

ANNOTATED MINUTES

Tuesday, June 25, 1991 - 9:30 AM
Multnomah County Courthouse, Room 602

PLANNING ITEMS

The Following June 3, 1991 Decisions of the Planning Commission are Reported to the Board for Acceptance and Implementation by Board Order:

1. PR 4-91 DENY Requested Amendment of the Comprehensive Plan Map, Changing the Designation of the Subject Site from Exclusive Farm Use to Multiple Use Forest for the Portion of the Subject Property Lying North and West of NW Germantown Road;
ZC 4-91 DENY Requested Amendment of Sectional Zoning Map #708, Changing the Subject Property from EFU, Exclusive Farm Use to MUF-19, Multiple Use Forest for that Portion Lying North and West of NW Germantown Road, all for Property Located at 14715 NW Old Germantown Road

APPEAL FILED. BOARD APPROVED MOTION SETTING HEARING FOR TUESDAY, AUGUST 13, 1991, ON THE RECORD, 15 MINUTES.

The Following June 3, 1991 Decisions of the Planning Commission are Reported to the Board of County Commissioners for Acknowledgement by the Presiding Officer:

2. LD 8-91 APPROVE, SUBJECT TO CONDITIONS, Requested Three-Lot Land Division;
CU 11-91 APPROVE, SUBJECT TO CONDITIONS, Requested Conditional Use Permit for a Two-Acre Mortgage Lot in the MUF-38 Zoning District on Parcel 1 on the Tentative Plan Map;
CU 12-91 APPROVE, SUBJECT TO CONDITIONS, Requested Conditional Use Permit for a Two-Acre Mortgage Lot in the MUF-38 Zoning District on Parcel 2 on the Tentative Plan Map, all for Property Located at 19875 NW Logie Trail Road

ACKNOWLEDGED.

3. CU 6-91 APPROVE, SUBJECT TO CONDITIONS, Requested Conditional Use Permit for a Commercial Activity that is in Conjunction with Farm Uses in the EFU Zoning District, for Property Located at 9833 NW Cornelius Pass Road

APPEAL FILED. TESTIMONY HEARD. APPELLANT REQUESTED BOARD HEARING ON THE RECORD PLUS ADDITIONAL TESTIMONY. APPLICANT REQUESTED HEARING ON THE RECORD ONLY. BOARD APPROVED MOTIONS SETTING HEARING FOR TUESDAY, AUGUST 13, 1991, ON THE RECORD ONLY.

4. CS 4-91 APPROVE, SUBJECT TO CONDITIONS, Change in Zone Designation from MUF-19, FF, FW, WRG to MUF, C-S, FF, C-S, WRG, C-S, Community Service for a 37-Space Boat Marina;

CU 4-91 APPROVE, SUBJECT TO CONDITIONS, Conditional Use Permit for a 19-Space Houseboat Moorage;
WRG 1-91 APPROVE, SUBJECT TO CONDITIONS, Requested Willamette River Greenway Permit, all for Property Located at 14555 NW Larson Road

ACKNOWLEDGED.

5. HV 6-91 APPROVE, SUBJECT TO CONDITIONS, Requested Rear Yard Setback Variance of 25 Feet to Allow Construction of an Accessory Building (i.e., Residential Garage) to be Located Five Feet from the County Property Line, for Property Located at 17930 NW Chestnut Lane

APPEAL FILED. APPELLANT REQUESTED HEARING ON THE RECORD WITH ADDITIONAL TESTIMONY. BOARD APPROVED MOTION SETTING HEARING FOR TUESDAY, AUGUST 27, 1991, ON THE RECORD, WITH ADDITIONAL TESTIMONY, ALLOWING 10 MINUTES FOR EACH SIDE.

6. LD 1-91 PUBLIC HEARING - ON THE RECORD

Review the Decision of the Planning Commission of May 7, 1991, DENYING REQUESTED APPEAL AND APPROVING, SUBJECT TO CONDITIONS, the Requested Type III Land Division, a Minor Partition Resulting in Two Lots, Including a Flag Lot, Based on the Findings and Conclusions in the Tentative Plan Decision, Dated January 24, 1991, for Property Located at 6075 SW Mill Street

APPELLANT REQUESTED POSTPONEMENT. BOARD APPROVED MOTION SETTING HEARING FOR TUESDAY, JULY 23, 1991, ON THE RECORD, ALLOWING 10 MINUTES FOR EACH SIDE.

7. LD 17-89a PUBLIC HEARING - ON THE RECORD
MC 2-89a

Review the Decision of the Planning Commission of May 7, 1991, APPROVING Modifications of Previous Conditions Regarding Water Supply and Regarding the Private Road Under LD 17-89 and MC 2-89 made on August 14, 1989, for Property Located at 12200 NW Rock Creek Road

TESTIMONY HEARD. BOARD REVERSED PLANNING COMMISSION DECISION BY APPROVING MOTION TO ADOPT JUNE 25, 1991 PLANNING STAFF RECOMMENDATION AMENDING CONDITION 8 AND REFUNDING APPLICANT'S \$272.50 APPEAL FEE.

Tuesday, June 25, 1991 - 1:30 PM
Multnomah County Courthouse, Room 602

AGENDA REVIEW

8. Review of Agenda for Regular Meeting of June 27, 1991

Wednesday, June 26, 1991 - 9:30 AM
Multnomah County Courthouse, Room 602

BOARD BRIEFINGS

1. Status of City/County Consolidation - as Directed by the Board on Tuesday, May 21, 1991. Presented by Hank Miggins and Carolyn Meeks.

STAFF SUBMITTED ANALYSIS OF CITY/COUNTY SERVICES STATUS REPORT ON RECOMMENDATIONS FROM FEBRUARY, 1991 JOINT REPORTS. BOARD DISCUSSED NEED FOR ALL MULTNOMAH COUNTY CITIES TO PARTICIPATE IN CONSOLIDATION DISCUSSIONS. CHAIR McCOY DIRECTED HANK MIGGINS TO REPORT BACK TO BOARD WITH RECOMMENDATIONS ON HOW EAST COUNTY CITIES WOULD LIKE TO BECOME INVOLVED IN PROCESS.

2. Update on Strategic Planning - as Directed by the Board on Tuesday, May 21, 1991. Presented by Hank Miggins and Carolyn Meeks.

STAFF DISCUSSED SUMMARY OUTLINING POLICY LEVEL, MANAGEMENT TEAM AND SERVICE CORPS GUIDELINES FOR STRATEGIC PLANNING PROCESS. CHAIR McCOY DIRECTED STAFF TO ARRANGE MEETING AREA FOR STRATEGIC PLANNING SESSIONS THE AFTERNOON OF THURSDAY, AUGUST 8 AND ALL DAY FRIDAY, AUGUST 9, 1991.

Wednesday, July 26, 1991 - 11:00 AM
Multnomah County Courthouse, Room 602

EXECUTIVE SESSION

3. Pursuant to ORS 192.640(3), the Multnomah County Board of Commissioners Met in an Emergency Executive Session to Discuss Pending Litigation Pursuant to ORS 192.660(1)(h)

Wednesday, June 26, 1991 - 1:30 PM
Multnomah County Courthouse, Room 602

BOARD BRIEFING

4. Oregon Legislative Session Update. Presented by Fred Neal and Howard Klink.

CANCELLED.

Thursday, June 27, 1991 - 9:30 AM
Multnomah County Courthouse, Room 602

REGULAR MEETING

CONSENT CALENDAR

JUSTICE SERVICES
SHERIFF'S OFFICE

C-1 Ratification of the Intergovernmental Agreement with USAFO for Oregon, for the Rent for the Firing Ranges Located on the Oregon National Guard Base at Camp Withycombe for Fiscal Year 1991-1992

APPROVED.

DEPARTMENT OF ENVIRONMENTAL SERVICES

C-2 Ratification of Addendum No. 3 to the Intergovernmental Agreement Between Multnomah County and the City of Gresham Authorizing the City to Maintain and Administer Vance Park through June 30, 1991

APPROVED.

C-3 Ratification of Amendment No. 1 to Intergovernmental Agreement No. I91080 Between the Oregon Department of Energy and Multnomah County Extending Participation in the Trojan Ingestion Planning Project through June 30, 1993

APPROVED.

C-4 Ratification of Supplement No. 4 to the Intergovernmental Agreement Between Multnomah County and the City of Fairview Providing Certain Street Maintenance Services through June 30, 1992

APPROVED.

C-5 Ratification of Supplement No. 4 to the Intergovernmental Agreement Between Multnomah County and the City of Troutdale Providing Certain Street Maintenance Services through June 30, 1992

APPROVED.

C-6 Ratification of Supplement No. 4 to the Intergovernmental Agreement Between Multnomah County and the City of Wood Village Providing Certain Street Maintenance Services through June 30, 1992

APPROVED.

DEPARTMENT OF HUMAN SERVICES

C-7 Ratification of an Intergovernmental Agreement Between Multnomah County and the Oregon Health Sciences University Providing Certain Dental Services at the Russell Street

Dental Center through June 30, 1992

APPROVED.

- C-8 Ratification of an Intergovernmental Agreement Between Multnomah County and the Oregon Health Sciences University Providing Training Chest Fellows to Staff the Tuberculosis Clinic through June 30, 1992

APPROVED.

- C-9 Ratification of Amendment No. 11 to the Intergovernmental Agreement Between the Oregon Department of Human Resources, State Community Services and Multnomah County Providing Additional Federal Emergency Services and Weatherization Funds for Certain Community Action Services and Weatherization Activities

APPROVED.

- C-10 Ratification of Amendment No. 12 to the Intergovernmental Agreement Between the Oregon Department of Human Resources, State Community Services and Multnomah County Providing Additional Federal Community Service and Emergency Shelter Block Grant Funds for Certain Community Action Services and Weatherization Activities

APPROVED.

- C-11 Ratification of the Intergovernmental Agreement Between Multnomah County and the State Community Services (Omnibus Contract) Providing Funds for Certain Community Action Program Services for the 1991-1993 Biennium

APPROVED.

- C-12 Ratification of Amendment No. 3 to the Intergovernmental Agreement Between the State Department of Human Resources, Senior and Disabled Services Division and Multnomah County, Providing Reduced Title XIX, Oregon Project Independence and Older Americans Act Funds for the Period May 15, 1991 through June 30, 1992

APPROVED.

- C-13 Ratification of the Intergovernmental Agreement Between Portland Public School District No. 1J and Multnomah County, Providing Educational Services to High Risk Juvenile Offenders through June 30, 1992

APPROVED.

- C-14 Ratification of the Intergovernmental Agreement Between Multnomah County and the City of Portland, Water Bureau, Providing Compensation for Microbiology Testing Services through June 30, 1992

APPROVED.

- C-15 Ratification of the Intergovernmental Agreement Between Multnomah County and Oregon Mental Health and Developmental Disability Services Division Providing Certain Day Treatment and Mental Health Rehabilitation Services to Children and Adolescents through June 30, 1992

APPROVED.

- C-16 Ratification of Amendment No. 2 to the Intergovernmental Agreement Between Multnomah County and Oregon Health Sciences University Providing Increased Work Activity Center Funding Due to the Transfer of 1 Developmental Disabilities Program Client

APPROVED.

- C-17 Ratification of Amendment No. 4 to the Intergovernmental Agreement Between Multnomah County and Oregon Health Sciences University Reducing Community Support Funds Effective July 1, 1990 through June 30, 1991

APPROVED.

- C-18 Ratification of the Intergovernmental Agreement Between Multnomah County and Clackamas County Providing Day Treatment Services to Certain Partners Project Team Youth on a Fee for Service Basis through June 30, 1992

APPROVED.

REGULAR AGENDA

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-1 PUBLIC HEARING and Board Review in the Matter of Order 91-83 Approved by the Board on June 13, 1991 Requesting Approval to Transfer 4 Tax Foreclosed Properties to Homeownership One Street at a Time and a Property to the American Institute of Architects

TESTIMONY HEARD. BOARD APPROVED ORDER 91-90 IN THE MATTER OF APPROVING A REQUEST TO TRANSFER A TAX FORECLOSED TRACT TO THE ARCHITECTURAL FOUNDATION OF OREGON FOR LOW INCOME HOUSING OPPORTUNITY PROGRAM. BOARD APPROVED ORDER 91-91 IN THE MATTER OF APPROVING A REQUEST TO TRANSFER FOUR TAX FORECLOSED TRACTS TO HOMEOWNERSHIP ONE STREET AT A TIME FOR LOW INCOME HOUSING OPPORTUNITY PROGRAM.

- R-2 Second Reading and Possible Adoption of an ORDINANCE Related to a Change in Fees and Amending Chapter 8.10 of the Multnomah County Code (Animal Control)

ORDINANCE 684 APPROVED.

- R-3 RESOLUTION in the Matter of Adopting the Beggars-Tick Marsh Management Plan

RESOLUTION 91-92 APPROVED.

- R-4 ORDER in the Matter of Declaring Various Tax Foreclosed Properties Abandoned or Subject to Waste and Ordering the Tax Collector to Issue a Deed

ORDER 91-93 APPROVED.

NON-DEPARTMENTAL

- R-5 First Reading and Possible Adoption of an ORDINANCE Amending Ordinance No. 672 to Change the Definition of Property, for the Purpose of that Ordinance, to Include Only Residential Properties and Residentially and Commercially Zoned Lots, Thereby Excluding Industrially Zoned Properties and Strips of Land that are Undevelopable According to Local Land Use Restrictions, and Declaring an Emergency

ORDINANCE 685 APPROVED.

- R-6 RESOLUTION in the Matter of Calling for Joint Meetings with the City of Portland to Decide on Local Government Services

TESTIMONY HEARD. BOARD APPROVED RESOLUTION 91-94 IN THE MATTER OF CALLING FOR JOINT MEETINGS WITH THE CITIES OF PORTLAND AND GRESHAM TO DECIDE ON LOCAL GOVERNMENT SERVICES.

- R-7 RESOLUTION in the Matter of Efficiencies in Local Government Support Services

RESOLUTION 91-95 APPROVED.

- R-8 First Reading of an ORDINANCE Amending Ordinance No. 683, in Order to Convert the Exempt Salary Range from an Hourly Basis to an Annual Basis Using Fiscal Year 1990-1991 as the Base

BOARD DISCUSSION. BOARD APPROVED MOTION AMENDING ORDINANCE TO REFLECT ANNUAL SALARIES TO BE BASED ON MULTIPLIER OF 2088 HOURS PER YEAR. BOARD APPROVED FIRST READING OF AMENDED ORDINANCE. SECOND READING SCHEDULED FOR THURSDAY, JULY 11, 1991.

- R-9 In the Matter of the Continued First Reading of an ORDINANCE Relating to the Business Income Tax; Amending MCC 5.70.045

BOARD DISCUSSION. TESTIMONY HEARD. BOARD APPROVED MOTION TO POSTPONE DECISION UNTIL AFTER R-30. BOARD APPROVED MOTION TO APPROVE FIRST READING TODAY AND SECOND READING SCHEDULED FOR AUGUST 8, 1991. BOARD APPROVED FIRST READING. IN RESPONSE TO COMMISSIONER HANSEN'S MOTION OF RECONSIDERATION, THE BOARD APPROVED RECONSIDERATION OF THE FIRST READING ON THURSDAY, AUGUST 8, 1991.

- R-10 Second Reading and Possible Adoption of an ORDINANCE Abolishing the Department of General Services, Repealing MCC 2.30.450, Amending MCC 2.30.200, and Assigning Certain Functions to the County Chair's Office

ORDINANCE 686 APPROVED.

- R-11 Budget Modification DGS #6 Authorizing Transfer of Appropriations for Planning and Budget from the Department of General Services to Non-Departmental Appropriations

APPROVED.

JUSTICE SERVICES

SHERIFF'S OFFICE

- R-12 Budget Modification MCSO #13 Authorizing General Fund Contingency Transfer to Support Activities of the Columbia Villa Safety Action Team

APPROVED.

- R-13 Budget Modification MCSO #18 Authorizing the Transfer of Funds from Materials and Services Line Items to Equipment Line Items within Certain MCSO Dedicated Fund Budgets

APPROVED.

- R-14 Budget Modification MCSO #20 Authorizing the Transfer of \$19,955 from Contingency to Pay for Deputy Overtime Used to Provide Patrol Service During Movie and Television Production

APPROVED.

- R-15 Ratification of an Intergovernmental Agreement Between Multnomah County and the Oregon Community Children and Youth Services Commission to Provide Travel Reimbursements to the National Coalition for the Juvenile Justice Advisory Groups Annual Conference

APPROVED.

COMMUNITY CORRECTIONS

- R-16 Budget Modification DCC #9 Authorizing Certain Modifications to Adjust Community Corrections Act Funded Budgets within the Program Services Division

APPROVED.

DEPARTMENT OF GENERAL SERVICES

- R-17 ORDER in the Matter of the Designation of a Newspaper for Publication of Notice of Foreclosure of Tax Liens as Shown by the Multnomah County 1991 Foreclosure List

ORDER 91-96 APPROVED.

DEPARTMENT OF HUMAN SERVICES

R-18 Request for Board Approval of EMS Administrative Rule 6.32-090, Which Specifies User Fee Obligations of Commercial Ambulance Licenses from July 1, 1991 to December 31, 1991

APPROVED.

R-19 Ratification of an Intergovernmental Agreement Between Multnomah County and the Oregon Department of Human Services Office of Medical Assistance Programs Providing County On-Line Access to the State's Automated Confirmation of Eligibility System through June 30, 1992

APPROVED.

R-20 Ratification of Amendment No. 1 to the Intergovernmental Agreement Between Multnomah County and the State Children's Services Division Identifying Children's Services Division as a Qualified Vendor to Accept Partners Project Clients for Day Treatment Services Effective January 1, 1991 through June 30, 1991

APPROVED.

R-21 Ratification of an Intergovernmental Agreement Between Multnomah County and Portland Public Schools Identifying Portland Public Schools as a Qualified Vendor to Accept Partners Project Clients for Day Treatment Services Effective January 1, 1991 through June 30, 1991

APPROVED.

R-22 Budget Modification DHS #48 Decreasing the Aging Services Division/Community Action Program Budget by \$105,856 and Adjusting Revenue Sources and Line Items to Reflect Actual Contracted Revenues

APPROVED.

R-23 Budget Modification DHS #49 Decreasing the Social Services Division Budget by \$347,451 Appropriating Funding Adjustments from the State Mental Health Division through Amendment No. 58

APPROVED.

Thursday, June 27, 1991 - 1:30 PM
Multnomah County Courthouse, Room 602

NON-DEPARTMENTAL

R-24 RESOLUTION in the Matter of Levying Ad Valorem Property Taxes for Multnomah County, Oregon for Fiscal Year 1991-92

RESOLUTION 91-97 APPROVED.

SERVICE DISTRICTS

(Recess as the Board of County Commissioners and convene as the Governing Body of Central County Sanitary Sewer Service District No. 3)

- R-25 RESOLUTION in the Matter of the Adoption of the 1991-92 Budget for Central County Sanitary Sewer Service District No. 3, for the Fiscal Year July 1, 1991 to June 30, 1992 and Making the Appropriations Thereunder, Pursuant to ORS 294.435

RESOLUTION 91-100 APPROVED.

(Recess as the Governing Body of Central County Sanitary Sewer Service District No. 3 and convene as the Governing Body of Mid County Street Lighting Service District No. 14)

- R-26 RESOLUTION in the Matter of the Adoption of the 1991-92 Budget for Mid County Street Lighting Service District No. 14, for the Fiscal Year July 1, 1991 to June 30, 1992 and Making the Appropriations Thereunder, Pursuant to ORS 294.435

RESOLUTION 91-101 APPROVED.

(Recess as the Governing Body of Mid County Street Lighting Service District No. 14 and convene as the Governing Body of Dunthorpe Riverdale Sanitary Service District No. 1)

- R-27 RESOLUTION in the Matter of the Adoption of the 1991-92 Budget for Dunthorpe Riverdale Sanitary Service District No. 1, for the Fiscal Year July 1, 1991 to June 30, 1992 and Making the Appropriations Thereunder, Pursuant to ORS 294.435

RESOLUTION 91-102 APPROVED.

(Recess as the Governing Body of Dunthorpe Riverdale Sanitary Service District No. 1 and convene as the Governing Body of West Hills Service District No. 2)

- R-28 RESOLUTION in the Matter of the Adoption of the 1991-92 Budget for West Hills Service District No. 2, for the Fiscal Year July 1, 1991 to June 30, 1992 and Making the Appropriations Thereunder, Pursuant to ORS 294.435

RESOLUTION 91-103 APPROVED.

- R-29 ORDER in the Matter of Setting a Date for Election to Consider the Dissolution of West Hills Service District No. 2

ORDER 91-104 APPROVED.

(Recess as the Governing Body of West Hills Service District No. 2 and reconvene as the Board of County Commissioners)

NON-DEPARTMENTAL

R-30 RESOLUTION in the Matter of the Adoption of the 1991-92 Budget for Multnomah County, Oregon, for the Fiscal Year July 1, 1991 to June 30, 1992 and Making the Appropriations Thereunder, Pursuant to ORS 294.435

BOARD APPROVED RESPONSE TO RECOMMENDATIONS BY TAX SUPERVISING AND CONSERVATION COMMISSION. STAFF SUBMITTED AND EXPLAINED UPDATED LIST OF AMENDMENTS AND ADVISED THEY PLAN TO PREPARE AND SUBMIT A SUPPLEMENTAL BUDGET FOR BOARD REVIEW THE SECOND WEEK OF AUGUST. BOARD APPROVED TECHNICAL AMENDMENTS. BOARD APPROVED REVENUE AMENDMENTS. BOARD APPROVED CARRYOVER AMENDMENTS. BOARD APPROVED PROGRAM AMENDMENTS DHS 67, DHS 29, DHS 69, DCC 5, DCC 7, DES 39, DES 40, DES 42, DGS 30 AND DGS 31. BOARD APPROVED RETAINING POSITIONS (MCS0 14 AND MCS0 15) WITHOUT FUNDING. BOARD ADOPTED THE 1991-92 BUDGET AS AMENDED. RESOLUTION 91-105 APPROVED.

JUSTICE SERVICES

COMMUNITY CORRECTIONS

R-31 Ratification of an Intergovernmental Agreement Between the Oregon Department of Community Corrections and Multnomah County to Transfer State Correctional Field Officers, Immediate Supervisors and Supporting Clerical Personnel within Parole and Probation Services to Multnomah County Employment Pursuant to ORS 423.550(2)(b)

TESTIMONY HEARD. BOARD DISCUSSION. INTERGOVERNMENTAL AGREEMENT APPROVED. CHAIR McCOY DIRECTED ROBERT JACKSON TO BE MINDFUL OF CONCERNS RAISED TODAY AND TO RETURN TO BOARD IN ONE MONTH WITH A WRITTEN AND ORAL RESPONSE TO SAME.

Thursday, June 27, 1991 - 9:30 AM
Multnomah County Courthouse, Room 602

UNANIMOUS CONSENT ITEMS

UC-1 ORDER in the Matter of the Cancellation of Certain Warrants Heretofore Issued by Multnomah County more that Seven (7) Years Prior to July 1, 1991, and not Heretofore Presented for Payment

ORDER 91-98 APPROVED.

UC-2 RESOLUTION in the Matter of Approving a Ballot Title and Voters Pamphlet Statement in Connection with the Proposed Dissolution of Central County Service District No. 3

RESOLUTION 91-99 APPROVED.

UC-3 Approval of the Ballot Title and Voters Pamphlet Statement in Connection with the Proposed Dissolution of West Hills Service District No. 2

APPROVED.

UC-4 Ratification of Revision #4 to the Intergovernmental Agreement Between Multnomah County and the Oregon Health Division Providing \$11,000 in Additional Support for the County's Central Drug Purchasing Program

APPROVED.

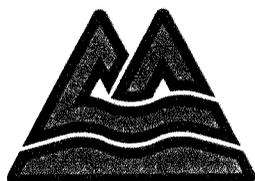
UC-5 Ratification of Revision #5 to the Intergovernmental Agreement Between Multnomah County and the Oregon Health Division Providing \$23,000 in Additional Support for the County's HIV Counseling and Testing Program

APPROVED.

Friday, June 28, 1991 - 8:45 AM
Multnomah County Courthouse, Room 602

BOARD BRIEFING

1. Briefing on Childrens Justice Task Force Issues. Presented by Elaine Cogan and Rich Gable, Consultant from the Center for Juvenile Justice.



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 606, COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OREGON 97204

GLADYS McCOY • CHAIR • 248-3308
PAULINE ANDERSON • DISTRICT 1 • 248-5220
GARY HANSEN • DISTRICT 2 • 248-5219
RICK BAUMAN • DISTRICT 3 • 248-5217
SHARRON KELLEY • DISTRICT 4 • 248-5213
CLERK'S OFFICE • 248-3277

AGENDA

MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS

FOR THE WEEK OF

JUNE 24 - 28, 1991

Tuesday, June 25, 1991 - 9:30 AM - Planning ItemsPage 2
Tuesday, June 25, 1991 - 1:30 PM - Agenda Review. . . .Page 3
Wednesday, June 26, 1991 - 9:30 AM - Board Briefings. . . .Page 3
Wednesday, June 26, 1991 - 1:30 PM - Board BriefingPage 3
Thursday, June 27, 1991 - 9:30 AM - Regular MeetingPage 4
Thursday, June 27, 1991 - 1:30 PM - Regular MeetingPage 8

PLEASE NOTE: DUE TO THE INDEPENDENCE DAY HOLIDAY NEXT WEEK, THE BOARD WILL MEET AT 9:30 AM ON WEDNESDAY, JULY 3, 1991.

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

Tuesday, June 25, 1991 - 9:30 AM

Multnomah County Courthouse, Room 602

PLANNING ITEMS

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4. CS 4-91 APPROVE, SUBJECT TO CONDITIONS, Change in Zone Designation from MUF-19, FF, FW, WRG to MUF, C-S, FF, C-S, WRG, C-S, Community Service for a 37-Space Boat Marina;
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PLANNING ITEMS - continued

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Wednesday, June 26, 1991 - 1:30 PM

Multnomah County Courthouse, Room 602

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Multnomah County Courthouse, Room 602

REGULAR MEETING

CONSENT CALENDAR

JUSTICE SERVICES

SHERIFF'S OFFICE

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DEPARTMENT OF HUMAN SERVICES

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- C-8 Ratification of an Intergovernmental Agreement Between Multnomah County and the Oregon Health Sciences University Providing Training Chest Fellows to Staff the Tuberculosis Clinic through June 30, 1992

CONSENT CALENDAR - continued

DEPARTMENT OF HUMAN SERVICES

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- C-10 Ratification of Amendment No. 12 to the Intergovernmental Agreement Between the Oregon Department of Human Resources, State Community Services and Multnomah County Providing Additional Federal Community Service and Emergency Shelter Block Grant Funds for Certain Community Action Services and Weatherization Activities
- C-11 Ratification of the Intergovernmental Agreement Between Multnomah County and the State Community Services (Omnibus Contract) Providing Funds for Certain Community Action Program Services for the 1991-1993 Biennium
- C-12 Ratification of Amendment No. 3 to the Intergovernmental Agreement Between the State Department of Human Resources, Senior and Disabled Services Division and Multnomah County, Providing Reduced Title XIX, Oregon Project Independence and Older Americans Act Funds for the Period May 15, 1991 through June 30, 1992
- C-13 Ratification of the Intergovernmental Agreement Between Portland Public School District No. 1J and Multnomah County, Providing Educational Services to High Risk Juvenile Offenders through June 30, 1992
- C-14 Ratification of the Intergovernmental Agreement Between Multnomah County and the City of Portland, Water Bureau, Providing Compensation for Microbiology Testing Services through June 30, 1992
- C-15 Ratification of the Intergovernmental Agreement Between Multnomah County and Oregon Mental Health and Developmental Disability Services Division Providing Certain Day Treatment and Mental Health Rehabilitation Services to Children and Adolescents through June 30, 1992
- C-16 Ratification of Amendment No. 2 to the Intergovernmental Agreement Between Multnomah County and Oregon Health Sciences University Providing Increased Work Activity Center Funding Due to the Transfer of 1 Developmental Disabilities Program Client
- C-17 Ratification of Amendment No. 4 to the Intergovernmental Agreement Between Multnomah County and Oregon Health Sciences University Reducing Community Support Funds Effective July 1, 1990 through June 30, 1991

DEPARTMENT OF HUMAN SERVICES - continued

- C-18 Ratification of the Intergovernmental Agreement Between Multnomah County and Clackamas County Providing Day Treatment Services to Certain Partners Project Team Youth on a Fee for Service Basis through June 30, 1992

REGULAR AGENDA

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-1 PUBLIC HEARING and Board Review in the Matter of Order 91-83 Approved by the Board on June 13, 1991 Requesting Approval to Transfer 4 Tax Foreclosed Properties to Homeownership One Street at a Time and a Property to the American Institute of Architects. 9:30 AM TIME CERTAIN
- R-2 Second Reading and Possible Adoption of an ORDINANCE Related to a Change in Fees and Amending Chapter 8.10 of the Multnomah County Code (Animal Control)
- R-3 RESOLUTION in the Matter of Adopting the Beggars-Tick Marsh Management Plan
- R-4 ORDER in the Matter of Declaring Various Tax Foreclosed Properties Abandoned or Subject to Waste and Ordering the Tax Collector to Issue a Deed

NON-DEPARTMENTAL

- R-5 First Reading and Possible Adoption of an ORDINANCE Amending Ordinance No. 672 to Change the Definition of Property, for the Purpose of that Ordinance, to Include Only Residential Properties and Residentially and Commercially Zoned Lots, Thereby Excluding Industrially Zoned Properties and Strips of Land that are Undevelopable According to Local Land Use Restrictions, and Declaring an Emergency
- R-6 RESOLUTION in the Matter of Calling for Joint Meetings with the City of Portland to Decide on Local Government Services
- R-7 RESOLUTION in the Matter of Efficiencies in Local Government Support Services
- R-8 First Reading of an ORDINANCE Amending Ordinance No. 683, in Order to Convert the Exempt Salary Range from an Hourly Basis to an Annual Basis Using Fiscal Year 1990-1991 as the Base
- R-9 Second Reading and Possible Adoption of an ORDINANCE Relating to the Business Income Tax; Amending MCC 5.70.045 (Previously Scheduled for September 5, 1991)
- R-10 Second Reading and Possible Adoption of an ORDINANCE Abolishing the Department of General Services, Repealing MCC 2.30.450, Amending MCC 2.30.200, and Assigning Certain Functions to the County Chair's Office

NON-DEPARTMENTAL - continued

- R-11 Budget Modification DGS #6 Authorizing Transfer of Appropriations for Planning and Budget from the Department of General Services to Non-Departmental Appropriations

JUSTICE SERVICES

SHERIFF'S OFFICE

- R-12 Budget Modification MCSO #13 Authorizing General Fund Contingency Transfer to Support Activities of the Columbia Villa Safety Action Team
- R-13 Budget Modification MCSO #18 Authorizing the Transfer of Funds from Materials and Services Line Items to Equipment Line Items within Certain MCSO Dedicated Fund Budgets
- R-14 Budget Modification MCSO #20 Authorizing the Transfer of \$19,955 from Contingency to Pay for Deputy Overtime Used to Provide Patrol Service During Movie and Television Production
- R-15 Ratification of an Intergovernmental Agreement Between Multnomah County and the Oregon Community Children and Youth Services Commission to Provide Travel Reimbursements to the National Coalition for the Juvenile Justice Advisory Groups Annual Conference

COMMUNITY CORRECTIONS

- R-16 Budget Modification DCC #9 Authorizing Certain Modifications to Adjust Community Corrections Act Funded Budgets within the Program Services Division

DEPARTMENT OF GENERAL SERVICES

- R-17 ORDER in the Matter of the Designation of a Newspaper for Publication of Notice of Foreclosure of Tax Liens as Shown by the Multnomah County 1991 Foreclosure List

DEPARTMENT OF HUMAN SERVICES

- R-18 Request for Board Approval of EMS Administrative Rule 6.32-090, Which Specifies User Fee Obligations of Commercial Ambulance Licenses from July 1, 1991 to December 31, 1991
- R-19 Ratification of an Intergovernmental Agreement Between Multnomah County and the Oregon Department of Human Services Office of Medical Assistance Programs Providing County On-Line Access to the State's Automated Confirmation of Eligibility System through June 30, 1992
- R-20 Ratification of Amendment No. 1 to the Intergovernmental Agreement Between Multnomah County and the State Children's Services Division Identifying Children's Services Division as a Qualified Vendor to Accept Partners Project Clients

DEPARTMENT OF HUMAN SERVICES - continued

for Day Treatment Services Effective January 1, 1991 through June 30, 1991

- R-21 Ratification of an Intergovernmental Agreement Between Multnomah County and Portland Public Schools Identifying Portland Public Schools as a Qualified Vendor to Accept Partners Project Clients for Day Treatment Services Effective January 1, 1991 through June 30, 1991
- R-22 Budget Modification DHS #48 Decreasing the Aging Services Division/Community Action Program Budget by \$105,856 and Adjusting Revenue Sources and Line Items to Reflect Actual Contracted Revenues
- R-23 Budget Modification DHS #49 Decreasing the Social Services Division Budget by \$347,451 Appropriating Funding Adjustments from the State Mental Health Division through Amendment No. 58

Thursday, June 27, 1991 - 1:30 PM

Multnomah County Courthouse, Room 602

REGULAR MEETING

NON-DEPARTMENTAL

- R-24 RESOLUTION in the Matter of Levying Ad Valorem Property Taxes for Multnomah County, Oregon for Fiscal Year 1991-92

SERVICE DISTRICTS

(Recess as the Board of County Commissioners and convene as the Governing Body of Central County Sanitary Sewer Service District No. 3

- R-25 RESOLUTION in the Matter of the Adoption of the 1991-92 Budget for Central County Sanitary Sewer Service District No. 3, the for Fiscal Year July 1, 1991 to June 30, 1992 and Making the Appropriations Thereunder, Pursuant to ORS 294.435

(Recess as the Governing Body of Central County Sanitary Sewer Service District No. 3 and convene as the Governing Body of Mid County Street Lighting Service District No. 14)

- R-26 RESOLUTION in the Matter of the Adoption of the 1991-92 Budget for Mid County Street Lighting Service District No. 14, the for Fiscal Year July 1, 1991 to June 30, 1992 and Making the Appropriations Thereunder, Pursuant to ORS 294.435

(Recess as the Governing Body of Mid County Street Lighting Service District No. 14 and convene as the Governing Body of Dunthorpe Riverdale Sanitary Service District No. 1)

SERVICE DISTRICTS - continued

R-27 RESOLUTION in the Matter of the Adoption of the 1991-92 Budget for Dunthorpe Riverdale Sanitary Service District No. 1, the for Fiscal Year July 1, 1991 to June 30, 1992 and Making the Appropriations Thereunder, Pursuant to ORS 294.435

(Recess as the Governing Body of Dunthorpe Riverdale Sanitary Service District No. 1 and convene as the Governing Body of West Hills Service District No. 2)

R-28 RESOLUTION in the Matter of the Adoption of the 1991-92 Budget for West Hills Service District No. 2, the for Fiscal Year July 1, 1991 to June 30, 1992 and Making the Appropriations Thereunder, Pursuant to ORS 294.435

R-29 ORDER in the Matter of Setting a Date for Election to Consider the Dissolution of West Hills Service District No. 2

(Recess as the Governing Body of West Hills Service District No. 2 and reconvene as the Board of County Commissioners)

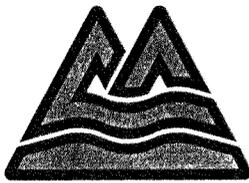
NON-DEPARTMENTAL

R-30 RESOLUTION in the Matter of the Adoption of the 1991-92 Budget for Multnomah County, Oregon, for the Fiscal Year July 1, 1991 to June 30, 1992 and Making the Appropriations Thereunder, Pursuant to ORS 294.435

JUSTICE SERVICES

COMMUNITY CORRECTIONS

R-31 Ratification of an Intergovernmental Agreement Between the Oregon Department of Community Corrections and Multnomah County to Transfer State Correctional Field Officers, Immediate Supervisors and Supporting Clerical Personnel within Parole and Probation Services to Multnomah County Employment Pursuant to ORS 423.550(2)(b)



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 606, COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OREGON 97204

GLADYS McCOY • CHAIR • 248-3308
PAULINE ANDERSON • DISTRICT 1 • 248-5220
GARY HANSEN • DISTRICT 2 • 248-5219
RICK BAUMAN • DISTRICT 3 • 248-5217
SHARRON KELLEY • DISTRICT 4 • 248-5213
CLERK'S OFFICE • 248-3277

SUPPLEMENTAL AGENDA

NOTICE OF BOARD BRIEFING CANCELLATION

Wednesday, June 26, 1991 - 1:30 PM

Multnomah County Courthouse, Room 602

1. OREGON LEGISLATIVE SESSION UPDATE. PRESENTED BY FRED NEAL AND HOWARD KLINK. CANCELLED.

Thursday, June 27, 1991 - 9:30 AM

Multnomah County Courthouse, Room 602

NOTICE OF CORRECTION TO AGENDA TITLE

- R-8 IN THE MATTER OF THE CONTINUED FIRST READING OF AN ORDINANCE RELATING TO THE BUSINESS INCOME TAX; AMENDING MCC 5.70.045

Thursday, June 27, 1991 - 9:30 AM

Multnomah County Courthouse, Room 602

UNANIMOUS CONSENT ITEM

- UC-1 ORDER in the Matter of the Cancellation of Certain Warrants Heretofore Issued by Multnomah County more that Seven (7) Years Prior to July 1, 1991, and not Heretofore Presented for Payment

0103C/dr/65



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 606, COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OREGON 97204

GLADYS McCOY • CHAIR • 248-3308
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RICK BAUMAN • DISTRICT 3 • 248-5217
SHARRON KELLEY • DISTRICT 4 • 248-5213
CLERK'S OFFICE • 248-3277

BOARD OF COUNTY COMMISSIONERS

Tuesday, June 25, 1991

9:30 a.m., Room 602

A G E N D A

1991 JUN 17 PM 1:51
CLERK'S OFFICE
MULTNOMAH COUNTY
OREGON

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

- ✓ **PR 4-91** Deny requested amendment of the Comprehensive Plan Map, changing the designation of the subject site from Exclusive Farm Use to Multiple Use Forest for that portion of the subject property lying north and west of NW Germantown Road;
- ZC 4-91** Deny requested amendment of Sectional Zoning Map #708, changing the subject property from EFU, exclusive farm use to MUF-19, multiple use forest for that portion lying north and west of NW Germantown Road, all for property located at 14715 NW Old Germantown Road.

The following Decisions are reported to the Board for acknowledgement by the Presiding Officer:

- ✓ **LD 8-91** Approve, subject to conditions, requested three-lot land division;
- CU 11-91** Approve, subject to conditions, requested conditional use permit for a two-acre Mortgage Lot in the MUF-38 zoning district on Parcel 1 on the Tentative Plan Map;
- CU 12-91** Approve, subject to conditions, requested conditional use permit for a two-acre Mortgage Lot in the MUF-38 zoning district on Parcel 2 on the Tentative Plan Map, all for property located at 19875 NW Logie Trail Road

- ✓ **CU 6-91** Approve, subject to conditions, requested conditional use permit for a commercial activity that is in conjunction with farm uses in the EFU zoning district, for property located at **9833 NW Cornelius Pass Road.**
- ✓ **CS 4-91** Approve, subject to conditions, change in zone designation from MUF-19, FF, FW, WRG to MUF,-C-S, FF, C-S, FW, C-S, WRG, C-S, community service for a **37-space boat marina;**
- CU 4-91** Approve, subject to conditions, conditional use permit for a **19-space houseboat moorage;**
- WRG 1-91** Approve, subject to conditions, requested Willamette River Greenway Permit, all for property located at **14555 NW Larson Road.**
- ✓ **HV 6-91** Approve, subject to conditions, requested rear yard setback variance of 25 feet to allow construction of an accessory building (i.e., residential garage) to be located five feet from the south property line, for property located at **17930 NW Chestnut Lane.**

Other Items for Board Action

- C 4-91** **Proposed Zoning Ordinance Amendment**
An Ordinance amending fees for action proceedings and administrative actions under M 11.05 (Planning), MCC 11.15 (Zoning Code and MCC 11.45 (Land Divisions). (Declaring An Emergency)
- C 5-91** **Proposed Zoning Ordinance Amendment**
An Ordinance amending MCC 11.15 by adding definitions and a Violation and Enforcement Section to the Zoning Code. (Declaring An Emergency)
- C 6-91** **Proposed Zoning Ordinance Amendment**
An Ordinance amending MCC 11.15.8105 et seq. (Hearings Officer) to empower the Hearings Officer to adjudicate alleged violations of MCC 11.15. (Declaring An Emergency)

*Pulled - No Originals
or C.C. Signature
+ No Sp. Consent
in Order.*

LD 1-91 Public Hearing - On The Record

Review the Decision of the Planning Commission of May 7, 1991, **denying requested appeal and approving, subject to conditions**, the requested Type III land division, a minor partition resulting in two lots, including a flag lot, based on the Findings and Conclusions in the Tentative Plan Decision, dated January 24, 1991, for property located at **6075 SW Mill Street.**

This item has been appealed by the Opposition.

Scope of Review: **On The Record**

LD 17-89a Public Hearing - On The Record
MC 2-89a

Review the Decision of the Planning Commission of May 7, 1991, **approving** modifications of previous conditions regarding water supply and regarding the private road under LD 17-89 and MC 2-89 made on August 14, 1989, for property located at **12200 NW Rock Creek Road.**

This item has been appealed by the Applicant

Scope of Review: **On The Record**

Meeting Date: June 25, 1991

Agenda No.: P-1

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM
(For Non-Budgetary Items)

SUBJECT: _____

BCC Informal _____	BCC Formal _____
(date)	(date)
DEPARTMENT <u>DES</u>	DIVISION <u>Planning</u>
CONTACT <u>Sharon Cowley</u>	TELEPHONE <u>2610</u>
PERSON(S) MAKING PRESENTATION _____	<u>Planning Staff</u>

ACTION REQUESTED:

INFORMATIONAL ONLY
 POLICY DIRECTION
 Denial APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: 2 Minutes

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

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

PR 4-91/ZC 4-91 Decision of the Planning Commission of June 3, 1991 with recommendation to the Board for denial

BOARD OF
COUNTY COMMISSIONERS
MULTI-COUNTY
OREGON
1991 JUN 17 PM 1:51

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL _____

Or

DEPARTMENT MANAGER Paul Yarbrough / blw

(All accompanying documents must have required signatures)

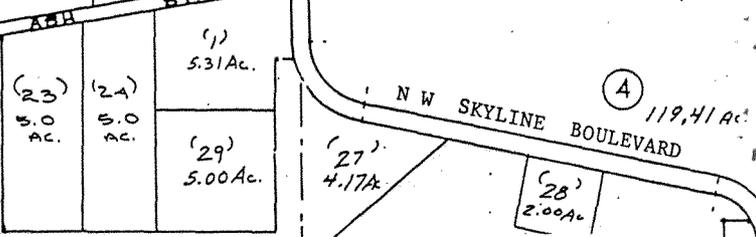
MUF-19 (13) 20 Ac.

