

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 236

An Ordinance amending Ordinance No. 100, changing the minimum lot sizes and the standards for the location of new residences in the Exclusive Farm Use, Commercial Forest Use, and Multiple Use Forest districts; adding wildlife and fish habitat protection provisions in the Commercial Forest Use and Multiple Use Forest districts; amending certain administrative approval criteria to correct or remove provisions found to be vague or discretionary; amending farm use and timber-cutting provisions in the Willamette River Greenway district; amending lot sizes for rural planned developments in MUF; providing design review for building modifications and for delay of demolition permits for historical buildings and structures.

Multnomah County ordains as follows:

SECTION 1. FINDINGS.

- A. The April 1, 1980 Continuance Order of the Land Conservation and Development Commission declares that the Multnomah County Comprehensive Plan and implementing measures do not yet comply with Statewide Planning Goals 2, 3, 4, 5, 6, 11, 14, and 15, for the reasons set forth in the Department of Land Conservation and Development Commission report. The Commission granted a 120-day continuance of the County's acknowledgement request so that the County may complete the additional planning work described in the Order.
- B. The Planning Commission has reviewed the Continuance Order and alternative proposals for plan revisions and ordinance amendments in work sessions and community workshops.
- C. At a public hearing on June 9, 1980, the Planning Commission passed Resolution PC 12-80D/1 recommending to the Board adoption of draft ordinance PC 12-80D/1 revising the Zoning Ordinance, Ordinance No. 100 as one measure to comply with the Continuance Order and adopting findings in support of the recommendation.
- D. The Board concurs in the Planning Commission's recommendation and findings.
- E. Additional findings of the Board made as a result of testimony and evidence at public hearings, are contained in Attachment 1 and hereby made a part of this Ordinance.

SECTION 2. AMENDMENTS OF THE EXCLUSIVE FARM USE DISTRICT.

Note: Material underlined is added; material crossed out is deleted.

The following subsections of Section 3.10 of Ordinance No. 100 are amended to read:

3.10 EXCLUSIVE FARM USE DISTRICT EFU-~~38-~~

3.102 AREA AFFECTED.

This subsection shall apply to those areas designated EFU-~~38-~~ on the Multnomah County Zoning Map.

3.103.1 PRIMARY USES.

(Subparts a. and b. are unchanged, except to delete "[1977 Replacement Part]".)

- c. Residential use in conjunction with farm use, consisting of a single family dwelling constructed on a lot of 76 acres or more on Sauvie Island or 38 acres or more elsewhere in the EFU district.

3.103.2 USES PERMITTED UNDER PRESCRIBED CONDITIONS.

- a. Residential use in conjunction with farm use, consisting of a single family dwelling constructed off-site, including a mobile or modular home, subject to the following conditions:

(Subparts 1, 2, and 3 are unchanged.)

- b. Residential use consisting of a single family dwelling for the housing of help required to carry out a farm use primary use-listed-in-subsection-3.103.1.a.-or-e., when the dwelling occupies the same lot as a residence permitted by subsections 3.103.1.c., or 3.103.2.a, subject to the following conditions:

(Subparts 1 and 2 are unchanged.)

- c. A primary use listed in subsection 3.103.1 a. or c:

1. On a substandard lot of record or a lot created under MCC 11.45, Land Divisions, after the effective date of Ordinance No. \_\_\_\_\_:
2. Except for a substandard lot of record, with a lot size less than the minimum required under subsection 3.104.a., but not less than 38 acres on Sauvie Island or 19 acres elsewhere in this district;

3. Conducted according to a farm management plan containing the following elements:

- (a) a written description of a five-year development and management plan which describes the proposed cropping or livestock pattern by type, location and area size and which may include forestry as an incidental use,
- (b) soil tests or Soil Conservation Service OR-1 soils field sheet data which demonstrate the land suitability for each proposed crop or pasturage use,
- (c) certification by the Oregon State University Extension Service, or by person or group having similar agricultural expertise, that the production acreage and the farm management plan are appropriate for the continuation of the existing commercial agricultural enterprise within the area. For the purposes of this Ordinance, "appropriate for the continuation of the existing commercial agricultural enterprise within the area" means:
  - (1) that the proposed farm use and production acreage are similar to the existing commercial farm uses and production acreages in the vicinity, or
  - (2) in the event the proposed farm use is different than the existing farm uses in the vicinity, that the production acreage and the farm management plan are reasonably designed to promote agricultural utilization of the land equal to or greater than that in the vicinity. "Agricultural utilization" means an intended profit-making commercial enterprise which will employ accepted farming practices to produce agricultural products for entry into the conventional agricultural markets."
- (d) a description of the primary uses on nearby properties, including lot size, topography, soil types, management practices and supporting services, and a statement of the ways the proposal will be compatible with them.
- (e) EXCEPTION. A written description of the farm management program on that parcel as a separate management unit for the preceding five years may be substituted for subparts (a), (b) and (c) above.

4. The Planning Director shall make findings and a tentative decision within ten business days of the application filing. Notice of the findings and decision, and information describing the appeals process shall be mailed by first class mail to the applicant and to the record owners of all property within 500 feet of the property proposed for the use.
5. The tentative decision shall be final at the close of business on the tenth calendar day after notice is mailed, unless the applicant or a person entitled to mailed notice or a person substantially affected by the application files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of subsections 12.38 and 12.39, except that subsection 12.38.2 shall apply only to a notice of appeal filed by the applicant. In the event of an appeal by the applicant, the persons entitled to notice under subpart 4 of this subsection shall be given the same notice of the appeal hearing as is given the applicant.

3.103.3 CONDITIONAL USES.

- b.3. Residential use not in conjunction with farm use, consisting of a single family dwelling, including a mobile or modular home. ~~upon a finding that the dwelling~~ The lot shall be a Lot of Record under subsection 3.104.2, or, if otherwise below the minimum lot size, be divided under the applicable provisions of MCC 11.45, Land Divisions. The Hearings Officer shall find that a dwelling on the lot as proposed:

(Subparts (a) through (e) are unchanged.)

- (f) complies with such other conditions as the Officer considers necessary to satisfy the purposes of subsection 3.101;
- (g) construction shall comply with the standards of the Building Code or as prescribed under ORS 446.002 through 446.200, relating to mobile homes;
- (h) the dwelling shall be attached to a foundation for which a building permit has been obtained; and
- (i) the dwelling shall have a minimum floor area of 600 square feet.

b.11. Mortgage Lot. Residential use consisting of a single family dwelling in conjunction with a primary use listed in subsection 3.103.1, located on a mortgage lot created after the effective date of Ordinance No. \_\_\_\_\_, subject to the following:

- (a) The minimum lot size for the mortgage lot shall be two acres;
- (b) Except as may otherwise be provided by law, a mortgage lot shall not be conveyed as a zoning lot separate from the tract out of which it was created or such portion of the tract as conforms with the dimensional requirements of the zoning ordinance then in effect. The purchaser of a mortgage lot shall record a statement referring to this limitation in the Deed Records pertaining to said lot.
- (c) No permit shall be issued for improvement of a mortgage lot unless the contract seller of the tract out of which the mortgage lot is to be created and the mortgagee of said mortgage lot have agreed in writing to the creation of the mortgage lot.

b.12. Homestead Lot. The purpose of this provision is to encourage the retention of agricultural lands in large parcels, while providing the opportunity for residents who are no longer able or who no longer desire to farm the land to retain their homes and sell the balance of the property. The Hearings Officer may approve a lot division for a principal dwelling existing on the effective date of Ordinance No. \_\_\_\_\_, as a non-farm use, provided that all of the following are satisfied:

- (a) the homestead lot shall not be greater than two acres unless conditions of soil, topography or other circumstances require a larger size; in no event shall a homestead lot be larger than five acres,
- (b) the dwelling on the homestead lot shall have been the principal farm dwelling for at least ten years prior to the effective date of Ordinance No. \_\_\_\_\_,
- (c) the remainder of the parcel shall satisfy the lot size and other requirements of this district for farm use,
- (d) not more than one homestead lot may be divided from a lot of record,
- (e) the owner of the parcel from which the homestead lot was divided shall have the first right of refusal to purchase the homestead lot.

