assures coordination with ODOT, will be shifted to Policy 16k, under the reorganized Policy 16 devoted to Goal 5 Resources.

## II.A.8(l) Wild and Scenic Waterways:

The Sandy River State Scenic Waterway was established in 1973, as noted in the Plan (Comprehensive Framework Plan-I, p. 31). It includes all land within 1/4 mile of the river from Dodge Park (in Clackamas County) downstream to Dabney State Park. Administration of scenic waterway regulations is the responsibility of the Parks and Recreation Division of Oregon Department of Transportation. Management policy is based on provisions in the Scenic Waterways Act (1969) regarding scenic values, fish and wildlife, and scientific and recreation resources. Specific

directives for this particular scenic waterway are outlined in Scenic Waterway Study: Sandy River (ODOT, 1972); and Sandy River Gorge Study (ODOT, 1983).

Due to its official designation, the Sandy River State Scenic Waterway is fully protected as a Goal 5 resource site (2A). This will be reflected in the Findings Document. The Plan also notes that, "In order to mitigate the impact of uses allowed within these zones on a State recognized scenic waterway, the SEC overlay zone has been utilized in addition to the State review process," (Comprehensive Framework Plan-I, p.36).

In 1988 a segment of the Sandy River was also designated as a federal "wild and scenic waterway"; it will be managed by the U.S. Forest Service.

Proposed Policy 16-L will retain the application of the SEC overlay zone in recognition of the importance of the Sandy River Gorge as the location of several Goal 5 resource sites. No other potential scenic waterways are proposed for Multnomah County at this time (SCORP, 1983).

#### **II.A.9 Incorporation Rule, OAR 660, Division 14, 12/30/83:**

Currently the County would be subject to the requirements of this rule for incorporation of any new cities. A language proposal is listed below which would recognize this rule within our Plan Policies. In addition, changes proposed for the County's Plan Amendment process will also implement the exception requirement of 660-14-010(1). Therefore, the following change is proposed:

Add to Framework Plan Policy No. 1 (p. 13) a new section as follows:

**Any County action taken regarding incorporation of a new city shall be done in accordance with State rules adopted in Oregon Administrative Rule 660-14-000 through 040.**

#### **II.B Summary Conclusion - Factor Two**

The County has examined all new or amended Rules and Goals and proposes changes to the Findings document, Plan Policies and implementing ordinances which will bring the County into compliance.

### III. FACTOR THREE: STATE AGENCY PLANS AND PROGRAMS

Applicable Rule: OAR 660-19-055(2)(c)

*The comprehensive plan and land use regulations are inconsistent with a state agency plan or program relating to land use that was not in effect at the time the local government's comprehensive plan was acknowledged, and the agency has demonstrated that the plan or program:*

*(A) Is mandated by state statute or federal law;*

*(B) Is consistent with the goals; and*

*(C) Has objectives that cannot be achieved in a manner consistent with the comprehensive plan or land use regulation..*

#### III.A Findings:

The following is a list of the state agencies and a discussion of how the County's plan, ordinances and inventories meet the respective agencies requirements.

##### III.A.1 Department of Environmental Quality

###### III.A.1(a) Air:

The remaining unincorporated urban areas, rural Orient and part of the Northwest Hills rural area are within the Portland-Vancouver Air Quality Maintenance Area (AQMA) as designated by DEQ and EPA. The Portland AQMA has been classified as a "non-attainment area" for three pollutants (ozone, carbon monoxide and total suspended particles) which exceed federal and state standards. The air quality section of the Findings Document has been updated based upon new information supplied by DEQ to reflect the 1986 Air Quality Annual Report. DEQ was contacted regarding the existence of significant air pollution sources that might exist in the rural County; none were found to be located in the County's jurisdiction. At the County level, air quality regulation is enforced through zoning. The County therefore concludes that the revised Comprehensive Plan is consistent with state and federal requirements.

###### III.A.1(b) Water:

Water quality is regulated by the State Environmental Quality Commission through DEQ, and the State Health Division. DEQ was contacted regarding major point sources of water pollution; none are known to exist in the County's rural jurisdiction, and no National Pollutant Discharge Elimination System (NPDES) permits are in force. Non-point pollution discharge sources were identified in 1978 by DEQ and are in the process of being revised. When new information is made available on non-point

source pollution, it will be added to the Comprehensive Plan Findings Document. A state-level Interagency Task Force has acknowledged that non-point source pollution is an issue of statewide concern, of a scale beyond the capacity of individual jurisdictions to monitor or control. The DEQ is now developing a legislative proposal for a comprehensive groundwater protection program.

Under the 1987 Federal Water Quality Act, storm water discharge will be regulated by permit in 1992. Storm water runoff is known to be a problem in the unincorporated urban areas and an intermittent problem in rural areas with steep slopes. This problem has been noted in the updated Comprehensive Plan Findings Document. The Cities of Portland and Gresham, under the Urban Plan Area Agreements, will be responsible for addressing this problem and developing a master plan to assure groundwater protection and surface water quality.

New and more detailed information on surface and groundwater resources has been compiled and added to the Findings Document. The State Health Division was contacted regarding known drinking water problems which might exist in the rural portions of the County; no known problems were identified. County regulation of water quality is enforced through zoning and cooperative agreements with cities. The County concludes that the Plan is consistent with the requirement to inventory major pollution sources and to address them in Plan policies and implementing ordinances.

### **III.A.1(c) Hazardous and Solid Wastes**

DEQ was contacted to acquire an updated inventory of superfund (Resource Conservation and Recovery Act/Comprehensive Environmental Response and Liability Act) sites. Of the 97 sites located in Multnomah County, only one was within its direct jurisdiction. The site is at Bridal Veil in the Union Pacific Railroad right-of-way. In 1974, a train derailment released paints into the ground. Site monitoring verified moderate groundwater contamination in two small areas. DEQ and EPA are in the process of determining what remedial actions will be taken.

New information was added to the County's Findings Document from DEQ on solid waste facilities, recycling efforts, and the current status of efforts to correct the failing on-site sewers in the unincorporated urban areas. As suggested, Plan revisions include a discussion of project funding available to County residents. The County regulates solid and hazardous wastes through intergovernmental coordination, cooperative agreements with surrounding cities, and the Zoning Code. The County concludes that the plan is consistent with State and Federal laws.

### **III.A.1(d) Noise:**

In the early 1980's the County established a noise impact area around the

Portland International Airport and revised the building code requirements to further buffer noise.

In 1988, DEQ was contacted regarding noise regulation problems which might exist in the rural County, and a list of potential sources was compiled. Potential sources included wood mills, active quarries, major highways, construction sites, and the Union Pacific Railroad. Currently DEQ does not consider the rural County area to be a problem.

County standards are 50 db's from 10 pm. to 7 am. and 60 db's from 7 am. to 10 pm., and are enforced by the County Sheriffs office. No variance in sound levels is allowed based upon activity categories. State and federal standards are designated by activity categories ranging from 52 to 72 db's and allow intermittent louder noises to occur. Since County regulations were found to be more stringent, the County finds that it is in compliance with state and federal regulation.

### **III.A.2 Department of Forestry**

#### **III.A.2(a) Forest Practices Program:**

The Forest Practices Act regulates all forest operations. ORS 527.722, along with ORS 215.050, restricts local government from regulating forest practices on forest lands located outside of an acknowledged urban growth boundary. At this time the County's Significant Environmental Concern (SEC) overlay zone does contain language regulating some forest practices in areas zoned SEC, although the provision has never been used. An ordinance revision is proposed as part of this Order that would result in an SEC permit not being required for forest practices outside the UGB in areas zoned SEC. Ordinance sections proposed to be changed are MCC 11.15.6406(B) and .6420(C).

#### **III.A.2(b) State Forest Land Management Program:**

The State Forester must manage state forest lands so as to secure the greatest permanent values of such land to the state consistent with protection of environmental values. Except as remedied above in III.A.2.(a), no County policies or ordinances are in conflict with the State Forester directive.

### **III.A.3 Department of Transportation**

In accordance with the Multnomah County Comprehensive Framework Plan Volume 2: Policies, Strategy 2 of Policy 34, Multnomah County has been an active participant in the ODOT process which developed the Six Year Highway Improvement Program referenced in section I.D.1(a)(ii) of this Order. All projects identified in the ODOT six year plan are consistent with Multnomah County Transportation plans and studies.

One of the projects identified in the August 1988 Six Year Highway Improvement Program is the Mt. Hood Parkway. See section I.D.1(a)(i) of this Order for a discussion and status of the Mt. Hood Parkway.

There are no airports within the County's jurisdiction, although, portions of several undeveloped Columbia River islands have an Airport Landing Field (LF) overlay designation. This has been applied to restrict uses which may conflict with flight paths of the Portland International Airport.

A map showing the location of the State Parks is in the policy volume of the plan. Subsections B and C of Policy 39 commit the County to work with and encourage other agencies in developing recreational opportunities. The Zoning Code follows this policy within the restrictive Significant Environmental Concern (SEC) and Willamette River Greenway (WRG) overlay zoning districts by exempting from County review those "activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses on public lands." Establishment or significant expansion of new parks however, are conditional uses in all zoning districts.

#### **III.A.4 Water Resources Department**

No new minimum stream flows have been adopted for Multnomah County since 1983. There is a minimum stream flow established for the Sandy River, as well as other withdrawals of streams in both the Sandy River Basin and Columbia River area. The County finds that no plan policies, land use designations, or zoning ordinance standards conflict with these flows or withdrawals.

#### **III.B Conclusion - Factor Three**

With changes proposed to the Findings Volume of the Comprehensive Plan, and minor amendments to the Policy Volume and Zoning Code, we conclude that the County will be in compliance with State agency plans and programs.

#### **IV. FACTOR FOUR: ADDITIONAL PLANNING TASKS REQUIRED AT THE TIME OF ACKNOWLEDGMENT OR AGREED TO IN RECEIPT OF STATE GRANT FUNDS**

Applicable Rule (OAR 660-19-055(2)(d))

*The city or county has not performed additional planning that:*

*(A) Was required in the comprehensive plan or land use regulations at the time of initial acknowledgment or that was agreed to by the city or county in the receipt of state grant funds for review and update; and*

*(B) Is necessary to make the Comprehensive Plan or land use regulations comply with the goals.*

#### **IV.A Findings:**

Multnomah County finds that no additional planning was required in the Comprehensive Plan at the time of initial acknowledgement or that was later agreed to in receipt for grant funds from LCDC. The County Comprehensive Plan currently complies with all land use goals according to all LCDC acknowledgement letters.

#### **IV.B Summary Conclusion - Factor Four:**

The County agrees with DLCD that this requirement does not apply.

## V. NON-MANDATORY PROGRAMS

### Justification

*A few state agencies have submitted summaries of nonmandatory programs which, though not required to be considered by local jurisdictions during periodic review, are strongly recommended to be considered.*

### V.A Findings:

#### V.A.1 Department of Energy

The County's current Comprehensive Plan includes Policy 22, Energy Conservation, which addresses items (3) and (4) of ODOE recommendations contained in the DLCDD notice of review. Items (1) and (2) are not within the purview of a comprehensive land use plan. Existing County ordinance provisions encourage energy efficient land development and limit development outside the UGB. Ordinance #579 (adopted 6-88) protects solar access and encourages solar energy use for heating and other applications in new single family development inside the UGB.

#### V.A.2 Department of Environmental Quality

DEQ has been contacted regarding non-mandatory program elements, and the County is actively participating in DEQ's basin program addressing non-point source pollution. The Soil Conservation Service was contacted regarding erosion control problems which have occurred, and we have revised portions of the Comprehensive Plan Findings Document to reflect new information. In addition, the County is preparing a Hillside Development and Erosion Control ordinance to further regulate practices which may create non-point source pollution.

A 1980 sensitive aquifer map was acquired from DEQ which identified sensitive rural aquifers in the vicinity of Sauvie Island, Orient, south Springdale and small areas along the Columbia River Gorge National Scenic Area. Funding limitations for water projects and sewer projects in urban areas have been addressed in the revised Comprehensive Plan Findings Document. A revised inventory of community water systems has been compiled. The State Health Division and the Corbett Water District are in the process of developing a filtration system plan for that water system.

Land use regulations regarding recycling facilities have been reviewed and found to be in compliance.

#### V.A.3 Department of Forestry

**V.A.3(a)** Department of Forestry recommends that non-forest residential dwellings, including PUD's, not be permitted in forest zones, and that forest dwellings be an "accessory and necessary" use for a bona fide forest operator.

Except for very rare approvals of Lots of Exception [see section I.B.1.(e)(ii) of this Order], the County ordinances do not allow for the creation of new lots for non-resource related dwellings. The only such dwellings approved are for existing Lots of Record. Also submitted with this Review Order is a proposed ordinance to remove the Rural Planned Development option from the MUF forest zone, [see I.B.1.(e)(iii)]. The addition of criteria to evaluate whether a proposed residence is "necessary and accessory" will be delayed until LCDC "...completes its deliberations on the amendments to Goal 4 and OAR 660, Division 6." (LCDC correspondence of June 27, 1989)

**V.A.3.(b)** Department of Forestry further recommends that non-forest uses other than residences should be reviewed to assure that the use is compatible with forest land uses and forest practices in the area. In addition, DOF requests a 500 foot setback for dwellings from adjoining industrially managed forest lands and states that fire safety standards are needed.

The County Zoning Code requires that in approving a non-resource related land use in a forest zone, the approval authority shall find that the proposal:

- Is consistent with the character of the area;
- Will not adversely affect natural resources;
- Will not conflict with farm or forest uses in the area;
- Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;
- Will not create hazardous conditions; and
- Will satisfy the applicable policies of the Comprehensive Plan.

The residential use development standards in the CFU and MUF zones (MCC 11.15.2074 and .2194) require that building setbacks of at least 200 feet be maintained from side and rear property lines wherever possible. Fire safety standards, also within that same section, specify that residential uses comply with the following:

- The fire safety measures outlined in the *Fire Safety Considerations for Development in Forested Areas*, published by the Northwest Interagency Fire Prevention Group, including at least the following:
  - ▲ Fire lanes at least 30 feet wide shall be maintained between a residential structure and an adjacent forested area; and
  - ▲ Maintenance of a water supply and of firefighting equipment sufficient to prevent fire from spreading from the dwelling to adjacent forest areas;

- Access for a fire truck to within 16 feet of any perennial water source on the lot;
- The dwelling shall be located in as close proximity to a publicly maintained street as possible, considering the requirements of MCC .2058(C) to (E). The physical limitations of the site which require a driveway in excess of 500 feet in length shall be stated in writing as a part of the application for approval.

#### **V.A.4 Water Resources Department**

There is limited information available about groundwater supplies in the rural parts of Multnomah County. The County has expanded the section on groundwater resources and added new information to its Comprehensive Plan Findings. The County has been an active participant in meetings sponsored by WRD regarding statewide water management concerns.

The County will suggest that the West Hills area be examined for groundwater adequacy as a part of the Willamette Basin update scheduled to begin in 1988. In addition, there are parts of the areas east of the Sandy River which are served by surface watersheds which are referred to in the County's Findings Document.

The County has responded to Mt. Hood National Forest Plans in light of concerns about the management of these watersheds which are on public land. The County has limited hydroelectric potential, due to many federal withdrawals on the east side and has not, at this time, elected to adopt the model hydroelectric siting standards.

There is, of course, much new information about the mid-county groundwater situation available. This aspect of the County's Plan, however, should be addressed during the next periodic review, after further progress of Portland's annexation program.

#### **V.A.5 Department of Land Conservation and Development**

The Department of Land Conservation and Development has suggested that the County address the following items in its Periodic Review Order:

##### **V.A.5.(a) Coordination with the Nature Conservancy**

*Coordinate with the Nature Conservancy to identify any additional natural areas in Multnomah County and amend the plan, if necessary, to address these sites.*

This has been completed as part of the County's Goal 5 inventory process. See discussion in Section II.A.8.(e) of this Periodic Review Order.

#### **V.A.5.(b) Eagle Creek Wilderness Area**

*Discuss conflicts with the proposed Eagle Creek Wilderness area and clarify the county's position on wilderness designation.*

This has been completed as part of the County's Goal 5 Inventory process. See discussion in Section II.A.8(h) of this Periodic Review Order.

#### **V.A.5.(c) Development Limitations**

County zoning provisions currently lack regulations specifically addressing sites with development limitations (*i.e.*, steep slopes and unstable soils). A proposed "Hillside Development and Erosion Control Ordinance" (attached) will establish regulations applicable to specific areas of the County with development limitations. The County has a 1978 inventory of lands with potential earth movement hazards. The new ordinance will address development in these areas.

#### **V.A.5.(d) Soil Erosion and Sediment Ordinance**

As noted in Section (c) above, County ordinance provisions do not adequately regulate building and other development practices on sites characterized by steep slopes, earth movement or erosion potential. A proposed "Hillside Development and Erosion Control Ordinance" (attached) will establish zoning provisions which minimize adverse effects of development on lands with high earth movement potential.

#### **V.A.5.(e) Flood Hazard Zone.**

Compliance with the National Flood Insurance Program is documented in the preceding section I.E.1(a).

#### **V.A.5.(f) Parks Master Plan.**

*Adopt the Master Plan for County Parks and Open Space as part of the Comprehensive Framework Plan and community plan, where applicable.*

In 1984, the County Parks Commission developed the Neighborhood Parks Master Plan to guide future maintenance and development of the neighborhood park system. On January 15, 1985, the County Board of Commissioners adopted Ordinance 450, "Amending Framework Plan Policy 39 by Adopting a Neighborhood Park Master Plan." Consequently, as part of Periodic Review, language will be added to Policy 39 in reference to the adopted master plan.

#### **V.A.6 Department of Geology and Mineral Industries:**

Multnomah County received a letter dated November 4, 1987 from DOGAMI regarding Periodic Review. In response the County has expanded and updat-

ed the Comprehensive Framework Plan Findings Document which has been reviewed by DOGAMI staff. This includes:

- A new section on geology;
- Revised mineral and aggregate production and consumption figures and recognition of significant resource sites;
- An updated inventory of potential mineral resources for the County;
- Additional information on energy and renewable resources; and
- A revised section on Natural Hazards (Goal 7), including earthquake associated information.

### **V.B Summary Conclusion – Non-Mandatory Programs:**

The County has examined the suggestions in the Periodic Review Notice under Non-Mandatory Programs, and proposed amendments to the Comprehensive Plan and implementing ordinances. We therefore conclude that the County is in compliance with these programs.

## **VI: OVERALL CONCLUSION**

The County has evaluated the Comprehensive Plan and its implementing ordinances in the context of the Periodic Review Factors, and find that we are not in compliance with some aspects of the Statewide Land Use Planning Program. Changes are proposed to the Comprehensive Plan Findings document (Volume I) and Policy document (Volume II) as well as various parts of the Multnomah County Code. One Plan map and one Zone Map amendment are proposed to reflect the boundary of the new Columbia River Gorge National Scenic Area. With implementation of these proposed changes, we conclude Multnomah County to be in compliance with statewide planning goals and all applicable State Statutes and Rules.

**PROPOSED AMENDMENTS TO MULTNOMAH COUNTY CODE**  
**PLANNING, ZONING AND LAND DIVISION TITLES**

**The following material reflects the proposed language amendments to the County Planning (Title 11.05), Zoning (Title 11.15) and Land Division (Title 11.45) codes.**

Note: In the following proposed Code amendments, existing language to remain appears in plain text [remaining language], existing language to be deleted appears bolded and struck-through [~~language to be deleted~~], and new language appears bolded and in a larger type face [**new language**].

## AMENDMENTS TO CHAPTER 11.05 OF THE MULTNOMAH COUNTY CODE

### 11.05.120(A)

- (A) If the Commission determines that a proposed plan revision or zoning map amendment requested in connection with a required plan revision entails a change of policy, **or the application of policy to a broad class of properties in a uniform manner**, the proposal shall be considered a legislative plan revision or legislative zoning map amendment.
- (B) Quasi-judicial zoning map amendments shall be considered by the Commission and Board as action proceedings in accordance with ~~subsections 12.20-12.37.5 of Ordinance No. 100 as amended~~. MCC 11.15.8205-.8295.

### MCC 11.05.180 Standards for plan and revisions.

A plan adopted or revised under this chapter shall comply with ORS ~~197.755~~ 197.175(2)(a), 197.610-.625, and 197.732 if a goal exception is required, including any OAR's adopted pursuant to these statutes.

### MCC 11.05.290

- ~~(1) Consistent with the standards in MCC 11.05.180~~
- ~~(2) In the public interest; and (3) In compliance with the applicable elements of the comprehensive plan.~~
- (1) Consistent with the procedures of ORS 197.610-.625 and the standards of ORS 197.732 if a goal exception is required, including any OAR's adopted pursuant to these statutes.
- (2) Evidence that the proposal conforms to the intent of relevant policies in the Comprehensive Plan or that the Plan policies do not apply. In the case of a land use Plan map amendment for a commercial, industrial, or public designation, evidence must also be presented that the plan does not provide adequate areas in appropriate locations for the proposed use; and
- (3) Evidence that the uses allowed by the proposed change will 1) not destabilize the land use pattern in the vicinity, 2) not conflict with existing or planned uses on adjacent lands, and 3) that necessary public services are or will be available to serve allowed uses.

**AMENDMENTS TO CHAPTER 11.45 OF THE  
MULTNOMAH COUNTY CODE**

**11.45.100 Type III Land Divisions**

**(F)** A minor partition of land classified as Significant Environmental Concern (SEC), Willamette River Greenway (WRG), Flood Hazard (FH), **Exclusive Farm Use (EFU)**, or Special Plan Area (SPA) under ~~Ordinance No. 100~~ **MCC 11.15.**

**AMENDMENTS TO CHAPTER 11.15 OF THE  
MULTNOMAH COUNTY CODE**

**A. Definitions are amended, added to, or deleted in MCC 11.15.0010 as follows:**

**Applicant** – The record owner or owners of a unit, area or tract of land proposing land development activities covered by this Chapter and includes the authorized representative of the record owner or owners.

**Building Permit** – A permit required pursuant to Multnomah County Code 11.15.8210(A), certifying compliance with all applicable building regulations.

**Day Nursery** – A facility for the provision of ~~temporary daytime~~ care during a portion of a 24-hour day for five or more children not related to nor the wards of the attending adult. A *Day Nursery* with 12 or fewer children is distinguished from *Family Day Care* either by:

- (1) Location in a non-residential structure; or
- (2) Provision of care by someone other than a resident of the home.

**Family Day Care** – A residence where 12 or fewer children are provided care during a portion of a 24-hour day by an adult residing within said residence. Minor children of the provider shall be included in the 12-child limit if also cared for in the home.

**Development** – Any act requiring a permit stipulated by Multnomah County Ordinances as a prerequisite to the use or improvement of any land, including a building, land use, occupancy, sewer connection or other similar permit, and any associated grading or vegetative.

**Group Care Facility** – ~~A building or portion thereof, housing six or more persons of any age who are not members of the provider's family and residential staff used for the following purposes:~~

- ~~(a) Residential Care Facility—A building or part thereof, which may provide 24 hour supervision used for the lodging and care of six or more ambulatory persons who may be either handicapped to a degree that makes total self dependence either impossible or undesirable, but who possess sufficient facilities to recognize an emergency situation and to react immediately and positively to attain self preservation.~~
- ~~(b) Residential Treatment Facility—A building or part thereof, operated with 24 hour supervision for the purpose of providing care and planned treatment or planned training to six (6) or more persons who by reason of their circumstance, condition, or placement require such care and planned training or treatment while living as a single housekeeping unit in a dwelling unit.~~
- ~~(c) Child Care Facility—A building or part thereof, providing temporary care of children where the ratio of supervision is less than 1:10 or staff members are allowed to sleep.~~
- ~~(d) Adult Care Home—Any building or part thereof, where one or more frail elderly, mentally handicapped or physically handicapped, or dependent persons over 18, unrelated to the provider, receive room and board for compensation. Providers of these services in the County are required to register as an Adult Care Home with~~

~~the Multnomah County Department of Human Resources pursuant to Chapter 8.90 of Title 8 of the Multnomah County Code, (8.90.005-8.90.260) unless licensed as a Residential Care Facility by the State of Oregon.~~

~~Care means services such as supervision, protection, assistance while bathing, dressing, grooming or eating, management of money, transportation, recreation and simple training of self-help skills or assistance with major life activities and the provision of room and board.~~

~~Planned Treatment means a systematic and/or individualized program of counseling, therapy, or other rehabilitative procedures or activities provided for a group of persons of similar or compatible circumstances or conditions. A planned treatment program which requires regular on-premise physician's or nurse's care shall not be allowed.~~

~~Planned Training means a pre-determined sequence of systematic interactions, activities, or structured learning situations, designed to meet such residents' specified needs in the areas of physical, social, emotional, and intellectual growth.~~

~~A Care and Treatment Facility which requires regular on-premises physician's or nurse's care shall not be allowed. Care and treatment facilities in the County where one or more frail elderly, mentally or physically handicapped, or dependent persons over 18, unrelated to the provider, receive room and board for compensation, are required to register as an Adult Care Home with Multnomah County Department of Human Services pursuant to Chapter 8.90 of Title 8 of the Multnomah County Code (8.90.005-8.90.260) unless licensed as a Residential Care Facility by the State of Oregon.~~

**A building or buildings on contiguous property used to house six or more handicapped or socially dependent persons. This definition includes the definitions of Residential Care Facility, Residential Training Facility, and Residential Treatment Facility contained in ORS 443.400(5), (7) and (9).**

**Mobile Home – A structure transportable in one or more sections, each built on a permanent chassis, and which is designed to be used for permanent occupancy as a dwelling, including a *Manufactured Home* as defined in ORS 446.003(17)(c).**

**Wetlands – Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.**

**B. Subsections of the EFU – Exclusive Farm Use District are amended, added to, or deleted as follows:**

11.15.2008 Primary Uses

(A) Farm use, as defined in ORS 215.203(2)(a) ~~for the following purposes only:~~

- ~~(1) Raising and harvesting of crops;~~
- ~~(2) Feeding, breeding, managing and selling livestock;~~
- ~~(3) Dairying; or~~

~~(4) Any other agricultural or horticultural purpose or animal husbandry purpose or any combination thereof,~~

except as provided in MCC .2012(B).

