

ANNOTATED MINUTES

Tuesday, February 6, 1990 - 9:30 AM
Multnomah County Courthouse, Room 602

INFORMAL

1. Informal Review of Formal Agenda of February 8, 1990
2. Work Session to Discuss Implementation of HB 3470 (1989)

COMMISSIONER KAFOURY REQUESTED SHERIFF'S DEPARTMENT TO FURNISH INFORMATION ON HOW MANY GUN PURCHASES WERE DENIED AS A RESULT OF BACKGROUND CHECKS. DISCUSSION ON CHAIR McCOY'S PROPOSED ORDINANCE. CHAIR McCOY SUGGESTED SETTING PROPOSED BACKGROUND CHECK FEE AT SHERIFF'S RECOMMENDED AMOUNT OF \$15.00. CHAIR McCOY DIRECTED COUNTY COUNSEL TO CONTINUE WORKING WITH CITIES AND TO PROCEED WITH PREPARATION OF PROPOSED ORDINANCE.

Tuesday, February 6, 1990 - 1:30 PM
Multnomah County Courthouse, Room 602

PLANNING ITEM

1. C 1-88 PERIODIC REVIEW Work Session to Discuss Mineral and Aggregate Issues Relating to Periodic Review

COMMISSIONERS KAFOURY AND KELLEY REQUESTED PLANNING DEPARTMENT TO PROVIDE ADDITIONAL INFORMATION AND MATERIALS PRIOR TO FEBRUARY 20, 1990 PUBLIC HEARING.

Thursday, February 8, 1990, - 9:30 AM
Multnomah County Courthouse, Room 602

FORMAL AGENDA

Chair Gladys McCoy convened the meeting at 9:35 a.m., with Vice-Chair Gretchen Kafoury, Commissioners Pauline Anderson, Rick Bauman and Sharron Kelley present.

NON-DEPARTMENTAL

- R-1 Report of Central Citizen Budget Advisory Committee and Department CBACS on Operational Planning Reports

RICHARD LEVY, RACHEL SUMMER, KEITH CRAWFORD AND GORDON HUNTER PRESENTATION.

- R-2 First Reading of an Ordinance Amending the County Code to Provide Annual Cost of Living Salary Adjustments for the Multnomah County District Attorney as Recommended by the Salary Commission, Referring the Measure to the Voters and Declaring an Emergency

PROPOSED ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. KEITH CRAWFORD PRESENTATION AND EXPLANATION OF ITEMS R-2, R-3 AND R-4. LAURENCE KRESSEL DISCUSSION OF BALLOT TITLE LANGUAGE AND RESPONSE TO BOARD QUESTIONS. COMMISSIONER KAFOURY MOVED AND COMMISSIONER ANDERSON SECONDED, APPROVAL OF THE FIRST READING AND ADOPTION. MR. CRAWFORD AND MR. KRESSEL RESPONSE TO BOARD QUESTIONS AND DISCUSSION. COMMISSIONER BAUMAN'S MOTION TO COMBINE ORDINANCES R-2, R-3 AND R-4 INTO ONE BALLOT MEASURE FAILED FOR LACK OF SECOND. BOARD COMMENTS. JIM WORTHINGTON AND GORDON HUNTER TESTIMONY ON ITEMS R-2, R-3 AND R-4. ORDINANCE 636 UNANIMOUSLY APPROVED.

- R-3 First Reading of an Ordinance Amending the County Code to Provide Annual Cost of Living Salary Adjustments for the Multnomah County Sheriff, as Recommended by the Salary Commission, Referring the Measure to the Voters and Declaring an Emergency

PROPOSED ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER KAFOURY MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF FIRST READING AND ADOPTION. ORDINANCE 637 UNANIMOUSLY APPROVED.

- R-4 First Reading of an Ordinance Amending the County Code to Provide Annual Cost of Living Salary Adjustments for Each Member of the Board of County Commissioners and County Chair as Recommended by the Salary Commission, Referring the Measure to the Voters and Declaring an Emergency

PROPOSED ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER KAFOURY MOVED AND COMMISSIONER ANDERSON SECONDED, TO CORRECT EXPLANATORY STATEMENT TO STATE THAT COMMISSIONER'S ANNUAL SALARY WAS SET IN 1981 AND FOR APPROVAL OF FIRST READING AND ADOPTION. ORDINANCE 638 UNANIMOUSLY APPROVED, AS CORRECTED.

DEPARTMENT OF JUSTICE SERVICES

- R-5 Notice of Intent to Apply for NIJ (IPA) Fellowship for Senior District Attorney Staff to Research Status of Federal-State-Local Prosecutorial Relations

COMMISSIONER KAFOURY MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-5. COMMISSIONER KAFOURY RESPONSE TO BOARD QUESTIONS. NOTICE OF INTENT UNANIMOUSLY APPROVED.

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-6 Ratification of Intergovernmental Agreement with Oregon Department of Fish and Wildlife for a \$300,000 Grant (\$100,000 in December 1990, 1991, 1992) for the Construction of Chinook Landing Marine Park

UPON MOTION OF COMMISSIONER ANDERSON, SECONDED BY COMMISSIONER KAFOURY, R-6 WAS UNANIMOUSLY APPROVED.

- R-7 Request for Board Review and Approval for Adoption of the CDBG Multnomah County Housing and Community Development Plan and the Gresham Housing and Community Development Plan

COMMISSIONER ANDERSON EXPLANATION. UPON MOTION OF COMMISSIONER ANDERSON, SECONDED BY COMMISSIONER KELLEY, R-7 WAS UNANIMOUSLY APPROVED.

DEPARTMENT OF HUMAN SERVICES

- R-8 Ratification of Retroactive Revenue Contract with the Oregon Department of Energy for the Period August 15, 1989 to June 30, 1990, Concurrent with City Block by Block Weatherization Program

UPON MOTION OF COMMISSIONER KELLEY,

**SECONDED BY COMMISSIONER ANDERSON, R-8
WAS UNANIMOUSLY APPROVED.**

- R-9 Ratification of Retroactive Revenue Contract Amendments 5 and 6 with Oregon State Community Services. Amendment 5 adds; Low Income Energy Assistance (LIEAP) 90 \$212,059; LIEAP Weatherization (WX) 90-A \$190,990; and LIEAP/Community Services Block Grant (CSBG)/Transfer (TFR) \$164,578. Amendment 6 adds; Department of Energy (DOE) Training/Technical Assistance (T/TA) 290 of \$1,000 and Corrects LIEAP WX 90-A Split Between Program and Administrative Funds

**UPON MOTION OF COMMISSIONER KELLEY,
SECONDED BY COMMISSIONER ANDERSON, R-9
WAS UNANIMOUSLY APPROVED.**

- R-10 Resolution in the Matter of Entering an Intergovernmental Agreement with the State of Oregon Regarding the Transfer of the Disabled and Elderly

**DUANE ZUSSY EXPLANATION OF ITEMS R-10 AND
R-11 AND RESPONSE TO BOARD QUESTIONS. UPON
MOTION OF COMMISSIONER KELLEY, SECONDED
BY COMMISSIONER ANDERSON, RESOLUTION 90-17
WAS UNANIMOUSLY APPROVED.**

- R-11 Budget Modification DHS #33 Making an Appropriation Transfer in the Amount of \$40,468 from General Fund Contingency to Aging Services and Social Services, to Fund the Adult Transfer Coordination, and Providing Personnel Support for Program

**COMMISSIONER KELLEY MOVED AND
COMMISSIONER ANDERSON SECONDED, APPROVAL
OF R-11. MR. ZUSSY RESPONSE TO BOARD
QUESTIONS. BUDGET MODIFICATION
UNANIMOUSLY APPROVED.**

DEPARTMENT OF GENERAL SERVICES

- R-12 Second Reading of an Ordinance Amending Exempt Salary Ranges to Include Two New Exempt Classifications and a Premium Pay Classification in the 1989-90 Exempt Classification/Compensation Plan

**PROPOSED ORDINANCE READ BY TITLE ONLY.
COPIES AVAILABLE. COMMISSIONER ANDERSON
MOVED AND COMMISSIONER KELLEY SECONDED,
APPROVAL OF SECOND READING AND ADOPTION.
NO ONE WISHED TO TESTIFY. ORDINANCE 639
UNANIMOUSLY APPROVED.**

There being no further business, the meeting was adjourned at 10:55 a.m.

OFFICE OF THE BOARD CLERK
for MULTNOMAH COUNTY, OREGON

Deborah L. Bogstad

Deborah L. Bogstad



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

Tuesday, February 6, 1990 - 9:30 AM
Multnomah County Courthouse, Room 602

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Tuesday, February 6, 1990 - 1:30 PM
Multnomah County Courthouse, Room 602

PLANNING ITEMS

C 1-88 PERIODIC REVIEW

1. Work Session to Discuss Mineral and Aggregate Issues
Relating to Periodic Review

PUBLIC TESTIMONY WILL NOT BE TAKEN AT INFORMAL MEETINGS

Thursday, February 8, 1990, 9:30 AM

Multnomah County Courthouse, Room 602

FORMAL AGENDA

NONDEPARTMENTAL

- R-1 Report of Central Citizen Budget Advisory Committee and Department CBACs on Operational Planning Reports - Set over from January 30, 1990
TIME CERTAIN - 9:30 AM

ORDINANCES - NONDEPARTMENTAL

- R-2 First Reading of an Ordinance Amending the County Code to Provide Annual Cost of Living Salary Adjustments for the Multnomah County District Attorney as Recommended by the Salary Commission, Referring the Measure to the Voters and Declaring an Emergency
- R-3 First Reading of an Ordinance Amending the County Code to Provide Annual Cost of Living Salary Adjustments for the Multnomah County Sheriff, as Recommended by the Salary Commission, Referring the Measure to the Voters and Declaring an Emergency
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DEPARTMENT OF JUSTICE SERVICES

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DEPARTMENT OF ENVIRONMENTAL SERVICES

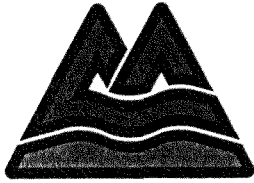
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DEPARTMENT OF HUMAN SERVICES

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ORDINANCES - DEPARTMENT OF GENERAL SERVICES

- R-12 Second Reading - An Ordinance Amending Exempt Salary Ranges to Include Two New Exempt Classifications and a Premium Pay Classification in the 1989-90 Exempt Classification/Compensation Plan



MULTNOMAH COUNTY OREGON

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

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

SUPPLEMENTAL AGENDA

Tuesday, February 6, 1990 - 9:30 AM

INFORMAL AGENDA

3. Department of Human Services seeks policy direction from Board regarding the proposal developed by Juvenile Justice Division for use of the \$1.9 million reserved by the State Emergency Board for close custody needs of gang-involved youth. Further briefing regarding State intent and funding opportunities.

0700C.38

dr

Unanimous Consent

DATE SUBMITTED _____

(For Clerk's Use)

Meeting Date **FEB 06 1990**

Agenda No. **13**

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: State E-Board Funds for gang Involved Youth

Informal Only* Feb 6, 1990
(Date)

Formal Only _____
(Date)

DEPARTMENT Human Services

DIVISION Juvenile Justice

CONTACT Hal Ogburn

TELEPHONE x3470

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Duane Zussy, Hal Ogburn

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested. DHS seeks policy direction from BCC regarding the proposal developed by Juvenile Justice Division for use of the \$1.9 million reserved by the E-Board for close custody needs of gang-involved youth. Key elements of the proposal include increased public safety through swifter sanctions, better supervision of gang-involved probationers, more hard bed space at the local level and a more balanced system of services and sanction for minority youth. This issue was brought before the Board on December 12, 1989. At this time we can provide further information re state intent and funding opportunities.

(IF ADDITIONAL SPACE IS NEEDED, PLEASE USE REVERSE SIDE)

ACTION REQUESTED: . . .

☐ INFORMATION ONLY ☐ PRELIMINARY APPROVAL ☒ POLICY DIRECTION ☐ APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA 15 minutes

IMPACT:

PERSONNEL

☐ FISCAL/BUDGETARY

☐ General Fund

Other _____

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: Duane Zussy (H)

BUDGET / PERSONNEL /

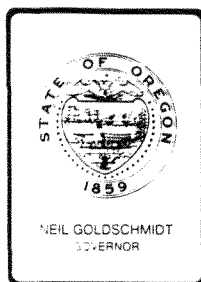
COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____

(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back

BCC



Department of Human Resources

CHILDREN'S SERVICES DIVISION

198 COMMERCIAL STREET SE., SALEM, OREGON 97310-0450

January 23, 1990

Scott D. McClure, Chair
Juvenile Court Advisory Council
1401 NE 68th
Portland, OR 97213

Dear Mr. McClure:

Thank you for sharing your concerns about how the State should use \$1.9 million emergency funds reserved for gang-involved youth.

The 1989 legislative session reserved \$1.9 million for Children's Services Division to meet the "juvenile corrections close custody needs" (Senate Bill 5559).

At the same time, the legislature did not increase statutory population limit for training schools legislature. We are now exploring how close to a population crisis we are in Juvenile Corrections close custody, and how to meet that need. We have been reviewing possible options with Multnomah County officials, as both serious offenders and gang youth from Multnomah County are responsible for our population problems. On December 14, 1989, we reviewed their plan and asked to see budget detail, which has still not been made available to us.

We also agreed to price an option which would include funding for 21 state-run beds at the Donald E. Long Home. This program is absolutely necessary to relieve population pressure at MacLaren and Hillcrest. This freed up \$400,000 in state-administered diversion funds, making available to the county a total of \$1.5 million, as requested.

Your letter inaccurately states that a joint agreement for \$1.5 million plus \$650,000 had been agreed to, and that the State has "shifted funding from Multnomah County to the State." Everyone that attended the meeting knew that the budget figures cited were tentative and needing confirmation. As mentioned earlier, we still have not been provided the budget detail necessary to determine the plan's practicability. When there is an agreement, the change in the county diversion plan will need review from the juvenile judge, local Children and Youth Services Commission, and the state Juvenile Corrections Council (ORS 420.017).

Scott D. McClure, Chair
January 23, 1990
Page 2

We strongly urge you to support our request for budget detail and to help assure that this plan has community-wide input and support.

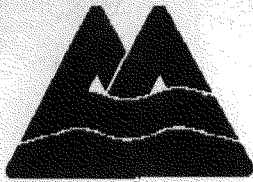
Sincerely,

A handwritten signature in cursive script that reads "Bill Carey". The signature is fluid and extends to the right.