44

43

42

41



Zoning Map
 Case #: PR 04-91 & ZC 04-91
 Location: 14715 NW Old Germantown Rd
 Scale: 1 inch to 800 feet (approx)
 Shading indicates subject property

N W 160th Avenue

CITY OF PORTLAND BOUNDARY

EFU

(11) 40 Ac.

(26) 90.00 Ac.
CITY OF PORTLAND

(28) 2.50 Ac. (20) 2.50 Ac.

(27) 3.00 Ac. (25) 2.00 Ac.

CITY OF PORTLAND BOUNDARY

Kaiser

MUA-20

N W Kaiser Road

(32) 7.72 Ac.

MUA-20

(24) 1.81 Ac.

N W Kaiser Rd

(42) 37.71 Ac.

EFU

(44) 20.39 Ac.

(2) 19.11 Ac.

(43) 39.14 Ac.

(40) 20.00 Ac.

MUF-19

(1) 30.01 Ac.

(13) 25.42 Ac.

RR

(20) 6.40 Ac.

(2) 6.75 Ac.

(12) 11.76 Ac. (11) 11.55 Ac.

RR

(18) 6.40 Ac.

(19) 6.40 Ac.

(38) 2.80 Ac.

(25) 1.13 Ac.

Partition - 4.58 Ac.
 - Plat
 Parcel 1 4.63 Ac. Parcel 2 Parcel 3 4.80 Ac.
 1990 - 57

EFU

(27) 25.47 Ac.

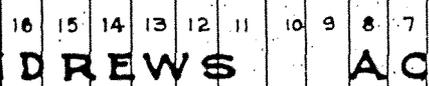
(15) 38.50 Ac.

EFU

EFU MUF-19 HP-1

RR

ANDREWS AC



(28) 2.00 Ac.

GERMANTOWN ROAD

(29) 2.60 Ac.

(41)

RR

(12) 14.00 Ac.

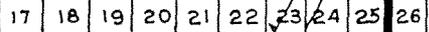
(13) 24.42 Ac.

EFU

(16) 34.19 Ac.

(17) 39.4 Ac.

EFU



Washington Co.

16000

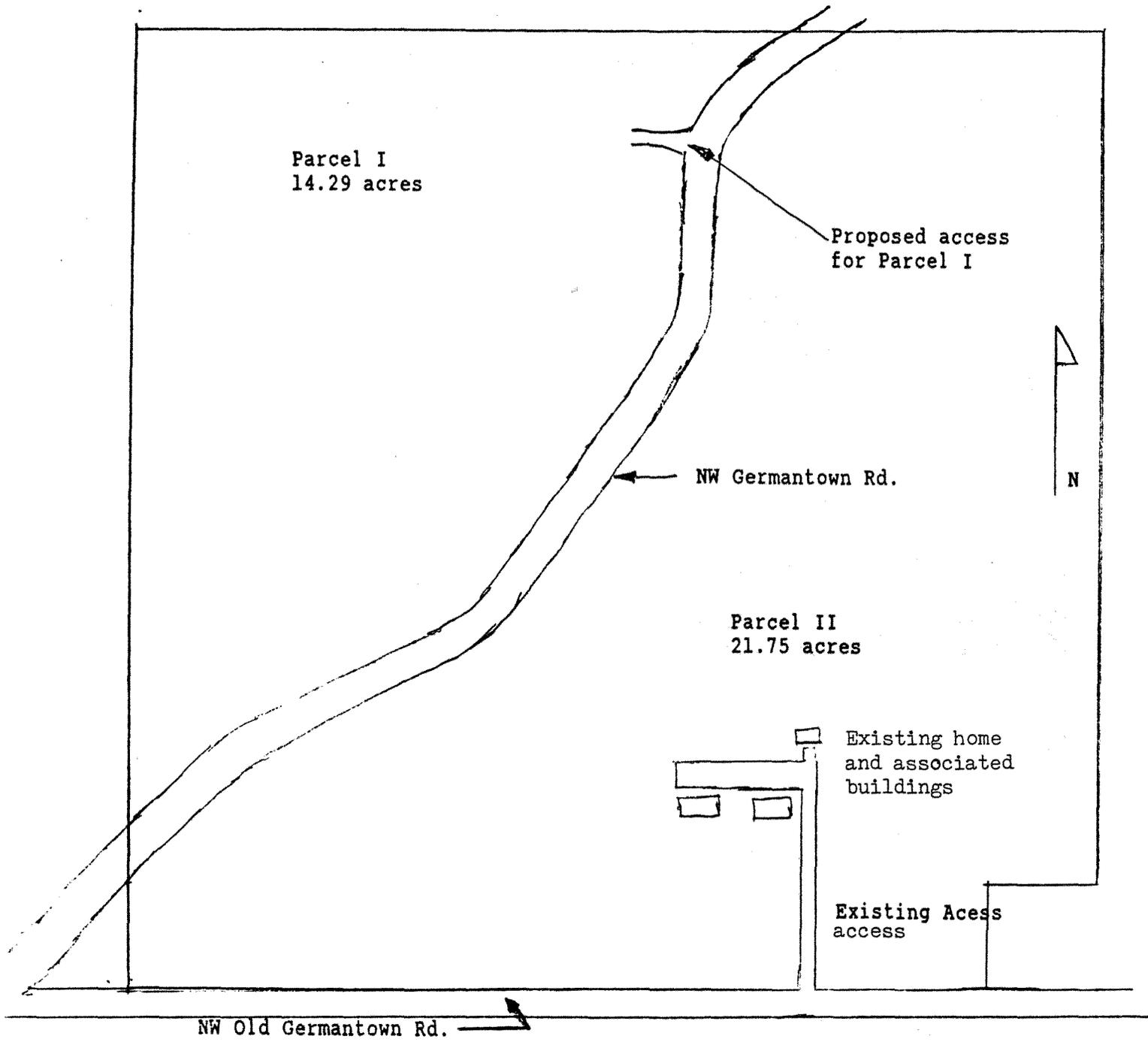
15300

15000

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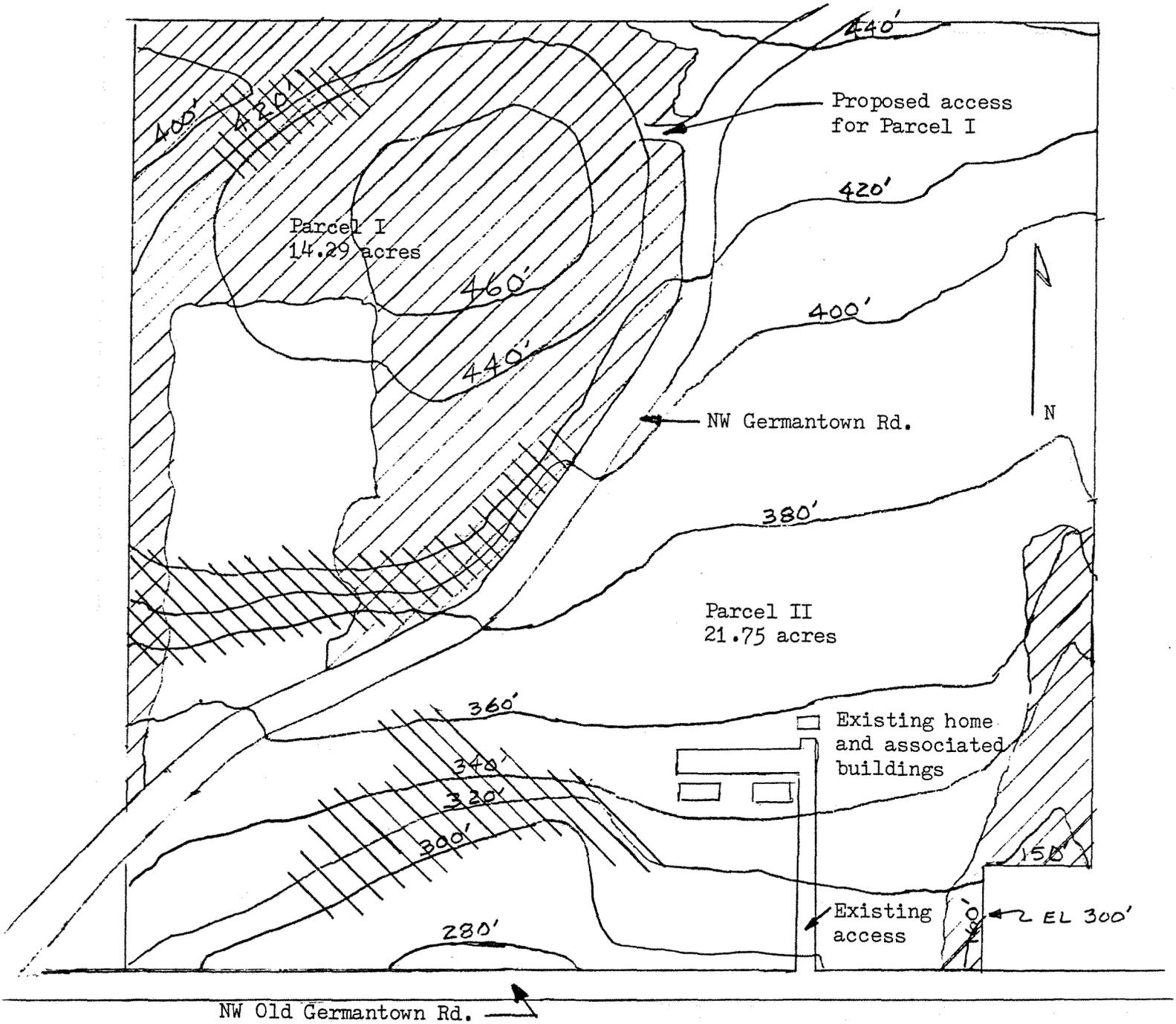
Proposed Parcelization



Scale : 1 inch = 200 feet

PR 4-91/ZC 4-91

Development Limitations
and
Topography



-  Timber
-  Steep slopes

Scale: 1 inch = 200 feet

PR 4-91/ZC 4-91

Findings of Fact:

Note: Portions of the submitted application narrative are used in the findings section of this report. To distinguish the **applicant's submittal** from staff comments they **will be in *italic* type and be indented.**

References by the applicant to Parcel I are referring to that portion of tax lot '20' which is north and west of NW Germantown Road. References to Parcel II are concerning the remainder of the tax lot south and east of NW Germantown Road.

Additional findings submitted by the applicant for the June 3rd Planning Commission Hearing is attached and made part of this record. This attachment is entitled "Planning Commission Continuance Data For PR 4-91/ZC 4-91".

1. Applicant's Proposal:

- A. The applicant requests a plan and zone change from Exclusive Farm Use (EFU zone) to Multiple Use Forest (MUF-19 zone) for the portion of the subject property that is located on the northwest side of NW Germantown Road. This area contains 14.29 acres of the total 36.18 acres in tax lot '20'. The applicant's position is that there is sufficient difference between the two portions of the property on each side of NW Germantown Road to warrant differing plan and zone designations.

2. Background Information:

- A. The Exclusive Farm Use zoning district "lot of record" definition does not include the provision that a County maintained road intersecting a parcel would create separate lots. This provision is in all other rural zone regulations except the Commercial Forest Use zone. The requested plan and zone change would, by the MUF lot of record definition, create separate lots on each side of NW Germantown Road. A resource related residence could then be placed on the new MUF zoned lot. The change in zoning would create two new lots without the need for land division application or approval.

3. Site Information:

A. Current Land Use:

The majority of Parcel II (approximately 21 acres), with the exception of an approximately 1 acre home site, has been utilized for agricultural production. Approximately 72% of Parcel I is heavily timbered with the remaining 28% in agricultural production (Christmas trees). Historically, this use pattern on the property has been constant. No dwellings or other permanent structures are located on Parcel I.

B. Soils:

Two different soil series are present on the subject property, Cascade Silt Loam series and Helvetia Silt Loam. The Cascade Silt Loam series is the predominant soil series present on the subject property. Four variants occur on the subject property within this series (7B, 7C, 7D and 7E). One variant in particular predominates on the property, 7c, the majority of which covers over 90% of Parcel II. One small area of Helvetia Silt Loam is located on the southern edge of the property.

The significant factor with respect to soils is their location relative to slope changes, elevation, and slope orientation. Elevations on the subject property vary between less than 280 feet at the extreme southern portion of proposed Parcel II to over 460 in the center of proposed Parcel I. The significant factor with respect to overall elevation is to note that approximately 90% of Parcel I is at elevations in excess of 400 feet, while approximately 90% of Parcel II is less than 400 feet in elevation.

Parcel I exhibits the most radical slopes changes and greatest variations in slope orientation, with a third of the property having a northerly sloping orientation and the balance having steep south and easterly orientations. Parcel II exhibits very little slope change with the entire slope having a southerly orientation.

The portion of the property best suited for timber production is utilized for timber production, with the exception of 3.93 acres of Parcel I which is currently in Christmas tree production. This is based on the presence of only Cascade Silt Loam series soils in these portions of the property (which have a suitable Timber Site Index of 155), the higher elevations and the wide variation in steepness and orientation of slopes. It should be noted that the steep south facing slopes of the 3.93 acre area in Parcel I, currently in Christmas tree production will, under a proposed Forest Management Plan be converted to timber production in order to stabilize these soils and prevent silting of drainage ditches in the public right of way along NW Germantown Road.

All areas under cultivation lie within proposed Parcel II, with the exception of the 3.93 acres in Christmas tree production on Parcel I. Additionally it should be noted that approximately 12 acres in the eastern portion of Parcel II were fully tilled in 1987 to enhance drainage and maximize production in this area. Also, it is the applicants plan to tile additional areas of Parcel II in order to enhance drainage in areas not presently tilled.

C. Topography:

Elevations range from approximately 280 feet at the southern edge of the property to over 460 feet in the center of proposed Parcel I. This variation

of less than 200 feet has only minimal influence on the treatment and use of this land.

The most influential topographical characteristics determining the use of this land are the wide variation in slope changes and orientation to be found on Parcel I as compared to the relatively constant and southerly slope of Parcel II. The steep and varying slopes of Parcel I are not suited to any type of mechanized agriculture. The small area on Parcel I that has been cultivated has historically been subject to excessive erosion and would consequently benefit from reforestation.

D. Access to Site:

The subject property borders NW Old Germantown Road on the south and is bisected by NW Germantown Road. Under the division proposal Parcel II will be served (as it always has) by NW Old Germantown Road and Parcel I will be served by NW Germantown Road. The original farm dwelling is located on Parcel II.

E. On-site Services:

The farm dwelling on Parcel II is serviced by an existing well and on-site sewage disposal system. Electric Power and telephone service are readily available to Parcel I. Water for Parcel I will be provided by a well, and on-site sewage disposal will be provided by a septic tank/drainfield system.

4. Vicinity Information:

- A. The subject 36 acre lot is zoned EFU as are properties to the west and south. The north property line abutts the MUF-19 district and the east line abutts RR (five acre minimum lot size). The subject area proposed for MUF -19 zoning is contiguous to that zoning designation.
- B. NW Old Germantown Road intersects with NW Germantown Road 150 feet from the southwest corner of the subject property. The city boundary of Portland is one-half mile to the north. Washington County is one-quarter mile to the south.
- C. The EFU zoned parcels near the subject site are mostly cleared of forest and are in some type of cultivation or pasture. A majority of the MUF-19 land to the north has been cleared of trees and is quite open compared to the thick forest growth on the portion of the subject site proposed for rezoning.

5. Ordinance Considerations:

- A. MCC 11.05.290 specifies factors to consider in review of a quasi-judicial plan revision. MCC 11.05.120(B) classifies the proposed amendment as quasi-judicial since no Compre-

hensive Plan Policy amendments are proposed. It must be demonstrated that the revision is:

- (1) Consistent with standards in MCC 11.05.180 (LCDC goals);
- (2) In the public interest; and
- (3) In compliance with applicable elements of the Comprehensive Plan.

B. MCC 11.15.8230(D) lists approval criteria for a change of zoning classification. It must be demonstrated that:

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

6. Compliance with Ordinance Criteria:

A. In the public interest:

The proposal to divide and rezone this property is expressly intended to increase the agricultural and timber productivity of the land. The very intent of Goals 3 and 4 is to preserve resource lands for the continued production of farm and forest products, respectively. Under this proposal both of these objectives will be obtained.

Proposed Parcel I seems to fit perfectly with the Policy 12 (Multiple Use Forest Area) criteria. The second paragraph of the "Introduction" states: "The intent of this classification is to encourage small wood lot management, forestry, reforestation and agriculture." This proposal serves the public interest since it conforms to this intent statement.

Rezoning Parcel I to MUF-19 in no way affects the agricultural potential of Parcel II. The purpose of the Agricultural Land Area Classification under Policy 9 is to preserve the best agricultural lands from inappropriate and incompatible development. Parcel II will be preserved for agricultural use and still be free from incompatible development under this proposal.

7. Comprehensive Plan Policies:

A. Policy No. 9, Agricultural Land Area:

Introduction

The purpose of the Agricultural Land Area Classification is to preserve the best agricultural lands from inappropriate and incompatible development and to preserve the essential environmental characteristics and economic value of these areas.

The intent of this classification is to establish these areas for exclusive farm use with farm use and the growing and harvesting of timber as primary uses.

Policy: The County's policy is to designate and maintain as exclusive agricultural, land areas which are:

- A. Predominantly agricultural soil capability I, II, III, and IV, as defined by U.S. Soil Conservation Service;
- B. Of parcel sizes suitable for commercial agriculture;
- C. In predominantly commercial agricultural use; and
- D. Other areas, predominantly surrounded by commercial agricultural lands, which are necessary to permit farm practices to be undertaken on these adjacent lands.

(1) Applicant's Response:

The areas that are best suited for agriculture based on historical use, current use, soils, topography, slope orientation, elevation, degree heating days and minimal erosion potential are utilized for commercial agriculture. All of the land in this ownership utilized for agriculture will continue to be used for that purpose, with the exception of the 3.93 acre area of Parcel I presently planted in Christmas trees which shall be reforested in order to check excessive erosion in that area.

The county was correct in designating proposed Parcel II for agriculture based on the plan policies. The proposal to change the zoning on Parcel I to Multiple Use Forest (MUF-19) and divide off Parcel II still conforms with policies 9 A. through E. The two proposed parcels in this case are separated by an existing county road. Proposed Parcel II will still be bounded on the south by land under cultivation which is zoned for exclusive farm use.

The area comprising Parcel I should have more appropriately been zoned for forest use based upon the following factors:

1. *The bulk of this Parcel has always been in timber production.*
2. *The higher average elevation of this parcel with respect to Parcel II.*
3. *The steep and irregular orientation of the slopes preclude any type of mechanized agriculture.*
4. *Inspection of the site by a licensed forester on a micro level has shown this parcel to have a site index of 107 (based on a 50 year growth cycle); making it very well suited for timber production.*
5. *The history of erosion problems associated with that portion of the parcel in Christmas tree production indicates it would be better suited from a soils standpoint for forestry uses.*

Staff Comment: The proposed zone change would leave the 21.75 acres southeast of NW Germantown Road as a separate EFU zoned lot. To determine if this size of parcel was atypical of other EFU zoned parcels, a count of other EFU parcels in Sections 5, 8, 9 and 16 (1N1W) was completed. In those sections there are 36 parcels with that zoning with a total area of 813.82 acres. Using those figures, the average size of EFU lots in the vicinity of the subject site is 22.61 acres. Therefore, the 21.75 acre lot that would result from the proposed action would not seem to be an uncommon parcel size for the existing farm practices in that area of Multnomah County.

Policy 9E allows in some circumstances the zoning of non-agricultural areas as EFU lands. However, due to the abutting fairly heavily traveled road (NW Germantown Road) it is not necessary to zone this property EFU "to permit farm practices to be undertaken on these adjacent lands".

B. Policy No. 12, Multiple Use Forest Areas:

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, limited service commercial, extractive industries and cottage industries may also be allowed.

Policy: The County's policy is to designate and maintain as Multiple Use Forest, land areas which are:

- A. Predominately 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 Predominately Commercial Ownerships;
- 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.

(1) Applicant's Response:

The proposed division and rezoning of Parcel I conforms very closely with the intent statement of policy 12. Furthermore, this proposal conforms point by point with policies A through D as follows:

- A. *The soils identified in the Soil Survey for Multnomah County, Oregon are predominantly in Forest Site Class II.*
- B. *Parcel I is a small parcel in private ownership and is highly suitable for forest use and small wood lot management.*
- C. *The subject parcel has rural services such as paved road access, electricity, and telephone. In addition, the property is capable of supporting a well (based on well log records from the Oregon Department of Water Resources) and septic drain fields (based on soils data from the Soil Survey for Multnomah County, Oregon).*
- D. *The subject parcel is sufficiently steep to require watershed protection. This has been evidenced by the excessive erosion tree production, as opposed to the forested area where soil conditions have remained stable. Parcel I should be maintained and encouraged for forest use instead of being utilized for farm use based on*

the current EFU zoning.

Staff Comment: The applicant has prepared a forest management plan for the area proposed to be zoned MUF-19. The plan is not a criteria of approval for the zone change but is supporting evidence of the properties forest producing capacity. The plan includes two different stand areas:

1. A 10.36 acre area with a stand composition of 93.9% Douglas Fir and 6.1% Maple. The age of the Douglas Fir is 50-80 years and the Site Index is 107. The Initial harvest in 1991 would be 55 trees.
2. A 3.93 acre area of over 2,000 Christmas Trees.

A site preparation, stocking survey, and replanting plan schedule was also submitted.

C. Policy No. 13, Air, Water, and Noise Quality:

Air, water and noise pollution are minimal on the subject property with the exception of jet aircraft leaving Portland International Airport.

The proposed use of proposed Parcel I for timber management and Parcel II for agriculture support air and water quality parameters.

The greatest potential threat to water quality would be ground water pollution from any future septic system on proposed Parcel I. The predominant soil series, Cascade Silt Loam (7B & 7C) have a seasonal high water table perched on fragipan. The fragipan ranges from 20-30 inches in depth. Either a cap and fill or sand filter septic system may have to be installed in order to prevent septic system failure.

Any subsequent resource dwellings should be sensitively placed to minimize soil erosion and take advantage of optimum siting for septic tanks. This proposal substantially complies with this plan policy.

D. Policy No. 14, Development Limitations:

Despite the fact that the property increases in general from south to north, the slopes are fairly uniform. Slopes exceeding 20 percent are isolated in small pockets. The hazard of erosion is rated as "moderate" in the S.C.S. soil manuals with the exception of an area in the northwest corner of Parcel I, an area on the easterly side of Parcel I bordering NW Germantown Road, and an area in the southwestern portion of Parcel II.

Seasonally high water tables are present on both parcels. Water tables are in the 18-30 inch range. The farm dwelling on Parcel II is served by an existing septic tank/drainfield. A septic tank/drainfield on Parcel I would have to

be designed so that it would not fail during winter wet periods.

The depth to fragipan is 20 -30 inches where the Cascade Silt Loam is located. This means that both parcels have shallow depth to fragipan. Any roads, septic tank/drainfields and home sites would have to be designed to mitigate any potential adverse impacts.

Overall, any proposal for development on these parcels could be accommodated as long as the limitations are considered during the design phase. Both Parcels have a moderately severe problem with shallow soils and seasonal wetness; however, with proper design and drainage any potential adverse impacts can be overcome.

E. Policy No. 16, Natural Resources:

The subject property is unquestionably a wildlife habitat area. The wild life habitat area basically encompasses all of Parcel I and the major portions of the undeveloped areas of Parcel II. Any proposal to develop this property would at most result in only one forest related dwelling unit on Parcel I in addition to the existing farm dwelling unit on Parcel II. The existing farm uses on Parcel II for Christmas tree and hay production are compatible with wildlife habitat requirements. The existing and proposed forest use of Parcel I is compatible with wildlife habitat requirements.

In summary, the existing and proposed uses of the property substantially conform to this goal.

F. Policy No. 22, Energy Conservation:

This policy has limited application to this property. The development of energy-efficient land use practices is the major point of concern with respect to this proposal. Any increase in density would be for the purpose of managing the resource base for farm and forest uses.

G. Policy No. 37, Utilities:

The subject property will place a relatively low demand on utility services since the zoning would only allow one additional dwelling. Paved road access, electrical power, and telephone are available to the site. However, sanitary sewer, storm sewer, and domestic water are unavailable. Sewage disposal will have to be provided by a septic tank, and water will be from wells.

Drainage is not a problem now. When the driveway and additional resource dwelling is constructed drainage will have to be considered. The potential for modifying rainfall/runoff rates and volumes will come primarily from the

proposed driveway entering Parcel I from the eastern boundary along NW Germantown Road (not so much from a potential homes site). The proposed driveway will be designed so as to minimize accelerated runoff. Rapid runoff would erode or undercut the road unless the speed of the runoff is arrested.

In summary, the property can be served by utilities with out placing a heavy demand on public services or the local environment. Proper drainage will be required during driveway construction to protect the integrity of the driveway and to protect downhill residences and county ditches.

H. Policy No. 38, Facilities:

The subject property is currently in a fire protection district (see General Application). Any proposal to locate a resource dwelling on Parcel I will take into account fire protection considerations. Any dwelling unit will have setbacks from timber harvesting areas, and fire fuel (such as low brush vegetation) will be removed from around the buildings.

The property is located in the Portland School District, and the General Application provides for their being contacted about this proposal. The impact of this proposal will be difficult to weigh until such time that an actual demand is placed on the system.

Staff Comment: The public facilities of the area should be adequate.

I. Summary of Conformance with Comprehensive Plan Policies:

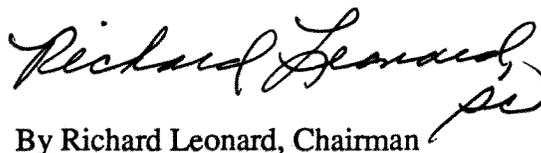
This proposal substantially conforms with all the applicable policy standards of the Multnomah County Plan. Any potential adverse impacts from anticipated development can be mitigated. Sensitive placement of homes, buildings, and driveways will help satisfy policy requirements for reducing environmental impact.

The provision of utilities and public facilities to the subject property is favorable. The net increase in potential dwelling units is only one; not enough to strain public facilities and services.

8. Conclusions:

- A. The proposed plan amendment and zone change satisfies the applicable approval criteria.
- B. Conditions of approval are necessary to assure site development is consistent with comprehensive plan policies and implementing regulations.

Signed June 3, 1991



By Richard Leonard, Chairman

Filed With the Clerk of the Board on June 13, 1991

Appeal to the Board of County Commissioners

Any person who appears and testifies at the Planning Commission hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or before 4:30 p.m. on Monday, June 24, 1991 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

The Decision on this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, June 25, 1991 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development Division at 248-3043.

Planning Commission Continuance Data

For

PR 4-91/ZC 4-91

PROPOSED COMPREHENSIVE PLAN AMENDMENT
AND ZONE CHANGE

Owner:

Andy Huserick

Location:

Township 1N, Range 1W, Section 8, Tax Lot 20
Multnomah County, Oregon

Applicants:

Andy Huserik (owner)
14715 NW Old Germantown Rd.
Portland, OR 97231

and
Ken Larson (Representative)
9321 NW Old Skyline Blvd.
Portland, OR 97231

Background

This document submits additional information to the Multnomah County Planning Commission in support of an application by Andy Huserik to:

1. divide a 36.04 acre parcel known as Tax Lot 20, Township 1N, Range 1W, Section 8, Multnomah County, Oregon into two parcels of 14.29 acres (Parcel I) and 21.75 acres (Parcel II). Parcel I is designated as that area of Tax Lot 20 lying north and west of NW Germantown Road and Parcel II contains the remaining area of Tax Lot 20 which lies south and east of NW Germantown Road.

2. change the Comprehensive Plan Designation for Parcel I from Agriculture to Forestry.

3. change the zoning for Parcel I from Exclusive Farm Use (EFU) to Multiple Use Forestry-19 (MUF-19).

Purpose:

To show how this proposal conforms with the Multnomah County Comprehensive Plan, how this proposal is in the public interest and that a public need for the change exists. This is based on proof of a change in the neighborhood and a mistake in the planning and zoning for this property.

Comprehensive Plan Policy 2, Off-Site Impact

Public safety, as well as forest and farming practices, have been greatly impacted by the designation of this property as EFU. Due to the heavy traffic on NW Germantown Road and the character of the road bordering the property it has become impossible to move equipment safely between Parcels I and II.

Based on traffic studies obtained from Multnomah County Traffic Engineering (see attached traffic studies dated June 9, 1987 and June 12, 1990) it has been determined that traffic on NW Germantown Road in the vicinity of the subject property has more than doubled since the acknowledgment and acceptance of the Comprehensive Plan in 1980 by LCDC, which established the current zoning. Actual figures for June of 1990 show the annual average daily traffic flow to be 2170 vehicles per day. Annual average traffic flow for 1991 is projected to be 2314 vehicles per day. Average annual traffic flow in 1980 is calculated to have been 1142 vehicles per day.

The character of the road in this vicinity makes movement of heavy slow moving equipment such as tractors and bulldozers between Parcels I and II especially hazardous. The road has numerous curves which limit sight distances, and grades in excess of 10 to 15 percent which greatly increase braking distances. These factors combined with the relatively heavy traffic flows have created this hazardous situation.

Rezoning Parcel I as MUF would create a lot of record which would be eligible for a resource related dwelling. A resource related dwelling on Parcel I would eliminate the need to move farm and forest related equipment between Parcels I and II since all equipment necessary to manage the small woodlot proposed for Parcel I would be kept on Parcel I. This would eliminate the safety hazard while still keeping the this property as a forest resource, as

it historically has been.

Comprehensive Plan Policy 9, Agricultural Land Area

A mistake was made in designating Parcel I for exclusive farm use based upon historical use, the erosion potential of the soils and the impact of NW Germantown Road.

The Agricultural Soil Capability for the soils on this parcel are designated as III and IV (which is in keeping with the requirements of Policy 9), but the agricultural erosion potential remains high. Over two thirds of Parcel I has slopes in excess of 8%, causing it to be defined as "highly erodible land" by the USDA Soil Conservation Service. While erosion is not specifically addressed in Policy 9, it is addressed in Policy 12, paragraph D.1. Areas subject to erosion are specifically recommended for designation as Multiple Use Forest under Policy 12.

Historically, the majority of Parcel I (72%) has been in timber production since 1907. Conversion to Multiple Use Forest will not effect agricultural practices on neighboring properties, to the west and to the south, which are currently zoned EFU (Exclusive Farm Use).

Public safety, as well as forest and farming practices, have been greatly impacted by the designation of this property as EFU. Due to the heavy traffic on NW Germantown Road and the character of the road boarding the property it has become impossible to move equipment safely between Parcels I and II.

Policy 9, paragraph D. specifically states that it is the County's policy to designate and maintain as Exclusive Agricultural, land areas which are not impacted by urban services. An arterial road such as NW Germantown provides a dedicated urban service due to the fact that the majority of traffic on this road is commuter traffic moving between residential areas in the Tualatin valley and the urban industrial areas of Multnomah County. It should be noted that urban service impacts are not a criteria required to be considered in the designation of land as Multiple Use Forest under Policy 12.

Comprehensive Plan Policy 12, Multiple Use Forest Area

The proposed division and rezoning of Parcel I conforms very closely with the intent statement of policy 12. Furthermore, this proposal conforms point by point with policies A through D as follows:

- A. The soils identified in the Soil Survey for Multnomah County, Oregon are predominantly in Forest Site Class II.
- B. Parcel I is a small parcel in private ownership and is highly suitable for forest use and small wood lot management.
- C. The subject parcel has rural services such as paved road access, electricity, and telephone. In addition, the property is capable of supporting a well (based on well log records from the Oregon Department of Water Resources) and septic drain fields (based on soils data from the Soil Survey for Multnomah County, Oregon).
- D. The subject parcel is sufficiently steep to require watershed

protection. This has been evidenced by the excessive erosion experience in that area of the subject parcel presently in Christmas tree production, as opposed to the forested area where soil conditions have remained stable. Parcel I should be maintained and encouraged for forest use instead of being utilized for farm use based on the current EFU zoning.

Note: Paragraph D. of Policy 12 states that it is the County's policy to designate and maintain as Multiple Use Forest areas which are subject to erosion. Over two thirds of Parcel I is cascade silt loam series soils with slopes in excess of 8%, causing them to be classified as "highly erodible land (HEL)" by the USDA Soil Conservation Service (see attached letter from Peggy A. Olds, District Conservationist to Andy Huserick). This policy statement is very explicit, but appears not to have been applied as it should have when this property was rezoned in 1980.

Description of How Proposal is in the Public Interest

The following statement is in addition to statements previously made in applicants initial application presented to the County Planning Commission on May 6th, 1991:

This proposal promotes public safety by keeping farm and forest related equipment off a hazardous stretch of roadway. At the same it allows Parcel I to be preserved as a resource land for maximum forest productivity.

Previous Precedents:

A Comprehensive Plan Amendment and Zone Change were granted for conversion of 2 parcels from EFU to MUF-19 while creating a third substandard EFU parcel. This approval was granted in 1990 for land described as T1N, R1W, Section 5, Tax Lots 5,6 and 7. The property had soils predominantly of the same soils series as the subject property and all soils had Soil Capability ratings of III and IV, as does the subject property, with the exception of less than an acre which was rated as VI. Arguments for acceptance of that proposal were the same as presented in this proposal, with the exception of the safety concerns involving movement of farm and forest related equipment across Germantown Road.

A copy of the Planning Commissions decision regarding that president setting application will be made available to the Commissioners at the June 3rd, 1991 meeting.

Summary of Conformance with Comprehensive Plan Policies

This proposal substantially conforms with all the applicable policy standards of the Multnomah County Plan. Any potential adverse impacts from anticipated development can be mitigated. Sensitive placement of homes, buildings, and driveways will help satisfy policy requirements for reducing environmental impact.

The provision of utilities and public facilities to the subject property is favorable. The net increase in potential dwelling units is only one; not enough to strain public facilities and services.

Road Counted: NW Germantown Rd
 Reference: W of NW Old Germantown Rd

Date: 06/12/90
 Starting Date: 06/07/90
 Starting Time: 12:00 AM
 Date of Count: 06/07/90
 Day: THURSDAY

Direction: Type: Machine #
 1 EB MC 6
 2 WB MC 6

	Eastbound					Westbound					Hourly Total	Both	
	PERIOD	15min	30min	45min	60min	Hourly Total	15min	30min	45min	60min			
	12:00 AM	4	0	3	2	9	4	6	3	4	17	26	
	01:00 AM	0	0	0	0	0	2	3	0	1	6	6	
E	02:00 AM	1	1	0	0	2	1	2	0	1	4	6	
N	03:00 AM	2	0	2	0	4	2	0	1	2	5	9	
D	04:00 AM	1	1	8	2	12	1	3	0	0	4	16	
	05:00 AM	3	8	16	14	41	3	4	5	8	20	61	
D	06:00 AM	18	33	41	34	126	4	11	6	8	29	155	
F	07:00 AM	60	68	94	51	273	14	19	17	11	61	334	
	08:00 AM	28	8	20	10	66	12	7	11	7	37	103	
P	09:00 AM	15	16	11	17	59	16	5	7	12	40	99	
E	10:00 AM	16	13	12	12	53	9	11	4	11	35	88	
R	11:00 AM	9	12	15	8	44	14	9	9	14	46	90	
I	12:00 PM	10	11	11	17	49	10	6	13	14	43	92	
D	01:00 PM	17	17	13	18	65	14	14	11	15	54	119	
D	02:00 PM	22	17	15	21	75	15	18	12	20	65	140	
	03:00 PM	11	16	13	17	57	18	11	14	19	62	119	
C	04:00 PM	22	18	27	16	83	13	18	19	30	80	163	
D	05:00 PM	23	20	22	14	79	41	98	138	100	377	456	
U	06:00 PM	19	10	12	8	49	39	23	20	15	97	146	
N	07:00 PM	9	4	7	10	30	19	10	8	10	47	77	
T	08:00 PM	4	4	5	4	17	3	11	3	8	25	42	
S	09:00 PM	6	3	4	5	18	7	2	5	6	20	38	
	10:00 PM	9	8	7	2	26	7	5	4	3	19	45	
	11:00 PM	5	3	3	1	12	2	3	6	8	19	31	
DAILY TRAFFIC VOLUMES						1249						1212	2461
ANNUAL AVERAGE DAILY TRAFFIC						1100						1070	2170 ✓

MORNING PEAKS

EVENING PEAKS

	PERIOD	EB	WB	BOTH		PERIOD	EB	WB	BOTH
15	07:45 AM	94			15	04:45 PM	27		
MINUTE	07:30 AM		19		MINUTE	05:45 PM		138	
PEAK	07:45 AM			111	PEAK	05:45 PM			160
PEAK	08:00 AM	273			PEAK	05:30 PM	86		
HOUR	08:00 AM		61		HOUR	06:00 PM		377	
	08:00 AM			334		06:00 PM			456

PEAK HOUR FACTORS

PHF	0.726	0.803	0.752	0.796	0.683	0.713
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Road Counted: Germantown Rd.
 Reference: W. of Old Germantown Rd.

Date: 06/09/87

E 2

Date of Count: 05/19/87

1 Direction Counted: EB 1 Type of Counter: S-R
 2 Direction Counted: WB 2 Type of Counter: S-R

Day: TUESDAY

INPUT COUNTS

HOURLY SUMMARY

PERIOD 1 2 EB WB BOTH

MORNING PEAKS

PERIOD	1	2	EB	WB	BOTH
06:15 AM	0	3	0	0	0
06:30 AM	0	6	0	0	0
06:45 AM	0	11	0	0	0
07:00 AM	106	18	106	18	124
07:15 AM	0	10	0	0	0
07:30 AM	0	25	0	0	0
07:45 AM	0	38	0	0	0
08:00 AM	182	44	182	44	226
08:15 AM	0	7	0	0	0
08:30 AM	0	18	0	0	0
08:45 AM	0	23	0	0	0
09:00 AM	68	32	68	32	100
10:00 AM	39	26	39	26	65
11:00 AM	31	22	31	22	53
12:00 PM	27	26	27	26	53
01:00 PM	25	30	25	30	55
02:00 PM	32	40	32	40	72
03:00 PM	82	47	82	47	129
04:00 PM	57	103	57	103	160

PERIOD	EB	WB	BOTH
15 MINUTE 08:00 AM	182	44	226
PEAK			
08:00 AM	182	44	226
HOURLY			

EVENING PEAKS

PERIOD	1	2	EB	WB	BOTH
04:15 PM	0	26	0	0	0
04:30 PM	0	63	0	0	0
04:45 PM	0	98	0	0	0
05:00 PM	46	145	46	145	191
05:15 PM	0	50	0	0	0
05:30 PM	0	92	0	0	0
05:45 PM	0	132	0	0	0
06:00 PM	46	168	46	168	214
06:15 PM	0	22	0	0	0
06:30 PM	0	41	0	0	0
06:45 PM	0	56	0	0	0
07:00 PM	32	68	32	68	100
08:00 PM	23	36	23	36	59
09:00 PM	21	30	21	30	51
10:00 PM	26	20	26	20	46
11:00 PM	15	17	15	17	32
12:00 AM	7	12	7	12	19
01:00 AM	3	13	3	13	16
02:00 AM	1	3	1	3	4
03:00 AM	1	4	1	4	5
04:00 AM	2	4	2	4	6
05:00 AM	5	7	5	7	12
06:00 AM	28	8	28	8	36

PERIOD	EB	WB	BOTH
15 MINUTE 05:00 PM	46	47	93
PEAK			
05:45 PM	46	179	225
HOURLY			

PEAK HOUR FACTORS

PERIOD	1	2	EB	WB	BOTH
01:00 AM	3	13	3	13	16
02:00 AM	1	3	1	3	4
03:00 AM	1	4	1	4	5
04:00 AM	2	4	2	4	6
05:00 AM	5	7	5	7	12
06:00 AM	28	8	28	8	36

	EB	WB
P		
H	0.25	1.39
F		

DAILY TRAFFIC VOLUMES 905 923 1828

WEEKLY AVERAGE DAILY TRAFFIC 890 900 1790 ✓



May 23, 1991

Andy Huserick
14715 NW Old Germantown Road
Portland, OR 97231

Dear Andy,

At the request of your consultant, Mr. Ken Larson, I have been asked to comment on the suitability of the soils on your property for forest uses and agricultural uses, and the effects of annually planting a crop(s) on these same soils. The property in question is located in Section 8 of T1N, R1W.

The soils on this site are mapped predominantly Cascade silt loam, with slopes ranging from 3-30%. The Cascade is a deep, somewhat poorly drained soil, which is underlain by a fragipan layer at approximately 27-30 inches on undisturbed sites. The fragipan restricts water movement and root development below this level, and causes a perched water table at a depth of 18-30 inches from December to April.

The Cascade soils are frequently used for both agricultural and forestry uses. Cascade silt loam (7B) at the 3-8% slope phase is considered a prime farmland soil if drained. It is suited to growing most climatically adapted crops of this region with a proper drainage system installed. The Cascade soil at the other slope phases (greater than 8%) are not considered prime farmland, and in fact are classified highly erodible land (HEL) for Food Security Act purposes. These soils are subject to significant erosion if annually tilled and left without adequate cover during critical rain periods. This mapping unit is generally not farmed when slope exceeds 10-12% on a field.

The Cascade series is also a highly productive soil for forestry uses. Most common forest management hazards are rated slight to moderate at all slopes except those exceeding 30%. Site index is a common expression of site quality for forestland soils. It is the average height dominant and co-dominant trees on a site will attain at a key age, such as 50 or 100 years.

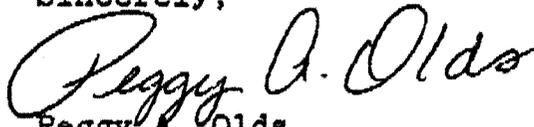


The Cascade has a site index of 157 for Douglas fir, or a site class 2, where the range of site classes is 1-7, with soils in site class 1 being the most productive. This soil is well suited for commercial timber production, Christmas tree cultivation and similar forestry-related uses.

A soils map has been made available to your consultant, which shows the mapping unit locations and gives you an idea of the acreage size of each of the Cascade soil's slope phases.

If you have any further questions, please feel free to give me a call at 231-2270.

Sincerely,



Peggy A. Olds
District Conservationist
Portland Field Office

cc: Ken Larson, Professionals 100

PR 4-91
 ZC 4-91
 Mailed
 to Ken
 Larson -
 Return to
 Planning
 Dept.



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

485.85
 245.85

NOTICE OF REVIEW

1. Name: LARSON, EUGENE, KENNETH

2. Address: 9321 NW OLD SKYLINE PORTLAND, OR 97231

3. Telephone: (503) 289 - 5191

4. If serving as a representative of other persons, list their names and addresses:
ANDY HUSERICK 14715 NW OLD GERMANTOWN RD
PORTLAND, OR 97231

5. What is the decision you wish reviewed (e.g., denial of a zone change, approval of a subdivision, etc.)?
DENIAL OF PLAN CHANGE PR 4-91
AND ZONE CHANGE ZC 4-91

6. The decision was announced by the Planning Commission on JUNE 3, 1991

7. On what grounds do you claim status as a party pursuant to MCC 11.15.8225?
REPRESENTATIVE OF APPLICANT
(ANDY HUSERICK) FOR THE PLAN AND ZONE
CHANGE LISTED IN PARAGRAPH 5, ABOVE.

43 min.
 @ 1.75
 per min /
 75.25
 + 150.00
 = 225.25
 to file

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

THE PLANNING COMMISSION MADE AN ERROR
IN ^{IT'S} DENIAL OF THE SUBJECT PLAN & ZONE
CHANGE.