3.104 DIMENSIONAL REQUIREMENTS.

- a. Except as provided in subsections ~~3.104.1~~, 3.103.2.c., 3.103.3.b.3, 3.104.2 and 3.104.3, the minimum lot size shall be 76 acres on Sauvie Island and 38 acres elsewhere in the EFU district.

(Subpart b. is unchanged.)

3.104.1 LOTS OF EXCEPTION, through subpart 3.104.13, is deleted.

3.104.2.a.1: No. "148" is deleted and the number of this Ordinance inserted.

3.104.4 Except as otherwise provided by subsections ~~3.104.1~~ and 3.104.2, no sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

3.108.1 and 3.108.2: No. "148" is deleted and the number of this Ordinance inserted.

The following subsection is added to Ordinance No. 100:

3.108.5 RIGHT TO COMPLETE SINGLE FAMILY DWELLING.

A single family dwelling, uncompleted prior to the effective date of Ordinance No. , but which meets the tests stated in this subsection, may be completed although not listed as a primary use in this district.

- a. Actual construction shall have commenced prior to the effective date of Ordinance No. , under a sanitation, building or other development permit applicable to the lot. "Actual construction" means:

1. placement of construction materials in a permanent position;
2. site excavation or grading;
3. demolition or removal of an existing structure;
4. the value of purchased building materials; or
5. installation of water, sanitation or power systems.

- b. Actual construction shall not include:

1. the cost of plan preparation; or
2. the value of the land.

- c. The value of actual construction commenced prior to the effective date of Ordinance No. , shall be \$1,000 or more, for each \$20,000 of the total estimated value of the proposed improvements as calculated under the Uniform Building Code.

SECTION 2A. AMENDMENT OF DEFINITIONS.

The following subsection is added to Ordinance No. 100:

- 1.428 MORTGAGE LOT means a lot having less than the minimum area required under the Zoning Ordinance, created out of a tract which itself conforms to lot area requirements, to enable the contract purchaser of the tract to finance construction of a single family residence thereon. A mortgage lot may be created only in the EFU, CFU and MUF districts.

SECTION 3. AMENDMENTS OF THE COMMERCIAL FOREST USE DISTRICT.

Note: Material underlined is added; material crossed out is deleted.

The following subsections of Section 3.11 of Ordinance No. 100 are amended to read:

3.11 COMMERCIAL FOREST USE DISTRICT CFU-38

- 3.112 AREA AFFECTED. This subsection shall apply to those lands designated CFU-38 on the Multnomah County Zoning Map.

3.113.1 PRIMARY USES.

(Subparts a. through c. are unchanged.)

- d. Public and private conservation areas and structures other than dwellings for the protection of water, soil, open-space, forest and wildlife resources; and
- e. Residential use consisting of a single-family dwelling ~~constructed~~ on a lot of 80 acres or more, subject to the residential use development standards of subsection 3.119.

3.113.2 USES UNDER PRESCRIBED CONDITIONS.

- a. Residential use, in conjunction with a primary use listed in subsection 3.113.1, consisting of a single family dwelling ~~constructed-off-site~~ including a mobile or modular home, subject to the following ~~conditions~~:

- 1- ~~Construction shall comply with the standards of the Building Code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes.~~
  - 2- ~~The dwelling shall be attached to a foundation for which a building permit has been obtained.~~
  - 3- ~~The dwelling shall have a minimum floor area of 600 square feet.~~
1. The lot size shall meet the standards of subsection 3.114.a., or subsection 3.114.1 a. and b., but shall not be less than ten acres;
  2. A resource management program for at least 75% of the productive land of the lot, as described in subsection 3.113.3.c.2.(a), consisting of:
    - (a) A forest management plan certified by the Oregon State Department of Forestry, the Oregon State University Extension Service, or by a person or group having similar forestry expertise, that the lot and the plan are physically and economically suited to the primary forest or wood processing use,
    - (b) a farm management plan certified by the Oregon State University Extension Service, or by a person or group having similar agricultural expertise, that the lot and the plan are physically and economically suited to the primary purpose of obtaining a profit in money, considering accepted farming practice,
    - (c) a resource management plan for a primary use listed in subsection 3.113.1, based upon income, investment or similar records of the management of that resource on that property as a separate management unit for at least two of the preceding three years,
    - (d) a fish, wildlife or other natural resource conservation management plan, certified by the Oregon State Fish and Wildlife Department or by a person or group having similar resource conservation expertise, to be suited to the lot and to nearby uses,
    - (e) a small tract timber option under ORS Chapter 321.705, a Western Oregon Forest Land designation under ORS Chapter 321.257, a Reforestation deferral under ORS Chapter 321.257, or participation in a current forestry improvement program of the U.S. Agricultural Stabilization and Conservation Service, or



(f) a cooperative or lease agreement with a commercial timber company, or other person or group engaged in commercial timber operations, for the timber management of at least 75% of the productive timberland of the property. Productive timberland is that portion of the property capable of growing 50 cubic feet/acre/year.

3. The dwelling will not require public services beyond those existing or programmed for the area;
4. The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices;
5. The residential use development standards of subsection 3.119; and
6. The dwelling 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.

b. Residential use consisting of a single-family dwelling, for the housing of help required to carry out a primary use listed in subsection 3.113.1.a., ~~or c. or d.~~, when the dwelling occupies the same lot as a residence permitted by subsections ~~3.113.1.e. or 3.113.2.a.~~, subject to the following conditions: ~~1. In the event the dwelling is constructed off-site, construction shall comply with residential use development standards under subparagraphs a.1. and 3. of this subsection~~ 3.119.

### 3.113.3 CONDITIONAL USES.

The following uses may be permitted with when found by the Hearings Officer to satisfy the applicable ordinance standards:

(Subparts a. and b. are unchanged.)

c. Residential use, not in conjunction with a primary use listed in subsection 3.113.1 consisting of a single family dwelling, including a mobile or modular home, subject to the following findings:

1. The minimum lot size shall be 80 acres or the size of the Lot of Record.
2. The land is incapable of sustaining a farm or forest use, based upon the following:
  - (a) a Soil Conservation Service Agricultural Capability Class of IV or greater for at least 75% of the lot

- area and physical conditions insufficient to produce 50 cubic feet/acre/year of any commercial tree species for at least 75% of the lot area, or
- (b) certification from an agency, person or group described in subparts 2(a) or (b) of subsection 3.113.2.a, that the land is inadequate for farm forest use and stating the basis for the conclusion, or
  - (c) for a lot greater than ten acres but less than 20 acres, a written description, filed by the owner, of the physical characteristics of the lot, including size, location, hazards, topography, drainage, soil types, prior use or other factors which will support the required finding of forest or farm use unsuitability, or
  - (d) the lot is a lot of record under subsection 3.114.1.a., and b., and is ten acres or less in size;
- 3. A dwelling as proposed is compatible with primary uses as listed in subsection 3.113.1 on nearby property and will not interfere with the resources or the resource management practices or materially alter the stability of the overall land use pattern of the area;
  - 4. The dwelling will not require public services beyond those existing or programmed for the area;
  - 5. The owner shall record with the Division of Records and Elections, a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices;
  - 6. The residential use development standards of subsection 3.119 will be met; and
  - 7. The dwelling 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 are acceptable.
- d. Mortgage Lot. Residential use consisting of a single family dwelling in conjunction with a primary use listed in subsection 3.113.1, located on a mortgage lot created after the effective date of Ordinance No. , 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.