Bill Carey
Acting Administrator

BC:lmc

xc: ✓ Multnomah County Board of Commissioners
Mike Shrunk, Multnomah County District Attorney
Robert Jackson, Office of the Governor
Harold Ogburn, Multnomah County Juvenile Department

**MULTNOMAH COUNTY OREGON**

DEPARTMENT OF HUMAN SERVICES
7th FLOOR J. K. GILL BUILDING
426 S.W. STARK STREET
PORTLAND, OREGON 97204
(503) 248-3782

BOARD OF COUNTY COMMISSIONERS

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

MEMORANDUM

TO: County Chair Gladys McCoy
Clerk of the Board

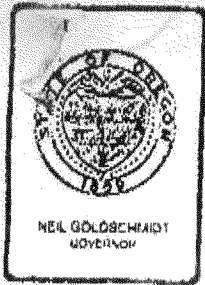
FROM: Duane Zussy, Director *Duane Zussy*
Department of Human Services

DATE: February 5, 1990

SUBJECT: Removal of Unanimous Consent Item from February 6, 1990 Agenda

I am requesting that the unanimous consent item regarding Emergency Board funding for gang affected youth be pulled from the February 6th Informal Agenda in order that the Governor and his staff may be briefed more fully on the details of the proposal that is emerging from our ongoing discussions with Children's Services Division staff prior to any public discussion of these matters.

I will resubmit this item for discussion at a later date.



Department of Human Resources
CHILDREN'S SERVICES DIVISION

198 COMMERCIAL STREET SE., SALEM, OREGON 97310-0450

February 5, 1990

Duane Zussy, Director
Multnomah County Dept. of Human Services
426 SW Stark, 7th Floor
Portland, OR 97204

Dear Duane:

I would like to confirm our telephone conversation today in which we agreed to continue working toward an agreement on how OSD and Multnomah County can together approach the Legislative Emergency Board for release of \$1.9 million for close-custody needs in the Juvenile Corrections system. We appear to be very close on our joint financial needs.

We have agreed to price an option which would include funding for 21 state-run beds at the Donald E. Long Home. This program is absolutely necessary to relieve population pressure at MacLaren and Hillcrest.

You have agreed to price your proposal to operate a gang intervention unit and 30-day detention back-up unit for juveniles placed in community residential programs. As mentioned, we still have not been provided the budget and program detail necessary to determine the plan's practicability.

Finally, the plan must include joint responsibility for administering the Multnomah County diversion plan.

When there is an agreement between the state and county, the change in the county diversion plan will need review from the juvenile judge, local Children and Youth Services Commission, and the state Juvenile Corrections Council (ORS 420.017).

We appreciate your willingness to continue working toward an agreement that will serve the needs of both the state and the county.

Sincerely,

Bill Carey
Bill Carey
Acting Administrator

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. _____

An ordinance prohibiting possession of a loaded firearm and discharge of a firearm in a public place, and imposing fees for concealed handgun licenses and background security checks required by state law.

Multnomah County ordains as follows:

Section I. Findings

A. The proliferation of firearms poses a present and serious threat to the health, safety and security of the residents of Multnomah County.

B. Nationally, approximately 1,200 people are killed each year in accidental shootings, including 365 children. For every child killed through the negligent use of firearms, 10 are injured.

C. In Multnomah County, approximately two persons per week are killed from the intentional or accidental use of firearms.

D. The Oregon Courts have recognized that the constitutional right to bear arms is not absolute; the constitution allows government to enact reasonable regulations, such as regulations over the manner of possessing firearms.

E. The Oregon Court of Appeals specifically upheld

Page

1 the constitutionality of Portland's ordinance making it
2 unlawful for any person to carry a loaded firearm in a public
3 place (State v. Boyce, 61 Or App 662, 658 P2d 577 (1983) rev
4 den 295 Or 122).

5 F. The 1989 Oregon Legislature enacted laws (1989
6 Oregon Laws, Chapter 839) to restrict access to firearms and
7 authorized local governments to regulate the possession of
8 firearms and ammunition in public places.

9 G. Although the City of Portland presently bans
10 possession of loaded firearms in public places and the
11 discharge of firearms in public, those restrictions do not
12 apply in unincorporated parts of Multnomah County. The
13 restrictions are reasonable and should apply in the
14 unincorporated area.

15 H. The Board has considered public testimony
16 concerning the need to restrict assault weapons and other
17 firearms and has determined that the subject calls for a
18 coordinated approach supported by all municipalities in the
19 County. Developing such a coordinated approach will take
20 time. Pending development of a consensus among local
21 governments, the more limited measures reflected in this
22 ordinance should be adopted.

23 I. The 1989 legislature also imposed the following
24 administrative responsibilities on the Multnomah County
25 Sheriff's Department:

- 26 (1) Conduct criminal and mental health

1 background checks on purchasers of handguns from federally
2 licensed dealers.

3 (2) Notify dealers by certified mail of
4 disqualified handgun purchasers.

5 (3) Conduct background checks of purchasers of
6 long guns for study purposes.

7 (4) Submit monthly reports to the Oregon State
8 Police regarding concealed weapons permits issued and denied;
9 notify Oregon State Police of disqualifications for handgun and
10 long gun purchases.

11 (5) Review an increased number of applications
12 for concealed weapons permits; document reasons for denial.

13 J. It is in the best interest of the citizens of the
14 County that the costs of performing these responsibilities be
15 borne largely by purchasers of guns in the County.

16
17 Section II. Definitions

18 A. "Concealed handgun license" is as defined in ORS
19 166.290.

20 B. "Firearm" is as defined in ORS 166.210 and means a
21 weapon, by whatever name known, which is designed to expel a
22 projectile by the action of smokeless powder and which is
23 readily capable of use as a weapon.

24 C. "Public place" is as defined in ORS 161.015(9) and
25 means a place to which the general public has access and
26 includes, but is not limited to, hallways, lobbies, and other

Page

1 parts of apartment houses and hotels not constituting rooms or
2 apartments designed for actual residence, and highways,
3 streets, schools, places of amusement, parks, playgrounds and
4 premises used in connection with public passenger
5 transportation.

6
7 Section III. Carrying and Discharge of Firearms

8 A. It is unlawful for any person to carry a firearm,
9 loaded or unloaded, in a park, playground or school or
10 within _____ feet of a park, playground or school.

11 B. It is unlawful for any person in a public place to
12 carry a firearm upon his person, or in a vehicle under his
13 control or in which he is an occupant, unless all ammunition
14 has been removed from the chamber and from the cylinder, clip,
15 or magazine. A person who violates this section is subject to
16 penalty even if the person did not know that ammunition was in
17 the chamber, ^{cylinder}clip or magazine.

18 C. It is unlawful for any person to fire or discharge
19 a firearm in a public place.

20 D. In a public place, it is unlawful for any person
21 carrying a firearm upon his person, or in a vehicle under his
22 control or in which he is an occupant, to refuse to permit a
23 peace officer to inspect that firearm after the peace officer
24 has identified himself as such.

25 E. The prohibitions in Subsections (A), (B), and (C)
26 of this Section do not apply to a peace officer acting within

Page

1 the scope of duty; to any government employee authorized or
2 required by his employment or office to carry or use firearms;
3 or to any person having a valid concealed handgun license
4 issued to him by lawful authority.

5 F. The prohibition in Subsection (C) of this section
6 does not apply to:

7 (1) Any person justified in using deadly
8 physical force under the provisions of ORS 161.195 to 161.275;

9 (2) The member or guest of any licensed
10 organization who, for the purpose of shooting practice,
11 discharges a firearm at a target upon an established target
12 range of that organization;

13 (3) A person conducting an athletic contest who
14 fires blank ammunition toward the sky;

15 (4) Members of the armed forces firing blank
16 ammunition at military ceremonies;

17 (5) Persons authorized by permit of the Sheriff
18 to discharge blank ammunition for a lawful purpose; or

19 (6) Hunter safety instructors of the Oregon
20 State Game Commission or their pupils who are engaged in hunter
21 safety training classes sponsored by the Commission.

22 (7) Any person who discharges a firearm while
23 hunting on public lands in accord with state law;

24 (8) Any person who, on land owned by that person
25 or with the landowner's consent, discharges a firearm outside
26 the urban growth boundary for hunting purposes or shooting

Page

practice, when such activity would not endanger persons or property.

Section IV. Fees

MCC 5.10.420 (M) is amended to read as follows:

- (M) (1) Concealed handgun license [weapon permit] [10.00]\$38.00
- (2) Duplication of concealed handgun license. \$10.00
- (3) Renewal of concealed handgun license\$25.00
- (4) Fee for background check of purchaser of a firearm. \$ _____

(5) Failure to submit the appropriate background check fee under Subsection (M)(4) will result in the application being returned to the dealer.

Section V. Penalties

A. Violation of Section III of this ordinance shall be punishable by a fine up to \$1,000 and forfeiture of the weapon.

B. If, after investigation or adjudication, it is determined the weapon was not possessed, carried or used unlawfully, it shall be released to the owner if the owner files a written claim with the Multnomah County Sheriff's Office.

C. If there is a question as to ownership or right to

possession, the weapon shall be released as ordered by the court in a proceeding initiated under ORS 133.633 to 133.663 by any person claiming ownership or right to possession.

Section VI. Severability Clause

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, that portion shall be considered a separate, distinct and independent provision, and the holdings shall not affect the validity of the remaining portions of this ordinance.

Section VII. Adoption

Adopted this _____ day of _____, 19____, being the date of its _____ reading before the Board of County Commissioners of Multnomah County, Oregon.

(SEAL)

By _____
Gladys McCoy, Chair
Multnomah County, Oregon

REVIEWED:

Laurence Kressel, County Counsel
for Multnomah County, Oregon

1ATTY.68/mw
(02/02/90)

DRAFT



M E M O R A N D U M

TO: SHARRON KELLEY
FROM: ROBERT
RE: PUBLIC PLACES ORDINANCE
DATE: FEBRUARY 5, 1990

The following are suggested revisions to the Kressel draft dated February 2:

1. Page 4, line 17: Add the word "cylinder" after the word "chamber". See line 14 of page 4 which also distinguishes the cylinder from the chamber, clip, and magazine.
2. Page 5, lines 3-4: Substitute "exempt from such prohibitions under state or federal law" in place of "having a valid concealed handgun license issued to him by lawful authority." This would assure holders of concealed weapons permits the rights granted them under the Katz bill without risking the possibility that the county would be granting broader rights to such permit holders than granted by the Katz bill (if a court interprets the bill narrowly).
- ③. Page 6, line 2: Add "and is not prohibited by applicable land use regulations" after the word "property". Distinguish three situations. First, if private land is not accessible to the general public, the land is not a "public place" subject to the discharge prohibition, so there is no need for its exemption. Second, commercial use of private land for hunting or shooting practice is currently prohibited on property zoned for residential or forest uses. Presumably, the county does not wish to change this policy and should clarify that no change is intended. Third, if the owner of land zoned for residential or forest uses wishes to treat his property as a "public place" but not charge users for hunting or shooting practice (non-commercial), it is currently within the discretion of the Board, the Planning Commission, and planning staff to determine whether this is an appropriate accessory use for property zoned for forest and residential uses. Without clarification, this land use issue would be addressed outside of the planning code.

ESTIMATED COSTS
TO MULTNOMAH COUNTY
PER GUN SALE

On-going Costs

Deputy @ .2 hour	
Salary & fringe	\$5.57
M & S	.01
Facilities	<u>.17</u>
Subtotal	\$5.75

OA II @ .5 hour	
Salary & fringe	\$6.71
M & S	.03
Facilities	.23
1/3 ISD terminal charge	<u>.12</u>
Subtotal	\$7.09

Total of On-Going Costs: \$12.84

Start-Up/One-Time Costs

Deputy	\$.18
(Hiring, Uniforms, Office Furniture)	
OA II (Office Furniture)	<u>.05</u>
Subtotal	\$.23

Computer Equipment

For 1 - 3 OA IIs \$7,000 (1 ISD Terminal & 1 PC)
 (Assumes sharing of terminal printer
 with Concealed Weapons Permit staff)

For 4 - 7 OA IIs \$3,900 (1 ISD Terminal & Printer)

Per sale cost ranges from \$.45 for 24,000 gun sales
 to \$1.56 for 4,500 gun sales

Total of Start-Up Costs: \$.68 - \$1.79

TOTAL RANGE OF ALL COSTS: \$13.52 - \$14.63
(Except as Noted Below)

Costs Not Included in Above Estimates

Intelligence Unit Sergeant supervisor
Cost of Living/step increases or Deputy labor settlement
Hiring costs of OA IIs
Telephones and long-distance costs
Equipment depreciation
Vehicles

2/5/90/SKO

COMMENTS/EXPLANATIONS OF COST ITEMS

Personnel Costs

Calculated on base salary plus fringe. In addition, five weeks were subtracted for OA IIs and seven weeks for deputies as conservative estimates of time off. Hourly rates are calculated on total salary divided by the remaining number of hours available. Also note that Deputies' shifts are eight hours including lunch hour--so effectively they only work seven hours, maximum. The calculation was based on eight hours.

Assumes 1/2 hour for OA II. Activities include use of terminal in background checks, maintenance of gun sales files (paper and computer), handling mail, etc. Assumes deputy is required in 20% of cases to follow up on background checks or 1/10 hour (1/2 of 1/5 hour). Also, adds 1/10 hour for activities involving general enforcement of the law, e.g. attend gun shows, contact dealers, answering inquiries, assuming 22 days per deputy for these activities. These time estimates result in 6.36 FTE OA II & 2.65 FTE Deputy, or, as we discussed, 7 OA IIs and 3 Deputies.

Facilities

100 Sq. Ft. for Clerical
125 Sq. Ft. for Professional (Deputies)

Please note: Facilities Management costs facilities at \$8.50 per square foot per year, rather than per month as the previous document stated.

ISD Charge

The gross amount of the charge is \$110/month per terminal. So, given three clerks per terminal, the \$.12 is an attribution of 1/3 of the cost to each. In fact, the total charge would accrue if there were only one OA II with one terminal.

Computer Equipment

The assumption is that if there were fewer gun sales to process (i.e., we did not do the entire county), MCSO could get by with one terminal and sharing a printer with the Concealed Weapons Permit staff. If they had to go to two terminals, they would have to have their own printer.

Cost ranges indicate that there is some "economy of scale" involved with a larger number of sales than if MCSO only does the unincorporated area, estimated at 4,500. In that event, the computer equipment needed will probably amount to the \$7,000, which divided by 4,500 is \$1.56. On the other end, the two terminals, printer and PC for the full 24,000 sales would only cost \$10,900 for a per sale cost of \$.45.