- (B) The propagation or harvesting of forest products.
- (C) ~~Residential use in conjunction with farm use, consisting of a single family dwelling constructed on a lot of 76 acres or more on Sauvie Island or 38 acres or more elsewhere in the EFU district.~~ Thermal Energy Power Plants, when sited by the Energy Facility Siting Council as authorized under ORS 469.300 to 469.570, 469.590 to 469.621 and 469.930.
- (D) Climbing and passing lanes within the right of way existing as of July 1, 1987.
- (E) Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of buildings will occur, or no new land parcels result.
- (F) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.
- (G) Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.
- (H) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a historic property inventory as defined in ORS 358.480.
- (I) A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings necessary for its operation.

#### 11.15.2010 Uses Permitted Under Prescribed Conditions

- (A) ~~Residential use in conjunction with farm use, consisting of a single family dwelling constructed off site, including a mobile or modular home, subject to the following conditions~~ A residence, including a mobile or modular home, customarily provided in conjunction with an existing use as provided in MCC .2008(A), subject to the following:
  - (1) ~~Construction shall comply with the standards of the Building Code or as prescribed under ORS 446.002 through 446.200, relating to mobile homes.~~ Located on a Lot of Record as described in MCC .2018, or
  - (2) ~~The dwelling shall be attached to a foundation for which a building permit has been obtained.~~ Located on a lot created under MCC 11.45, Land Divisions, after August 14, 1980, with a lot size not less than 76 acres on Sauvie Island or 38 acres elsewhere in the EFU district; and
  - (3) ~~The dwelling shall have a minimum floor area of 600 square feet.~~ If a mobile or modular home:

- (a) Construction shall comply with the standards of the Building Code or as prescribed under ORS 446.002 through 446.200, relating to mobile homes.
  - (b) The dwelling shall be attached to a foundation for which a building permit has been obtained.
  - (c) The dwelling shall have a minimum floor area of 600 square feet.
- (4) Demonstration by the applicant that the dwelling is appropriate, accessory, and necessary for the realization of a farm management program as described in subsection (5) below. The record shall include a finding of material improvement in the potential productivity resulting from and dependent upon the existence of the dwelling. That finding shall be based upon factual information, certified by an agency, firm or individual who is recognized, or demonstrates qualifications, as an expert in the proposed area of agricultural production.
- (5) Conducted according to a farm management plan containing the following elements:
- (a) A written description of a proposed five-year development and management plan which describes the cropping or livestock pattern by type, location and area size and which may include forestry as an incidental use;
  - (b) Soil test or Soil Conservation Service OR-1 soils field sheet data which demonstrate the land suitability for each proposed crop or pasturage use;
  - (c) Certification by the Oregon State University Extension Service, or by person or group having similar agricultural expertise, that the production acreage and the farm management plan are appropriate for the continuation of the existing commercial agricultural enterprise within the area. For the purposes of this Chapter *appropriate for the continuation of the existing commercial agricultural enterprise within the area* means:
    - (i) That the farm use and production acreage are similar to the existing commercial farm uses and production acreages in the vicinity, or
    - (ii) In the event the farm use is different that the existing farm uses in the vicinity, that the production acreage and the farm management plan are reasonably designed to promote agricultural utilization of the land equal to or greater than that in the vicinity. *Agricultural utilization* means an intended profit-making commercial enterprise which will employ accepted farming practices to produce agricultural products for entry into conventional agricultural markets.
  - (d) A description of the primary uses on nearby properties, including lot size, topography, soil types, management practices and supporting services, and a statement of the ways the proposal will be compatible with

them.

- (6) The Planning Director shall make findings and a tentative decision within ten business days of the application filing. Notice of the findings and decision and information describing the appeals process shall be mailed by first class mail to the applicant and to the record owners of all property within 500 feet of the property proposed for the use.
  - (7) The tentative decision shall be final at the close of business on the tenth calendar day after notice is mailed, unless the applicant or a person entitled to mailed notice or a person substantially affected by the application files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295, except that subsection MCC .8295(C) shall apply only to a notice of appeal filed by the applicant. The persons entitled to notice under subsection (6) of this section shall be given the same notice of the appeal hearing as is given the applicant.
- (B) Residential use consisting of a ~~single family dwelling~~ mobile or modular home for the housing of help required to carry out a farm use when the ~~dwelling~~ residence occupies the same lot as a residence permitted by MCC ~~.2008(C) or~~ .2010(A), subject to the following conditions:
- (1) ~~In the event the dwelling is constructed off site, construction shall comply with MCC .2010(A)(1) and (3).~~ The lot is at least 76 acres, if on Sauvie Island, or 38 acres if located elsewhere in the EFU district;
  - (2) The location of the dwelling shall be subject to approval of the Planning Director on a finding that:
    - (a) ~~The use is needed to carry out a use listed in MCC .2008(A) or (B);~~ The residence satisfies the requirements of MCC .2010(A)(4)
    - (b) The standards of MCC .2016 (C) are satisfied; and
    - (c) The minimum distance between dwellings will be 20 feet.
  - (3) The decision of the Director shall be made in accordance with MCC .2010(A)(6) and (7) ~~may be appealed to the Hearings Officer pursuant to MCC .8290 and .8295.~~
- (C) ~~A farm use or a residence in conjunction with a farm use as listed in MCC .2008(A) or (C) or MCC .2010(A) under conditions 1 through 3 thereof, subject to the following~~ A single family dwelling on a Lot of Record used for farm use if the dwelling is:
- (1) ~~Located on a Lot of Record of less than 76 acres on Sauvie Island or 38 acres elsewhere in the EFU districts, or~~ Located on the same Lot of Record as the dwelling of the farm operator; and
  - (2) ~~Located on a lot created under MCC 11.45, Land Divisions, after August 14, 1980, with a lot size less than 76 acres, but not less than 38 acres on Sauvie Island or less than 38 acres, but not less than 19 acres elsewhere in the EFU district; and~~ Occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse,

whose assistance in the management of the farm is or will be required by the farm operator.

- ~~(3) Conducted according to a farm management plan containing the following elements:~~
  - ~~(a) A written description of a five year development and management plan which describes the proposed cropping or livestock pattern by type, location and area size and which may include forestry as an incidental use;~~
  - ~~(b) Soil test or Soil Conservation Service OR-1 soils field sheet data which demonstrate the land suitability for each proposed crop or pasturage use;~~
  - ~~(c) Certification by the Oregon State University Extension Service, or by person or group having similar agricultural expertise, that the production acreage and the farm management plan are appropriate for the continuation of the existing commercial agricultural enterprise within the area. For the purposes of this Chapter "appropriate for the continuation of the existing commercial agricultural enterprise within the area" means:
    - ~~(i) That the proposed farm use and production acreage are similar to the existing commercial farm uses and production acreages in the vicinity, or~~
    - ~~(ii) In the event the proposed farm use is different that the existing farm uses in the vicinity, that the production acreage and the farm management plan are reasonably designed to promote agricultural utilization of the land equal to or greater than that in the vicinity. "Agricultural utilization" means an intended profit making commercial enterprise which will employ accepted farming practices to produce agricultural products for entry into conventional agricultural markets.~~~~
  - ~~(d) A description of the primary uses on nearby properties, including lot size, topography, soil types, management practices and supporting services, and a statement of the ways the proposal will be compatible with them.~~
  - ~~(e) Exception: A written description of the farm management program on that parcel as a separate management unit for the preceding five years may be substituted for subsections (a), (b) and (c) above.~~
- ~~(4) The Planning Director shall make findings and a tentative decision within ten business days of the application filing. Notice of the findings and decision and information describing the appeals process shall be mailed by first class mail to the applicant and to the record owners of all property within 500 feet of the property proposed for the use.~~
- ~~(5) The tentative decision shall be final at the close of business on the tenth calendar day after notice is mailed, unless the applicant or a person entitled to mailed notice or a person substantially affected by the application files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC 8290 and 8295, except that subsection MCC 8295(C) shall apply only to a notice of appeal filed by the applicant. The persons entitled to notice under subsection (4) of this section shall be given the same notice of the appeal hearing as is given the applicant.~~

11.15.2012 Conditional Uses.

- (A) The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC .7005 to .7030:
- (1) Public or private schools;
  - (2) Churches;
  - (3) Utility facilities ~~including those for the purpose of generating power for public use by sale~~ **necessary for public service, including transmission towers over 200 feet in height, except commercial facilities for the purpose of generating power for public use by sale;**
  - (4) Operations for the exploration of geothermal resources as defined in ORS 522.005;
  - (5) Private parks, playgrounds, hunting and fishing preserves and campgrounds;
  - (6) Parks, playgrounds, or community centers owned and operated by a governmental agency or non-profit community organization; and
  - (7) Golf courses.
  - (8) **A site for the disposal of solid waste for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.**
  - (9) **Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.**
  - (10) **Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.**
  - (11) **Improvement of public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.**
- (B) The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC .7105 to .7865:
- (1) Commercial activities that are in conjunction with farm uses;
  - (2) Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005 or exploration, mining and processing of aggregate and other mineral resources or other subsurface resources;
  - (3) Residential use not in conjunction with farm use, consisting of a single family dwelling, including a mobile or modular home. The lot shall be a Lot of Record under MCC .2018, or ~~if otherwise below the minimum lot size, be have been created divided~~ under the applicable provisions of MCC 11.45, Land Divisions. The Hearings Officer shall find that a dwelling on the lot as proposed:

- (a) Is compatible with farm uses described in paragraph (A) of subsection (2) of ORS 215.203 and is consistent with the intent and purposes set forth in ORS 215.243;
  - (b) Does not interfere seriously with accepted farming practices, as defined in paragraph (c) of subsection (2) of ORS 215.203, on adjacent lands devoted to farm use;
  - (c) Does not materially alter the stability of the overall land use pattern of the area;
  - (d) Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract;
  - (e) Complies with subparts ~~(1)~~(a), ~~(2)~~(b) and ~~(3)~~(c) of MCC .2010(A)(3) if constructed off-site;
  - (f) Complies with such other conditions as the Hearings Officer considers necessary to satisfy the purposes of MCC .2002;
  - (g) Construction shall comply with the standards to the Building Code or as prescribed under ORS 446.002 through 446.200, relating to mobile homes;
  - (h) The dwelling shall be attached to a foundation for which a building permit has been obtained; and
  - (i) The dwelling shall have a minimum floor area of 600 square feet.
  - (j) **The owner shall record with the Division of Records and Elections a statement that the owner and successors in interest acknowledge the rights of nearby property owners to conduct accepted farming and forestry practices.**
  - (k) **The applicant shall provide evidence that all additional taxes and penalties, if any, have been paid if the property has been receiving special assessment as described in ORS 215.236(2). In the alternative, the Approval Authority may attach conditions to any approval to insure compliance with this provision.**
- ~~(4) Raising any type of fowl, or processing the by products thereof, for sale at wholesale or retail;~~
  - ~~(5) Feed Lots;~~
  - ~~(6) Raising of four or more swine over three months of age;~~
  - ~~(7) Raising of fur bearing animals for sale at wholesale or retail;~~
  - (8 4) Home occupations pursuant to provisions of ORS 215.213(2)(h);
  - (9 5) Facilities for the primary processing of forest products, pursuant to ORS 215.213(2)(i); and
  - (10 6) **The breeding, boarding and training of horses for profit.**
  - (11 7) Mortgage Lot: Residential use consisting of single family dwelling in conjunction

with a primary use listed in MCC .2008(A) located on a mortgage lot created after August 14, 1980, subject to the following:

- (a) The minimum lot size for the mortgage lot shall be two acres;
  - (b) Except as may otherwise be provided by law, a mortgage lot shall not be conveyed as a zoning lot separate from the tract out of which it was created or such portion of the tract as conforms with the dimensional requirements of the Zoning Ordinance then in effect. The purchaser of a mortgage lot shall record a statement referring to this limitation in the Deed Records pertaining to said lot.
  - (c) No permit shall be issued for improvement of a mortgage lot unless the contract seller of the tract out of which the mortgage lot is to be created and the mortgagee of said mortgage lot have agreed in writing to the creation of the mortgage lot.
- ~~(12)~~ **8) Homestead Lot:** The purpose of this provision is to encourage the retention of agricultural lands in large parcels, while providing the opportunity for residents who are no longer able or who no longer desire to farm the land to retain their homes and sell the balance of the property. *Homestead Lot* means a lot of from two to five acres depending upon the conditions of soil, topography or other circumstances which govern parcel size on which the existing dwelling shall have been the principal farm dwelling for at least ten years prior to August 14, 1980. The Hearings Officer may approve a homestead lot division as a non-farm use, provided that all of the following area satisfied:
- (a) The remainder of the parcel shall satisfy the lot size and other requirements of this district for farm use;
  - (b) Not more than one homestead lot may be divided from a Lot of Record;
  - (c) The owner of the parcel from which the homestead lot was divided shall have the first right of refusal to purchase the homestead lot;
  - (d) The dwelling is compatible with farm uses described in paragraph (a) of subsection (2) of ORS 215.203 and is consistent with the intent and purposes set forth in ORS 215.243;
  - (e) The dwelling does not interfere seriously with accepted farming practices, as defined in paragraph (c) of subsection (2) of ORS 215.203 on adjacent lands devoted to farm use;
  - (f) The dwelling does not materially alter the stability of the overall land use pattern of the area; and
  - (g) The dwelling is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.
- ~~(13)~~ **9) The propagation, cultivation, maintenance and harvesting of aquatic species.**
- ~~(14)~~ **10) Personal use airports, as defined in ORS 215.283(g).**
- ~~(15)~~ **11) Dog Kennels.**

**(12) Residential homes for handicapped persons, as those terms are defined in ORS 443.580, in existing dwellings.**

**11.15.2014 Accessory Uses.**

The uses or structures incidental and accessory to the uses permitted under MCC .2008 through .2012 are:

- (A) Structures such as garages, carports, studios, pergolas, private workshops, **barns, loafing sheds**, storage buildings, greenhouses or similar structures, whether attached or detached, when in accordance with the yard requirements of this district;
- (B) Structures or fenced runs for the shelter or confinement of poultry or livestock;
- (C) Signs, pursuant to the provisions of MCC .2024;
- (D) Off-street parking and loading; and
- (E) Other structures or uses customarily incidental to any use permitted or approved in this district.
- (F) **A mobile home on a Health Hardship pursuant to the provisions of MCC .8710.**

**11.15.2017 Lot Line Adjustment**

- (A) **The Planning Director may approve an adjustment of the common lot line between contiguous Lots of Record based on a finding that:**
  - (1) **The permitted number of dwellings will not thereby be increased above that otherwise allowed in this district;**
  - (2) **The resulting lot configuration is at least as appropriate for the continuation of the existing commercial agricultural enterprise in the area as the lot configuration prior to adjustment; and**
  - (3) **Neither of the properties is developed with a dwelling approved under the provisions of MCC .2010(B) or (C), or .2014(F).**

**The decision of the Planning Director may be appealed to the approval authority pursuant to MCC .8290 and .8295.**

**11.15.2016 Dimensional Requirements.**

- (A) Except as provided in MCC .2010(C), .2012(B)(3), **.2017**, .2018 and .2020, the minimum lot size shall be 76 acres on Sauvie Island and 38 acres elsewhere in the EFU district.
- (B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the size of such lot.

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

- (D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by Ordinance.
- (E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.
- (F) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated “2A”, “3A”, or “3C” in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:
- (1) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

11.15.2018 Lot of Record.

(A) For the purposes of this district, a Lot of Record is ~~a parcel of land~~:

- (1) ~~For which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form, prior to August 14, 1980, and~~ A parcel of land:
- (a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to August 14, 1980;
- (b) Which satisfied all applicable laws when the parcel was created; and
- (c) Which satisfies the minimum lot size requirements of MCC .2016, or
- (2) ~~Which, when established, satisfied all applicable laws.~~ A parcel of land:
- (a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to ( — adoption date — );
- (b) Which satisfied all applicable laws when the parcel was created;

- (c) Does not meet the minimum lot size requirements of MCC .2016; and
- (d) Which is not contiguous to another substandard parcel or parcels under the same ownership, or

(3) A group of contiguous parcels of land:

- (a) For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to ( — adoption date — );
- (b) Which satisfied all applicable laws when the parcels were created;
- (c) Which individually do not meet the minimum lot size requirements of MCC .2016, but, when considered in combination, comply as nearly as possible with a minimum lot size of nineteen acres, without creating any new lot line; and
- (d) Which are held under the same ownership.

~~(B) A Lot of Record which has less than the area or front lot line minimum required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.~~

~~(1) Parcels of land which are contiguous and in which greater than possessory interests are held by the same person, partnership or business entity, shall be aggregated to comply as nearly as possible with the area or front lot line minimum of this district. The word *contiguous* shall refer to parcels of land which have any common boundary and shall include, but not be limited to, parcels separated only by an alley, street or other right of way.~~

~~(2) Nothing in this subpart shall be deemed to alter or amend the other provisions of this Chapter.~~

For the purposes of this subsection:

- (1) *Contiguous* refers to parcels of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way;
- (2) *Substandard Parcel* refers to a parcel which does not satisfy the minimum lot size requirements of MCC .2016; and
- (3) *Same Ownership* refers to parcels in which greater than possessory interests are held by the same person or persons, spouse, minor age child, single partnership or business entity, separately or in tenancy in common.

(C) A Lot of Record which has less than the front lot line minimums required may be occupied by any permitted or approved use when in compliance with

**the other requirements of this district.**

**11.15.2030 Right To Complete Single Family Dwelling.**

A single family dwelling, uncompleted prior to ~~August 14, 1980~~ ( — *adoption date* — ), but which meets the tests stated in this subsection, may be completed although not listed as a primary use in this district.

- (A) Actual construction shall have commenced prior to ~~August 14, 1980~~ ( — *adoption date* — ), under a sanitation, building or other development permit applicable to the lot. *Actual construction* means:
- (1) Placement of construction materials in a permanent position;
  - (2) Site excavation or grading;
  - (3) Demolition or removal of an existing structure;
  - (4) The value of purchased building materials; or
  - (5) Installation of water, sanitation or power systems.
- (B) Actual construction shall not include:
- (1) The cost of plan preparation; or
  - (2) The value of the land.
- (C) The value of actual construction commenced prior to ~~August 14, 1980~~ ( — *adoption date* — ) shall be \$1,000 or more, for each \$20,000 of the total estimated value of the proposed improvements as calculated under the Uniform Building Code.

**C. Subsections of the CFU – Commercial Use District are amended, added to, or deleted as follows:**

**11.15.2050 Uses Permitted Under Prescribed Conditions**

- (A) Residential use in conjunction with a primary use listed in MCC .2048 including a mobile or modular home, subject to the following:
- (1) The lot size shall meet the standards of MCC .2058(A), or MCC .2062(A) and (B), but shall not be less than ten acres;
  - (2) A resource management program for at least 75% of the productive land of the lot, as described in subsection MCC .2052(C)(2)(a), consisting of:
    - (a) A forest management plan certified by the Oregon State Department of Forestry, the Oregon State University Extension Service, or by a person or group having similar forestry expertise, that the lot and the plan are physically and economically suited to the primary forest or wood processing use;
    - (b) A farm management plan certified by the Oregon State University Extension Ser-

vice, or by a person or group having similar agricultural expertise, that the lot and the plan are physically and economically suited to the primary purpose of obtaining a profit in money, considering accepted farming practice;

- (c) A resource management plan for a primary use listed in MCC .2048, based upon income, investment or similar records of the management of that resource on that property as a separate management unit for at least two of the preceding three years,
- (d) A fish, wildlife or other natural resource conservation management plan, certified by the Oregon State Fish and Wildlife Department or by a person or group having similar resource conservation expertise, to be suited to the lot and to nearby uses;
- (e) A small tract timber option under ORS Chapter 321.705, a Western Oregon Forest Land designation under ORS 321.257, or participation in a current forestry improvement program of the U.S. Agricultural Stabilization and Conservation Service; or
- (f) A cooperative or lease agreement with a commercial timber company or other person or group engaged in commercial timber operations, for the timber management of at least 75% of the productive timberland of the property. Productive timberland is that portion of the property capable of growing 50 cubic feet/acre/year.

- (3) The dwelling will not require public services beyond those existing or programmed for the area;
- (4) The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices;
- (5) The residential use development standards of MCC .2074.

~~(B) Residential use, consisting of a single family dwelling for the housing of help required to carry out a primary use listed in MCC .2048(C) or (D) when the dwelling occupies the same lot as a residence permitted by MCC .2050(A), subject to the residential use development standards under MCC .2074;~~

(B) Wholesale or retail sales of farm or forest products raised or grown on the premises or in the vicinity, subject to the following condition:

The location and design of any building, stand or sign in conjunction with wholesale and retail sales shall be subject to approval of the Planning Director on a finding that the location and design are compatible with the character of the area, provided that the decision of the Director may be appealed to the approval authority pursuant to MCC .8290 and .8295.

#### 11.15.2062 Lot of Record

(A) For the purposes of this district, a Lot of Record is ~~a parcel of land:~~

- (1) ~~For which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form, prior to August 14, 1980; and A parcel of land:~~

- (a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to August 14, 1980;
  - (b) Which satisfied all applicable laws when the parcel was created; and
  - (c) Which satisfies the minimum lot size requirements of MCC .2058, or
- (2) ~~Which, when established, satisfied all applicable laws.~~ A parcel of land:
- (a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to ( — *adoption date* — );
  - (b) Which satisfied all applicable laws when the parcel was created;
  - (c) Does not meet the minimum lot size requirements of MCC .2058; and
  - (d) Which is not contiguous to another substandard parcel or parcels under the same ownership, or
- (3) A group of contiguous parcels of land:
- (a) For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to ( — *adoption date* — );
  - (b) Which satisfied all applicable laws when the parcels were created;
  - (c) Which individually do not meet the minimum lot size requirements of MCC .2058, but, when considered in combination, comply as nearly as possible with a minimum lot size of nineteen acres, without creating any new lot line; and
  - (d) Which are held under the same ownership.
- (B) ~~A Lot of Record which has less than the area or front lot line minimum required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.~~
- (1) ~~Parcels of land which are contiguous and in which greater than possessory interests are held by the same person, partnership or business entity, shall be aggregated to comply as nearly as possible with the area or front lot line minimum of this district. The word *contiguous* shall refer to parcels of land which have any common boundary and shall include, but not be limited to, parcels separated only by an alley, street or other right of way.~~
  - (2) ~~Nothing in this subpart shall be deemed to alter or amend the other provisions of~~

~~this Chapter.~~

For the purposes of this subsection:

- (1) *Contiguous* refers to parcels of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way;
  - (2) *Substandard Parcel* refers to a parcel which does not satisfy the minimum lot size requirements of MCC .2058; and
  - (3) *Same Ownership* refers to parcels in which greater than possessory interests are held by the same person or persons, spouse, minor age child, single partnership or business entity, separately or in tenancy in common.
- (C) ~~Except as otherwise provided by MCC .2060, .2062(B) and .2064, no sale or conveyance of any portion of a lot, other than for a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot with less than the size or width requirements of this district~~  
A Lot of Record which has less than the front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.

D. Subsections of the F-2 – Agricultural District are amended, added to, or deleted as follows:

11.15.2096 Dimensional Requirements

Except as provided in MCC .2090(B), .2098, .7720 and .2100, the minimum lot size for a single family dwelling shall be as follows:

- (A) For agricultural lands as defined in MCC .0010: 20 acres;
- (B) For forest lands as defined in MCC .0010: 38 acres;
- (C) For nonagricultural and nonforest lands, the minimum lot size for a single family dwelling shall be the product of a base lot size of two acres multiplied by each of the multipliers according to the area or lot characteristics in the following table:

Area or Lot Characteristic	Multiplier
Urbanizable Area	1
Rural Area	2
County Road Frontage	1
No access to County Road within 500 feet of the portion of the lot on which a dwelling could be constructed under this Ordinance	2
Public Water Supply	1

Private Water Supply 2  
 Soil limitations for residential use:  
   Slight 1  
   Moderate 2  
   Severe—See Subpart (E) of this subsection.

- (D) Except as required in an approval of a rural planned development pursuant to MCC .7720, no lot size need exceed eight acres.

*Example of minimum lot size calculation*

Base Size	Rural Area	County Road	Public Water	Moderate Soil	Minimum Size
2 ac.	x 2	x 1	x 1	x 2	= 8 ac.

- (E) A property having soil of severe limitation for residential development may only be developed with a single family dwelling on approval of a rural planned development pursuant to MCC .7720.
- (F) For the purposes of subparts (E) and (F) of this subsection only, the following definitions apply:
- (1) *Urbanizable Area* means all land zoned F-2, located east of the Willamette River or Multnomah Channel and west of the Sandy River.
  - (2) *Rural Area* means land zoned F-2 located west of the Willamette River or Multnomah Channel and east of the Sandy River.
  - (3) *Soil suitability for residential use* shall be determined according to the descriptions of suitability of soils for dwellings without basements in Table 2, *General Soil Map with Soil Interpretations for Land Use Planning - Multnomah County, Oregon* Soil Conservation Service and Oregon Agricultural Experiment Station, August, 1974.