3.114 DIMENSIONAL REQUIREMENTS.

- a. Except as provided in subsections 3.114.1 and 3.115, the minimum lot size shall be 38 80 acres.

(The balance of subsection 3.114 is unchanged.)

3.115 LOT SIZES FOR CERTAIN CONDITIONAL USES.

The minimum lot size for a conditional use permitted pursuant to subsection 3.113.3 a. or b., shall be based upon:

(The balance of subsection 3.115 is unchanged.)

The following subsections are added to Ordinance No. 100:

3.118.5 RIGHT TO COMPLETE SINGLE FAMILY DWELLING.

A single family dwelling, uncompleted prior to the effective date of Ordinance No. , but which meets the tests stated in this subsection, may be completed although not listed as a primary use in this district.

- a. Actual construction shall have commenced prior to the effective date of Ordinance No. , under a sanitation, building or other development permit applicable to the lot. "Actual construction" means:

1. placement of construction materials in a permanent position;
2. site excavation or grading;
3. demolition or removal of an existing structure;
4. the value of purchased building materials; or

- 5. installation of water, sanitation or power systems.
- b. Actual construction shall not include:
  - 1. the cost of plan preparation; or
  - 2. the value of the land.
- c. The value of actual construction commenced prior to the effective date of Ordinance No. , shall be \$1,000 or more for each \$20,000 of the total estimated value of the proposed improvements as calculated under the Uniform Building Code.

3.119 RESIDENTIAL USE DEVELOPMENT STANDARDS.

A residential use located in the CFU district after the effective date of Ordinance No. shall comply with the following:

- a. The fire safety measures outlined in the "Fire Safety Considerations for Development in Forested Areas", published by the Northwest Interagency Fire Prevention Group, including at least the following:
  - 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. Access for a fire truck to within 16 feet of any perennial water source on the lot;
- c. The dwelling shall be located in as close proximity to a publicly-maintained street as possible, considering the requirements of subsection 3.114.b. The physical limitations of the site which require a driveway in excess of 500 feet in length shall be stated in writing as a part of the application for approval.
- d. 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 subpart c., above;
- e. 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 which allows for the clustering of dwellings or the sharing of access;
- f. Construction shall comply with the standards of the Building Code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes.
- g. The dwelling shall be attached to a foundation for which a building permit has been obtained.
- h. The dwelling shall have a minimum floor area of 600 square feet.

#### SECTION 4. AMENDMENTS OF THE MULTIPLE USE FOREST DISTRICT.

(Note: Material underlined is added; material crossed out is deleted.)

The following subsections of Section 3.14 of Ordinance No. 100 are amended to read:

3.141 MULTIPLE USE FOREST DISTRICT MUF-20

3.142 AREAS AFFECTED.

This subsection shall apply to those lands designated MUF-38 and MUF-19 on the Multnomah County Zoning Map.

3.143.1 PRIMARY USES.

(Subparts a. through c., are unchanged.)

- d. Public and private conservation areas and structures other than dwellings for the protection of water, soil, open-space, forest and wildlife resources; and
- e. Residential use consisting of a single-family dwelling, including a mobile or modular home, constructed on a lot of 38 acres or more, subject to the residential use development standards of subsection 3.149.

3.143.2 USES UNDER PRESCRIBED CONDITIONS.

- a. Residential use, in conjunction with a primary use listed in subsection 3.143.1, consisting of a single-family dwelling constructed-off-site, including a mobile or modular home, subject to the following conditions:

1. Construction shall comply with the standards of the Building Code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes.
  2. The dwelling shall be attached to a foundation for which a building permit has been obtained.
  3. The dwelling shall have a minimum floor area of 600 square feet.
1. The lot size shall meet the standards of subsection 3.144.a., or subsection 3.144.2.a. through c., but shall not be less than ten acres.
  2. A resource management program for at least 75% of the productive land of the lot, as described in subsection 3.143.3.c.2(a), consisting of:
    - (a) a forest management plan certified by the Oregon State Department of Forestry, the Oregon State University Extension Service, or by a person or group having similar forestry expertise, that the lot and the plan are physically and economically suited to the primary forest or wood processing use,
    - (b) a farm management plan certified by the Oregon State University Extension Service, or by a person or group having similar agricultural expertise, that the lot and the plan are physically and economically suited to the primary purpose of obtaining a profit in money, considering accepted farming practice,
    - (c) a resource management plan for a primary use listed in subsection 3.143.1, based upon income, investment or similar records of the management of that resource on the property as a separate management unit for at least two of the preceding three years,
    - (d) a fish, wildlife or other natural resource conservation management plan certified by the Oregon State Fish and Wildlife Department or by a person or group having similar resource conservation expertise, to be suited to the lot and to nearby uses,
    - (e) a small tract timber option under ORS Chapter 321.705, a Western Oregon Forest Land designation under ORS Chapter 321.257, a Reforestation deferral under

ORS Chapter 321.257, or participation in a current forestry improvement program of the U.S. Agricultural Stabilization and Conservation Service, or

(f) a cooperative or lease agreement with a commercial timber company, or other person or group engaged in commercial timber operations, for the timber management of at least 75% of the productive timberland of the property. Productive timberland is that portion of the property capable of growing 50 cubic feet/acre/year.

3. The dwelling will not require public services beyond those existing or programmed for the area;
4. The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices;
5. The residential use development standards of subsection 3.149; and
6. The dwelling 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.

- b. Residential use consisting of a single-family dwelling, for the housing of help required to carry out a primary use listed in subsection 3.143.1.a--~~or~~ c. or d., when the dwelling occupies the same lot as a residence permitted by subsections ~~3.113.1.e--or~~ 3.143.2.a., subject to the following conditions:
1. In the event the dwelling is constructed off-site, construction shall comply with residential use development standards under subparagraphs q.1. and 3. of this subsection 3.149.

### 3.143.3 CONDITIONAL USES.

The following uses may be permitted when found by the Hearings Officer to satisfy the applicable ordinance standards:

(Subparts a., b., and c., are unchanged.)

- d. Residential use, not in conjunction with a primary use listed in subsection 3.143.1, consisting of a single-family dwelling, including a mobile or modular home, subject to the following findings:

1. The lot size shall meet the standards of subsections 3.144.a., 3.144.1 through 3.144.12, or 3.144.2.a., through c.;
  2. The land is incapable of sustaining a farm of forest use, based upon one of the following:
    - (a) a Soil Conservation Service Agricultural Capability Class of IV or greater for at least 75% of the lot area, and physical conditions insufficient to produce 50 cubic feet/acre/year of any commercial tree species for at least 75% of the lot area,
    - (b) certification by the Oregon State University Extension Service, the Oregon Department of Forestry, or a person or group having similar agricultural and forestry expertise, that the land is inadequate for farm and forest uses and stating the basis for the conclusion, or
    - (c) the lot is a lot of record under subsection 3.144.2.a., through c., and is ten acres or less in size;
  3. A dwelling, as proposed, is compatible with the primary uses as listed in subsection 3.143.1 on nearby property and will not interfere with the resources or the resource management practices or materially alter the stability of the overall land use pattern of the area; or
  4. The dwelling will not require public services beyond those existing or programmed for the area;
  5. The owner shall record with the Division of Records and Elections, a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices;
  6. The residential use development standards of subsection 3.149 will be met; and
  7. The dwelling 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 are acceptable.
- e. Mortgage Lot. Residential use consisting of a single family dwelling in conjunction with a primary use listed in subsection 3.143.1, located on a mortgage lot created after the effective date of Ordinance No. , 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.