2/5/90/SKO P.2

CONCEALED WEAPONS PERMIT QUERY CHECKLIST

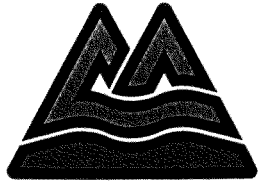
<u>SYSTEM</u>	<u>BY (initials)</u>	<u>SYSTEM</u>	<u>BY (initials)</u>
PPDS	_____	DMV	_____
SRMS	_____	CCH	_____
CPMS	_____	NCIC III	_____
JAWS	_____	LEDs (wants)	_____
Promis	_____	NCIC (wants)	_____

===== ATTACH ALL PRINTOUTS FOR ABOVE QUERIES =====

MENTAL HEALTH QUERY SENT by _____ date _____

(MENQ.____.OR0260000.FERRELL,PERMIT.NAM/_____.DOB/_____.SEX/_____.PTR/PDS.
SOC/_____.OLN/_____) [you do not need a printout of the query]

Once all printouts are made/attached and mental health query has been made,
forward documentation to Sgt. Ferrell



MULTNOMAH COUNTY OREGON

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

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

BOARD OF COUNTY COMMISSIONERS

Tuesday, February 6, 1990

1:30 p.m., Room 602

Work Session

C 1-88 Periodic Review

A Work Session for the purpose of discussing mineral and aggregate issues relating to Periodic Review

1990 JAN 31 11:10:34
MULTNOMAH COUNTY
OREGON



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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RICK BAUMAN • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

February 6, 1990

MEMORANDUM

TO: Board of County Commissioners

FROM: Lorna Stickel and Planning Staff

RE: Periodic Review Work Session on February 6, 1990

Attached are some proposed changes to the Periodic Review Order which will be reviewed at the work session on Tuesday, February 6. The changes are submitted for review as a result of requests by Board members for alternative options in several ordinance operation standards and one potential mining site analysis. The packet also includes three other non-mining ordinance changes recommended by staff. A listing of the attachments is as follows:

1. Changes to the Zoning Code include:

A. On pages 135, 136, and 140 are corrections to Oregon Revised Statute references for State wetlands permits. In reformatting Senate Bill 3, the regulations were moved to an entirely different section.

B. Page 158 shows an addition to the EFU Conditional Use approval criteria that was required by the 1989 Legislature.

C. Pages 160 and 161 contain a modified hours and days limit suggestion for mineral extraction activities.

D. The restrictions on mining operations given under MCC .7325(6)(c) on page 161 have been moved to page 163 under MCC .7328 and expanded to include other resources and uses than just fish and wildlife.

E. Possible changes to the time limit section on page 163 include:

- (1) adding allowance for the permit period for some sites to be longer than five years, and
- (2) also requiring review of the criteria in MCC .7325 and all conditions of approval at permit renewal application time.

F. It is also proposed to add to MCC 11.15.8505, the Variance Approval Criteria, similar language to the "substantial completion" section as was added to the conditional use code section.

2. Page 59 of the Order shows how changes to the "Economic, Social, Environmental, and Energy (ESEE) analysis" designations for Mineral and Aggregate Sites #4 (Angell Bros. Quarry) and #8 (Howard Canyon) could read if changes to the Order are determined to be necessary.

3. The last item is a ten page ESEE analysis for Howard Canyon which provides an alternative designation to the one proposed by staff. Staff has proposed a "3C" designation for the site which allows both the aggregate and conflicting uses to be allowed through the County's new conditional use process for aggregate sites. The alternate ESEE analysis gives the Board the option to select a "3B" designation for the site which means the conflicting uses outweigh the value of allowing the resource to be used, therefore denying the ability of the owner to apply under the County's new conditional use process.

PROPOSED AMENDMENTS TO MULTNOMAH COUNTY CODE PLANNING, ZONING AND LAND DIVISION TITLES

The following material reflects proposed changes to language amendments to the County Zoning Code (Title 11.15) adopted by the Planning Commission on November 27th, 1989.

Planning Commission adopted language:

In the following proposed Code amendments, existing language to remain appears in plain text [remaining language], existing language to be deleted appears bolded and struck-through [~~language to be deleted~~], and new language appears bolded and in a larger type face [**new language**].

Proposed changes to Planning Commission ordinance language in response to Board of County Commissioners direction:

Language to be deleted is struck-through with a bold X [~~language to be deleted~~], and new language appears bolded, in a larger type face, and underlined [**new language**].

- (A) Housing types may include single family detached or attached dwellings, duplexes, row houses, town houses or apartments, **except that in the MUA-20, RR, and RC districts only duplexes and single family detached or attached dwellings are permitted.**
- (B) In the LR-7 and the LR-5 districts, outside a *Developed Neighborhood* as designated in the Community Plan, the housing type may include mobile homes:
 - (1) On individual lots in a subdivision approved for the purpose under MCC 11.45, the Land Division Chapter, subject to the development standards of MCC .2704, except subpart (A) (2) thereof;
 - (2) In a mobile home park, subject to the development standards of MCC .2708.
- (C) A related commercial use which is designated to serve the development of which it is a part, upon approval by the Planning Commission.
- (D) A Community Service use listed in MCC .7005 through .7030, when designated to serve the development or the adjacent area of which it is a part, upon approval by the Planning Commission.
 - (1) A Community Service use, when approved under the provisions of MCC .7005 through .7030, may also be designed to serve the adjacent area outside the Planned Development if found by the Planning Commission to be appropriate and consistent with Comprehensive Plan policies.
- (E) A use or structure customarily accessory or incidental to a permitted or approved use.
- (F) For an underlying commercial or industrial district, the following uses may be permitted in a Planned Development District:
 - (1) Uses permitted in the underlying district.
 - (2) Community Service Uses when approved by the Planning Commission under the provisions of MCC .7005 through .7030.
 - (3) Any other use as approved by the Planning Commission when found to be consistent with the Development Plan and Program and the purposes of this Chapter.

T. Subsections of the Willamette River Greenway Subdistrict are amended, added to, or deleted as follows:

11.15.6358 Exceptions

A Greenway Permit shall not be required for the following:

- (A) Farm Use, as defined in ORS 215.203(2)(a), including buildings and structures accessory thereto on **"converted wetlands"** as defined by ~~ORS 541.695(9)~~ **196.905(9)** or on **upland areas**;
- (B) The propagation of timber or the cutting of timber for public safety or personal use;
- (C) Gravel removal from the bed of the Willamette River, conducted under a permit from the

State of Oregon;

- (D) Customary dredging and channel maintenance **and the removal or filling, or both, for the maintenance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation ditches and tile drain systems as allowed by ORS ~~541.695(6)~~ 196.905(6);**
- (E) The placing, by a public agency, of signs, markers, aids, etc., to serve the public;
- (F) Activities to protect, conserve, enhance and maintain public recreational, scenic, historical and natural uses on public lands;
- (G) On scenic easements acquired under ORS 390.332(2)(a), the maintenance authorized by that statute and ORS 390.368;
- (H) The use of a small cluster of logs for erosion control;
- (I) The expansion of capacity, or the replacement, of existing communications or energy distribution and transmission systems, except substations;
- (J) The maintenance and repair of existing flood control facilities; and
- (K) Uses legally existing on the effective date of this Chapter; provided, however, that any change or intensification of such use shall require a Greenway Permit.

11.15.6364 Decision by Planning Director

- (A) A decision on a Greenway Permit application for a Permitted Use or a Use Under Prescribed Conditions shall be made by the Planning Director. The Director may approve the permit, disapprove it, or approve it with such modifications and conditions as may be consistent with the Comprehensive Plan or necessary to assure compatibility with the elements of the Greenway Design Plan. **Such conditions may relate to the locations, design, and maintenance of existing and proposed improvements, including but not limited to buildings, structures and use areas, parking, pedestrian and vehicular circulation and access, natural vegetation and landscaped areas, fencing, screening and buffering, excavations, cuts and fills, signs, graphics, exterior colors, and lighting.**
- (B) Within ten business days following receipt of a completed Greenway Permit application, the Planning Director shall file a decision with the Director of the Department of Environmental Services and shall mail a copy of the decision to the applicant and to other persons who request the same.
- (C) A decision by the Planning Director on a Greenway Permit application shall include written conditions, if any, and findings and conclusions. The conditions, findings, and conclusions shall specifically address the relationships between the proposal and the elements of the Greenway Design Plan.

11.15.6372 Greenway Design Plan

The elements of the Greenway Design Plan are:

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

(d) Off-site, with a different kind of resource.

U. Subsections of the Significant Environmental Concern Subdistrict are amended, added to, or deleted as follows:

11.15.6400 Purposes

The purposes of the Significant Environmental Concern subdistrict are to protect, conserve, enhance, restore, and maintain significant natural and man-made features which are of public value, including among other things, river corridors, streams, lakes and islands, domestic water supply watersheds, flood water storage areas, natural shorelines and unique vegetation, **wetlands**, wildlife and fish habitats, significant geological features, tourist attractions, ~~historical and archeological~~ features and sites, and scenic views and vistas, and to establish criteria, standards, and procedures for the development, change of use, or alteration of such features or of the lands adjacent thereto.

11.15.6404 Uses – SEC Permit Required

- (A) All uses permitted under the provisions of the underlying district are permitted on lands designated SEC; provided, however, that the location and design of any use, or change or alteration of a use, except as provided in MCC .6406, shall be subject to an SEC permit. The excavation of any archeological site shall require an SEC permit, under MCC .6412, regardless of the zoning designation of the site.
- (B) Any excavation or any removal of materials of archeological, historical, prehistorical or anthropological nature shall be conducted under the conditions of an SEC permit.
- (C) Any building, structure, or physical improvement within 100 feet of the normal high water level of a Class I stream, as defined by the State of Oregon Forest Practice Rules, shall require an SEC permit under MCC .6412, regardless of the zoning designation of the site.

11.15.6406 Exceptions

An SEC permit shall not be required for the following:

- (A) Farm use, as defined in ORS 215.203(2)(a), including buildings and structures accessory thereto on **“converted wetlands” as defined by ~~ORS 541.695(9)~~ 196.905(9) or on upland areas;**
- (B) Except as provided in MCC .6420(C), the propagation of timber or the cutting of timber for public safety or personal use or the cutting of timber in accordance with the State Forest Practices Act ~~from a farm woodlot or less than 20 acres as described in the definition of farm use in ORS 215.203;~~
- (C) Customary dredging and channel maintenance **and the removal or filling, or both, for the maintenance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation ditches and tile drain systems as allowed by ~~ORS 541.695(6)~~ 196.905(6), but not the placement of spoils;**
- (D) The placing, by a public agency, of signs, markers, aids, etc., to serve the public;

Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;

(F 6) Will not create hazardous conditions; and

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

(B) Except for off-site stockpiling, subpart (A) of this subsection shall not apply to applications for mineral extraction and processing activities. Proposals for mineral extraction and processing shall satisfy the criteria of MCC .7325.

11.15.7122 Exclusive Farm Use Conditional Use Approval Criteria

(A) In addition to the criteria of MCC .7120, an applicant for a Conditional Use listed in MCC .2012(B) must demonstrate that the use:

(1) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

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

(B) Any conditions placed on a conditional use approved under this subsection shall be clear and objective.

11.15.7305 Definitions

(A) Mining means the removal of minerals **or aggregate material**, whether extracted from land or water, by any method, including but not limited to shoveling, blasting, scooping, and dredging.

(B) Minerals include any and all **solid** mineral products, metallic and non-metallic, ~~solid, liquid or gaseous, and mineral waters of all kinds~~ extracted for commercial, industrial or construction use from natural deposits.

(C) ~~Geothermal Resources shall have the meaning contained in ORS 522.005~~ **Aggregate material includes crushed or uncrushed gravel, crushed stone, or sand from natural deposits.**

(D) Reclamation Plan shall have the meaning contained in ORS 517.750.

(E) Noise Sensitive Uses include dwellings, schools, public parks, churches, hospitals, public libraries, offices or other similar uses determined to be noise-sensitive uses by the Department of Environmental Quality.

(F) Dust Sensitive Uses include dwellings, schools, public parks, churches, hospitals, public libraries, offices, food service or other similar uses determined to be dust-sensitive uses by the Department of Environmental Quality.

(G) ESEE is an abbreviation for the "Economic, Social, Environmental, and Energy" analysis procedure for Goal 5 resources described in OAR 660-16-000 through 660-16-025 and which is adopted as a part of the Comprehensive Plan.

from the site and the County Engineer shall certify that those roads:

- (i) Are adequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity, or
 - (ii) Are inadequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity, but the applicant has committed to finance installation of the necessary improvements under the provisions of 02.200(a) or (b) of the *Multnomah County Rules for Street Standards*.
- (2) Screening, landscaping, ~~lighting~~, and visual appearance;
- (a) All existing vegetation and topographic features which would provide screening and which are within 50 feet of the boundary of the proposed area of extraction shall be preserved.
 - (b) If existing natural vegetation and topography is found to be insufficient to obscure views of the site, the site shall be screened with landscape berms, hedges, trees, walls, fences or similar features. Required screening shall be in place prior to commencement of the extraction activities.
 - (c) The Approval Authority shall grant exceptions to the screening requirements only upon finding that:
 - (i) The proposed extraction area is not visible from any dwelling, school, public park, church, hospital, public library, or publicly maintained road, or
 - (ii) Screening will be ineffective because of the topographic location of the site with respect to surrounding properties, or
 - (iii) The area is part of the completed portion of a reclamation plan.

(3) Signing†

Signing shall be controlled by the standards of MCC .7932(A)-(D), except that only one sign for each point of access to each differently named improved street may be allowed for any operation not in a GC, EC, LM, GM, HM, C-2, M-4, M-3, M-2, and M-1 district.

(4) Hours and days of operation†

~~Operation shall be allowed from 7:00 am to 8:00 pm, except no blasting shall be allowed on Sundays or on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day. Exceptions to the hours of operation may be approved pursuant to the provisions of MCC 8705.~~

Operating hours shall be allowed from 7:00 am to 6:00 pm. No operation shall be allowed on Sundays or on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day.

(a) The Approval Authority may allow expanded evening hours on sites for which the ESEE analysis has identified longer potential operating time periods.

(b) Short-term exceptions to the hours and days of operation may be approved pursuant to the provisions of MCC .8705.

(5) Air, water, and noise ~~pollution~~ quality.

(a) The discharge of airborne contaminants and dust created by the extraction operation shall comply with the air quality standards established by the Department of Environmental Quality.

(b) Sedimentation and erosion resulting from the extraction operation shall comply with the standards established by the Department of Environmental Quality.

(c) Sound generated by an operation shall comply with the noise standards of the Department of Environmental Quality. Methods to control and minimize the effects of sound generated by the operation on off-site locations may include, but not be limited to, the installation of earth berms, equipment location, limitations on the hours of operation, and relocation of access roads.

(6) ~~Insurance and liability~~ Fish and wildlife protection.

(a) Fish and wildlife habitat identified by the Comprehensive Plan, or recognized as significant by an ESEE analysis, or found to be significant during project review shall be protected to the maximum possible. Where appropriate, such habitat may be mitigated by such enhancement measures as the provision of additional feed and cover for wildlife or fish stream habitat.

(b) The extent of the operation's impact on and the importance of the fish and wildlife values present shall be determined in consultation with the State Department of Fish and Wildlife.

~~(c) The Approval Authority may place restrictions on extraction activities found to impact identified fish and wildlife habitat. Restrictions may include limitations on the operating season and size or location of extraction activity. These restrictions shall consider the need to balance the importance of the fish and wildlife resources against the mineral and aggregate resource identified by the ESEE, among others.~~

~~X~~ Streamside riparian vegetation shall be retained for all streams not a part of direct extraction activities.

(7) ~~Architectural designs of structures~~ Setbacks.

(a) For mineral and aggregate processing activities:

(i) 200 feet to a property line, or

11.15.7327 Off-Site Stockpiling and Processing

Stockpiling, processing, and distribution activities listed in MCC .7320, related to but not including extraction, may be approved by the Approval Authority under the procedural provisions of MCC .7110 through .7120 on sites other than ESEE designated "2A", "3A", and "3C" resource locations upon a finding that the applicable standards of MCC .7325 are satisfied.