- (G) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

- (H) Structures or portions thereof, such as barns, silos, windmills, antennae, or chimneys are exempt from the height restrictions if located at least 30 feet from any property line.
- (I) The minimum front yard, side yard or setback requirements as provided in subparts (G) and (H) of this subsection, shall be increased where the Hearings Officer determines that a yard or setback abuts a street having insufficient right-of-way width to serve the area. The Hearings Officer shall determine the necessary right-of-way widths and the additional yard or setback requirements not otherwise established by ordinance.
- (J) Except as otherwise provided by MCC .2098, .2100, and .7720, no sale or conveyance of any

portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than minimum lot, yard or setback requirements or result in a lot of less than the size or width requirements of this district.

**(K) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**

- (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
- (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

**E Subsections of the MUA – Multiple Use Agriculture District are amended, added to, or deleted as follows:**

**11.15.2132 Conditional Uses**

The following uses may be permitted when found by the approval authority to satisfy the applicable ordinance standards:

- (A) Community Service Uses pursuant to the provisions of MCC .7005 through .7041;**
- (B) The following Conditional Uses pursuant to the provisions of MCC .7105 through .7640:**
  - (1) Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005; or exploration, mining and processing of aggregate and other mineral or subsurface resources;**
  - (2) Commercial processing of agricultural products primarily raised or grown in the region;**
  - (3) Raising any type of fowl or processing the by-products thereof for sale at wholesale or retail;**
  - (4) Feed lots;**
  - (5) Raising of four or more swine over four months of age;**
  - (6) Raising of fur bearing animals for sale at wholesale or retail;**
  - (7) Commercial dog kennels; and**
  - (8) Commercial processing of forest products primarily grown in the region.**
  - (9) Houseboats and Houseboat Moorages.**

(C) The following Conditional Uses may be permitted on lands not predominantly of Agricultural Capability Class I, II or III soils:

- (1) ~~Rural p~~Planned developments for single-family residences, as provided in MCC ~~.7705 through .7760~~.6200 through .6226;
- (2) Pursuant to the provisions of MCC .7105 through .7640:
  - (a) Cottage industries,
  - (b) Limited rural service commercial uses such as local stores, shops, offices, repair services and similar uses, and
  - (c) Tourist commercial uses such as restaurants, gas stations, motels, guest ranches and similar uses.

11.15.2134 Accessory Uses

- (A) Signs, pursuant to the provisions of MCC 11.15.7902-.7982.)
- (B) Off-street parking and loading;
- (C) Home occupations; and
- (D) Other structures or uses customarily accessory or incidental to any use permitted or approved in this district; **and**
- (E) **Family Day Care.**

11.15.2138 Dimensional Requirements

- (A) Except as provided in MCC .2140, .2142, .2144 and .7629, the minimum lot size shall be 20 acres.
- (B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

- (D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.
- (E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.
- (F) **The minimum yard or setback requirement shall be increased to 200 feet from**

the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:

- (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.
- (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

F. Subsections of the MUF – Multiple Use Forest District are amended, added to, or deleted as follows:

11.15.2170 Uses Permitted Under Prescribed Conditions

- (A) Residential use, in conjunction with a primary use listed in MCC .2168, consisting of a single-family dwelling, including a mobile or modular home, subject to the following:
  - (1) The lot size shall meet the standards of MCC .2178(A) or MCC .2182(A) to (C), but shall not be less than ten acres.
  - (2) A resource management program for at least 75% of the productive land of the lot, as described in MCC .2172(D)(2)(a) consisting of:
    - (a) A forest management plan certified by the Oregon State Department of Forestry, the Oregon State University Extension Service, or by a person or group having similar forestry expertise, that the lot and the plan are physically and economically suited to the primary forest or wood processing use;
    - (b) A farm management plan certified by the Oregon State University Extension Service, or by a person or group having similar agricultural expertise, that the lot and the plan are physically and economically suited to the primary purpose of obtaining a profit in money, considering accepted farming practice;
    - (c) A resource management plan for a primary use listed in MCC .2168, based upon income, investment or similar records of the management of that resource on the property as a separate management unit for at least two of the preceding three years;
    - (d) A fish, wildlife or other natural resource conservation management plan certified by the Oregon State Fish and Wildlife Department or by a person or group having similar resource conservation expertise, to be suited to the lot and to nearby uses;
    - (e) A small tract timber option under ORS Chapter 321.705, a Western Oregon Forest Land designation under ORS Chapter 321.257, a Reforestation deferral under ORS Chapter 321.257, or participation in a current forestry improvement program of the

U.S. Agricultural Stabilization and Conservation Service; or

- (f) A cooperative or lease agreement with a commercial timber company, or other person or group engaged in commercial timber operations, for the timber management of at least 75% of the productive timberland of the property. Productive timberland is that portion of the property capable of growing 50 cubic feet/acre/year.
- (3) The dwelling will not require public services beyond those existing or programmed for the area;
- (4) The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices; and
- (5) The residential use development standards of MCC .2194.
- ~~(B) Residential use consisting of a single family dwelling, for the housing of help required to carry out a primary use listed in MCC .2168(C) or (D), when the dwelling occupies the same lot as a residence permitted by MCC .2170(A), subject to the residential use development standards under MCC .2194.~~
- (E B)** Wholesale or retail sales of farm or forest products raised or grown on the premises or in the immediate vicinity, subject to the following condition:

The location and design of any building, stand or sign in conjunction with wholesale or retail sales shall be subject to approval of the Planning Director on a finding that the location and design are compatible with the character of the area; provided that the decision of the Director may be appealed to the Hearings Officer pursuant to MCC .8290 and .8295.

11.15.2172 Conditional Uses

The following uses may be permitted when found by the approval authority to satisfy the applicable ordinance standards:

- (A) Community Service Uses pursuant to the provisions of MCC .7005 through .7041.
- (B) The following Conditional Uses pursuant to the provisions of MCC .7105 through .7640:
  - (1) Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005 or exploration, mining and processing of aggregate and other mineral or subsurface resources;
  - (2) Commercial processing of forest products, primarily grown in the region, other than as specified in MCC .2168(B);
  - (3) Raising any type of fowl, or processing the by-products thereof, for sale at wholesale or retail;
  - (4) Feed lots;
  - (5) Raising of four or more swine over four months of age;
  - (6) Raising of fur-bearing animals for sale at wholesale or retail; and

(7) Commercial dog kennels.

(8) Houseboats and Houseboat Moorages.

(~~E~~ 9) The following Conditional Uses may be permitted upon findings in addition to those required by MCC .7105 through .7640 that:

~~(1 a)~~ The capability of the land for resource production is maintained;

~~(2 b)~~ The use will neither create nor be affected by any hazards; and

~~(3 c)~~ Access for fire protection of timber is assured:

~~(a) Rural planned developments for single family residences as provided in MCC .7705 through .7760, and~~

~~(b) Pursuant to the provisions of MCC .7105 through .7640:~~

(i) Cottage Industries;

(ii) Limited rural service commercial uses, such as local stores, shops, offices, repair services and similar use; and

(iii) Tourist commercial uses such as restaurants, gas stations, motels, guest ranches and similar uses.

(~~D~~ C) Residential use, not in conjunction with a primary use listed in MCC .2168, consisting of a single-family dwelling, including a mobile or modular home, subject to the following findings:

(1) The lot size shall meet the standards of MCC .2178(A), .2180(A) to (C), or .2182(A) to (C);

(2) The land is incapable of sustaining a farm or forest use, based upon one of the following:

(a) A Soil Conservation Service Agricultural Capability Class of IV or greater for at least 75% of the lot area, and physical conditions insufficient to produce 50 cubic feet/acre/year of any commercial tree species for at least 75% of the lot area,

(b) Certification by the Oregon State University Extension Service, the Oregon Department of Forestry, or a person or group having similar agricultural and forestry expertise, that the land is inadequate for farm and forest uses and stating the basis for the conclusion, or

(c) The lot is a Lot of Record under MCC .2182(A) through (C), and is ten acres or less in size;

(3) A dwelling as proposed is compatible with the primary uses as listed in MCC .2168 on nearby property and will not interfere with the resources or the resource management practices or materially alter the stability of the overall land use pattern of the area;

(4) The dwelling will not require public services beyond those existing or programmed for the area;

(5) The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices; and

(6) The residential use development standards of MCC .2194 will be met.

(E D) Mortgage Lot: Residential use consisting of a single-family dwelling in conjunction with a primary use listed in MCC .2168, located on a mortgage lot created after August 14, 1980, subject to the following:

(1) The minimum lot size for the mortgage lot shall be two acres;

(2) Except as may otherwise be provided by law, a mortgage lot shall not be conveyed as a zoning lot separate from the tract out of which it was created or such portion of the tract as conforms with the dimensional requirements of the zoning ordinance then in effect. The purchaser of a mortgage lot shall record a statement referring to this limitation in the Deed Records pertaining to said lot.

(3) No permit shall be issued for improvement of a mortgage lot unless the contract seller of the tract out of which the mortgage lot is to be created and the mortgagee of said mortgage lot have agreed in writing to the creation of the mortgage lot.

11.15.2182 Lot of Record.

(A) For the purposes of this district, a Lot of Record is ~~a parcel of land~~:

(1) ~~For which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form, prior to August 14, 1980, and~~ A parcel of land:

(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to August 14, 1980;

(b) Which satisfied all applicable laws when the parcel was created; and

(c) Which satisfies the minimum lot size requirements of MCC .2178, or

(2) ~~Which, when established, satisfied all applicable laws.~~ A parcel of land:

(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to ( — adoption date — );

(b) Which satisfied all applicable laws when the parcel was created;

(c) Does not meet the minimum lot size requirements of MCC .2178; and

(d) Which is not contiguous to another substandard parcel or parcels under the same ownership, or

(3) A group of contiguous parcels of land:

- (a) For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to ( — *adoption date* — );
- (b) Which satisfied all applicable laws when the parcels were created;
- (c) Which individually do not meet the minimum lot size requirements of MCC .2178, but, when considered in combination, comply as nearly as possible with a minimum lot size of nineteen acres, without creating any new lot line; and
- (d) Which are held under the same ownership.

~~(B) A Lot of Record which has less than the area or front lot line minimum required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.~~

~~(1) Parcels of land which are contiguous and in which greater than possessory interests are held by the same person, partnership or business entity, shall be aggregated to comply as nearly as possible with the area or front lot line minimum of this district. The word *contiguous* shall refer to parcels of land which have any common boundary and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way.~~

~~(2) Nothing in this subpart shall be deemed to alter or amend the other provisions of this Chapter.~~

For the purposes of this subsection:

- (1) *Contiguous* refers to parcels of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way;
- (2) *Substandard Parcel* refers to a parcel which does not satisfy the minimum lot size requirements of MCC .2178; and
- (3) *Same Ownership* refers to parcels in which greater than possessory interests are held by the same person or persons, spouse, minor age child, single partnership or business entity, separately or in tenancy in common.

(C) Separate Lots of Record shall be deemed created when a County maintained road or an EFU, CFU, MUA-20, RR or RC zoning district boundary intersects a parcel, or aggregated group of contiguous parcels, of land.

(D) A Lot of Record which has less than the front lot line minimums required may be occupied by any permitted or approved use when in compliance with

the other requirements of this district.

- (E) Except as otherwise provided by MCC .2180 and .2184, no sale or conveyance of any portion of a Lot of Record, other than for a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

**G. Subsections of the RR – Rural Residential District are amended, added to, or deleted as follows:**

11.15.2212 Conditional Uses.

The following uses may be permitted when found by the Hearings Officer to satisfy the applicable Ordinance standards:

- (A) Community Service Uses under the provisions of MCC .7005 through .7041.
- (B) The following Conditional Uses under the provisions of MCC .7105 through .7640:
- (1) Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005 or exploration, mining and processing of aggregate and other mineral or subsurface resources;
  - (2) Commercial processing of agricultural products, primarily raised or grown in the region;
  - (3) Raising of any type of fowl, or processing the by-products thereof, for sale at wholesale or retail;
  - (4) Feed lots;
  - (5) Raising of four or more swine more than four months of age;
  - (6) Raising of fur-bearing animals for sale at wholesale or retail;
  - (7) Commercial dog kennels;
  - (8) ~~Rural p~~Planned developments for single-family residences, as provided in MCC ~~.7705 through .7760~~.6200 through .6226;
  - (9) Cottage industries, under the provisions of MCC .7105 through .7640.
  - (10) Limited rural service commercial uses, such as local stores, shops, offices, repair services and similar uses; and
  - (11) Tourist commercial uses such as restaurants, gasoline stations, motels, guest ranches, and similar uses.

11.15.2214 Accessory Uses

- (A) Signs, pursuant to the provisions of MCC 11.15.7902-.7982.
- (B) Off-street parking and loading;
- (C) Home occupations; ~~and~~
- (D) Other structures or uses customarily accessory or incidental to any use permitted or approved in this district; ~~and~~
- (E) **Family Day Care.**

11.15.2218 Dimensional Requirements.

- (A) Except as provided in MCC .2220, .2222, .2224 and .7720, the minimum lot size shall be five acres.
- (B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

- (D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional requirements not otherwise established by Ordinance.
- (E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.
- (F) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated “2A”, “3A”, or “3C” in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
  - (1) **To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
  - (2) **To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

**H. Subsections of the RC – Rural Center District are amended, added to, or deleted as follows:**

11.15.2252 Conditional Uses

The following uses may be permitted when found by the approval authority to satisfy the applicable ordinance standards:

- (A) Community Service Uses pursuant to the provisions of MCC .7005 through .7041
- (B) The following Conditional Uses pursuant to the provisions of MCC .7105 through .7640:
  - (1) Limited rural service commercial uses such as local stores, shops, offices, repair shops, and similar uses;
  - (2) Tourist commercial uses such as restaurants, taverns, gas stations, motels, guest ranches, and similar uses;
  - (3) The Light Manufacturing Uses of MCC .5120 which require the daily employment of twenty or fewer persons; and
  - (4) Commercial processing of agricultural or forestry products primarily grown in the vicinity.
- (C) ~~Rural p~~Planned developments for single-family residences, as provided in MCC ~~.7705 through .7760~~ .6200 through .6226. ~~Duplex and apartment dwellings, not to exceed four dwelling units per lot, may be approved by the approval authority pursuant to the provisions of MCC .7750.~~
- (D) Existing light industrial uses permitted by MCC .2252(B)(3) may be expanded up to a daily total of 40 employees, based on findings that:
  - (1) The proposed expansion is a result of normal growth of the existing use and not required as a result of diversification of the business;
  - (2) The use provides a public benefit to the rural center by employing primarily persons who reside within the rural center or surrounding rural area, and this same employment pattern will continue with the proposed expansion;
  - (3) The proposed expansion satisfies the applicable elements of Comprehensive Framework Plan Policies:
    - (a) No. 20 – Arrangement of Land Uses,
    - (b) No.30 – Industrial Location (Isolated Light Industrial),
    - (c) No. 36 – Transportation System Development Requirements,
    - (d) No. 37 – Utilities, and
    - (e) No. 38 – Facilities.
  - (4) The proposed expansion satisfies the Design Review provisions of MCC .7805 through .7865.

11.15.2254 Accessory Uses

- (A) Signs pursuant to the provisions of MCC 11.15.7902-.7982.
- (B) Off-street parking and loading;
- (C) Home occupations; and
- (D) Other structures or uses customarily accessory or incidental to any use permitted or approved in this district; **and**
- (E) **Family Day Care.**

11.15.2258 Dimensional Requirements

- (A) Except as provided in MCC .2260, .2262, .2264 and .7720, the minimum lot size shall be one acre.
- (B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

- (D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.
- (E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.
- (F) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated “2A”, “3A”, or “3C” in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
  - (1) **To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
  - (2) **To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

**I. Subsections of the UF – Urban Future District are amended, added to, or deleted as follows:**

**11.15.2360 Exceptions to Dimensional Requirements**

- (A) When a lot has been included in a Future Street Plan approved under the Land Division Chapter, MCC 11.45, development of that lot, including area and setback requirements, shall be in compliance with the street and lotting pattern of that Future Street Plan, or approved revision thereof, under MCC 11.45.180.
- (B) The minimum yard requirement shall be increased to provide for street widening in the event a yard abuts a street having a width less than that specified for the functional classification by MCC Chapter 11.60.
- (C) Except as provided in the LF district, structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.
- (D) The approval authority may grant a Lot of Exception to permit the creation of a lot smaller than the minimum required, after July 26, 1979, when in compliance with the other dimensional requirements of the district. Any exception shall be based on findings that the proposal will:
  - (1) Substantially maintain or support the character and stability of the overall land use pattern of the area;
  - (2) Be compatible with accepted farming or forestry practices on adjacent lands;
  - (3) Be consistent with the purposes described in MCC .2354;
  - (4) Satisfy the applicable standards of water supply, sewage disposal and minimum access; and
  - (5) Not require public services beyond those existing in the area.
- (E) Except as provided in MCC .2360(G), no Lot of Exception shall be approved unless:
  - (1) The Lot of Record to be divided exceeds the area requirements of the district, and
  - (2) The division will create no more than one lot which is less than the minimum area required in the district.
- (F) The approval authority may attach conditions to the approval of any Lot of Exception to insure that the use is consistent with the Comprehensive Plan and the purposes described in MCC .2354.
- (G) The Planning Director may grant a Lot of Exception based on a finding that the permitted number of dwellings will not thereby be increased above that otherwise allowed in the district; provided that the decision of the Planning Director may be appealed according to the provisions of MCC .8290 and .8295.
- (F) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved**

mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:

- (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.
- (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

**J. Subsections of the LDRGP – Urban Low Density Residential General Provisions are amended, added to, or deleted as follows:**

**11.15.2480 Exceptions to Dimensional Requirements.**

- (A) When a lot has been included in a future street plan approved under the Land Division Chapter, development of that lot, including area and setback requirements, shall be in compliance with the street and lotting pattern of that future street plan, or approved revisions thereof, under MCC 11.45.180 of the Land Division Chapter.
- (B) In acting to approve a land division under the Land Division Chapter, the approval authority may grant an Exception not to exceed ten percent of the lot area or 25 percent of any other dimensional requirements upon findings that such Exception will result in any of the following:
  - (1) More efficient use of the site;
  - (2) A greater degree of privacy, safety or freedom from noise, fumes or glare;
  - (3) An improved solar and climatic orientation;
  - (4) The preservation of natural features, where appropriate; or
  - (5) The provision of pedestrian circulation facilities where needed.
- (C) Cornices, eaves, belt courses, sills, canopies, or similar architectural features may extend or project into a required yard not more than 30 inches. Fireplace chimneys may project into a required front, side or rear yard not more than two feet, provided the width of such side yard is not reduced to less than three feet.
- (D) Open porches or balconies, not more than 30 inches in height and not covered by a roof or canopy, may extend or project into a required rear yard not more than four feet and such porches may extend into a required front yard not more than 30 inches.
- (E) The minimum yard requirement shall be increased to provide for street widening in the event a yard abuts a street having a width less than that specified for the functional classification by MCC Chapter 11.60.

- (F) A fence, lattice work, screen, wall or similar feature with a maximum height of six feet may be located in any required yard provided, however, that the maximum height shall be four feet if the feature is within 15 feet of a front property line or five feet of a street side property line.
- (G) Except as provided in the LF District, chimneys, antennae, or similar structures may exceed height maximums established by Ordinance if located at least 20 feet from any property line.
- (H) A two-unit dwelling may be located with one unit on each of two adjoining lots. In such event, the minimum lot size and yard requirements shall apply to each unit, except that no yard shall be required between the units.
- (I) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
  - (1) **To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
  - (2) **To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

**K. Subsections of the MHRGP – Urban Medium and High Density Residential General Provisions are amended, added to, or deleted as follows:**

11.15.2692 Exceptions to Dimensional Requirements

- (A) When a lot has been included in a future street plan approved under the Land Division Chapter, development of that lot, including area and setback requirements, shall be in compliance with the street and lotting pattern of that future street plan or approved revision thereof, under MCC 11.45.180 of the Land Division Chapter.
- (B) In acting to approve a land division under the Land Division Chapter, the approval authority may grant an exception not to exceed ten percent of the lot area or 25 percent of any other dimensional requirement upon findings of the manner in which such exception will result in any of the following:
  - (1) More efficient use of the site;
  - (2) A greater degree of privacy, safety or freedom from noise, fumes or glare;
  - (3) An improved solar and climatic orientation;
  - (4) The preservation of natural features, where appropriate; or
  - (5) The provision of pedestrian circulation facilities, where needed.

- (C) The side yard adjacent to an accessway created under MCC 11.45, the Land Division Chapter may be reduced to five feet for a pre-existing structure, under the provisions of subsection (B) above.
- (D) Cornices, eaves, belt courses, sills, canopies or similar architectural features may extend or project into a required yard not more than 30 inches. Fireplace chimneys may project into a required front, side or rear yard not more than two feet, provided the width of such side yard is not reduced to less than three feet.
- (E) Open porches or balconies, not more than 30 inches in height and not covered by a roof or canopy, may extend or project into a required rear yard not more than four feet, and such porches may extend into a required front yard not more than 30 inches.
- (F) The minimum yard requirement shall be increased to provided for street widening in the event a yard abuts a street having a width less than that specified for the functional classification by the Street Standards Chapter MCC 11.60.
- (G) A fence, lattice work, screen, wall or similar feature with a maximum height of six feet may be located in any required yard; provided, however, that the maximum height shall be four feet if the feature is within 16 feet of a front property line or five feet of a street side property line.
- (H) Except as provided in the LF district, chimneys, antennae or similar structures may exceed height maximums established by Ordinance, if located at least 20 feet from any property line.
- (I) A two-unit or an apartment dwelling may be located with attached units or adjoining lots. In such event, the minimum lot size and yard requirements shall apply to the units on each lot, except that no yard shall be required adjacent to the common property line.
- (J) The land area dedicated without compensation for the widening or the extension of a public street may be included in calculating the number of dwelling units permitted on a lot in an Urban Medium or High Density Residential District.
- (K) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
  - (1) **To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
  - (2) **To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

**L. Subsections of the R-40 – Single Family Residential District are amended, added to, or deleted as follows:**

11.15.2834 Restrictions

(A) Lot Size

The minimum lot size shall be 40,000 square feet. The minimum average lot width shall be 100 feet. The minimum average lot depth shall be 140 feet.

(B) Yard Requirements:

(1) Front Yard. There shall be a front yard with a minimum depth of 30 feet.

(2) Side Yard. Side yards shall be a minimum of 10 feet.

(3) Rear Yard. There shall be a rear yard with a minimum depth of 30 feet to any permanent structure.

(C) Accessory Buildings

Accessory buildings may be allowed if they fulfill the front, side, and rear yard requirements of the district.

(D) Off-Street Parking

Two automobile spaces on the lot shall be provided for each dwelling unit.

(E) Height Restrictions

Maximum height of any structure shall be 35 feet.

(F) Lot Coverage

The maximum area that may be covered by the dwelling unit and accessory buildings shall not exceed 20% of the total area of the lot.

(G) All lots in this district shall abut a street, or shall have such other access held suitable by the Hearings Officer.

(H) Half Streets

The minimum front or side yards or other setbacks as stated herein, shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such case.

(I) No sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard, or setback requirements of this district.

**(J) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved**

mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:

- (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.
- (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

**M. Subsections of the R-30 – Single Family Residential District are amended, added to, or deleted as follows:**

11.15.2844 Restrictions

(A) Lot Size

The minimum lot size shall be 30,000 square feet. The minimum average lot width shall be 80 feet. The minimum average lot depth shall be 130 feet.

(B) Yard Requirements

- (1) Front Yard. There shall be a front yard with a minimum depth of 30 feet.
- (2) Side Yard. Side yards shall be a minimum of 10 feet.
- (3) Rear Yard. There shall be a rear yard with a minimum depth of 30 feet to any permanent structure.

(C) Accessory Buildings

Accessory buildings may be allowed if they fulfill the front, side, and rear yard requirements of the district.

(D) Off-Street Parking

Two automobile spaces on the lot shall be provided for each dwelling unit.

(E) Height Restrictions

Maximum height of any structure shall be 35 feet..

(F) Lot Coverage

The maximum area that may be covered by the dwelling unit and accessory buildings shall not exceed 25% of the total area of the lot.

(G) All lots in this district shall abut a street, or shall have such other access held suitable by the Hearings Officer.

(H) Half Streets

The minimum front or side yards or other setbacks as stated herein, shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

(I) No sales or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard or setback requirements of this district.

(J) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**

(1) **To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**

(2) **To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

**N. Subsections of the R-20 – Single Family Residential District are amended, added to, or deleted as follows:**

11.15.2854 Restrictions

(A) Lot Size

The minimum lot size shall be 20,000 square feet. The minimum average lot width shall be 80 feet. The minimum average lot depth shall be 120 feet.

(B) Yard Requirements

(1) **Front Yard.** There shall be a front yard having a minimum depth of 30 feet, unless a previous building line less than this has been established, in which case the minimum front yard for interior lots shall be the average of the setbacks of the main structures on abutting lots on either side if both lots are occupied; if one lot is occupied and the other vacant, the setback shall be the setback of the occupied lot, plus one-half of the remaining distance to the required 30 foot setback. If neither of the abutting side lots or tracts are occupied by a structure, the setback shall be 30 feet.

(2) **Side Yard.** Side yards shall be a minimum of 10 feet.

(3) Rear Yard. There shall be a rear yard with a minimum depth of 30 feet to any permanent structure.

(C) Accessory Buildings

Accessory buildings may be allowed if they fulfill the front, side, and rear yard requirements of the district.

(D) Off-Street Parking

Two automobile spaces on the lot shall be provided for each dwelling unit.

(E) Height Restrictions

Maximum height of any structure shall be 35 feet.

(F) Lot Coverage

The maximum area that may be covered by the dwelling unit and accessory buildings shall not exceed 30% of the total area of the lot.