9. Scope of Review (Check One):

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

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

Signed: Kenneth E. Harrison Date: 6-20-91

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

Meeting Date: June 25, 1991

Agenda No.: P-2

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM
(For Non-Budgetary Items)

SUBJECT: _____

BCC Informal _____ (date)	BCC Formal _____ (date)
DEPARTMENT <u>DES</u>	DIVISION <u>Planning</u>
CONTACT <u>Sharon Cowley</u>	TELEPHONE <u>2610</u>
PERSON(S) MAKING PRESENTATION _____	<u>Planning Staff</u>

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: 2 Minutes

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

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

LD 8-91/CU 11-91/CU 12-91 Decisions of the Planning Commission of June 3, 1991 with recommendation to the Board for approval, subject to conditions

1991 JUN 17 PM 1:51
CLERK OF BOARD OF
WASCO COUNTY
OREGON

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL _____

Or

DEPARTMENT MANAGER Paul Garbano/blw

(All accompanying documents must have required signatures)



DEPARTMENT OF ENVIRONMENTAL SERVICES
Division of Planning and Development
2115 SE Morrison Street
Portland, Oregon 97214 (503) 248-3043

Decision

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

June 3, 1991

LD 8-91, #35 Three-Lot Land Division
CU 11-91, #35 Creation of Mortgage Lot (Forest Related Residence)
CU 12-91, #35 Creation of Mortgage Lot (Resource Related Residence)

Applicant requests approval of a three-lot land division to allow the creation of a 65-acre parcel plus two 38-acre parcels in the MUF-38 zoning district, plus conditional use permits to create a Mortgage Lot on each of the two 38-acre parcels.

Location: 19875 N.W. Logie Trail Road
Legal: Tax Lot '27', Section 13, 2N-2W, 1990 Assessor's Map
Site Size: 131 acres
Site Requested: Same
Property Owner: WB and P Aitchison
 19875 NW Logie Trail Road, 97231
Applicant: Frank Walker and Associates
 PO Box 299, Monmouth, Oregon 97361
Comprehensive Plan: Multiple Use Forest
Present Zoning: MUF-38, Multiple Use Forest District. Minimum 38
 acres

PLANNING COMMISSION DECISION

- #1 **Approve** subject to conditions, the requested three lot land division
- #2 **Approve** subject to conditions, the requested Conditional Use Permit for a two-acre Mortgage Lot in the MUF-38 district on Parcel 1 on the Tentative Plan Map, all based on the following findings and conclusions
- #3 **Approve** subject to conditions, the requested Conditional Use Permit for a two-acre Mortgage Lot in the MUF-38 district on Parcel 2 on the Tentative Plan Map, all based on the following findings and conclusions

LD 8-91 / CU 11-91 / CU 12-91

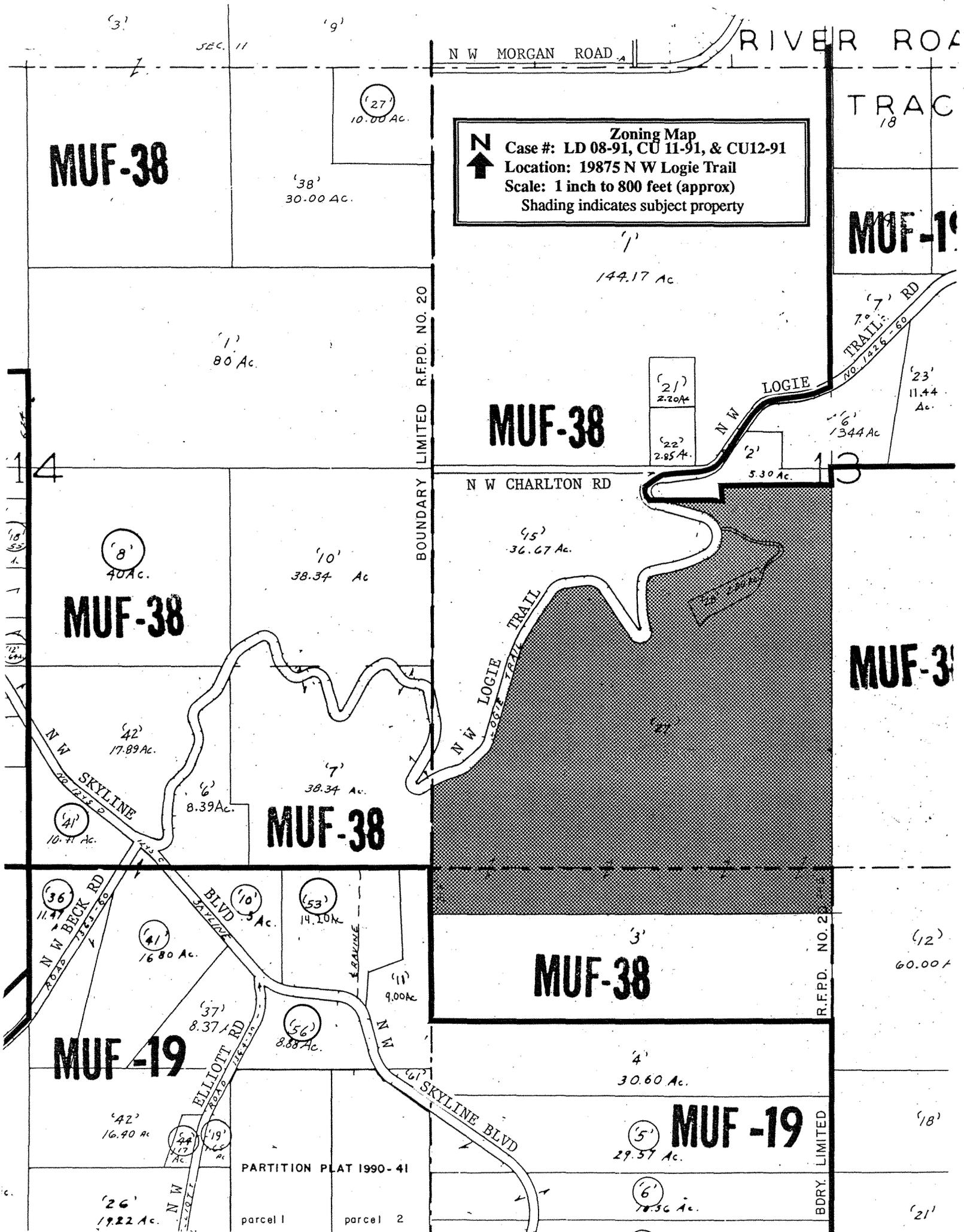
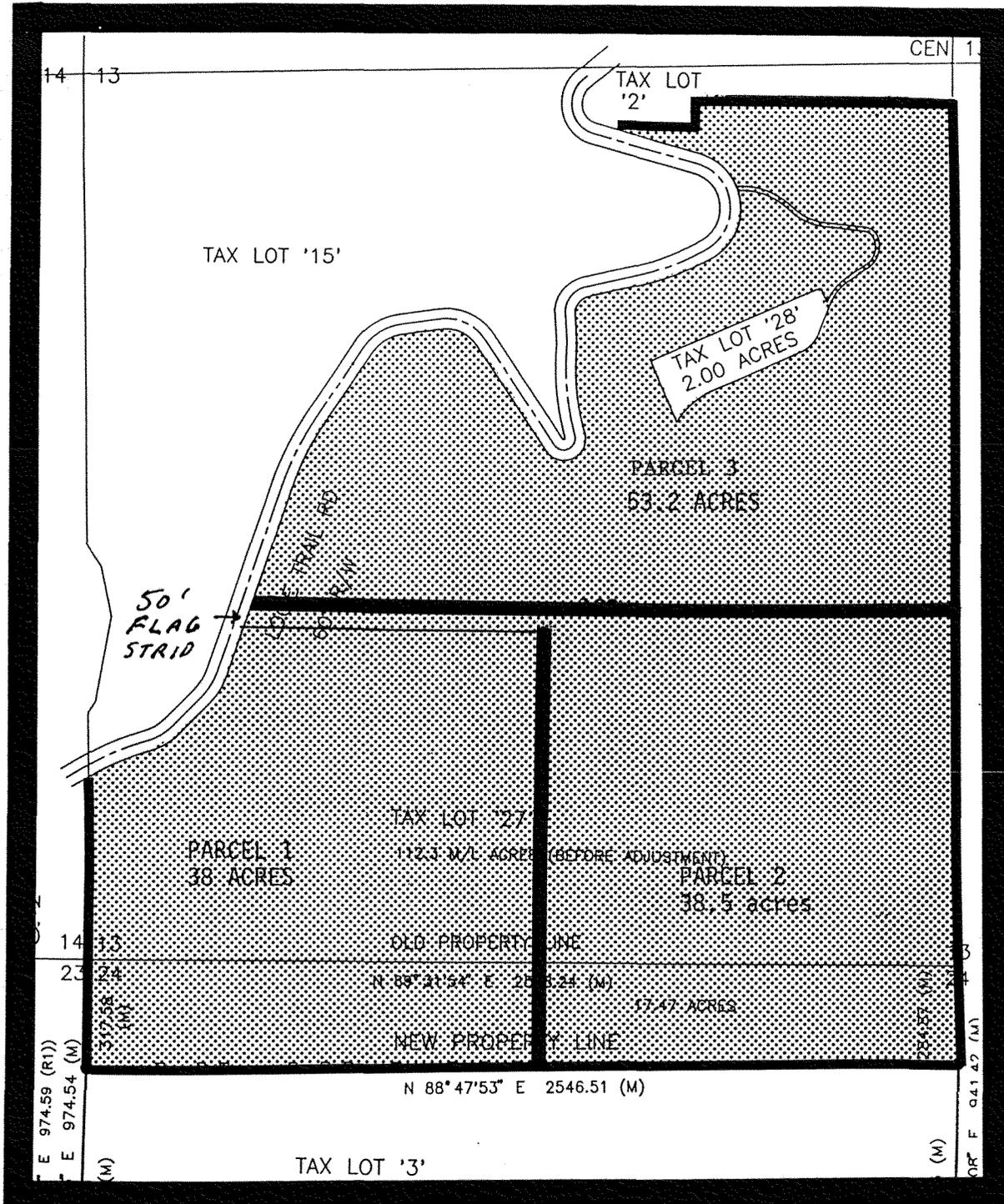


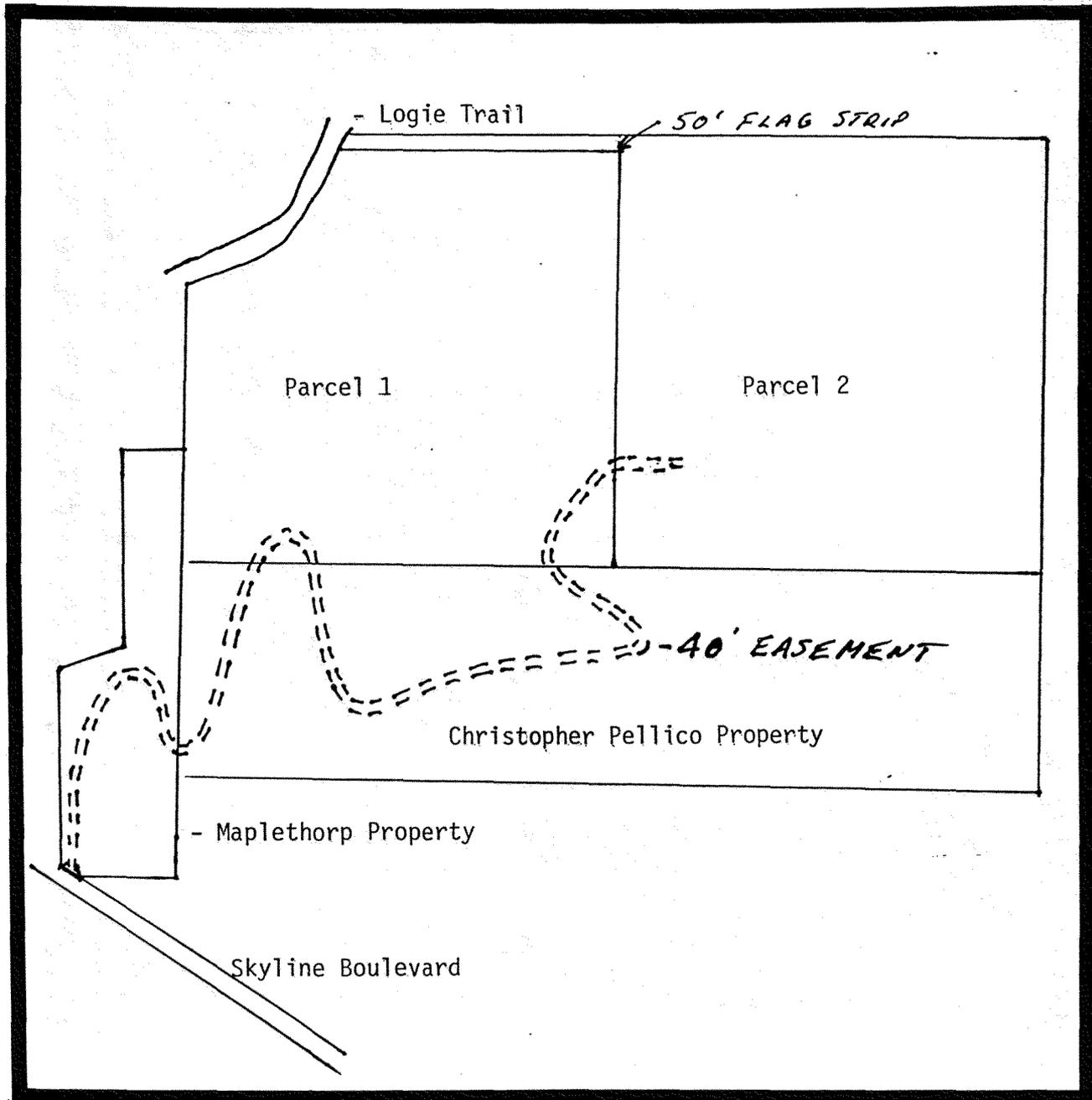
Figure 1
Subject Property



Scale 1: 5570

N

Figure 2
Existing Road Easement

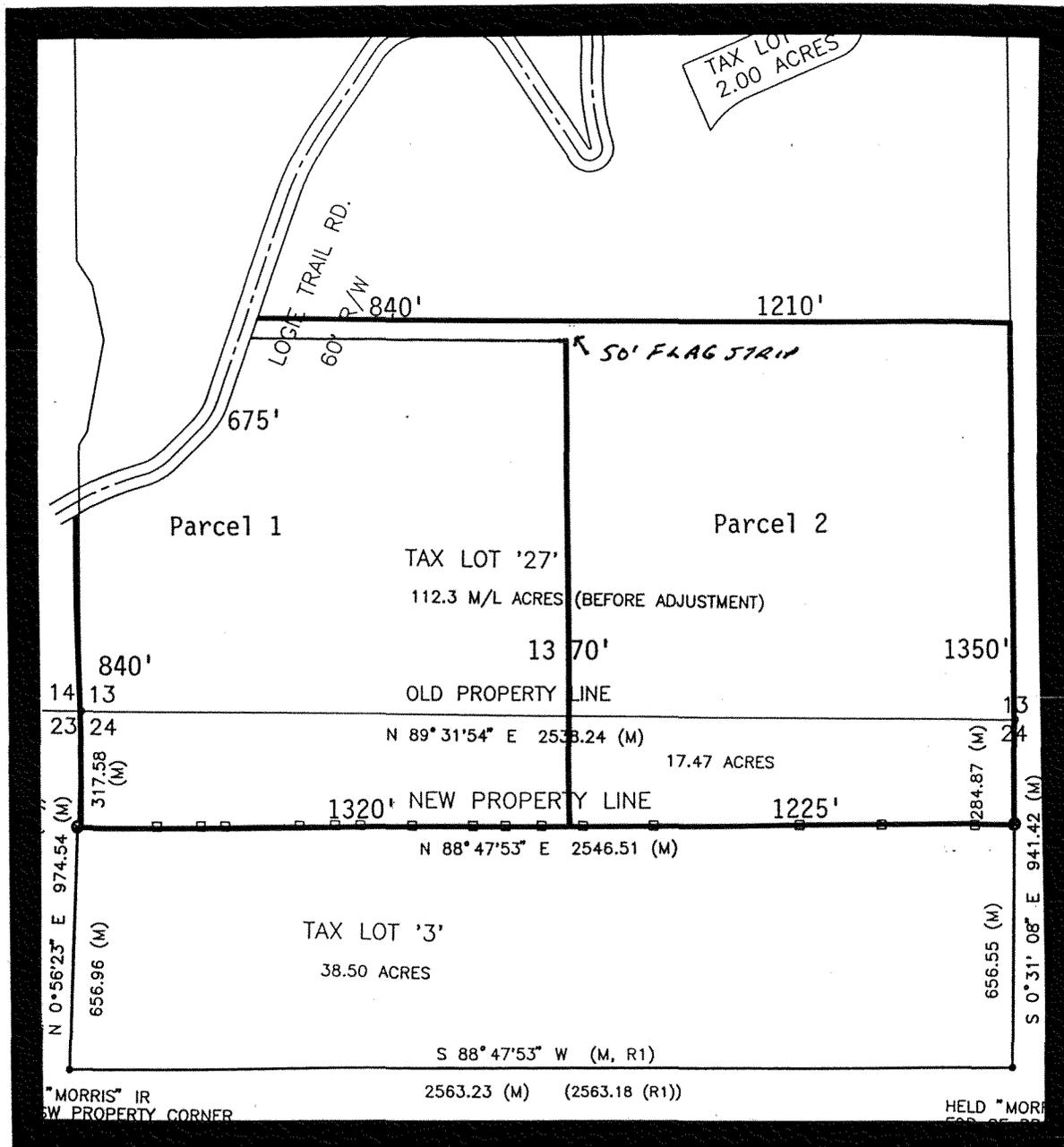


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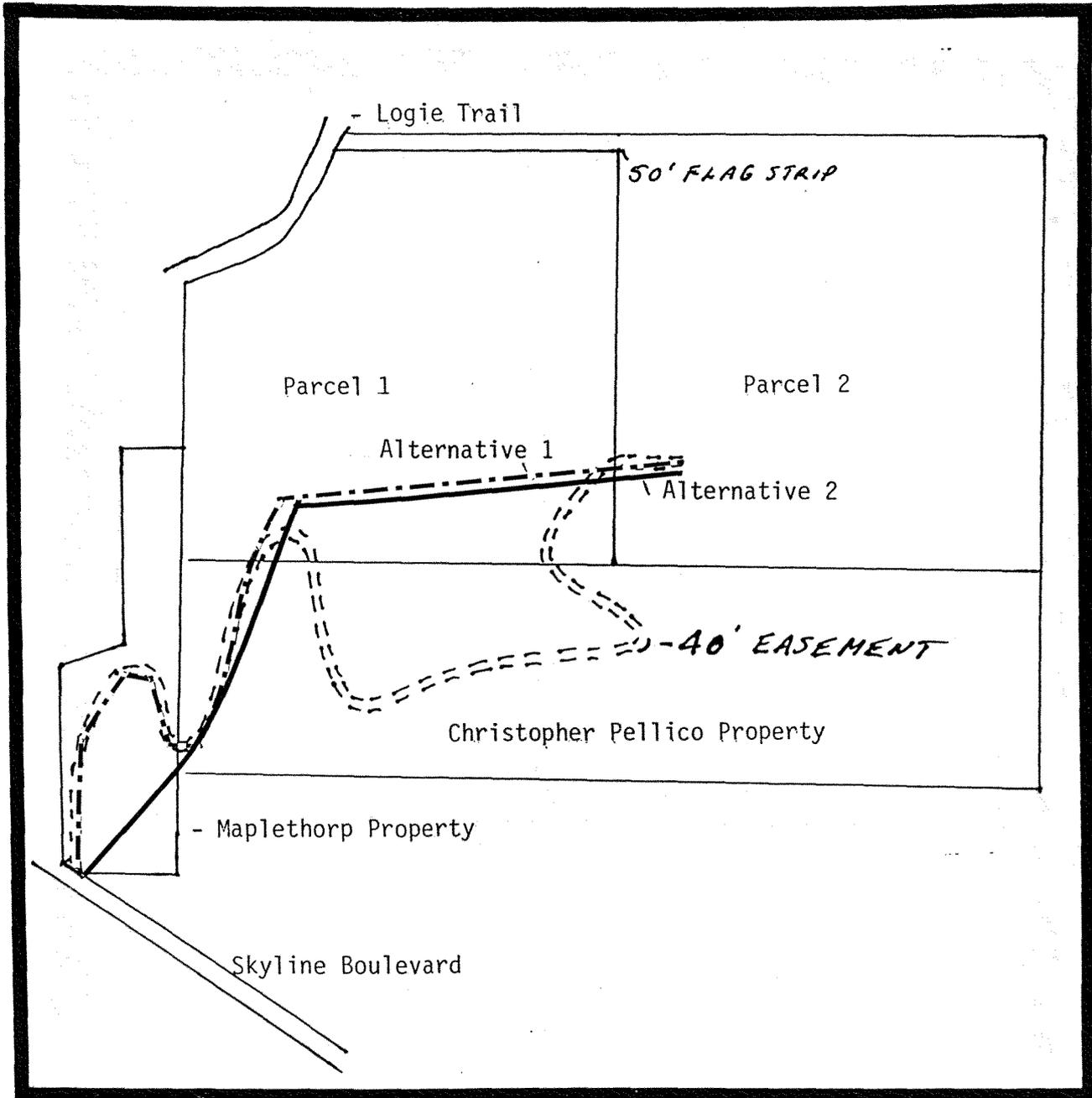
Figure 3

Proposed Parcels and Dimensions



Scale 1: 5570

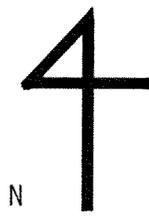
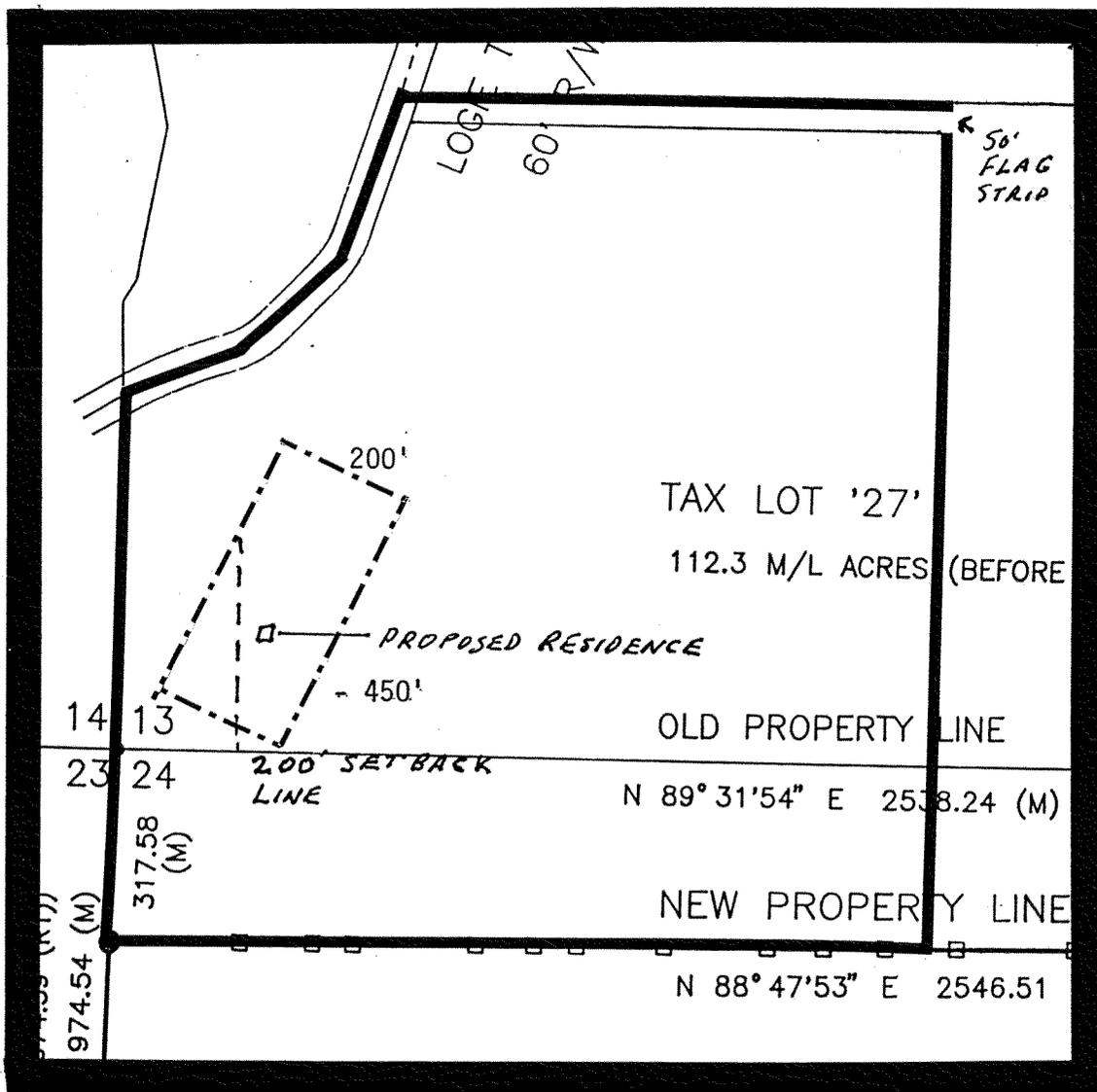
Figure 4
Proposed Power Easements



Scale 1: 5570



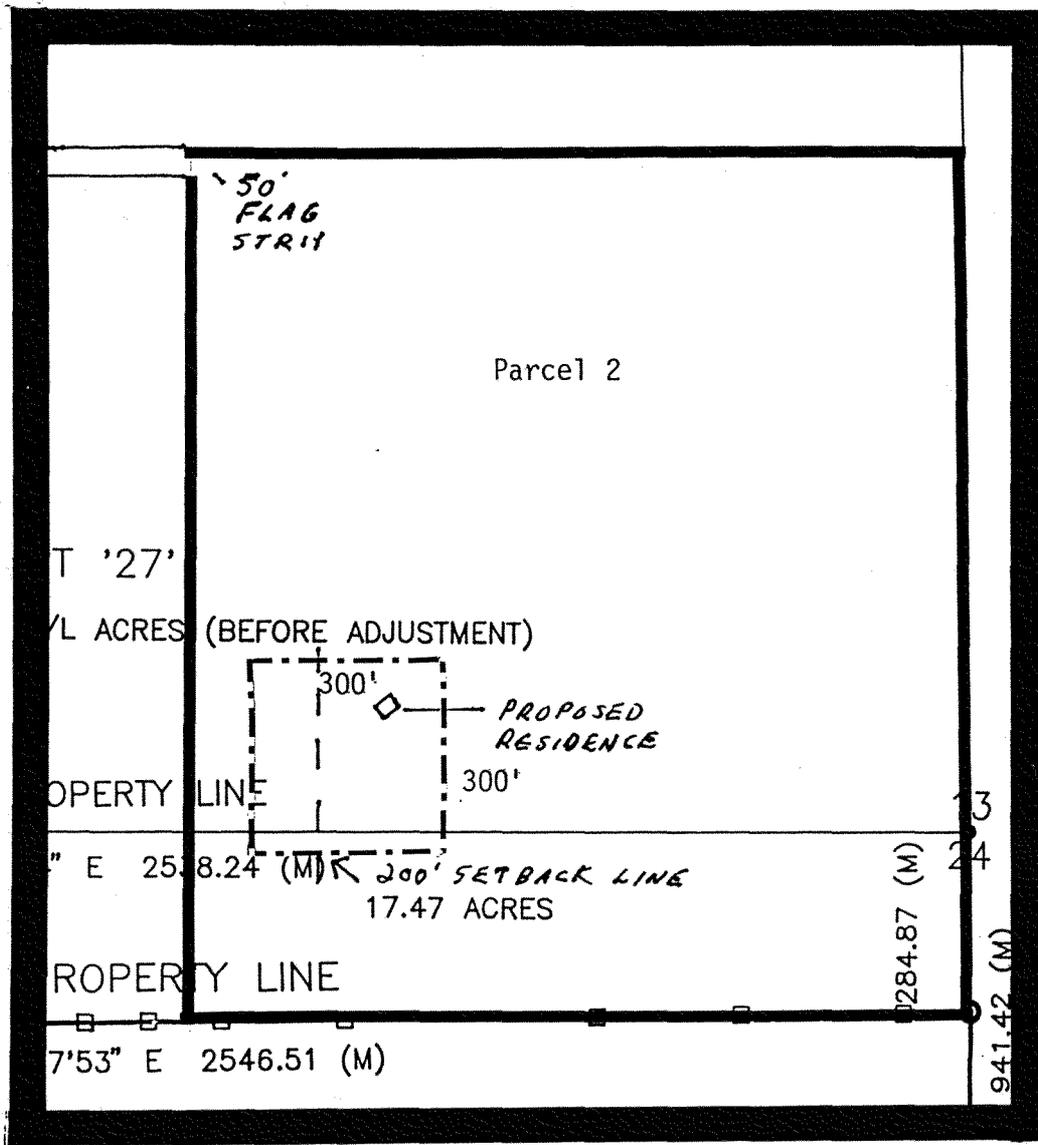
Figure 5
Mortgage Lot on Parcel 1



Scale: 1"=300'

Figure 6

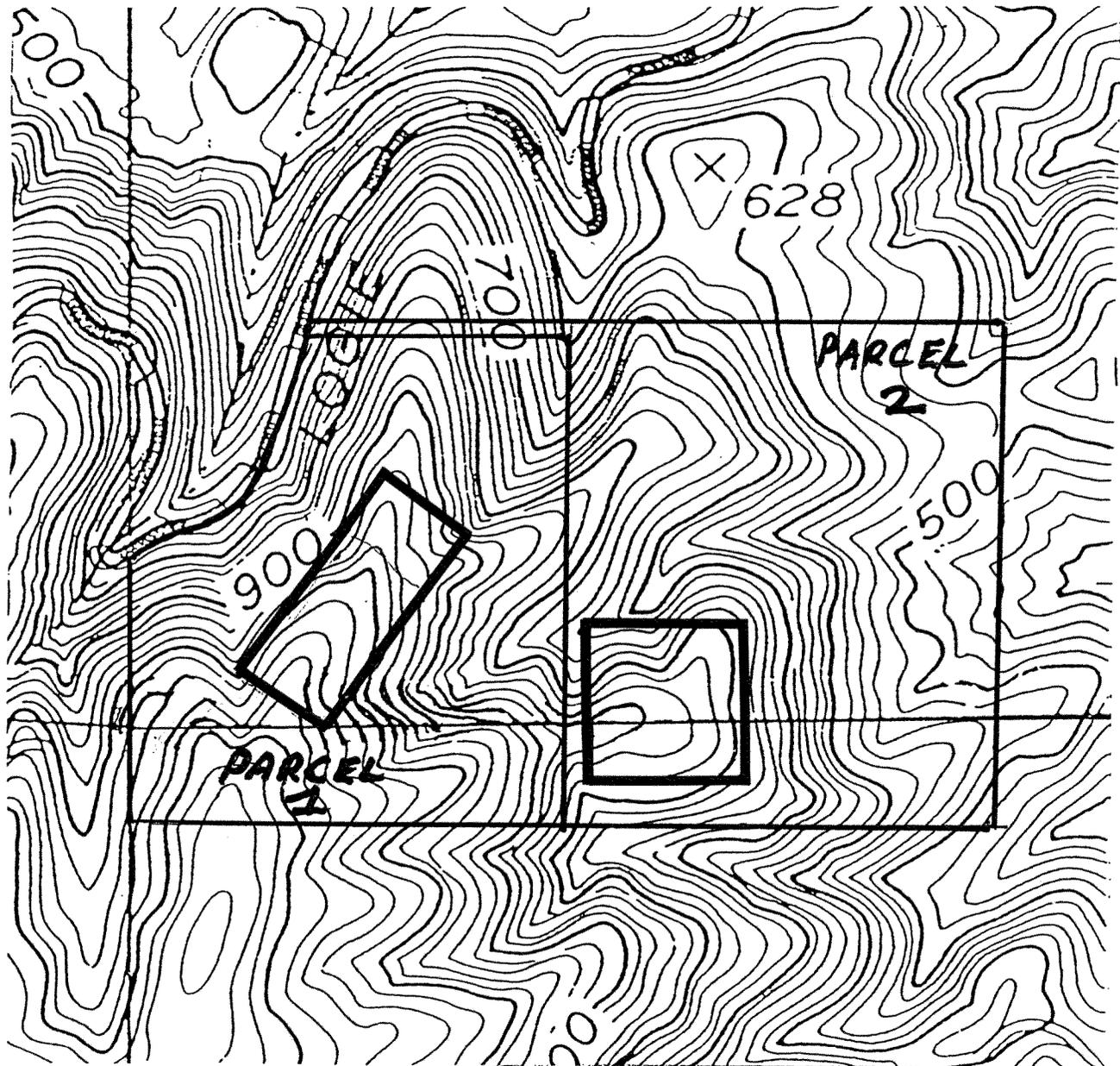
Mortgage Lot on Parcel 2



Scale 1" = 300'



Topography



Scale 1: 5760

20' CONTOUR INTERVAL

Conditions of Approval (LD 8-91)

1. Within one year of the date of this decision, deliver the final partition plat and other required attachments to the Planning and Development Division of the Department of Environmental Services in accordance with ORS Chapter 92 as amended.
Please refer to the enclosed applicant's and surveyor's *Instructions for Finishing a Type III Land Division.*
2. Prior to signing of the final partition plat, do **one** of the following:
 - A. Drill a well for Parcel 1 and Parcel 2 and provide written confirmation from the Oregon Department of Water Resources, the Oregon Department of Veterans' Affairs, or the U.S. Department of Housing and Urban Development that the wells produce water in sufficient amounts to serve a house on each parcel; **OR**
 - B. In accordance with ORS 92.090(4)(c), furnish the Planning and Development Division with a statement that no domestic water supply facilities will be provided to the purchasers of any lot in the subdivision, and file the statement with the Real Estate Commissioner of the State of Oregon."
3. Prior to recording the final partition plat, satisfy the Transportation Division requirement to commit to participate in future improvements on NW Logie Trail Road through deed restrictions. Contact Ike Azar at 248-5050 for additional information.
4. In conjunction with issuance of building permits for Parcel 1 or Parcel 2, construct on-site water retention and/or control facilities adequate to insure that surface runoff volume after development is no greater than that before development per MCC 11.45.600. Plans for the retention and/or control facilities shall be subject to approval by the County Engineer with respect to potential surface runoff on the adjoining public right-of-way.
5. Prior to issuance of building permits for the mortgage lot on either Parcel 1 or Parcel 2, apply for and obtain a Land Feasibility Study confirming the ability to use on-site sewage disposal system on the mortgage lot.
6. All land-disturbing activities shall be subject to the standards in MCC 11.15.6700—.6735. The applicable permit(s) shall be secured prior to development or clearing.
7. This land division shall be null and void unless each parcel (including the area of the Mortgage Lot within the parcel) contains at least 38 acres.
8. On the final partition plat, show an easement granting the owner of Parcels 1 and 2 the right to use the existing shared access road that connects the site with NW Skyline Boulevard. The shared access road shall be shown only as an easement and not as a separate parcel or tract.

9. Prior to signing of the final partition plat, the subject property shall be annexed to the boundaries of either Multnomah County Rural Fire Protection District No. 20 or the Scappoose Rural Fire Protection District.

Conditions of Approval (CU 11-91 & CU 12-91)

1. Prior to application for a building permit on either Mortgage Lot, satisfy the conditions of approved for Land Division LD 8-91 parent property.
2. Prior to application for a building permit on either Mortgage Lot, record a statement that except as may otherwise be provided by law, the 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.

Findings of Fact (LD 8-91)

NOTE: The applicant has provided a narrative statement in response to the Mortgage Lot and Land Division approval criteria. In this section, quoted portions of the applicant's material, including responses to the approval criteria, are in helvetica type. Staff discussion of applicant responses appear in paragraphs titles **Staff Comment**. Quoted ordinance language appears in **bold italic type**. The exhibit numbers appearing in the applicant's narrative refer to documents that are part of the application. Those documents are on file in the Planning Division office.

1. Applicant's Proposal:

The applicant proposes to divide a 129-acre tract of land into three parcels of 53, 38, and 38 acres respectively. The applicant also seeks approval of a two-acre mortgage lot for each of the proposed 38-acre parcels (Parcels 1 and 2 in Figure 1). The 53-acre parcel (Parcel 3) already has a two-acre mortgage lot a residence on it.

2. Site Conditions and Vicinity Information:

The site is on the south side of NW Logie Trail Road one-half mile north of NW Skyline Boulevard. This and surrounding properties have a history of being used for forestry purposes.

3. Land Division Ordinance Considerations (MCC 11.45):

A. The proposed land division is classified as a Type I because it is *a . . . partition associated with an application . . . requiring a public hearing . . .* [MCC 11.45.080(D)]. This proposal is associated with applications for Conditional Use Permits to create two Mortgage Lots.

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

(1) The Tentative Plan is in accordance with:

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

- b) *the applicable Statewide Planning Goals adopted by the Land Conservation and Development commission, until the Comprehensive Plan is acknowledged to be in compliance with said Goals under ORS Chapter 197; and*
 - c) *the applicable elements of the Regional Plan adopted under ORS Chapter 197 [MCC 11.45.230(A)].*
- (2) *Approval will permit development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances [MCC 11.45.230(B)];*
 - (3) *The Tentative Plan or Future Street Plan complies with the applicable provisions, including the purposes and intent of [the Land Division Ordinance] [MCC 11.45.230(C)]*
 - (4) *The Tentative Plan or Future Street Plan complies with the Zoning Ordinance or a proposed change thereto associated with the Tentative Plan proposal [MCC 11.45.230(D)].*
 - (5) *If a subdivision, the proposed name has ben approved by the Division of Assessment and Taxation and does not use a word which is the same as, similar to or pronounced the same as a word in the name of any other subdivision in Multnomah County, except for the words "Town", "City", "Place", "Court", "Addition" or similar words, unless the land platted is contiguous to and platted by the same applicant that platted the subdivision bearing that name and the block numbers continue those of the plat of the same name last filed [MCC 11.45.230(E)].*
 - (6) *The streets are laid out so as to conform, within the limits of the Street Standards Ordinance, to the plats of subdivisions and maps of major partitions already approved for adjoining property unless the approval authority determines it is in the public interest to modify the street pattern; and [MCC 11.45.230(E)].*
 - (7) *Streets held for private use are clearly indicated on the Tentative Plan and all reservations or restrictions relating to such private streets are set forth thereon [MCC 11.45.230(G)].*

4. **Response to Type I Land Division Approval Criteria:** In this section, the applicant's responses to the approval criteria are in helvetica type. Staff discussion of applicant responses appear in paragraphs titles Staff Comment.

A. Applicable Elements of the Comprehensive Plan

(1) **Statewide Goals and Regional Plan:** For the reasons stated below, the proposal satisfies the applicable policies of the Comprehensive Plan. The Multnomah County Comprehensive Plan has been found to be in compliance with Statewide Goals and the Regional Plan by the State Land Conservation and Development Commission.

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

(a) **No. 12 - Multiple Use Forest Lands**

Applicant's Response

The intent of Policy 12 is to encourage small woodlot management, forestry, reforestation and agriculture. The owners' management plan for the property clearly conforms to this policy, particularly with respect to reforestation and on-site residency woodlot management.

Staff Comment

Since the proposed parcels equal or exceed 38 acres, the proposed land division complies with Policy 12

(b) **No. 13 - Air and Water Quality and Noise Levels**

This policy seeks to maintain and improve air and water quality and reduce noise pollution in the county

Applicant's Response

The proposed use of the property as prescribed by the MUF zone is conducive to maintaining or reducing air, water, and noise pollution. Minor impacts to air quality might occur as a result of increased automobile trips and home heating smoke. No DEQ standards would be violated as a result of this action.

Staff Comment

No significant impact on air pollution will result from the two additional houses allowed by the proposed land division. The County Sanitarian will require a Land

Feasibility Study for each parcel before allowing an on-site sanitation system in conjunction with building permits for that parcel unless public sewer becomes available to the site. For these reasons for those stated by the applicant, the proposal satisfies Policy 13.

- (c) **No. 14 - Development Limitations** This policy is concerned with mitigating or limiting the impacts of developing areas that have any of the following characteristics: slopes exceeding 20%; severe soil erosion potential; land within the 100 year floodplain; a high seasonal water table within 0-24 inches of the surface for 3 or more weeks of the year; a fragipan less than 30 inches from the surface; and land subject to slumping, earthslides or movement

Applicant's Response

None of these six factors are present on the portion of the property proposed for the mortgage lot. This proposal is in compliance with Policy 14.

Staff Comment

Topographic information presented by the applicant indicate that portions of the site contain slopes exceeding 25 percent. Compliance with the Hillside Development and Erosion Control Ordinance pursuant to MCC 11.15.6700—.6735 for any building site with slopes over 25 percent is a condition of approval. Subject to that condition, the proposal satisfies Policy 14.

- (d) **Policy No. 36 - Transportation System Development Requirements:** A condition of approval requires the owner to commit to the future improvement of NW Logie Trail Road through deed restrictions. These improvements include sidewalks, curbs and additional paving in the right-of-way adjacent to the subject property.
- (e) **Policy 37 - Utilities** This policy requires adequate utilities to serve the site.

Applicant's Response

A concurrent application for on-site sewage disposal is being sought. Well log records from the Pellico Mortgage Lot application and testimony from a local well driller should provide the basis for a positive finding.

Staff Comment

A condition of approval requires either drilling a well for each parcel or complying with ORS 92.090(4)(c). Obtaining a Land Feasibility Study from the County Sanitarian regarding the use of on-site sanitation on each lot is a condition of approval. Subject to those conditions, the proposal satisfies Policy 37.

- (f) **Policy 38 - Facilities** This policy requires that public facilities be available to serve the use. The property is located in the Portland School District, which can accommodate student enrollment from houses located on the site. The Multnomah County Sheriff's Office provides police protection.

According to information furnished by the applicant, the site receives fire protection from Fire Patrol Northwest, a private volunteer association also known as the Holbrook Fire Department. According to the State Fire Marshall's Office, the Holbrook Fire Department/Fire Patrol Northwest is not an established fire district. According to the Insurance Service Office (ISO) in San Francisco, there is no fire protection class rating for the Holbrook Fire Department/Fire Patrol Northwest. Based on factors such as water supply, fire-fighting equipment and personnel, the ISO rates fire departments from Class 1 to Class 10, with Class 1 being the highest rating.

Annexation of the site to a recognized fire district is a possibility. The site adjoins land inside Multnomah County Rural Fire Protection District #20. Also, there has been some discussion of annexing the site and other land to the north to the Scappoose Rural Fire Protection District. According to ISO staff, land within Fire District #20 has a Class 8 rating, and land in the Scappoose Fire District has a rating ranging from Class 5 to 9 (depending on distance from fire hydrants and fire stations).

Given the presence of one residence on the site (with a floor area listed by the Assessment and Taxation Division at over 7,000 square feet) plus two additional houses as a result of the land division, annexation of the site to an established fire district is an appropriate means of providing adequate fire protection. Annexation of the site to either Fire District #20 or the Scappoose Rural Fire Protection District is a condition of approval. Subject to annexation to either fire district, the proposal satisfies Policy 38.