11.15.7328 Operation Limitations

On sites with an ESEE analysis designation of "3C" the Approval Authority may place restrictions on extraction activities found to impact other Statewide Planning Goal 5 resources, noise sensitive uses, and other conflicting uses identified in the ESEE analysis. Restrictions may include limitations on the operating season and size or location of extraction activity, among others. Restrictions shall be site specific and directly related to findings of the ESEE analysis and shall consider the need to balance the importance of the competing resources and conflicting uses against the mineral and aggregate resource.

11.15.7330 Time Limit

~~A Conditional Use permit hereunder shall not expire. be valid for a maximum of five years from date of final approval. The applicant may apply for renewal not less than 90 days prior to the expiration of such permit. The renewal application may be denied, approved subject to previous conditions, or approved subject to new conditions in light of the following factors, among others:~~

~~(A) Previous impacts of the use upon surrounding lands and activities;~~

~~(B) Changes in surrounding land uses and activities; and~~

~~(C) Changes in technology and activities of the operation which will impact the surrounding lands and activities.~~

A Conditional Use permit hereunder shall be valid for a maximum of five years from date of final approval. The Approval Authority may allow a time limit of a maximum of ten years on sites for which the ESEE analysis has identified a longer potential time limit. The applicant may apply for renewal not less than 90 days prior to the expiration of such permit. The renewal application may be denied, approved subject to previous conditions, or approved subject to new conditions in light of the following factors, among others:

(A) Previous impacts of the use upon surrounding lands and activities;

(B) Changes in surrounding land uses and activities; ~~and~~

(C) Changes in technology and activities of the operation which will impact the surrounding lands and activities, and

(D) Compliance with MCC .7325 and conditions of approval.

11.15.8505 Variance Approval Criteria

- (A) The Approval Authority may permit and authorize a variance from the requirements of this Chapter only when there are cause practical difficulties in the application of the Chapter. A Major Variance shall be granted only when all of the following criteria are met. A Minor Variance shall met criteria (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 the 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.
 - (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.
 - (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.
 - (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.
- (B) A variance shall be void if the Planning Director finds that no substantial construction or substantial expenditure of funds has occurred on the affected property within 18 months after the variance is granted. That determination shall be processed as follows:
- (1) Application shall be made on appropriate forms and filed with the Director at least 30 days prior to the expiration date.
 - (2) The Director shall issue a written decision on the application within 20 days of filing. That decision shall be based on findings that:
 - (a) Final Design Review approval has been granted under MCC .7845 on the total project, if appropriate; and
 - (b) At least ten percent of the dollar cost of the total project value has been expended for construction or development authorized under a sanitation, building or other development permit. Project value shall be as determined by MCC .9025(A) or .9027(A).
 - (3) Notice of the Planning Director decision shall be mailed to all parties as defined in MCC .8225.
 - (4) The decision of the Planning Director shall become final at the close of business on the tenth day following mailed notice unless a party files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295.

- (5) Planned Development (PD) provisions also provide a tool to protect open space on sites with development constraints or significant natural features.

II.A.8(b) Mineral and Aggregate Resources:

The Findings Document information is out of date and has been re-inventoried as was suggested in a letter from the State Department of Geology and Mineral Industries (DOGAMI, Nov. 1987). In 1978 DOGAMI inventoried a total of 57 sites within the County. Currently, only five of the sites identified in that DOGAMI report are within that portion of the County subject to this Review Order (i.e., not within an incorporated city, the Mt. Hood National Forest, or the Columbia River Gorge NSA).

Since the DOGAMI report four new sites have been identified: two in the rural Northwest, and two east of the Sandy River. A total of nine sites, therefore, are being evaluated in this Order (see Figure 10.). Seven additional sites are mapped within the Columbia River Gorge NSA. Analysis of those sites is being deferred due to postponement of Periodic Review requirements for that portion of the County. The Columbia River Gorge Commission is now conducting natural resource inventories which includes an analysis of the mineral and aggregate resources within the NSA.

A summary of the Economic, Social, Environmental and Energy Analysis of the nine inventoried sites subject to this Order is as follows:

1. ODOT — "1B"
2. Krueger — "1B"
3. Hidden Valley — "1A"
4. Angell Brothers — "3C" for existing operation area
~~and "1B" for future expansion area until the location of the resource is more accurately mapped~~
and for the adjoining 325.37 acres no ESEE analysis designation will be assigned until more information is available from ongoing studies of potential conflicting uses. At this time the ESEE analysis is at "step 2" on the OAR Chapter 660, Division 16 flow chart.
5. Multnomah County — "3C"
6. Reeder Beach — "1A"
7. Chappel Clay — "3C" for existing operation area and "1B" for future expansion area.
8. Howard Canyon — ~~"3C"~~ **"3B"**
9. Updegrave — "1A"

Mineral extraction is presently processed as a conditional use; as such, must demonstrate consistency with the character of the surrounding area. The conditional use process is proposed to be amended to recognize mineral and aggregate resources as a special type of conditional use, not

**Multnomah County
Goal 5 Inventory
2/06/90**

Type of Resource: Mineral and Aggregate
Multnomah County Inventory Site #8
Howard Canyon

Location:

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

Description: DOGAMI I.D. #26-0065

This aggregate resource site is a cleared ridge top which runs in an east-west orientation just north of Howard Canyon. As confirmed in a study by H.G. Schlicker & Associates in which 31 testpits were dug, the basalt lava resource occupies the upper 50 feet or more of the ridgecrest and is more than 4200 feet long and more than 350 feet wide for most of its length. The amount of aggregate material ranges from 150,000 to 2.7 million cubic yards. The ground surface of the resource area ranges in elevation from 780 feet to 860 feet.

The side slopes on the site vary from 50 to 90% (Schnitzer, DOGAMI, 1986). The ridge is bordered by forested ravines to the north with a small creek and to the south by Howard Canyon and Big Creek. Big Creek and its local tributaries have been mapped as Class I Streams by ODF.

A. Available information indicates that the site is important (site has the ability to yield more than 25,000 cubic yards of mineral and aggregate material in less than 5 years):

No - Designate 1A: Do not include in plan inventory

☒ Yes - Go to B.

B. Is available information sufficient to determine the location, quantity, and quality of resource at the site?

No - Designate 1B: Address the site in future when information becomes available

☒ Yes - Include in plan inventory and go to C.

C. Zoning:

Multiple Use Forest-38; Multiple Use Forest-19; and Exclusive Farm Use

Based on zoning, are there conflicting uses?

No - Designated 2A: Preserve the resource

X Yes - Go to D.

D. Describe existing and potential conflicting uses:

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

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

Describe the consequences of allowing conflicting uses:

OAR 660-16-005 (2) provides:

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

ECONOMIC:

1. Impacts on Resource:

The consequence could be the delay of development of a quarry site in the county east of the

Sandy River and outside the Mt. Hood National Forest and Columbia River Gorge NSA available at the present time for commercial use. However, the County finds that, although not currently being considered for development, there are eight other sites within a 25 mile range of the subject site. (See February, 1989 ESEE worksheet at 13 and report of Lewis Scott, P.E., dated January 9, 1990). The County believes these reports and data.

In addition, the land may be used for other economically viable uses which are permitted outright in the zone, i.e. farming or forestry.

If designated 3B, the Howard Canyon site will not be available for commercial use; however, East Multnomah County is currently and adequately supplied by at least five different operations. (See January 9, 1990 Geologist Report at 3):

1. Smith Bros. Quarry
2. Brightwood Quarry
3. Gresham Sand and Gravel
4. Cascade Sand and Gravel
5. Pacific Rock Products

The Howard Canyon resource would not be available for immediate exploitation if designated 3B, but may increase in value if preserved for future use, given the relative scarcity of the resource and possible demand in this portion of the County. Such portion is not anticipated to grow rapidly before the next periodic review of the County's plan.

The existence of other resource sites in the area is relevant to the question of economic consequences. The site is not now necessary to meet the demand for the resource. Transportation is considered to be economically viable up to 25 miles for a one way trip. (Gray, DOGAMI, 1988). There are at least eight other aggregate sites in operation within a 25 mile range of this site which can serve the local area:

1. Damascus Quarry is located one mile south of Damascus in Clackamas County. This site is located about 14 miles from Springdale and 18 miles from Howard Canyon.
2. Construction Aggregates is located one mile south of Barton in Clackamas County. This site covers 200 acres and is located 9 miles from Orient, 17 miles from Springdale, and 19 miles from Howard Canyon.
3. Deep Creek is located 1/2 mile from Barton in Clackamas County. It is 15 miles from Springdale and 19 miles from Howard Canyon.
4. American Sand and Gravel is located 2 miles from Barton in Clackamas County and is a large operation with considerable reserves. The site is 7 miles from Orient, 14 miles from Springdale, and 16 miles from Corbett.

5. Mt. Hood Rock is located in Brightwood in Clackamas County and East of the Sandy River. The site is about 18 miles from Orient and 24 miles from Howard Canyon.

6. Gresham Sand and Gravel is located within the city limits of Gresham and is 7 miles from Springdale and 13 miles from Latourelle.

7. Rogers Construction is located within the city limits of Gresham and is about 7 miles from Springdale and 11 miles from Howard Canyon.

8. Oregon Asphaltic Paving is located in Gresham and is 8 miles from Springdale and 12 miles from Howard Canyon.

Sites 6, 7, and 8 (the Gresham sites) may become depleted over the next 15 years. However, the Clackamas County sites are expected to remain available for at least another 25 years. The existing sites within a 25-mile radius are sufficient to meet the needs of the county for the duration of the planning period. Such economic consequences may be analyzed once again during the next periodic review.

Additionally, there are two potential sites on forest service lands which may be made available to the local residents as a common-use area, community pits or under contract, according to Mt. Hood District Geologist. Sites located on USFS lands in the Mt. Hood National Forest can be operated in a variety of ways with prices starting as low as \$1 per cubic yard. Economically, Howard Canyon would be unable to compete with the extremely low costs associated with a community pit or common-use area. Community pits are considered by the county to be an economically viable option for the County at this location. In addition, the community pit or common-use area would lessen the demand on existing sites and prolong the productivity of those sites.

The Howard Canyon site is on the inventory. The site has economic value and is significant. However, it does not necessarily follow that all significant resources must be available for immediate exploitation. Once inventoried, the county must determine whether to 1) fully protect the resource; 2) allow conflicting uses fully; or 3) limit conflicting uses. See OAR 660-16-010. Howard Canyon should be placed in the second category which allows conflicting uses fully and a 3B designation should be placed on the site.

2. Impacts on Conflicting Uses:

Homes too near the noise and dust of extraction activities will have lessened resale value. Proportionally, there is a greater economic impact on the value of the nearby homes and other uses than there is on the resource. The value of the resource may indeed increase over time if left in place.

3. Requirements of other applicable Statewide Planning Goals:

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

In testimony from the County Engineer and Opponents' traffic engineer during the Conditional Use 7-87 public hearings on the subject site, it was stated that neither SE Howard nor SE Knieriem Roads, the only two options for travel to and from the property, are of sufficient construction to withstand the extra load of gravel trucks on a constant basis without breaking up. In addition, the Scott Report of January 9, 1990 also finds these roads inadequate for commercial hauling of rock. The County believes this testimony and evidence.

The estimated number of truck trips per day for full operation is 10 round trips. In test cores done on SE Howard Road, it was found that the road consists of two inches of oil matte over nine inches of rock, construction very similar to a residential street standard, and therefore, cannot withstand frequent heavy truck traffic. These determinations, made during the 1987 conditional use permit proceedings, were not contested during the periodic review proceedings. The County believes these facts.

Also, for the one mile of SE Howard Road that gravel trucks would use, there are several areas of narrow road widths and difficult sight distances that would need modifications in order to safely accommodate large truck traffic. The Multnomah County Engineer found that due to road width limitations, Howard Road would be very difficult to improve to sufficiently safe conditions. The sight distance is marginal on both Howard and Knieriem Roads due to steep grades and sharp curves and the quarry use will create hazardous traffic conditions on local roads and intersections. These determinations, also made during the 1987 conditional use permit proceedings, were not contested during the periodic review proceedings. The County believes these facts.

On the northward travel route option using SE Knieriem, the road width and sight distances are better than SE Howard, but there is still the need for road bed and surface improvements similar to those for SE Howard for a length of one-half mile. The County Construction Engineer estimated a cost between \$500,000 and \$1,000,000 to upgrade these roads to safely carry the proposed commercial traffic. (See January 9, 1990 Geologist Report at 4). The economic consequences of quarry development at this site support a designation of 3B.

SOCIAL:

1. Impacts on Resource:

An extraction operation would be subject to limitations on hours and days of operation (as proposed in the amended Mineral Extraction Code section). Because of the wind and funnel effect of the canyon topography, buffering will have to be extensive to protect nearby noise sensitive uses, if effective at all. The Scott Report at pp. 3-4, indicates that violations of DEQ noise rules is likely and there is no evidence that operation of the site would be able to comply with such regulations. The County finds that such violations are likely and chooses to avoid such negative environmental consequences by permitting other uses fully.

2. Impacts on Conflicting Uses:

The approximate distances from the closest existing residences to the mapped resource area are: one at 400 feet, one at 500 feet, and two at 700 feet. Between 1980 and 1988 a total of 5 new dwellings have been issued permits in Township 1 South, Range 4 East, Section 1. The total number of dwellings predating 1980 was 21 in this section. One section to the west has a much higher density and supports 55 homes, to the north are 40 homes, to the east are 11, and only 2 are located to the south. The local rural area growth rate is 1.1%. There are 96 dwellings within a 1 mile radius of the site.

Operation of the quarry will interfere with the use and enjoyment of property by nearby residents. The noise generated by blasting, machinery, and rock crushing is considerable. In the opinion of a certified engineering geologist, on-site crushing will constantly challenge DEQ and County noise and dust limits. (See January 9, 1990 Geologist Report at 4). Neighbors have complained about the blasting done in connection with the owner's personal use. The amount of necessary blasting will increase if commercial use is allowed. Proposed use of this site, based upon information provided by the owner, is expected for a period up to 35 years.

The impact of the noise is increased by the topography of the site. The noise is amplified through the wind and funnel effect of the canyon topography.

3. Requirements of other applicable Statewide Planning Goals:

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

The transportation impacts discussed under the economic portion of this analysis are equally applicable to consideration of the social consequences. Local residents will be subjected to the traffic and road problems discussed in the prior section.

The social consequences of the proposed operation justify a 3B designation at this time.

ENVIRONMENTAL:

1. Impacts on Resource:

The mineral and aggregate resource may be preserved for future use by a 3B designation. The 3B designation simply means that conflicting uses will be allowed and the resource will not be available for immediate exploitation.

A deer and elk wintering area (ODF&W, 1988) is located within one mile of the resource site to the southwest and poses a conflict in terms of proximity to weakened wintering herds. In addition, past operations at the site have resulted in violations of the Oregon Forest Practices Act due to disturbance of a Class I Stream. These constitute direct conflicts with other Goal 5 Resources.