3.144 DIMENSIONAL REQUIREMENTS.

- a. Except as provided in subsections 3.144.1, 3.144.2, 3.145 and 7.04.1 7.044, the minimum lot size shall be 20-acres according to the short-title zone district designation on the Zoning Map, as follows:

MUF-38 ..... 38 acres

MUF-19 ..... 19 acres

(The balance of subsection 3.144 is unchanged.)

3.144.1 LOTS OF EXCEPTION.

The Hearings Officer may grant an exception to permit the creation of a lot of less than 20-acres the minimum specified in subsection 3.144.a., after the effective date of Ordinance No. 148-, when in compliance with the dimensional requirements of subsection 3.144.b. Any exception shall be based on findings that the proposal will:

(Subparts a. through f., are unchanged.)

3.144.2 LOT OF RECORD.

- a. For the purposes of this district, a Lot of Record is a parcel of land:
  1. for which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form prior to the effective date of Ordinance No. 148-; and
  2. which, when established, satisfied all applicable laws.

- b. A Lot of Record which has less than the area or front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.

1. Parcels of land which are contiguous and in which greater than possessory interests are held by the same person, partnership or business entity shall be aggregated to comply as nearly as possible with a minimum lot size of ten acres, without creating any new lot line, and with the front lot line minimums of this district. The word "contiguous" shall refer to parcels of land which have any common boundary and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way, except as provided in subpart c., of this subsection. Nothing in this subsection shall be deemed to alter or amend the other provisions of this Ordinance.

- c. Separate Lots of Record shall be deemed created when a street County-maintained road or zoning district boundary intersects a parcel of land.

- 3.144.3 Except as otherwise provided by subsections 3.144.1, 3.145, and ~~7.104.1~~ 7.044, no sale or conveyance of any portion of a lot, other than for a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

3.145 LOT SIZES FOR CONDITIONAL USES.

The minimum lot size for a conditional use permitted pursuant to subsection 3.143.3, except subparagraph c.1, shall be based upon:

(The balance of subsection 3.145 is unchanged.)

The following subsections are added to Ordinance No. 100:

3.148.5 RIGHT TO COMPLETE SINGLE-FAMILY DWELLING.

A single family dwelling, uncompleted prior to the effective date of Ordinance No. \_\_\_\_\_, but which meets the tests stated in this subsection, may be completed although not listed as a primary use in this district.

- a. Actual construction shall have commenced prior to the effective date of Ordinance No. \_\_\_\_\_, under a sanitation, building or other development permit applicable to the lot. "Actual construction" means:

1. placement of construction materials in a permanent position;
  2. site excavation or grading;
  3. demolition or removal of an existing structure;
  4. the value of purchased building materials; or
  5. installation of water, sanitation or power systems.
- b. Actual construction shall not include:
1. the cost of plan preparation; or
  2. the value of the land.
- c. The value of actual construction commenced prior to the effective date of Ordinance No. \_\_\_\_\_, shall be \$1,000 or more, for each \$20,000 of the total estimated value of the proposed improvements as calculated under the Uniform Building Code.

3.149 RESIDENTIAL USE DEVELOPMENT STANDARDS.

A residential use located in the MUF district after the effective date of Ordinance No. \_\_\_\_\_, shall comply with the following:

- a. The fire safety measures outlined in the "Fire Safety Considerations for Development in Forested Areas", published by the Northwest Interagency Fire Prevention Group, including at least the following:
  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 subsection 3.114.b. The reasons for providing any driveway access in excess of 500 feet shall be stated in writing as a part of the application for approval;

- d. 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 subpart c., above;
- e. 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;
- f. Construction shall comply with the standards of the Building Code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes.
- g. The dwelling shall be attached to a foundation for which a building permit has been obtained.
- h. The dwelling shall have a minimum floor area of 600 square feet.

SECTION 5. AMENDMENTS OF CERTAIN PRESCRIBED CONDITIONS, APPROVAL CRITERIA AND ALTERNATIVE DIMENSIONAL REQUIREMENTS.

Ordinance No. 100 is amended as follows:

A. Subsections 3.364(F)(3) and 3.374(F)(3) are amended to read:

- (3) Development will not increase the volume of traffic beyond the capacity of the public street serving the lot. The number of trips generated by the development shall be determined based on the average trip generation rate for the kind of development proposed as described in "Trip Generation" by the Institute of Traffic Engineers. The capacity of the street shall be determined based on the capacity described in the County Functional Classification System and Community Plan Policies No. 34 and No. 36.

B. Subsections 3.364(F)(4) and 3.374(F)(4) are amended to read:

(4) Design standards for privacy:

- (a) Lights from vehicles on the site and from outdoor fixtures shall not be directed or reflected onto adjacent properties. This may be accomplished by the layout of the development or by the use of sight-obscuring landscaping or fences.

- (b) Windows of the dwelling units shall face away from windows in existing adjacent dwelling structures.
- (c) Balconies or outdoor private spaces shall be located so there are no direct views from them to windows or private spaces of dwellings on adjacent properties.
- (d) Active recreational use structures, such as permanent basketball or volleyball standards shall be located outside of required side yards.

C. Subsections 3.364(F)(5) and 3.374(F)(5) are amended to read:

- (5) The filing of a plan showing existing trees of six inch diameter measured five feet from the base of the tree and existing shrubs and hedges exceeding a height of five feet. The proposed development shall preserve these features unless they are:
  - (a) located in the buildable portion of the lot,
  - (b) located so as to eliminate useful solar access,
  - (c) located in the only route by which access can be had to the site using driveways ten feet wide with a minimum of five feet of buffer on either side,
  - (d) diseased, damaged beyond restoration, or otherwise a danger to the public, or
  - (e) replaced by an equal amount of landscaping, under a bond posted to ensure replacement.

D. Subsection 3.409(A)(2) is deleted, and subpart (3) is renumbered.

E. Subsections 3.567(A), (B) and (C) are deleted, and the following is inserted:

- (A) Will be developed according to an approved preliminary design review plan under subsection 7.615. The plan shall demonstrate that the proposal:
  - (1) Does not require any dimensional exceptions or variances;
  - (2) Incorporates paved pedestrian ways connecting entries to parking, transit stops, surrounding sidewalks, neighboring general commercial or community facilities, and common areas on the site;
  - (3) Does not cause light from vehicles maneuvering to and from the site to be cast onto adjoining properties nor into windows of dwelling units on the site;
  - (4) Shows by an energy analysis that there will be a total net solar energy gain through all window surfaces between October 1st and March 31st;

- (5) Incorporates street trees as recommended by the County Parks Division;
  - (6) Preserves or replaces all trees over six inches in diameter measured five feet above the ground, and all hedges and shrubs five feet or more in height; and
  - (7) Incorporates a common indoor or outdoor recreation area (exclusive of entries, halls, laundries or service areas) of not less than 50 square feet per unit;
- (B) Is within one-quarter mile of an existing neighborhood or community activity center, as identified in the appropriate community plan;
  - (C) Is within one-quarter mile of a public transit stop;
  - (D) Has access to an arterial as designated and improved in accordance with Ordinance No. 162 and standards adopted thereunder;
  - (E) Incorporates dedications and improvements to the public right-of-way as required by Ordinance No. 162 and standards adopted thereunder;
  - (F) Utilizes a public sewer system for sanitary wastes. If such a system is not available, the development must receive approval of an alternative sanitation system from Oregon DEQ prior to approval, and include a written commitment to install "dry sewer lines" as directed by the County Engineer;
  - (G) Incorporates features specified in the Development Requirements policy of the appropriate community plan; and
  - (H) Is in an area designated for higher density development by the Community Plan.