B. Development of Property [MCC 11.45.230(B)]:

Applicant's Response

The applicant's narrative does not include a specific response to this criterion.

Staff Comment

Approval of the request will not affect one way or the other the ability to develop or provide access to adjacent properties. For these reasons for those stated by the applicant, the proposed land division satisfies MCC 11.45.230(B).

C. Purposes and Intent of Land Division Ordinance [MCC

- (1) MCC 11.45.015 states that the Land Division Ordinance. . . *"is adopted for the purposes of protecting property values, furthering the health, safety and general welfare of the people of Multnomah County, implementing the Statewide Planning Goals and the Comprehensive Plan adopted under Oregon Revised Statutes, Chapters 197 and 215, and providing classifications and uniform standards for the division of land and the installation of related improvements in the unincorporated area of Multnomah County."* The proposed land division satisfies the purpose of the Land Division Ordinance for the following reasons:
 - (a) The size and shape of the proposed lots will accommodate proposed residential development that satisfies yard requirements in the Zoning Ordinance without overcrowding, and will thereby protect property values.
 - (b) Provision of adequate water supply is a condition of approval. Annexation to the rural fire protection district that serves the surrounding area is a condition of approval. Police protection is available. A condition of approval assures adequate provision for on-site sewage disposal on each parcel. For these reasons, the proposal furthers the health, safety, and general welfare of the people of Multnomah County.
 - (c) The proposed land division complies with the applicable elements of the Comprehensive Plan. The State Land Conservation and Development Commission has found the Comprehensive Plan to be in compliance with Statewide Planning Goals.
 - (d) The proposal meets the purpose of *"providing classifications and uniform standards for the division of land and the installation of related improvements"* because the proposal is classified as a

Type I Land Division and meets the approval criteria for Type I Land Divisions for the reasons stated in these findings. The conditions of approval assure the installation of appropriate improvements in conjunction with the proposed land division.

- (2) MCC 11.45.020 states that the intent of the Land Division Ordinance is to. . ."*minimize street congestion, secure safety from fire, flood, geologic hazards, pollution and other dangers, provide for adequate light and air, prevent the overcrowding of land and facilitate adequate provisions for transportation, water supply, sewage disposal, drainage, education, recreation and other public services and facilities.*" The proposal complies with the intent of the Land Division Ordinance for the following reasons:
- (a) The proposal minimizes street congestion by providing access to NW Skyline Road from the proposed lots by way of an existing private access road as shown on the Tentative Plan Map.
 - (b) Subject to conditions of approval, public fire protection will be available to the property. The property is not located within the 100 year floodplain. Obtaining a Hillside Development Permit as required by the Zoning Ordinance is a condition of approval. The additional new houses will not significantly increase air pollution levels. For these reasons, the proposal secures safety from fire, flood, geologic hazard, and pollution.
 - (c) The proposal meets the area and dimensional standards of the MUF-38 zoning district as explained in Finding 4.D and thereby provides for adequate light and air and prevents the overcrowding of land.
 - (d) Finding 4.A(2)(d) addresses transportation system development requirements. Finding 4.A(2)(e) addresses water supply and sewage disposal. Finding 4.A(2)(f) addresses education, fire protection and police service. Based on the above findings, the proposed land division facilitates adequate provision for transportation, water supply, sewage disposal, education, and other public services and facilities.

D. **Zoning Ordinance Considerations [MCC11.45.390]:** The applicable Zoning Ordinance criteria are as follows:

- (1) The site is zoned MUF-38, Multiple Use Forest, District.
- (2) The following minimum area and dimensional standards apply per MCC 11.15.2178:

- (a) The minimum lot size shall be 38 acres, including one-half of the road right-of-way adjacent to the parcel being created. As shown on the Tentative Plan Map, all three parcels meet or exceed this requirement
- (b) The minimum front lot line length shall be 50 feet. As shown on the Tentative Plan Map, all lots parcels exceed this requirement.
- (c) The minimum yard setbacks are 30 feet front, 10 feet side, and 30 feet rear. As shown on the Tentative Plan Map, there is adequate area on each lot for residences to meet all yard requirements.

- E. **Subdivision Name [MCC 11.45.230(E)]:** Since the proposed land division is not a subdivision, MCC 11.45.230(E) is not applicable.
- F. **Street Layout [MCC 11.45.230(F)]:** The proposed land division does not include any new public streets or extensions of existing streets. therefore, MCC 11.45.230(F) is not applicable.
- G. **Private Streets [MCC 11.45.230(G)]:** The proposed land division does not include any private streets. Therefore, MCC 11.45.230(G) is not applicable.

Conclusions (LD 8-91)

- 1. The proposed land division satisfies the applicable elements of the Comprehensive Plan.
- 2. The proposed land division satisfies the approval criteria for Type I land divisions.
- 3. The proposed land division complies with the zoning ordinance.

Findings of Fact (CU 11-91 & CU 12-91)

- 1. **Applicant's Proposal:**
Please refer to Finding 1 for LD 8-91
- 2. **Site Conditions and Vicinity Information:**
Please refer to Finding 2 for LD 8-91
- 3. **Zoning Ordinance Considerations:**

General Mortgage Lot Approval Criteria: MCC 11.15.2172(D) states that *The Planning Commission may approve a residential use consisting of 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.*

Residential Use Development Standards: MCC 11.15.2194 states that *A residential use located in the MUF district after August 14, 1980, shall comply with the following:*

- (A) *The fire safety measure outlined in the Fire Safety Considerations for Development in Forested Areas, published by the Northwest Interagency Fire Prevention Group, including at least the following:*
 - (1) *Fire lanes at least 30 feet wide shall be maintained between a residential structure and an adjacent forested area; and*
 - (2) *Maintenance of a water supply and of fire fighting equipment sufficient to prevent fire from spreading from the dwelling to adjacent forested areas;*
- (B) *An access drive at least 16 feet wide shall be maintained from the property access road to any perennial water source on the lot or an adjacent lot.*
- (C) *The dwelling shall be located in as close proximity to a publicly maintained street as possible, considering the requirements of MCC .2178(B).*
- (D) *The physical limitations of the site which require a driveway in excess of 500 feet shall be stated in writing as part of the application for approval.*
- (E) *The dwelling shall be located on that portion of the lot having the lowest productivity characteristics for the proposed primary use, subject to the limitations of subsection (C), above.*

- (F) ***Building setbacks of at least 200 feet shall be maintained from all property lines, wherever possible, except:***
 - (1) ***A setback of 30 feet or more may be provided from a public road, or***
 - (2) ***The location of dwelling(s) on adjacent lot(s) at a lesser distance will allow for the clustering of dwellings or the sharing of access.***
- (G) ***Construction shall comply with the standards of the building code or as prescribed in 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.***
- (I) ***The dwelling shall have a minimum floor area of 600 square feet.***
- (J) ***The dwelling shall be located outside a big game habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable.***

4. **Compliance with General Mortgage Lot Approval Criteria**

This proposal satisfies the applicable approval criteria as follows:

- A. The proposed mortgage lots are two acres in size;
- B. The owner will record a statement that the mortgage lots do not constitute separate zoning lots; and,
- C. The applicant is the owner of the parent lots and is by this action is put on notice that the sole purpose of each mortgage lot is for financing purposes.

5. **Compliance with Residential Use Development Standards**

A. ***Fire Safety Measures***

(1) ***Fire lanes ...***

Applicant's Response

A portion of the subject property was recently clearcut by Longview Fibre Company, and consequently the proposed residential site is totally clear. The new owners can easily implement the 30-foot-wide fire lane around the proposed homesite. A larger fire lane could be designed to provide greater

protection to adjacent forested areas. A 100-foot fire lane could be allowed, taking into account the dimensions of the mortgage lot. The fire lane would be free of fire fuel that could transmit fires to adjacent forested areas.

In addition to the fire lane, other design protections could be implemented. For example, the proposed homesite will be situated on a level ridgetop away from any gullies that would act as a fire chimney, thus reducing fire damage potential to the home. The residential compound can also be landscaped with non-coniferous broadleaf shrubs and trees to minimize kindling temperatures for fire.

Staff Comment

For the reasons stated by the applicant, the proposal satisfies MCC 11.15.2194(A)(1).

(2) ... *water supply and fire fighting equipment* ...

Applicant's Response

The only source of water available to the owners for firefighting will be the domestic well. As stated in criterion 1 above, the best method for mitigating potential adverse effects from fire spreading is good design. Providing large fire lanes with no ground level fire fuel is the best preventative measure. Water from the well could be used to fight fire, or during high risk periods a pumper truck could be on standby. The owners have expressed a willingness to comply with county imposed conditions, provided those conditions are reasonable and affordable.

Staff Comment

Annexation of the site to either Mulatnomah County Rural Fire Protection District No. 20 or the Scappoose Rural Fire Protection District is a conditions of approval. Subject to that condition and for the reasons stated by the applicant, the proposal satisfies MCC 11.15.2194(A)(2).

B. ... *access drive at least 16 feet wide* ...

Applicant's Response

No perennial water sources are located on the subject property or any adjacent property. Therefore, the owners need not conform with this criterion.

Staff Comment

Staff concurs with the applicant's statement.

C. . . . *proximity to a publicly maintained street* . . .

Applicant's Response

The proposed dwelling will be located as close to a publicly maintained street as possible, as indicated in the plot plan. Intervening ownerships separate the subject property from Skyline Boulevard, but the homesite is as close to Skyline Boulevard as possible, taking into consideration required setbacks from property lines.

Staff Comment

For the reasons stated by the applicant, the proposal satisfies MCC 11.15.2194(C).

D. . . . *driveway in excess of 500 feet* . . .

Applicant's Response

The existing easement/driveway that serves the subject is in excess of 900 feet. The driveway is within a 40-foot easement across the Maplethorp property granted by Lloyd Mapl-ethorp to Publishers Paper.

The only way to reach the subject property was to place a switchback in the road to avoid a very steeply incised headwater gully. The owners respectfully request that the existing driveway and easement be recognized by Multnomah County for approval of this conditional use permit.

Staff Comment

The applicant has negotiated an alternative easement arrangement that involves properties other than the Maplethorp property. Subject to the alternative access arrangement and for the reasons stated by the applicant, the requested driveway length is warranted..

E. . . . *located on [the least productive] portion of the lot* . . .

Applicant's Response

The proposed dwelling will be located on the portion of the lot having the lowest productivity characteristics for the primary use subject to the limitations of subsection (C) above. The level ridgetop is not significantly less productive than the side slopes and ravines, but more management

obstacles are present on the level ridgetop proposed for the homesite owing to shallower soils and associated problems. The ridgeline has shallower soils since gravity and water are perpetually moving soils downslope. When septic pits were being excavated on nearby parcels the soils were shallower on the ridgeline than on the protected side slopes. Sand filter septic systems were approved by the Multnomah County Sanitarian which clearly indicates an absence of soil mass in the root zone. The shallow soils and high wind velocities combined result in a higher number of blowover trees, leaners, and windthrown tops. These conditions were observed prior to the clearcuts in the area. An affirmative finding can be made that the dwelling will be located on the least productive part of the property.

Staff Comment

Staff concurs with the applicant's statement.

F. . . . *setbacks of at least 200 feet . . . except:*

(1) [may be 30 feet from public road]

Applicant's Response

Since the subject property does not have public road frontage, this provision does not apply. The preferred setback of 200 feet would be contrary to subsections (A) and (C) above.

Staff Comment

Staff concurs with the applicant's statement.

(2) to allow clustering or shared access]

Applicant's Response

This proposal strongly conforms with this criterion since it enables dwellings to be clustered and also allows shared access. The Maplethorp residence and a recently approved forest management dwelling on the parcel to the south are located on the same ridge line as the proposed dwelling.

The Aitchison ownership to the east is being proposed for a land division creating two 38-acre parcels. Each of the proposed new parcels will have homesites that will share access. This homesite is directly north of the homesite for the Pellico property. The proposed easternmost parcel of the Aitchison's will be served by the same access road, thus adding to the concept of clustering.

Staff Comment

The area and dimensions of each mortgage lot are such that it is not possible to place a residence 200 feet from all property lines on either proposed mortgage lot.

- G. [construction to meet either building code or mobile home standards]

Applicant's Response

The owners are proposing to sell Parcel 1, and the prospective buyers' intentions are not known.

Staff Comment

Any residence on either parcel must meet either the building code or mobile home code; no other permissible options exist.

- H. *The dwelling shall be attached to a foundation for which a building permit has been obtained.*

Applicant's Response

Any primary residence will be constructed according to the Uniform Building Code as administered by Multnomah County.

Staff Comment

Staff concurs with the applicant's statement.

- I. *The dwelling shall have a minimum floor area of 600 square feet.*

Applicant's Response

Any dwelling, interim or permanent, will exceed the 600-square-foot floor area requirement.

Staff Comment

Staff concurs with the applicant's statement.

J. . . . *located outside a big game habitat area . . .*

Applicant's Response

The proposed dwelling site is located outside a big game habitat area as defined by the Oregon Department of Fish and Wildlife according to the Multnomah County Comprehensive Plan.

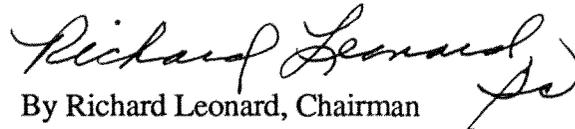
Staff Comment

Staff concurs with the applicant's statement.

Conclusions:(CU 11-91 & CU 12-91)

1. Conditions are necessary to insure compliance with all Code provisions.
2. The applicant has carried the burden necessary for the approval of a mortgage lot in the MUF zoning district.

Signed June 3, 1991


By Richard Leonard, Chairman

Filed With the Clerk of the Board on June 13, 1991

Appeal to the Board of County Commissioners

Any person who appears and testifies at the Planning Commission hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or before 4:30 a.m. on Monday, June 24 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

The Decision on this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday June 25, 1991 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development Division at 248-3043.

Meeting Date: June 25, 1991

Agenda No.: P-3

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM
(For Non-Budgetary Items)

SUBJECT: _____

BCC Informal _____ (date)	BCC Formal _____ (date)
DEPARTMENT _____ DES	DIVISION _____ Planning
CONTACT _____ Sharon Cowley	TELEPHONE _____ 2610
PERSON(S) MAKING PRESENTATION _____	Planning Staff

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: 5 Minutes

CHECK IF YOU REQUIRE OFFICIAL WRITTEN NOTICE OF ACTION TAKEN

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

CU 6-91 Decision of the Planning Commission of June 3, 1991 with recommendation to the Board for approval, subject to conditions

1991 JUN 1 9M 1:51
 MULTNOMAH COUNTY
 BOARD OF COMMISSIONERS

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL _____

Or

DEPARTMENT MANAGER Paul Yarbrough / bkw

(All accompanying documents must have required signatures)

TREES = WASHINGTON COUNTY
1290

RES

PROPOSED AREA
APPROX
75X200

x x x y
y x x
PASTURE + TREES
y x x y

RES

00
00
00

TAX LOT 6
0 0 58 WOODED
0 0 4.24 AC
0 0 0 0 0 0

EXISTING ROAD

CORNELIUS PASS Rd.

20.10 AC

FARM

WOODED AREA

KRAISER Rd

WASHINGTON COUNTY
FARM
D 216-91

RES

Conditions of Approval:

1. Obtain *Design Review* approval of all proposed site improvements including, but not limited to: grading, clearing, landscaping, fencing, parking and maneuvering areas, vehicle storage areas, and exterior materials and colors of any structures. Site work shall not proceed until required Design Review approvals are obtained, or as determined by the Director.

As part of Design Review, provide a *Noise Abatement Plan*, prepared by an acoustical engineer. Design Review may require enclosures, berms, structures or other devices to avoid or reduce adverse noise effects to neighboring residences and assure the design addresses applicable DEQ noise level restrictions for new uses.

As part of Design Review, provide a *Stormwater Management Plan*, prepared by a qualified professional; the plan shall identify methods for treating and/or controlling leachates and water run-off from the bark mulch storage area [Reference Oregon Administrative Rules (OAR) 340-45-015 regarding polluting discharges into waters of the State].

2. Obtain a *Grading and Erosion Control Permit* for any land disturbing activities associated with the commercial use of the site (Ref. MCC .6710).
3. Complete Engineering Services requirements (if any) for access, dedication, or improvements along Cornelius Pass Road. For information, contact Dick Howard at 248-3599.
4. The existing house approved by PRE 5-83 shall be removed prior to final approvals or occupancy of the site for the commercial use. The applicant may replace the house with a structure used as an office solely in conjunction with this conditional use. Any replacement dwelling shall be approved in accordance with applicable requirements in MCC .2010(A) [for a farm-related residence] or MCC .2012(B)(3) [for a non-farm residence].
5. It is the operator's responsibility to comply with noise level restrictions prescribed by the State Department of Environmental Quality (Ref. OAR 340-45). The hours of operation for on-site processing and loading activities shall be limited to 8:00 AM to 5:00 PM, Monday through Friday; and 9:00 AM to 5:00 PM, on Saturdays. Except for vehicles entering or leaving the site between 6:00 AM and 6:00 PM on Monday through Saturday, the business and any associated vehicles or equipment may not operate on Sundays or Legal Holidays, or on other days beyond the hours prescribed above. The business' vehicles must be stored on-site or at another approved off-site location.
6. It is the operator's responsibility to comply with water quality restrictions prescribed by the State Department of Environmental Quality (Ref. OAR 340-45).
7. If the use is not established on the site within two years, this approval shall expire, except as specified in MCC 11.15.7110(C).

Findings of Fact:

1. Summary and Background of the Proposal:

The applicant requests approval to operate a commercial wood products business within an Exclusive Farm Use (EFU) district. They describe their request as follows:

"Applicants seek conditional use approval to operate a bark dust business on property zoned for exclusive farm use. They propose to stockpile, load, and deliver various related wood byproducts to nursery people, farmers, businesses and individuals. There is a demand for this product in the area and local availability will benefit the community, both in terms of agricultural use and rural residential use.

The property is bordered by Cornelius Pass Road to the west [east]; the Multnomah County line to the south and east [west], and an undeveloped road right of way to the north. The site consists of a 4.24 acre parcel with three, possibly four, separate access points onto Cornelius Pass Road.

Most of the surrounding property is zoned for exclusive farm use, with the exception of a small Washington County parcel which is zoned as a rural commercial district. Applicants understand that conditional use approval for operation of a golf course on adjacent property is being sought from Washington County; however, at the time of this application, the golf course has not been approved and therefore, will not be addressed as an existing use for purposes of this application."

2. Site and Vicinity Information:

The 4.24 acre site contains a farm-related residence (reference PRE 5-83). The residence is a single-wide mobile home. The site measures approximately 1300-feet by 200-feet, with the long dimension and east boundary along Cornelius Pass Road. The property slopes to the south and west, and flattens out towards the south end. The northern 1/3 (or so) is a cleared Fir forest, with some remaining trees. Some younger Firs (originally planted for Christmas tree production) are grouped near the center of the site, near the mobile home. The south 1/3 (or so) is more open, with pasture and scattered brushy trees; this area is proposed for the bark mulch storage and commercial operation. A shallow drainage swale (and associated riparian vegetation) is located at the extreme southwest corner of the property.

Surrounding properties are zoned EFU, both within Multnomah and Washington County. The nearest residence is located near the northwest corner of the site, just west of the Multnomah/Washington County boundary. This residence is approximately 800-feet from the bark mulch storage area indicated on the site

plan. A second nearby residence is located east of Cornelius Pass Road on Tax Lot '57'; it too is located approximately 800-feet from the bark storage area indicated on the site plan (based on air photo interpretation). A few rural residences are located further west in Washington County, across the small valley formed by Rock Creek, and further east along the southerly side of Kaiser Road.

3. Zoning and Comprehensive Plan Designations:

The plan designation of the parcel is **Agriculture**. The parcel is zoned EFU, **Exclusive Farm Use**. On March 16, 1983, the Planning Director approved a farm-related residence on the site in conjunction with a farm management plan for the 4.24 acre property (Ref. PRE 5-83). Applicant addresses this prior land use approval as follows:

"Applicants intend to continue to use the existing structure as a farm-related dwelling for management of the Christmas trees on the property. A portion of the structure may be used as an on-site office for the proposed business operation, but its primary purpose will be a residence for on-site management of the Christmas trees.

The bark dust operation will not affect the management plan for the Christmas trees on the sight. The former owner planted 1500 Christmas trees in 1980. Several trees were harvested prior to this sale; however, the Applicants intend to replant Christmas trees on the harvested land. In addition, some of the by-products from the Christmas tree operation will be used for the new commercial bark dust business.

The actual operation is not proposed for the area on which the trees are planted. There will be no adverse consequences for the Christmas trees or the soil. The materials used by the business actually serve to enhance the soil."

The owner (then Jerry Waters) submitted a 6-year management plan for Christmas tree production on the site. The proposed commercial use will require approximately 1/2 acre of the 4.24 acre site. This estimate assumes 15,000 square feet of area for the bark mulch storage (near the south boundary), and additional areas for vehicle maneuvering and storage, and an office. A new commercial use on a 1/2 acre portion of the site alters the farm management plan approved by PRE 5-83. In addition, new regulations applicable to the Tualatin Basin may require that the bark mulch storage area be separated from the drainage swale near the south boundary by a 100-foot undisturbed buffer [Ref. MCC .6730(A)(2)(a)].

Condition #4 requires that the existing farm-related residence be addressed in one of three ways:

1. Remove the mobile home; or,
2. Obtain approval of a farm-related residence and management plan which reflects the commercial use on the south portion of the site [Ref. MCC .2010(A)]; or,
3. Obtain approval of non-farm residence on the site [Ref. MCC .2012(B)(3)].

4. Ordinance Considerations:

Conditional uses allowed in the EFU zone are specified in MCC 11.15.2012. Subsection (B)(1) specifies “...***Commercial activities that are in conjunction with farm uses***”. Such uses may be permitted when found to satisfy *Conditional Use Approval Criteria* in MCC .7105 – .7640.

The following section presents findings regarding the proposed Conditional Use Permit; the applicable standard is in ***bold italics***, applicant’s responses are presented first in *italics*, followed by staff comments.

A. Conditional Use Criteria (MCC .7120)

A(1) Is consistent with the character of the area;

“The subject site is located in a farm and forest area. There is a mixture of farm related residences, rural non-farm residences, farm use, and rural commercial use on the surrounding property. This gives the area an agricultural/rural-residential/rural-commercial character.

The proposed operation consists of stockpiling and transporting wood by-products. These products are used extensively in farm and forest areas by nursery people, farmers, businesses, and private individuals. The impacts of truck traffic and noise generated by the on-site handling of the product are not unlike impacts of farm or forest use. Cornelius Pass Road is a major truck route in the area and can accommodate the additional traffic generated by the proposed use. The multiple points of access provide a good on-site traffic flow and there is adequate sight distance at each access point. Therefore, any traffic generated by the business is consistent with the character of the area, both in terms of noise and safety.

With respect to other on-sight noise, the actual location of the operation is at least 1000 feet from the nearest residence. The noise generated by the trucks and loading equipment is similar to that generated by existing traffic and other farm equipment and machinery. Most farming operations are carried on seven days a week. The proposed six-day per week commercial operation is not inconsistent with agricultural practices in the area. Moreover, the

hours of operation have been tailored to minimize any potential conflict with all surrounding uses.

Given the local need for the product, the relatively minimal off-site impacts of the operation, and the on-site location in proximity to nearby residences, it is clear that the proposed operation is consistent with the character of the area."

Staff Comment: As noted under finding #2. above, the area is generally agricultural in character. The land on this and surrounding sites slopes generally to the south or southwest, and is generally rolling fields and pastures with scattered patches of woodlands. Rock Creek flows near the site. Its valley floor lies to the west and south (mostly within Washington County).

The operation consists of **processing** as well as "...*stockpiling and transporting wood by-products.*" It is the processing activity (grinding and chipping) which in part creates noise effects to surrounding residents. Condition #1 requires a *Noise Abatement Plan* to assure the use remains consistent with the area character.

The applicant also provides the following traffic study and analysis to support a conclusion that the use is consistent with the area character:

"1. Traffic Impacts

A. 24 Hour Counts

Applicants have obtained traffic counts at four separate locations in the surrounding area. All counts are based upon an average for a twenty-four hour period. Two counts were performed in Multnomah County and two in Washington County. The results were as follows:

Multnomah County

*North of Sheltered Nook
closer to St. Helens Hwy.*

*North 2,520
South 2,650
Total 5,170*

North of Kaiser Road

*North 2,750
South 2,870
Total 5,620*

Washington County

*North of Germantown Road to
South of Chauncey property*

South of West Union Road

North 2,288

South 2,287

Total 4,575

North 3,761

South 3,645

Total 7,406

These traffic figures are based upon actual vehicle trips per day, regardless of whether the vehicles are cars or trucks. However, the Applicant will convert the actual number of anticipated truck trips to passenger car equivalents.

B. Passenger Car Equivalents

Trucks are assigned passenger car equivalent ("PCE") values for purposes of determining traffic impacts. The County traffic division provided the following information for purposes of determining the PCE for trucks:

Flat terrain — 2.2 PCE per truck

Rolling terrain — 5.0 PCE per truck

Mountainous — 10.0 PCE per truck

Cornelius Pass Road, at the site, has terrain which is between flat and rolling; therefore, we will assign a value of 5 PCE per truck for considering traffic impacts.

C. Maximum Truck Traffic Generated

A maximum of five trucks will be used at the peak period of operation between March and July. The approximate number of trips per truck is stated below, listing actual trips first, followed by the PCE value assigned for trucks:

- | | |
|--|---------------------------|
| <i>1. Ford Dump Truck with 26,000 pound capacity</i> | |
| <i>V8 with 390 cubic inch engine</i> | <i>8 trips
40 pce</i> |
| <i>2. Ford Dump Truck with 26,000 pound capacity</i> | |
| <i>V8 with 265 cubic inch engine</i> | <i>6 trips
30 pce</i> |

3. International Truck with 26,000 pound capacity	6 trips 30 pce
4. White semi-truck with Cummins 290 horsepower engine	4 trips 20 pce
5. International semi-truck with General Motors 415 horsepower engine (Detroit - 8V92T)	6 trips 30 pce

Total trips: 30
Total PCE: 150

These figures are based upon maximum truck trips during the peak season from March to July. If averaged over the entire year, the number of trips would be significantly lower.

D. Impact Analysis

For purposes of this analysis, the Applicants have assumed a PCE of 5 for each truck and the highest traffic count in the area, South of West Union Road: 7406. Therefore, this presents a worst case analysis and the true impact will be substantially less.

150 trips is approximately .0203 (2.03 percent) of the total of 7,406 trips per day. The actual percentage of increase is likely to be lower because the existing traffic count figures do not include adjustments for the passenger car equivalent values assigned to trucks.

Assuming a worst case analysis, take 10% of the total traffic, in both directions, to reach a peak hour figure of 740. The proposed operation will add approximately 15 pce (3 actual) trips to the peak hour total.

The road is a two lane paved surface with gravel shoulders. Typically, a single lane has capacity for 1000 cars per hour. However, we will use a conservative estimate of 750 per lane to account for variables such as truck volumes, road widths, and intersections.

Total peak hour traffic estimate:	740
Southbound peak:	740 x .63 = 465
Northbound peak:	740 x .37 = 275
Lane Capacity, conservative estimate:	750
Volume/Capacity Ratio (465/750):	.62
Level of Service:	B - Below Capacity

Based on the foregoing analysis, the existing road has more than enough capacity to accommodate the additional traffic generated by the proposed operation.

E. Access

There are at least three points of access on the proposed site, as illustrated on the attached map. A possible fourth point is located at Kaiser Road; however, the Applicants do not intend to use that access at this time. The three existing points of access provide a good on-site traffic flow. In addition, there is adequate sight distance at each access point.

The number of actual trips per day generated by the proposed operation is approximately 30, rather than the 150 pce figure used to compute the above percentage.

F. Traffic Conclusion

Cornelius Pass Road has the capacity to accommodate the traffic generated by the proposed operation safely. Therefore, any traffic generated by the business is consistent with the character of the area."

Staff Comment: Reference the May 6, 1991 memo to Scott Pemble, from Robert Johnson, PE, (Traffic Engineering Staff). He agrees that the proposed use should not cause capacity or safety problems on Cornelius Pass Road. The May 7, 1991 Planning Commission minutes includes comments from Scott Pemble (Acting Planning Director/Senior Transportation Planner) regarding traffic effects from the project.

John Dorst (Right-of-way Permits Chief) indicates site accesses will likely be limited to two points (an entrance and exit) as part of Design Review of the proposed use.

A(2) Will not adversely affect natural resources;

"The site has not been designated as a significant wildlife habitat, nor has the County inventoried it as a Goal 5 resource. The bark dust operation will not adversely affect water or air quality. Forest by-products stored at ground level do not cause hazardous leaching into the groundwater, rather they act as a filtering system to purify rain water. In addition, the operation will not create unacceptable dust levels to pollute the air. Furthermore, the wood by-products serve to enrich the clay soil in the area. Therefore, the proposed operation may have a beneficial affect, but clearly will have no adverse affect on natural resources."

Staff Comment: The leachate and run-off from open storage of large quantities of bark mulch and related wood by-products can adversely effect water quality in nearby water bodies, streams or wetlands. Lyle Christianson from the State DEQ indicates the primary effects of concern are the acid PH level of run-off from mulch piles, and the discharge of organic material (sawdust, bark, etc.) into streams or wetlands. Condition #1 requires that the applicant provide a *Stormwater Management Plan* which identifies methods for treating and/or controlling leachates and water run-off from the bark mulch storage area. Oregon Administrative Rules 340-45-015 sets standards and requirements for discharges into waters of the State. If the water run-off is not sufficiently treated on the site, a discharge permit is required from DEQ.

A(3) Will not conflict with farm or forest uses in the area;

"The farm or forest uses in the area consist of open fields, pastures, wheat fields, and small woodlots. The proposed operation will not conflict with any of these uses. On the contrary, to the extent that any bark dust may drift onto adjoining lands, it serves to enrich the soil."

Staff Comment: Staff concurs that the use likely has minimal adverse effects to surrounding farm or forest uses.

The dust created by the chipping and grinding of wood products may adversely effect some crop potential on nearby farm land; however, staff did not observe or receive reports of such effects. The only adjoining farm uses are pastures. A golf course proposed on the property to the south (in Washington County) has not been approved or denied as of this writing.

A(4) Will not require public services other than those existing or programmed for the area;

"The operation will not require any public services at all."

Staff Comment: Staff concurs that the use likely creates no additional public service demands.

A(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;*

"The site has not been identified as a 'Big Game Winter Habitat Area' by the state."

Staff Comment: The site is not identified as a big game habitat area in the Comprehensive Plan or by the Oregon Department of Fish and Wildlife.

A(6) *Will not create hazardous conditions;*

"Cornelius Pass Road has the capacity to carry the limited truck traffic generated by the proposed use and does not pose any traffic safety hazards. The multiple access points, coupled with the adequate sight/distance of the access points further support the absence of hazardous conditions. In addition, there are no steep, on-site slopes subject to erosion as a result of the operation, and there is no threat to water quality. Therefore, the proposed business will not create hazardous conditions on-site or .off."

Staff Comment: Staff generally concurs with the above finding. Applicant also provides a traffic impact analysis which in part demonstrates consistency with this criteria; reference findings above under A(1): Consistency with the area character. Condition #1 requires Design Review of the site improvements including vehicle accesses and on-site maneuvering/parking areas. Condition #3 also requires Engineering Services review and approval of access points to the site. This further insures that the use will not create hazardous traffic conditions.

A(7) *Will satisfy the applicable policies of the Comprehensive Plan.*

The following policies of the County's Comprehensive Plan are applicable to this request: Policy 2 (Off-site Effects), Policy 9 (Agricultural Land), Policy 13 (Air, Water and Noise Quality), Policy 14 (Development Limitations), Policy 16 (Natural Resources), Policy 37 (Utilities), and Policy 38 (Facilities).

a. Policy 2 – Off-Site Effects.

“This policy is to condition approved uses to minimize the offsite effects. Applicants have voluntarily restricted the hours of operation to mitigate any potential conflicts of off-site effects on surrounding uses terms of noise, dust, or traffic. The nearest residence is 1000. Surrounding farm land is either used for pastures, wheat crops, forestry, and christmas trees, and will not be affected by the proposed operation. In addition, the rural commercial uses on the adjoining Washington County property will not be impacted because they are not accessible by Cornelius Pass Road and the businesses are not in close proximity to the actual operation.”

Staff Comment: The use creates off-site effects to surrounding residences in terms of noise. Conditions of approval address potential adverse noise effects (refer to Policy 13 discussion below). Conditions of approval also address off-site effects relative to community design, water quality, erosion control, and traffic.

b. Policy 9 – Agricultural Land.

“The Applicants’ business consists of stockpiling and transporting wood by-products. These products are used extensively in farm and forest areas by nursery people, farmers, businesses, and private individuals. The proposed use will take only 15,000 square feet (75’ x 200’) out of farm use while the business is in operation. However, should the land be returned to farm use in the future, the wood by-product residue left by the stockpiling will serve to enrich the clay soil and create better farm land. Therefore, the proposal is consistent with to preserve agricultural lands for agricultural purposes.”

Staff Comment: The County’s policy is to preserve the best agricultural lands from inappropriate and incompatible land uses. Conditions of approval are necessary to mitigate adverse effects to surrounding properties. Adverse effects to surrounding agricultural lands or practices are negligible.

c. Policy 13 – Air, Water, and Noise Quality.

“Policy 13 is designed to protect the regional airshed through compliance with federal, state, and local regulations. The operation of Applicants’ business will not have an adverse impact on air quality for the regional airshed, nor will it violate any .state or federal air quality regulations.

With respect to noise, Applicants have located the operation at least 1000 feet from the nearest residence, which minimizes the off-site impacts. In addition, they have restricted the hours of operation to reduce any conflict with surrounding uses.

The bark dust operation will not adversely affect water quality. The wood by-products actually serve to filter rain water and remove impurities before it reaches the ground water. Therefore, the stockpiling of wood by-products is actually beneficial for water quality.

This policy supports efforts to improve and control the County's air, water, and noise quality, while balancing the social and economic needs in the community. There is a need for Applicants' product and the resulting impacts with respect to air, water, and noise are minimal or non-existent. Therefore, the proposed use does not violate Policy No. 13."

The applicant provides additional information regarding noise levels generated by the proposed use:

"With respect to on-sight noise, the actual location of the operation is at least 1000 feet from the nearest residence. The noise generated by the trucks and loading equipment is similar to that generated by existing traffic and other farm equipment and machinery. The following is a list of the machinery and trucks to be used in the business. The approximate decibel count, based upon a distance of 50 feet, for each piece of equipment is as follows:

A. On Site Machinery

*1. Front End Loader - General Motors "Euclid" - Double muffled for noise reduction.
75-78db at 50 feet*

2. Tractor - Allis Chalmers - 200 with 90 horse-power engine and Farm Hand Tub Grinder - F-900. 80db at 50 feet

B. Trucks - In addition to the loader and grinder, there are three dump trucks and two semi trucks:

*1. Ford Dump Truck with 26,000 pound capacity - V8 with 390 cubic inch engine
82db at 50 feet*

2. Ford Dump Truck with 26,000 pound capacity - V8 with 265 cubic inch engine

82db at 50 feet

3. International dump truck with 26,000 pound capacity - V8 82db at 50 feet.

4. White semi-truck with Cummins 290 horsepower engine 82db at 50 feet

5. International semi-truck with General Motors 415 horsepower engine 85db at 50 feet

Applicants will not object to a condition that the noise be kept within the standards established by the Department of Environmental Quality."

Staff Comment: The Oregon Department of Environmental Quality regulates new uses which increase noise levels. Mr. Terry Obteshka at the DEQ indicates that the distance between the proposed use and the two nearest residences will reduce noise levels; however, the distance alone will not sufficiently address the decibel reductions necessary to comply with DEQ standards for new uses. As part of Design Review (Condition #1) the applicant must provide a *Noise Abatement Plan*, prepared by an acoustical engineer. Design Review may require enclosures, berms, structures or other devices to avoid or reduce adverse noise effects to neighboring residences and assure applicable DEQ noise level restrictions are met by the proposed use. Condition #5 further addresses the noise impact issue by restricting the Saturday hours to 9:00 AM—5:00 PM (rather than proposed 8:00 AM)

The leachate and water run-off from open storage of large quantities of bark mulch and related wood by-products can adversely effect water quality in nearby water bodies, streams or wetlands. Lyle Christianson from the State DEQ indicates the primary effects of concern are the acid PH level of run-off from mulch piles, and the discharge of organic material (sawdust, bark, etc.) into streams or wetlands. Condition #1 requires that the applicant provide a *Stormwater Management Plan* which identifies methods for treating and/or controlling leachates and water run-off from the bark mulch storage area. Oregon Administrative Rules 340-45-015 sets standards and requirements for discharges into waters of the State. If the water run-off is not sufficiently treated on the site, a discharge permit is required from DEQ.

d. Policy 14 – Development Limitations.

"The proposed site does not have any of the development limitations listed under Policy 14 of the Comprehensive Plan. The slopes do not exceed 20% and there is no severe soil erosion potential, nor is the land subject to slumping, earth slides or movement. Furthermore, it is not located within the 100 year flood plain and it does not have a high seasonal water table. Therefore, the proposed use is consistent with this plan policy."

Staff Comment: The site is located within the Tualatin River Drainage Basin. The State DEQ has imposed erosion control requirements for the Tualatin Basin to address seasonal water quality problems in the Tualatin

River (reference OAR 340 and MCC 11.15.6710).

Condition #2 requires approval of a Grading and Erosion Control Permit for any land disturbing activities on the site.

e. Policy 16 – Natural Resources

“This policy requires County designation of certain areas to be protected. The proposed site has not been designated as an area of significant environmental concern having special public value, nor is it likely to be considered for such designation. Therefore, the bark dust operation is consistent with this policy.

This policy requires protection of natural resources and findings that long-range availability of certain resources will not be limited or impaired by the use. This business will not limit or impair any mineral or aggregate sources, energy resources, domestic water supply watershed, fish habitat areas, wildlife habitat areas, and ecologically or scientifically significant natural areas.”

Staff Comment: Staff concurs. New regulations applicable to the Tualatin Basin may require that the bark mulch storage area be separated from the drainage swale near the south boundary by a 100-foot undisturbed buffer [Ref. MCC .6730(A)(2)(a)].

The leachate and run-off from open storage of large quantities of bark mulch can adversely effect water quality in nearby water bodies, streams or wetlands. State DEQ staff indicate the primary concerns are the acidic PH level of run-off from mulch piles, and the discharge of organic material (sawdust, bark, etc.) into streams or wetlands.

Condition #1 requires that the applicant provide a *Stormwater Management Plan* which identifies methods for treating and/or controlling leachates and water run-off from the bark mulch storage area. Oregon Administrative Rules 340-45-015 sets standards and requirements for discharges into waters of the State. If the water run-off is not sufficiently treated on the site, a discharge permit is required from DEQ.

f. Policy 37 – Utilities

“The utilities policy requires adequate water and disposal systems, drainage, and energy and communication facilities. Public water and sewage are unavailable in this area of Multnomah County. The existing mobile home on

the site has an adequate private water system and subsurface sewage disposal. Run-off from the site will not adversely affect water quality in the area, nor will it alter the drainage on adjoining land. In addition, communication facilities are available and there is an adequate energy supply to handle the needs of the operation. The actual operation of the business will not require energy or communications facilities."

Staff Comment: Staff concurs.

g. Policy 38 – Facilities

"The facilities policy requires a finding of adequate school, police, and fire services for the proposed use. The bark dust operation will have no impact on the local school district.

The wood by-products are not designated as hazardous or highly combustible. The local fire department is approximately six miles away and the Washington County Fire Department, which will answer calls for the proposed site, is less than four miles away. The County Sheriff can provide adequate protection for the business."

Staff Comment: Staff concurs that the use does not likely create additional demands for public services.

B. Exclusive Farm Use Conditional Use Approval Criteria (MCC .7122)

MCC .7122 (A) (1): An applicant must demonstrate that the proposed Conditional Use:

Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.;

"Surrounding farm and forest use consists of wheat fields, grazing pastures, and small woodlots. Applicants' proposed use will not require any change in farm or forest practices on these lands."

Staff Comment: Staff concurs.

MCC .7122 (A) (2): An applicant must demonstrate that the proposed Conditional Use:

Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

"Because the proposed bark dust operation will have no affect on the surrounding farm or forest practices, it will not increase the cost of those practices. Therefore, the proposal meets the additional approval standards set forth in MCC 11.15.7122."

Staff Comment: Staff concurs.

Conclusions:

1. Based upon the findings above, the use proposed – as conditioned herein – satisfies applicable Conditional Use approval criteria.

Signed June 3, 1991

Richard Leonard,
By Richard Leonard, Chairman *RL*

Filed With the Clerk of the Board on June 13, 1991

Appeal to the Board of County Commissioners

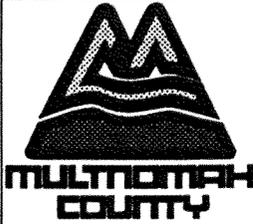
Any person who appears and testifies at the Planning Commission hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or **before 4:30 PM. on Monday, June 24, 1991** on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

The Decision on this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, June 25, 1991, in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development Division at 248-3043.

Decision
June 3, 1991

19

CU 6-91



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

*Being
 see
 5/17/91
 last
 way to
 see
 review
 Monday
 June
 24, 1991
 3:30 pm*

NOTICE OF REVIEW

See Attached Notice

1. Name: Jones, Larry, W.
Last Middle First
 2. Address: 9985 NW Kaiser, Portland, OR 97231
Street or Box City State and Zip Code

3. Telephone: () -

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

See attached

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

Approval of conditional use application

6. The decision was announced by the Planning Commission on 6/13, 1991

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

See attached

RECEIVED
 JUN 24 1991

Multnomah County
 Zoning Division

Please return this original form

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

See Attached

9. Scope of Review (Check One):

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

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

See Attached

Signed: Larry W. Jones Date: 6/24/91

For Staff Use Only	
Fee:	
Notice of Review = \$150.00	
Transcription Fee:	
Length of Hearing _____	x \$1.75/minute = \$ _____
Total Fee = \$	<u>517.50</u>
Received by: <u>M. Hem</u>	Date: <u>6/24/91</u> Case No. <u>C246-91</u>

NOTICE OF REVIEW

1. - 3. RALPH W. JONES
9985 N.W. Kaiser Road
Portland, Oregon 97231
Tel. (503) 645-6581

1. - 3. KENT B. THURBER
9825 N.W. Kaiser Road
Portland, Oregon 97231
Tel. (503) 645-3724

1. - 3. David P. Roy
9949 N.W. Kaiser Road
Portland, Oregon
Tel. (503) 629-5464

4. The following persons join in this appeal:

The Board of the Citizens for the Preservation
of Skyline Ridge
George Sowder, President
16618 N.W. Skyline Boulevard
Portland, Oregon 97231

Ray DeSilva
10030 N.W. Cornelius Pass Road
Portland, Oregon 97231

Harold and Lorraine Mason
9980 N.W. Kaiser Road
Portland, Oregon 97231

5. The Decision to be reviewed is the approval, subject to conditions, of the Conditional Use Application of:

Bowlus and Lynne D. Chauncey
9825 N.W. Kaiser Road
Portland, Oregon 97231

for the property located 9833 N.W. Cornelius Pass Road, Portland, Oregon, being Tax Lot 58, Section 5, 1N-1W, 1990 Assessor's Map, consisting of 4.24 acres, which property is currently agricultural land zoned for Exclusive Farm Use.