Removal of between 6 to 7 feet of overburden would be required for development. Soils for this site have been identified as Mershon Silt Loam series by SCS in 1983 which have a classification of III to IV, depending upon slope. The Forest Site Index for this resource site is 120-135 for Douglas Fir (SCS, 1983), this is the reason the area has been zoned MUF. Mershon soils on slopes over 15% are highly erodible and subject to severe potential slumping (SCS, 1983). Side slopes associated with this resource vary from 50 to 90% (Schnitzer, DOGAMI, 1986). Blasting vibration and increased trucking locally would create increased dust and noise conflicts with adjacent farm and forest land use.

2. Impacts on Conflicting Uses:

Noise, dust particulates, and blasting are impacts on such sensitive land uses as homes, schools, and public parks if they are too close to the extraction operation. As indicated above, there are several homes located in close proximity to the site that would suffer negative environmental consequences from a quarry operation. Conditional uses such as schools, can be prohibited through the conditional use process due to conflict with an inventoried resource. A 3B designation does not remove the site from the inventory, the designation merely prohibits immediate exploitation.

3. Requirements of other applicable Statewide Planning Goals:

A. Goal 4 provides for the following forest uses:

1. the production and processing of trees;
2. open space, buffers from noise and visual separation from conflicting uses;
3. watershed protection along with fisheries and wildlife habitat;
4. soil protection;
5. maintenance of clean air and water;
6. outdoor recreation; and
7. grazing land for livestock.

The site has been used for grazing (livestock habitat) which is a designated forest land use. Previously proposed reclamation plans have included replanting with Christmas trees. Use of the mineral aggregate resource with proper reclamation is not considered to be a permanent conflict. However, in the short term use of this site for mineral extraction has already conflicted with Goal 4 Resources (watershed protection) and may create more conflicts.

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

Fish and wildlife areas and habitat: There is a Class I stream immediately north of the resource ridge. The mapped resource area does not include the stream and it appears that

actual extraction can occur without disturbance of the stream, however, road construction at the site has already resulted in disturbance of a Class I Stream.

Wetlands: The Class 1 stream noted above also is identified as a wetland on the U.S. Fish and Wildlife "National Wetland Inventory." Development of the site, including extraction and road construction may adversely affect the wetland area.

C. Goal 6 is to maintain and improve the quality of the air, water, and land resources of the state.

Use of a rock crusher at this site requires a DEQ permit due to potential pollution. Resource development has already conflicted with water quality (See 1987, Forest Practices Act violation above). Development of the site will create dust and off-site water quality impacts. Therefore, the site should retain its 3B designation.

D. Goal 7, Areas subject to Natural Disasters and Hazards:

Conflicting testimony was submitted in the CU 7-87 hearings regarding slope hazards at the site. The County believes testimony presented by the opponents during those proceedings and concludes that the consequences of slope hazards at this site outweighs beneficial consequences of the use of the site for mineral extraction and processing.

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

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

1. Evidence of numerous landslides along the contact of the Boring Lava and Troutdale Formation;
2. The presence of numerous springs and seeps which occur along the contact of the Boring Lava and Troutdale Formation; and
3. The Troutdale Formation at this site is subject to failure when overburden is removed.

Through an on-site inspection, a certified engineering geologist found steep slopes and indications of instability in the area below the rock bluff to be quarried. The area is underlain by the Troutdale Formation which can become unstable when exposed. At the very least, additional study is necessary to determine the geologic hazard potential. (See Lewis Scott January 9, 1990 Geologist Report at 4). Given the determination made above with respect to Goal 7, the County believes the engineering geologist's testimony and concludes that the consequences of slope hazards at this site outweighs beneficial consequences of the use of

the site for mineral extraction and processing.

The resource site is associated with a known mapped hazard area (ODF, 1987 Geologist site review and Shannon and Wilson Study, 1978). A slump area, active in the last 20 to 30 years was identified. Erosion and subsequent sedimentation of the Class I Stream was documented during the development of an access road near the site by ODF in 1987. (See 1987 Forest Practices Act violation above). The use of this resource may create slope hazard conditions below the site and presents erosion and sedimentation problems off-site. Heavy truck use increases these risks. Conflict with Goal 7 has occurred in the past and is likely to occur again if the site is developed.

Due to the environmental consequences of development, the site should be designated 3B

ENERGY:

1. Impacts on Resource:

Allowing noise and dust sensitive uses too close to the resource will alter the manner, location and extent of extraction activities, resulting in greater use of energy to the operator.

2. Impact on Conflicting Uses: N/A

3. Requirements of other applicable Statewide Planning Goals: N/A

CONCLUSION:

The Resource at this site should:

Be fully protected - Designate 3A

X Not be protected due to overriding benefits from allowing conflicting uses - Designate 3B

Be partially protected by conditions which minimize the impact of conflicting uses - Designate 3C

Although there are few developable mineral resource sites available in Multnomah County east of the Sandy River, this site, as indicated above, is not the only site available for local use. A 3B classification would not result in the loss of a scarce resource to the immediate area, since other resources within 7 miles do exist and have been identified. Denial would not, therefore, locally create a hardship to future users of rock in the private and governmental sectors. Use of available resources in Mt. Hood National Forest, southwest of Larch Mountain (Mt. Hood National Forest, 1988) provides residents an economically viable and efficient alternative that has fewer impacts.

The overriding benefits of allowing conflicting uses fully include the prevention of the above-stated adverse consequences of fully protecting the resource for immediate exploitation. Due to the numerous existing conflicts and the potential for additional conflicts with statewide planning goals and the existence of other viable options, the County determines that Howard Canyon site should be classified 3B.

PROGRAM:

The site is designated 3B and is not appropriate for mineral and aggregate extraction at this time. The resource will be protected for future use by the large lot forest zoning districts until a subsequent ESEE analysis might support exploitation of the resource. Only on lands owned by the same property owner as the aggregate resource could there be more homes or similar conflicting uses added that are closer to the resource than those already existing in the vicinity.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON**

ORDINANCE NO. ____

An ordinance amending Multnomah County Comprehensive Framework Plan to comply with the Periodic Review requirements of the Oregon Department of Land Conservation and Development.

SECTION 1. FINDINGS

The Board of County Commissioners finds that certain amendments of the Multnomah County Comprehensive Framework Plan are necessary to comply with the Periodic Review requirements of the Oregon Department of Land Conservation and Development.

SECTION 2. AMENDMENT

The Comprehensive Framework Plan is amended as follows:

Note: Deleted language is bolded and struck thru (~~temporary daytime~~), and new language bolded and enlarged(**is distinguished**).

A. Policy 1- Plan Relationships

INTRODUCTION

The purpose of this policy is to establish and maintain the relationships between this Comprehensive Framework Plan ("Framework Plan") and its implementation measures.

1. The Statewide planning goals adopted by the Land Conservation and Development Commission;
2. The Urban Growth Boundary adopted by METRO;
3. The Comprehensive Plan in effect prior to September, 1977, ("Pre-existing Plan"); and
4. The Wilkes and Hayden Island Community Plans adopted prior to September 1977, and all other community plans adopted after September 1977.

This policy also establishes the relationship between this Framework Plan and County zoning regulations.

POLICY 1.

IT IS THE COUNTY'S POLICY THAT:

- A. THIS FRAMEWORK PLAN WITH ITS COMPONENT INDIVIDUAL COMMUNITY PLANS AND ALL FUTURE COUNTY PLANS AND PLAN REVISIONS SHALL BE DESIGNED TO BE CONSISTENT WITH THE STATEWIDE PLANNING GOALS ADOPTED BY THE LAND CONSERVATION AND DEVELOPMENT COMMISSION AND THE URBAN GROWTH BOUNDARY AND ITS IMPLEMENTING POLICY ADOPTED BY THE METRO**

COUNCIL.

- B. COMMUNITY PLANS AND IMPLEMENTATION MEASURES ADOPTED BY MULTNOMAH COUNTY AFTER THE EFFECTIVE DATE OF THIS FRAMEWORK PLAN SHALL BE DESIGNED TO BE CONSISTENT WITH THIS FRAMEWORK PLAN.
- C. IN DETERMINING THE PERMISSIBLE USES OF A SPECIFIC PARCEL, THE PROVISIONS OF AN APPLICABLE COMMUNITY PLAN, IF ANY, SHALL CONTROL OVER CONFLICTING PROVISIONS OF THIS FRAMEWORK PLAN OR THE PRE-EXISTING PLAN. FURTHERMORE, UNLESS A SPECIFIC FRAMEWORK PLAN POLICY STATES THAT IT IS TO SUPERSEDE A COMMUNITY PLAN POLICY,, IN CASE OF LAND USE ACTIONS WHERE ANY CONFLICT OCCURS BETWEEN THE FRAMEWORK PLAN AND THE COMMUNITY PLAN, THE COMMUNITY PLAN WILL PREVAIL.
- D. IN AREAS DESIGNATED BY THIS FRAMEWORK PLAN AS NATURAL RESOURCE OR RURAL, THE COMPARABLE LAND USE DESIGNATIONS ON THE PRE-EXISTING PLAN SHALL BE REPEALED ON THE DATE THE FRAMEWORK PLAN IS ADOPTED. AT THAT TIME, ZONING REGULATIONS IMPLEMENTING THE FRAMEWORK PLAN DESIGNATIONS SHALL BE ADOPTED.
- E. IN AREAS DESIGNATED BY THIS COMPREHENSIVE FRAMEWORK PLAN AS URBAN, AND WHERE AN APPLICABLE COMMUNITY PLAN HAS NOT BEEN ADOPTED, THE PRE-EXISTING PLAN AND COUNTY ZONING SHALL REMAIN IN EFFECT. ANY CHANGE IN SUCH DESIGNATIONS SHALL BE CONSISTENT WITH THIS COMPREHENSIVE FRAMEWORK PLAN. WHERE A PROPOSED USE IS PERMITTED BY BOTH THE PRE-EXISTING PLAN AND THE ZONING MAP, REQUIRED PERMITS MAY BE ISSUED, NOTWITHSTANDING A CONFLICT WITH THIS COMPREHENSIVE FRAMEWORK PLAN.
- F. THIS PLAN WILL BE UPDATED EVERY FIVE YEARS BEGINNING SEPTEMBER 1977.
- G. THE NEW ZONING REGULATIONS SHALL PROVIDE, AMONG OTHER THINGS, FOR THE CONTINUANCE, BUT NOT THE EXPANSION OF NON-CONFORMING USES.
- H. ANY COUNTY ACTION TAKEN REGARDING INCORPORATION OF A NEW CITY SHALL BE DONE IN ACCORDANCE WITH STATE RULES ADOPTED IN OREGON ADMINISTRATIVE RULE 660-14-000 THROUGH -040.

B. Policy 10 - Multiple Use Agricultural Land Area

INTRODUCTION

The purpose of the Multiple Use Agriculture Land Area Classification is to conserve those lands agricultural in character which have been heavily impacted by non-farm uses and are not predominantly Agricultural Land as defined in Statewide Planning Goal 3. This conservation is necessary to protect adjacent exclusive farm use areas and in some cases, the fragile nature of the lands themselves. These lands are conserved for diversified agricultural uses and other uses such as outdoor recreation, open space, residential development, and forestry when these uses are shown to be compatible with the natural resource base, character of the area, and other applicable plan policies.

The intent of this classification is to recognize the diminished nature of these areas for commercial

resource production, but to limit the adverse impacts of future development of them on nearby agricultural areas and on other lands of a more fragile nature (e.g., areas subject to flooding, but used for agricultural related uses).

POLICY 10

THE COUNTY'S POLICY IS TO DESIGNATE AND MAINTAIN AS MULTIPLE USE AGRICULTURE, LAND AREAS WHICH ARE:

- A. GENERALLY AGRICULTURAL IN NATURE, WITH SOILS, SLOPE AND OTHER PHYSICAL FACTORS INDICATIVE OF PAST OR PRESENT SMALL SCALE FARM USE;
- B. PARCELIZED TO A DEGREE WHERE THE AVERAGE LOT SIZE, SEPARATE OWNERSHIPS, AND NON-FARM USES ARE NOT CONDUCTIVE TO COMMERCIAL AGRICULTURAL USE;
- C. PROVIDED WITH A HIGHER LEVEL OF SERVICES THAN A COMMERCIAL AGRICULTURAL AREA HAS: OR,
- D. IN AGRICULTURAL OR MICRO-CLIMATES WHICH REDUCE THE GROWING SEASON OR AFFECT PLANT GROWTH IN A DETRIMENTAL MANNER (FLOODING, FROST ETC.).

THE COUNTY'S POLICY, IN RECOGNITION OF THE NECESSITY TO PROTECT ADJACENT EXCLUSIVE FARM USE AREA'S, IS TO RESTRICT MULTIPLE USE AGRICULTURAL USES TO THOSE COMPATIBLE WITH EXCLUSIVE FARM USE AREAS.

STRATEGIES

- A. The following strategies should be addressed as part of the Community

Development Ordinance:

- 1. The Zoning Code should include a Multiple Use Farm Zone with:

- a. a base minimum lot size; consistent with the character of the areas and the adjacent exclusive farm uses.
- b. the following examples of uses:
 - (1) permitted as primary uses; agriculture and forestry practices and single family dwellings on legal lots;
 - (2) the sale of agricultural products on the premises, dwellings for farm help, and mobile homes, should be allowed under prescribed conditions;
 - (3) on lands which are not predominantly Agricultural Capability Class I, II, or III, ~~rural~~ planned developments, cottage industries, limited rural service commercial, and tourist commercial may be allowed as conditional uses; and
 - (4) the following uses should be allowed as conditional uses anywhere in the zone upon the showing that the conditional use standards can be met: commercial processing of

agriculture or forest products, commercial services, commercial dog kennels, and mineral extraction.

- c. Lot size requirements for uses allowed as conditional uses should be based on such factors as:
 - (1) topographic and natural features;
 - (2) soil limitations and capabilities;
 - (3) geologic limitation;
 - (4) climatic conditions;
 - (5) surface water sources, watershed areas and ground water sources;
 - (6) the existing land use and lotting pattern and character of the area;
 - (7) road access and capacity and condition;
 - (8) type of water supply;
 - (9) capacity and level of public services available; and
 - (10) soil capabilities related to a subsurface sewerage system.
- d. Lots of Record Provisions.
- e. Mortgage Lot Provisions.
- f. Siting standards for dwellings proposed to be located adjacent to commercial agricultural or forestry use.
- 3. The County Streets and Road Standards Code should include criteria related to street width, road construction standards and required improvements appropriate to the function of the road and rural living environment.
- 4. The Capital Improvements Program should not program public sewers to this area and the County should not support the formation or expansion of existing service district areas for the provision of water service.
- B. It is intended that industrial development which has a minimum impact be allowed on the south tip of Sauvie Island upon meeting all the applicable standards of the plan and conditional use procedures.
- C. The conversion of land to another broad land use classification should be in accord with the standards set forth by the LCDC Goals, OAR's and in this Plan.