(G) All lots in this district shall abut a street, or shall have such other access held suitable by the Hearings Officer.

(H) Half Streets

The minimum front or side yards or other setbacks as stated herein, shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

(I) No sales or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard or setback requirements of this district.

(J) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**

**(1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**

**(2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

**O. Subsections of the R-10 – Single Family Residential District are amended, added to, or deleted as follows:**

**11.15.2864 Restrictions**

**(A) Lot Size**

The minimum lot size shall be 10,000 square feet. The minimum average lot width shall be 70 feet, and the minimum lot width at the building line shall be 70 feet. The minimum average lot depth shall be 100 feet.

**(B) Yard Requirements**

- (1) **Front Yard.** There shall be a front yard having a minimum depth of 30 feet, unless a previous building line less than this has been established, in which case the minimum front yard for interior lots shall be the average of the setbacks of the main structure on abutting lots on either side if both lots are occupied. If one lot is occupied and the other vacant, the setback shall be the setback of the occupied lot, plus one-half the remaining distance to the required 30 foot setback. If neither of the abutting side lots or tracts is occupied by a structure, the setback shall be 30 feet.
- (2) **Side Yards.** Side yards shall be a minimum of ten feet.
- (3) **Rear Yards.** There shall be a rear yard with a minimum depth of 25 feet to the main building.
- (4) **Corner lots** may have a rear yard of not less than 10 feet if the front yard is not less than 30 feet and if the side yards are not less than 20 feet.

**(C) Accessory Buildings**

Accessory buildings may be allowed if they fulfill the following requirements:

- (1) If attached to the main building or separated by a breezeway they shall fulfill the front and side yard requirements of the main building.
- (2) If detached and located behind the rear most line of the main building, or a minimum of 35 feet from the front lot line, whichever is greater, any one-story accessory building may be located adjacent to or on a rear and/or side lot line not fronting on a street, when in compliance with the Building Code.

**(D) Off-Street Parking**

Two automobile spaces on the lot shall be provided for each dwelling unit.

**(E) Height Restrictions**

Maximum height of any structure shall be 35 feet.

**(F) Lot Coverage**

The maximum area that may be covered by the dwelling unit and accessory building shall not exceed 30% of the total area of the lot.

(G) All lots in this district shall abut a street or shall have such other access held suitable by the Hearings Officer.

(H) Half Streets

The minimum front or side yards or other setbacks as stated herein, shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

(I) No sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard or setback requirements of this district.

(J) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**

(1) **To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**

(2) **To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

**P. Subsections of the R-7 – Single Family Residential District are amended, added to, or deleted as follows:**

11.15.2874 Restrictions

(A) Lot Size

The minimum lot size shall be 7,000 square feet. The minimum average lot width shall be 60 feet, and the minimum lot width at the building line shall be 60 feet. The minimum average lot depth shall be 80 feet.

(B) Yard Requirements

(1) **Front Yard.** There shall be a front yard having a minimum depth of 20 feet, unless a previous building line less than this has been established, in which case the minimum front yard for interior lots shall be the average of the setbacks of the main structures on abutting lots on either side if both lots are occupied. If one lot is occupied and the other vacant, the setback shall be the setback of the occupied lot, plus one-half the remaining distance to the required 20 foot setback. If neither of the abutting side lots or tracts are occupied by a structure, the setback shall be 20 feet.

(2) **Side Yards.** Side yards shall be a minimum of five feet, on corner lots the side yard

shall be a minimum of ten feet on the side abutting the street.

- (3) Rear Yards. There shall be a rear yard with a minimum depth of 25 feet to the main building.
- (4) Corner lots may have a rear yard of not less than 5 feet if the front and side yards are not less than 20 feet.

(C) Accessory Buildings

Accessory buildings may be allowed if they fulfill the following requirements:

- (1) If attached to the main building or separated by a breezeway, they shall fulfill the front and side yard requirements of the main building.
- (2) If detached and located behind the rear-most line of the main building, or a minimum of 50 feet from the front lot line, whichever is greater, any one-story accessory building may be located adjacent to or on a rear and/or side lot line fronting on a street, when in compliance with the Building Code.

(D) Off-Street Parking

Two automobile spaces on the lot shall be provide for each dwelling unit.

(E) Height Restrictions

Maximum height of any structure shall be 35 feet.

(F) Lot Coverage

The maximum area that may be covered by the dwelling unit and accessory buildings shall be 35% of the total area of the lot.

(G) All lots in this district shall abut a street or shall have such other access held suitable by the Hearings Officer.

(H) Half Streets

The minimum front or side yards or other setbacks as stated herein shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

(I) No sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard or setback requirements of this district.

(J) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:

- (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.
- (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

**Q. Subsections of the R-4 – Two-Family Residential District are amended, added to, or deleted as follows:**

11.15.2884 Restrictions

(A) Lot Size

The minimum lot size shall be 8,000 square feet for a two-family dwelling, 7,000 square feet for a single-family dwelling, and 4,000 square feet for each dwelling unit in dwelling groups permitted under MCC .2882(C). The minimum average lot width shall be 60 feet, the minimum width at the building line shall be 60 feet, and the minimum average lot depth shall be 80 feet.

(B) Yard Requirements

- (1) Front Yard. There shall be a front yard having a minimum depth of 20 feet, unless a previous building line less than this has been established, in which case the minimum front yard for interior lots shall be the average of the setbacks of the main structures on abutting lots on either side if both lots are occupied; if one lot is occupied and the other vacant, the setback shall be the setback of the occupied lot, plus one-half the remaining distance to the required 20 foot setback. If neither of the abutting side lots or tracts are occupied by a structure, the setback shall be 20 feet.
- (2) Side Yard. Side yards shall be a minimum of five feet, on corner lots the side yard shall be a minimum of ten feet on the side abutting the street.
- (3) Rear Yard. There shall be a rear yard with a minimum depth of 25 feet to the main building.

(C) Accessory Buildings

Accessory buildings may be allowed if they fulfill the following requirements:

- (1) If attached to the main building or separated by a breezeway they shall fulfill the front and side yard requirements of the district.
- (2) If detached and located behind the rear-most line of the main building, or a minimum of 50 feet from the front lot line, whichever is greater, any one-story accessory building may be located adjacent to or on a rear and/or side lot line not fronting on a street,

when in compliance with the Building Code.

(D) Off-Street Parking

Two automobile spaces on the lot shall be provided for each dwelling unit. Off-street parking for dwelling groups permitted under MCC .2882(C) shall be provided according to the requirements of MCC .6100 through .6148.

(E) Height Restrictions

Maximum height of any structure shall be 35 feet. Maximum height of any structure in a dwelling group permitted under MCC .2882(C) shall be one-story, unless the Planning Director shall determine that a greater height is in harmony with the neighborhood.

(F) Lot Coverage

The maximum area that may be covered by the dwelling(s) and accessory buildings shall not exceed 40% of the total area of the lot.

(G) All lots in this district shall abut a street or shall have such other access held suitable by the Hearings Officer.

(H) Half Streets

The minimum front or side yards or other setbacks as stated herein shall be increased where such yard or setback abuts a street having insufficient right-of-way widths to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

(I) No sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard or setback requirements of this district.

**(J) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**

**(1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**

**(2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

**R. Subsections of the A-2 – Apartment Family Residential District are amended, added to, or deleted as follows:**

11.15.2894 Restrictions

(A) Lot Size and Coverage.

No. of Dwelling Units	Minimum Lot Size in Square Feet	Percent Lot Coverage
1	7,000	35%
2	8,000	40%

No. of Dwelling Units	Minimum Lot Size in Square Feet	Percent Lot Coverage
3	11,000	40%
4	14,000	45%
5	16,500	45%
6	19,000	45%
7-10	21,500 + 2,250 for each unit over 7	45%
11-20	30,500 + 2,000 for each unit over 11	45%
21-37	50,750 + 1,750 for each unit over 21	50%
38-63	79,500 + 1,500 for each unit over 38	55%
64-up	118,500 + 1,000 for each unit over 64	55%

- (1) The minimum average lot width shall be 60 feet, and the minimum lot width at the building line shall be 60 feet. The minimum average lot depth shall be 80 feet.
- (2) Where the number of dwelling units erected on a lot is calculated in accordance with this Section, no greater number of units shall in any event be permitted at any time except in compliance with MCC .2892(G).

(B) Yard Requirements

- (1) **Front Yard.** There shall be a front yard having a minimum depth of 20 feet, unless a previous building line less than this has been established, in which case the minimum front yard for interior lots shall be the average of the setbacks of the main structures on abutting lots on either side if both lots are occupied; if one lot is occupied and the other vacant, the setback shall be the setback of the occupied lot plus one-half the remaining distance to the required 20 foot setback. If neither of the abutting side lots or tracts are occupied by a structure, the setback shall be 20 feet.
- (2) **Side Yard.** For buildings one or two stories in height, side yards shall be a minimum of five feet; for buildings exceeding two stories in height, the side yards shall be a minimum of one foot horizontally for every three feet of building height; on corner lots the side yard for all structures shall be a minimum of ten feet on the side abutting the street.
- (3) **Rear Yard.** There shall be a rear yard with a minimum depth of 15 feet to the main

building.

(C) Accessory Buildings

Accessory buildings may be allowed if they fulfill the following requirements:

- (1) If attached to the main building or separated by a breezeway they shall fulfill the front and side yard requirements of the main building.
- (2) If detached and located behind the rear-most line of the main building, or a minimum of 45 feet from the front lot line, whichever is greater, any one-story accessory building may be located adjacent to or on a rear and/or side lot line not fronting on a street when in compliance with the Building Code.

(D) Off-Street Parking

Off-street parking shall be provided as required in MCC.6100 through .6148.

(E) Height Restrictions

Maximum height of any structure shall be 35 feet. Structures exceeding 35 feet may be permitted if in harmony with the neighborhood after a public hearing before the Hearings Officer.

- (F) All lots in this district shall abut a street or shall have such other access held suitable by the hearings Officer.

(G) Half Street

The minimum front or side yards or other setbacks as stated herein shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

- (H) No sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard or setback requirements of this district.

- (H) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**

- (1) **To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
- (2) **To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not**

occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

**S. Subsections of the Planned Development Subdistrict are amended, added to, or deleted as follows:**

**11.15.6218 Density Computation for Residential Developments**

In order to preserve the integrity of the Comprehensive Plan and relate to a residential Planned Development to it, the number of dwelling units permitted shall be determined as follows:

- (A) Divide the total site area by the minimum lot area per dwelling unit required by the underlying district or districts in which the Planned Development is located.
- (B) **Optional Density Standards inside the Urban Growth Boundary.** The following standards for the calculation of residential density may be used singularly or in combination, when approved by the Planning Commission:
  - (1) The permitted number of dwelling units determined under subsection (A) above may be increased up to 25 percent upon a finding by the Planning Commission that such increased density will contribute to:
    - (a) Satisfaction of the need for additional urban area housing of the type proposed;
    - (b) The location of housing which is convenient to commercial, employment and community services and opportunities;
    - (c) The creation of a land use pattern which is complementary to the community and its identity, and to the community design process;
    - (~~f~~ d) The conservation of energy;
    - (~~g~~ e) The efficient use of transportation facilities; and
    - (~~h~~ f) The effective use of land and of available utilities and facilities.
  - (2) The permitted number of dwelling units may be increased above those computed under subsection (A) or (B) of this section, upon a finding by the Planning Commission that:
    - (a) The total number of persons occupying the site will not exceed the total otherwise permitted or authorized in the district, based upon the difference between the average family size occupying permitted units in the vicinity and the family size limited by the proposed number of bedrooms, the proposed number of kitchens, the age composition of prospective residents, or other similar occupancy limitations; and
    - (b) The proposal will satisfy the provisions of MCC .6218 (B) (1).

**11.15.6222 Permitted Uses**

In an underlying residential district, the following uses may be permitted in a Planned Development District:

- (A) Housing types may include single family detached or attached dwellings, duplexes, row houses, town houses or apartments, **except that in the MUA-20, RR, and RC districts only duplexes and single family detached or attached dwellings are permitted.**
- (B) In the LR-7 and the LR-5 districts, outside a *Developed Neighborhood* as designated in the Community Plan, the housing type may include mobile homes:
  - (1) On individual lots in a subdivision approved for the purpose under MCC 11.45, the Land Division Chapter, subject to the development standards of MCC .2704, except subpart (A) (2) thereof;
  - (2) In a mobile home park, subject to the development standards of MCC .2708.
- (C) A related commercial use which is designated to serve the development of which it is a part, upon approval by the Planning Commission.
- (D) A Community Service use listed in MCC .7005 through .7030, when designated to serve the development or the adjacent area of which it is a part, upon approval by the Planning Commission.
  - (1) A Community Service use, when approved under the provisions of MCC .7005 through .7030, may also be designed to serve the adjacent area outside the Planned Development if found by the Planning Commission to be appropriate and consistent with Comprehensive Plan policies.
- (E) A use or structure customarily accessory or incidental to a permitted or approved use.
- (F) For an underlying commercial or industrial district, the following uses may be permitted in a Planned Development District:
  - (1) Uses permitted in the underlying district.
  - (2) Community Service Uses when approved by the Planning Commission under the provisions of MCC .7005 through .7030.
  - (3) Any other use as approved by the Planning Commission when found to be consistent with the Development Plan and Program and the purposes of this Chapter.

**T. Subsections of the Willamette River Greenway Subdistrict are amended, added to, or deleted as follows:**

11.15.6358 Exceptions

A Greenway Permit shall not be required for the following:

- (A) Farm Use, as defined in ORS 215.203(2)(a), including buildings and structures accessory thereto **on "converted wetlands" as defined by ORS 541.695(9) or on upland areas;**
- (B) The propagation of timber or the cutting of timber for public safety or personal use;
- (C) Gravel removal from the bed of the Willamette River, conducted under a permit from the

State of Oregon;

- (D) Customary dredging and channel maintenance **and the removal or filling, or both, for the maintenance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation ditches and tile drain systems as allowed by ORS 541.695(6);**
- (E) The placing, by a public agency, of signs, markers, aids, etc., to serve the public;
- (F) Activities to protect, conserve, enhance and maintain public recreational, scenic, historical and natural uses on public lands;
- (G) On scenic easements acquired under ORS 390.332(2)(a), the maintenance authorized by that statute and ORS 390.368;
- (H) The use of a small cluster of logs for erosion control;
- (I) The expansion of capacity, or the replacement, of existing communications or energy distribution and transmission systems, except substations;
- (J) The maintenance and repair of existing flood control facilities; and
- (K) Uses legally existing on the effective date of this Chapter; provided, however, that any change or intensification of such use shall require a Greenway Permit.

#### 11.15.6364 Decision by Planning Director

- (A) A decision on a Greenway Permit application for a Permitted Use or a Use Under Prescribed Conditions shall be made by the Planning Director. The Director may approve the permit, disapprove it, or approve it with such modifications and conditions as may be consistent with the Comprehensive Plan or necessary to assure compatibility with the elements of the Greenway Design Plan. **Such conditions may relate to the locations, design, and maintenance of existing and proposed improvements, including but not limited to buildings, structures and use areas, parking, pedestrian and vehicular circulation and access, natural vegetation and landscaped areas, fencing, screening and buffering, excavations, cuts and fills, signs, graphics, exterior colors, and lighting.**
- (B) Within ten business days following receipt of a completed Greenway Permit application, the Planning Director shall file a decision with the Director of the Department of Environmental Services and shall mail a copy of the decision to the applicant and to other persons who request the same.
- (C) A decision by the Planning Director on a Greenway Permit application shall include written conditions, if any, and findings and conclusions. The conditions, findings, and conclusions shall specifically address the relationships between the proposal and the elements of the Greenway Design Plan.

#### 11.15.6372 Greenway Design Plan

The elements of the Greenway Design Plan are:

- (A) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and the river.

- (B) Reasonable public access to and along the river shall be provided by appropriate legal means to the greatest possible degree and with emphasis on urban and urbanizable areas.
- (C) Developments shall be directed away from the river to the greatest possible degree, provided, however, that lands in other than rural and natural resource districts may continue in urban uses.
- (D) Agricultural lands shall be preserved and maintained for farm use.
- (E) The harvesting of timber, beyond the vegetative fringes, shall be conducted in a manner which shall insure that the natural scenic qualities of the Greenway will be maintained to the greatest extent practicable or will be restored within a brief period of time **on those lands inside the Urban Growth Boundary.**
- (F) Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflicts with farm uses.
- (G) Significant fish and wildlife habitats shall be protected.
- (H) Significant natural and scenic areas and viewpoints and vistas shall be preserved.
- (I) Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.
- (J) The natural ~~vegetative~~ **vegetation fringe** along the river, **lakes, wetlands, and streams** shall be enhanced and protected to the maximum extent practicable to assure scenic quality, protection from erosion, **and** screening of uses from the river, **and continuous riparian corridors.**
- (K) Extraction of known aggregate deposits may be permitted, pursuant to the provisions of MCC .7105 through .7640, when economically feasible and when conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise, safety, and to guarantee necessary reclamation.
- (L) Areas of annual flooding, flood plains, water areas and wetlands shall be preserved in their natural state to the maximum possible extent to protect the water retention, overflow and natural functions.
- (M) ***Significant wetland areas shall be protected as provided in MCC .6376.***
- (N) Areas of ecological, scientific, historical or archeological significance shall be protected, preserved, restored, or enhanced to the maximum extent possible.
- (O) Areas of erosion or potential erosion shall be protected from loss by appropriate means which are compatible with the character of the Greenway.
- (P) The quality of the air, water and land resources in and adjacent to the Greenway shall be preserved in development, change of use, or intensification of use of land designated WRG.
- (Q) A building setback line of 150 feet from the ordinary low waterline of the Willamette River shall be provided in all rural and natural resource districts, except for non-dwellings provided in conjunction with farm use and except for buildings and structures in conjunction with a water-related or a water dependent use. **Any exceptions to this setback must be processed as a Goal Exception under the standards of OAR 660-04-022(4).**

- (R) Any development, change of use or intensification of use of land classified WRG, shall be subject to design review, pursuant to MCC .7805 through .7865, to the extent that such design review is consistent with the elements of the Greenway Design Plan.
- (S) The applicable policies of the Comprehensive Plan are satisfied.

#### 11.15.6376 *Significant Wetlands*

*Significant* wetlands consist of those areas designated as *Significant* on aerial photographs of a scale of 1"=200' made a part of the supporting documentation of the Comprehensive Framework Plan. Any proposed activity or use requiring an WRG permit which would impact those wetlands shall be subject to the following:

- (A) In addition to other WRG Permit submittal requirements, the application shall also include:
  - (1) A site plan drawn to scale showing the wetland boundary as determined by a documented field survey, the location of all existing and proposed structures, roads, watercourses, drainageways, stormwater facilities, utility installations, and topography of the site at a contour interval of no greater than five feet;
  - (2) A description and map of the wetland area that will be affected by the proposed activity. This documentation must also include a map of the entire wetland, an assessment of the wetland's functional characteristics and water sources, and a description of the vegetation types and fish and wildlife habitat;
  - (3) A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, grading, dredging, and vegetation removal, including the amounts and methods;
  - (4) A study of any flood hazard, erosion hazard, or other natural hazards in the proposed development area and any proposed protective measures to reduce such hazards;
  - (5) Detailed Mitigation Plans as described in subsection (D), if required;
  - (6) Description of how the proposal meets the approval criteria listed in subsection (B) below.
- (B) In addition to the criteria listed in MCC .6372, the applicant shall demonstrate that the proposal:
  - (1) Is water-dependent or requires access to the wetland as a central element of its basic design function, or is not water dependent but has no practicable alternative as described in subsection (C) below.
  - (2) Will have as few adverse impacts as is practical to the wetland's functional characteristics and its existing contour, vegetation, fish and wildlife resources, shoreline anchoring, flood storage, general hydrological conditions, and visual amenities. This impact determination shall also consider specific site information contained in the adopted wetlands inventory and the economic, social, environmental, and energy (ESEE) analysis made part

of the supporting documentation of the comprehensive plan;

- (3) Will not cause significant degradation of groundwater or surface-water quality;
  - (4) Will provide a buffer area of not less than 50 feet between the wetland boundary and upland activities for those portions of regulated activities that need not be conducted in the wetland;
  - (5) Will provide offsetting replacement wetlands for any loss of existing wetland areas. This Mitigation Plan shall meet the standards of subsection (D).
- (C) A finding of no practicable alternative is to be made only after demonstration by the applicant that:
- (1) The basic purpose of the project cannot reasonably be accomplished using one or more other practicable alternative sites in Multnomah County that would avoid or result in less adverse impact on a wetland. An *alternative site* is to be considered *practicable* if it is available for purchase and the proposed activity can be conducted on that site after taking into consideration costs, existing technology, infrastructure, and logistics in achieving the overall project purposes;
  - (2) The basic purpose of the project cannot be accomplished by a reduction in the size, scope, configuration, or density of the project as proposed, or by changing the design of the project in a way that would avoid or result in fewer adverse effects on the wetland; and
  - (3) In cases where the applicant has rejected alternatives to the project as proposed due to constraints, a reasonable attempt has been made to remove or accommodate such constraints.
- (D) A Mitigation Plan and monitoring program may be approved upon submission of the following:
- (1) A site plan and written documentation which contains the applicable information for the replacement wetland as required by MCC .6372 and .6376 (A);
  - (2) A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;
  - (3) A Mitigation Plan which demonstrates retention of the resource values addressed in MCC .6376 (B)(2);
  - (4) Documentation that replacement wetlands were considered and rejected according to the following order of locational preferences:
    - (a) On the site of the impacted wetland, with the same kind of resource;
    - (b) Off-site, with the same kind of resource;
    - (c) On-site, with a different kind of resource;

(d) Off-site, with a different kind of resource.

U. Subsections of the Significant Environmental Concern Subdistrict are amended, added to, or deleted as follows:

11.15.6400 Purposes

The purposes of the Significant Environmental Concern subdistrict are to protect, conserve, enhance, restore, and maintain significant natural and man-made features which are of public value, including among other things, river corridors, streams, lakes and islands, domestic water supply watersheds, flood water storage areas, natural shorelines and unique vegetation, **wetlands**, wildlife and fish habitats, significant geological features, tourist attractions, ~~historical and~~ archeological features and sites, and scenic views and vistas, and to establish criteria, standards, and procedures for the development, change of use, or alteration of such features or of the lands adjacent thereto.

11.15.6404 Uses – SEC Permit Required

- (A) All uses permitted under the provisions of the underlying district are permitted on lands designated SEC; provided, however, that the location and design of any use, or change or alteration of a use, except as provided in MCC .6406, shall be subject to an SEC permit. The excavation of any archeological site shall require an SEC permit, under MCC .6412, regardless of the zoning designation of the site.
- (B) Any excavation or any removal of materials of archeological, historical, prehistorical or anthropological nature shall be conducted under the conditions of an SEC permit.
- (C) Any building, structure, or physical improvement within 100 feet of the normal high water level of a Class I stream, as defined by the State of Oregon Forest Practice Rules, shall require an SEC permit under MCC .6412, regardless of the zoning designation of the site.

11.15.6406 Exceptions

An SEC permit shall not be required for the following:

- (A) Farm use, as defined in ORS 215.203(2)(a), including buildings and structures accessory thereto on **“converted wetlands” as defined by ORS 541.695(9) or on upland areas;**
- (B) Except as provided in MCC .6420(C), the propagation of timber or the cutting of timber for public safety or personal use or the cutting of timber in accordance with the State Forest Practices Act ~~from a farm woodlot or less than 20 acres as described in the definition of farm use in ORS 215.203;~~
- (C) Customary dredging and channel maintenance **and the removal or filling, or both, for the maintenance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation ditches and tile drain systems as allowed by ORS 541.695(6), but not the placement of spoils;**
- (D) The placing, by a public agency, of signs, markers, aids, etc., to serve the public;

- (E) Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses on public lands;
- (F) Activities regulated pursuant to the provisions of ORS 390.805 to 390.925 on lands designated as scenic waterways under the Oregon Scenic Waterways System;
- (G) The expansion of capacity, or the replacement, of existing communication or energy distribution and transmission systems, except substations;
- (H) The maintenance and repair of existing flood control facilities; ~~and~~
- (I) Uses legally existing on the effective date of this Chapter; provided, however, that any change or alteration of such use shall require an SEC permit as provided herein; ~~and~~
- (J) **Those Class 1 streams located:**
  - (1) **Within mineral and aggregate resource areas designated "2A", "3A" or "3C" by a Statewide Planning Goal 5 Economic, Social, Environmental and Energy analysis, or**
  - (2) **Within the Willamette River Greenway.**

11.15.6420 Criteria for Approval of SEC Permit

- (A) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, **wetland**, or floodwater storage area.
- (B) Agricultural land and forest land shall be preserved and maintained for farm and forest use.
- (C) The harvesting of timber on lands designated SEC **inside the Urban Growth Boundary** shall be conducted in a manner which will insure that natural, scenic, and watershed qualities will be maintained to the greatest extent practicable or will be restored within a brief period of time.
- (D) A building, structure, or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance.
- (E) Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflict with areas of environmental significance.
- (F) The protection of the public safety and of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.
- (G) Significant fish and wildlife habitats shall be protected.
- (H) The natural ~~vegetative~~ **vegetation fringe** along rivers, lakes, **wetlands**, and streams shall be protected and enhanced to the maximum extent practicable to assure scenic quality, ~~and~~ protection from erosion, **and continuous riparian corridors.**
- (I) ~~Buildings, structures, and sites of historic significance shall be preserved, protected, enhanced, restored, and maintained in proportion to their importance to the County's history.~~

- (I) Archeological areas shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry.
- (J) Extraction of aggregates and minerals, the depositing of dredge spoils, and similar activities permitted pursuant to the provisions of MCC .7105 through .7640, shall be conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, historical or archeological features, vegetation, erosion, stream flow, visual quality, noise, and safety, and to guarantee necessary reclamation.
- (K) Areas of annual flooding, floodplains, water areas, and wetlands shall be retained in their natural state to the maximum possible extent to preserve water quality and protect water retention, overflow, and natural functions.
- (L) **Significant wetland areas shall be protected as provided in MCC .6422.**
- (M) Areas of erosion or potential erosion shall be protected from loss by appropriate means which are compatible with the environmental character.
- (N) The quality of the air, water, and land resources and ambient noise levels in areas classified SEC shall be preserved in the development and use of such areas.
- (O) The design, bulk, construction materials, color and lighting of buildings, structures and signs shall be compatible with the character and visual quality of areas of significant environmental concern.
- (P) An area generally recognized as fragile or endangered plant habitat or which is valued for specific vegetative features, or which has an identified need for protection of the natural vegetation, shall be retained in a natural state to the maximum extent possible.
- (Q) The applicable policies of the Comprehensive Plan shall be satisfied.