6. The Decision was announced by the Planning Commission and filed with the Clerk of the Board on June 13, 1991.

7. Ralph W. Jones claims status as a party pursuant to MCC 11.15.8225 as a result of his filing of written Responses to the Narrative and Supplemental Narrative of the applicants and as a

result of his testimony in opposition to the application given during the public hearing June 3, 1991. Kent B. Thurber and David P. Roy claim status as parties as a result of their testimony in opposition to the application given during the public hearing on June 3, 1991.

8. The GROUNDS FOR REVERSAL of the Decision of the Planning Commission are as more fully stated in the Statement of Ralph W. Jones in Appeal of the Planning Commission Decision, CU 6-91, #90. In summary, those grounds are:

a. The applicants' bark dust business is not, and will not be, conducted in conjunction with farm uses.

b. Approval of the conditional use application will afford an unfair competitive advantage to applicants over other bark dust vendors who obey state and county land use and zoning laws.

c. The Planning Commission failed to give proper consideration to, or erroneously considered that the applicants satisfied, conditional use criteria stated in MCC .7120, in that:

1. The Planning Commission erroneously determined the bark dust manufacturing and distribution business was consistent with the area;

2. The Planning Commission did not properly consider all the ramifications of the adverse impact of applicants' bark dust manufacturing business on water quality in the Rock Creek drainage basin, which drains into the Tualatin River. In addition, the Commission erred in determining that there would be no adverse impact on air quality and wildlife resources;

3. The Planning Commission erroneously determined the bark dust manufacturing and distribution business would not conflict with local farm uses;

4. The Planning Commission erroneously determined the bark dust manufacturing and distribution business will not require additional services;

5. The Planning Commission erroneously determined the bark dust manufacturing and distribution business will not create hazardous conditions in the area;

6. The Planning Commission erroneously determined that the bark dust manufacturing and distribution business will not violate County land use policies, or that limiting conditions on use of the site will mitigate adverse effects on the local environment, specifically with regard to the following policies:

a. Policy 2 - off-site effects are not properly considered or are misstated;

b. Policy 9 - agricultural land will be eliminated from potential production forever and the proposed use

will accelerate strictly commercial, non-agricultural pressures on surrounding agricultural land in the area;

c. Policy 13 - the proposed business will have a substantial negative impact on air, water and noise quality in the area;

d. Policy 14 - significant and stringent limitations will have to be imposed to prevent local environmental damage;

e. Policy 16 - the business will have a negative impact on natural resources in the area;

f. Policy 37 - the business will impact on local utility services if other limitations on use are enforced; and,

g. Policy 38 - the business will potentially have a substantial impact on facilities, including increasing stress on fire, police and emergency services in the area.

9.(b) The desired scope of review is on the RECORD PLUS ADDITIONAL TESTIMONY AND EVIDENCE.

10. The grounds on which the request to introduce new evidence is submitted are as follows:

a. The Planning Commission did not afford the opponents of the application commensurate opportunity to discuss the negative implications of the proposed bark dust business. The applicants, their attorney and experts were allowed unlimited opportunity to present their testimony in support of the application. Those individuals who offered testimony in opposition to the application were limited in time and forced to rush their presentations.

b. The opponents to the application were afforded no opportunity to rebut the testimony of the applicants' experts, nor to evaluate their reports submitted to the Planning Commission.

c. The applicants' testimony in support of the application contained statements that induced the Planning Commission to erroneously approve the application for conditional use. Specifically, those statements were with regard to the nature, substance and geographic scope of the applicants' business.

Appellants, Messrs. Jones, Thurber and Roy request the Commissioners permit them one hour in which to provide supplemental testimony. In addition, appellants request additional time to review the videotape of applicants' business activities at their current Kaiser Road location, which videotape evidences: the pollution of applicants' environment (in terms of dust, noise, diesel fuel exhaust from machinery and vehicles); the inconsistency of their commercial activity with the environment at the proposed Cornelius Pass Road site; and, the course of Cornelius Pass Road from the summit at the intersection with Skyline Boulevard on the north to the intersection with Cornell Road on the south. Additional perspectives of the site,

the effects of pollution caused by a similar bark dust business and the relationship to other industrial activities of another similar bark dust business are contained in slides that are also part of the record that appellants request time to display for the Commissioners. To the extent that the Commissioners have the opportunity to pre-review the videotape and slides, guided by the Slide and Videotape Indices that are also part of the record, the amount of time required to view the exhibits and respond to questions will be lessened. Appellants are of the opinion that the time requested for their presentation will materially aid the Commissioners in reaching their opinion while overall also materially conserving the time of the Commissioners. To the extent necessary, appellants also request rebuttal time as necessary to respond to further assertions by the applicants.

BEFORE THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS

In the Matter of the Appeal of)	Case No. CU 6-91, #90
Planning Commission Approval of)	
Conditional Use Permit for a)	Applicants' Memorandum in
Commercial Activity in)	Opposition to Appellants'
Conjunction with Farm Use)	Proposed Scope of Review

Introduction

On June 3, 1991, the Planning Commission approved applicants' application for conditional use approval to operate their bark dust business on property zoned for exclusive farm use. Appellants have filed a notice of review and requested an opportunity to submit additional testimony and other evidence. Applicants object to expanding the scope of review beyond the existing record.

Planning Commission Hearing

Appellants received notice of the pending application, submitted 26 pages of written opposition to the application, and presented oral testimony at the three and a half hour hearing on the matter.

Scope of Review

Pursuant to Multnomah County Code ("MCC") section 11.15.8270, the Board shall determine whether review shall be on the record or whether additional testimony or other evidence shall be allowed. The Board must be satisfied that the additional evidence could not reasonably have been presented at the prior hearing.

In making such a determination, the Board shall consider:

- (1) Prejudice to the parties;
- (2) Convenience or availability of evidence at time of the initial hearing;
- (3) Surprise to opposing parties;
- (4) The competency, relevancy and materiality of the proposed testimony or other evidence.

Argument

In this case, limiting review to the record would not prejudice the parties, there is no new evidence which was not

reasonably available at the time of the planning commission hearing.

The Appellants had notice of the proceedings as required by the Multnomah County Code. They had an opportunity to, and did in fact, participate orally and in writing before the planning commission. Appellant Jones submitted a 26 page memorandum in opposition to the application. Appellants Jones, Roy and Thurber presented oral testimony at the June 3, 1991 planning commission hearing.

Applicants have not had an adequate opportunity to review appellants' notice of review and, at a minimum, if review is not limited to the record, request a hearing on the scope of review.

Conclusion

Based upon the foregoing, the scope of review should be limited to the existing record in this case. Alternatively, Applicants request a separate hearing on the scope of review.

Respectfully submitted,


Peggy Hennessy, OSB 87250
Attorney for Applicants

Meeting Date: June 25, 1991

Agenda No.: P-4

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM
(For Non-Budgetary Items)

SUBJECT: _____

BCC Informal _____ (date)	BCC Formal _____ (date)
DEPARTMENT <u>DES</u>	DIVISION <u>Planning</u>
CONTACT <u>Sharon Cowley</u>	TELEPHONE <u>2610</u>
PERSON(S) MAKING PRESENTATION _____	

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: _____

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

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

CS 4-91/CU 4-91/WRG 1-91 Decisions of the Planning Commission of June 8, 1991 with recommendation to the Board for approval, subject to conditions

PLANNING COMMISSION
MULTI-COUNTY
REGION
JUN 17 PM 1:51

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL _____

Or

DEPARTMENT MANAGER Paul Yarbarg/bkw

(All accompanying documents must have required signatures)



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

Decision

These Decisions include Conditions of Approval,
Findings of Fact and Conclusions
June 3, 1991

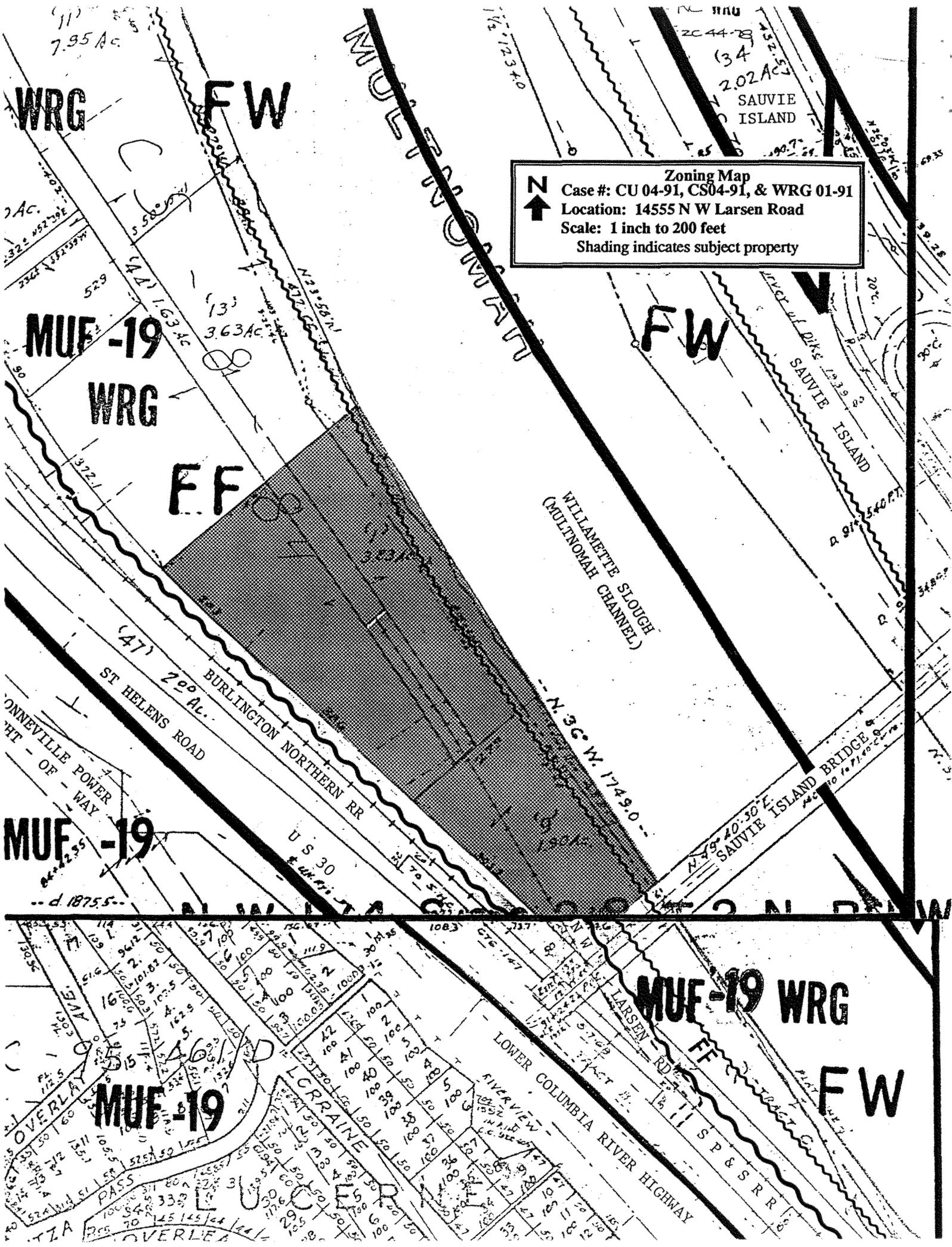
CS 4-91, #67 Community Service Designation for a Marina
CU 4-91, #67 Conditional Use Permit for a HouseBoat Moorage
WRG 1-91, #67 Willamette River Greenway Permit for New Uses in the Greenway

Applicants request change in zone designation from MUF-19, FF, FW, and WRG to MUF-19, FF, FW, WRG, C-S, community service use to allow development of a moorage for 19 houseboats and marina with 37 boat slips in the Multnomah Channel. On land, applicants propose parking areas, garages (for the houseboats), and a watchman's residence.

Location: 14555 NW Larson Road
Legal: Tax Lots '9' and '1' and SE 580' of Tax Lot '44'
Section 28, 2N-1W, 1990 Assessor's Map
Site Size: 6.37 Acres
Size Requested: Same
Property Owners: R J Martin (c/o Donald Martin Jr. *et al*)
9585 SW Imperial Drive, Portland 97225-4135
Spokane Portland & Seattle Railroad Company
999 3rd Avenue, Seattle, WA 98104
Applicant: Stephen Piazza/Joseph Spaziani
4330 SW Homesteader Road, Wilsonville, 97070
Comprehensive Plan: Multiple Use Forest / Willamette River Greenway
Present Zoning: MUF-19, Multiple Use Forest District
FF, Flood Fringe/FW, Floodway
WRG, Willamette River Greenway
Sponsor's Proposal: MUF-19, FF, FW, WRG, C-S, Community Service District

PLANNING COMMISSION DECISIONS

- #1. Approve, subject to conditions the Conditional Use Permit for a 19-space houseboat moorage;
- #2. Approve, subject to conditions the requested Community Service Use request for a 37-space boat marina;
- #3. Approve, subject to conditions the requested Willamette River Greenway Permit; all based on the following Findings and Conclusions.



Zoning Map
 Case #: CU 04-91, CS04-91, & WRG 01-91
 Location: 14555 N W Larsen Road
 Scale: 1 inch to 200 feet
 Shading indicates subject property

WRG

FW

MUF-19
 WRG

FF

FW

MUF-19

MUF-19 WRG

FW

MUF-19

WILLAMETTE SLOUGH
 (MILTONAH CHANNEL)

N. 36° W. 174.9.0

SAUVIE ISLAND BRIDGE

LOWER COLUMBIA RIVER HIGHWAY

BURLINGTON NORTHERN RR

ST HELENS ROAD

LARSEN RD

S P & S R R

SAUVIE ISLAND

SAUVIE ISLAND

7.95 Ac

2.02 Ac

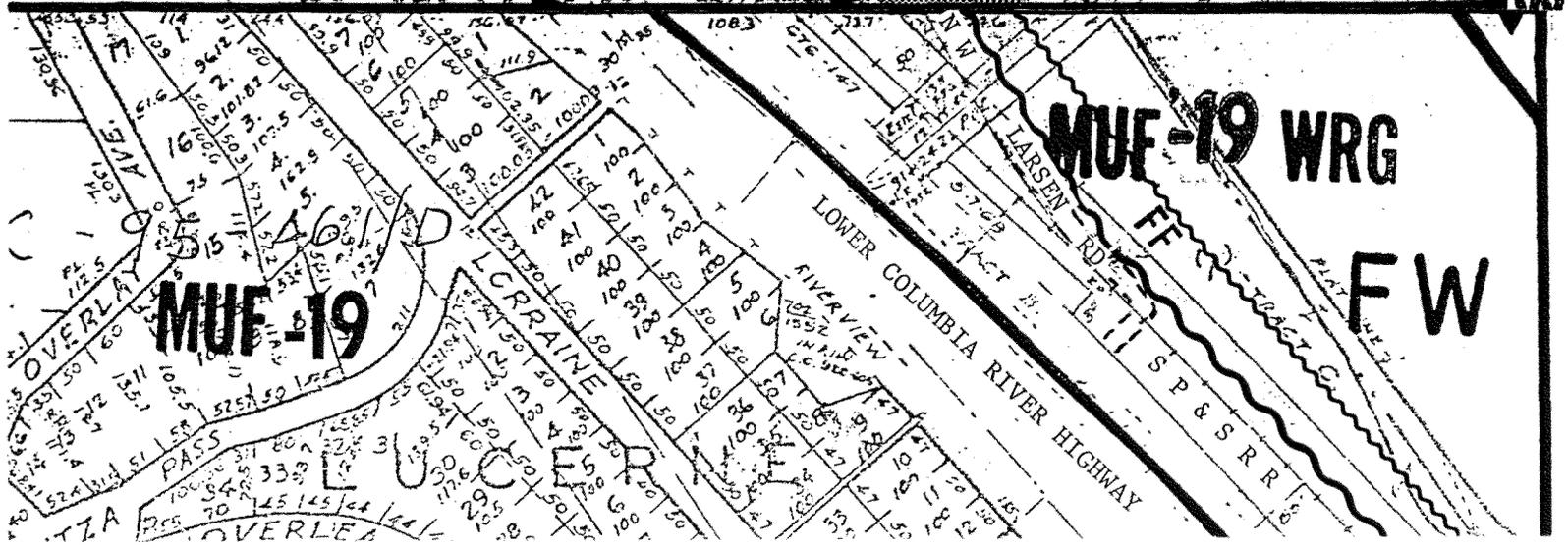
3.63 Ac

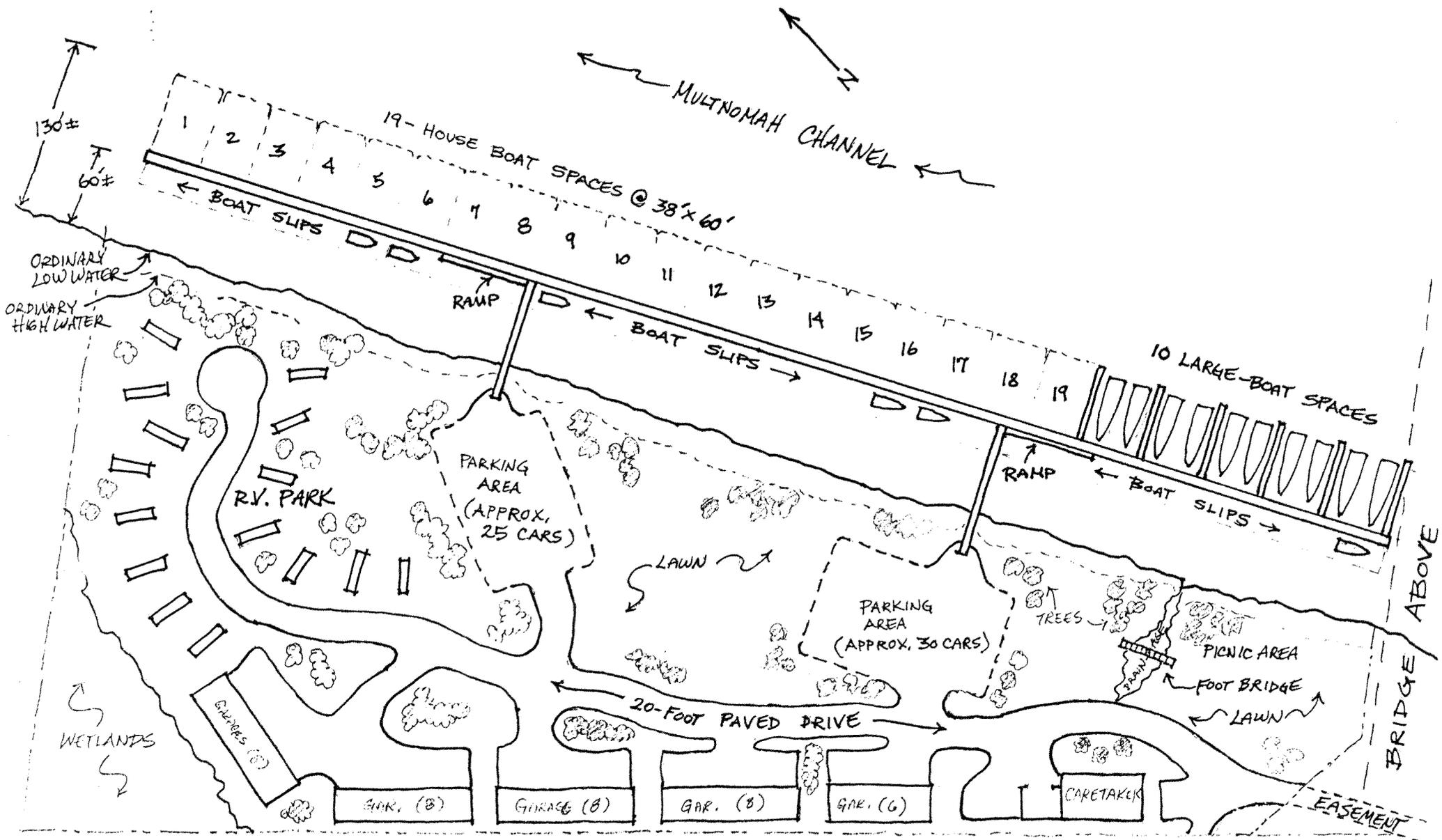
2 Ac

d. 1875.5

OVERLAY

OVERLEA





0 50 100
SCALE IN FEET

← RAILROAD →

CONDITIONS OF APPROVAL:

1. Obtain Design Review approval of all proposed site improvements including, but not limited to, grading, clearing, landscaping, fencing, building materials and exterior colors. Design Review submittals shall include a Grading and Erosion Control Permit if required by MCC .6700-.6735, and a Floodplain Development Permit if required by MCC .6301-.6323. Site work or construction shall not proceed until required Design Review approvals are obtained. As part of Design Review, document approval of the access road by the Public Utility Commission and Fire Bureau, and County Counsel approval of the easement instrument.
2. Prior to site development or construction of the proposed facilities, obtain approvals from the U.S.Army Corps of Engineers and the Division of State Lands for the pilings, walkways, and other structures or work proposed within Multnomah Channel.
3. Prior to site development or construction of the proposed facilities, obtain approvals from the Oregon Department of Environmental Quality for sanitation facilities, and from Burlington Water District for water line extensions or up-sizing required for all proposed uses.
4. Except as modified by conditions of approval, the land use permits shall be for the specific uses proposed and specified in the application. A maximum of 19-houseboats are authorized; only those houseboats that will be moored at this site may be constructed, and only in their respective slips. Houseboat manufacturing for placement in other moorages is not authorized at this site.
5. Obtain a WRG Permit for each houseboat to be moored. The decisions on each permit shall be made by the Planning Director as provided in MCC.6364.
6. Site design changes may be approved as part of Design Review only if they do not increase the number of houseboats (19-maximum), boat slips (27-maximum), or vehicle parking spaces (65-maximum, & 40-cars maximum in garages). If changes are proposed as part of Design Review, the moorage may not encroach into the channel beyond that illustrated in the approved CU/CS plans.
7. Consolidate the subject properties into a single tax lot prior to final inspection approvals or occupancy of any buildings or uses proposed on the site.
8. Unless the project is completed as approved, the Community Service Uses and Conditional Use approvals described herein shall expire two years from the date of approval as specified in MCC .7010(C) and MCC .7110(C).

FINDINGS OF FACT:

1. Summary of the Proposal:

The applicant provides the following proposal description with their request:

"The objective of this project is to develop a quality residential and recreational environment. The project will offer the public a variety of living and recreation opportunities at a single location. Following is an individual description of the parts of this project, which taken as a whole will fulfill our objective, and be a unique project in this area.

- 1) *The project will construct 20 houseboats, moored in the Multnomah Channel. The houseboats will all be of new construction, on concrete floats, with all floatation completely encapsulated in the concrete shell of the float. The floats and houseboats will be anchored with steel piling. The houseboats will be accessed by floating concrete walks, moored by steel pilings. All utility services will be provided to the houseboats, with the utility lines incorporated in the walkways for maximum protection from physical damage and the effects of cold weather. All construction will be to newly adopted code standards, with a fire protection system an integral part of the design. The development includes covered garage units for the houseboat owners at two cars per houseboat. The houseboat walkways will be accessed by two ramps with private gates to provide maximum security for the houseboat owners.*

Staff Comment: The May, 1991 revisions scaled back the design to 19 houseboats.

- 2) *The project will incorporate a large boat mooring area with the capacity of eight 60 foot boats and four 45 to 50 foot boats. Access to this area will be by the previously described ramp and gate system. All of the slips in this part of the marina will have concrete walks and will have all utility services provided at the slip.*
- 3) *The project will have a boat mooring dock separate from the dock that provides for the houseboats and large boats as described above. This dock will be accessed by a separate ramp, and will be of the concrete float and steel mooring pile design as described above. This mooring dock will have the capacity of forty 30 foot boats, nine 22 to 24 foot boats, and six 20 foot boats. The design of this area will be such that the docks may be covered at a time in the future. Lighting and a fire protection system will be incorporated in the dock design."*

Staff Comment: Revisions reduce the moorage component as follows:

<u># of boats</u>	<u>lengths accommodated</u>
10	45-60-ft. boats;
<u>27</u>	<u>20-30-foot boats;</u>
37	Total boat slips

- "4) Incorporated in the project will be a boat holding tank pumping system. This system will meet all code standards, and offer the public an alternative to the dumping of holding tank sewage in the waterways. A nominal fee will be charged for the use of this system to cover the costs of operating and maintaining the system.*
- 5) Provision will be made in the design of the project for the secure storage of canoes and skulls. Boat dock access will be made available to rowers, and design considerations will be made for a rowers launch and retrieval area. We believe this feature will offer the community a convenient opportunity to participate in the rowing experience.*
- 6) The project will offer 15 full service recreational vehicle sites. We prefer to call this a moorage for land yachts. We anticipate that the users of these sites will also have a boat moored at the facility, and will be interested in water related or Sauvie Island based recreational opportunities. The area reserved for this activity was chosen to afford the least traffic through the area, and thus the maximum privacy and quiet. We anticipate serving this area with a shower, restroom, and laundry facility.*
- 7) We foresee the need for a full-time caretaker/maintenance person for this facility. We will construct a permanent residence for this person, that will also house offices for the business aspects of this project.*
- 8) We plan to provide a large landscaped area for a public picnic area."*

Supplements to the application provide additional details of the proposal:

- a) "It is our intention to offer a maximum of 2 garages to each houseboat owner, for a maximum total of 40 garages. The locations of the garages, and their construction above the 100 year flood plane is meant to satisfy the houseboat parking requirement, and to screen the development from the Burlington-Northern right of way."*

Staff Comment: The May, 1991 revisions to the design propose 38 garage spaces (for 19 houseboats); an additional 2-car garage would be accessory to the caretaker's residence. Condition #6 limits the number of garage spaces to 40-cars.

- b) *"We have not reached a specific design with regard to our water pollution control facility. We have hired an engineering consultant, who is consulting with the DEQ, to recommend the best facility for this site. We will submit the specific design and evidence of DEQ approval when we apply for design review and building permits."*
- c) *"We understand and share the counties' desire that the RV and boat live-aboard spaces not become permanent residences. We will cooperate with the county to see that this does not happen."*
- d) *"We will provide the showers, lavatory spaces, and other features that the Environmental Health Division will require of the RV segment of this development."*

Staff Comment: The County approved a similar development request on this site in 1984 (CS 8-84/CU 6-84/WRG 1-84). The previous proposal would have expanded the "Bridgeview Moorage", adding 16-houseboats and a 72-slip boat marina on the site. The development was not constructed within two years of the approval; therefore the Conditional Use Permits expired pursuant to MCC .7110(C).

2. Site and Vicinity Information:

The 6-plus acre property is located on the west bank of Multnomah Channel, immediately north (downstream) of the Sauvie Island Bridge. It is generally flat, with scattered brushy vegetation along the north portion of the site. The south half contains mostly paved and gravel areas and concrete foundation ruins from a box factory structure which formerly occupied the site. There are a few trees along the south boundary below the bridge and near the channel bank. The Burlington Northern rail-line forms the west boundary of the site. Highway 30 (St. Helens Road) is immediately west and up-slope of the rail-line.

Nearby sites to the north and south (between the channel and the highway) are generally flat with some portions below the 100-year flood elevation. Most are developed with river-related recreation and residential (houseboat) development. An auto wrecking yard operates on a site northwest of the property. Lands west of Highway-30 are generally steep forested hillsides, with scattered rural residences. The Angel Brothers rock quarry site lies to the northwest. Applicant's narrative provides additional description of the site and vicinity:

"The area of the Tax Lots referred to above comprise an area of 5.73 acres. Within the boundaries of the above described Tax Lots lie two abandoned railroad easements that were granted for the construction of a railroad spur. These easements have been abandoned for that purpose and the rails and ties removed. The total land area within the boundaries of the Tax Lots described above,

including the abandoned railroad easements is 6.37 acres. Refer to above referenced survey.

Topography: The site is generally level with a gradual slope from the boundary along the railroad line toward the riverfront.

Abutting Properties:

To the North, undeveloped low lying land whose riverfront is being used for a houseboat moorage: To the South, Sauvie Island Bridge and Larson's Moorage: To the East, the West bank of the Multnomah Channel, which separates this property from Sauvie Island: To the West, Burlington Northern Railroad right-of-way."

3. Zoning and Comprehensive Plan Designations.

The Framework Plan designates the site Multiple Use Forest and Willamette River Greenway. The site is zoned MUF-19/FF/FW/WRG; Multiple Use Forest District, Flood Fringe, Floodway, Willamette River Greenway.

"The site is currently zoned MUF-19 by the Multnomah County Comprehensive Plan. It is also within the boundaries of the Willamette River Greenway District. The applicant requests no alteration in current zoning, but wishes to develop the property as a houseboat moorage under the applicable requirements for such a development as set forth in the Multnomah County Comprehensive Plan. Such a use is allowed in the MUF-19 district as stated under 11.15.2172, Conditional Uses, when applicable ordinance standards are met. In addition to the use as a houseboat moorage, the applicant wishes to develop specific community uses. These uses are a boat moorage and a recreational vehicle park."

4. Ordinance Considerations:

Conditional uses allowed in Multiple Use Forest zones are specified in MCC 11.15.2172. Subsection (A) allows Community Service Uses pursuant to MCC .7005 – .7041; MCC .7020(A)(1) provides for a "...*Boat moorage, marina or boathouse moorage.*" MCC .7020(A)(2) allows a "...*Camp, campground or recreational vehicle park.*" MCC subsection .2172(B)(8) specifies "...*Houseboats and Houseboat Moorages.*" The houseboat moorage use may be permitted when found to satisfy MCC .7505 – .7525. The approval criteria for the two community service uses (boat moorage & R.V. park) under 11.15.7015, are identical. All new uses proposed within Willamette River Greenway must meet approval criteria specified in MCC .6420.

The following section presents findings regarding the proposed Conditional and Community Service uses and the WRG Permit; the applicable standard is in *bold italics*, applicant's responses are presented first in *italics*, followed by staff comments.

Community Service Use and Conditional Criteria (MCC .7015 and .7120)

The proposal:

A(1) Is consistent with the character of the area;

"... The properties bordering this site to the upstream and downstream side have been developed as houseboat and boat moorages and have been in operation for a considerable period of time. The properties for a considerable distance upstream and downstream from the applicants site have been primarily used for access and enjoyment of the river resource in both a residential and recreational sense. The applicant feels that the inclusion of recreational vehicle sites in our plan is logical and desirable for the public's access to, and recreational use of the riverfront resource."

Staff Comment: The area surrounding the subject site is described above under Finding #2. Recreation and water-related residential uses proposed are consistent with surrounding and nearby uses along the west bank of Multnomah Channel and Highway 30. The west bank has been an area traditionally characterized by houseboat and marina usage. The proposed development will redevelop a former industrial site with uses and structures more compatible with the rural and recreation-oriented character of the area. The site immediately south is developed as a boat marina (Larson's Marina). It contains several boathouses and covered boat slips in the channel, and associated parking areas on the land. Similarly, the Bridgeview Moorage to the north has most of its shore frontage developed with floating structures (houseboats in this case) and associated parking areas on the land. There is a wrecking yard near the property, to the northwest; and a gravel pit west of Hwy. 30.

Based on review of proposed plans, site visits by staff, and analysis of air photographs of the area, the applicant's site design provides greater landscaped and natural areas along the riverside than either existing river-oriented uses to the north or south. The plan proposes landscaping to partially screen new parking areas and structures from the river. Potential negative visual impacts to the Greenway would be further addressed through Design Review; Condition # 1 requires Design Review approval prior to initiating construction or site development. The topography and trees south and west of the site screen the site's water front area from most public views (e.g. from Highway 30).

The site is visible from the east approach to the Sauvie Island Bridge. From this vantage point, houseboats and marinas already characterize the west bank of the channel.

A(2) Will not adversely affect natural resources;

"The principal natural resources in the area are the Multnomah Channel waterway and the Sauvie Island agricultural and game management area.

The applicant has been careful in the design of the portion of the development that is in the waterway to use materials and designs that will have the least impact on the waterway. All docks and houseboat foundations will be of concrete design, with all floatation materials being completely encapsulated in concrete. Piling will be of steel construction to reduce the number of pile required to anchor the marina and to eliminate the harmful effects of wood preservative treatments. Houseboat waste lines will be designed to be encapsulated within the walkway docks so that they will be protected from physical damage, and from the possibility of freezing and breaking during extreme cold weather. Thought has also been given in locating permanent shore side structures as far away from the riverfront as possible.

The Sauvie Island agricultural and game management resource will not be adversely affected by this development primarily because of the physical distance separating these areas and the applicant's site."

Staff Comment: The site is within a predominantly developed rural area along the west bank of Multnomah Channel. The site itself has been significantly altered for industrial uses in the past. The proposal will restore and enhance natural areas on large portions of the site and along the channel bank. The structures proposed within the channel must be approved by the Corps of Engineers and the Division of State Lands (Condition #2). These agency reviews routinely include comments from and address concerns of the Federal and State departments of Fish and Wildlife.

A(3) Will not conflict with farm or forest uses in the area;

"The site has had a long historical use as an industrial site. In 1975 the industrial use of the site was terminated because of a fire. Since that time uses have been associated with the construction of houseboats and docks, and the mooring of boats tugs and log rafts. The site is not currently being used to support any forest or agricultural use. It is unlikely that any economically viable forest or agricultural use can be made of the property because of its' relatively small size, and the very rocky nature of the fill material used to bring the site to its' present

elevation. The applicants proposed use of this site will not impact the forest use of properties in the vicinity because the site is buffered from those potential uses by the Burlington Northern right-of-way and St. Helens Road (State Highway 30). The normal agricultural activities used to plant, raise and harvest agricultural crops on Sauvie Island will not cause a nuisance to the proposed uses on the applicants site because of the significant physical barrier presented by the Multnomah Channel and the distance between the adjoining uses.

Staff Comment: Staff concurs that the proposal's effects on farm or forest uses are insignificant — primarily due to physical barriers between the site and nearby farm or forest uses, and the non-farm/non-forest uses existing on immediately adjacent lands to the northwest and southeast. To the southwest, a railroad, a 5-lane highway, and steep slopes separates the subject site from nearby commercial forest lands. To the northeast, Multnomah Channel, a flood control dike, and Sauvie Island Road all separate the site from the nearest commercial farming operations on Sauvie Island. The channel is approximately 600-feet wide at this point.

A(4) *Will not require public services other than those existing or programmed for the area;*

"Services existing on the site are as follows: Water: Burlington Water District, 6 inch line; Gas: Northwest Natural Gas; Phone: Pacific Northwest Bell; Electric: Portland General Electric; Access: Access to the site from St. Helens Road (State Highway 30), is by a paved road currently maintained by the county, across the Burlington Northern Railroad tracks to the Larson Marina property, and across the Larson Marina property via a paved drive located on a roadway easement recorded in book 646, page 437 of the Multnomah County Deed records, and recorded on October 28, 1941.

The only additional service required for the applicant's proposed use is a sewage disposal system. This system will be completely contained on site, and will be designed to operate within all applicable environmental and health requirements. The approval of this system by public agencies will be a requirement for the issuance of building permits for this project."

Staff Comments: Condition #3 requires DEQ approval of proposed sanitation facilities, and Burlington Water District approval of waterlines to the site prior to development or construction.

A(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;*

"The applicants site is not located within the big game winter habitat area as defined by the Oregon Department of Fish and Wildlife."

Staff Comment: Staff concurs. The site is not identified as a big game winter habitat area in the Comprehensive Framework Plan or by the ODF&W.

A(6) Will not create hazardous conditions;

"The applicant's proposed development and the use of same, will not present a physical or environmentally hazardous condition to the community. The applicant plans to use the current state of the art in walk way, houseboat foundation, and piling design in an effort to meet this provision. We are also making the decision not to offer a boat fueling system as a part of this project. The projects boat holding tank pumpout system and the projects waste treatment system will meet all current environmental and legal standards."

Staff Comment: Conditions of approval require Design Review of the site design, parking areas, and associated grading and structures. The applicant must obtain applicable approvals from the U.S. Army Corps of Engineers, Burlington Water District, and the Department of Environmental Quality. The recreation vehicle park component must be reviewed and approved by the County Environmental Health Division prior to development. These additional permits and reviews will further address potential hazards associated with the proposed uses and site design.

An existing private road connects the site to Highway 30 across Tax Lot '1' of Tract C, LUCERNE, and across the Burlington Northern Railroad right-of-way to the southeast. The easement measures 16-feet in width. The County typically requires a 20-foot drive width for two-way access [Ref. MCC.6128(A)]. This 16-foot easement has served a number of industrial uses on the site in the past. Applicants have begun negotiations with the Harbor Master, the Fire Bureau, Burlington Northern and the State Highway Department. regarding various designs to widen or enhance the access into the site. They state *"...it would be very poor policy to effectively condemn for economic use this property on the access issue. The present access has served the property for the years it was a large industrial site with over 100 employees and with considerable truck traffic. I feel our uses will be less severe than it was when it was an industrial property. ..."*

I feel the objection raised by the Larsons concerning possible conflict between ... our entrance ... and their ... boat launch, is more a concern of a loss of parking that is being done on our access by their customers, rather than a concern for safety."

Condition #1 requires Design Review approval prior to site development. It also requires documentation of Fire Bureau approval of the access road design and County Counsel approval of the easement instrument. These measures are sufficient to assure the proposal is consistent with the above criteria.

A(7) Will satisfy the applicable policies of the Comprehensive Plan.

The following policies of the County's Comprehensive Plan are found applicable to this request: Policy 2 (Off-site Effects); Policy 13 (Air, Water and Noise Quality), Policy 14 (Development Limitations); Policy 15 (Willamette River Greenway); Policy 24 (Housing Location); Policy 26 (Houseboats); Policy 31 (Community Uses & Facilities); Policy 37 (Utilities); Policy 38 (Facilities); Policy 39 (Recreation).

a. Policy 2 – Off-site Effects.

[PARAPHRASED]

THE COUNTY'S POLICY IS TO APPLY CONDITIONS TO LAND USE APPROVALS TO PROTECT THE PUBLIC FROM POTENTIAL ADVERSE EFFECTS; OR MEET PUBLIC SERVICE NEEDS CREATED BY THE PROPOSED USE.

Staff Comment: Conditions of approval provide several means to mitigate or avoid a variety of potential off-site effects from the proposed use. The site location and design also addresses this policy by placing garage structures as a buffer along the southwest boundary of the site. The applicant proposes to accommodate sanitation demands from the uses through an on-site sewage treatment system, approved by the State DEQ. The styrofoam floats for the structures will be enclosed within concrete to avoid off-site effects to downstream ecological systems.

b. Policy 13 – Air, Water, and Noise Quality.

[PARAPHRASED]

THE COUNTY'S POLICY IS TO SUPPORT CITIZEN AND AGENCY EFFORTS TO MAINTAIN OR IMPROVE AIR AND WATER QUALITY, AND REDUCE NOISE LEVELS. IT IS THE COUNTY POLICY TO PARTICIPATE IN STATE AND REGIONAL PLANS & PROGRAMS TO REDUCE POLLUTION, MAINTAIN HEALTHY AIR & WATER QUALITIES, AND PREVENT OR REDUCE EXCESSIVE NOISE LEVELS. NOISE-GENERATING USES SHOULD BE LOCATED AND DESIGNED TO MINIMIZE EFFECTS TO NOISE-SENSITIVE USES.

Staff Comment: The proposed uses should not generate significant noise or other polluting effects. During construction, excavation and other site work may effect water quality in streams down-slope. Condition #1 requires that erosion control measures be applied as part of Design Review approval. Conditions of approval also require approval of proposed facilities by the State DEQ and the County Environmental Health Division. Reference findings above for Natural Resources [A(2)] and Hazardous Conditions [A(6)].

c. Policy 14 – Development Limitations.

[PARAPHRASED]

THE COUNTY'S POLICY IS TO DIRECT DEVELOPMENT AWAY FROM AREAS WITH PHYSICAL LIMITATIONS — OR REQUIRE DESIGNS WHICH MITIGATE OR AVOID ADVERSE EFFECTS. THE POLICY APPLIES TO: HILLSIDES IN EXCESS OF 20% SLOPE; AREAS WITHIN THE 100-YEAR FLOOD PLAIN; AND SITES WITH SEVERE EROSION POTENTIAL, ETC.

Staff Comment: The site is in an identified flood hazard area. It is not identified on the County slope hazards map. The development proposed is consistent with this policy. Proposed parking for the houseboats (38-garages) will be elevated to at least two-feet above the 100-year flood level. The watchman's residence also is proposed on that portion of the site already above the 100-year flood elevation (ref. survey submitted with application). Grading or fill necessary to accomplish the required elevation for the houseboat parking spaces will be reviewed as part of Design Review (ref. Condition #1.).

d. Policy 15 – Willamette River Greenway

[PARAPHRASED]

THE COUNTY'S POLICY IS TO PROTECT, CONSERVE, ENHANCE, AND MAINTAIN THE NATURAL, SCENIC, HISTORICAL, AGRICULTURAL, ECONOMIC, AND RECREATIONAL QUALITIES OF LANDS ALONG THE WILLAMETTE RIVER.

FURTHER, IT IS POLICY TO REQUIRE SPECIAL REVIEW OF ALLOWED USES TO ENSURE MINIMUM IMPACT TO VALUED RESOURCES, AND MITIGATE LOST VALUES TO THE GREATEST EXTENT POSSIBLE.

"The location of the permanent structures located on land meets the Willamette River Greenway Design Objective of a 150 foot setback from the ordinary low water line (except for buildings and structures in conjunction with a water-related or water dependent use). We also feel the design of this project is in harmony with the Willamette River Greenway objective in regard to satisfying recreational needs of the public, as expressed in 11.15.6372 (F)."

"No part of the site is located on Multnomah County inventoried wetlands. The site is adjacent to a low lying area to the northwest that floods during the winter months. The applicant purposely did not include any improvements to the West corner of the property to minimize any effects this development will have on the adjacent low lying area."

Staff Comment: Proposed and existing screening vegetation and conditions requiring Design Review approval and review of materials and exterior colors will insure the uses are consistent with this policy. The findings below under Criteria 'C' also address the Willamette River Greenway.

e. Policy 24 – Housing Location

[PARAPHRASED]

THE COUNTY'S POLICY IS TO ACCOMMODATE THE LOCATION OF A BROAD RANGE OF HOUSING TYPES IN ACCORDANCE WITH APPLICABLE PLAN POLICIES AND LOCATIONAL CRITERIA APPLICABLE TO PROJECT SCALE AND STANDARDS.

"The project complies with the density provisions of Policy 24 as it applies to houseboats."

Staff Comment: The survey provided with the application indicates the site contains approximately 965-feet of water frontage. Policy 24 and MCC .7510 establish a maximum density for houseboats of one for each 50-feet of water frontage; 965-feet divided by 50-feet equals 19.3. A revised plan with 19 houseboats was submitted in May, 1991; Condition # 4 limits the number of houseboats to 19.

f. Policy 26 – Houseboats.