C. Policy 12 - Multiple Use Forest Area

INTRODUCTION

The purpose of the Multiple Use Forest Area Classification is to conserve those lands suited to the production of wood fibre by virtue of their physical properties and the lack of intensive development; however, in areas where the lands are suitable and the use does not impact existing forestry or agricultural uses, other uses will be allowed.

The intent of this classification is to encourage small wood lot management, forestry, reforestation and agriculture. Other non-forest or non-farm uses such as ~~rural~~ planned developments, limited service commercial, extractive industries and cottage industries may also be allowed.

POLICY 12

THE COUNTY'S POLICY IS TO DESIGNATE AND MAINTAIN AS MULTIPLE USE FOREST, LAND AREAS WHICH ARE:

- A. PREDOMINANTLY IN FOREST SITE CLASS I, II, III, FOR DOUGLAS FIR AS CLASSIFIED BY THE U.S. SOIL CONSERVATION SERVICE;
- B. SUITABLE FOR FOREST USE AND SMALL WOOD LOT MANAGEMENT, BUT NOT IN PREDOMINANTLY COMMERCIAL OWNERSHIPS; AND
- C. PROVIDE WITH RURAL SERVICES SUFFICIENT TO SUPPORT THE ALLOWED USES, AND ARE NOT IMPACTED BY URBAN—LEVEL SERVICES; OR
- D. OTHER AREAS WHICH ARE:
 - 1. NECESSARY FOR WATERSHED PROTECTION OR ARE SUBJECT TO LANDSLIDE, EROSION OR SLUMPING; OR
 - 2. POTENTIAL REFORESTATION AREAS, BUT NOT AT THE PRESENT USED FOR COMMERCIAL FORESTRY; OR
 - 3. WILDLIFE AND FISHERY HABITAT AREAS, POTENTIAL RECREATION AREAS, OR OF SCENIC SIGNIFICANCE.

THE COUNTY'S POLICY IS TO ALLOW FOREST USES ALONG WITH NON-FOREST USES; SUCH AS AGRICULTURE, SERVICE USES, AND COTTAGE INDUSTRIES; PROVIDED THAT SUCH USES ARE COMPATIBLE WITH ADJACENT FOREST LANDS.

STRATEGIES

- A. The following strategies should be addressed in the preparation of the Community Development Ordinance:
 - 1. The Zoning Code should include a Multiple Use Forest Zone with:
 - a. The minimum lot sizes for sub-areas of the district based on: the adjacent aggregated acreage tract size existing in each general sub-area, the forest use, and the productivity of the land. Small parcels in single ownership shall be aggregated.
 - b. The following examples of uses:
 - (1) Forestry practices, farm uses, resource conservation, and limited wood processing. Resource-related dwellings under prescribed conditions and non-resource-related dwellings under conditional uses. Such dwellings are to be allowed as approval criteria and siting standards designed to assure conservation of the natural resource base, protection from hazards, and protection of big game winter habitat.
 - (2) The sale of agricultural products on the premises should be allowed under prescribed conditions.
 - (3) Rural planned developments, commercial processing of agricultural or forestry prod-

ucts, cottage industries, limited rural service commercial, tourist facilities, recreational uses, and community facilities may be allowed as conditional uses.

(4) Mineral and aggregate extraction should be handled as a conditional use.

c. Lot size requirements for uses allowed as conditional uses should be based on such factors as:

- (1) topographic and natural features;
- (2) soil limitations and capabilities;
- (3) geologic limitation;
- (4) climatic conditions;
- (5) surface water sources, watershed areas, and groundwater sources;
- (6) the existing land use and lotting pattern;
- (7) road access and capacity and condition;
- (8) type of water supply;
- (9) capacity and level of public services available; and
- (10) soil capabilities related to a subsurface sewerage disposal system.

d. Mortgage Lot Provisions.

e. Lots of Record Provisions.

f. Homestead Lot Provisions.

2. The County Street and Road Standard Code should include criteria related to street widths, road construction standards, and required improvements appropriate to the function of the road and rural living environment.
3. The Capital Improvements Program should not program public sewers to this area, and the County should not support the formation or expansion of existing service district areas for the provision of water service.

B. The conversion of land to another land use classification should be in accord with the standards set forth by the LCDC Goals, OAR's and in this Plan.

D. POLICY 15 ~~AREAS OF SIGNIFICANT ENVIRONMENTAL CONCERN~~ WILLAMETTE RIVER GREENWAY

INTRODUCTION

~~The designation, "areas of significant environmental concern," is an overlay classification which will be applied as shown on the Comprehensive Framework Plan or as the result of a plan amendment to areas having significant natural or man-made features. It is not intended to restrict the use of land, as allowed by the Comprehensive Plan and other regulations, but to identify these areas in which land uses will be subject to a review process. However, the review process may result in the imposition of design standards to minimize adverse environmental and aesthetic impacts.~~

~~The purpose of the classification is to protect natural shoreline vegetation systems, critical and unique habitat areas, historic and archeological features, views and vistas, flood water storage areas and similar areas having public value. This will be achieved by locating buildings or uses on the site in a place which minimizes the impacts of the use on the features to be protected and~~

~~by design or landscaping techniques.~~

The Willamette River Greenway is a cooperative management effort between the state and local jurisdictions for the development and maintenance of a natural, scenic, historical, and recreational "greenway" along the Willamette River. The General Plan has been formulated by the Oregon Department of Transportation, pursuant to ORS 390.318. The Land Conservation and Development Commission has determined that a statewide planning goal (Goal 15) is necessary not only to implement the legislative directive, but to provide the parameters within which the Department of Transportation Greenway Plan may be carried out. Within those parameters local governments can implement Greenway portions of their Comprehensive Plans.

POLICY 15

THE COUNTY'S POLICY IS TO ~~DESIGNATE AS AREAS OF SIGNIFICANT ENVIRONMENTAL CONCERN, AREAS HAVING SPECIAL PUBLIC VALUE IN TERMS OF ONE OR MORE OF THE FOLLOWING: PROTECT, CONSERVE, ENHANCE, AND MAINTAIN THE NATURAL, SCENIC, HISTORICAL, AGRICULTURAL, ECONOMIC, AND RECREATIONAL QUALITIES OF LANDS ALONG THE WILLAMETTE RIVER.~~

FURTHER, IT IS THE COUNTY'S POLICY TO PROTECT IDENTIFIED WILLAMETTE RIVER GREENWAY AREAS BY REQUIRING SPECIAL PROCEDURES FOR THE REVIEW OF CERTAIN TYPES OF DEVELOPMENT ALLOWED IN THE BASE ZONE THAT WILL ENSURE THE MINIMUM IMPACT ON THE VALUES IDENTIFIED WITHIN THE VARIOUS AREAS. THE PROCEDURES SHALL BE DESIGNED TO MITIGATE ANY LOST VALUES TO THE GREATEST EXTENT POSSIBLE.

- ~~A. ECONOMIC VALUE, E.G., A TOURIST ATTRACTION;~~
- ~~B. RECREATION VALUE, E.G., RIVERS, LAKES, WETLANDS;~~
- ~~C. HISTORIC VALUE, E.G., HISTORIC MONUMENTS, BUILDINGS, SITES OR LANDMARKS;~~
- ~~D. EDUCATIONAL RESEARCH VALUE, E.G., ECOLOGICALLY AND SCIENTIFICALLY SIGNIFICANT LANDS;~~
- ~~E. PUBLIC SAFETY, E.G., MUNICIPAL WATER SUPPLY WATERSHEDS, FLOOD WATER STORAGE AREAS, VEGETATION NECESSARY TO STABILIZE RIVER BANKS AND SLOPES;~~
- ~~F. SCENIC VALUE, E.G., AREAS VALUED FOR THEIR AESTHETIC APPEARANCE;~~
- ~~G. NATURAL AREA VALUE, E.G., AREAS VALUED FOR THEIR FRAGILE CHARACTER AS HABITATS FOR PLANT, ANIMAL OR AQUATIC LIFE, OR HAVING ENDANGERED PLANT OR ANIMAL SPECIES, OR FOR SPECIFIC NATURAL FEATURES, OR VALUED FOR THE NEED TO PROTECT NATURAL AREAS; OR~~
- ~~H. ARCHEOLOGICAL VALUE, E.G., AREAS VALUED FOR THEIR HISTORICAL, SCIENTIFIC AND CULTURAL VALUE.~~

FURTHER, IT IS THE COUNTY'S POLICY TO PROTECT THE ABOVE IDENTIFIED

AREAS BY THE FOLLOWING:

- 1. ~~THE MAINTENANCE OF AN INVENTORY RELATED TO THESE SITES WHICH DELINEATES THEIR BOUNDARIES AND OTHER PERTINENT DATA WHICH PERTAINS TO THE VALUES OF THE IDENTIFIED AREAS.~~**
- 2. ~~REQUIRING SPECIAL PROCEDURES FOR THE REVIEW OF CERTAIN TYPES OF DEVELOPMENT ALLOWED IN THE BASE ZONES THAT WILL ENSURE THE MINIMUM IMPACT ON THE VALUES IDENTIFIED WITHIN THE VARIOUS AREAS. THE PROCEDURES SHALL BE DESIGNED TO MITIGATE ANY LOST VALUES TO THE GREATEST EXTENT POSSIBLE.~~**
- 3. ~~PRIMARY EMPHASIS WILL BE PLACED ON PROTECTING THE VALUE FACTORS IDENTIFIED IN THE "FACTORS OF SIGNIFICANT ENVIRONMENTAL CONCERN CHART" FOR EACH AREA OF SIGNIFICANT ENVIRONMENTAL CONCERN. THIS USE OF THIS CHART SHALL NOT PRECLUDE THE PROTECTION OF OTHER VALUES IF THEY ARE LATER IDENTIFIED ON THE SITE AS TO THEIR QUANTITY, QUALITY AND LOCATION.~~**

STRATEGIES

- A. ~~The following areas should be designated as "areas of significant environmental concern":~~ The Willamette River Greenway should be based on the boundaries as developed by the state Department of Transportation. For the County, those areas are generally depicted on the map entitled Willamette River Greenway.**
 - 1. ~~The Columbia Gorge from the Sandy River east to the County line.~~**
 - 2. ~~The Sandy Seenie River.~~**
 - 3. ~~Portions of the Mount Hood National Forest.~~**
 - 4. ~~Smith and Bybee Lakes.~~**
 - 5. ~~The Undeveloped Columbia River Islands.~~**
 - 6. ~~Sturgeon Lakes.~~**
 - 7. ~~Blue Lake and Columbia River shore area and islands.~~**
 - 8. ~~Johnson Creek.~~**
 - 9. ~~Such other areas as may be determined under established procedures to be suitable for this "area" designation.~~**
- B. The following strategies should be addressed in the preparation of the Community Development Title:**
 - 1. The Zoning Code should include:**
 - a. ~~an overlay zone entitled "Areas of Significant Environmental Concern" which should~~ An overlay zone entitled "Willamette River Greenway" which will establish an administrative review procedure to implement the requirements**

of the State of Oregon, Greenway Goal. The overlay zone should contain provisions related to:

1. ~~establish a review process for the approval of proposals and uses~~ setback lines for non-water dependent uses;
 2. ~~define special criteria within each area for the approval of proposals and uses which affect various features including, but not limited to, the following:~~
 - ~~(a) Natural shoreline vegetation systems;~~
 - ~~(b) Critical and unique wildlife habitats;~~
 - ~~(c) Historical features and archeological sites;~~
 - ~~(d) Significant vegetation;~~
 - ~~(e) Views and vistas;~~
 - ~~(f) Municipal water supplies;~~
 - ~~(g) Natural hazard lands;~~
 - ~~(h) Rare or valuable ecosystems and geological formations; and~~
 - ~~(i) endangered plant and animal systems.~~
 3. the review procedures;
 4. specific findings required.
- b. ~~A historic preservation overlay district which should be applied to areas or specific sites not otherwise designated for protection under CS, SEC or other zoning;~~ Those wetlands and water areas listed on Policy 16, Natural Resources, that are located within the Willamette River Greenway should receive a development review procedure comparable to the review process established for the Significant Environmental Concern zone.
- c. ~~An overlay zone entitled "Willamette River Greenway" which will establish an administrative review procedure to implement the requirements of the State of Oregon, Greenway Goal. The overlay zone should contain provisions related to:~~
- ~~1. setback lines for non-water dependent uses;~~
 - ~~2. a design plan;~~
 - ~~3. the review procedures;~~
 - ~~4. specific findings required.~~
- C. ~~The "Willamette River Greenway" zone should be generally based upon the attached map entitled "Willamette River Greenway." Other policies of this Framework Plan are applicable to the Greenway as follows:~~ Other policies of this Framework Plan applicable to the Greenway are as follows:

~~POLICIES APPLICABLE TO WILLAMETTE RIVER GREENWAY LANDS~~

~~In addition to Policy 15, the following Framework Plan Policies are applicable to the use and management of lands within the Willamette River Greenway:~~

1. Agricultural lands: Policies 9 - Agriculture, and 10 - Multiple Use Agriculture.

2. Recreation: Policy 39 - Open Space and Recreation.
3. Access: Policy 40 - Development Requirements.
4. Fish and Wildlife: Policy 16 - Natural Resources.
5. Scenic Qualities and Views: Policy 16 - Natural Resources.
6. Protection and Safety: Policy 31 - Community Facilities and Uses Location.
7. Vegetation Fringe: Policy 16 - Natural Resources.
8. Timber Harvest: Policy 12 - Multiple Use Forest.
9. Aggregate Extraction: Policy 16 - Natural Resources.
10. Development away from river: Policy 14 - Development Limitations.
- ~~11. Greenway Setback: Policy 15 - Areas of Significant Environmental Concern.~~

E. POLICY 16 NATURAL RESOURCES

INTRODUCTION

The purpose of the Natural Resources policy is to ~~protect areas which are necessary to the long-term health of the economy or a community; for example, mineral and aggregate sources, energy resource areas, domestic water supply watersheds, wildlife habitat areas, and ecologically significant areas.~~

~~The intent of the policy is to protect these areas for their natural resource value. Mineral, aggregate, energy and watershed areas are limited, and inappropriate land uses can destroy their future use. Significant habitat and ecological areas are important to the public for their educational, recreational and research value, and they often function to balance the effects of other land uses. The benefits gained by the preservation of wildlife habitat range from aesthetic enhancement of the landscape to improvement of community health. Greenspaces and vegetation significantly affect such factors as air flow, temperatures, oxygenation, travel patterns and pollution.~~ implement statewide Planning Goal 5: "Open Spaces, Scenic and Historic Areas, and Natural Resources". These resources are necessary to ensure the health and well-being of the population, and include such diverse components as mineral and aggregate reserves, significant wetlands, historic sites, and scenic waterways. The individual components, as set forth by state law (OAR 660-16), are addressed below as sub-policies 16-A through 16-L.

An overlay classification, "Significant Environmental Concern" will be applied to certain areas identified as having one or more of these resource values.