F. Subsection 3.805(C) is amended to read:

- (C) Residential uses permitted in the MR-3 district, as listed in subsection 3.463, and accessory structures as listed in subsection 3.464(A), when developed according to the access requirements of subsection 3.404, the off-street parking requirements of subsections 3.406 and 6.20, the signage limitations of subsection 3.407(A) - (D), the design review requirements of subsection 3.419 and Section 7.60, and the dimensional requirements of subsection 3.466 and their exceptions in subsection 3.405.

G. Subpart (2) of subsection 3.809(J) is amended to read:

- (2) The Planning Director may authorize a height of 76 feet or six stories, whichever is less, provided:
  - (a) The proposal otherwise complies with subsection 4.009;

- (b) Subsection "(1)" of this section does not apply; and
- (c) The structure is set back from any residential district lot line by a distance equal to the height of the structure.

H. The introductory provision of subsection 4.008 is amended to read:

4.008      CONDITIONAL USE APPROVAL CRITERIA.

Unless otherwise specified in the provisions of an Urban Commercial District, in approving a conditional use, the approval authority shall find that the proposal:

(The balance of the subsection is unchanged.)

I. Section 4.00 is amended to add a new subsection to read:

4.009      USES UNDER PRESCRIBED CONDITIONS APPROVAL CRITERIA.

Unless otherwise specified in the provisions of an Urban Commercial District, in approving a use under prescribed conditions, the approval authority shall find that the proposal:

- (A) Will have access in accord with the following, which shall be in addition to the standards of Ordinance No. 162:
  - (1) Access drives shall be no more than 25 feet wide measured at the property line;
  - (2) Access drives shall be 50 feet or more from the nearest curb return of a public street adjoining a corner lot;
  - (3) Access drives shall be 25 feet or more from any abutting residential district property line;
  - (4) Access drives shall be 50 feet or more from the area designated a public transit vehicle stop;
  - (5) In the event the applicant's lot has a streetside lot line less than 50 feet in width, and there is an access drive on an adjoining non-residential lot improved according to the street standards ordinance, whose nearest point is no more than ten feet from the common property line, then the applicant shall acquire an easement from the owner of the adjacent property for shared access or shall demonstrate that shared access is not possible. Shared access is not possible if the owner of the adjoining lot refuses, in writing, to grant a written request from the applicant for an easement for access purposes;

- (6) In the event there is an access drive abutting a common property line on an adjoining parcel, then the access drive on the applicant's property, if any, shall be paired with the access drive on the adjoining parcel;
- (7) Access drives on the same street frontage which serve the same lot shall be 170 feet or more apart; (Driveway Standard Policy 36); and
- (8) Access drives shall be located on non-arterial street frontages, if any, unless the result would be that traffic from the proposed use would have to pass single family residential units or land designated for low density residential use;
- (B) No exceptions to dimensional standards or landscaped buffers are required by the proposal;
- (C) Paved pedestrian walks shall connect to the public sidewalk(s) abutting the property. A sidewalk shall be constructed along any street lot line of the property, where none exists, as a committed part of the development. Pedestrian walks shall also be provided from building entrances to parking areas;
- (D) Lighting related to the site shall be as follows:
  - (1) Lights from vehicles maneuvering to, from and on the property shall not be cast onto properties designated or zoned for residential use. The application shall specify the type and size of landscaping or screening necessary to achieve the effect described above, if applicable, and
  - (2) Exterior lighting shall not be cast onto adjoining properties designated or zoned for residential use;
- (E) No outdoor sound amplification systems shall be operated on the property;
- (F) Parking shall be as specified in Section 6.20, except that not more than 125% of the number of spaces required shall be provided;
- (G) Signs associated with the proposal shall be subject to the sign limitations of Section 3.808;
- (H) The proposal shall comply with Strategy 1.E. of Powellhurst Community Plan Policy No. 23, if the property is located abutting S.E. 82nd Avenue in that Community; and
- (I) All utilities shall be placed underground.



J. Subsection 4.019 is amended to read:

4.019 RESIDENTIAL USE APPROVAL CRITERIA. In approving a residential use as a use under prescribed conditions as provided in this Section, the approval authority shall find that the proposal meets the following:

- (A) Lights from nearby commercial or office uses, if any, shall be shielded from windows of the dwelling units;
- (B) Sound levels measured at the proposed residential building line shall not exceed 65 decibels (A scale) or  $L_{eq} 67$ , unless the proposed structure is designed to provide an interior noise level of  $45L_{dn}$  or less;
- (C) All utilities shall be placed underground;
- (D) No exceptions to dimensional standards are proposed;
- (E) The site is located on a public transit route;
- (F) The residential dimensional and density standards shall be as follows:
  - (1) For a proposal in the LC district, Section 3.426 shall apply;
  - (2) For a proposal in the NC district, Section 3.466 shall apply; and
  - (3) For a proposal in the GC, EC or SC district, Section 3.526 shall apply;
- (G) Subsection 3.404 shall apply to access, subsection 3.406 shall apply to off-street parking, and subsection 3.419 shall apply requiring design review; and
- (H) Paved pedestrian walks shall connect to the public sidewalk(s) abutting the property. A sidewalk shall be constructed along any street lot line of the property where none exists, as a committed part of the development. Pedestrian walks shall also be provided from building entrances to parking areas.

K. Subsection 4.205(B) is amended to read:

- (B) Residential uses permitted in the MR-4 district, when found to satisfy the approval criteria of subsection 4.019.

L. Subsection 4.305(B) is amended to read:

- (B) Residential uses permitted in the MR-3 district when found to satisfy the approval criteria of subsection 4.019.

M. Subsections 4.405(B), 4.505(C), and 4.605(B) are amended to read:

Residential uses permitted in the HR-2 district, when found to satisfy the approval criteria of subsection 4.019.

N. Subsection 4.208 is amended to read:

4.208 BUSINESS OR PROFESSIONAL OFFICE OR CLINIC APPROVAL CRITERIA.

In approving a business or professional office as a use under subsection 4.205(A), the approval authority shall find that the proposal will satisfy the following:

- (A) The total gross floor area of the proposed use and the uses listed in subsection 3.804, which are located within an LC district area uninterrupted by another zone district, shall not exceed 15,000 square feet;
- (B) Access to the proposed use shall be provided in the manner described in subsection 4.009(A);
- (C) There shall be no vacant parcel of sufficient size for the use designated BPO, NC, GC, EC, or SC, within one mile of the site, unless the application includes a written offer to purchase each vacant parcel at current assessed value, together with a refusal in writing signed by the parcel owner. The Planning Director shall assist in identifying the vacant parcels described;
- (D) Lighting associated with the proposed use shall be as described in subsection 4.009(D);
- (E) Parking shall be as specified in Section 6.20, except that not more than 125% of the spaces required shall be provided;
- (F) Signs associated with the proposed use shall be subject to the provisions of Section 3.808;
- (G) Paved pedestrian walks shall connect to the public sidewalk(s) abutting the property. A sidewalk shall be constructed along any street lot line of the property, where none exists, as a committed part of the development. Pedestrian walks shall also be provided from building entrances to parking areas;
- (H) The proposal shall comply with strategy 1E of Powellhurst Community Plan Policy No. 23, if the property abuts S.E. 82nd Avenue in that Community;
- (I) All utilities shall be underground;

(J) The proposal shall comply with the dimensional requirements of subsection 3.809 and the exceptions of subsection 3.812; and

(K) The proposal shall be located:

(1) In a structure occupied by a permitted primary use, or

(2) In a structure the height of which does not exceed the height of any residential structure on an abutting property designated for low or medium density residential use, if any, for a distance of 35 feet from the property line; if there is no abutting property designated for low or medium density residential use, the maximum height shall be as specified in subsection 4.207(G).