[PARAPHRASED & EDITED]

THE COUNTY'S POLICY RECOGNIZES HOUSEBOATS AS A HOUSING OPTION. IT IS POLICY TO PROVIDE FOR THE LOCATION OF HOUSEBOATS IN ACCORD WITH:

APPLICABLE PLAN POLICIES .

OTHER APPLICABLE FEDERAL, STATE OR LOCAL POLICIES REGULATING WATERWAY DEVELOPMENTS.

LOCATIONAL CRITERIA; THE FOLLOWING AREAS ARE DESIGNATED AS SUITABLE FOR HOUSEBOATS:

MULTNOMAH CHANNEL – WEST SIDE – FROM THE PORTLAND CORPORATE LIMITS TO 1/2-MILE NORTH OF THE SAUVIE ISLAND BRIDGE.

"The project complies with the objectives of Policy 26 in regard to housing diversity, in recognition of the houseboat residential lifestyle. The project also complies with Policy 26 in regard to the site location."

Staff Comment: The site is located within the area of Multnomah Channel designated for houseboats by Policy #26. The proposed garages for the houseboats would be elevated to 2-feet above the 100-year flood elevation as required by 11.15.7020(B). Conditions of approval require verification of applicable approvals from the U.S. Army Corps of Engineers, Division of State Lands, and State DEQ.

g. Policy 31 - Community Facilities and Uses

[PARAPHRASED & EDITED]

THE COUNTY'S POLICY IS TO SUPPORT THE SITING AND DEVELOPMENT OF A FULL RANGE OF COMMUNITY FACILITIES AND SERVICES, SCALED TO MEET PUBLIC NEEDS AND REINFORCE COMMUNITY IDENTITY.

"The project design complies with the objectives of policy 31 in regard to site slope standards, and vehicular access to the site and the public transportation system."

Staff Comment: Policy 31 lists marinas as a minor regional facility. Recreation vehicle parks or campgrounds are not listed in the policy. The policy indicates that minor regional facilities should be located on sites with slopes averaging less than 6%. The subject site is generally flat; its average slope is less than 6% (based on site visits by staff). Marinas should have access to a collector (or greater) capacity street. The subject site accesses Highway 30 through an easement road ("Larson Road") approximately 800-feet long. The only other property which shares the easement access to Highway 30 is also developed as a marina use (Larson's Marina). The proposed location and facilities are consistent with this policy.

h. Policy 37 - Utilities

[PARAPHRASED]

THE COUNTY'S POLICY IS TO INSURE THAT PROPOSED DEVELOPMENT HAS ADEQUATE AND SAFE PROVISIONS FOR: SEWAGE DISPOSAL, WATER SUPPLY, STORM WATER DRAINAGE, ENERGY, AND COMMUNICATIONS.

Staff Comment: Conditions of approval require verification of applicable approvals from the U.S. Army Corps of Engineers, Division of State Lands, and State DEQ.

i. Policy 38 Facilities -

[PARAPHRASED]

THE COUNTY'S POLICY IS TO INSURE:

- **THAT EFFECTED SCHOOL AND FIRE DISTRICTS ARE NOTIFIED AND HAVE OPPORTUNITY TO COMMENT ON PROPOSED DEVELOPMENTS; AND,**
- **THAT WATER PRESSURE AND FLOW IS ADEQUATE TO FIGHT FIRES; AND,**
- **THAT POLICE PROTECTION WILL BE AVAILABLE FOR THE DEVELOPMENT.**

Staff Comments: The site is within Portland School District #1. Applicant indicates Skyline Elementary and Lincoln High serve prospective students who may reside in the houseboats. Burlington Water District has not yet determined water-line requirements for the proposed uses (an existing 6-inch line serves the site). Condition #3 requires approval from Burlington Water District for water service. Fire protection is provided by the Portland Fire Bureau (by contract). The Sheriff's Department polices the area. As of this writing, school, fire, and police service agencies have not commented on the proposal. Applicant indicates the Fire Marshall will require a hydrant on the site.

j. Policy 39 Parks and Recreation Planning

[PARAPHRASED & EDITED]

THE COUNTY'S POLICY IS TO WORK WITH RESIDENTS, GROUPS, AND AGENCIES TO SECURE FUNDS FOR DEVELOPMENT AND ACQUISITION OF PARK SITES AND RECREATION FACILITIES. IT IS POLICY TO ENCOURAGE RECREATION OPPORTUNITIES BY OTHER PUBLIC AGENCIES AND PRIVATE ENTITIES.

"The general public will be allowed access to the picnic area located at the south end of the site. The general public will also be allowed to launch and retrieve canoes and skulls from the boat dock. The inclusion in our project of the day use boat mooring slips that will be rented to the public, is a response to public demand for this amenity for their enjoyment of the river."

Staff Comment: The design provides significant new areas for open space and landscape restoration along and near the river. The boat moorage and recreation vehicle park components will increase recreation opportunities and facilities in the Multnomah Channel/Sauvie Island vicinity.

B. Houseboats and Houseboat Moorages (MCC .7505-.7525)

- B(1) *The proposed development is in keeping with the overall land use pattern in the surrounding area;***

"The site is within the area identified in the Multnomah County Comprehensive Plan as being desirable for the development of houseboat moorages as set forth in policy 26."

Staff Comments: See comments above under A(1) Consistency with area character; and A(3), Effects on farm and forest uses.

- B(2) *The development will not adversely impact, or be adversely affected by normal fluvial processes;***

Staff Comments: See comments above under A(2) Natural Resources; and A(6) Hazardous Conditions.

- B(3) *All other applicable governmental regulations have, or can be satisfied;***

"The project exceeds the off-street parking standards in regard to dimensional standards, 11.15.6130, and the quantity of spaces provided, 11.15.6142. The project complies with the houseboat parking standard by constructing the garages two feet above the 100 year flood plane."

Staff Comments: Conditions of approval address applicable regulations for grading and erosion control, floodplain development, and other agencies (i.e. Corps of Engineers, Division of State Lands, Department of Environmental Quality, Burlington Water, and County Environmental Health Division).

- B(4) *The proposed development will not generate the untimely extension or expansion of public facilities and services including, but not limited to, schools, roads, police, fire, water and sewer.***

Staff Comments: See comments above under A(4) Public Services and A(7), Utilities and Facilities.

C. WILLAMETTE RIVER GREENWAY REQUEST: [Ref. MCC 11.15.6366-.6372]

The County Zoning Ordinance requires a Greenway Permit for all new uses within the Greenway Boundary. When approving a Greenway Permit, the Planning

Commission must make affirmative findings regarding the Greenway Design Plan (development criteria):

C(1) *The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and the river.*

"Sixty percent of the upland surface area of the site will be landscaped or left in the current wetland state. The landscape design will serve to shelter from river view the necessary aspects of the design that are located near the shore. The necessary parking areas and the dock access ramps have been separated and oriented to minimize their visual impact from the river."

Staff Comment: The applicant's site design provides greater landscaped and natural areas along the riverside than either existing river-related uses to the north or south. The plan proposes landscaping to partially screen parking areas and uses near the river. Potential negative visual impacts to the Greenway would be further addressed through Design Review; Condition # 1 requires Design Review approval prior to initiating construction or site development. The site itself has been significantly altered for industrial uses in the past. The proposal will restore and enhance natural and open landscaped areas on large portions of the site and along the channel bank.

C(2) *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.*

"The general public will be allowed access to the picnic area located at the south end of the site. The general public will also be allowed to launch and retrieve canoes and skulls from the boat dock. The inclusion in our project of the day use boat mooring slips that will be rented to the public, is a response to public demand for this amenity for their enjoyment of the river."

Staff Comment: Refer to comments above under A(7)(1)-Recreation.

C(3) *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.*

Staff Comment: The project design provides greater landscaped and natural areas along the riverside than either of the existing river-oriented uses to the north or south. The plan suggests landscaping will partially screen new park-

ing areas and structures from the river. The site itself has been significantly altered from a natural condition for industrial uses. The proposal will restore and enhance extensive landscaped and natural areas on large portions of the site and along the channel bank. Proposed garages and the watchman's house are sites on the west portion of the site to maximize the open space and landscaped areas along the river.

The revised design (May '91) proposes an approximately 130-foot extension into the Channel for the moorage walkways and houseboat structures. This aligns with similar moorage developments immediately up-stream and down-stream from the site (mainland side).

C(4) Agricultural lands shall be preserved and maintained for farm use.

Staff Comment: The project site is not adjacent to farm uses. The proposal's effects on farm uses are insignificant — primarily due to physical barriers between the site and nearby farm uses on Sauvie Island. The Multnomah Channel, a dike, and Sauvie Island Road all separate the site from the nearest commercial farming operations.

C(5) 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.

Staff Comment: There is no timber harvest associated with the request.

C(6) 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.

"The general public will be allowed access to the picnic area located at the south end of the site. The general public will also be allowed to launch and retrieve canoes and skulls from the boat dock. The inclusion in our project of the day use boat mooring slips that will be rented to the public, is a response to public demand for this amenity for their enjoyment of the river."

Staff Comment: The design contains adequate areas for parking, maneuvering, and accessory buildings, while still providing significant new areas for open space and landscape restoration along and near the river. The boat moorage and recreation vehicle park components will increase recreation opportunities in the Multnomah Channel/Sauvie Island vicinity. Multnomah Channel, a dike, and Sauvie Island Road all separate the site from the nearest commercial farming operations on Sauvie Island.

C(7) Significant fish and wildlife habitats shall be protected.

Staff Comment: The structures proposed within the channel must be approved by the Corps of Engineers and the Division of State Lands (Condition #2). These agency reviews routinely include comments from and address concerns of the federal and state departments of Fish and Wildlife. The request does not indicate any dredging will be necessary to accommodate the proposed in-stream uses.

C(8) Significant natural and scenic areas and viewpoints and vistas shall be preserved.

Staff Comment: The site is within a predominantly developed rural area along the west bank of Multnomah Channel. The site itself has been significantly altered for industrial uses in the past. The proposal will restore and enhance natural areas on large portions of the site and along the channel bank. Public views of the waterfront development area are limited. The areas north and south of the site along the west bank of the channel are already built and committed to water-related floating structures and uses. The proposed floating structures would be reviewed individually for consistency with the Greenway Design Plan (reference Condition #5). These reviews can limit exterior colors and/or materials to avoid or lessen adverse scenic effects from new houses on the water.

Floating structures (existing or proposed) along the west bank of the channel are not as intrusive into the Greenway. This is primarily due to steep wooded slopes south and west of the site which screen the site's water front area from most public views (e.g. from Highway 30), and form a backdrop, reducing the visual prominence of structures along the bank. The site is visible from the east approach to the Sauvie Island Bridge. From this vantage point, houseboats and marinas already characterize the west bank of the channel. This project would essentially "infill" between existing moorage/marina developments to the north and south.

C(9) Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.

"The inclusion of the caretakers residence at the south end, and entrance to the project, is a reflection of our desire to have the feeling that this area is watched over. Our segregation of various uses, and the areas that support those uses, was meant to enhance the feeling of privacy and security to the various users of this project."

Staff Comment: Staff concurs.

C(10) *The natural vegetation along the river, lakes, wetlands and streams shall be enhanced and protected to the maximum extent practicable to assure scenic quality, protection from erosion, screening of uses from the river, and continuous riparian corridors.*

"The natural river bank at this site will be left undisturbed by this project. One area of approximately 100 feet in length, will be cleaned of industrial debris that were deposited on the bank after a fire."

Staff Comment: The site is within a predominantly developed rural area along the west bank of Multnomah Channel. The site itself has been significantly altered for industrial uses in the past. The proposal will restore and enhance the more natural areas on large portions of the site and along the channel bank.

C(11) *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.*

Staff Comment: There is no aggregate extraction associated with this request.

C(12) *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.*

"The one area on the site that is effected by seasonal flooding will not be disturbed or affected by the proposed development."

Staff Comment: The site is in an identified flood hazard area. The development proposed is consistent with this criteria. Proposed parking for the houseboats (40-garages) will be elevated to at least two-feet above the 100-year flood level. The watchman's residence also is proposed on that portion of the site already above the 100-year flood elevation (ref. survey submitted with application). The fill necessary to accomplish the required elevation for the houseboat parking spaces will be reviewed as part of Design Review (ref. Condition #1.). The existing wetland area in the northwest corner of the site

is not proposed for alteration or development.

The design of walkways, pilings, and related detailing of the moorage will employ current technologies to avoid flood damage to the proposed residences (Reference Condition #1).

C(13) Significant wetland areas shall be protected as provided in MCC .6376.

"No part of the site is located on Multnomah County inventoried wetlands. The site is adjacent to a low lying area to the northwest that floods during the winter months. The applicant purposely did not include any improvements to the West corner of the property to minimize any effects this development will have on the adjacent low lying area."

Staff Comment: Staff concurs. The existing wetland area in the northwest corner of the site is not proposed for alteration or development.

C(14) Areas of ecological, scientific, historical or archeological significance shall be protected, preserved, restored, or enhanced to the maximum extent possible.

Staff Comment: There are no known historic or archaeological sites or resources on the property.

C(15) Areas of erosion or potential erosion shall be protected from loss by appropriate means which are compatible with the character of the Greenway.

Staff Comment: The site is not identified in the County Slope Hazards inventory. Condition #1 requires a Grading and Erosion Control Permit as part of Design Review of proposed site improvements (including fill).

C(16) 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.

Staff Comment: The proposed uses should not generate significant noise or other polluting effects. During construction, excavation and other site work may effect water quality in the channel. Condition #1 requires that erosion control measures be applied as part of Design Review approval. Conditions of approval also require approval of proposed facilities by the State DEQ.

Reference findings above for Natural Resources [A(2)] and Hazardous Conditions [A(6)].

C(17) 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.

"All permanent structures have been moved to the furthestmost extent possible from the river bank. All permanent structures will be at least 150 feet from the river bank. Please note the inclusion of the 150 foot setback line to the site plan. The parking area, picnic area, ramps, and RV site, that are within the 150 foot setback area are arguably related to the water dependent nature of the development. Even these water related uses will be effectively screened from the river by the use of extensive landscaping as shown on the site plan."

Staff Comment: The project design provides greater landscaped and natural areas along the riverside than either existing river-oriented uses to the north or south. The proposed plan suggests landscaping will partially screen new parking areas and structures from the river. The site itself has been significantly altered for industrial uses in the past. The proposal will restore and enhance the more natural areas on large portions of the site and along the channel bank. Proposed garages and the watchman's house are sites on the west portion of the site to maximize the open space and landscaped areas along the river.

C(18) 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.

Staff Comment: Condition #1 requires Design Review prior to site development or construction.

C(19) The applicable policies of the Comprehensive Plan are satisfied.

Staff Comment: See finding above under A(7).

CONCLUSIONS:

1. The Boat Moorage and Recreation Vehicle Park proposals — as conditioned — satisfy Community Service Use approval criteria and applicable Comprehensive Plan Policies.
2. The Houseboat Moorage proposal — as conditioned — satisfies applicable approval criteria and Comprehensive Plan Policies.
3. The proposed land uses satisfy Willamette River Greenway approval criteria as detailed in the findings section above.

Signed June 3, 1991


By Richard Leonard, Chairman 

Filed With the Clerk of the Board on June 13, 1991

Appeal to the Board of County Commissioners

Any person who appears and testifies at the Planning Commission hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or **before 4:30 PM. on Monday, June 24, 1991** on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

The Decision on this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, June 25, 1991 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development Division at 248-3043.

DATE

6/25/91

NAME

David Benne

ADDRESS

3500 First Interstate Tower

STREET

Portland Or 97201

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

HV 6-91

SUBJECT

Variance Request

FOR

X

AGAINST

PLEASE PRINT LEGIBLY!

Meeting Date: June 25, 1991

Agenda No.: P-5

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM
(For Non-Budgetary Items)

SUBJECT: _____

BCC Informal _____	(date)	BCC Formal _____	June 25, 1991
	DES		(date)
DEPARTMENT _____		DIVISION _____	Planning
CONTACT _____	Sharon Cowley	TELEPHONE _____	2610
PERSON(S) MAKING PRESENTATION _____		Planning Staff	

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: _____

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

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

HV 6-91 Decision of the Planning Commission of June 3, 1991 with recommendation to the Board for approval, subject to conditions

BOARD OF COUNTY COMMISSIONERS
JUN 17 PM 1:51
CLATSOP COUNTY
OREGON

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL _____

Or

DEPARTMENT MANAGER Paul Garbony / blw

(All accompanying documents must have required signatures)



DEPARTMENT OF ENVIRONMENTAL SERVICES
Division of Planning and Development
2115 SE Morrison Street
Portland, Oregon 97214 (503) 248-3043

DECISION

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

3 June 1991

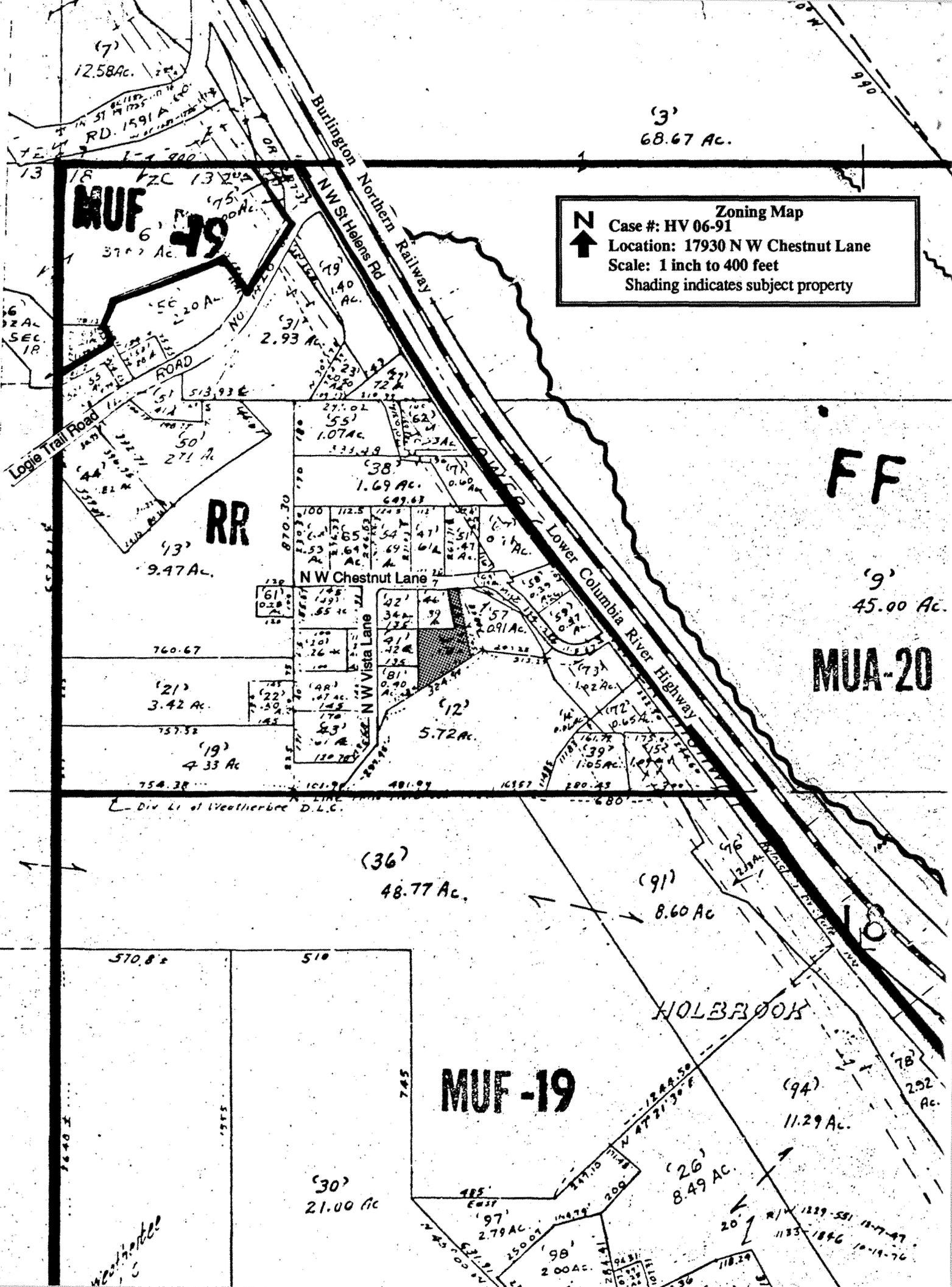
HV 6-91, #36 Rear Yard Setback Variance Line 6.
(Residential Garage Structure)

Applicants request approval of a major variance to a yard setback requirement to construct an accessory building (residential garage structure) that will encroach into the required 30 foot rear yard by 25 feet, leaving 5 feet between the building and south (rear) property line.

Site Address 17930 N W Chestnut Lane
Tax Roll Descr Tax Lot 40, situated in the N W quarter of Section 18,
T 2 N, R 1 W, W M.
Site Area 0.78 Acre
Legal Owners Jason A Jr, & Loretta Sawyer
 17930 N W Chestnut Lane
 Portland, Oregon - - 97231
Applicant Jason A Sawyer, Jr
Comprehensive Plan Rural Residential
Zoning District RR, "Rural Residential"
Minimum lot size of 5.0 acres for one dwelling

Planning Commission

Decision: Approve, subject to conditions, the request for a twenty five foot rear yard setback variance to allow construction of an accessory building (ie residential garage) five feet from the south property line.



Zoning Map
 Case #: HV 06-91
 Location: 17930 NW Chestnut Lane
 Scale: 1 inch to 400 feet
 Shading indicates subject property

MUF 49
 3707 Ac.

RR
 9.97 Ac.

FF

MUA-20

MUF-19

(91) 8.60 Ac

(36) 48.77 Ac.

(30) 21.00 Ac

(26) 8.49 Ac.

(94) 11.29 Ac.

(3) 68.67 Ac.

(9) 45.00 Ac.

(7) 12.58 Ac.

(50) 271 Ac.

(38) 1.69 Ac.

(12) 5.72 Ac.

(21) 3.42 Ac.

(19) 4.33 Ac.

570.8 ±

510

(97) 2.79 Ac.

(98) 2.00 Ac.

(78) 2.92 Ac.

(113) 1846 10-19-76

(113) 1846 10-19-76

Weatherbee

HOLEBROOK

Div. Lt. of Weatherbee D.L.C.

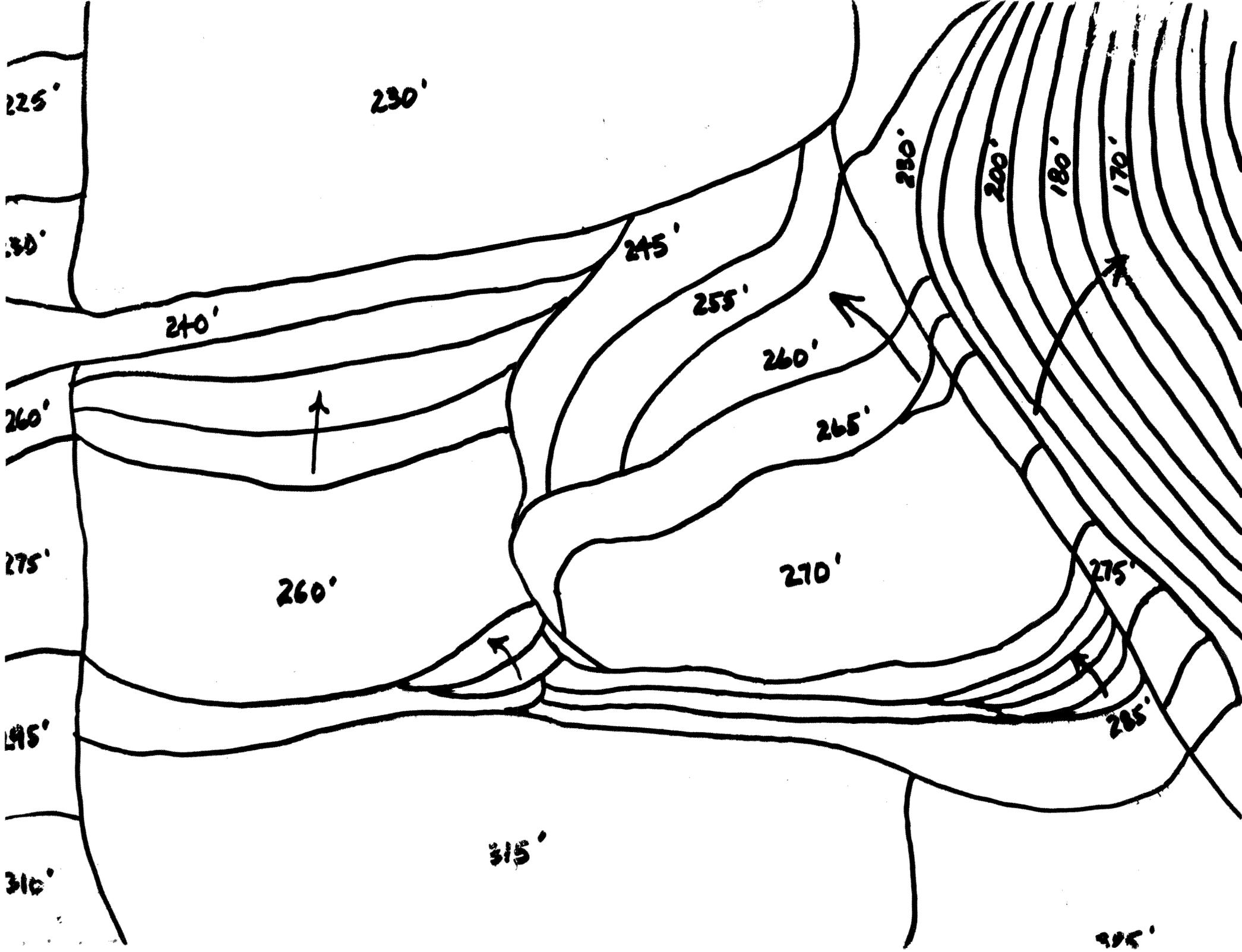
VZC 1320 ±

61

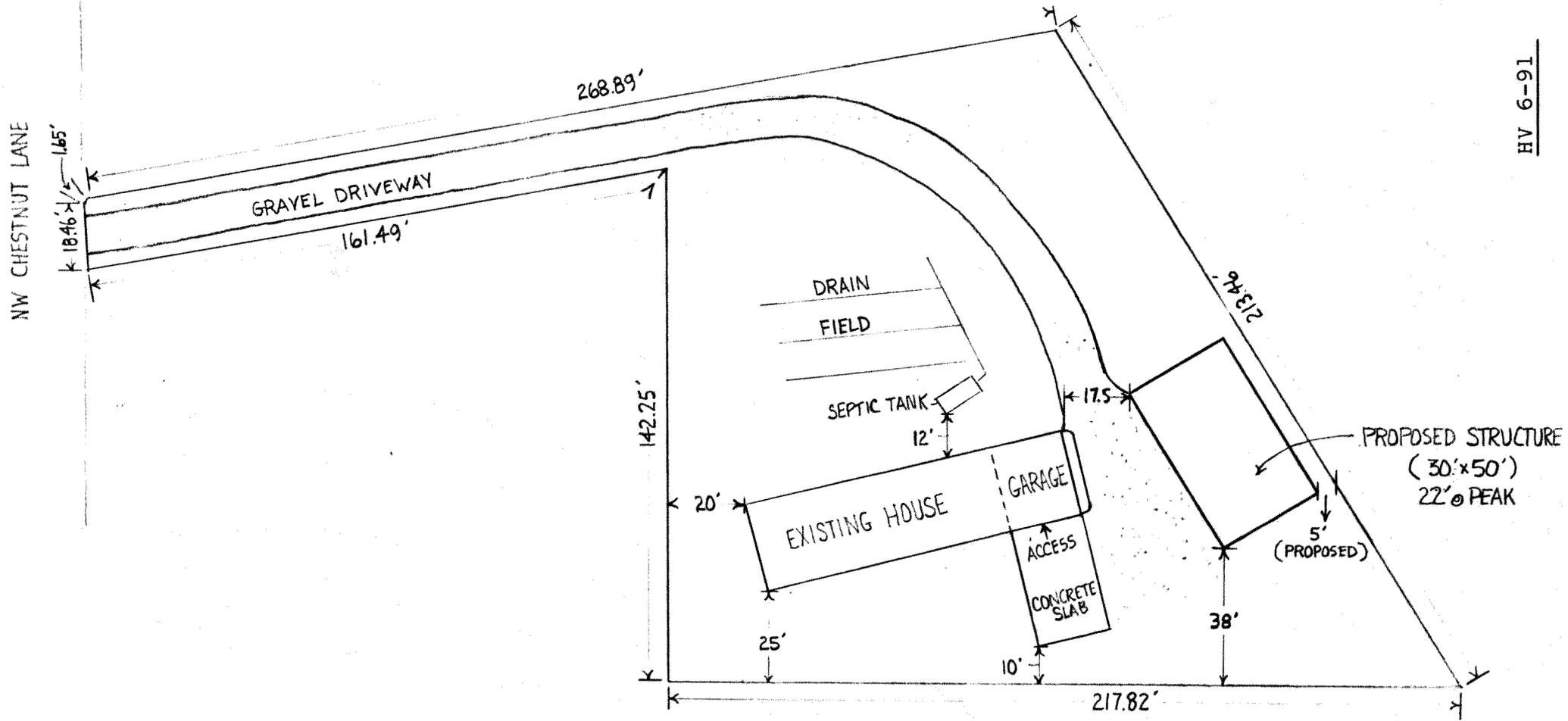
3707 Ac.

50

271 Ac.



17930 NW CHESTNUT LANE PORTLAND OREGON 97231
ACCT. NO R-97118-0400 MAP 182N1W



HV 6-91

← N
1" = 40' SCALE
APRIL 21, 1991

Conditions of Approval

1. That no additional variances be requested.
2. Applicant must wait until after the Board of County Commissioners has acted on this matter before applying for a building permit for the accessory building (ie residential garage).
3. The variance approval shall expire at the end of 18 (eighteen) months if no substantial construction or expenditure of funds has occurred on the subject property.
 - A. Application for extension can be made, but must be filed with the Planning Director at least 30 (thirty) days prior to the expiration date.
 - B. The Planning Director will issue a written decision on the application for extension and mail notice as appropriate.

Findings of Fact

1. Variance Requested:

A rear yard setback variance of 25 feet to allow construction of an accessory building which will be 5 feet from the south property line instead of the required 30 feet, a percentage difference of 83.33 percent.

2. Proposal Summary:

Under "General Description of Application", Applicant states the following:

"We are requesting a major variance of 25 feet due to size, shape, natural sloping and topography of our property. This is the only place on the property we could put a building (.garage)"

3. Site and Vicinity Information:

- A. The property is located in the northwest part of the County which is rural in character.
 - (1) The site has an existing residence with an attached garage.
 - (2) The site is a flag parcel which obtains its access from N W Chestnut Lane, a narrow street connected to N W St Helen's Raod (AKA "Lower Columbia River Highway) to the east.

- B. Except for the southerly edge of the subject property (where construction of the accessory building is proposed):
- (1). The site is surrounded on three sides (front and both sides) by parcels similar in size (ie less than one acre in area).
 - (2). Parcel to the south (abutting the rear property line) is considerably larger in area (5.72 acres) than subject property and its adjacent neighbors.
 - (3). There are no buildings near the subject property along its southerly (or "rear") property line.
- C. Applicant has submitted a site plan at a scale of one inch to forty feet (dated April 21, 1991) which shows the following:
- (1). Existing house with a 20 ft front yard (from north property line), and 25 ft side yard (from west property line).
 - (2). Proposed 30 ft by 50 ft accessory building along southwesterly edge of property, 5 feet from line.
 - (3). Topography of site, using various "contour intervals".
 - (a). Adjacent 5.72 acre parcel to the south slopes steeply downhill away from subject property.
 - (b). Relatively flat portion of site contains existing house and proposed accessory building.
 - (c). Septic tank and drainfield occupying sloping area east of house.
 - (d). Gravel driveway from public street (N W Chestnut Lane) along flag pole portion of site to existing garage. Same driveway will provide access to proposed accessory building.
 4. Buildings on adjacent properties are not shown.

4. Comprehensive Plan & Zoning Designations

- A. The Comprehensive Plan shows the site to be located in an area designated as Rural Residential.
- B. The site is zoned RR, "Rural Residential".

5. Ordinance Considerations

- A. Multnomah County Code, Chapter 11.15 (aka the "Zoning Ordinance") requires the following with respect to yard setbacks in the RR, "Rural Residential" Zoning District.

MCC 11.15.2218 "Dimensional Requirements":

"C" Minimum Yard Dimensions - Feet

<i>Front</i>	<i>Side</i>	<i>Rear</i>
<i>30</i>	<i>10</i>	<i>30</i>

- B. Variance Approval Criteria (MCC 11.15.8505 "A" (1), (2), (3) and (4):
 - A. *The Approval Authority may permit and authorize a variance from the requirements of this Chapter only when they cause practical difficulties in the application of the Chapter. A Major Variance shall meet criteria (1), (2), (3), and (4).*

- C. Variance Classification (MCC 11.15.8515 "A"):
 - A. *A major variance is one that is in excess of 25 percent of an applicable dimensional requirement. A Major Variance must be found to comply with MCC 11.15.8505 "A".*

- D. Compliance with Major Variance Approval Criteria:

NOTE: Evaluations will be shown as follows:

Applicable Zoning standards will appear in *bold italics*
Applicant's response, if provided, will be in *italics*.
Staff comment will follow in plain type.

- (1). Variance Classification (MCC 11.15.8515 "A"):
A major variance is one that is in excess of 25 percent of an applicable dimensional requirement.

Variance requested is to reduce the rear yard from 30 feet to five feet, a percentage reduction of 83.33 percent, which exceeds 25 percent of the required rear yard in the RR Zoning District, and therefore must be classed as major.

(2). Variance Approval Criteria (MCC 11.15.8505 "A", (1), (2), (3), and (4):

(1). *A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or district. The circumstance or condition may relate to size, shape, natural features and topography of the property or the location or size of physical improvements on the site or the nature of the use compared to surrounding uses.*

The topography of the subject property differs greatly from the topography of other parcels in the same vicinity. The topography of other parcels is generally flat with some gradual slope. An exception would be the unimproved parcel to the south which has very steep terrain. The subject property has a limited area of flat terrain with the majority sloping east.

The "topographic" map of the property submitted with the application verifies the above.

(2). *The zoning requirement would restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or district.*

Section 11.15.2218 (c) requires a minimum setback of 30'. This requirement is more restrictive to the subject property because of the subject properties limited area of buildable terrain. Other parcels in the vicinity have the majority, if not all, of their area in buildable terrain thereby enabling them to comply with the setback requirement. The proposed location is the only location capable of accommodating the structure without considerably altering the terrain.

The only remaining buildable area that is flat-lying is as shown on the applicant's site plan.

- (3). *The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or adversely affects the appropriate development of adjoining properties.*

Careful consideration was given to the location of the proposed structure. The proposed location will require minimal excavation because the terrain is generally flat. No unstable soil conditions will be created. The natural slope of the terrain surrounding the structure will provide more than adequate drainage. Consideration was also given to the height of the proposed structure. Adjacent parcels to the west sit above the subject property at an elevation that their view would not be affected by the structure. Mature trees along the westerly property line will provide a natural screen. The parcel to the south is unimproved and will probably remain that way due to the extreme slope of the terrain. Parcels to the north and east would not be adversely affected because there is substantial distance and natural barriers between them and the proposed structure. The structure will be built in the manner prescribed by the building code and will not be detrimental to the public welfare. The structure will not injure but will enhance other properties in the vicinity.

- a. Authorization of the rear yard setback variance will not be materially detrimental to the public welfare. No adverse effect is foreseen by allowing the construction of an accessory building (garage) five feet from the southerly property line.
- b. Constructing the accessory building closer to the property line than normally allowed, is not seen as being injurious to other property in the vicinity.
- (1). The adjacent property is seven times greater in area than the subject property (5.72 acres vs 0.78 ac), and
- (2). There are no buildings on the adjacent property in close proximity to the subject property and the location of the proposed accessory building.

- c. Granting of the 25 foot rear yard setback variance will not adversely affect development of adjoining properties.
- (1). The adjacent properties of similar size (ie less than one acre in area) will not be near the proposed structure.
 - (2). As noted earlier, the proposed accessory building will be adjacent to a large (5.72 acre) parcel that slopes steeply downhill away from the subject property.
 - (a). The adjacent Tax Lot 12 (ie the 5.72 acre parcel) to the south could, by zoning definition, have buildings constructed as close as ten feet from the subject property's line. This common property line is considered to be a side lot line for the larger parcel which fronts on the Lower Columbia River Highway.
 - (b). However, no new buildings on this adjacent property (to the south) would be anticipated in the future because of the steep slope.
- (4). *The granting of the variance will not adversely affect the realization of the Comprehensive Plan nor will it establish a use which is not listed in the underlying zone.*

The Comprehensive Plan does not prohibit the construction of accessory buildings for the purpose of storing vehicles and equipment, therefore, granting this variance will not affect the realization of the plan nor will it establish a use which is not listed in the underlying zone.

- a. Staff concurs that the authorization of the variance will not adversely affect the realization of the Comprehensive Plan.
 - (1). The Comprehensive Plan shows the property to be suitable for rural residential development.

- (2). Construction of an accessory building (garage) is an allowed use in the RR, "Rural Residential" Zoning District.
- (3) Constructing the accessory building 25 feet closer to the southerly property line than the zoning allows (a rear yard setback reduction of 83.33 percent), will not adversely affect the realization of the Comprehensive Plan.
- (4) Authorization of the variance will not establish a use which is not listed in the underlying zone.
 - (a). The underlying zone for this area is RR, "Rural Residential" (as shown on Sectional Zoning Map # 36 in the Northwest Zoning Map Book).
 - (b). The construction of an accessory building (garage) to an existing single-family residence qualifies as an allowed use in the RR District.
 - (c). Authorization of a major variance to construct an accessory building closer to the rear (or southerly) property line than normally allowed by zoning will not establish a use not listed in the underlying zone.

E. Major Variances can be administratively approved as a Planning Director's Decision if the request has the approval of all property owners within 100 feet of the subject property [per MCC 11.15.8515 "A", (1)].

"(1)" A Major Variance must be approved by the Hearing Authority at a public hearing except when:

"(a)" All owners of record of property within 100 feet of the subject property grant their consent to the variance according to the procedures of MCC 11.15.8515 (B), (1), and (2).

- (1). The applicant was not able to obtain the required number of affirmative signatures to permit the variance request to be considered administratively.

- (2). The variance request must now be considered at a public hearing by the Planning Commission.

Conclusions

1. Requiring the new structure to conform to the 30 ft minimum rear yard setback restriction, would restrict the use of the property because there is limited flat terrain.
2. The Major Variance request does not qualify as being administratively approvable because not all of the required affirmative signatures were obtainable on the petition.
3. Allowing the use of a reduced rear yard setback (from 30 ft to 5 ft), would not permit development of the property in a manner that would be more hazardous or detrimental to the public safety than development with the required yard.
4. The proposed construction project is approvable because the proposal meets the applicable "Criteria for a Major Variance".
5. The proposed accessory building (garage) meets all other yard setback requirements.
6. Development of surrounding properties will not be affected because:
 - A. The proposed structure is not adjacent to any of the four smaller surrounding properties (along the subject property's front or side property lines) which are developed (each of which is less than one acre in area).
 - B. The proposed structure will be adjacent (along the southerly or "rear" property line) to a very large (5.72 acre) parcel which has no existing buildings in close proximity. Also, the steep slope on the adjacent property (along the subject property's common lot line) would preclude construction of any buildings in the future.

Signed: 3 June 1991

By Richard Leonard, ps
Richard Leonard, Chairman

Filed with the Clerk of the Board of County Commissioners on 13 June 1991.

Appeal to the Board of County Commissioners

Any person who appears and testifies at the Planning Commission hearing on Monday, 3 June 1991, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or before 4:30 PM on Monday, 24 June 1991 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 S E Morrison Street.

The Decision on this item will be reported to the Board of County Commissioners for review at 9:30 A M on Tuesday, 25 June 1991 in Room 602 of the Multnomah County Courthouse (1021 S W 4th Avenue). For further information 'phone the Multnomah County Planning and Development Office at 248-3043.

Meeting Date: June 25, 1991

Agenda No.: P-6

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM
(For Non-Budgetary Items)

SUBJECT: _____

BCC Informal _____ (date) BCC Formal June 25, 1991 (date)

DEPARTMENT DES DIVISION Planning

CONTACT Sharon Cowley TELEPHONE 2610

PERSON(S) MAKING PRESENTATION Planning Staff

ACTION REQUESTED:

INFORMATIONAL ONLY

POLICY DIRECTION

POSTPONEMENT
 APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: 5 Minutes

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

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

LD 1-91 Decision of the Planning Commission of May 7, 1991, which has been appealed to the Board, with recommendation to the Board for postponement at the request of the property owner, to July 23, 1991

1991 JUN 17 PM 1:52
MULTNOMAH COUNTY
BOARD OF COUNTY COMMISSIONERS

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL _____

Or

DEPARTMENT MANAGER Paul Yarbrough / bkw

(All accompanying documents must have required signatures)



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
GARY HANSEN • DISTRICT 2 COMMISSIONER
RICK BAUMAN • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

MEMORANDUM

TO: Board of County Commissioners

FROM: Dave Prescott *DP*

SUBJECT: **Appeal of Planning Commission Decision
LD 1-91
6075 SW Mill Street**

DATE: June 25, 1991

This is an appeal of the Planning Commission's May 7, 1991 approval of a minor partition of a 1.4 acre tract into two parcels. The Planning Commission's action followed an appeal of the Planning Division staff's January 24, 1991 approval of the request.

The appeal is based on the record. "On the record" means that in making its decision on the appeal, the Board will consider only that evidence that the Planning Commission considered in making its decision. There will be no additional testimony presented at the hearing. Attached are:

1. the staff report adopted by the Planning Commission;
2. the Notice of Review filed by the appellant; and
3. the transcript of the public hearing.

At the hearing, staff will present a brief summary of the case and show slides of the site. The case file will be available for your review. (If you desire to review the case file prior to the hearing, please contact me at 248-3043.) On page 5 of the staff report are the applicable land division approval criteria that the Planning Commission used for reviewing the proposal.

The Board must review the attached materials to determine whether the above-referenced criteria have been met based on evidence contained in the record.



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 606, COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OREGON 97204

GLADYS McCOY • CHAIR • 248-3308
PAULINE ANDERSON • DISTRICT 1 • 248-5220
GARY HANSEN • DISTRICT 2 • 248-5219
RICK BAUMAN • DISTRICT 3 • 248-5217
SHARRON KELLEY • DISTRICT 4 • 248-5213
CLERK'S OFFICE • 248-3277

Date: 06/25/91 Time: 9:30 a.m. Place: Room 602, Multnomah County Courthouse

LD 1-91 Public Hearing - On The Record

Review the Decision of the Planning Commission of May 7, 1991, **denying** requested appeal and **approving, subject to conditions**, the requested Type III land division, a minor partition resulting in two lots, including a flag lot, based on the Findings and Conclusions in the Tentative Plan Decision, dated January 24, 1991, for property located at **6075 SW Mill Street**.

This item has been appealed by the Opposition

Scope of Review:

On the Record

Zoning Map
 Case #: LD 01-91
 Location: 6075 SW Mill Street
 Scale: 1 inch to 200 feet
 Shading indicates subject property



city

CS-19-65

R20

61 ST
DR

S.W. MILL ST.