POLICY 16

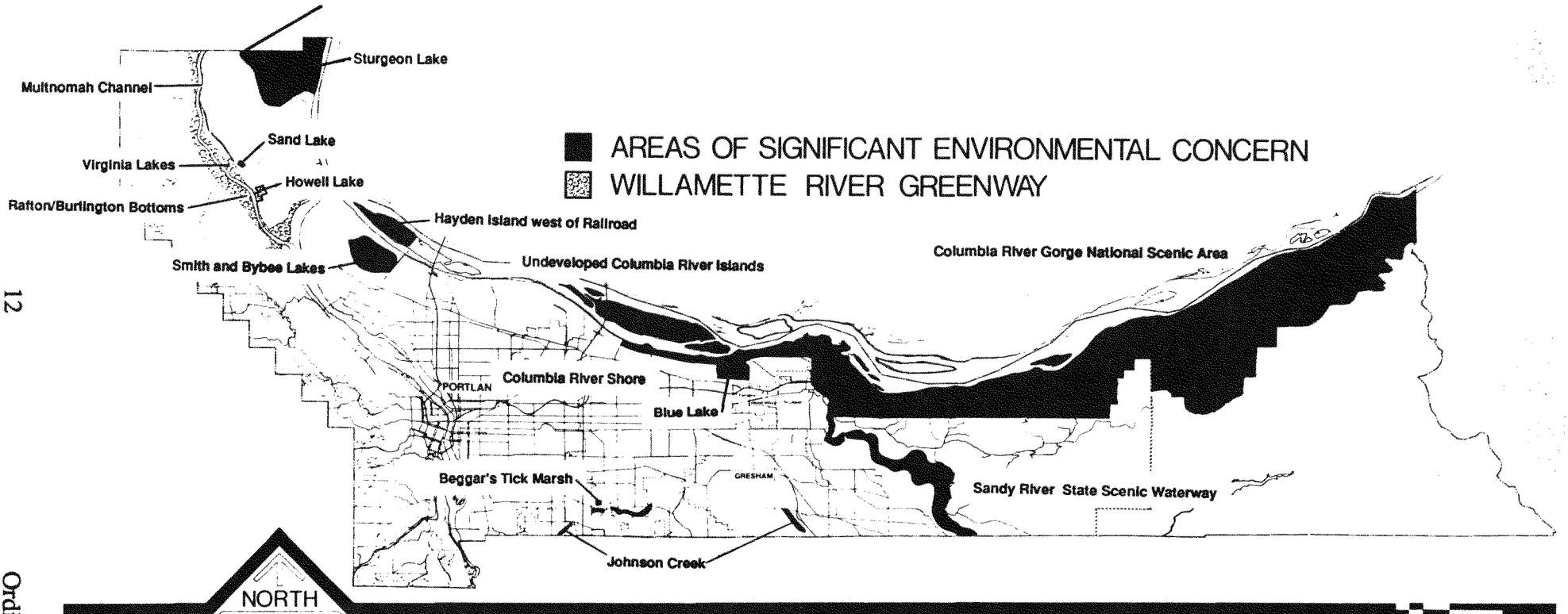
THE COUNTY'S POLICY IS TO PROTECT NATURAL RESOURCES, ~~AREAS AND TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI JUDICIAL ACTION THAT THE LONG RANGE AVAILABILITY AND USE OF THE FOLLOWING WILL NOT BE LIMITED OR IMPAIRED:~~ CONSERVE OPEN SPACE, AND TO PROTECT SCENIC AND HISTORIC AREAS AND SITES. THESE RESOURCES ARE ADDRESSED WITHIN SUB-POLICIES 16-A THROUGH 16-L.

- ~~A. MINERAL AND AGGREGATE SOURCES;~~
- ~~B. ENERGY RESOURCE AREAS;~~
- ~~C. DOMESTIC WATER SUPPLY WATERSHEDS;~~
- ~~D. FISH HABITAT AREAS; AND~~
- ~~E. WILDLIFE HABITAT AREAS; AND~~
- ~~F. ECOLOGICALLY AND SCIENTIFICALLY SIGNIFICANT NATURAL AREAS.~~

STRATEGIES

- A. ~~As a part of the ongoing planning program, the County should:~~ The county will maintain an inventory of the location, quality, and quantity of each of these resources. Sites with minimal information will be designated "1B", but when sufficient information is available, the County will conduct the necessary ESEE analysis.
 - 1. ~~Engage in a survey of mineral and aggregate sources within the County and utilize data, criteria and standards from the most recent study of rock material resources compiled by the State Department of Geology and Mineral Industries.~~
 - 2. ~~Utilize information provided by the Oregon Department of Fish and Wildlife on big game winter habitat areas, the Nature Conservancy or ecologically significant areas when surveyed and identified as to location, the U.S. Department of Fish and Wildlife in their Wetlands Inventory for the Columbia River, and any other documental information on the listed natural resources in the decision process and for plan revisions.~~
- B. ~~The following strategies should be addressed in the preparation of the Community Development Title:~~ Certain areas identified as having one or more significant resource values will be protected by the designation Significant Environmental Concern (SEC). This overlay zone will require special procedures for the review of certain types of development allowed in the base zones. This review process will ensure the minimum impact on the values identified within the various areas, and shall be designed to mitigate any lost values to the greatest extent possible. Areas designated SEC are generally depicted on the following map.
 - 1. ~~The Zoning Code should include provisions for:~~
 - a. ~~Mineral and aggregate extraction, and energy generation facilities as conditional uses;~~
 - b. ~~Protecting natural resources when uses are contemplated through the conditional use provisions;~~
 - c. ~~The transfer of densities from lands which should be protected for natural resource uses from lands held in the same ownership and adjacent within the Planned Development provisions;~~
 - d. ~~The establishment of extraction and rehabilitation standards for mineral and aggregate resources.~~
- C. The following areas shall be designated as "Areas of Significant Environmental Concern":
 - 1. The Columbia River Gorge National Scenic Area, as defined in federal legisla-

Wagonwheel Hole Lake and nearby unnamed slough/lake



MULTNOMAH COUNTY FRAMEWORK PLAN

0 1 2 4 MILES

tion PL 99-663,

2. The Sandy River State Scenic Waterway,
 3. Portions of the Mount Hood National Forest,
 4. Smith and Bybee Lakes,
 5. The Undeveloped Columbia River Islands and Hayden Island west of the Burlington Northern Railroad tracks,
 6. Sturgeon Lake,
 7. Blue Lake and Columbia River shore area and islands,
 8. Johnson Creek,
 9. Beggar's Tick Marsh,
 10. Virginia Lakes,
 11. Rafton/Burlington Bottoms,
 12. Multnomah Channel,
 13. Sand Lake,
 14. Howell Lake,
 15. Wagonwheel Hole Lake and nearby unnamed slough/lake to the west,
 16. All Class 1 Streams (Oregon State Forestry Department designation) and the adjacent area within 100 feet of the normal high water line, except those within an ESEE designated "2A", "3A" or "3C" mineral and aggregate resource site,
- and such other areas as may be determined under established procedures to be suitable for this "area" designation.
- D. Those wetlands and water areas listed in C. above that are located within the Willamette River Greenway (Policy 15) will be protected by development review procedures within the WRG overlay zone instead of the SEC zone.

POLICY 16-A OPEN SPACE

IT IS THE COUNTY'S POLICY TO CONSERVE OPEN SPACE RESOURCES AND PROTECT OPEN SPACES FROM INCOMPATIBLE AND CONFLICTING LAND USES.

STRATEGIES

1. Designate agricultural and forest lands with large lot zones to conserve the open character of such areas.
2. Apply SEC, WRG, FW and FF overlays along rivers and other water features, as appropriate, to restrict and control the character of development in these areas to enhance open spaces.

3. Review uses conditionally allowed in farm or forest zones to insure that open space resources are conserved and enhanced.

POLICY 16-B MINERAL AND AGGREGATE RESOURCES

IT IS THE COUNTY'S POLICY TO PROTECT AREAS OF MINERAL AND AGGREGATE SOURCES FROM INAPPROPRIATE LAND USES WHICH COULD LIMIT THEIR FUTURE USE.

STRATEGIES

- A. As a part of the ongoing planning program the County will engage in an inventory of mineral and aggregate sources within the County utilizing data, criteria and standards from the most recent study of rock material resources compiled by the State Department of Geology and Mineral Industries.
- B. During County initiated Comprehensive Plan updates, the County will utilize information made available from other sources regarding the location, quality and quantity of mineral and aggregate resources when that information is verified by such qualified professionals as certified engineering geologists and recognized testing laboratories.
- C. Determination that a particular mineral and aggregate resource site is both "Important" and should be included in the plan inventory is to be based upon the site's proven ability to yield more than 25,000 cubic yards of resource.
- D. "Important" sites should be reviewed using the Statewide Planning Goal 5 "Economic, Social, Environmental, and Energy analysis" (ESEE) procedure as outlined in OAR 660-16-000 through 660-16-025 and only those sites receiving a "2A", "3A", or "3C" designation should be considered for conditional use approval for mineral and aggregate extraction.
- E. In between scheduled plan updates, additional sites may be added to the plan inventory of "Important" sites and receive an ESEE designation by means of the standard plan amendment process initiated by the owner of the resource.
- F. The Zoning Code should include provisions for:
 1. Mineral and aggregate extraction, processing, and distribution as a special conditional use with performance oriented criteria of approval for those sites receiving a "2A", "3A", or "3C" designation as part of the ESEE analysis.
 2. Associated processing and distribution activities as a conditional use that must meet all conditional use requirements if the site is not a "2A", "3A", or "3C" resource location.
 3. The exemption of small scale and farm and forest practice extraction sites from conditional use review.
 4. The establishment of extraction and rehabilitation standards for mineral and aggregate resources in compliance with DOGAMI regulations as applicable.
 5. Protection of natural resources.
 6. A standard setback buffer between "noise-sensitive" land uses and extraction activities.

- (a). The location of proposed extraction activities should be setback from existing "noise-sensitive" uses.
- (b). The location of "noise-sensitive" land uses should be setback from both existing mining activities and designated ESEE "2A", "3A", and "3C" resource site boundaries.
- (c). Some reduction in the setback buffers may be appropriate if the "noise-sensitive" land use property owner agrees to record a non-remonstrance deed restriction agreeing to the reduced distance.

POLICY 16-C ENERGY SOURCES

IT IS THE COUNTY'S POLICY TO PROTECT SITES REQUIRED FOR GENERATION OF ENERGY.

STRATEGIES

- A. Maintain an inventory of energy sources within the county.
- B. Coordinate with appropriate regulatory or licensing authorities in the protection of sites required for energy generation.
- C. The Zoning Code should include provisions for energy generation facilities as a conditional use.

POLICY 16-D FISH AND WILDLIFE HABITAT

IT IS THE COUNTY'S POLICY TO PROTECT SIGNIFICANT FISH AND WILDLIFE HABITAT, AND TO SPECIFICALLY LIMIT CONFLICTING USES WITHIN SENSITIVE BIG GAME WINTER HABITAT AREAS.

STRATEGIES

- A. Utilize information provided by the Oregon Department of Fish and Wildlife to identify significant habitat areas, and to delineate sensitive big game winter habitat areas.
- B. Apply the SEC overlay zone to all significant habitat areas not already zoned Willamette River Greenway.
- C. Include provisions within the Zoning Ordinance to review development proposals which may affect sensitive big game winter habitat areas.

POLICY 16-E NATURAL AREAS

IT IS THE COUNTY'S POLICY TO PROTECT NATURAL AREAS FROM INCOMPATIBLE DEVELOPMENT AND TO SPECIFICALLY LIMIT THOSE USES WHICH WOULD IRREPARABLY DAMAGE THE NATURAL AREA VALUES OF THE SITE.

STRATEGIES

- A. Utilize information from the Oregon Natural Heritage Program to maintain a current inventory of all ecologically and scientifically significant natural areas.

- B. Apply the SEC overlay zone to all areas not otherwise protected by Willamette River Greenway zoning or outright ownership by a public or private agency with a policy to preserve natural area values of the site.

POLICY 16-F SCENIC VIEWS AND SITES

IT IS THE COUNTY'S POLICY TO CONSERVE SCENIC RESOURCES AND PROTECT SUCH AREAS FROM INCOMPATIBLE AND CONFLICTING LAND USES.

STRATEGIES

- A. Apply the SEC overlay zone to the Columbia River Gorge National Scenic Area and the Sandy River State Scenic Waterway to assure the scenic resources of these areas are not diminished as new development occurs.
- B. Coordinate reviews of development proposals within SEC areas with other affected agencies (i.e., Columbia River Gorge Commission, National Forest Service, State Parks and Recreation Division Rivers Program, County Parks Division).
- C. Enforce large lot zoning regulations in resource areas to conserve scenic qualities associated with farm and forest lands.
- D. Apply the WRG overlay zone to lands within the Willamette River Greenway. Review new development within the greenway to assure scenic values are not diminished.
- E. Administer Design Review provisions to enhance visual qualities of the built environment.

POLICY 16-G WATER RESOURCES AND WETLANDS

IT IS THE COUNTY'S POLICY TO PROTECT AND, WHERE APPROPRIATE, DESIGNATE AS AREAS OF SIGNIFICANT ENVIRONMENTAL CONCERN, THOSE WATER AREAS, WETLANDS, WATERSHEDS, AND GROUNDWATER RESOURCES HAVING SPECIAL PUBLIC VALUE IN TERMS OF THE FOLLOWING:

- A. ECONOMIC VALUE;
- B. RECREATION VALUE;
- C. EDUCATIONAL RESEARCH VALUE (ECOLOGICALLY AND SCIENTIFICALLY SIGNIFICANT LANDS);
- D. PUBLIC SAFETY, (MUNICIPAL WATER SUPPLY WATERSHEDS, WATER QUALITY, FLOOD WATER STORAGE AREAS, VEGETATION NECESSARY TO STABILIZE RIVER BANKS AND SLOPES);
- E. NATURAL AREA VALUE, (AREAS VALUED FOR THEIR FRAGILE CHARACTER AS HABITATS FOR PLANT, ANIMAL OR AQUATIC LIFE, OR HAVING ENDANGERED PLANT OR ANIMAL SPECIES).

STRATEGIES

- A. Wetland areas that attain 45 or more points of the possible 96 points on the

"Wildlife Habitat Assessment" (WHA) rating form will be designated "Significant". Sites with ratings of 35 or more may be determined "Significant" if they function in providing connections between and enhancement of higher rated adjacent habitat areas.

The WHA is a standardized rating system for evaluating the wildlife habitat values of a site. The form was cooperatively developed by staff from the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, The Oregon Department of Fish and Wildlife, the Audubon Society of Portland, The Wetlands Conservancy, and the City of Beaverton Planning Bureau.