#### **11.15.6422 Significant Wetlands**

**Significant wetlands consist of those areas designated as *Significant* on aerial photographs of a scale of 1"=200' made a part of the supporting documentation of the Comprehensive Framework Plan. Any proposed activity or use requiring an SEC permit which would impact those wetlands shall be subject to the following:**

- (A) **In addition to other SEC Permit submittal requirements, the application shall also include:**
  - (1) **A site plan drawn to scale showing the wetland boundary as determined by a documented field survey, the location of all existing and proposed structures, roads, watercourses, drainageways, stormwater facilities, utility installations, and topography of the site at a contour interval of no greater than five feet;**
  - (2) **A description and map of the wetland area that will be affected by the proposed activity. This documentation must also include a map of the entire wetland, an assessment of the wetland's functional characteristics and water sources, and a description of the vegetation types and fish and wildlife habitat;**

- (3) A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, grading, dredging, and vegetation removal, including the amounts and methods;
  - (4) A study of any flood hazard, erosion hazard, or other natural hazards in the proposed development area and any proposed protective measures to reduce such hazards;
  - (5) Detailed Mitigation Plans as described in subsection (D), if required;
  - (6) Description of how the proposal meets the approval criteria listed in subsection (B) below.
- (B) In addition to the criteria listed in MCC .6372, the applicant shall demonstrate that the proposal:
- (1) Is water-dependent or requires access to the wetland as a central element of its basic design function, or is not water dependent but has no practicable alternative as described in subsection (C) below.
  - (2) Will have as few adverse impacts as is practical to the wetland's functional characteristics and its existing contour, vegetation, fish and wildlife resources, shoreline anchoring, flood storage, general hydrological conditions, and visual amenities. This impact determination shall also consider specific site information contained in the adopted wetlands inventory and the economic, social, environmental, and energy (ESEE) analysis made part of the supporting documentation of the comprehensive plan;
  - (3) Will not cause significant degradation of groundwater or surface-water quality;
  - (4) Will provide a buffer area of not less than 50 feet between the wetland boundary and upland activities for those portions of regulated activities that need not be conducted in the wetland;
  - (5) Will provide offsetting replacement wetlands for any loss of existing wetland areas. This Mitigation Plan shall meet the standards of subsection (D).
- (C) A finding of no practicable alternative is to be made only after demonstration by the applicant that:
- (1) The basic purpose of the project cannot reasonably be accomplished using one or more other practicable alternative sites in Multnomah County that would avoid or result in less adverse impact on a wetland. An *alternative site* is to be considered *practicable* if it is available for purchase and the proposed activity can be conducted on that site after taking into consideration costs, existing technology, infrastructure, and logistics in achieving the overall project purposes;
  - (2) The basic purpose of the project cannot be accomplished by a reduction in the size, scope, configuration, or density of the project as proposed, or by changing the design of the project in a way that would avoid or result in fewer adverse effects on the wetland; and

- (3) In cases where the applicant has rejected alternatives to the project as proposed due to constraints, a reasonable attempt has been made to remove or accommodate such constraints.
- (D) A Mitigation Plan and monitoring program may be approved upon submission of the following:
  - (1) A site plan and written documentation which contains the applicable information for the replacement wetland as required by MCC .6372 and .6376 (A);
  - (2) A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;
  - (3) A Mitigation Plan which demonstrates retention of the resource values addressed in MCC .6376 (B)(2);
  - (4) Documentation that replacement wetlands were considered and rejected according to the following order of locational preferences:
    - (a) On the site of the impacted wetland, with the same kind of resource;
    - (b) Off-site, with the same kind of resource;
    - (c) On-site, with a different kind of resource;
    - (d) Off-site, with a different kind of resource.

**V. A Hillside Development and Erosion Control Subdistrict is added as follows:**

**11.15.6700 Purposes**

The purposes of the Hillside Development and Erosion Control subdistrict are to promote the public health, safety and general welfare, and minimize public and private losses due to earth movement hazards in specified areas and minimize erosion and related environmental damage in unincorporated Multnomah County, all in accordance with ORS 215, LCDC Statewide Planning Goal No. 7 and OAR 340-41-455 for the Tualatin River Basin, and the Multnomah County Comprehensive Framework Plan Policy No. 14. This subdistrict is intended to:

- (A) Protect human life;
- (B) Protect property and structures;
- (C) Minimize expenditures for rescue and relief efforts associated with earth movement failures;
- (D) Control erosion, production and transport of sediment; and
- (E) Regulate land development actions including excavation and fills, drainage controls and protect exposed soil surfaces from erosive forces.

### **11.15.6710 Permits Required**

- (A) All persons proposing development, construction, or site clearing (including tree removal) on property located in hazard areas as identified on the "Slope Hazard Map", or on lands with average slopes of 25 percent or more shall obtain a Hillside Development Permit as prescribed by this subdistrict, unless specifically exempted by MCC .6715.
- (B) All persons proposing site grading where the volume of soil or earth material disturbed, stored, disposed of or used as fill exceeds 50 cubic yards, or which obstruct or alter a drainage course or on any sites within the Tualatin River Drainage Basin, shall obtain a Grading and Erosion Control Permit as prescribed by this subdistrict, unless exempted by MCC .6715(B)(2) through (8) or .6715(C). Development projects subject to a Hillside Development Permit do not require a separate Grading and Erosion Control Permit.

### **11.15.6715 Exempt Land Uses and Activities**

The following are exempt from the provisions of this Chapter:

- (A) Development activities approved prior to ( — adoption date — ); except that within such a development, issuance of individual building permits for which application was made after ( — adoption date — ) shall conform to site-specific requirements applicable herein.
- (B) General Exemptions – All land-disturbing or land-filling activities or soil storage shall be undertaken in a manner designed to minimize earth movement hazards, surface runoff, erosion, and sedimentation and to safeguard life, limb, property, and the public welfare. A person performing such activities need not apply for a permit pursuant to this subdistrict, if :
  - (1) Natural and finished slopes will be less than 25 %;
  - (2) The disturbed or filled area is 20,000 square feet or less;
  - (3) The volume of soil or earth materials to be stored is 50 cubic yards or less;
  - (4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet;
  - (5) Impervious surfaces, if any, of less than 10,000 square feet are to be created;
  - (6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified;
  - (7) The activity will not take place within 100 feet by horizontal measurement from the top of the bank of a watercourse, the mean high watermark (line of vegetation) of a body of water ,or within the wetlands associated with a watercourse or water body, whichever distance is greater; and
  - (8) Any tree clearing work will be subject to the State Forest Practices Act.
- (C) Categorical Exemptions – Notwithstanding MCC .6715(A) and (B)(1) through

**(8), the following activities are exempt from the permit requirements:**

- (1) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished height greater than five feet.**
- (2) Cemetery graves, but not cemetery soil disposal sites.**
- (3) Refuse disposal sites controlled by other regulations.**
- (4) Excavations for wells.**
- (5) Mineral extraction activities as regulated by MCC .7305 through .7335.**
- (6) Exploratory excavations under the direction of certified engineering geologists or geotechnical engineers.**
- (7) Routine agricultural crop management practices.**
- (8) Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazards.**

#### **11.15.6720 Application Information Required**

**An application for development subject to the requirements of this subdistrict shall include the following:**

- (A) A map showing the property line locations, roads and driveways, existing structures, trees with 8-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s) and trees proposed for removal.**
- (B) An estimate of depths and the extent and location of all proposed cuts and fills.**
- (C) The location of planned and existing sanitary drainfields and drywells.**
- (D) Additional narrative, map or plan information necessary to demonstrate compliance with MCC .6730(A).,**

#### **11.15.6725 Hillside Development Permit Process and Standards**

- (A) A Hillside Development permit may be approved by the Director only after the applicant provides:**
  - (1) Additional topographic information showing that the proposed development to be on land with average slopes less than 25 percent, and located more than 200 feet from a known landslide, and that no cuts or fills in excess of 6 feet in depth are planned. High groundwater conditions shall be assumed unless documentation is available, demonstrating otherwise; or**
  - (2) A geological report prepared by a Certified Engineering Geologist or**

Geotechnical Engineer certifying that the site is suitable for the proposed development; or

- (3) An HDP Form-1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with his/her stamp and signature affixed indicating that the site is suitable for the proposed development.

- (a) If the HDP Form-1 indicates a need for further investigation, or if the Director requires further study based upon information contained in the HDP Form-1, a geotechnical report as specified by the Director shall be prepared and submitted .

**(B) Geotechnical Report Requirements**

- (1) A geotechnical investigation in preparation of a Report required by MCC .6725(A)(3)(a) shall be conducted at the applicant's expense by a Certified Engineering Geologist or Geotechnical Engineer. The Report shall include specific investigations required by the Director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from earth movement hazards.
- (2) Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the Geotechnical Report to ensure safety of the proposed development.
- (3) Observation of work required by an approved Geotechnical Report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant's expense; the geologist's or engineer's name shall be submitted to the Director prior to issuance of the Permit.
- (4) The Director, at the applicant's expense, may require an evaluation of HDP Form-1 or the Geotechnical Report by another Certified Engineering Geologist or Geotechnical Engineer.

- (C) Development plans shall be subject to and consistent with the Design Standards For Grading and Erosion Control in MCC .6730(A) through (D). Conditions of approval may be imposed to assure the design meets those standards.

**11.15.6730 Grading and Erosion Control Permit Standards**

Approval of development plans on sites subject to a Grading and Erosion Control Permit shall be based on findings that the proposal adequately addresses the following standards. Conditions of approval may be imposed to assure the design meets the standards:

**(A) Design Standards For Grading and Erosion Control**

**(1) Grading Standards**

- (a) Fill materials, compaction methods and density specifications shall be indicated. Fill areas intended to support structures shall be identified on the plan. The Director or delegate may require additional studies or information or work regarding fill materials and compaction;

- (b) Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified;
- (c) Cuts and fills shall not endanger or disturb adjoining property;
- (d) The proposed drainage system shall have adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency;
- (e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the displaced streamflow for a storm of 10-year design frequency;

(2) *Erosion Control Standards*

- (a) On sites within the Tualatin River Drainage Basin, erosion control plans shall satisfy the requirements of OAR 340-41-455. [An *Erosion Control Plans Technical Guidance Handbook* (November, 1989) is available to assist applicants in meeting State erosion control standards in the Tualatin Basin.]
- (b) Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;
- (c) Development Plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff;
- (d) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;
- (e) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;
- (f) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;
- (g) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;
- (h) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized;
- (i) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding;

- (j) All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural watercourses, drainage swales, or an approved drywell system;
- (k) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion;
- (l) Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:
  - (i) Energy absorbing devices to reduce runoff water velocity;
  - (ii) Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;
  - (iii) Dispersal of water runoff from developed areas over large undisturbed areas.
- (m) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures;
- (n) Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.

**(B) Responsibility**

- (1) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project;
- (2) It is the responsibility of any person, corporation or other entity doing any act on or across a communal stream watercourse or swale, or upon the floodplain or right-of-way thereof, to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain, or right-of-way during such activity, and to return it to its original or equal condition.

**(C) Implementation**

- (1) Performance Bond – A performance bond may be required to assure the full cost of any required erosion and sediment control measures. The bond may be used to provide for the installation of the measures if not completed by the contractor. The bond shall be released upon determination the the control measures have or can be expected to perform satisfactorily. The bond may be waived if the Director determines the scale and duration of the

project and the potential problems arising therefrom will be minor.

- (2) **Inspection and Enforcement.** The requirements of this subdistrict shall be enforced by the Planning Director. If inspection by County staff reveals erosive conditions which exceed those prescribed by the Hillside Development Permit or Grading and Erosion Control Permit, work may be stopped until appropriate correction measures are completed.

**(D) Final Approvals**

A certificate of Occupancy or other final approval shall be granted for development subject to the provisions of this subdistrict only upon satisfactory completion of all applicable requirements.

**11.15.6735 Hillside Development and Erosion Control Related Definitions:**

- (A) ***Certified Engineering Geologist*** – Any person who has obtained certification by the State of Oregon as an engineering geologist.
- (B) ***Cut***
  - (1) An excavation;
  - (2) The difference between a point on the original ground surface and the point of lowest elevation on the final grade;
  - (3) The material removed in excavation work.
- (C) ***Development Area*** – The total area of alteration of the naturally occurring ground surface resulting from construction activities whether permanent or temporary.
- (D) ***Drainage Area*** – The subject property together with the watershed (acreage) contributing water runoff to and receiving water runoff from the subject property.
- (E) ***Drainageway*** – Any natural or artificial stream, swale, creek, river, ditch, channel, canal or other open water-course.
- (F) ***Earth Movement*** – Any type of land surface failure resulting in the downslope movement of material . The term includes, but is not limited to, soil creep, mud-flow, rockslides, block failures, and massive landslides.
- (G) ***Erosion*** – The wearing away or removal of earth surface materials by the action of natural elements or forces including, but not limited to, wind, water or gravity.
- (H) ***Excavation*** – Any act by which earth, sand, gravel, rock or any similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed, including the conditions resulting therefrom.

- (I) **Fill:**
- (1) Any act by which earth, sand, gravel, rock or similar material is pushed, placed, dumped, stacked, pulled, transported, or in any way moved to a new location above the existing natural surface of the ground or on the top of a stripped surface, including the condition resulting therefrom.
  - (2) The difference in elevation between a point on the original ground surface and the point of higher elevation on a finished grade.
  - (3) The material used to make a fill.
- (J) **Geotechnical Engineer** - A Civil Engineer, licensed to practice in the State of Oregon, who by training, education and experience is competent in the practice of geotechnical or soils engineering practices.
- (K) **Geotechnical Report** - Any information required in addition to Form 1 which clarifies the geotechnical conditions of a proposed development site. Examples of this would be reports on test hole borings, laboratory tests or analysis of materials, or hydrologic studies.
- (L) **Grading** - Any stripping, cutting, filling, stockpiling or any combination thereof, including the land in its cut or filled condition.
- (M) **HDP Form-1** - The form required for specified developments subject to the Hillside Development and Erosion Control subdistrict. It contains a geotechnical reconnaissance and stability questionnaire which must be filled out and certified by a Certified Engineering Geologist or Geotechnical Engineer.
- (N) **Landscaping Activities** - The artistic adornment or improvement of a section of ground or site by contouring the land and by planting flowers, shrubs, trees, lawns or groundcover plants.
- (O) **Mulch** - Materials spread over the surface of the ground, especially freshly graded or exposed soils, to prevent physical damage from erosive agents such as storm water, precipitation or wind, and which shield soil surfaces until vegetative cover or other stabilization measures can take effect.
- (P) **Slope:**
- (1) Any ground whose surface makes an angle from the horizontal; or
  - (2) The face of an embankment or cut section.
- (Q) **Slope Hazard Map** - A series of maps (Figures 1A. through 6A.) prepared by Shannon & Wilson, Inc., dated September, 1978, and on file in the Office of the Director, Department of Environmental Services;
- (R) **Spoil Material** - Any rock, sand, gravel, soil or other earth material removed by excavation or other grading activities.
- (S) **Topographic Information** - Surveyed elevation information which details slopes, contour intervals and drainageways. Topographic information shall be prepared by a registered land surveyor or a registered professional engineer quali-

fied to provide such information and represented on maps with a contour interval not to exceed 10 feet.

- (T) *Vegetation* – All plant growth, especially trees, shrubs, grasses and mosses.
- (U) *Vegetative Protection* – Stabilization of erosive or sediment-producing areas by covering the soil with:
  - (1) Permanent seeding, producing long-term vegetative cover;
  - (2) Short-term seeding, producing temporary vegetative cover;
  - (3) Sodding, producing areas covered with a turf or perennial sod-forming grass; or
  - (4) Netting with seeding if the final grade has not stabilized.

**W. A Subsection of the CS – Community Service Subdistrict is added as follows:**

**11.15.7010 General Provisions.**

- (A) Application for approval of a Community Service use shall be made in the manner provided in MCC .8205 through .8280.
- (B) Except as provided in MCC .7022(F) and (G), the Approval Authority shall hold a public hearing on each application for a Community Service Use, modification thereof, or time extension.
- (C) The approval of a Community Service Use shall expire two years from the date ~~of such approval if substantial construction or development has not taken place, unless the Approval Authority shall have established a longer period.~~ of issuance of the Board Order in the matter, or two years from the date of final resolution of subsequent appeals, unless:
  - (1) The project is completed as approved, or
  - (2) The Approval Authority establishes an expiration date in excess of the two year period, or
  - (3) The Planning Director determines that substantial construction or development has taken place. That determination shall be processed as follows:
    - (a) Application shall be made on appropriate forms and filed with the Director at least 30 days prior to the expiration date.
    - (b) The Director shall issue a written decision on the application within 20 days of filing. That decision shall be based on findings that:
      - (i) Final Design Review approval has been granted under MCC .7845 on the

**total project; and**

**(ii) At least ten percent of the dollar cost of the total project value has been expended for construction or development authorized under a sanitation, building or other development permit. Project value shall be as determined by MCC .9025(A) or .9027(A).**

**(c) Notice of the Planning Director decision shall be mailed to all parties as defined in MCC .8225.**

**(d) The decision of the Planning Director shall become final at the close of business on the tenth day following mailed notice unless a party files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295.**

(D) A Community Service approval shall be for the specific use or uses approved together with the limitations or conditions as determined by the approval authority. Any change of use or modification of limitations or conditions shall be subject to approval authority approval after a public hearing.

(E) In granting approval of a Community Service Use, the approval authority may attach limitations or conditions to the development, operation or maintenance of such use including but not limited to setbacks, screening and landscaping, off-street parking and loading, access, performance bonds, noise or illumination controls, structure height and location limits, construction standards, periods of operation and expiration dates of approval.

(F) Uses authorized pursuant to this section shall be subject to Design Review approval under MCC .7805 through .7865.

(G) A Community Service approval shall not be construed as an amendment of the Zoning Map, although the same may be depicted thereon by appropriate color designation, symbol or short title identification.

#### **11.15.7020 Uses**

(A) Except as otherwise provided in MCC .2012, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority.

- (1) Boat moorage, marina or boathouse moorage.
- (2) Camp, campground or recreational vehicle park.
- (3) Cemetery, crematory, mausoleum, mortuary or funeral home.
- (4) Church.
- (5) Group care facility.
- (6) Government building or use.

- (7) Hospital, sanitarium, rest or retirement home.
- (8) Kindergarten or day nursery.
- (9) Library.
- (10) Park, playground, sports area, golf course or recreational use of a similar nature.
- (11) Philanthropic or eleemosynary institution.
- (12) Power substation or other public utility building or use.
- (13) Private club, fraternal organization, lodge.
- (14) Racetrack.
- (15) Radio and television transmission towers.
  - (a) VHF and UHF television towers, FM radio towers, two-way radio, common carrier, and cellular telephone towers, and fixed point microwave towers are permitted in any district, provided only self-supporting structures are permitted in the Exclusive Farm Use district.
  - (b) Low-power television towers, satellite ground stations, AM radio towers, and building-mounted towers are permitted in any district except urban residential districts, provided only self-supporting structures are permitted in the Exclusive Farm Use district.
  - (c) Ham radio, amateur sole source emitters, Citizen Band transmitters, and structures to support them are permitted in any district as an accessory use and do not require a Community Service use designation if used for non-commercial purposes only. Any such tower shall comply with the regulations of the district in which it is located. Non-amateur sole source emitters shall also comply with the registration requirements of MCC .7035(F)(2).
  - (d) Receive-only facilities in conjunction with a permitted use are exempt from the provisions of this section, but shall comply with all other requirements of MCC. 7020(15), .7035, and .7040.
- (16) Refuse dump or sanitary landfill.
- (17) Resort, dude ranch, hunting or fishing lodge.
- (18) Recycling collection center.
- (19) Riding academy or the boarding of horses for profit.
- (20) School, private, parochial or public; educational institution.
- (21) Transit station.
- (22) Waste collection, transfer, processing, or recovery facility.
- (23) Accessory uses to the above.

(24) Ambulance Service Substation.

(25) Regional Sanitary Landfills

**(26) Mining and processing of geothermal resources.**

11.15.7025 Restrictions

A building or use approved under MCC .7020 through .7030 shall meet the following requirements:

- (A) Minimum yards in EFU, CFU, F-2, MUA-20, MUF, RR, RC, UF-20, UF-10, LR-40, LR-30, LR-20, LR-10, R-40, R-30, R-20, and R-10 Districts:
  - (1) Front yards shall be 30 feet.
  - (2) Side yards for one-story buildings shall be 20 feet; for two-story buildings, 25 feet.
  - (3) Rear yards shall be as required in the district.
- (B) Minimum yards in LR-7.5, LR-7, LR-5, MR-4, MR-3, HR-2, HR- 1, R-7.5, R-7, R-4, A-2, BPO, and A-1-B Districts:
  - (1) Front yards shall be 30 feet.
  - (2) Side yards for buildings 25 feet or less in height shall be 15 feet; for buildings over 25 feet, 20 feet.
  - (3) Rear yards shall be as required in the district.
- (C) Minimum yards in other districts shall be as required in the district.
- (D) Minimum Site Size;
  - (1) A day nursery or kindergarten shall provide not less than 100 square feet per child, of outdoor play area located other than in a required front yard.
  - (2) Primary (kindergarten through fourth grade), private and parochial schools shall be on sites of one acre for each 90 pupils or one acre for each three classrooms, whichever is greater.
  - (3) Elementary public schools shall be on sites of one acre for each 75 pupils or one acre for each two and one-half classrooms, whichever is greater.
  - (4) Churches shall be on sites of 15,000 square feet.
- (E) Off-street parking and loading shall be provided as required in MCC .6100 through .6148.
- (F) Signs for Community Service Uses located in districts in MCC .2002 - .2966 pursuant to the provisions of MCC .7902 - .7982.
- (G) Other restrictions or limitations of use or development not required under this subsection shall be provided in the district.
- (H) For noise sensitive uses as defined in MCC .7305(E) the minimum yard or set-

back requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:

- (1) To 50 feet if the property owner records with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.
- (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

X. Subsections of the CU – Conditional Use Subdistrict are amended, added to, or deleted as follows:

**11.15.7110 General Provisions**

- (A) Application for approval of a Conditional Use shall be made in the manner provided in MCC .8205 through .8280.
- (B) The Approval Authority shall hold a public hearing on each application for a Conditional Use, modification thereof, time extension or reinstatement of a revoked permit.
- (C) ~~Except as provided in MCC .7330, the approval of a Conditional Use shall expire two years from the date of such approval if substantial construction or development has not taken place, unless the Approval Authority shall have established a longer period.~~ Of issuance of the Board Order in the matter, or two years from the date of final resolution of subsequent appeals, unless:
  - (1) The project is completed as approved, or
  - (2) The Approval Authority establishes an expiration date in excess of the two year period, or
  - (3) The Planning Director determines that substantial construction or development has taken place. That determination shall be processed as follows:
    - (a) Application shall be made on appropriate forms and filed with the Director at least 30 days prior to the expiration date.
    - (b) The Director shall issue a written decision on the application within 20 days of filing. That decision shall be based on findings that:
      - (i) Final Design Review approval has been granted under MCC .7845

on the total project; and

- (ii) At least ten percent of the dollar cost of the total project value has been expended for construction or development authorized under a sanitation, building or other development permit. Project value shall be as determined by MCC .9025(A) or .9027(A).
- (c) Notice of the Planning Director decision shall be mailed to all parties as defined in MCC .8225.
- (d) The decision of the Planning Director shall become final at the close of business on the tenth day following mailed notice unless a party files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295.
- (D) A Conditional Use permit shall be issued only for the specific use or uses, together with the limitations or conditions as determined by the Approval Authority. Any change of use or modification of limitations or conditions shall be subject to approval authority approval after a public hearing.
- (E) The findings and conclusions made by the approval authority and the conditions, modifications or restrictions of approval, if any, shall specifically address the relationships between the proposal and the approval criteria listed in MCC .7120 and in the district provisions.

#### 11.15.7115 Conditions and Restrictions

Except as provided for Mineral Extraction and Processing activities approved under MCC .7305 through .7325 and .7332 through .7335, the approval authority may attach conditions and restrictions to any conditional use approved. Conditions and restrictions may include a definite time limit, a specific limitation of use, landscaping requirements, off-street parking, performance standards, performance bonds, and any other reasonable conditions, restrictions or safeguards that would uphold the purpose and intent of this Chapter and mitigate any adverse effect upon the adjoining properties which may result by reason of the conditional use allowed.