60 ft

city

58 ft

R20
CS

CS-16-60

R20
CS

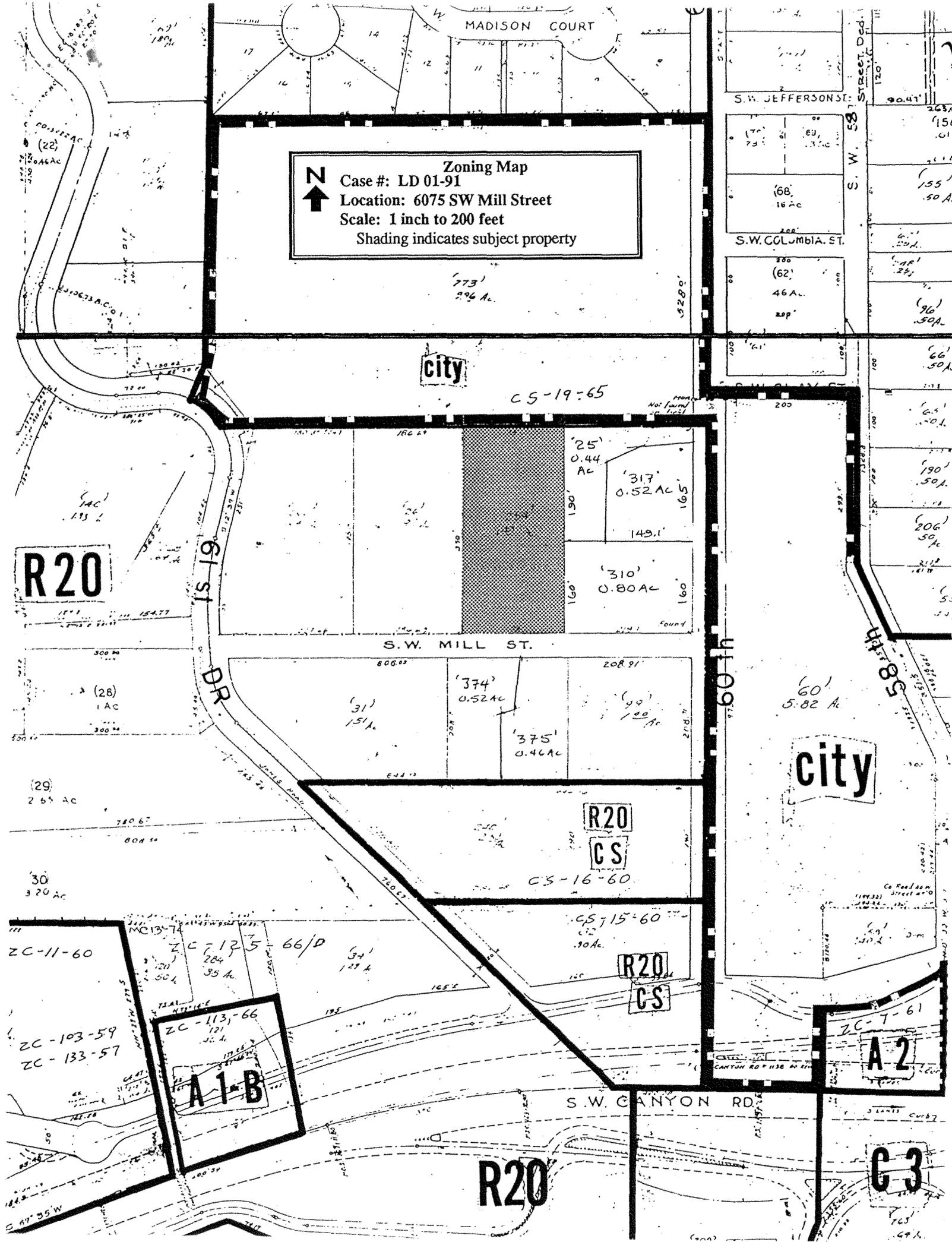
S.W. CANYON RD

A 2

A 1-B

R20

C 3



BCC

BOARD OF
COUNTY COMMISSIONERS
1991 JUN 18 PM 1:40
MULTNOMAH COUNTY
OREGON

June 12, 1991

Multnomah County
Board of County Commissioners
Room 602, Multnomah County Courthouse
1021 SW Fourth Avenue
Portland, Oregon 97201

RE: LD 1-91 Appeal
6075 SW Mill Street

Dear Commissioners:

I hereby request a continuation of *28* days for the appeal of LD 1-91, scheduled for public hearing on June 25, 1991 before the Board, in that I will be unable to attend due to prior commitments and I have no one who can represent me at the hearing.

I also request an extension of the time limit, pursuant to ORS 215.428 for *28* days.

Sincerely,



Stanley Steinberg
6075 SW Mill Street
Portland, Oregon 97221

A PORTION OF THE PLANNING COMMISSION MEETING
OF MAY 7, 1991
LD 1-91

Commission Members Present:...Leonard, Yoon, Fritz, Fry, Al-Sofi, Douglas, Atwill

Staff Present: S. Cowley, S. Pemble, D. Prescott, I. Ewen, M. Hess

Leonard: The first case this evening is LD 1-91 at 6075 S.W. Mill Street. Before we begin I'll briefly review our procedures for those of you who may not be familiar with our Planning Commission.

We hold quasi-judicial hearings on each case with a presentation of an oral Staff Report with supplements of a written Staff Report; there are copies of the written Staff Report on the table by the door. They are available for your use. Following the oral Staff Report we will have an opportunity for the applicant to present their testimony. That will be followed by all those who would like to support the proposed application. This will be followed by an opportunity for everyone in opposition to give testimony. When you give testimony, before you begin speaking, please give your name and address for the record and fill out one of the witness cards that are available on the podium so we can keep track of who has testified and this has a bearing on who would have a right to appeal a decision.

When you give testimony in either support or opposition its important you identify the policy or approval criteria in our code that you're basing your testimony on. If there are reasons to be for or against a case which are not mentioned in either your written testimony or oral testimony, those criteria cannot be used in any further appeals that might arise out of the case.

With that brief introduction of our procedures, we will begin first with the Staff Report.

Prescott: Thank you. Members of the Commission, my name is Dave Prescott. I'm a Planner with the Multnomah County Planning Division, and the case you're considering right

now is a Minor Partition; its a partition of a 1.4-acre parcel of land in a R-20, Single Family Residential zone. R-20 means 20,000 square feet is the minimum lot size. This came to the county as what is known as a Type III Land Division and that is a kind of land division in which a minor partition happens and a flag lot is created. And, in this particular case, a flag lot is proposed for the parcel that has a house on it right now. The applicantS intend to divide the property and create a 20,000 square foot, a little bit over that, parcel that actually has the rest of the frontage on S.W. Mill Street.

A couple of comments: we approved this land division at the Staff level in late January of this year. Subsequent to that time a Notice of Review was filed and your Staff Report has a copy of that Notice of Review attached to it. You also will find attached to your Staff Report a copy of Planning Staff's original decision on the tentative plan and our Staff Report makes reference to different points in those documents.

On page 5 of the Staff Report, please note that the approval criteria for a Type III Land Division are set out for your convenience. And those are the standards against which our Land Division Ordinance says a Type III Land Division is to be evaluated.

The Notice of Review contains three grounds for reversal followed by a number of requests for introducing additional evidence. In the Staff Report in front of you you'll see that what we have done is take each of the grounds of reversal; we've put that into the Staff Report in italics and then the Staff Comment following the applicant's, or the appellant's, comment explains the Staff's position. Again, we reviewed the statements made by the appellant in their Notice of Review. In terms of the approval criteria in the Land Division Ordinance and its the Staff's position that the land division that was requested is appropriate. The recommendation is that you reject the appeal and that you affirm the Staff's decision in the initial Tentative Plan Approval.

A few highlights: The appellants raise an issue of the site as a ground for reversal, the fact that the approval does not require commitment to future street improvement for both parcels. Our response is that the reference in the findings to the requirements of the County Transportation Division apply to the entire property

meaning both Parcel 1 and Parcel 2 but beyond that we find no evidence provided by the appellants that the approval standards are not met in that regard.

3

The next grounds for reversal pertains to an allegation...

Fritz: Excuse me.

Prescott: I'm sorry.

Fritz: Is that the condition, there is a separate Tentative Plan Decision?

Prescott: Yes. You have a Tentative Plan Decision at the back of your Staff Report and that's the one...

Fritz: Condition 2."B" which was deed restriction?

Prescott: Yes. And that....

Fritz: Is there a commitment to participate in the future improvements of S.W. Mill?

Prescott: Presently, no. If the, once the division, if the division is approved, if you decide tonight to approve the land division as the Staff did, one of the requirements that the Transportation Division for the County will impose is that, they will actually prepare a deed restriction for the property owner to execute and that deed restriction will apply both to Parcel 1 and another one will be drawn up for Parcel 2, so that before the County Engineer releases the plat, those deed restrictions will be signed by the owners.

Fritz: Thank you.

Prescott: The Staff decision cites a finding relating the purposes and intent of the Land Division Ordinance with respect to, among other things, protecting property values. The applicant's, or excuse me, the appellants do not present any evidence in our view that refutes the finding that the Staff prepared concerning the purpose and intent of the Land Division Ordinance.

Finally, the appellants raise as a grounds for reversal increase in traffic congestion; our findings indicate that based on measurements made that are used by the Institute of Traffic Engineers given the number of houses

on S.W. Mill Street and the condition of the road and the number of trips generated by those houses and added to that the trips generated by new house, the street would function at Service Level "A" and the Institute of Transportation Engineers considers service levels "B" or better as not being congested, and based on that its the Staff's conclusion that the street is not congested now, its not going to be congested by the increased number of trips generated by the additional house.

In their request for introduction of new evidence, appellants list, among other things, statement that notice was not provided in advance of the decision. Our response is that State law and county ordinances do not require notice in advance of a Staff decision of the type that was made here. The property owners within 100 feet did receive notice when the decision was made, as is required by law.

Also, appellants raise issues concerning annexation and application of City of Portland standards to certain aspects of development. Annexation to the City is not required in order for the property to develop. It may be applied for but it is not a requirement.

That concludes our report. We do have some slides that I can show you that will explain, or give you an idea what the property looks like; show you what the road looks like, and, Mark Hess and I toured the property and Mark took some pictures and has offered to present them at this time.

Leonard: Before we begin with the slides, note that Commissioner Hunt has joined the Commission now so....

Hess: I just have four slides to show you so it won't take very long.

This is S.W. Mill Street, immediately to beyond the subject site. The subject site is at the end of the slide where you can see the pavement begins to improve at the very where the sunlight is hitting the crest there; that's where the subject site begins. So, at this location I'm east of the subject property. The property is on the right hand side of the road.

This is a house that's located on the south side of S.W. Mill, opposite the subject property.

And this is, the subject property is on the right hand side of the slide; this is S.W. Mill Street. Its a paved road approximately 18 to 20 feet wide in this section, and you can see the driveway taking-off there at the left hand side of the slide.

And, now this is standing on the subject property; looking to the south the lot that is proposed, the front lot of the two parcels is on the left where the tall fir trees stand. The driveway that's on the right hand of the slide in the foreground is where the pole of the flag lot would be. And the existing house that sits on the property is outside of the camera shot here on the left hand side of the slide.

Prescott: Thanks Mark. Just a couple of comments before you open it up to testimony. I didn't go into detail on all of the findings; I'll be glad to answer any questions you may have about them. You may hear testimony which you have questions of us, and we'll be glad to comment on that. Basically, the zoning in the area has been in place since 1958; the lot that was approved to be created meets those zoning standards and is very similar to lots directly across the street to the south, as well as a couple of lots immediately joining the site on the east, and so in terms of what's going on the area, there are other lots out there that size, or thereabouts. Thank you.

Leonard: Any questions of Staff?
Commissioner Fritz?

Fritz: Thank you. Dave, the lot immediately to the east that has been subdivided into three smaller. Are all three of those small lots developed?

Prescott: Two of them are I believe and one of them is vacant.

Fritz: And one of them is what?

Leonard: Vacant.

Fritz: And the lot immediately across the Mill Street, are both of those smaller lots are developed?

Prescott: One of them has a house on it and the other does not.

Fritz: Alright.

Leonard: Yes, Commissioner Hunt.

Hunt: Its concerning City of Portland water. Is there, the appellat mentions that they can't get City of Portland water unless they are annexed. Is that a fact or false?

Prescott: My understanding is that City of Portland water is available now. It may be a requirement that they annex to Portland in order to actually obtain water service. And that is something that occasionally happens, and my understanding in this particular location is that the City of Portland is basically the water provider or has the ultimate control over water service.

Hunt: And I have one other question. Where they mentioned that if it did have to be annexed, since the building would go in would they still have to get building permits from the City of Portland and at that point, even though we approved the zoning change would they go through City of Portland for building permits?

Prescott: If they annex to the City of Portland before they apply for building permits they would meet the City's requirement for building. It would depend on whether annexation took place or not.

Hunt: Well, okay. Would they have to show that they had water before you supplied them with a building permit?

Prescott: Actually, in order for the County Planning Staff to sign-off on a building permit application what our office looks at is a site plan that shows where the building is going to go; we look at for setbacks, we look at it to make the sure that the lot on which the building is going meets the requirements of the zoning code and in this case meets the requirements of the land division, and, those are the things we look at. Water and connection of it, or connection of the water to property, is not something that our office is responsible for making sure happens.

Hunt: So somebody could build a house and not have water for it?

Prescott: Well, I think if they want to get a loan for the house or sell it they're going to have to have water. Its going to take care of itself.

Leonard: I think I can shed a little light on the water service question here. The building permit would not be issued if there was not water available for the house. The owner would have to demonstrate that they would either have water from the water district or the City. I believe in this situation the area that this lot is in was formerly in the Sylvan Water District.

Prescott: Yes.

Leonard: Sylvan Water District transferred all their lines and reservoirs and pumps to the City of Portland and went out of business essentially, and part of that agreement to transfer the system to the City had a provision that the City would not require annexation of any properties to obtain water services from what was formerly the Sylvan Water District area. I think that provision would apply in this situation.

Any other questions of Staff?

Douglas: Yes. On this down here that has the dark line around it, R-20, CS, those areas have dark lines, does that indicate different zoning?

Prescott: The CS after R-20 stands for Community Service, and that's a designation that goes on property that has such things as churches or schools or semi-public or public uses and in many cases you'll see this designation where there is already a facility that was there before the zoning was adopted and the CS simply indicates that that building is there. Or facility. It could be a park or a number of things.

Douglas: I notice also that above the city line here there's another dark line _____; there's no CS in that area. What does that indicate?

Prescott: Immediately north of this site are the city limits of Portland, so you are looking at a piece of property that ...I'm sorry.

Douglas: Excuse me, but I mean above that, above the City of Portland. I understand that, there's a little narrow neck there and then the rest of that is in the City of Portland but then above the City of Portland there is another _____. Is that by any chance the Urban Growth

Boundary? On the top of it, right up at the very top.
Madison Court.

Prescott: Okay. I see what you mean.

Douglas: I'm trying to get this thing in perspective if I can.

Prescott: Yes. I believe that the area where it says Madison Court, if I look at the boundaries and follow them, if I'm following them correctly it appears that Madison Court is unincorporated. The map doesn't go far enough to.....

Leonard: Okay. Looking at the topographic map, which was part of the original Staff decision on the subdivision, that shows an existing subdivision development there in the area of Madison Court and it appears from the zoning map that that would have the R-20 zoning. County zoning on it. The Urban Growth Boundary is well to the north of this area.

Prescott Right.

Douglas: What I was looking at was ----- We got an area in here that _____; what is it? Do you know what I mean?

Leonard: Its planned and zoned for urban density residential development.

Prescott: Yes.

Douglas: No other, the City of Portland comes in here and has a very narrow neck yet has a square out of here. And I was just wondering why.

Mixed voices and laughter.

Leonard: Any other questions of Staff? Thank you. Is the appellant or the appellant's representative here?

Brady: Mr. Chairman, members of the Commission. My name is Bill Brady. I'm a resident adjacent to the property in issue with my address being 6140 S.W. Mill.

The discussion by the Staff fails to cover three areas that I think are of critical importance here and I'll cover these briefly.

Number one is the historical context of the area. Number two is the actual situation of the ownership of the apparently subdivided properties and our intentions, and Number three is a three-dimensional issue, which I would ask that the Staff would carefully reconsider and ask that you perhaps consider it at your next meeting, and this is the loss of the, the apparent loss, of some extraordinarily beautiful and large and old Douglas Fir trees. I've lived in the property that I presently reside in since 1946, so I have somewhat of a historical context for the area.

Leonard: Excuse me, Mr. Brady, could you identify your residence on the drawing that we have, in relation to the subject property?

Brady: Certainly. The property that we own is the 1.51 acre plot to the south of Mill Street, and its actually to the southwest of the property site in question.

Leonard: Thank you.

Brady: And as I said, I grew up there and I've been blessed enough to raise my family there and we have roots. I've been there at the time that Mr. and Mrs. Steinberg built their home in 1962, and the Staff picture, again, does not show their home; its extraordinarily beautiful. Its one of the more lovely homes on the west side.

At this particular time I would like to give to the Clerk the names of the persons in opposition to this proposed development. Each of these families have received a personal notice of the appeal; each of them live within sight and sound of the proposed development.

I've handed the Clerk the names of the people and the people, the neighbors, who are in opposition are located in the second row there from the back, Mary Lou and Joanne, if you would stand up. And Mr. Corder will be up here shortly and present a letter with some written issues.

As you know, the Staff Report has already been mentioned. On page 5 it sets forth the criteria you must consider and we consider that these issues are important for tonights discussion and for the basis for all future appeals; that they will be filed in this particular issue.

And I would ask that the Staff would go up and take a look again at the trees that are on this particular property. They don't show up in the picture; the picture doesn't really identify it. And our understanding of this development is that not only would we lose an extraordinarily beautiful long-standing Douglas Firs, but there would be a very significant effect on large, long-standing and beautiful Douglas Firs in the property immediately to the east of this proposed development. And I believe it goes without saying that the people to the east, Mr. and Mrs. Burmeister, are in active opposition of course to this proposed change.

The next issue is the apparent drawing that you have in front of you showing the subdivisions of the property, and may I take these in order. The property directly to the south of the site at issue, which is divided into on the map a 0.52 and a 0.56-acre pieces, the property is in reality a single piece. It has been always a single piece and the present owners, Mr. and Mrs. Peter Thoresz are developing it as a single piece and are willing, as are all of us in this area are, to complete deed restrictions restricting it to a single piece. In other words, we have a 1.5-acre piece of property, the Thoresz's have a 1-acre piece of property, the people immediately to the west, Mr. and Mrs. Corder, Bruce will be up shortly, have a 1.5-acre piece, the house which is our is located so as to preclude any future development or subdivision. The final site, which is immediately to the east of the property in question, is on paper divided into three parcels. In reality it is a single parcel with a single home and the owners of that join the other neighbors in being willing to put a deed restriction so that the property's size will remain as they are today.

Briefly we believe that this proposed change would have a significantly adverse affect on our property values. We believe that the nature of the neighborhood, the narrowness of the road, the present construction of the road, would unquestionably create significant congestion. All of the adjacent neighbors are willing to complete deed restrictions maintaining this site as it is at the present time, which quite frankly is a lovely, lovely area. And we believe that the proposed services, several of which have already been discussed here, would be significantly affected. But I believe, in closing, I do appreciate your time, that I would ask that Staff review the issue of the

trees on the property and return to you at perhaps the next meeting or some future meeting with some discussion of the effect of these trees and the restrictions that you would appropriately place on the apparent removal of some lovely, lovely trees that should not stay, that should stay and not be removed.

If you have questions I'll be glad to take them at this time.

Leonard: Commissioner Fry.

Fry: On the Staff Report, the yellow report, the last map, called a "Tentative Map Plan", I don't ask you to respond now but the map does identify trees and I would like your opinion as to whether these are in fact the trees that you consider significant.

Brady: Well, Commissioner Fry, I have not matched the map that you and I are holding in front of us with the individual trees. I would certainly be delighted to have the Staff go with us to identify these individual trees and answer your questions.

Fry: Okay, so at this point you cannot say whether in fact these trees are the trees you are speaking to?

Brady: To the best of my expectation they are, sir, but I can't say because I have not matched them tree for tree, circle for circle. I think that's something you might well want to do.

Fry: The other question I have, since you've been there for a long time, is about the zoning; its as you know R-20, which is really an issue of density, do you remember, were you involved in that decision to make this R-20? Can you just give us a little history on that?

Brady: Golly, I could spend a good deal of your evening Commissioner Fry in giving you the history of the area, which I would be delighted to do, however, I'll try to condense it. Yes, I do recall it specifically and yes, there was uniform opposition to move from R-40 down to R-20. In fact, interestingly enough, the property, and this is somewhat of an interesting story, the property to the north of what is outlined as the City of Portland, Madison Court, received its zoning, down-zoning, over the violent of opposition of the folk around. And what does not

show, again, on the map sir that you have in front of you is the property to west of 61st. And, again, there sir, we are talking about I am the owner of a 3-acre parcel across the way that, God willing, some of my children will be blessed to have one-and-a-half acre homes in. The Phillipees have a beautiful, large, several acre site and I could go on. This is an area of large lots. Not down-zoned, shoved-in flag lots. This is not what our neighborhood is about.

Leonard: Commissioner Atwill.

Atwill: Mr. Brady, do you have any data or do you have any examples you could offer as far as the decrease in property values that you think will result from this application?

Brady: Commissioner Atwill, I do not. However, the speaker that is going to follow me, Mr. Bruce Corder, does maam, yes.

Atwill: Thank you.

Leonard: Thank you Mr. Brady.

Brady: Thank you Mr. Leonard.

Leonard: Is there anyone else who would like to speak in favor of the appeal request?

Corder: My name is Bruce Corder, I reside at 6135 S.W. Mill, directly to the west of the property in question. In order to keep my appearance here brief, I've provided some written material for your review at your leisure which includes my thoughts and the thoughts of an appraiser well known in the area and respected in the City, who addresses the thought of Commissioner Atwill regarding the property values. I believe you will find that to be helpful.

Atwill: It will be.

Leonard: Were there any questions for Mr. Corder?

We may have questions later. Is there anyone else who would like to speak in support of the appeal?

Okay. is there anyone here who would like to speak in opposition to the appeal, in other words, in support of the partitioning of the parcel?

Steinberg:

I'm Stanley Steinberg and I live at 6075 S.W. Mill Street and I'm the petitioner for dividing the property. I own that property. I've lived there since 1959, not '61, but in any case the second oldest person in the area. Dr. Brady did live there before I came in but the other three appellants moved in within the last three to five years. The property has been, the history of the property, his division, in fact, Dr. Brady has divided his property, sold off three to four lots, and the lot Mr. Corder is on was Brady property; the lot, the end property that Dr. Galen, Mr. Galen owns was divided by Mr. Brady. The property Mr. Thoeresz is on was I believe was divided by Dr. Brady and the property immediately to the west of Dr. Brady's property he just sold to a Mr. Gilbert; that was his property and was divided off and however, here I am dividing one piece of property and suddenly there's an uproar.

As far as the trees are concerned, there is no law against our cutting the trees today, or tomorrow. They are on our property and the division would have nothing to do with it. As a matter of fact, of the eight trees that are on there, there is only a possibility of two being cut down in any event because the others are on the periphery of the proposed flag lot.

Basically, the Staff Report that was dated May 7th does reflect all of my feelings on the property. We are within the zoning and we are within all the criteria; we have done all the criteria for dividing the lot and so I've been told by one or two of the neighbors that they would keep appealing this to delay it even if they didn't win the appeal. In fact the remark was "I don't see any way that we can stop you from doing it since you are within the division, the zoning but it would be possible for us to appeal and appeal and appeal and delay this so you couldn't build on it. I would hate to see that happen, in all fairness. Thank you very much.

Leonard:

Are there questions for Mr. Steinberg?

Commissioner Hunt.

Hunt:

How many large trees are there?

- Steinberg: Large trees? I believe there's eight as best as I can see on this circle, three of which, two have already blown down in wind storms.
- Hunt: Okay. If we look on your tentative plan, page, that was approved, second to the last page I think it is...
- Steinberg: With a little circle? Was it Parcel 2 with a circle?
- Hunt: This one here.
- Steinberg: Tentative Map Plan?
- Hunt: Right. The one that has the trees drawn on it. Its at the very end, the second to the last page of the tentative plan.
- Steinberg: Well, I was looking at this one. It says Tentative Map Plan.
- Hunt: Right. Okay.
- Leonard: She's referring to the topographic survey that shows contours and elevations and houses. It doesn't have a label on it.
- Steinberg: Oh. Okay.
- Hunt: Yes. That's why the confusion. Can you, two of these trees would have to be removed to put the house site?
- Steinberg: Yes, but not on that plan. Could you look at the one marked Tentative...
- Hunt: Oh, this one here?
- Steinberg: Map Plan. It shows little circles which represent the trees to the best....
- Hunt: Okay. So these two sort of in the center would be the ones that you would remove?
- Steinberg: Well, yes. There's only, the three on the edge probably would not and the three on the bottom, obviously I couldn't build a house with those two in the center. But, that's the best I can recollect where the trees are, and

they are pictured on here, but there probably would be only two trees taken down.

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Hunt: I'm curious. Sometime we will you know, for site or etc. you will have somebody put a fence up or agree to a fence as a condition, would you be willing to agree to a condition that you only remove the trees in the center there? And leave the other trees?

Steinberg: Would I be agreeable to a condition that I only remove which trees?

Hunt: The ones in the center where you say the house is going to be.

Steinberg: Well, first, we would have an architect. The house I live in now we had VanBaily design it and _____ build it; we would have an architecturally design home for about \$400,000 or \$500,000 so it wouldn't be a little shack that would bring down the property value, and, so I can't tell you about the trees because obviously the architect would say well, lets do it this way, that way, I'd hate to make a promise that would later hurt me in building a house. You would say well, you promised you wouldn't take this tree then. I can't tell you that my wife is a senior residential real estate appraiser for the State of Oregon and she says there would be no, its her opinion there would be no depreciation of the value of the property. Now, we have the question would there, wouldn't there? Obviously I wouldn't want there to be because I still own the property up above, but, again, that's the best of my knowledge.

Hunt: Okay.

Leonard: Any other questions for Mr.Steinberg?

Thank you Mr. Steinberg.

Is there anyone else who would like to testify in support of the division, in opposition to the appeal?

Okay. Before we close the public testimony....There's a letter from Mr. Corder which has been circulating among the Commission here and there's a letter from Donald R. Palmer, Palmer _____, real estate appraisers.

Fry: Can I ask Staff a question?

- Leonard: Yes. Commissioner Fry has a question for Staff.
- Fry: Not to resurrect the past too much, but, what zoning was available when they look at this? Is there an R-40?
- Prescott: The county does have an R-40. It is my understanding, I may be incorrect, but I understood that the zoning that's on the property now is what was there when the county first adopted zoning. I will stand corrected if there's something different but I understood it had been R-20 from the onset.
- Fry: And what's the minimum lot size for an RR, residential?
- Prescott: RR is five acres.
- Fry: So essentially it would only be three choices are RR, R-40 and R-20; is that right?
- Prescott: Well, actually its only two choices. Well, it is three. There's a R-30 as well as a R-40 but RR is not available in this area because its a rural zone that only applies outside the Urban Growth Boundary. This is inside the Urban Growth Boundary.
- Fry: So the largest zone available here is a R-40?
- Prescott: Yes.
- Fry: There's no R-60 or anything like that/
- Prescott: No there's not.
- Fry: Thanks.
- Leonard: Yes, Commissioner Hunt.
- Hunt: Dave. I think it was Mr. Brady mentioned that some of the neighboring trees might be damaged from the development. I'm assuming these are Douglas Fir and you can't change the elevation level around the root system. Is that probable, or could that be in the Design Review plan that the elevation would not change near somebody else's neighboring trees or the root structure?
- Prescott: Well, you raise a couple of questions. One, the county does not apply its Design Review process to single family

houses and as such, there would be no Design Review process imposed by the county in this particular case when the house is constructed. The only other comment I could make is that the county does in fact not have any ordinances which restrict the removal of trees and I really, I know, I can't speak one way or the other whether the removal of trees from this site would have an affect on the ones on adjacent property.

Hunt: Well, I'm thinking of the trees on the neighbor's property so they won't be damaged.

Prescott: Yes, I know. I understand.

Hunt: In other words, could we put some kind of condition that there wouldn't be excavation or soil burden added to an area near the property line which could damage some of the neighbor's trees? You've seen the site; I haven't.

Prescott: Yes. My response is that it doesn't appear to me that that is a possibility because the Planning Division doesn't really have a mechanism for going out and doing on-site reviews for single family houses in this kind of a setting. No Design Review or anything that would trigger a way for doing that.

Hunt: Okay. Thank you.

Leonard: Any other questions?

CHANGE OF TAPE.

The Report said that there were roughly two, roughly half-acre lots there, and Mr. Brady said that there is in fact one owner who intends not to treat those as separate lots and there are three smaller lots shown to the east of the applicant's, or the subject property, and again, Mr. Brady stated that there is only one house on those and they would like to combine those.

Prescott: Okay. Well, with respect to the one across the street to the south, our review of the ownership information is they are in fact owned, that the two lots in question do both have the same owner, however, they are discreet, separate tax lots and as such one of them, if one of them were sold tomorrow, which there's nothing in the county code to prevent, someone could come in tomorrow and

apply for a building permit and obtain one on the vacant two lots.

Leonard: So they were properly partitioned?

Prescott: Properly partitioned and legal. In fact the partition took place, yes, 1987 actually was when that property was partitioned.

You asked about the property to the east. Our information is again reflecting the Assessment and Taxation Division print-outs, again indicates all three of those lots have the same owner. That information shows a residence on two of the lots; the one that actually has the frontage on Mill Street is listed as vacant property. But, again, they are three separate tax lots and our records indicate they were legal when they were created.

Leonard: Let the record show that there is a residential improvement on two of those lots.

Prescott: Yes. I mean, that's looking strictly at the computer print-outs from the Assessment and Taxation Division. They indicate that there is a residence on the two northernmost of those three lots.

Leonard: Okay. Mr. Corder raised a couple of questions relating to criteria for development, or partitioning, relating to the hillside development code and erosion control and noted that this area is steep slope. Are those criteria appropriately applied to this partitioning?

Prescott: The area is in the Tualatin River Basin. That area automatically is subject to the county's Hillside Development and Erosion Control regulations. One of the things that triggers that requirement is anytime when a building site has a slope in excess of 25%, it appears just looking at it this site does not have that kind of a slope. The ordinance does apply....

MIXED CONVERSATION

Leonard: Dave, my question really is whether the hillside development criteria are appropriately applied to decide whether this should be partitioned or, we understand that the building construction would have to comply with those requirements?

- Prescott: Building construction would have to comply with those requirements.
- Leonard: But are the hillside development and erosion control criteria appropriately applied to the partitioning decision?
- Prescott: Well, they don't actually affect, they affect more the building or development of the property rather than, you know, the act of dividing it into parcels in this case.
- Hess: This is Mark Hess. I just wanted to add to David's comments on that question, the Hillside Development Permit and the Erosion Control Permits are triggered by land-disturbing activities, and the drawing of lines on a map is not considered a land-disturbing activity, and, so, its the building permit application or driveway construction or some land-disturbing activity that triggers those requirements, not the partition itself.
- Leonard: In your opinion, having worked with the Hillside Development and Erosion Control Ordinance for some time now, and other Design Review processes, could the 20,000 acre parcel that's proposed be developed with a single family house and meet the requirements of the erosion control and hillside development code?
- Hess: Yes.
- Leonard: Any further questions of Staff? Any further questions of the appellant or Mr. Steinberg?
- Mr. Brady.
- Brady: The owner of the property in question and on the computer print-out as undivided is here. I'd appreciate it if he would at least answer the questions if this is one piece of property or two pieces of property.
- Leonard: Yes, please, if he could.
- Yes, please come to the podium. State your name and address for the record.
- Thoeresz: My name is Johanna Thoeresz, 6060 S.W. Mill Street.
- Fritz: Excuse me. Could you move a little closer to the microphone or speak up?

Thoeresz: Sure. We live directly south of the property in question. When we bought our home in 1987 we had the option of purchasing the house on one-half acre, with one-half acre parcel or to purchase a half-acre parcel. We opted to purchase the house with both parcels so we could keep the integrity of the area intact. We did not buy our home for the home but for the surroundings and for all those sort of non-computerized aspects of it. You know, yes, there are two pieces of property. Yes, we could sell half of it but it was not our intent when we bought it to do that nor is it our intent in the future to ever sell half of it.

Leonard: Okay. Any further questions?

Thank you.

I have a question for Mr. Brady. Mr. Brady, in regards to the properties to the east of Mr. Steinberg's property there are three parcels there and the Staff indicated that two of those parcels on the tax records show that there are homes on the property. Are you familiar with those parcels and

Brady: I have one house there....MIXED VOICES>

Fritz: There is a single home.

Leonard: There is one home. Is there some other improvement that might be the reason that two of the parcels show some improvement?

Brady: No. I'm just a little puzzled. There's just a single home. Mr. and Mrs. Henry Burmeister, who are listed with the names that I turned in in opposition to this, are very significantly affected by the trees. They have one home there. A single piece of property has one home.

Leonard: Okay. Thank you sir.

Is there anyone else who would like to testify either for or against this appeal? Seeing none we will close the public testimony portion of the hearing. Discussion from the Commission.

Fritz: Mr. Chairman, I move adoption of the Staff Report.

Douglas: I'll second it.

- Leonard: Is there discussion on the motion?
- Atwill: I think that there is evidence that the property values will be affected here and that that is a relevant concern.
- Al-Sofi: I also want to point out that I think the Staff Report, at least it leaves open the question of whether that's relevant, the property values. But, it is relevant if you look at the approval criteria. Even aside from density.
- Fritz: My only comment is that I could paint my house purple and pink and it would have a negative impact on the property around me; I assume it would be a less desirable street to live on but I would certainly be within my right. As long as I didn't make a sign out of it then....
- Douglas: That's the way I feel, that they've actually asked for something that is their right to do so. They're within the Urban Growth Boundary which, conceivably, could be lower down in smaller sizes than what they're asking. It also leaves a parcel of approximately one acre left on the other one so they're only asking for one smaller lot so the rest of it is a pretty good size lot too. But it is what they are asking for here is legal and I can't see any, if he builds a house like he says on there it'll actually improve the property instead of....
- Hunt: I agree. I can't see where he's not within the law. I would hope that when he does the design that he does take the trees into consideration. But, legally there's nothing we can do about that but please take it into consideration.
- Fry: Basically I'm not persuaded on the property value issue but and I don't think that the evidence that was presented persuades me that property values will drop. I think the reality here is that we have R-20 zoning and the reality of that is about 20 more houses into this neighborhood and I think neighborhoods better address that reality. In fact, in their testimony they pointed out that this site could be divided into three different lots and by putting in only one house they've tried to build arguments that you shouldn't do that because in the future you'd want to have three houses there to serve Portland's density, which kind of gets to the property value argument I believe. If you follow that logic then two houses here if you're making the logic that property

is more valuable by having less houses on it, actually by stabilizing this property with two houses it stabilizes the value and so, I guess, I'm persuaded, I believe we have no choice and I think the neighborhoods that don't like the future that they're facing better get their act together as far as dealing with that future. The future is there and its been there all along.

Leonard: Commissioner Fry, you had an opportunity to read Mr. Palmer's letter about the property value?

Fry: Right. And I felt it was, it really addressed in my opinion issues that were put upon the property by their impression in terms of siting the house and the relationship of the house to the street and I'd have to review the letter but I wasn't struck that it really addressed the issue of subdividing the house. It spoke to things such as man's right to privacy, taking advantage of existing territorial views, mitigate potential noise, these are all design issues that can be addressed in a development properly, and, theoretically if someone were to build a \$1,000,000,000 house on this lot and I certainly have seen house of great value on much smaller lots, all of the Street of Dreams, so that's how I feel for what its worth.

Leonard: Commissioner Atwill.

Atwill: Yes, I can appreciate it if we're not persuaded by the evidence but I just want to clarify that my understanding of the approval criteria is that property value is relevant and the Land Division Ordinance begins by stating that its purpose is to protect property value so, as long as we're clear on that.

Leonard: Commissioner Yoon, do you have commentary?

Yoon: I'm not persuaded (INAUDIBLE).

Leonard: Call for the question. All those in favor of the, get this right, affirmative vote would be granting the appeal. Excuse me, denial of the appeal. Affirmative vote will uphold the partitioning and deny the appeal. All those in favor of the motion.

Vote.

Leonard: Opposed.

Vote.

Leonard: Okay. Two "No". Al-Sofi and Atwill.

MIXED VOICES.

Leonard: Okay. So the appeal, requested appeal is denied.

END.

Meeting Date: June 25, 1991

Agenda No.: P-7

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM
(For Non-Budgetary Items)

SUBJECT: _____

BCC Informal _____ (date)	BCC Formal _____ (date)	June 25, 1991
DEPARTMENT <u>DES</u>	DIVISION <u>Planning</u>	
CONTACT <u>Sharon Cowley</u>	TELEPHONE <u>2610</u>	
PERSON(S) MAKING PRESENTATION _____		

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: 15 Minutes

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

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

LD 17-89a / MC 2-89a Decision of the Planning Commission of May 7, 1991 appealed to the Board by the applicant, with recommendation to the Board for approval

BOARD OF COUNTY COMMISSIONERS
CLATSOP COUNTY
1991 JUN 18 PM 1:53
CLERK

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL _____

Or

DEPARTMENT MANAGER Paul Yarbrough / blw

(All accompanying documents must have required signatures)



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
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GARY HANSEN • DISTRICT 2 COMMISSIONER
RICK BAUMAN • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

MEMORANDUM

To: Board of County Commissioners

From: Dave Prescott, *DP*

Subject: Appeal of Planning Commission Decision
LD 17-89a / MC 2-89a
12200 NW Rock Creek Road

Date: June 25, 1991

This is an appeal of the Planning Commission's May 7, 1991 modification of a condition of approval for a five-lot rural subdivision. The Planning Commission first approved the subdivision in August, 1989.

The appeal is based On the Record. "On the Record" means that in making its decision on the appeal, the Board will consider only evidence compiled by the Planning Commission. Staff will be available at the hearing to answer questions. Attached are:

1. The Decision adopted by the Planning Commission;
2. The Notice of Review filed by the Appellant; and
3. The Transcript of the public hearing.

At the hearing, Staff will present a brief summary of the cases and show slides of the site. The case file will be available for your review. (If you desire to review the case file prior to the hearing, please contact me at 248-3043).

The Board must review the attached materials and the record to determine whether the modification to Condition 8 is consistent with the intent of the original Condition 8.



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 606, COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OREGON 97204

GLADYS McCOY • CHAIR • 248-3308
PAULINE ANDERSON • DISTRICT 1 • 248-5220
GARY HANSEN • DISTRICT 2 • 248-5219
RICK BAUMAN • DISTRICT 3 • 248-5217
SHARRON KELLEY • DISTRICT 4 • 248-5213
CLERK'S OFFICE • 248-3277

Date: 06/25/91 Time: 9:30 a.m. Place: Room 602, Multnomah County Courthouse

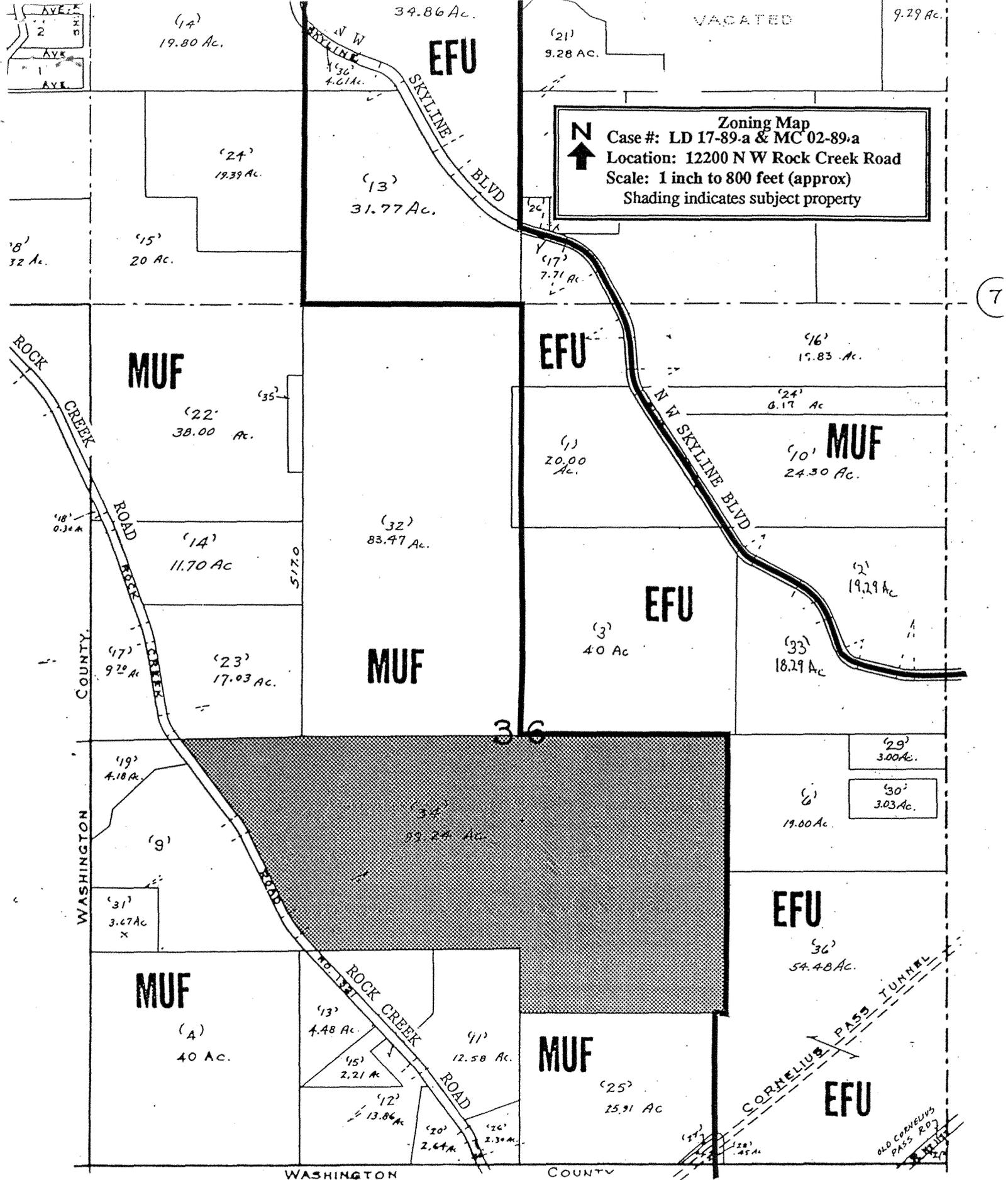
LD 17-89a Public Hearing - On The Record
MC 2-89a

Review the Decision of the Planning Commission of May 7, 1991, **approving** modifications of previous conditions regarding water supply and regarding the private road under LD 17-89 and MC 2-89 made on August 14, 1989, for property located at 12200 NW Rock Creek Road.