O. Subsection 4.209 is deleted, and subsection 4.205(A) is revised to read:

(A) Office and other uses listed in subsection 3.804 and associated uses listed in subsection 3.805(B) when found to satisfy the approval criteria of subsection 4.208.

P. Subsection 5.008 is amended to read:

5.008 AIRPORT-RELATED AND OTHER COMMERCIAL USE APPROVAL CRITERIA.

In approving an airport-related commercial use under prescribed conditions, the approval authority shall find that the proposal will:

(A) Be located within two miles of a public airport;

(B) Be located within a five minute drive of the airport terminal assuming a trip can be made at an average of 75% of the posted speed limits applicable;

(C) Comply with subsection 3.808 regarding signs;

(D) Include a commitment to make improvements required by Ordinance No. 162, and rules adopted thereunder;

(E) Provide access in the manner described in subsection 4.009(A);

(F) Provide parking as specified in Section 6.20, except that not more than 125% of the required number of spaces shall be provided;

(G) Be within one-quarter mile of a public transit stop or other passenger pickup and delivery service to and from the airport;

(H) Comply with the dimensional standards of subsection 5.208(A); an exception as described in subsection 5.208(B) shall not be required;

(I) Provide that any outside storage of vehicles shall include:

(1) 25 square feet of landscaping within storage areas for every 20 vehicle spaces, or

(2) A sightobscuring screen, not to be less than a solid hedge capable of growth to six feet in height and three feet in width within two growing seasons, or a solid fence at least six feet high;

(J) Provide that outside storage of any other tangibles shall include a sight-obscuring screen as described in subpart (J)(2) above;

(K) Not incorporate blue colored lights or rows of lights resembling aircraft guidance lighting; and

(L) Provide that any noise-sensitive uses, such as a hotel, motel or office, shall be designed for an interior noise level not to exceed 45  $L_{dn}$ .

Q. Subsection 5.009 is deleted; the reference in subsection 5.205(C) to subsection 5.008(C) through (G) is changed to subsection 5.008(C) through (F); and the reference in subsection 5.205(E) to subsection 5.009 is changed to subsection 5.008(C) through (F), and (I) through (K).

R. Subsections 3.425(C) and (D), 3.465(C) and (D), and 6.440(A)(1) are amended to delete reference to subpart (a) of subsection 12.25.3.

S. Subsections 3.366(F)(3), 3.377(H)(4), and 3.387(H)(4) are amended to read:

The maximum height for a single-family duplex, or multi-plex dwelling on a flag lot or a lot having sole access from an accessway, private drive or easement shall be 1-1/2 stories or 25 feet, whichever is less, except that the maximum height may be 2-1/2 stories or 35 feet, whichever is less, provided:

(a) the proposed dwelling otherwise complies with the applicable dimensional requirements,

(b) a residential structure on any abutting lot either is located 50 feet or more from the nearest point of the subject dwelling, or exceeds 1-1/2 stories or 25 feet in height, and

- (c) windows 15 feet or more above grade shall not face dwelling unit windows or patios on any abutting lot unless the proposal includes a commitment to plant trees capable of mitigating direct views without loss of useful solar access to any dwelling unit, or that such trees exist and will be preserved.

SECTION 6. AMENDMENTS OF THE WILLAMETTE RIVER GREENWAY DISTRICT.

Note: Material underlined is added; material crossed out is deleted.

Subsection 6.63.2 of Ordinance No. 100 is amended to read as follows:

6.63.2 EXCEPTIONS.

A Greenway Permit shall not be required for the following:

- a. Farm use, as defined in ORS 215.203(2)(a) ~~{1977-Replacement Part}, -including buildings and structures accessory thereto;~~
- b. ~~A single-family dwelling in conjunction with farm use, when located 150 feet or more from the ordinary low water line of the Willamette River;~~
- e. b. The propagation of timber or the cutting of timber for public safety or personal use ~~or the cutting of timber in accordance with the Forest Practices Act from a farm woodlot of less than 20 acres as described in the definition of "farm use" in ORS 215.203;~~

Subparts d. through l. are re-lettered c. through k., respectively.

SECTION 7. AMENDMENT OF RURAL PLANNED DEVELOPMENT SECTION.

Note: Material added is underlined; material crossed out is deleted.

Subsection 7.104 of Ordinance No. 100 is revised to read:

7.104 DENSITY.

The number of dwellings permitted on an RPD site shall be determined by dividing the gross site acreage by the following divisors:

DISTRICT	DIVISOR
MUA-20	10
MUF-19	10
<u>MUF-38</u>	<u>20</u>
RR	<u>3</u>
RC	0.5

(Subsections 7.104.1 and 7.104.2 are unchanged.)

SECTION 8. AMENDMENT ADDING PERMIT PROVISIONS FOR HISTORICAL STRUCTURES AND SITES.

Ordinance No. 100 is amended by adding the following subsection:

12.73.5 PERMITS FOR HISTORICAL STRUCTURES AND SITES.

The following requirements and procedures shall apply in addition to the provisions of the State Building Code, to a permit application under MCC 9.10.030, Building Code, concerning any historical building as defined in subsection 1.255 or any building structure or premises classified HP under subsection 6.803 or catalogued as a historic site or structure under the Historic Features Section of the Comprehensive Framework Plan.

- (A) In addition to the other applicable provisions of this Ordinance, approval of a building permit to enlarge, alter, repair, improve or convert a building or structure described in subsection 12.73.5 or to erect, construct, locate or relocate a building or structure on any premises so described, shall also be subject to the applicable design review provisions of Section 7.60 through 7.621.
- (B) In addition to the final design review criteria listed in subsection 7.618 and the standards and exceptions of subsections 7.619 and 7.620, approval of a final design review plan for a building or structure described in subsection 12.73.5 shall be based on the following criteria:
  - (1) The appearance as to the design, scale, proportion, mass, height, structural configuration, materials, architectural details, texture, color, location and similar factors shall relate harmoniously with the historical characteristics of the premises and of any existing building or structure, consistent with Building Code requirements.
  - (2) The factors listed in subpart (B)(1) which have previously been changed and which significantly depart from the original historical character of the premises, building or structure, shall be restored to the maximum practical degree, within limitations of the scope of the work proposed under the permit.
- (C) An application for a permit to remove or demolish a building or structure described in subsection 12.73.5 shall be subject to the following:

- (1) The permit shall not be issued for 120 days following the date of filing, unless otherwise authorized by the Board under subpart \*7) of this subsection.
- (2) The permit application shall be considered an action initiated by the record owner or the owner's agent, under subsection 12.21.2.
- (3) Except as otherwise provided in this subsection, the application shall be subject to the provisions of Section 12.20 through subsection 12.29.3, and subsections 12.34 through 12.37.5 of this Ordinance.
- (4) A hearing on the application shall be held by the Planning Commission.
- (5) The decision of the Planning Commission shall be in the form of a recommendation to the Board:
  - (a) The Planning Commission may recommend measures to preserve the building or structure, with or without conditions, including by purchase, trade, relocation, or by approval of a change of use notwithstanding the use limitations of the district; or
  - (b) The Planning Commission may recommend removal or demolition of the building or structure based upon a finding that practical preservation measures are inadequate or unavailable.
  - (c) The Planning Commission recommendation shall be based upon findings in relation to the applicable policies of the Comprehensive Plan.
- (6) The Planning Commission decision shall be submitted to the Clerk of the Board by the Planning Director not later than ten days after the decision is announced.
- (7) The Board shall conduct a de novo hearing on the application under the provisions of subsections 12.34 through 12.37.5.
- (8) In the event the Board fails to act on the application within the 120 day period specified in subpart (C)(1) of this subsection, the Building Official may issue the permit.