#### 11.15.7120 Conditional Use Approval Criteria

- (A) A Conditional Use shall be governed by the approval criteria listed in the district under which the conditional use is allowed. If no such criteria are provided, the approval criteria listed in this section shall apply. In approving a Conditional Use listed in this section, the approval authority shall find that the proposal:
  - (A 1) Is consistent with the character of the area;
  - (B 2) Will not adversely affect natural resources;
  - (C 3) Will not conflict with farm or forest uses in the area;
  - (D 4) Will not require public services other than those existing or programmed for the area;
  - (E 5) Will be located outside a big game winter habitat area as defined by the Oregon

Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;

(F 6) Will not create hazardous conditions; and

(G 7) Will satisfy the applicable policies of the Comprehensive Plan.

(B) Except for off-site stockpiling, subpart (A) of this subsection shall not apply to applications for mineral extraction and processing activities. Proposals for mineral extraction and processing shall satisfy the criteria of MCC .7325.

#### 11.15.7305 Definitions

- (A) Mining means the removal of minerals or aggregate material, whether extracted from land or water, by any method, including but not limited to shoveling, blasting, scooping, and dredging.
- (B) Minerals include any and all solid mineral products, metallic and non-metallic, ~~solid, liquid or gaseous, and mineral waters of all kinds~~ extracted for commercial, industrial or construction use from natural deposits.
- (C) ~~Geothermal Resources shall have the meaning contained in ORS 522.005~~ Aggregate material includes crushed or uncrushed gravel, crushed stone, or sand from natural deposits.
- (D) Reclamation Plan shall have the meaning contained in ORS 517.750.
- (E) Noise Sensitive Uses include dwellings, schools, public parks, churches, hospitals, public libraries, offices or other similar uses determined to be noise-sensitive uses by the Department of Environmental Quality.
- (F) Dust Sensitive Uses include dwellings, schools, public parks, churches, hospitals, public libraries, offices, food service or other similar uses determined to be dust-sensitive uses by the Department of Environmental Quality.
- (G) ESEE is an abbreviation for the "Economic, Social, Environmental, and Energy" analysis procedure for Goal 5 resources described in OAR 660-16-000 through 660-16-025 and which is adopted as a part of the Comprehensive Plan.

#### 11.15.7315 Purposes

The purposes of the Mineral Extraction section are to promote the public health, safety and general welfare, all in accordance with ORS 215, ORS 517, and 522, LCDC Statewide Planning Goal #5, and the Multnomah County Comprehensive Plan. The regulation of uses within this district are designed to:

- (A) Recognize mineral and aggregate resource extraction as a land use influenced largely by the location of the natural resource and the location of the market;
- (B) Provide maximum flexibility for location of the extraction process within a variety of underlying zones, while at the same time minimizing potentially adverse effects on the public and property surrounding the extraction site;
- (C) ~~Recognize the potential for future changes in the character of the area in which the~~

~~extraction site may be located, and allow for periodic modification of restrictions which may be placed upon the extraction operation in recognition of these changes~~ Recognize mineral and aggregate resource sites which receive an ESEE designation of "2A", "3A", or "3C" as being appropriate for extraction operations when in compliance with MCC .7325 - .7332; and

- (D) Recognize mineral extraction as a temporary use dependent to a large degree upon market conditions and resource size and that reclamation and the potential for future use of the land for other activities must also be considered.

#### 11.15.7322 Exceptions

Exempted from the requirements of this section are those mineral extraction sites and activities which:

- (A) If zoned EFU, produce less than 1,000 cubic yards of material and affect less than one acre, or
- (B) Produce less than 5,000 cubic yards of material and affect less than one acre in any consecutive 12 month period, and which over time affect less than a total of five acres, or
- (C) Produce materials which are used by the owner or tenant for construction and maintenance of on-site access roads, and farming or forest practices.

#### 11.15.7325 Criteria for Approval

The approval authority shall find that:

- (A) ~~An economic deposit of the mineral resource proposed to be extracted exists~~ The site is designated "2A", "3A", or "3C" through an ESEE analysis.
- (B) There is a proposed reclamation plan which ~~is in conformance with~~ will allow the property to be utilized as envisioned by the Comprehensive Plan and the underlying district .
- (C) ~~Adverse impacts on surrounding areas with regard to the following have been, or can be mitigated~~ The following general operation requirements and standards have been, or will be met:
  - (1) Access and traffic:
    - (a) Prior to any surface mining activity, all on-site roads used in the mining operation and all roads from the site to a public right-of-way shall be designed and constructed to accommodate the vehicles and equipment which will use them.
    - (b) All on-site and private access roads shall be paved or adequately maintained to minimize dust and mud generation within 100 feet of a public right-of-way or 250 feet of a dust sensitive land use.
    - (c) No material which creates a safety or maintaince problem shall be tracked or discharged in any manner onto any public right-of-way.
    - (d) The applicant shall identify the most commonly used routes of travel

from the site and the County Engineer shall certify that those roads:

- (i) Are adequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity, or
- (ii) Are inadequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity, but the applicant has committed to finance installation of the necessary improvements under the provisions of 02.200(a) or (b) of the *Multnomah County Rules for Street Standards*.

(2) Screening, landscaping, ~~lighting~~, and visual appearance;

- (a) All existing vegetation and topographic features which would provide screening and which are within 50 feet of the boundary of the proposed area of extraction shall be preserved.
- (b) If existing natural vegetation and topography is found to be insufficient to obscure views of the site, the site shall be screened with landscape berms, hedges, trees, walls, fences or similar features. Required screening shall be in place prior to commencement of the extraction activities.
- (c) The Approval Authority shall grant exceptions to the screening requirements only upon finding that:
  - (i) The proposed extraction area is not visible from any dwelling, school, public park, church, hospital, public library, or publicly maintained road, or
  - (ii) Screening will be ineffective because of the topographic location of the site with respect to surrounding properties, or
  - (iii) The area is part of the completed portion of a reclamation plan.

(3) Signing†

Signing shall be controlled by the standards of MCC .7932(A)-(D), except that only one sign for each point of access to each differently named improved street may be allowed for any operation not in a GC, EC, LM, GM, HM, C-2, M-4, M-3, M-2, and M-1 district.

(4) Hours of operation†

Operation shall be allowed from 7:00 am to 8:00 pm, except no blasting shall be allowed on Sundays or on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day. Exceptions to the hours of operation may be approved pursuant to the provisions of MCC .8705.

(5) Air, water, and noise ~~pollution~~ quality.

- (a) The discharge of airborne contaminants and dust created by the extraction operation shall comply with the air quality standards established

by the Department of Environmental Quality.

- (b) Sedimentation and erosion resulting from the extraction operation shall comply with the standards established by the Department of Environmental Quality.
  - (c) Sound generated by an operation shall comply with the noise standards of the Department of Environmental Quality. Methods to control and minimize the effects of sound generated by the operation on off-site locations may include, but not be limited to, the installation of earth berms, equipment location, limitations on the hours of operation, and relocation of access roads.
- (6) ~~Insurance and liability~~ Fish and wildlife protection.
- (a) Fish and wildlife habitat identified by the Comprehensive Plan, or recognized as significant by an ESEE analysis, or found to be significant during project review shall be protected to the maximum possible. Where appropriate, such habitat may be mitigated by such enhancement measures as the provision of additional feed and cover for wildlife or fish stream habitat.
  - (b) The extent of the operation's impact on and the importance of the fish and wildlife values present shall be determined in consultation with the State Department of Fish and Wildlife.
  - (c) The Approval Authority may place restrictions on extraction activities found to impact identified fish and wildlife habitat. Restrictions may include limitations on the operating season and size or location of extraction activity. These restrictions shall consider the need to balance the importance of the fish and wildlife resources against the mineral and aggregate resource identified by the ESEE, among others.
  - (d) Streamside riparian vegetation shall be retained for all streams not a part of direct extraction activities.
- (7) ~~Architectural designs of structures~~ Setbacks.
- (a) For mineral and aggregate processing activities:
    - (i) 200 feet to a property line, or
    - (ii) 400 feet to a noise sensitive land use existing on (eff. date of ord. amend.);
  - (b) For access roads and residences located on the same parcel as the mining or processing activity, setbacks shall be as required by the underlying district; and
  - (c) For mineral extraction and all other activities:
    - (i) 50 feet to a property line, or

(ii) 250 feet to a noise sensitive land use existing on (eff. date of ord. amend.).

(8) Reclaimed Topography ~~Excavation depths, lateral support, and slopes.~~

All final reclaimed surfaces shall be stabilized by sloping, benching, or other ground control methods. Reclaimed surfaces shall blend into the natural landforms of the immediately surrounding terrain.

(9) ~~Blasting and other vibration causing actions,~~ shall be restricted to the hours of 9:00 am to 5:00 pm, Monday through Saturday.

(10) Safety and security†

Safety and security measures, including fencing, gates, signing, lighting, or similar measures, shall be provided to prevent public trespass to identified hazardous areas such as steep slopes, water impoundments, or other similar hazard where it is found that such trespass is probable and not otherwise preventable.

(11) Phasing program, ~~and.~~

All phases of an extraction operation shall be reclaimed before beginning the next, except where the Approval Authority finds that the different phases cannot be operated and reclaimed separately.

(12) Reclamation Schedule.

The reclamation plan shall include a timetable for continually reclaiming the land. The timetable shall provide for beginning reclamation within twelve (12) months after extraction activity ceases on any segment of the mined area and for completing reclamation within three (3) years after all mining ceases.

- (D) The proposed operations will not result in the creation of a geologic hazard to surrounding properties, such as through slumping, sliding, or drainage modifications, and have been certified by a registered soils or mining engineer, or engineering geologist as meeting this requirement.
- (E) ~~Setbacks for the proposed operations are appropriate for the nature of the use and the area where the use is to be conducted~~ Proposed blasting activities will not adversely affect the quality or quantity of groundwater within wells in the vicinity of the operation.
- (F) Conditional or preliminary approval for all phases of the proposed operation, including reclamation, has been received from all governmental agencies having jurisdiction over mineral extraction, and the applicable requirements in ORS 517 and ORS 522 have been complied with.
- (G) ~~The applicable standards in MCC .7120 have been complied with~~ The Approval Authority may establish a program for periodic monitoring and reporting.

### **11.15.7327 Off-Site Stockpiling and Processing**

Stockpiling, processing, and distribution activities listed in MCC .7320, related to but not including extraction, may be approved by the Approval Authority under the procedural provisions of MCC .7110 through .7120 on sites other than ESEE designated "2A", "3A", and "3C" resource locations upon a finding that the applicable standards of MCC .7325 are satisfied.

### **11.15.7330 Time Limit**

~~A Conditional Use permit hereunder shall not expire. be valid for a maximum of five years from date of final approval. The applicant may apply for renewal not less than 90 days prior to the expiration of such permit. The renewal application may be denied, approved subject to previous conditions, or approved subject to new conditions in light of the following factors, among others:~~

- ~~(A) Previous impacts of the use upon surrounding lands and activities;~~
- ~~(B) Changes in surrounding land uses and activities; and~~
- ~~(C) Changes in technology and activities of the operation which will impact the surrounding lands and activities.~~

### **11.15.7332 Monitoring**

The Planning Director shall periodically monitor all extraction operations. If the Director determines that an extraction operation is not in compliance with MCC .7325, such enforcement proceedings deemed appropriate by the Multnomah County Legal Counsel shall be instituted to require compliance.

**Y. Subsections MCC .7705 – .7760 (Rural Planned Development) are deleted:**

**Z. Subsections of the Action Proceedings are amended, added to, or deleted as follows:**

#### **11.15.8220 Notice of Hearing – Contents**

- (A) Notice of hearing before the Planning

Commission or Hearings Officer shall contain the following:

- (1) The date, time and place of the hearing;
- (2) A legal description of the subject property;
- (3) A street address or other easily understood geographical reference to the subject property;
- (4) The nature of the proposed action and the proposed use or uses that could be authorized;
- (5) A listing of the applicable Zoning Code and comprehensive plan policies

that apply to the application;

- (6) A statement that all interested parties may appear and be heard;
  - (7) A statement that failure to raise an issue, either in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to LUBA based on that issue;
  - (8) A statement that the hearing shall be held pursuant to the adopted Rules of Procedure; ~~and~~
  - (9) In the case of a hearing by the Planning Commission, the names of the members of the Commission and, in the case of a hearing by the Hearings Officer, the name of the Officer and the name of the staff representative to contact and the telephone number where additional information may be obtained;
  - (10) A statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
  - (11) A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and.
  - (12) A copy of the Planning Commission's Rules of Procedure.
- (B) When the proposed action is a change of zone classification, the Planning Director may include in the notice of hearing a statement that the approval authority may consider classifications other than that for which the action is initiated.
- (C) In addition to the notice required by MCC .8120(B) and any other notice required by law, notice shall be mailed at least ~~ten~~ twenty days prior to the hearing to the following persons:
- (1) The applicant;
  - (2) All record owners of property within ~~100 feet of the subject property on matters listed under MCC .8205(D) and (E), and to record owners of property within 250 feet of the subject property on all other matters:~~
    - (a) 100 feet of the subject property on matters listed under MCC .8205(D) and (E), and on all other matters within the Urban Growth Boundary.
    - (b) 250 feet of the subject property where the subject property is outside the Urban Growth Boundary and not within a farm or forest zone;
    - (c) 500 feet of the subject property where the subject property is within a farm or forest zone.
  - (3) Owners of *Public Use Airports* when the property subject to a zone change application is:
    - (a) Within 5,000 feet of the side or end runway of an airport determined by

**the Department of transportation to be a *visual airport*, or**

**(b) Within 10,000 feet of the side or end runway of an airport determined by the Department of Transportation to be an *instrument airport*.**

**(4) All tenants of a mobile home park when the proposed action is a zone change request involving all or part of that mobile home park.**

- (D) The record of the Department of Administrative Services shall be used to determine who is entitled to mailed notice; and persons whose names and addresses are not on record at the time of the initiation of the proposed action need not be notified of the hearing. The failure of a property owner to receive notice shall not invalidate the action if a good faith attempt was made to notify all persons entitled to mailed notice.
- (E) In addition to the notice required by MCC .8220(C), the party initiating an action under MCC .8205(A), (B), (C) or (F) shall, at the party's expense, post signs on the property conspicuously displaying notice of the pending hearing at least ten days prior to the date of the hearing. One sign shall be required for each 300 feet, or part thereof, of frontage of the subject property on any street. The content, design, size and location of the signs shall be as determined by the Planning Director to assure that the information thereon is legible from the public right-of-way. As a precondition to a hearing, the party shall file an Affidavit of such posting with the Planning Director not less than five days prior to the hearing.
- (F) A hearing may be continued from time to time as necessary. If a hearing is adjourned to a date certain, no additional notice shall be given unless ordered by the approval authority.

#### 11.15.8240 Decisions

- (A) The Planning Commission or Hearings Officer may approve an application as submitted, deny it, or approve it with such modifications or conditions as may be necessary to carry out the Comprehensive Plan or to obtain the objectives of subsection (D)(2) below.
- (B) In the case of an action by the Planning Commission, a decision to approve a zone change, community service use or conditional use, shall be by majority vote of the entire Commission.
- (C) The Planning Commission or Hearings Officer shall render a decision upon the close of the hearing or at the time to which the matter is continued. Within ten days after a decision is made, it shall be reduced to writing, signed by the Chairperson of the Planning Commission or by the Hearings Officer, filed by the Planning Director with the Clerk of the Board, and mailed to those persons entitled to mailed notice under MCC .8220(C), and to such other persons who request the same.
- (D) The following limitations shall be applicable to conditional approvals:
  - (1) Conditions shall be fulfilled within a time limitation set forth in the approval thereof, or if no time limit is set, within a reasonable time.
  - (2) Conditions shall be reasonably designed to fulfill public needs emanating from the proposed land use in either of the following respects:
    - (a) Protection of the public from the potentially deleterious effects of the proposed use;  
or

- (b) Fulfillment of the need for public services created by the proposed use.
  - (3) Failure to fulfill any conditions to the grant of a proposal within the time limitations provided may be grounds for initiation of an action.
  - (4) A bond, in a form acceptable to the Planning Director, or a cash deposit from the property owner in such an amount as will assure compliance with the conditions imposed pursuant to this subsection, may be required.
- (E) Any change or alteration of conditions attached to conditional approvals shall be processed as a new action, except that the Planning Director may approve a change or alteration which does not:
- (1) Increase density;
  - (2) Change boundaries;
  - (3) Change any use; or
  - (4) Change the location or amount of land devoted to specific land uses.
- (F) An alternative zoning classification may be substituted by the Planning Commission or Hearings Officer for the proposed action if the alternative classification is in the same general classification (i.e., residential, commercial, industrial) and the hearing notice included notification of this possibility as provided by MCC .8220(C).
- (G) If the application is denied, either initially and no review taken, or upon review by the Board or by action of the courts, no new application for the same or substantially similar action shall be filed for at least six months from the date of the final action denying the application.
- (H) Age, gender or physical disability shall not be an adverse consideration in making a land use decision.**

11.15.8280. Board Decision

- (A) The Board may affirm, reverse or modify the decision of the Planning Commission or Hearings Officer and may grant approval subject to such modifications or conditions as may be necessary to carry out the Comprehensive Plan or to achieve the objectives of MCC .8240(D).
- (B) The Board shall state all decisions upon the close of its hearing or upon continuance of the matter to a time certain.
- (C) Written findings of fact and conclusions, based upon the record, shall be signed by the Presiding Officer of the Board and filed with the Clerk of the Board with a decision within five business days following announcement of the decision under subsection (B) above.
- (D) The Board's decision shall be final at the close of business on the tenth day after the Decision, Findings of Fact and Conclusions have been filed under subsection (C) above, unless the Board on its own motion grants a rehearing under MCC .8285(A).
- (E) The Board shall render a decision within 120 days from the time the application for that action is accepted as being complete, except when:**

- (1) A participant requests an extension before the conclusion of the initial evidentiary hearing, in which case the extension shall not be subject to the 120 day limitation, or
- (2) Additional documents or evidence is provided in support of the application less than 20 days prior to or at the initial evidentiary hearing and a party requests a continuance of the hearing, in which case the continuance shall not be subject to the 120 day limitation.

AA. Subsections of Non-Conforming Uses are amended, added to, or deleted as follows:

11.15.8805 ~~Non-Conforming Uses~~ Restoration, Replacement, or Abandonment of a Non-Conforming Use

- (A) ~~A non conforming structure or use may not be changed or altered in any manner except as provided herein, unless such change or alteration more nearly conforms with the regulations of the district in which it is located~~ Restoration or replacement of a non-conforming use shall be permitted when the restoration or replacement is made necessary by fire, other casualty or natural disaster. Restoration or replacement shall be commenced within one year from the date of occurrence of the fire, casualty or natural disaster.
- (B) ~~In case of destruction beyond reasonable repair as determined by the Hearings Officer, by fire or other causes, a non conforming structure or use shall not be rebuilt unless it conforms to all requirements of the district in which it is located~~ If a non-conforming structure or use is abandoned or discontinued for any reason for more than two years, it shall not be re-established unless the resumed use conforms with the requirements of this code at the time of the proposed resumption.
- (C) ~~If a non conforming structure or use is abandoned or discontinued for any reason for more than one year, it shall not be re established unless specifically approved by the Hearings Officer~~ A non-conforming structure or use may be maintained with ordinary care.
- (D) ~~A non conforming structure or use may be maintained with ordinary care.~~

11.15.8810 Alteration of a Non-Conforming Use

- (A) Alteration of a non-conforming use includes:
  - (1) A change in the use of no greater adverse impact on the neighborhood.
  - (2) A change in the structure or physical improvements of no greater impact to the neighborhood.
- (B) Alteration of a non-conforming use shall be permitted when necessary to comply with any lawful requirement for alteration in the use.
- (C) An alteration as defined in (A) above may be permitted to reasonably continue the use.
- (D) A proposal for an alteration under (C) above shall be considered a contested case and a hearing conducted under the provisions of MCC .8205 - .8295 using

the standards of (E) below.

- (E) An alteration of a non-conforming use may be permitted if the alteration will affect the surrounding area to a lesser negative extent than the current use, considering:
- (1) The character and history of the use and of development in the surrounding area;
  - (2) The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable at the property line;
  - (3) The comparative numbers and kinds of vehicular trips to the site;
  - (4) The comparative amount and nature of outside storage, loading and parking;
  - (5) The comparative visual appearance;
  - (6) The comparative hours of operation;
  - (7) The comparative effect on existing vegetation;
  - (8) The comparative effect on water drainage;
  - (9) The degree of service or other benefit to the area; and
  - (10) Other factors which tend to reduce conflicts or incompatibility with the character or needs of the area.

## PROPOSED AMENDMENTS TO SECTIONAL ZONING MAPS

The following Sectional Zoning Maps are proposed to be amended by adding, deleting or changing the boundary of the Significant Environmental Concern District on the following maps.

5	667 - 670
29	744
37	759
548 - 549	760
550 - 551	764
556 - 563	765
574	772
586	773
592	774
638	775
639	776
649 - 652	779
653 - 656	783
657a - 657d	784
658 - 661	786
662 - 665	787
666	

## PROPOSED AMENDMENTS TO COMPREHENSIVE FRAMEWORK PLAN

### A. Policy 1- Plan Relationships

#### INTRODUCTION

The purpose of this policy is to establish and maintain the relationships between this Comprehensive Framework Plan ("Framework Plan") and its implementation measures.

1. The Statewide planning goals adopted by the Land Conservation and Development Commission;
2. The Urban Growth Boundary adopted by METRO;
3. The Comprehensive Plan in effect prior to September, 1977, ("Pre-existing Plan"); and
4. The Wilkes and Hayden Island Community Plans adopted prior to September 1977, and all other community plans adopted after September 1977.

This policy also establishes the relationship between this Framework Plan and County zoning regulations.

#### POLICY 1.

##### IT IS THE COUNTY'S POLICY THAT:

- A. THIS FRAMEWORK PLAN WITH ITS COMPONENT INDIVIDUAL COMMUNITY PLANS AND ALL FUTURE COUNTY PLANS AND PLAN REVISIONS SHALL BE DESIGNED TO BE CONSISTENT WITH THE STATEWIDE PLANNING GOALS ADOPTED BY THE LAND CONSERVATION AND DEVELOPMENT COMMISSION AND THE URBAN GROWTH BOUNDARY AND ITS IMPLEMENTING POLICY ADOPTED BY THE METRO COUNCIL.
- B. COMMUNITY PLANS AND IMPLEMENTATION MEASURES ADOPTED BY MULT-NOMAH COUNTY AFTER THE EFFECTIVE DATE OF THIS FRAMEWORK PLAN SHALL BE DESIGNED TO BE CONSISTENT WITH THIS FRAMEWORK PLAN.
- C. IN DETERMINING THE PERMISSIBLE USES OF A SPECIFIC PARCEL, THE PROVISIONS OF AN APPLICABLE COMMUNITY PLAN, IF ANY, SHALL CONTROL OVER CONFLICTING PROVISIONS OF THIS FRAMEWORK PLAN OR THE PRE-EXISTING PLAN. FURTHERMORE, UNLESS A SPECIFIC FRAMEWORK PLAN POLICY STATES THAT IT IS TO SUPERSEDE A COMMUNITY PLAN POLICY,, IN CASE OF LAND USE ACTIONS WHERE ANY CONFLICT OCCURS BETWEEN THE FRAMEWORK PLAN AND THE COMMUNITY PLAN, THE COMMUNITY PLAN WILL PREVAIL.

- D. IN AREAS DESIGNATED BY THIS FRAMEWORK PLAN AS NATURAL RESOURCE OR RURAL, THE COMPARABLE LAND USE DESIGNATIONS ON THE PRE-EXISTING PLAN SHALL BE REPEALED ON THE DATE THE FRAMEWORK PLAN IS ADOPTED. AT THAT TIME, ZONING REGULATIONS IMPLEMENTING THE FRAMEWORK PLAN DESIGNATIONS SHALL BE ADOPTED.
- E. IN AREAS DESIGNATED BY THIS COMPREHENSIVE FRAMEWORK PLAN AS URBAN, AND WHERE AN APPLICABLE COMMUNITY PLAN HAS NOT BEEN ADOPTED, THE PRE-EXISTING PLAN AND COUNTY ZONING SHALL REMAIN IN EFFECT. ANY CHANGE IN SUCH DESIGNATIONS SHALL BE CONSISTENT WITH THIS COMPREHENSIVE FRAMEWORK PLAN. WHERE A PROPOSED USE IS PERMITTED BY BOTH THE PRE-EXISTING PLAN AND THE ZONING MAP, REQUIRED PERMITS MAY BE ISSUED, NOTWITHSTANDING A CONFLICT WITH THIS COMPREHENSIVE FRAMEWORK PLAN.
- F. THIS PLAN WILL BE UPDATED EVERY FIVE YEARS BEGINNING SEPTEMBER 1977.
- G. THE NEW ZONING REGULATIONS SHALL PROVIDE, AMONG OTHER THINGS, FOR THE CONTINUANCE, BUT NOT THE EXPANSION OF NON-CONFORMING USES.
- H. ANY COUNTY ACTION TAKEN REGARDING INCORPORATION OF A NEW CITY SHALL BE DONE IN ACCORDANCE WITH STATE RULES ADOPTED IN OREGON ADMINISTRATIVE RULE 660-14-000 THROUGH -040.

**B. Policy 10 - Multiple Use Agricultural Land Area**

INTRODUCTION

The purpose of the Multiple Use Agriculture Land Area Classification is to conserve those lands agricultural in character which have been heavily impacted by non-farm uses and are not predominantly Agricultural Land as defined in Statewide Planning Goal 3. This conservation is necessary to protect adjacent exclusive farm use areas and in some cases, the fragile nature of the lands themselves. These lands are conserved for diversified agricultural uses and other uses such as outdoor recreation, open space, residential development, and forestry when these uses are shown to be compatible with the natural resource base, character of the area, and other applicable plan policies.