This item has been appealed by the Applicant

Scope of Review:

On the Record



A TRANSCRIPT OF A PORTION OF THE PLANNING COMMISSION
MEETING OF MAY 7, 1991
LD 17-89a AND MC 2-89a

Commission Members Present: Chairman Leonard, Hunt, Fry, Yoon, Al-Sofi, Douglas, Atwill

Staff Present: S. Cowley, S. Pemble, D. Prescott, I. Ewen, and M. Hess

Leonard: Line 3, Land Division 17-89a, 12200 N.W. Rock Creek Road.

Prescott: This is a, you're re-visiting a case, two cases that were companion cases that the Planning Commission took action on in August of 1989. What you approved at that time was a 5-lot land division, a rural subdivision if you will, on a piece of property containing right around 100 acres, five lots were to be minimum of 19 acres each, access to be provided over an existing private easement road that came off of Skyline Boulevard from the north of the site and into the site where it was to provide private road frontage to each of the five lots. The reason that the case is before you tonight is that the applicant found themselves unable to satisfy two of the conditions of approval that were imposed in 1989. I have handed out to you this evening two items and you also received a copy of your 1989 decision. The items you got tonight relate to Oregon Revised Statutes, which I'll talk about in a minute, and also an item showing some suggested revisions that we have made to the conditions that appear in your Staff Report.

Basically what happens is the applicant was unable to satisfy the condition that the County Engineer make a determination as to the adequacy of water; reason being that the County Engineer does not have the expertise to make judgements regarding water adequacy, and that was learned subsequent to your previous approval.

The second condition the applicant was unable to meet required that the County Engineer was to determine that the design of the private road was adequate in terms of erosion control and slope stability measures. Again, the County Engineer does not assert jurisdiction over design of private roads and hence applicant was unable to meet that condition. That appeared as Condition No. 6 in your

original MC 2-89 approval. After having reviewed the two conditions and reviewing possible options, Staff is recommending revised conditions with respect to the water issue the recommendation is basically identical to the one you saw in the previous case, namely that the applicant has an option of two things: either No. 1, drilling a well on each of the five lots and providing appropriate information indicating that the output from those wells is adequate to supply a single family house on the site. The other option is, again, to comply with ORS 94.090 (4)(c), which you have a copy of and we've drawn a dotted line around that section, and again, that section of Oregon Revised Statutes which our land divisions must comply with stipulates that one option for a sub-divider is to file a notice with the State of Oregon indicating that water is not being represented to be available on the site at the time that the lots are being sold. Again, that puts subsequent buyers on notice that they have to, they're on their own to provide their own wells and dig them.

That is how we are recommending the condition regarding water supply be addressed. The material that you got tonight also indicates our suggested revisions to the conditions regarding the private road, and in those what we do, or try to tighten up and clean up what the original conditions of approval were in the sense that if you look carefully at conditions 5 and 6 of the 1989 decision, you actually find that there were two sets of guidelines being applied; one was that Fire District 20 was going to look at the design of the private road and that was talked about in Condition No.5. In Condition No. 6 the County Engineer was going to make a determination on the design of the road in terms of erosion control and slope stability measures. What we are suggesting be done to correct the problem and get the applicant out of the box of having to have the County Engineer approve something that the county (change of tape) ... be revised, spells out something that the design standards for the actual design of that road, those standards are taken in large part from the standards of Fire District 20 and we also say in there the applicant, as far as the slope stability and erosion control, should use appropriate engineering and technology or the kinds of things that address hillside development and erosion control that are contained in our ordinance. However, it is not a requirement that they actually get a hillside development in this case, and the reason for that is that at the Oregon Administrative Rules that govern the Tualatin Basin and

the Hillside Development and Erosion Control Ordinance do not extend to development that was approved prior to January 1 of 1990. So we're suggesting that the applicant use the spirit of that ordinance as far as preparing their design plan for the road but we and the Commission, the county, do not have the authority to require that they get a permit under the Hillside Development Ordinance, which was adopted in February 1990.

That concludes our comments at this time. I would be glad to answer questions, and I believe the applicant is represented here this evening and will respond also.

Leonard: Questions of Staff? Commissioner Fry.

Fry: Under proposed eight, is there a problem with eliminating "B"? Because my point of view would be that the original condition was, is there sufficient amount and pressure available to serve a house on each lot? That's the question. Eight "B" ignores that question.

Prescott: This is something that is going to be up to you as a Planning Commission to make the decision. We are recommending those two options, and the reason we did that is primarily because option "B" does address Oregon Revised Statutes and your county land division ordinance does, with respect the water systems, refer back to ORS 090 (4), which relates to water, as you'll see on that page. We feel that is a viable option; the Planning Commission does have the ability to require that they be the way that the issue is settled. I will say however, that in our experience and in our research in land division cases in the county, and I won't say that we've looked at every single one that's ever been approved, we have not found one in which an applicant was actually required to dig the well before the plat was approved. And that was one of the reasons we offered this as one of the options. And, so that's the background on why its in there.

Hunt: When its talking about page 4, 8 "A" and "B", I was probably the one that added the water and one of my concerns for the area was in Multnomah County Findings it mentions that in this area there is a shortage of water, and since this was a subdivision to build five house lots, I thought it was appropriate that the water issue be addressed. I just thought I'd clarify that for other Commission members that are here why its on it. That's

why I'm a little concerned about 8 "B", although the new purchaser would be fully aware of the situation.

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Prescott: Yes. In the Findings, in the Staff Report, you will find that we indicate we've received a letter from a well driller retained by the applicant who references the past history of wells in the area taken from well log reports, and it does indicate, his letter does indicate that there appears a good likelihood that adequate water is available. But, again, that is short of drilling wells on each site, and that is why we put the option there of either put the wells in or comply with the state statute under option "B".

Hunt: I have another question. We approved this in August of '89?

Prescott: Correct. You did.

Hunt: And, on the original copy on page 2 of 16, Number 1, it says ..."within one year of the date of this decision deliver the final plat and other required attachments."

Prescott: Yes. And they did meet that requirement.

Hunt: Do we have to approve the whole thing or just.....

Prescott: No. You only have to deal with the conditions that are being requested for modification and the reason for that is that the ordinance says that you have to turn in your final plat and the other documents within a year's period, and they did meet that requirement but if it takes more time to finalize the other things, then that may be the case, but they've still met the requirement of turning it in. They did turn it in before the year was up.

Hunt: Okay. Thank you very much.

Leonard: Commissioner Al-Sofi.

Al-Sofi: I have a question, on the bottom of page 5 of the current yellow pages, it says that *...any change or alteration of conditions attached to conditional approvals shall be processed as a new action.* As of what date is this to be considered to be a new action?

Prescott: I guess the date, today's date, would be the public hearing date.

- Al-Sofi: Then that, I think the hillside development and erosion control would be applicable.
- Prescott: Well, it was, I guess it was our reading, and we did some research on the relationship of the hillside development ordinance to the earlier approval, and the, it was our conclusion that what was being asked for here didn't amount to opening the whole subdivision, but rather looking at two conditions, and so its our position that the original Tentative Plan approval stands but there are conditions here specifically that are being asked to be modified and I guess in the research that our Staff did, Mark in particular, went back and scrutinized the Oregon Administrative Rules as well as our own hillside development ordinance and we, based on that research, concluded that it was not actually possible to apply the hillside permit process to this particular case because of the fact that the plan was approved in 1989.
- Al-Sofi: I mean, I don't understand that.
- Hunt: Okay. On page 5, you have the ending of the conditions that you're requesting that we approve and I'm talking about "D" where it says, adequate to satisfy the standards in the Tualatin Basin.
- Prescott: Right.
- Hunt: So, for the road part they would have to meet the standards of the Tualatin Basin; are you saying they would only have to, if they wanted to cooperate they could.
- Prescott: What I'm saying, I may not have explained it very specifically, but, in the material that we handed out to you this evening you should have gotten a single sheet that showed a suggested revisions to conditions 5 and 6, and there is a change in that revision that you got tonight that's different from what's in the original Staff Report. Its a case of when we printed the Staff Report we had some suggested language and after we had further review and some discussions with the applicant's representative, we went back researched the applicability of the hillside ordinance to a 1989 approval and based on our research, we are recommending a change in what we showed in the yellow Staff Report. And that's on the handout you got tonight.

- Hunt: Okay, but Dave, your new suggestion doesn't really say anything. I mean, how do you know if somebody is following the criteria for that? Consistent with the best management practices. Isn't that a matter of opinion?
- Fritz: Before you answer that; this all comes down because the County Engineer cannot help us or cannot do what we though the County Engineer could do. Is that correct? I mean, is that basically it?
- Prescott: That's correct.
- Fritz: Both in terms of water and the road?
- Prescott: Yes.
- Hunt: Can we re-write what we missed back there?
- Hess: This is Mark Hess with the Planning Staff also. In response to your question regarding Item "D", regarding erosion control, where it mentions "best management practices and engineering principles". Our intent there is that we know today what, or at least we have as resources available to us, best management practices and engineering principles that are applied within the Tualatin Basin, the erosion control principles which I would be reviewing for, which the Commission envisioned applying by the County Engineer back in 1989 would be essentially the same that we apply to our hillside development and erosion control permits. While we may not be able to require a Hillside Development and Erosion Control Permit on an action that pre-dated the Tualatin Basin regulations, in reality the design that I would be reviewing for the road would need to address the same issues and practices, management practices, for erosion control are not going to differ....
- Leonard: Has the road been constructed yet?
- Hess: There is a one-lane road there that's gravel at the beginning and then sort of trails out into just two tire tracks. There are slides too which we are going to show if you're interested.
- Leonard: If an applicant or a person wanted to build this type of an access road that was not involved in a land division

activity, would they be subject to the Hillside Development and Erosion Control Ordinance?

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Hess: In this location they would because its in the Tualatin Basin and in other locations they may if it you know....

Leonard: If they haven't build the road yet, why would they not be subject to the hillside development ordinance to build that road whether it was related to this land division or not related to this land division?

Hess: If the, well the opinion that I received and my opinion that I'm telling you now is from D.E.Q., was that if the road was being built in reliance upon a plat that we approved prior to July 1, 1990, that we could not impose the erosion control standards on the design of that road, you know, that was being built based upon a prior approval.

However, if they were to build the road on their own without

Leonard: That's an interesting theory. If a house were being built in that plat with a 1989 approval would they be subject to...?

Hess: Yes they would. We have a provision in the hillside development which says that building permits for individual houses shall meet the standards even if the building permits issued after the date. But in subdivisions approved prior to the date shall be consistent with _____ standards for the Tualatin Basin. So we covered the bases for the individual building permits in the way that we wrote the ordinance but we did not cover the base of

Leonard: Did we specifically exempt permits for roads in subdivisions that were approved prior to this ordinance?

Hess: Our code does not, however State law does. It doesn't say roads, it says developments approved prior to January 1, 1990.

Al-Sofi: Mark, even if the plat was approved, aren't we reconsidering everything now now? I mean, the statute says that, the Ordinance says that this should be proceeded as a new action, so....

Hess: I understood Commissioner Al-Sofi's reading of that and that is different than the reading that we have taken. We thought a modification of conditions does not reopen the whole case.

Hunt: Mark, even though the Commission has to re-approach what they meant by having the City Engineer inspect it, could not we say that they follow what the reading, in other words, they don't have to apply for a permit for the road but they have to follow the practices, is that what you're saying, that they have to follow the practices of the _____ but they don't have to get, pay for the permit?

Hess: That's correct. That's essentially what we're recommending in item "D", that's what we're recommending.

Leonard: Further questions for Staff? Is the applicant or the applicant's representative here?

Bachrach: Thank you. Good evening. For the record, I'm Jeff Bachrach 1717 N.W. Hoyt, Portland, 97209. Its a pleasure to see you all for the second night in a row. And I'd say you're about two hours behind schedule, just like last night.

Hunt: We did well last night.

Bachrach: Well, if I knew, I'd be able to plan my night accordingly.

Leonard: We finished our hearings only 45 minutes behind schedule.

Bachrach: Well, I'll stay tonight and make sure you do as well.

I will try to be brief because I have very few comments to make on this. I did want to clarify why we're here tonight. The applicant did try to comply within one year and we spend many months working with the County Engineer trying to produce what they thought they *wanted, until they finally threw up their hands and said well, gee, we really don't do this*, and so we kind of had no choice but to come back to somebody for help on this. So I just want to make it clear that as Staff said at one point, we were put in a box that was really not of our own making.

Let me address a couple of concerns that I heard. One was about water, and Commissioner Fry your concern was were we meeting the original conditions. The original conditions said that we should provide evidence to show that water will be available, and we feel we did that. We produced water logs, we got letters from the State, got letters from a private well digger, all saying there will be sufficient water and giving some evidence as to why. We thought that was sufficient evidence but we could not get the County Engineer to ultimately bless it. He kept saying *well, that looks good but I really do this*. So that, we feel we complied with the original conditions. We're prepared to live with new conditions Staff has come up with but we certainly hope we don't have to go beyond that because we really feel we lived up to the bargain originally and through some unfortunate confusion we're stuck with a new condition. So, that's the answer on the water part.

On the road, I understand the concern about the hillside provisions and if I can put on a lawyer hat for just a second and address one issue about, the language about processing as a new action. What that means is that the procedure you will follow for a modification is the same procedure you will follow for a new action. You have to give notice, you have to have a Staff Report and a public hearing but all that is technically before you tonight is clarifying these two conditions, so we're not starting from scratch, and technically we can't go back and undo or change other pieces so that's what that means. And on the hillside ordinance, our hope is that we can do everything that ordinance says; that's certainly the expectation. We just want a little bit of protection to make clear that technically it doesn't apply. But, as Mark Hess said, when our engineer sits down with the County engineers that's what going to be in front of everybody. And that's what everyone is going to be trying to do.

That's it. I do have one request. One minor point of disagreement with Staff, and I will ask the Planning Commission to address this, which is, under 6."A", it talks about the grades on the road should average 8 percent with a maximum of 12 with some leniency to go up to 15. The original application was explicit that the road could average 10% grade, and I guess its our feeling that we well may meet 8% but just to be safe so we don't have to come back to this Commission one more time.we'd like to have that changed from 8% to 10% because that's what

the original application said and its our feeling that there is really no basis to change what was put there originally. The original condition said design a road that the County Engineer will approve and our application had already said it will be 10%. And, so now that we're spelling out in more detail what those conditions are, or what those specifications are, we don't think its appropriate to change what was in the original application, 10%, so we would ask for that one minor change in 6."A" so that it reads "grade not exceeding an average of 10%". And other than that, we're rather frustrated that we have to go through this process but hopefully we're at an end and with that change we would be quite satisfied.

Leonard:

Questions for Mr. Bachrach?

Thank you.

Is there anyone else here who would like to testify in support of this application? Is there anyone who would like to testify in opposition?

Yes sir. Would you come to the podium.

Foote:

Good evening Commissioners. My name is Bob Foote. I live at 11610 N.W. Rock Creek Road, Portland. My family and I reside on twelve and a half acres directly underneath this 99.24 parcel that's owned by Western States Development. Its not really easy in this state for land speculators and developers to alter the zoning of a parcel to suit their needs. When approval is granted its usually done under certain conditions and these conditions were voted on last year and it was approved under these conditions. The rezoning was. And I feel that these conditions were very valid and I feel that they should be met. Now we have these modifications that were probably going to be modified from day one, the way I feel. I do not think that they should be approved, particularly I'm concerned with No. 6, the changing of the road; I understand now through the conversations here that the Multnomah County Engineer cannot do that for some reason. But the, let me explain why I feel like I do. My acreage has three main waterways going through it and during the winter rains there is an enormous amount of water that comes down these draws. I have to stay on it constantly to make sure there is no culverts that are clogging-up that will ruin the road below me as well as wash out portions of my property. I feel that if we give

Western States Development a free rein to go in here and put in any kind of road they want, which is almost what it sounds like they are going to be doing up here, then they may hire a contractor that might scrimp on the culvert size or something and create major run-off problems. So, I'm very concerned about the water flow. So, if the culverts aren't the right size, mud dams might form high in the culverts and the result will be massive washouts during the heavy rains. I'm very familiar with this piece of property and I'm very concerned about my property and my neighbor's property adjoining me. If you have a map in front of you there, I'm the twelve and a half acre site directly at the apex of the south corner there. Tax Lot '11'. There's no indication of how the draws and how the water flows through there. Unfortunately you can't see it but it is extreme water flow. Basically, that's it for No. 6.

As to Condition No. 8, I'd like to think that Western States would show a little more concern for their future clients. There is a lot of people up on that hill, up on that ridge, that bought property in the past thinking they could put a well in and get water, and I've known people who have gone down over 1000 feet and they just have a little muddy flow; and they are very disappointed. Now, this may not be the case with Western States Development. Maybe they would put in good wells prior to the sale of the property, which I think would be wonderful if they would do that. They would have to go down very deep, I know that. I'd hate to see them get by just selling the lots up there under the presumption that water is available because one well driller said, yes, its probably available. I know that real estate people can sometimes gloss over an issue like this and say everybody else on the hill has water up there, its probably going to be okay for you.

Also, I think since in 1989 the approval was granted, under these conditions, I feel either that we should, if we're going to change these conditions I think we should change them, not just wipe them out, but change them accordingly. We've been talking about the hillside development and erosion control commission, if we could somehow alter that date that they say is after because a plat was approved prior to a certain date that it doesn't apply, they don't have any control. Is that what the situation is there? The hillside development and erosion

control commission doesn't have any control over what kind of road we put in there? Is that the issue?

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Leonard: Well, the hillside and erosion control ordinance regulates how the construction is carried out. It provides, or a builder has to be very careful about avoiding erosion siltation in the streams.

Foote: As well as people downstream?

Leonard: Right.

Foote: Down the hill?

Leonard: Right.

Foote: But they don't have anything to say about this because of a date, is that right?

Leonard: That was what Staff represented. I think a number of Commission members have questioned whether those current erosion control provisions should be waived at this point on this development.

Foote: Well, my question then is who is going to be the watchdog over this road that goes in there? There has to be somebody besides the developer that's going to make sure that there is proper sized culverts that go in and there's not major changes in water courses. I will be directly affected by that.

Leonard: The recommended conditions of approval that the road be designed by a licensed engineer and the other criteria there would address that concern. Its not just the developer that makes the decisions but a licensed engineer would have to prepare the plans and _____.

Foote: I see. Thank you very much.

Leonard: Any questions for Mr. Foote? Thank you Mr. Foote.

Is there anyone else who would like to testify in opposition?

Seeing none we will close the public testimony portion of the hearing.

Any discussion by the Commission?

Commissioner Fry.

Fry: I have to admit, I interpret it the way the applicant does in terms of the law, and basically the way I'm interpreting it, the process is what's new, not the issue. And that if these conditions, in fact, meet the intent of the original conditions I personally have a problem with changing that. I don't think it affects anything else. However, I do feel that if these conditions did not, if they were to change the intent of the original conditions, I think that opens everything else up. That's how I feel about the process question raised. In other words, I feel comfortable about going ahead and I guess I just wanted to ask the Commission, I guess I feel comfortable now 8."B" not really super comfortable, but that's... Do we want to add a condition though, to discuss the issue of culverts? Because I didn't, actually you know you're talking about objective standards, I'm not sure anybody else agrees, which is okay, but _____ there wasn't really condition that addressed the culverting, and I know that's a problem because.....

Mixed conversation.

Fry: Okay, lets just deal with, I'm sorry.

Hunt: It seems to me that if they met the conditions of basically if they looked at the intent of the Tualatin Watershed, that culverts wouldn't be necessary, etc. They'd have to use those standards. In other words, if we used that criteria as the standards they should follow that should be met as far as culverts and erosion.

Fry: I personally have experience with culverting. I know how important it is with _____ culverting. I just want to make sure that's taken care of.

Al-Sofi: I don't know if this might be a question, but the change between the average of 8 percent for the grade of the road and maximum of 12 to what the applicant said was in his application, I have a real problem with that. Those aspects that were in the original application weren't approved, they were changed and when the changing condition wasn't met I don't think that the automatic response to go back to what was in the application....

Leonard: Commenting on my own impression of the change in average slope from 8% to 10% would be that that would not be a problem. A 10% slope is not particularly a steep road. I wouldn't personally be concerned about that.

Fry: Can we ask the Staff what they think on that?

Leonard: Certainly.

Mixed Voices.

Hunt: On page 4, Condition No. 5, the Skyline Fire Department couldn't approve the site plan or the engineer plans for the road? They couldn't say yes, that will meet the criteria; we will be able to get to those houses?

Prescott: They did do that and we, that is part of the file. But the problem was is that the way the conditions all came out, the Skyline Fire Department was being involved and the County Engineer was also being involved and we sought to reconcile and put that stuff into one condition that addressed the

Leonard: Has the applicant already met Condition No. 5 as it was originally approved then?

Prescott: He did do that, yes.

Leonard: Okay.

If the specification denying that the applicant submitted to the fire department were satisfactory then why would be asked to modify that original condition, if its already been met?

Prescott: We had, in looking over and trying to craft the conditions that you're looking at tonight, Staff had concern with the Skyline Fire District's maximum standard of 15% on slope and it was because of that concern that we brought it back to an average of 8% with 12% on short pitches with the ability to go up to 15 as approved by the Planning Director. The actual site inspection that we made when Mark and I went out to the site actually when we got out on the road, quite frankly, what we saw out there did not appear to be nearly as severe as showed up on the applicant's tentative plan in terms of topography. And

that may be due to the fact that USGS information they have used to show the terrain on the tentative plan but I guess its Staff's opinion at this point that the slope issue may not in fact be an issue, at least based on what we saw when we went out and looked at the road and walked on it. But we were concerned that 15% seemed like an awfully steep slope to have, you know, all the way along.

Leonard: Commissioner Fritz.

Fritz: Dave, I don't think, I don't know if you answered the question that I heard asked here. The specific question asked was "why do we need to redraft Condition 5 if the applicant has already met the approved Condition 5?"

Prescott: Well, okay, the reason we did that was because in the original conditions we had five talking about the Skyline Fire District, which is actually what the Staff had initially recommended. Condition 6 was added at the hearing by the Planning Commission and asked the County Engineer to approve the design of the road, with respect to erosion control measures and slope stability. When the applicant found that they could not meet Condition No. 6 that required the County Engineer to make those approvals, they came back to us and then sought to, they wanted modified and it seemed appropriate to us that the best way to get the whole thing on one track was to take the what we felt were the key aspects of the Fire District 20 standards and incorporate them into Condition No. 6 the way that you see them and by the time we did that it seemed to make sense to take Condition 5 and delete the reference to the Skyline Fire District. Because in effect, the wheel load and the roadway and those kinds of things are in large part based on what the fire district material talked about. We hoped we were simplifying things.

Fritz: I understand that. Now, if I could ask specifically to 6."A', 8% versus 10% average; you're saying that you don't believe there's going to be any problem meeting the 8% average?

Prescott: Yes, I'm saying that. Correct.

Fritz: What would Staff have a problem with if it read "10% average"? With everything else remaining the same.

- Prescott: I think I'm going to have to confer with the Director, because he and I worked on this particular condition and ...
- Fritz: No. That's fine.
- Prescott: And that's where we arrived at 8% and Scott works in the Transportation Division, or has worked in there, and I'm afraid he's more of an expert than I am.
- Pemble: Scott Pemble, Planning Director. The standards we have represent both the rural fire district standard and the recommended standard as prescribed by the U.S. Forest Service for locations in residential forested areas. The 8% was their recommendation; a 10% that, I don't think we have a problem with 8% quite frankly, on the average, I think 10% just adds additional steepness to the slope and somebody can still access it, its just a little more difficult. That's all.
- Leonard: So the 8% criteria does come from the Forest Road...
- Pemble: From the, excuse me, I said the "U.S.". It was the Oregon Department of Forest Service recommendation for access to rural residential locations in forested areas.
- Leonard: Thank you.
Commissioner Hunt.
- Hunt: Dave, as far as No. 6, basically says what the criteria of the road would be. In other words, the standards they would meet.
- Prescott: That's correct.
- Hunt: And you feel Skyline Fire Department would find those standards appropriate?
- Prescott: Yes, I do.
- Hunt: In other words, as far as them getting trucks in and out.
- Prescott: Given that we took from their's and the State Forest Service, both, the Skyline District's standards are met or in some cases exceeded.
- Hunt: Okay. So their suggestions of 5 or in 6, basically?

- Prescott: Right.
- Hunt: Okay. Thank you.
- Leonard: Further questions or discussion?
- Al-Sofi: I guess I do have one more question. In 6."D", is your understanding that that would include the best management practices, etc., would include the culverting issue that the gentleman, Mr. Foote discussed in that No. 5?
- Prescott: Yes. The way that would work is that our Staff and probably more specifically Mark Hess is going to be involved in reviewing the actual design of that road. The applicant is going to have an engineer design the road, put their stamp on those road designs, and then our Staff will review that engineer's work. And in making that review, Mark is going to be looking at the standards that are contained in the hillside ordinance. Even though the applicant will not have to specifically get a hillside permit. And that will take into account issues that might involve culverting.
- Al-Sofi: Okay. Thank you.
- Fritz: Mr. Chairman.
- Leonard: Commissioner Fritz.
- Fritz: I move adoption of the Staff Report.
- Yoon: I'll second.
- Mixed conversation.
- Fritz: To revise recommendations on Condition 8 of LD 17-89 and then condition 5 and 6 of MC 2-89.
- Al-Sofi: With 8% (inaudible)...
- Fritz: As the Staff Report has it in print.
- Leonard: Commissioner Hunt.
- Hunt: I have trouble with 8."B" and I have trouble with 6."D". I know, its just, it seems like we could rewrite it a little bit

stronger so that they would, even though they're not applying for a Tualatin Basin permit they would follow the standards to meet the erosion control within the standards for the Tualatin Basin Watershed Permit process. I agree they don't have to apply for a permit because they've applied beforehand. But, I can't see why the Commission can't set those standards as what we meant when the City Engineer was going to apply the standards.

Leonard: Okay. Commissioner Al-Sofi.

Al-Sofi: I too have trouble with 8."B". I think selling the property to people who think they're going to be able to put in a well and get water when they may not is, I have some real problems with that.

Leonard: My recollection of the early hearing on this case went to that issue also. Customarily in a subdivision we receive a statement from a water district or the city that is supplying the water clearly stating that they can provide suitable water to the residential development to serve a house, and we didn't have that available in this case, and rather than denying the subdivision for lack of a water supply we deferred to the professional opinion of the County Engineer and the County Engineer has not been able to provide that certification or endorsement. So we're back to either looking at either having the applicant go out and drill the well or as provided under part "A" under Condition 8, or simply state that there's no water available. I think the original concern of the Planning Commission was that we didn't want to approve a subdivision if there was no water available.

Fry: I would move to amend the motion to strike 8."B" from the motion.

Hunt: I second that.

Leonard: Discussion of that motion?

Fritz: Yes. There was a motion to adopt the Staff Report. We have, no, I'm sorry, no you can amend it before. You have to amend it before you act.

Leonard: Yes. That was Commissioner Fry's motion.

Mixed conversation.

Fry: So there's a motion on the table to approve the Staff Report, which has been seconded. Now I've made a second motion, which has not been voted on but has been seconded, to delete 8."B", so the way the process is if there is any other motions to amend the original motion we can discuss the _____, and then we just vote right down the line. Is that correct Mr. Chairman?

Leonard: Well, we would consider the motion to delete 8."B" first.

Fry: Okay. That's alright.

Bachrach: Mr. Chairman, I have an unusual request but this is an unusual hearing. May I have a second opportunity to briefly address the Commission?

Leonard: We've closed the public testimony. We can ask you a question. I'll ask you a question. Do you have any comment on deletion of 8?

Bachrach: I guess I'm concerned that we be treated fairly, and I think two points on this water issue: one, last night and tonight you've approved several partitions creating as much as three lots. We happen to be five lots, but you've allowed the approval of creation of three lots with the exact same condition Staff has put before you tonight. The option is "A" or "B". So we would like to be treated like you've really treated a lot of other applications last night and tonight. The second point I would make, if you want me to go through them, and then I'll take questions, is the original condition said ..."Provide evidence that water will be or can be available." And I feel that we've provided that evidence. We got three different kinds of evidence, from the State, from a private well digger, and from private well logs showing water can and will be available. So, I really feel we satisfied the original condition and simply because the County Engineer wouldn't agree to that we're suddenly stuck with a whole new condition different than what we were given two years ago, and I don't think that's fair. And my third point is. the condition is what State law says. At this point in time it wouldn't make sense to drill the wells before we sold the lots. They might not sell the lots for five or ten years. At the time the lots will be sold the potential buyers will be told "there's no well on this property at this time". At that point either the seller would dig the well or that would be part of the

negotiation, and all the State requires is something is recorded to notify that buyer that at this point there's no water, you need to determine how you're going to get water available. So I guess out of fairness, I would ask you to go with what Staff has proposed and State law recognizes that this will protect potential buyers. That's what State law says you've got to tell potential buyers and that's what 8."B" does.

Al-Sofi: I have a question on that. How is the potential buyer informed of this fact, because this provision in the State statute only says that the Planning Division is informed and the State agency is informed but how would the buyer on the site be informed?

Bachrach: It has to be recorded with the property, and the property owner, any prudent property owner would get the title report or check the recorded plat on the piece of property they are buying. Either one of those documents would have this language. Plus, any responsible seller is going to discuss in the rural area, because anywhere in the rural area you rely on private wells. You know, does it have a well yet? Its sort of the common course of business up there. At this point they have absolutely no plans to sell these lots and I think it would be an unfair burden to say "spend the money to drill five wells now even though you may not sell these properties for five or ten years." I think its asking more of this applicant than you've asked of other applicants in the last couple of nights. And its certainly more than you asked of them two years ago when they were before you.

Hunt: I have to agree with Chairman Leonard that I think the intent of the Planning Commission two years ago was that water would, that you would show that water was there. One of the ways to do that is to provide water. As far as the other two-lot division, I don't look at that as a subdivision. You're talking five, dividing a piece of property into five lots. I look at that as a subdivision, planned subdivision, so the criteria, if it was somebody else that divided their property into five lots I would look at it the same way.

Fritz: Yes. Mr. Chairman.

Leonard: Commissioner Fritz.

Fritz: On the motion to amend, I'm opposed to the simplistic approach here and I do agree that there ought to be some sort of evidence. Its obvious that our Commission's initial intention to put the County Engineer into the decision-making position cannot be met. However, I would be much more comfortable providing a new section 8."B" that would require the applicant to provide to evidence to the Director of the Planning and Development Division that water in sufficient amounts and pressure will be able to serve a house on each lot.

Leonard: I'm not sure what the Director of Planning and Development would be any more comfortable passing on the adequacy of that evidence. I think that the Planning Commission could look at the evidence that's been submitted, the letter from a well driller, and decide whether that's sufficient to convince us that we ought to approve this.

Fritz: Are you suggesting that we be the body that

Leonard: That's where the application is heading.

Fritz: It is in our lap. I just think that without providing an alternative we're being unfair to the applicant, asking the applicant to actually drill wells.

Hunt: We're asking the applicant to provide water.

Fritz: No. We're asking him to drill wells prior to even...making any sale at all...

Leonard: Provides some assurance that there will be water.

Fritz: Well, assurance.

Atwill: I agree with Commissioner Fritz.

Fritz: I think assurance ought to be there.

Atwill: That was the original condition.

Fritz: Right. But only by, the only evidence we're saying if we agree with this amendment, is that they actually have to drill a well on each one of the lots.

Leonard: That's what Staff has proposed as a modified condition of approval.

- Fritz: But then there was an option.
- Leonard: Or the statement that says "No domestic water facilities will be provided."
- Commissioner Douglas.
- Douglas: I think down here, we look at 3."D", and this is a person or an outfit who has done wells in the past in the area and he has much more expertise, he has drilled wells. He's knowledgeable in it. It isn't like the County Engineer who probably has never drilled a well, so its only up to the applicant to show that water is there or a reasonable assertion that water is there. To be in compliance I don't think its up to us to step over. If he shows its reasonable there and wells have been there, and I personally know Mr. Feakin, so I know that he would not put this out if it were not what he considered reasonable. So, I have no problem with the Planning decision here, that this is what's right from the start. It does give an alternative to where they don't have to drill wells to start with, which makes the case.
- Al-Sofi: Could we possibly require a notice to the buyer, you know.....
- Douglas: That's required already.
- Al-Sofi: I mean, no, not to the buyer, directly from the seller to the buyer because a lot of people get these Title reports and don't, can't read them and
- Mixed conversation.
- Hunt: Could we drop this for a second? You're applying to put a road in to put five house lots. Correct? In other words, you're putting in a road that we're going to approve for you to have five buildable lots.
- Bachrach: Potentially.
- Hunt: Potentially buildable lots.
- Bachrach: Those lots would have to come back to you before a house could be built because its MUF-19 zone, so you would have a second opportunity. Anyone attempting to

build on one of those lots will be back in front of you seeking approval to do that, so

Hunt: No, they won't be in front of us, they'll go to

Bachrach: They'll still have to go through a process.

Leonard: Right.

Fritz: Through the Chair to Commissioner Douglas, George, the one thing about this 3."D" on page 6 of the Staff Report, it is stated that the wells in the area have yields that range from 2 gallons per minute to 30 gallons per minute. We heard last night from a consultant to the Portland Water Bureau, we were talking about dumping waste water on the property, that 5 gallons per minute is probably average for a garden hose. Two gallons per minute is not going to serve a single family dwelling. So, I don't know if we have enough evidence to indicate that there is sufficient water or water pressure to serve one, much less five, single family dwelling on this development.

Douglas: This is talking about one well. You'd have to have one well for each site.

Hunt: Right. But all Mr. Turner is stating is that there are 20 wells but some of them are 2 gallons a minute. He doesn't state how many. You know, for financing you need 5 or 7 gallons a minute these days. And I know for a fact because I live in the area, that there are wells that are 5 gallons a minute, 4 gallons a minute, that are 900 feet deep. In Multnomah County Findings on page 60 it states that wells are typically 500 feet deep and have low flow rates, so I think its a concern of the Planning Commission and I think its appropriate.

Leonard: Commissioner Fry.

Fry: I would make it a motion, I do agree with Commissioner Fritz and Douglas that it loses maybe too far the other way, that's my opinion, in terms of requiring but I also want to state that I don't think the evidence does support that in fact there is water for each one of these lots, and the question I have to you or Staff, not to them, is in terms of approval of a house can there be a condition that the proper house cannot be approved without proof ofcause frankly, I understand the concern about not misleading buyers but I don't think that is our issue; I

think if, I mean I don't think that is our concern. I think our concern is that before a house is built there is water, and that's where I think the Comp Plan comes in and so I'm wondering if we can beg the question now by requiring a condition that prior to approval of a house for the site there is in fact proof that there is water. Is that possible?

Leonard: Well, I think that would certainly be a possibility. I think the intent of the Commission in debating on whether to approve the subdivision in this area or not is that we not create lots that would be purchased and then they would find that they couldn't build on them. Somehow that question be addressed up front and possible conditions "A" and "B" as proposed would be the best tools to do that, to either drill a well and have the water there so they could look for themselves and see it or have a clear statement that there is no water and its just "buyer beware".

Fry: Okay. My feeling is that regardless of what the applicant says, I just continue to believe and I understand the owner's _____ of digging a well and I appreciate that but I did also look back on the past case and I don't quite know what they were referring to last night. But, the bottom line is I don't think we **inaudible**.

Leonard: Okay. Further discussion on the motion to delete Condition 8.."B". Commissioner Fritz.

Fritz: Mr. Chairman, I would, I'm going to vote "no" on this motion. Not that I want to provide the applicant with the option currently under 8."B", but I think there needs to be another option and if this body has to be the decider and we will substitute for the County Engineer, it might be easier to say "that prior to signing of the final plat either do 8."A" or provide evidence acceptable to this Commission that water in sufficient amounts and pressure will be available to serve on each lot." That defers our, I mean it delays our decision about whether or not there is sufficient water but it puts the burden back on the applicant to bring in more evidence and convince us at a later date.

Atwill: For that matter, we could just continue and not even create the lots; take the step that will not be able to be

built on until we have the evidence assuring water will be there.

Fry: Okay. I just wanted to state that I agree and I don't mind being put on point on this because I think that's our job and so, I can't say I blame you. If I could withdraw my motion because I did like your direction better
inaudible.

Leonard: No. We've got a motion, lets just

Mixed voices.

Fry: I guess I can vote against my motion.

Mixed voices.

Leonard: We can amend it.

Fritz: Before I move an amendment to the amendment, which is for our substitute amendment, excuse me, I am interested in pursuing Commissioner Atwill's idea that perhaps a continuance would allow the applicant to bring in, you know, we wouldn't have to look at separate hearings to determine if the evidence is convincing. That we, I don't like to continue things but if we continue this and the evidence is brought forward within 30 days, that is

Leonard: Lets turn this into a question for the applicant here. Would you feel comfortable with providing additional evidence to support the fact that there may be water out there? For a continuance for coming back with additional....

Bachrach: I would prefer one way or another that this Commission make a final decision tonight. I mean, we've been put off over eight or nine months trying to get the County to tell us what to do. I really, as I expressed and you probably don't need to hear me express it again, I really think we are being asked to go well beyond what anyone else has been asked to do. State law provides for this situation; it addresses what you do when you have a rural subdivision that water is not currently available. We are doing what the law says, and if the Planning Commission

is determined to go beyond the law I would ask that you please make that decision tonight so we can decide what to do, rather than continue us and leave us sort of hanging. Whatever you want to do, I guess I have one request, please do it tonight and not continue it to another time.

Fritz: Then I would move rather than an amendment to amend it, a substitute that 8,"B" read "provide evidence

Leonard: I think procedurally that we to either modify the amendment to the motion or vote on the motion and get it out of the way.

Fritz: Okay.

Yoon: Call for the question.

Leonard: All those in favor of the motion to delete ..

Inaudible

Leonard: We have a motion to delete 8."B".

Fritz: And we're voting that one.

Mixed voices.

Leonard: Call for the question on that action. All those in favor of deleting 8."B"?

Vote.

Inaudible. Four to three.

Leonard: All those who want to delete 8."B"?

Hunt: Aye.

Atwill: I have a question about the motion. Does this mean that we're not going to amend as we discussed

Leonard: We just want to decide whether we're going to toss 8."B" or not.

Hunt: I though if we voted to 8."B' we could add a new "B".

Leonard: Okay. All those who would like to eliminate 8."B"?

Vote.

All those who don't want to eliminate 8."B"?

Vote.

Cowley: Who was in favor?

Leonard: Atwill, Douglas, Al-Sofi, to delete 8."B".

Douglas: Not for deleting it.

Leonard: Okay. A show of hands. All those who would like to eliminate 8."B"?

Inaudible.

Leonard: Okay. All those who would like to keep 8."B"?

Fry: Or deny the motion, rather.

Leonard: Motion to amend fails. Commissioner Fritz.

Fry: What I was going to suggest is that maybe, what would be the problem with taking the original 8./

Fritz: Well, let me put out an amendment....

Man: Mr. Chairman, if I

Fritz: I would move that to substitute for the language in 8."B", the following language: "Provide evidence acceptable to the County Planning Commission that water in sufficient amounts and pressure will be available to serve a house on each lot."

Is there a second?

Fry: I'll second it.

Atwill: I have a question on that motion.

Leonard: In what time frame?

- Fritz: It would be prior to filing the final plat.
- Bachrach: Mr. Chairman.
Mixed Voices.
- Fritz: Either 8."A" or 8."B".
- Yoon: That's the exact language that brought us back here last time.
- Leonard: No it isn't. No. This, the proposal....
- Bachrach: We need to know what we have to do to get an approval; what evidence will satisfy, what do we need to produce...?
Mixed voices.
- Bachrach: We don't know what to give you. We....
- Bender: We've given the County Engineer quite a bit of information and evidence and he kept...
Mixed voices.
- Bachrach: We don't know what else to give you. We need some guidance as to know what you want.
- Leonard: I think that was the original dilemma, that the Planning Commission did not feel that they were water experts, the County Engineer was....
- Bachrach: If we bring a water expert to come say there will be water will that satisfy you?
Mixed voices.
- Leonard: That is Commissioner Fritz's ...
- Douglas: My question is does he have to dig a well to get this.
Many voices. No.
- Douglas: The only evidence here is Mr. Feakin's statement in his opinion there will be sufficient water available on the

subject with no adverse effect on the existing wells in the area based on the company's experience over the past 20 years. 29

Mixed voices.

Fry: The problem is

Douglas: Well, you want the well drilled then?

Fritz: No.

Mixed voices.

Leonard: Commissioner Fry.

Fry: The problem is this that this expert is not here for us to ask questions of and I personally feel that if this expert were here and I could ask questions of the expert I would feel more comfortable, and I personally feel that this was in our jurisdiction to make that determination and that the applicant feels that we're wrong and feels, they certainly have appeal rights that they can pursue. So that's my point of view on the evidence. I just don't feel that the evidence without my obtaining a discussion to the expert is sufficient.

Douglas: Do you have that letter dated April 18, 1990?

Bachrach: Yes. The county has it and I believe I have it in my file as well. Its been submitted to the county.

Hunt: Commissioner Douglas.

Personally that letter to me would not be adequate because he says two gallons to such-and-such. Maybe 10 of those, maybe 19 of those wells is gallons. We don't know that from that letter.

Al-Sofi: I would like to speak to this

Douglas: But the facts state down low, in his opinion.

Leonard: We have a motion to amend..

Mixed voices saying its been seconded.

Leonard: Seconded by Atwill.

Atwill: No.

Fry: Me.

Leonard: Fry.

Hunt: And I call for the question.

Leonard: Okay. All those in favor of amending 8."B" to require the applicant to submit evidence satisfactory to the Planning Commission that there is adequate water there, say aye.

Vote. *(Transcriber counts 5 in favor)*

Opposed.

Vote.

Two nays.

Atwill: Mr. Chairman. And parties opposing the application will also be free to submit their evidence? Their expert?

Leonard: Yes.

Back to the original motion. Further discussion on the original motion to approve the Staff Report.

Al-Sofi: With this amendment?

Leonard: With this amendment.

Al-Sofi: Inaudible.

Leonard: Hearing no further discussion, call for the question on the original motion to adopt the Staff Report, which has now been amended regarding the demonstration of evidence of water supply. All those in favor?

Vote.

Opposed.

Vote. Okay. Motion carried.

M E M O R A N D U M

TO: Board of County Commissioners
FROM: Dave Prescott *DP*
SUBJECT: **Appeal of Planning Commission Decision**
LD 17-89a / MC 2-89a
1220 NW Rock Creek Road
DATE: June 25, 1991

Staff recommends the modification Condition #8 of the Planning Commission's May 7, 1991 Decision for the approval of the above-referenced five-lot rural subdivision. Material recommended to be deleted is printed in ~~strikethrough~~. Recommended new material is in **underlined boldface**.

Condition 8 of LD 17-89, regarding water supply, which originally read:

"8 Prior to endorsement of the final plat, provide evidence acceptable to the County Engineer that water in sufficient amounts and pressure will be available to serve a house on each lot."

is recommended to be modified to read:

"8. ~~Prior to signing of the final plat, do one of the following:~~

A. ~~Drill a well for each lot and provide written confirmation from the Oregon Department of Water Resources, the Oregon Department of Veterans' Affairs, or the U.S. Department of Housing and Urban Development that the wells produce water in sufficient amounts to serve a house on each lot;~~
OR

B. ~~Prior to signing of the final plat, provide evidence acceptable to the Planning Commission that water in sufficient amounts and pressure will be available to serve a house on each lot."~~

Comply with MCC 11.45.580."