(D) Notwithstanding the provisions of MCC 9.10.090 and subsections 4.010 through 4.017 of this Ordinance, action to abate an unsafe building nuisance or an abandoned drive-in business nuisance, by demolition or removal of a building or structure described in subsection 12.73.5, shall be subject to the provisions of subsection 12.73.5(C).

(1) EXCEPTION. Abatement of an unsafe building or structure may proceed under MCC 9.10.090, upon a finding by the Director of Environmental Services that the condition of the building or structure is beyond practical repair or restoration or is a continuous threat to the safety of life or property which cannot otherwise be eliminated.

ADOPTION.

This Ordinance being necessary for the health, safety and general welfare of the people of Multnomah County, shall take effect on August 14, 1980, according to Section 5.50 of the Charter of Multnomah County.

ADOPTED this 15<sup>th</sup> day of July, 1980, being the date of its 2<sup>nd</sup> reading before the Board of County Commissioners of Multnomah County, Oregon.

FOR THE BOARD OF COUNTY COMMISSIONERS  
OF MULTNOMAH COUNTY, OREGON

By

Don Bucha  
Presiding Officer

Authenticated by the County

Executive on the 15<sup>th</sup> day of July, 1980.

Donald E. Clark  
DONALD E. CLARK, County Executive

APPROVED AS TO FORM:

JOHN B. LEAHY  
County Counsel for  
Multnomah County, Oregon

By

Laurence Kressel  
Laurence Kressel  
Deputy County Counsel



ATTACHMENT 1 OF  
ORDINANCE NO. 236 (D/1)

Before the Board of County Commissioners  
of Multnomah County, Oregon  
July 15, 1980

FINDINGS IN RESPONSE TO CITIZEN TESTIMONY ON REVISIONS OF THE COMPREHENSIVE  
PLAN AND ZONING ORDINANCE

Certain objections have been raised in recent public hearings by citizens and public interest group representatives concerning the proposals for revision of the Comprehensive Plan and the zoning ordinance designed to comply with Statewide Planning Goals 3 and 4.

The Board makes the following findings in response to the points raised:

- A. The Comprehensive Plan and zoning adopted for the rural areas in 1977 are adequate to meet Goals 3 and 4.

The Board finds:

1. The plan and ordinances were adopted by the Board with the view that they complied with the Goals.
  2. In the Continuance Order of April 1, 1980 and in ruling on the Petition for Review No. 77-031, LCDC found that these goals were not met.
  3. The Continuance Order states that the agricultural and forest zone lot sizes are too small and the siting standards for dwellings are too lenient to satisfy the Goals.
  4. Additionally, only about 25 percent of the MUA-zoned land is eligible for exception from Goal 3, according to the Petition for Review ruling. The balance must be reclassified as exclusive farm use zoning (EFU).
- B. There has not been sufficient opportunity for citizen involvement in the proposed revisions and no changes have been made as a result of testimony at the hearings.

The Board finds:

1. The Planning Commission held two public hearings in the rural areas, for which mailed, posted and published notice was given.
2. The staff held an additional public information meeting at Corbett with notice given by the local people.

3. The Planning Commission conducted two additional public hearings and the Board four hearings. Published notice was given for each of these.
4. At these meetings and hearings there were copies available of the continuance order summary, staff memos, guides to the draft ordinances, copies of the draft ordinances, resolutions and findings, an analysis of the data and technical information and of the alternatives considered, and a draft of the revised MUS Exceptions statement. Charts and maps of the proposals were displayed and explained. Data base maps and proposed zoning maps were also available for inspection. The process and the schedule of public meetings and hearings was described. Full opportunity was given at each hearing to ask questions and to give testimony and evidence. Written and taped records were made and summaries published. All of these materials were also available at the planning division office.
5. The minimum time allotted in the Continuance Order and the limited staff and Planning Commission resources were fully utilized in affording opportunities for citizen involvement.
6. Citizen activity toward improvement of the plan and ordinances should continue after adoption of the revisions. Staff and the Planning Commission will offer assistance and technical information.
7. Changes made in the zoning ordinance drafts through the hearings process include:
  - a. Modification in the aggregation requirements in EFU and MUF.
  - b. Lot size revisions in EFU and MUF from 80 and 40 acres to 76, 38 and 19 acres.
  - c. Farm dwelling approval proceedings in EFU for substandard lots of record of any size.
  - d. Homestead lot provision in EFU.
  - e. Mortgage lot provision in EFU, CFU, and MUF.
  - f. Vested rights criteria in EFU, CFU, and MUF.
  - g. Requirement for notice to all involved persons of an appeal hearing on a farm management plan proposal in EFU.
  - h. Revised provisions describing the nature and content of the "farm management plan" in EFU.
- C. The County should delay final action until September 1 to provide more time for citizen review.

The Board finds:

1. The LCDC 120-day Continuance Order expires on July 18. The County is not eligible for the 90-day extensions offered to jurisdictions filing plans for the first time.
  2. The County agreed to the 120-day time period.
  3. Failure to meet the July 18 closing date will result in forfeit of the \$22,000 of grant assistance money from LCDC for last fiscal year, plus \$11,000 for this year.
  4. Delay would retain the interim development provisions of Ordinance No. 226, which are more stringent than the proposed regulations as well as being time-consuming for applicants and costly to administer.
  5. The opportunity for citizens to work for refinements and changes in the plan and ordinances does not end with adoption of the draft ordinances.
- D. The County should reject the Continuance Order and resolve not to comply with the Statewide Goals.

The Board finds:

1. Compliance with the Goals is required by state law.
  2. The alternatives to compliance, including the possible termination of all land developments in the unincorporated area are unacceptable.
  3. The County's objectives are:
    - a. To comply with the Goals,
    - b. To make as few changes as are necessary to achieve compliance,
    - c. To enact provisions which will result in the least amount of red-tape or uncertainty for owners or applicants,
    - d. To hold administrative costs to the minimum.
- E. Multnomah County is an urban county and should not have to carry the burden of agricultural lands preservation and forest lands conservation to the degree required of the other counties.

The Board finds:

1. Goals 3 and 4 apply equally to all those lands within the State which fall within the definitions of "agricultural lands" and "forest lands".
  2. There are substantial acreages of agricultural and forest lands in the County which are uncommitted and unneeded for urban or suburban uses.
  3. The factors of a healthy and diversified economy, of energy conservation and of environmental quality, among others, make it important to retain food and timber-producing lands and significant natural areas and resources in close proximity to the metropolitan community.
- F. There are only a few full-time farms in Multnomah County and those are on Sauvie Island, for the most part. The Exclusive Farm Use zone should apply

only to full-time farms.