The intent of this classification is to recognize the diminished nature of these areas for commercial resource production, but to limit the adverse impacts of future development of them on nearby agricultural areas and on other lands of a more fragile nature (e.g., areas subject to flooding, but used for agricultural related uses).

**POLICY 10**

THE COUNTY'S POLICY IS TO DESIGNATE AND MAINTAIN AS MULTIPLE USE AGRICULTURE, LAND AREAS WHICH ARE:

- A. GENERALLY AGRICULTURAL IN NATURE, WITH SOILS, SLOPE AND OTHER PHYSICAL FACTORS INDICATIVE OF PAST OR PRESENT SMALL SCALE FARM USE;
- B. PARCELIZED TO A DEGREE WHERE THE AVERAGE LOT SIZE, SEPARATE OWNERSHIPS, AND NON-FARM USES ARE NOT CONDUCTIVE TO COMMERCIAL AGRICULTURAL USE;
- C. PROVIDED WITH A HIGHER LEVEL OF SERVICES THAN A COMMERCIAL AGRICULTURAL AREA HAS: OR,
- D. IN AGRICULTURAL OR MICRO-CLIMATES WHICH REDUCE THE GROWING SEASON OR AFFECT PLANT GROWTH IN A DETRIMENTAL MANNER (FLOODING, FROST ETC.).

THE COUNTY'S POLICY, IN RECOGNITION OF THE NECESSITY TO PROTECT ADJACENT EXCLUSIVE FARM USE AREA'S, IS TO RESTRICT MULTIPLE USE AGRICULTURAL USES TO THOSE COMPATIBLE WITH EXCLUSIVE FARM USE AREAS.

#### STRATEGIES

- A. The following strategies should be addressed as part of the Community

Development Ordinance:

- 1. The Zoning Code should include a Multiple Use Farm Zone with:
  - a. a base minimum lot size; consistent with the character of the areas and the adjacent exclusive farm uses.
  - b. the following examples of uses:
    - (1) permitted as primary uses; agriculture and forestry practices and single family dwellings on legal lots;
    - (2) the sale of agricultural products on the premises, dwellings for farm help, and mobile homes, should be allowed under prescribed conditions;
    - (3) on lands which are not predominantly Agricultural Capability Class I, II, or III, ~~rural~~ planned developments, cottage industries, limited rural service commercial, and tourist commercial may be allowed as conditional uses; and
    - (4) the following uses should be allowed as conditional uses anywhere in the zone upon the showing that the conditional use standards can be met: commercial processing of agriculture or forest products, commercial services, commercial dog kennels, and mineral extraction.

c. Lot size requirements for uses allowed as conditional uses should be based on such factors as:

- (1) topographic and natural features;
- (2) soil limitations and capabilities;
- (3) geologic limitation;
- (4) climatic conditions;
- (5) surface water sources, watershed areas and ground water sources;
- (6) the existing land use and lotting pattern and character of the area;
- (7) road access and capacity and condition;
- (8) type of water supply;
- (9) capacity and level of public services available; and
- (10) soil capabilities related to a subsurface sewerage system.

d. Lots of Record Provisions.

e. Mortgage Lot Provisions.

f. Siting standards for dwellings proposed to be located adjacent to commercial agricultural or forestry use.

3. The County Streets and Road Standards Code should include criteria related to street width, road construction standards and required improvements appropriate to the function of the road and rural living environment.

4. The Capital Improvements Program should not program public sewers to this area and the County should not support the formation or expansion of existing service district areas for the provision of water service.

B. It is intended that industrial development which has a minimum impact be allowed on the south tip of Sauvie Island upon meeting all the applicable standards of the plan and conditional use procedures.

C. The conversion of land to another broad land use classification should be in accord with the standards set forth by the LCDC Goals, OAR's and in this Plan.

### C. Policy 12 - Multiple Use Forest Area

#### INTRODUCTION

The purpose of the Multiple Use Forest Area Classification is to conserve those lands suited to the production of wood fibre by virtue of their physical properties and the lack of intensive development; however, in areas where the lands are suitable and the use does not impact existing forestry or agricultural uses, other uses will be allowed.

The intent of this classification is to encourage small wood lot management, forestry, reforestation and agriculture. Other non-forest or non-farm uses such as ~~rural~~ planned developments, lim-

ited service commercial, extractive industries and cottage industries may also be allowed.

## POLICY 12

THE COUNTY'S POLICY IS TO DESIGNATE AND MAINTAIN AS MULTIPLE USE FOREST, LAND AREAS WHICH ARE:

- A. PREDOMINANTLY IN FOREST SITE CLASS I, II, III, FOR DOUGLAS FIR AS CLASSIFIED BY THE U.S. SOIL CONSERVATION SERVICE;
- B. SUITABLE FOR FOREST USE AND SMALL WOOD LOT MANAGEMENT, BUT NOT IN PREDOMINANTLY COMMERCIAL OWNERSHIPS; AND
- C. PROVIDE WITH RURAL SERVICES SUFFICIENT TO SUPPORT THE ALLOWED USES, AND ARE NOT IMPACTED BY URBAN—LEVEL SERVICES; OR
- D. OTHER AREAS WHICH ARE:
  1. NECESSARY FOR WATERSHED PROTECTION OR ARE SUBJECT TO LANDSLIDE, EROSION OR SLUMPING; OR
  2. POTENTIAL REFORESTATION AREAS, BUT NOT AT THE PRESENT USED FOR COMMERCIAL FORESTRY; OR
  3. WILDLIFE AND FISHERY HABITAT AREAS, POTENTIAL RECREATION AREAS, OR OF SCENIC SIGNIFICANCE.

THE COUNTY'S POLICY IS TO ALLOW FOREST USES ALONG WITH NON-FOREST USES; SUCH AS AGRICULTURE, SERVICE USES, AND COTTAGE INDUSTRIES; PROVIDED THAT SUCH USES ARE COMPATIBLE WITH ADJACENT FOREST LANDS.

## STRATEGIES

- A. The following strategies should be addressed in the preparation of the Community Development Ordinance:
  1. The Zoning Code should include a Multiple Use Forest Zone with:
    - a. The minimum lot sizes for sub-areas of the district based on: the adjacent aggregated acreage tract size existing in each general sub-area, the forest use, and the productivity of the land. Small parcels in single ownership shall be aggregated.
    - b. The following examples of uses:
      - (1) Forestry practices, farm uses, resource conservation, and limited wood processing. Resource-related dwellings under prescribed conditions and non-resource-related dwellings under conditional uses. Such dwellings are to be allowed as approval criteria and siting standards designed to assure conservation of the natural resource base, protection from hazards, and protection of big game winter

habitat.

- (2) The sale of agricultural products on the premises should be allowed under prescribed conditions.
  - (3) Rural planned developments, commercial processing of agricultural or forestry products, cottage industries, limited rural service commercial, tourist facilities, recreational uses, and community facilities may be allowed as conditional uses.
  - (4) Mineral and aggregate extraction should be handled as a conditional use.
- c. Lot size requirements for uses allowed as conditional uses should be based on such factors as:
- (1) topographic and natural features;
  - (2) soil limitations and capabilities;
  - (3) geologic limitation;
  - (4) climatic conditions;
  - (5) surface water sources, watershed areas, and groundwater sources;
  - (6) the existing land use and lotting pattern;
  - (7) road access and capacity and condition;
  - (8) type of water supply;
  - (9) capacity and level of public services available; and
  - (10) soil capabilities related to a subsurface sewerage disposal system.
- d. Mortgage Lot Provisions.
- e. Lots of Record Provisions.
- f. Homestead Lot Provisions.
2. The County Street and Road Standard Code should include criteria related to street widths, road construction standards, and required improvements appropriate to the function of the road and rural living environment.
  3. The Capital Improvements Program should not program public sewers to this area, and the County should not support the formation or expansion of existing service district areas for the provision of water service.
- B. The conversion of land to another land use classification should be in accord with the standards set forth by the LCDC Goals, OAR's and in this Plan.

D. POLICY 15

~~AREAS OF SIGNIFICANT ENVIRONMENTAL CONCERN  
WILLAMETTE RIVER GREENWAY~~

INTRODUCTION

~~The designation, "areas of significant environmental concern," is an overlay classification which will be applied as shown on the Comprehensive Framework Plan or as the result of a plan amendment to areas having significant natural or man-made features. It is not intended to restrict the use of land, as allowed by the Comprehensive Plan and other regulations, but to identify these areas in which land uses will be subject to a review process. However, the review process may result in the imposition of design standards to minimize adverse environmental and aesthetic impacts.~~

~~The purpose of the classification is to protect natural shoreline vegetation systems, critical and unique habitat areas, historic and archeological features, views and vistas, flood water storage areas and similar areas having public value. This will be achieved by locating buildings or uses on the site in a place which minimizes the impacts of the use on the features to be protected and by design or landscaping techniques.~~

The Willamette River Greenway is a cooperative management effort between the state and local jurisdictions for the development and maintenance of a natural, scenic, historical, and recreational "greenway" along the Willamette River. The General Plan has been formulated by the Oregon Department of Transportation, pursuant to ORS 390.318. The Land Conservation and Development Commission has determined that a statewide planning goal (Goal 15) is necessary not only to implement the legislative directive, but to provide the parameters within which the Department of Transportation Greenway Plan may be carried out. Within those parameters local governments can implement Greenway portions of their Comprehensive Plans.

POLICY 15

~~THE COUNTY'S POLICY IS TO DESIGNATE AS AREAS OF SIGNIFICANT ENVIRONMENTAL CONCERN, AREAS HAVING SPECIAL PUBLIC VALUE IN TERMS OF ONE OR MORE OF THE FOLLOWING: PROTECT, CONSERVE, ENHANCE, AND MAINTAIN THE NATURAL, SCENIC, HISTORICAL, AGRICULTURAL, ECONOMIC, AND RECREATIONAL QUALITIES OF LANDS ALONG THE WILLAMETTE RIVER.~~

~~FURTHER, IT IS THE COUNTY'S POLICY TO PROTECT IDENTIFIED WILLAMETTE RIVER GREENWAY AREAS BY REQUIRING SPECIAL PROCEDURES FOR THE REVIEW OF CERTAIN TYPES OF DEVELOPMENT ALLOWED IN THE BASE ZONE THAT WILL ENSURE THE MINIMUM IMPACT ON THE VALUES IDENTIFIED WITHIN THE VARIOUS AREAS. THE PROCEDURES SHALL BE DESIGNED TO MITIGATE ANY LOST VALUES TO THE GREATEST EXTENT POSSIBLE.~~

~~A. ECONOMIC VALUE, E.G., A TOURIST ATTRACTION;~~

~~B. RECREATION VALUE, E.G., RIVERS, LAKES, WETLANDS;~~

~~C. HISTORIC VALUE, E.G., HISTORIC MONUMENTS, BUILDINGS, SITES OR~~

**LANDMARKS;**

- D. EDUCATIONAL RESEARCH VALUE, E.G., ECOLOGICALLY AND SCIENTIFICALLY SIGNIFICANT LANDS;**
- E. PUBLIC SAFETY, E.G., MUNICIPAL WATER SUPPLY WATERSHEDS, FLOOD WATER STORAGE AREAS, VEGETATION NECESSARY TO STABILIZE RIVER BANKS AND SLOPES;**
- F. SCENIC VALUE, E.G., AREAS VALUED FOR THEIR AESTHETIC APPEARANCE;**
- G. NATURAL AREA VALUE, E.G., AREAS VALUED FOR THEIR FRAGILE CHARACTER AS HABITATS FOR PLANT, ANIMAL OR AQUATIC LIFE, OR HAVING ENDANGERED PLANT OR ANIMAL SPECIES, OR FOR SPECIFIC NATURAL FEATURES, OR VALUED FOR THE NEED TO PROTECT NATURAL AREAS; OR**
- H. ARCHEOLOGICAL VALUE, E.G., AREAS VALUED FOR THEIR HISTORICAL, SCIENTIFIC AND CULTURAL VALUE.**

**FURTHER, IT IS THE COUNTY'S POLICY TO PROTECT THE ABOVE IDENTIFIED AREAS BY THE FOLLOWING:**

- 1. THE MAINTENANCE OF AN INVENTORY RELATED TO THESE SITES WHICH DELINEATES THEIR BOUNDARIES AND OTHER PERTINENT DATA WHICH PERTAINS TO THE VALUES OF THE IDENTIFIED AREAS.**
- 2. REQUIRING SPECIAL PROCEDURES FOR THE REVIEW OF CERTAIN TYPES OF DEVELOPMENT ALLOWED IN THE BASE ZONES THAT WILL ENSURE THE MINIMUM IMPACT ON THE VALUES IDENTIFIED WITHIN THE VARIOUS AREAS. THE PROCEDURES SHALL BE DESIGNED TO MITIGATE ANY LOST VALUES TO THE GREATEST EXTENT POSSIBLE.**
- 3. PRIMARY EMPHASIS WILL BE PLACED ON PROTECTING THE VALUE FACTORS IDENTIFIED IN THE "FACTORS OF SIGNIFICANT ENVIRONMENTAL CONCERN CHART" FOR EACH AREA OF SIGNIFICANT ENVIRONMENTAL CONCERN. THIS USE OF THIS CHART SHALL NOT PRECLUDE THE PROTECTION OF OTHER VALUES IF THEY ARE LATER IDENTIFIED ON THE SITE AS TO THEIR QUANTITY, QUALITY AND LOCATION.**

**STRATEGIES**

- A. The following areas should be designated as "areas of significant environmental concern": The Willamette River Greenway should be based on the boundaries as developed by the state Department of Transportation. For the County, those areas are generally depicted on the map entitled Willamette River Greenway.**

- 1. The Columbia Gorge from the Sandy River east to the County line.**

- ~~2. The Sandy Scenic River.~~
- ~~3. Portions of the Mount Hood National Forest.~~
- ~~4. Smith and Bybee Lakes.~~
- ~~5. The Undeveloped Columbia River Islands.~~
- ~~6. Sturgeon Lakes.~~
- ~~7. Blue Lake and Columbia River shore area and islands.~~
- ~~8. Johnson Creek.~~
- ~~9. Such other areas as may be determined under established procedures to be suitable for this "area" designation.~~

B. The following strategies should be addressed in the preparation of the Community Development Title:

1. The Zoning Code should include:
  - a. ~~an overlay zone entitled "Areas of Significant Environmental Concern" which should~~ An overlay zone entitled "Willamette River Greenway" which will establish an administrative review procedure to implement the requirements of the State of Oregon, Greenway Goal. The overlay zone should contain provisions related to:
    - ~~1. establish a review process for the approval of proposals and uses set-back lines for non-water dependent uses;~~
    - ~~2. define special criteria within each area for the approval of proposals and uses which affect various features including, but not limited to, the following: a design plan;~~
      - ~~(a) Natural shoreline vegetation systems;~~
      - ~~(b) Critical and unique wildlife habitats;~~
      - ~~(c) Historical features and archeological sites;~~
      - ~~(d) Significant vegetation;~~
      - ~~(e) Views and vistas;~~
      - ~~(f) Municipal water supplies;~~
      - ~~(g) Natural hazard lands;~~
      - ~~(h) Rare or valuable ecosystems and geological formations; and~~
      - ~~(i) endangered plant and animal systems.~~
    3. the review procedures;
    4. specific findings required.
  - b. ~~A historic preservation overlay district which should be applied to areas or specific sites not otherwise designated for protection under CS, SEC or other zon-~~

~~ing; Those wetlands and water areas listed on Policy 16, Natural Resources, that are located within the Willamette River Greenway should receive a development review procedure comparable to the review process established for the Significant Environmental Concern zone.~~

~~e. An overlay zone entitled "Willamette River Greenway" which will establish an administrative review procedure to implement the requirements of the State of Oregon, Greenway Goal. The overlay zone should contain provisions related to:~~

- ~~1. setback lines for non-water dependent uses;~~
- ~~2. a design plan;~~
- ~~3. the review procedures;~~
- ~~4. specific findings required.~~

~~C. The "Willamette River Greenway" zone should be generally based upon the attached map entitled "Willamette River Greenway." Other policies of this Framework Plan are applicable to the Greenway as follows: Other policies of this Framework Plan applicable to the Greenway are as follows:~~

#### ~~POLICIES APPLICABLE TO WILLAMETTE RIVER GREENWAY LANDS~~

~~In addition to Policy 15, the following Framework Plan Policies are applicable to the use and management of lands within the Willamette River Greenway:~~

1. Agricultural lands: Policies 9 - Agriculture, and 10 - Multiple Use Agriculture.
2. Recreation: Policy 39 - Open Space and Recreation.
3. Access: Policy 40 - Development Requirements.
4. Fish and Wildlife: Policy 16 - Natural Resources.
5. Scenic Qualities and Views: Policy 16 - Natural Resources.
6. Protection and Safety: Policy 31 - Community Facilities and Uses Location.
7. Vegetation Fringe: Policy 16 - Natural Resources.
8. Timber Harvest: Policy 12 - Multiple Use Forest.
9. Aggregate Extraction: Policy 16 - Natural Resources.
10. Development away from river: Policy 14 - Development Limitations.
- ~~11. Greenway Setback: Policy 15 - Areas of Significant Environmental Concern.~~

## E. POLICY 16 NATURAL RESOURCES

### INTRODUCTION

The purpose of the Natural Resources policy is to ~~protect areas which are necessary to the long term health of the economy or a community; for example, mineral and aggregate sources, energy resource areas, domestic water supply watersheds, wildlife habitat areas, and ecologically significant areas.~~

~~The intent of the policy is to protect these areas for their natural resource value. Mineral, aggregate, energy and watershed areas are limited, and inappropriate land uses can destroy their future use. Significant habitat and ecological areas are important to the public for their educational, recreational and research value, and they often function to balance the effects of other land uses. The benefits gained by the preservation of wildlife habitat range from aesthetic enhancement of the landscape to improvement of community health. Greenspaces and vegetation significantly affect such factors as air flow, temperatures, oxygenation, travel patterns and pollution.~~ implement statewide Planning Goal 5: "Open Spaces, Scenic and Historic Areas, and Natural Resources". These resources are necessary to ensure the health and well-being of the population, and include such diverse components as mineral and aggregate reserves, significant wetlands, historic sites, and scenic waterways. The individual components, as set forth by state law (OAR 660-16), are addressed below as sub-policies 16-A through 16-L.

An overlay classification, "Significant Environmental Concern" will be applied to certain areas identified as having one or more of these resource values.

### POLICY 16

THE COUNTY'S POLICY IS TO PROTECT NATURAL RESOURCES, ~~AREAS AND TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI JUDICIAL ACTION THAT THE LONG RANGE AVAILABILITY AND USE OF THE FOLLOWING WILL NOT BE LIMITED OR IMPAIRED:~~ CONSERVE OPEN SPACE, AND TO PROTECT SCENIC AND HISTORIC AREAS AND SITES. THESE RESOURCES ARE ADDRESSED WITHIN SUB-POLICIES 16-A THROUGH 16-L.

~~A. MINERAL AND AGGREGATE SOURCES;~~

~~B. ENERGY RESOURCE AREAS;~~

~~C. DOMESTIC WATER SUPPLY WATERSHEDS;~~

~~D. FISH HABITAT AREAS; AND~~

~~E. WILDLIFE HABITAT AREAS; AND~~

~~F. ECOLOGICALLY AND SCIENTIFICALLY SIGNIFICANT NATURAL AREAS.~~

### STRATEGIES

~~A. As a part of the ongoing planning program, the County should:~~ The county will

maintain an inventory of the location, quality, and quantity of each of these resources. Sites with minimal information will be designated "1B", but when sufficient information is available, the County will conduct the necessary ESEE analysis.

- ~~1. Engage in a survey of mineral and aggregate sources within the County and utilize data, criteria and standards from the most recent study of rock material resources compiled by the State Department of Geology and Mineral Industries.~~
  - ~~2. Utilize information provided by the Oregon Department of Fish and Wildlife on big game winter habitat areas, the Nature Conservancy or ecologically significant areas when surveyed and identified as to location, the U.S. Department of Fish and Wildlife in their Wetlands Inventory for the Columbia River, and any other documentary information on the listed natural resources in the decision process and for plan revisions.~~
- B. ~~The following strategies should be addressed in the preparation of the Community Development Title:~~ Certain areas identified as having one or more significant resource values will be protected by the designation Significant Environmental Concern (SEC). This overlay zone will require special procedures for the review of certain types of development allowed in the base zones. This review process will ensure the minimum impact on the values identified within the various areas, and shall be designed to mitigate any lost values to the greatest extent possible. Areas designated SEC are generally depicted on the following map.
- ~~1. The Zoning Code should include provisions for:~~
    - ~~a. Mineral and aggregate extraction, and energy generation facilities as conditional uses;~~
    - ~~b. Protecting natural resources when uses are contemplated through the conditional use provisions.~~
    - ~~c. The transfer of densities from lands which should be protected for natural resource uses from lands held in the same ownership and adjacent within the Planned Development provisions;~~
    - ~~d. The establishment of extraction and rehabilitation standards for mineral and aggregate resources.~~
- C. The following areas shall be designated as "Areas of Significant Environmental Concern":
1. The Columbia River Gorge National Scenic Area, as defined in federal legislation PL 99-663,
  2. The Sandy River State Scenic Waterway,
  3. Portions of the Mount Hood National Forest,
  4. Smith and Bybee Lakes,
  5. The Undeveloped Columbia River Islands and Hayden Island west of the Burlington Northern Railroad tracks,

6. Sturgeon Lake,
7. Blue Lake and Columbia River shore area and islands,
8. Johnson Creek,
9. Beggar's Tick Marsh,
10. Virginia Lakes,
11. Rafton/Burlington Bottoms,
12. Multnomah Channel,
13. Sand Lake,
14. Howell Lake,
15. Wagonwheel Hole Lake and nearby unnamed slough/lake to the west,
16. All Class 1 Streams (Oregon State Forestry Department designation) and the adjacent area within 100 feet of the normal high water line, except those within an ESEE designated "2A", "3A" or "3C" mineral and aggregate resource site,

and such other areas as may be determined under established procedures to be suitable for this "area" designation.

- D. Those wetlands and water areas listed in C. above that are located within the Willamette River Greenway (Policy 15) will be protected by development review procedures within the WRG overlay zone instead of the SEC zone.

#### **POLICY 16-A OPEN SPACE**

**IT IS THE COUNTY'S POLICY TO CONSERVE OPEN SPACE RESOURCES AND PROTECT OPEN SPACES FROM INCOMPATIBLE AND CONFLICTING LAND USES.**

#### **STRATEGIES**

1. Designate agricultural and forest lands with large lot zones to conserve the open character of such areas.
2. Apply SEC, WRG, FW and FF overlays along rivers and other water features, as appropriate, to restrict and control the character of development in these areas to enhance open spaces.
3. Review uses conditionally allowed in farm or forest zones to insure that open space resources are conserved and enhanced.

## **POLICY 16-B MINERAL AND AGGREGATE RESOURCES**

**IT IS THE COUNTY'S POLICY TO PROTECT AREAS OF MINERAL AND AGGREGATE SOURCES FROM INAPPROPRIATE LAND USES WHICH COULD LIMIT THEIR FUTURE USE.**

### **STRATEGIES**

- A. As a part of the ongoing planning program the County will engage in an inventory of mineral and aggregate sources within the County utilizing data, criteria and standards from the most recent study of rock material resources compiled by the State Department of Geology and Mineral Industries.**
- B. During County initiated Comprehensive Plan updates, the County will utilize information made available from other sources regarding the location, quality and quantity of mineral and aggregate resources when that information is verified by such qualified professionals as certified engineering geologists and recognized testing laboratories.**
- C. Determination that a particular mineral and aggregate resource site is both "Important" and should be included in the plan inventory is to be based upon the site's proven ability to yield more than 25,000 cubic yards of resource.**
- D. "Important" sites should be reviewed using the Statewide Planning Goal 5 "Economic, Social, Environmental, and Energy analysis" (ESEE) procedure as outlined in OAR 660-16-000 through 660-16-025 and only those sites receiving a "2A", "3A", or "3C" designation should be considered for conditional use approval for mineral and aggregate extraction.**
- E. In between scheduled plan updates, additional sites may be added to the plan inventory of "Important" sites and receive an ESEE designation by means of the standard plan amendment process initiated by the owner of the resource.**
- F. The Zoning Code should include provisions for:**
  - 1. Mineral and aggregate extraction, processing, and distribution as a special conditional use with performance oriented criteria of approval for those sites receiving a "2A", "3A", or "3C" designation as part of the ESEE analysis.**
  - 2. Associated processing and distribution activities as a conditional use that must meet all conditional use requirements if the site is not a "2A", "3A", or "3C" resource location.**
  - 3. The exemption of small scale and farm and forest practice extraction sites from conditional use review.**
  - 4. The establishment of extraction and rehabilitation standards for mineral and aggregate resources in compliance with DOGAMI regulations as applicable.**
  - 5. Protection of natural resources.**
  - 6. A standard setback buffer between "noise-sensitive" land uses and extrac-**

tion activities.

- (a). The location of proposed extraction activities should be setback from existing "noise-sensitive" uses.
- (b). The location of "noise-sensitive" land uses should be setback from both existing mining activities and designated ESEE "2A", "3A", and "3C" resource site boundaries.
- (c). Some reduction in the setback buffers may be appropriate if the "noise-sensitive" land use property owner agrees to record a non-remonstrance deed restriction agreeing to the reduced distance.

#### **POLICY 16-C ENERGY SOURCES**

**IT IS THE COUNTY'S POLICY TO PROTECT SITES REQUIRED FOR GENERATION OF ENERGY.**

##### **STRATEGIES**

- A. Maintain an inventory of energy sources within the county.
- B. Coordinate with appropriate regulatory or licensing authorities in the protection of sites required for energy generation.
- C. The Zoning Code should include provisions for energy generation facilities as a conditional use.

#### **POLICY 16-D FISH AND WILDLIFE HABITAT**

**IT IS THE COUNTY'S POLICY TO PROTECT SIGNIFICANT FISH AND WILDLIFE HABITAT, AND TO SPECIFICALLY LIMIT CONFLICTING USES WITHIN SENSITIVE BIG GAME WINTER HABITAT AREAS.**

##### **STRATEGIES**

- A. Utilize information provided by the Oregon Department of Fish and Wildlife to identify significant habitat areas, and to delineate sensitive big game winter habitat areas.
- B. Apply the SEC overlay zone to all significant habitat areas not already zoned Willamette River Greenway.
- C. Include provisions within the Zoning Ordinance to review development proposals which may affect sensitive big game winter habitat areas.

#### **POLICY 16-E NATURAL AREAS**

**IT IS THE COUNTY'S POLICY TO PROTECT NATURAL AREAS FROM INCOMPATIBLE DEVELOPMENT AND TO SPECIFICALLY LIMIT THOSE USES WHICH WOULD IRREPARABLY DAMAGE THE NATURAL AREA**

**VALUES OF THE SITE.**

**STRATEGIES**

- A. Utilize information from the Oregon Natural Heritage Program to maintain a current inventory of all ecologically and scientifically significant natural areas.
- B. Apply the SEC overlay zone to all areas not otherwise protected by Willamette River Greenway zoning or outright ownership by a public or private agency with a policy to preserve natural area values of the site.

**POLICY 16-F SCENIC VIEWS AND SITES**

**IT IS THE COUNTY'S POLICY TO CONSERVE SCENIC RESOURCES AND PROTECT SUCH AREAS FROM INCOMPATIBLE AND CONFLICTING LAND USES.**

**STRATEGIES**

- A. Apply the SEC overlay zone to the Columbia River Gorge National Scenic Area and the Sandy River State Scenic Waterway to assure the scenic resources of these areas are not diminished as new development occurs.
- B. Coordinate reviews of development proposals within SEC areas with other affected agencies (i.e., Columbia River Gorge Commission, National Forest Service, State Parks and Recreation Division Rivers Program, County Parks Division).
- C. Enforce large lot zoning regulations in resource areas to conserve scenic qualities associated with farm and forest lands.
- D. Apply the WRG overlay zone to lands within the Willamette River Greenway. Review new development within the greenway to assure scenic values are not diminished.
- E. Administer Design Review provisions to enhance visual qualities of the built environment.

**POLICY 16-G WATER RESOURCES AND WETLANDS**

**IT IS THE COUNTY'S POLICY TO PROTECT AND, WHERE APPROPRIATE, DESIGNATE AS AREAS OF SIGNIFICANT ENVIRONMENTAL CONCERN, THOSE WATER AREAS, WETLANDS, WATERSHEDS, AND GROUNDWATER RESOURCES HAVING SPECIAL PUBLIC VALUE IN TERMS OF THE FOLLOWING:**

- A. ECONOMIC VALUE;
- B. RECREATION VALUE;
- C. EDUCATIONAL RESEARCH VALUE (ECOLOGICALLY AND SCIENTIFI-

**CALLY SIGNIFICANT LANDS);**

- D. PUBLIC SAFETY, (MUNICIPAL WATER SUPPLY WATERSHEDS, WATER QUALITY, FLOOD WATER STORAGE AREAS, VEGETATION NECESSARY TO STABILIZE RIVER BANKS AND SLOPES);**
- E. NATURAL AREA VALUE, (AREAS VALUED FOR THEIR FRAGILE CHARACTER AS HABITATS FOR PLANT, ANIMAL OR AQUATIC LIFE, OR HAVING ENDANGERED PLANT OR ANIMAL SPECIES).**

**STRATEGIES**

- A. Wetland areas that attain 45 or more points of the possible 96 points on the "Wildlife Habitat Assessment" (WHA) rating form will be designated "Significant". Sites with ratings of 35 or more may be determined "Significant" if they function in providing connections between and enhancement of higher rated adjacent habitat areas.**

The WHA is a standardized rating system for evaluating the wildlife habitat values of a site. The form was cooperatively developed by staff from the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, The Oregon Department of Fish and Wildlife, the Audubon Society of Portland, The Wetlands Conservancy, and the City of Beaverton Planning Bureau.

- B. Significant water and wetland areas identified as a "2A", "3A", or "3C" site using the Statewide Planning Goal 5 "Economic, Social, Environmental, and Energy analysis" procedure as outlined in OAR 660-16-000 through 660-16-025 shall be designated as "Areas of Significant Environmental Concern" and protected by either the SEC or WRG overlay zone.**

- C. Wetlands information gathered by and made available to the County shall be utilized as follows:**

- 1. The U.S. Fish and Wildlife National Wetland Inventory (NWI) maps should be consulted at the beginning stages of any development proposal in order to alert the property owner/developer of the U.S. Corps of Engineers and Division of State Lands permit requirements.**
- 2. Wetlands shown on the NWI maps which are determined to not be important by the county after field study should be indicated as such on 1"-200' aerial photographs made part of the State Goal 5 supporting documents.**
- 3. Boundaries of "Significant" wetlands located within the SEC and WRG overlay zones should be depicted on 1"=200' aerial photographs.**
- 4. Additional information on wetland sites should be added to the plan and supporting documents as part of a scheduled plan update or by the standard plan amendment process initiated at the discretion of the county.**

- D. Although a wetland area may not meet the County criteria for the designation "Significant", the resource may still be of sufficient importance to be protected by State and Federal agencies.**

- E. The zoning code should include provisions requiring a finding prior to approval of a legislative or quasi-judicial action that the long-range availability and use of domestic water supply watersheds will not be limited or impaired.

#### **POLICY 16-H WILDERNESS AREAS**

**IT IS THE COUNTY'S POLICY TO RECOGNIZE THE VALUE OF WILDERNESS AMONG THE MANY RESOURCES DERIVED FROM PUBLIC LANDS.**

#### **STRATEGIES**

- A. The Columbia Wilderness shall be designated as a Goal 5 Resource Site.
- B. The SEC overlay zone shall be applied to the Columbia Wilderness.
- C. The county shall coordinate with federal land management agencies and Congressional staff in the formulation of proposals for any additional wilderness areas.
- D. All parcels of federal land which meet federal guidelines for wilderness and which fit the definition outlined in the Findings document shall be recommended for wilderness designation.

#### **POLICY 16-I HISTORIC RESOURCES**

**IT IS THE COUNTY'S POLICY TO RECOGNIZE SIGNIFICANT HISTORIC RESOURCES, AND TO APPLY APPROPRIATE HISTORIC PRESERVATION MEASURES TO ALL DESIGNATED HISTORIC SITES.**

#### **STRATEGIES**

- A. Maintain an inventory of significant historic resources which meet the historical site criteria outlined below.
- B. Utilize the National Register of Historic Places and the recommendations of the State Advisory Committee on Historic Preservation in the designation of historic sites.
- C. Develop and maintain a historical preservation process for Multnomah County which includes:
  - 1. A review of the laws related to historic preservation.
  - 2. A program for ongoing identification and registration of significant sites, working with area citizens groups, the Oregon Historical Society, the Oregon Natural History Museum and other historic and archeological associations.
  - 3. Developing a handbook on historic preservation to assist county staff, area citizen groups, land owners and developers in understanding and using applicable federal and state programs.

4. Fostering, through ordinances or other means, the private restoration and maintenance of historic structures for compatible uses and development based on historic values.
5. Encouraging the installation of appropriate plaques or markers on identified sites and structures.

**D. The Zoning Code should:**

1. Include an Historic Preservation overlay district which will provide for the protection of significant historic areas and sites.
2. Include conditional use provisions to allow new sites to be established to preserve historic structures and sites.
3. Provide for a 120-day delay period for the issuance of a demolition permit or a building permit that substantially alters the historic nature of the site or building. During this period, a review of the permit application, including the impacts and possible means to offset the impacts should be undertaken.
4. On-site density transfer in order to protect historic areas and protect unique features.

**HISTORICAL SITE CRITERIA**

- A. **Historical Significance** - Property is associated with significant past events, personages, trends or values and has the capacity to evoke one or more of the dominant themes of national or local history.
- B. **Architectural Significance** - (Rarity of Type and/or Style). Property is a prime example of a stylistic or structural type, or is representative of a type once common and is among the last examples surviving in the county. Property is a prototype or significant work of an architect, builder or engineer noted in the history of architecture and construction in Multnomah County.
- C. **Environmental Considerations** - Current land use surrounding the property contributes to an aura of the historic period, or property defines important space.
- D. **Physical Integrity** - Property is essentially as constructed on original site. Sufficient original workmanship and material remain to serve as instruction in period fabrication.
- E. **Symbolic Value** - Through public interest, sentiment, uniqueness or other factors, property has come to connote an ideal, institution, political entity or period.
- F. **Chronology** - Property was developed early in the relative scale of local history or was an early expression of type/style.

**POLICY 16-J CULTURAL AREAS**

**IT IS THE COUNTY'S POLICY TO PROTECT CULTURAL AREAS AND ARCHEOLOGICAL RESOURCES, AND TO PREVENT CONFLICTING USES FROM DISRUPTING THE SCIENTIFIC VALUE OF KNOWN SITES.**

**STRATEGIES**

- A. Maintain information on file regarding the location of known archeological sites. Although not made available to the general public, this information will be used to insure the sites are not degraded through incompatible land use actions.**
- B. Coordinate with the State Archaeologist in the State Historic Preservation Office regarding the identification and recognition of significant archeological resources.**
- C. Encourage landowners to notify state authorities upon discovering artifacts or other evidence of past cultures on their property.**
- D. Work with the LCDC Archeological Committee in devising equitable and effective methods of identifying and protecting archeological resources.**

**POLICY 16-K RECREATION TRAILS**

**IT IS THE COUNTY'S POLICY TO RECOGNIZE THE FOLLOWING TRAILS AS POTENTIAL STATE RECREATION TRAILS:**

- COLUMBIA GORGE TRAIL**
- SANDY RIVER TRAIL**
- PORTLAND TO THE COAST TRAIL**
- NORTHWEST OREGON LOOP BICYCLE ROUTE**

**STRATEGIES**

- A. Coordinate with ODOT and any other public or private agency to resolve any conflicts which may arise over the development of these trails.**
- B. Address these trails as Goal 5 resource sites whenever the trail route becomes specifically identified, built, proposed, or designated.**

**POLICY 16-L WILD AND SCENIC WATERWAYS**

**IT IS THE COUNTY'S POLICY TO PROTECT ALL STATE OR FEDERAL DESIGNATED SCENIC WATERWAYS FROM INCOMPATIBLE DEVELOPMENT AND TO PREVENT THE ESTABLISHMENT OF CONFLICTING USES WITHIN SCENIC WATERWAYS.**

**STRATEGIES**

- A. Coordinate with the Oregon State Parks and Recreation Division in the review and regulation of all development proposals or land management activities with-**

in the Sandy River State Scenic Waterway.

- B. Apply the SEC overlay zone to the Sandy River State Scenic Waterway to ensure proper recognition of the waterway and to further mitigate the impacts on uses allowed within the underlying resource zones.
- C. Coordinate with the U.S. Forest Service in the review and regulation of all development proposals or land management activities within the federal wild and scenic river segment of the Sandy River.
- D. Work with state and federal agencies or other interested parties in developing proposals for scenic waterway protection of other stream segments in the county.

## F. POLICY 18 - COMMUNITY IDENTITY

### INTRODUCTION

Community identity is a feeling people have about their community, and it serves many functions. An identifiable community allows a person to immediately have a place of reference. For those people who live in a community, it provides a sense of place and belonging. Evidence has also shown that a sense of identity tends to generate pride and encourages people to maintain and enhance their place of residence.

Community identity can be achieved as a part of the Community Development Process through:

1. The identification and reinforcement of visible boundaries or edges to each community which can be man-made or natural features.
2. The preservation of a distinctive or unique natural feature such as natural drainageways, timber stands, and significant land forms. These distinctive features provide visual variety and interest to a community, as well as to provide a sense of identity.
3. The location scale and functional design of community services such as roads, parks, hospitals, schools, and fire stations. These community elements provide community focal points, paths, places and boundaries in a manner which support community pride and long term stability. Streets can be designed, located, and landscaped to be functional as well as being an integral part of the community. Community service buildings also become a focal point for cultural or educational activities and serve to reinforce identity.
4. ~~The preservation of historic landmarks and scenic areas. Historic features are also important to a historical perspective and promote a sense of pride. Significant historic landmarks and scenic areas in unincorporated Multnomah County can be preserved and protected if landowners, investors, community groups and the County work in concert.~~

~~Today, identification of historic sites has been accomplished through several efforts. The Division of Planning conducted a limited survey in 1978 and identified several sites and~~

~~structures throughout the County. Other surveys and site identification has occurred in the Columbia River Gorge and on Sauvie Island. Three sites have been placed on the National Register of Historic Places: the Bybee Howell House on Sauvie Island, the Vista House at Crown Point and Multnomah Falls Lodge. In addition, historic markers have been placed at Fort William, Sauvie Island Pioneer Cemetery, Sandy River Bridge, Broughton's Expedition, and many other sites that were identified by the County's Historic Sites Advisory Committee.~~

~~No comprehensive archeological survey of the County exists, and further inventoring is needed to identify other potential historic areas. Standards have been established by Federal and State law, and there are Federal and State funding programs for acquisition and maintenance of these areas.~~

#### POLICY 18

THE COUNTY'S POLICY IS TO CREATE, MAINTAIN OR ENHANCE COMMUNITY IDENTITY BY:

- A. IDENTIFYING AND REINFORCING COMMUNITY BOUNDARIES;
- B. IDENTIFYING SIGNIFICANT NATURAL FEATURES AND REQUIRING THESE TO BE PRESERVED;
- C. REQUIRING IDENTIFIED SIGNIFICANT NATURAL FEATURES BE PRESERVED AS PART OF THE DEVELOPMENT PROCESS;
- ~~D. REQUIRING THE PRESERVATION OF SIGNIFICANT HISTORICAL LAND-MARKS AND DISTRICTS, AND ARCHEOLOGICAL AND ARCHITECTURAL SITES WHICH HAVE BEEN SO DESIGNATED BY A FEDERAL OR STATE AGENCY OR MEET THE HISTORIC SITE DESIGNATION CRITERIA CONTAINED IN THIS PLAN.~~

#### HISTORICAL SITE CRITERIA

- ~~A. Historical Significance—Property is associated with significant past events, personages, trends or values and has the capacity to evoke one or more of the dominant themes of national or local history.~~
- ~~B. Architectural Significance—(Rarity of Type and/or Style). Property is a prime example of a stylistic or structural type, or is representative of a type once common and is among the last examples surviving in the County. Property is a prototype or significant work of an architect, builder or engineer noted in the history of architecture and construction in Multnomah County.~~
- ~~C. Environmental Considerations—Current land use surrounding the property contributes to an aura of the historic period, or property defines important space.~~
- ~~D. Physical Integrity—Property is essentially as constructed on original site. Sufficient original workmanship and material remain to serve as instruction in period fabrication.~~

~~E. **Symbolic Value** Through public interest, sentiment, uniqueness or other factors, property has come to connote an ideal, institution, political entity or period.~~

~~F. **Chronology** Property was developed early in the relative scale of local history or was an early expression of type/style.~~

### STRATEGIES

A. As a part of the continuing planning program, the County shall:

1. Maintain an inventory of unique natural features in each community and preserve them through the Design Review Process or other appropriate means;
2. Identify the need and appropriate locations for public facilities in each community plan;
3. ~~Develop and maintain a historical preservation process for Multnomah County which includes:~~
  - a. ~~A review of the laws related to historic preservation.~~
  - b. ~~A program for ongoing identification and registration of significant sites, working with area citizens groups, the Oregon Historical Society, the Oregon Natural History Museum, and other historic and archeological associations.~~
  - c. ~~Developing a handbook on historic preservation to assist County staff, area citizen groups, land owners and developers in understanding and using applicable Federal and State programs.~~
  - d. ~~Fostering, through ordinances or other means, the private restoration and maintenance of historic structures for compatible uses and development based on historic values.~~
  - e. ~~Encouraging the installation of appropriate plaques or markers on identified sites and structures.~~

B. These strategies should be addressed as part of the Community Development Chapter:

1. ~~The Zoning Chapter should:~~
  - a. ~~include an Historic Preservation Overlay District which will provide for the protection of identified historic areas and sites;~~
  - b. ~~include conditional use provisions to allow new uses to be established to preserve historic structures and sites;~~
  - c. ~~provide for a 120 day delay period for the issuance of a demolition permit or a building permit that substantially alters the historic nature of the site or building. During this period, a review of the permit application, including the impacts and possible means to offset these impacts should be undertaken;~~

~~d. on-site density transfer in order to protect historic areas and protect unique features;~~

e 1. design review approval for all community facilities.

3 2. The Street Standards Chapter should provide for special street tree programs for streets which serve as community boundaries.

## G. POLICY 39: ~~OPEN SPACE~~ PARKS AND RECREATION PLANNING

### INTRODUCTION

~~Open space is defined in broadest terms as all land that supports vegetation rather than structures. It can range from forest or agricultural lands to landscaped areas in parking lots. Recreation refers to spaces and facilities developed for people to use during their leisure time.~~

A basic need of people is to pursue activities in non-work hours which recreate one's mental and physical condition. From children learning to socialize through play, to elderly people being outdoors for a walk or to sit in the sun, recreation plays an important part in the life cycle. The major requisite for outdoor recreation is space within which activities take place. These spaces can be intensively developed parks, natural areas along waterways, vacant lots, or even streets and roads.

The need for providing easily accessible areas for outdoor recreation is increasingly important in metropolitan jurisdictions such as Multnomah County; outdoor recreation can offer an escape from crime, pollution, crowding, a sedentary work life, and other problems associated with urban living. Providing nearby recreational space for leisure time activity is important also in the conservation of non-renewable energy resources and addressing problems related to the currently depressed economy, such as decreased household income. Recreational opportunities provided near residential areas would mean less costs to participants in terms of travel time, gas, etc.

Parks systems are generally developed in a hierarchical system composed of neighborhood, community and regional parks. Within this system are specialized recreation areas ranging from wilderness hiking trails to swimming areas, golf courses, play fields, and tot lots. Multnomah County's park system includes: one historical site, three boat ramps, one campground, two islands in the Columbia River, three regional parks, two community parks, 34 neighborhood parks and four playlots. In addition, three proposed Statewide Oregon Recreation Trails: Portland to the coast, the Columbia River Gorge, and the Sandy River Trails will provide hiking opportunities and scenic and recreational access.

A component of the County's recreation system is the 40-Mile Loop, a network of connecting jogging, hiking, and bicycle paths that encircle Multnomah County.

~~Recreation and open space~~ Parks and recreation areas are provided by both the public and private sectors; however, the major share of the responsibility to develop and maintain parks has

historically rested with the public.

While the implementation of ~~an open-space parks~~ and recreation system is primarily a public responsibility, the County has increasingly limited financial resources and, therefore, cannot guarantee such a system.

~~Open-space Parks~~ and recreation planning and implementation will require the communities to work with the County and provide direction as to their needs and how those needs can be met. The County has established a Parks Commission to help promote and coordinate neighborhood park development. The duties of this Commission include developing short-term and long-range objectives, strategies, work programs and projects designed to meet the recreation needs of County residents.

The purpose of this policy is to serve as a directive to the County in its park and recreation planning program.

#### POLICY 39

THE COUNTY'S POLICY IS TO OPERATE ITS ESTABLISHED ~~OPEN SPACE, AND~~ PARKS AND RECREATION PROGRAM TO THE DEGREE FISCAL RESOURCES PERMIT, AND TO:

- A. WORK WITH RESIDENTS, COMMUNITY GROUPS AND PARKS COMMISSION TO IDENTIFY RECREATION NEEDS, TO MAINTAIN AND DEVELOP NEIGHBORHOOD PARKS, AND TO IDENTIFY USES FOR UNDER-DEVELOPED PARK LANDS.
- B. WORK WITH FEDERAL, STATE AND LOCAL AGENCIES, COMMUNITY GROUPS AND PRIVATE INTERESTS TO SECURE AVAILABLE FUNDS FOR DEVELOPMENT, MAINTENANCE AND ACQUISITION OF PARK SITES AND RECREATION FACILITIES FOR PARK PURPOSES.
- C. ENCOURAGE THE DEVELOPMENT OF RECREATION OPPORTUNITIES BY OTHER PUBLIC AGENCIES AND PRIVATE ENTITIES;
- ~~D. COORDINATE WITH APPROPRIATE PUBLIC AND PRIVATE AGENCIES AND INDIVIDUALS TO RESOLVE ANY POTENTIAL CONFLICTS WHICH MAY ARISE OVER THE DEVELOPMENT OF OR PROTECTION OF THE OREGON RECREATION TRAILS SYSTEM. IN MULTNOMAH COUNTY, POTENTIAL STATE RECREATION TRAILS INCLUDE THE PORTLAND TO THE COAST TRAIL, THE SANDY RIVER TRAIL, THE COLUMBIA GORGE HIKING TRAIL, THE NORTHWEST OREGON LOOP BICYCLE TRAIL, AND THE 40 MILE LOOP.~~
- ~~E~~ D. IMPLEMENT AND MAINTAIN THAT PORTION OF THE PROPOSED 40 MILE LOOP JOGGING, HIKING, BICYCLING TRAIL SYSTEM WHICH IS IN PUBLIC OWNERSHIP, BY:
  - 1. REQUIRING DEDICATION OF RIGHTS-OF-WAY/EASEMENTS BY THOSE DEVELOPING PROPERTY ALONG THE PROPOSED 40 MILE LOOP CORRIDOR.

2. COORDINATING WITH THE BICYCLE CORRIDOR CAPITAL IMPROVEMENTS PROGRAM THROUGH EMPHASIS ON DEVELOPMENT OF BIKEWAYS AS CONNECTIONS TO THE SYSTEM.
3. COORDINATING AND ASSISTING OTHER JURISDICTIONS IN STUDIES OF ROUTE ALIGNMENT OF THE 40 MILE LOOP.
4. COORDINATING THE 40 MILE LOOP LAND TRUST STUDIES OF ROUTE ALIGNMENT OF THE 40 MILE LOOP AND DIRECT ASSISTANCE IN ACQUIRING EASEMENTS AND/OR RIGHTS—OF-WAY.
5. ADOPTING TRAIL AND BIKEWAY STANDARDS FOR SEGMENTS OF THE 40 MILE LOOP.

### STRATEGIES

- A. As part of the continuing planning program for parks and open space, the County has appointed a County Parks Commission to work in concert with the County to:
  1. Address objectives necessary for the County to meet eligibility criteria for receipt of public and private resources.
  2. ~~Develop a long range master park plan for Multnomah County to be recommended to the Board for adoption~~ **Follow the guidelines and directives of the 1984 Multnomah County Neighborhood Park Master Plan in the future maintenance and development of the neighborhood park system.**
  3. Raise funds for park purposes as best serves the goals of the Parks Commission, the Parks Master Plan, and the County.
- B. The County should consider the rights and privileges of recreational boaters when evaluating land development proposals.
- C. The continuing planning program should include, in the update of Community Plans, identification of:
  1. specific recreation needs;
  2. plans for developing and maintaining specific park sites; and
  3. implementation strategies.
- D. The County should continue to:
  1. Review all tax foreclosure lands for potential open space or recreational uses.
  2. Coordinate with other agencies and assist in the location of public recreation facilities, including Oregon Recreation Trails in the County.

- E. The Zoning Ordinance should include provisions for privately owned and operated recreational facilities as conditional uses in zones viewed as appropriate by the individual communities.

## H. POLICY 40: DEVELOPMENT REQUIREMENTS

### INTRODUCTION

While most ~~open-space park~~ and recreation systems involve specific sites, an ideal system is connected by pedestrian and bicycle paths. It is, therefore, important to examine each development proposal for the purpose of determining whether a connection through the site should be provided. In addition, public agencies construct roads and sewer and water systems and often purchase or acquire easements to land. During this process, it is important to determine if there is a multiple use potential.

It is also important to recognize that inclusion of ~~open-spaces parks~~ and landscaped areas in industrial, commercial and multiple family developments is an essential part of the system by providing visual variety and interest to the landscape. These areas can also be used by people as places to rest and relax, and are as important as large recreation areas.

The purpose of this policy is to provide a review process to assure that development proposals will not preclude an interconnected ~~open-space park~~ and recreation system. It is also intended to encourage ~~open-space areas park~~ in large developments where people can sit and enjoy the surroundings.

### POLICY 40

THE COUNTY'S POLICY IS TO ENCOURAGE A CONNECTED PARK AND ~~OPEN SPACE RECREATION~~ SYSTEM AND TO PROVIDE FOR SMALL PRIVATE ~~OPEN SPACE RECREATION~~ AREAS BY REQUIRING A FINDING PRIOR TO APPROVAL OF LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

- A. PEDESTRIAN AND BICYCLE PATH CONNECTIONS TO PARKS, ~~OPEN SPACE RECREATION~~ AREAS AND COMMUNITY FACILITIES WILL BE DEDICATED WHERE APPROPRIATE AND WHERE DESIGNATED IN THE BICYCLE CORRIDOR CAPITAL IMPROVEMENTS PROGRAM AND MAP.
- B. LANDSCAPED AREAS WITH BENCHES WILL BE PROVIDED IN COMMERCIAL, INDUSTRIAL AND MULTIPLE FAMILY DEVELOPMENTS, WHERE APPROPRIATE.
- C. AREAS FOR BICYCLE PARKING FACILITIES WILL BE REQUIRED IN DEVELOPMENT PROPOSALS, WHERE APPROPRIATE.