The Board finds:

1. Goal 3 applies to all Class 1-4 lands in Western Oregon which are uncommitted or unneeded for other than agricultural purposes.
  2. EFU zoning is required to be applied to such lands, without distinction as to full-time or part-time.
  3. The 1974 Census of Agriculture shows that 44 percent of Oregon farm operators work off the farm more than 100 days/year, and that 48 percent of the operators earn the larger portion of their incomes away from the farm.
- G. Aggregation of adjoining lots in one ownership to comply with minimum lot sizes is not required by the Goals and should not be a part of the County's zoning.

The Board finds:

1. The Goals do not expressly require aggregation.
2. Previous rulings by LCDC and the Courts have required aggregation in specific cases.
3. The Final Order in Petition for Review No. 77-031 did not exempt sub-standard lots in contiguous ownership from Goal 3 requirements.
4. The aggregation provisions is a part of the "mix" of zoning requirements for agricultural and forest land development to satisfy the Goals. If aggregation were deleted, other provisions would need to be strengthened or enlarged to meet the same objectives.
5. Aggregation has always been required in urban area residential zones and in EFU and CFU since 1977.
6. Aggregation helps to achieve the objective of retaining rural lands in large parcel sizes for farm and forest use where commitments to other uses have not been made.
7. Prior divisions of land without sales or improvements are not considered a commitment to use. Generally, such divisions have been held by the Courts not to constitute non-conforming uses.
8. Aggregation treats all owners equally in considering all contiguous land in one ownership as one parcel.
9. Aggregation under the draft ordinances is required only to the extent necessary to meet minimum lot sizes under the "primary use" or "uses under prescribed conditions" standards. These standards do not preclude applications for approval of Lots of Exception, Rural Planned Developments, or non-farm or non-resource dwellings.

10. There are about 40 subdivisions with sub-standard lots in rural Multnomah County which pre-date the Goals. They were created some 50 to 80 years ago, are largely undeveloped and have little investment in support services. Most ownerships consist of multiple lots which are managed as one parcel for farm or forest uses. Aggregation requires that these properties be developed for uses in accord with Goals 3 and 4.
- H. The revised EFU standards will promote the demise of family farms and increase corporate farm ownership. Alternatively, the revised EFU standards will promote hobby farming and the loss of commercial agriculture.

The Board finds:

1. The primary use lot size standards for farm uses under the revised EFU zone are generally consistent with current ownership sizes on Sauvie Island and in East County and are the minimum necessary to assure continued commercial agricultural use without further tests.
  2. The revised provisions for farm management plans, to allow farm use lot sizes down to 38 acres on Sauvie Island and 19 acres elsewhere are designed to require demonstration that such sizes can continue the commercial agricultural use. Lots of Record below these sizes may be developed under the same test, or under the standards and procedures for a non-farm dwelling, at the option of the owner.
- I. Owners of properties which are down-zoned should be compensated for the loss of value.

The Board finds: that the only compensation provisions currently available under Oregon law are in the revisions in assessed values occasioned by re-zoning and in the several tax deferral measures applicable to farm and forest lands.

- J. Owners who have begun development of dwellings in accord with the provisions of the 1977 Ordinance, should not lose their rights to complete them.

The Board finds:

1. The revisions under subsections 3.108.5 (EFU), 3.118.5 (CFU) and 3.148.5 (MUF) are adequate and appropriate to the protection of sufficient vested rights in such cases.
  2. The provisions of these sections do not create rights beyond those held under the prior ordinances.
- K. There is a need for additional housing in the rural areas to accommodate anticipated population growth. Farm and forest lands should be available for this purpose.

The Board finds:

1. According to Metro, there is sufficient buildable land inside the Urban Growth Boundary to satisfy foreseeable needs for housing.
  2. Vacant buildable lands inside the UGB in unincorporated Multnomah County are adequate for the anticipated housing needs to 2000.
  3. There remain 3,500 acres of MUA-zoned land outside the UGB which are not subject to the farm or forest tests for residential use on 20-acre minimums or on Lots of Record without aggregation. These lands are distributed throughout the West Hills, Orient and Corbett areas.
  4. There are 1,500 acres of Rural Residential (RR)-zoned land outside the UGB not subject to the farm or forest tests for residential use on five-acre minimums or on substandard Lots of Record, unaggregated.
  5. There are an additional 500 acres zoned RC-Rural Center, which permits one acre dwelling sites. There are seven such centers in rural Multnomah County.
  6. In EFU and MUF substandard Lots of Record and lands unsuited to farm or forest use are eligible for consideration for non-farm or non-forest dwellings under the conditional use procedures.
  7. In the MUA, MUF, RR and RC districts, rural residences may be located on non-farm and non-forest lands at twice the standard minimum densities, under an approved Rural Planned Development.
- L. Farmers need to sell off development lots in times of economic hardship in order to sustain the agricultural use.

The Board Finds:

1. There is no easy solution to this problem.
  2. The general sale of farm acreage in this manner tends to erode the commercial agricultural potential of the remaining land and to drive up its value for non-farm purposes.
  3. The revised EFU zone permits the approval of smaller farm acreages under a farm management plan designed to assure continued farm use.
  4. The EFU revisions also allow for the approval of homestead lots and for non-farm dwellings under established standards. In the latter case, non-farm lots and dwellings may be approved where the continued commercial agricultural use of the area is not impaired.
- M. The revised EFU standards do not assure that the existing commercial agricultural enterprises will be continued.

The Board finds:

1. Goal 3 also requires that "agricultural lands be preserved and maintained for farm use, consistent with existing and future needs for agricultural products ..." (emphasis supplied)

2. Data on agricultural use in Multnomah County already indicates a measurable shift toward food crops to meet the metropolitan area needs.
  3. Factors of energy conservation, transportation, and other cost increases and the status of the economy will work to continue this trend.
  4. The EFU revisions provide for the continued use of agricultural lands for commercial agriculture while accommodating needed changes in the range of agricultural enterprises and products.
- N. The homestead lot provision is unnecessary and will only increase the supply of non-farm dwellings. A life-estate arrangement will achieve the needs of retiring farmers.

The Board finds:

1. The life-estate approach is generally unsuited to the needs of retiring farmers. It forces occupancy only by the seller, limits flexibility of retirement choice and does not create marketable value.
  2. An existing farm house is consistent with agricultural uses in the area.
  3. The draft provision offers some financial relief for owners who don't usually generate retirement resources other than the values of land and dwelling.
  4. The number of potential homestead lots is limited and the adverse impacts on the agricultural qualities of the area are minimal.
- O. There is a need to preserve land for agricultural produce in the near urban area. Agricultural lands must be protected from speculation in rural residential developments which drive up land costs and make investments in farm land improvements and in equipment risky. There are economies of scale which are important to successful farm enterprises.

The Board finds: that the revised EFU zone provisions are designed with protective measures and degrees of flexibility appropriate to the above objectives and factors.

- P. The revision of the Comprehensive Plan concerning sanitary landfills represents County approval of the landfill proposed by Metro at the "Jeep Trail Site".

The Board finds:

1. The LCDC Continuance Order provides that to comply with Goal 11, Public Facilities and Services, the County must:

"Adopt solid waste facility siting criteria formed in Policy 13, consistent with Metro's regional criteria".

2. The Comprehensive Framework Plan revision in Section 9 of draft ordinance PC 12-80A satisfies the above requirement, but makes no commitment to the approval of any landfill site.
3. The siting of landfills is subject to State law provisions, the Statewide Planning Goals, Metro's regional siting criteria and, if in unincorporated Multnomah County, the policies of the Comprehensive Plan and the standards and procedures of the Zoning Ordinance.
4. The proposal for a landfill at the "Jeep Trail Site" has not been approved by Metro or presented to Multnomah County for action.