- B. Significant water and wetland areas identified as a "2A", "3A", or "3C" site using the Statewide Planning Goal 5 "Economic, Social, Environmental, and Energy analysis" procedure as outlined in OAR 660-16-000 through 660-16-025 shall be designated as "Areas of Significant Environmental Concern" and protected by either the SEC or WRG overlay zone.**
- C. Wetlands information gathered by and made available to the County shall be utilized as follows:**
 - 1. The U.S. Fish and Wildlife National Wetland Inventory (NWI) maps should be consulted at the beginning stages of any development proposal in order to alert the property owner/developer of the U.S. Corps of Engineers and Division of State Lands permit requirements.**
 - 2. Wetlands shown on the NWI maps which are determined to not be important by the county after field study should be indicated as such on 1"-200' aerial photographs made part of the State Goal 5 supporting documents.**
 - 3. Boundaries of "Significant" wetlands located within the SEC and WRG overlay zones should be depicted on 1"-200' aerial photographs.**
 - 4. Additional information on wetland sites should be added to the plan and supporting documents as part of a scheduled plan update or by the standard plan amendment process initiated at the discretion of the county.**
- D. Although a wetland area may not meet the County criteria for the designation "Significant", the resource may still be of sufficient importance to be protected by State and Federal agencies.**
- E. The zoning code should include provisions requiring a finding prior to approval of a legislative or quasi-judicial action that the long-range availability and use of domestic water supply watersheds will not be limited or impaired.**

POLICY 16-H WILDERNESS AREAS

IT IS THE COUNTY'S POLICY TO RECOGNIZE THE VALUE OF WILDERNESS AMONG THE MANY RESOURCES DERIVED FROM PUBLIC LANDS.

STRATEGIES

- A. The Columbia Wilderness shall be designated as a Goal 5 Resource Site.**
- B. The SEC overlay zone shall be applied to the Columbia Wilderness.**

- C. The county shall coordinate with federal land management agencies and Congressional staff in the formulation of proposals for any additional wilderness areas.
- D. All parcels of federal land which meet federal guidelines for wilderness and which fit the definition outlined in the Findings document shall be recommended for wilderness designation.

POLICY 16-I HISTORIC RESOURCES

IT IS THE COUNTY'S POLICY TO RECOGNIZE SIGNIFICANT HISTORIC RESOURCES, AND TO APPLY APPROPRIATE HISTORIC PRESERVATION MEASURES TO ALL DESIGNATED HISTORIC SITES.

STRATEGIES

- A. Maintain an inventory of significant historic resources which meet the historical site criteria outlined below.
- B. Utilize the National Register of Historic Places and the recommendations of the State Advisory Committee on Historic Preservation in the designation of historic sites.
- C. Develop and maintain a historical preservation process for Multnomah County which includes:
 - 1. A review of the laws related to historic preservation.
 - 2. A program for ongoing identification and registration of significant sites, working with area citizens groups, the Oregon Historical Society, the Oregon Natural History Museum and other historic and archeological associations.
 - 3. Developing a handbook on historic preservation to assist county staff, area citizen groups, land owners and developers in understanding and using applicable federal and state programs.
 - 4. Fostering, through ordinances or other means, the private restoration and maintenance of historic structures for compatible uses and development based on historic values.
 - 5. Encouraging the installation of appropriate plaques or markers on identified sites and structures.
- D. The Zoning Code should:
 - 1. Include an Historic Preservation overlay district which will provide for the protection of significant historic areas and sites.
 - 2. Include conditional use provisions to allow new sites to be established to preserve historic structures and sites.
 - 3. Provide for a 120-day delay period for the issuance of a demolition permit or a building permit that substantially alters the historic nature of the site or building. During this period, a review of the permit application, including the impacts and possible means to offset the impacts should be undertaken.
 - 4. On-site density transfer in order to protect historic areas and protect unique

features.

HISTORICAL SITE CRITERIA

- A. **Historical Significance** - Property is associated with significant past events, person-ages, trends or values and has the capacity to evoke one or more of the dominant themes of national or local history.
- B. **Architectural Significance** - (Rarity of Type and/or Style). Property is a prime example of a stylistic or structural type, or is representative of a type once common and is among the last examples surviving in the county. Property is a prototype or significant work of an architect, builder or engineer noted in the history of architecture and construction in Multnomah County.
- C. **Environmental Considerations** - Current land use surrounding the property contributes to an aura of the historic period, or property defines important space.
- D. **Physical Integrity** - Property is essentially as constructed on original site. Sufficient original workmanship and material remain to serve as instruction in period fabrication.
- E. **Symbolic Value** - Through public interest, sentiment, uniqueness or other factors, property has come to connote an ideal, institution, political entity or period.
- F. **Chronology** - Property was developed early in the relative scale of local history or was an early expression of type/style.

POLICY 16-J CULTURAL AREAS

IT IS THE COUNTY'S POLICY TO PROTECT CULTURAL AREAS AND ARCHEOLOGICAL RESOURCES, AND TO PREVENT CONFLICTING USES FROM DISRUPTING THE SCIENTIFIC VALUE OF KNOWN SITES.

STRATEGIES

- A. Maintain information on file regarding the location of known archeological sites. Although not made available to the general public, this information will be used to insure the sites are not degraded through incompatible land use actions.
- B. Coordinate with the State Archaeologist in the State Historic Preservation Office regarding the identification and recognition of significant archeological resources.
- C. Encourage landowners to notify state authorities upon discovering artifacts or other evidence of past cultures on their property.
- D. Work with the LCDC Archeological Committee in devising equitable and effective methods of identifying and protecting archeological resources.

POLICY 16-K RECREATION TRAILS

IT IS THE COUNTY'S POLICY TO RECOGNIZE THE FOLLOWING TRAILS AS POTENTIAL STATE RECREATION TRAILS:

**COLUMBIA GORGE TRAIL
SANDY RIVER TRAIL**

**PORTLAND TO THE COAST TRAIL
NORTHWEST OREGON LOOP BICYCLE ROUTE**

STRATEGIES

- A. Coordinate with ODOT and any other public or private agency to resolve any conflicts which may arise over the development of these trails.**
- B. Address these trails as Goal 5 resource sites whenever the trail route becomes specifically identified, built, proposed, or designated.**

POLICY 16-L WILD AND SCENIC WATERWAYS

IT IS THE COUNTY'S POLICY TO PROTECT ALL STATE OR FEDERAL DESIGNATED SCENIC WATERWAYS FROM INCOMPATIBLE DEVELOPMENT AND TO PREVENT THE ESTABLISHMENT OF CONFLICTING USES WITHIN SCENIC WATERWAYS.

STRATEGIES

- A. Coordinate with the Oregon State Parks and Recreation Division in the review and regulation of all development proposals or land management activities within the Sandy River State Scenic Waterway.**
- B. Apply the SEC overlay zone to the Sandy River State Scenic Waterway to ensure proper recognition of the waterway and to further mitigate the impacts on uses allowed within the underlying resource zones.**
- C. Coordinate with the U.S. Forest Service in the review and regulation of all development proposals or land management activities within the federal wild and scenic river segment of the Sandy River.**
- D. Work with state and federal agencies or other interested parties in developing proposals for scenic waterway protection of other stream segments in the county.**

F. POLICY 18 - COMMUNITY IDENTITY

INTRODUCTION

Community identity is a feeling people have about their community, and it serves many functions. An identifiable community allows a person to immediately have a place of reference. For those people who live in a community, it provides a sense of place and belonging. Evidence has also shown that a sense of identity tends to generate pride and encourages people to maintain and enhance their place of residence.

Community identity can be achieved as a part of the Community Development Process through:

- 1. The identification and reinforcement of visible boundaries or edges to each community which can be man-made or natural features.**
- 2. The preservation of a distinctive or unique natural feature such as natural drainageways, timber stands, and significant land forms. These distinctive features provide visual variety and interest to**

a community, as well as to provide a sense of identity.

3. The location scale and functional design of community services such as roads, parks, hospitals, schools, and fire stations. These community elements provide community focal points, paths, places and boundaries in a manner which support community pride and long term stability. Streets can be designed, located, and landscaped to be functional as well as being an integral part of the community. Community service buildings also become a focal point for cultural or educational activities and serve to reinforce identity.
4. ~~The preservation of historic landmarks and scenic areas. Historic features are also important to a historical perspective and promote a sense of pride. Significant historic landmarks and scenic areas in unincorporated Multnomah County can be preserved and protected if landowners, investors, community groups and the County work in concert.~~

~~Today, identification of historic sites has been accomplished through several efforts. The Division of Planning conducted a limited survey in 1978 and identified several sites and structures throughout the County. Other surveys and site identification has occurred in the Columbia River Gorge and on Sauvie Island. Three sites have been placed on the National Register of Historic Places: the Bybee Howell House on Sauvie Island, the Vista House at Crown Point and Multnomah Falls Lodge. In addition, historic markers have been placed at Fort William, Sauvie Island Pioneer Cemetery, Sandy River Bridge, Broughton's Expedition, and many other sites that were identified by the County's Historic Sites Advisory Committee.~~

~~No comprehensive archeological survey of the County exists, and further inventorying is needed to identify other potential historic areas. Standards have been established by Federal and State law, and there are Federal and State funding programs for acquisition and maintenance of these areas.~~

POLICY 18

THE COUNTY'S POLICY IS TO CREATE, MAINTAIN OR ENHANCE COMMUNITY IDENTITY BY:

- A. IDENTIFYING AND REINFORCING COMMUNITY BOUNDARIES;
- B. IDENTIFYING SIGNIFICANT NATURAL FEATURES AND REQUIRING THESE TO BE PRESERVED;
- C. REQUIRING IDENTIFIED SIGNIFICANT NATURAL FEATURES BE PRESERVED AS PART OF THE DEVELOPMENT PROCESS;
- ~~D. REQUIRING THE PRESERVATION OF SIGNIFICANT HISTORICAL LANDMARKS AND DISTRICTS, AND ARCHEOLOGICAL AND ARCHITECTURAL SITES WHICH HAVE BEEN SO DESIGNATED BY A FEDERAL OR STATE AGENCY OR MEET THE HISTORIC SITE DESIGNATION CRITERIA CONTAINED IN THIS PLAN.~~

HISTORICAL SITE CRITERIA

- ~~A. Historical Significance Property is associated with significant past events, personages, trends or values and has the capacity to evoke one or more of the dominant themes of national or local history.~~

- ~~B. Architectural Significance (Rarity of Type and/or Style). Property is a prime example of a stylistic or structural type, or is representative of a type once common and is among the last examples surviving in the County. Property is a prototype or significant work of an architect, builder or engineer noted in the history of architecture and construction in Multnomah County.~~
- ~~C. Environmental Considerations Current land use surrounding the property contributes to an aura of the historic period, or property defines important space.~~
- ~~D. Physical Integrity Property is essentially as constructed on original site. Sufficient original workmanship and material remain to serve as instruction in period fabrication.~~
- ~~E. Symbolic Value Through public interest, sentiment, uniqueness or other factors, property has come to connote an ideal, institution, political entity or period.~~
- ~~F. Chronology Property was developed early in the relative scale of local history or was an early expression of type/style.~~

STRATEGIES

- A. As a part of the continuing planning program, the County shall:
 - 1. Maintain an inventory of unique natural features in each community and preserve them through the Design Review Process or other appropriate means;
 - 2. Identify the need and appropriate locations for public facilities in each community plan;
 - 3. ~~Develop and maintain a historical preservation process for Multnomah County which includes:~~
 - ~~a. A review of the laws related to historic preservation.~~
 - ~~b. A program for ongoing identification and registration of significant sites, working with area citizens groups, the Oregon Historical Society, the Oregon Natural History Museum, and other historic and archeological associations.~~
 - ~~c. Developing a handbook on historic preservation to assist County staff, area citizen groups, land owners and developers in understanding and using applicable Federal and State programs.~~
 - ~~d. Fostering, through ordinances or other means, the private restoration and maintenance of historic structures for compatible uses and development based on historic values.~~
 - ~~e. Encouraging the installation of appropriate plaques or markers on identified sites and structures.~~
- B. These strategies should be addressed as part of the Community Development Chapter:
 - 1. ~~The Zoning Chapter should:~~
 - ~~a. include an Historic Preservation Overlay District which will provide for the protection of identified historic areas and sites;~~

- ~~b. include conditional use provisions to allow new uses to be established to preserve historic structures and sites;~~
- ~~c. provide for a 120-day delay period for the issuance of a demolition permit or a building permit that substantially alters the historic nature of the site or building. During this period, a review of the permit application, including the impacts and possible means to offset these impacts should be undertaken;~~
- ~~d. on-site density transfer in order to protect historic areas and protect unique features;~~
- e 1. design review approval for all community facilities.
- 3 2. The Street Standards Chapter should provide for special street tree programs for streets which serve as community boundaries.

G. POLICY 39: ~~OPEN SPACE~~ PARKS AND RECREATION PLANNING

INTRODUCTION

~~Open space is defined in broadest terms as all land that supports vegetation rather than structures. It can range from forest or agricultural lands to landscaped areas in parking lots. Recreation refers to spaces and facilities developed for people to use during their leisure time.~~

A basic need of people is to pursue activities in non-work hours which recreate one's mental and physical condition. From children learning to socialize through play, to elderly people being outdoors for a walk or to sit in the sun, recreation plays an important part in the life cycle. The major requisite for outdoor recreation is space within which activities take place. These spaces can be intensively developed parks, natural areas along waterways, vacant lots, or even streets and roads.

The need for providing easily accessible areas for outdoor recreation is increasingly important in metropolitan jurisdictions such as Multnomah County; outdoor recreation can offer an escape from crime, pollution, crowding, a sedentary work life, and other problems associated with urban living. Providing nearby recreational space for leisure time activity is important also in the conservation of non-renewable energy resources and addressing problems related to the currently depressed economy, such as decreased household income. Recreational opportunities provided near residential areas would mean less costs to participants in terms of travel time, gas, etc.

Parks systems are generally developed in a hierarchical system composed of neighborhood, community and regional parks. Within this system are specialized recreation areas ranging from wilderness hiking trails to swimming areas, golf courses, play fields, and tot lots. Multnomah County's park system includes: one historical site, three boat ramps, one campground, two islands in the Columbia River, three regional parks, two community parks, 34 neighborhood parks and four playlots. In addition, three proposed Statewide Oregon Recreation Trails: Portland to the coast, the Columbia River Gorge, and the Sandy River Trails will provide hiking opportunities and scenic and recreational access.

A component of the County's recreation system is the 40-Mile Loop, a network of connecting jogging, hiking, and bicycle paths that encircle Multnomah County.

~~Recreation and open-space~~ **Parks and recreation areas** are provided by both the public and private sectors; however, the major share of the responsibility to develop and maintain parks has historically rested with the public.

While the implementation of ~~an open-space parks~~ and recreation system is primarily a public responsibility, the County has increasingly limited financial resources and, therefore, cannot guarantee such a system.

~~Open-space~~ **Parks** and recreation planning and implementation will require the communities to work with the County and provide direction as to their needs and how those needs can be met. The County has established a Parks Commission to help promote and coordinate neighborhood park development. The duties of this Commission include developing short-term and long-range objectives, strategies, work programs and projects designed to meet the recreation needs of County residents.

The purpose of this policy is to serve as a directive to the County in its park and recreation planning program.

POLICY 39

THE COUNTY'S POLICY IS TO OPERATE ITS ESTABLISHED ~~OPEN SPACE, AND~~ **PARKS AND RECREATION PROGRAM TO THE DEGREE FISCAL RESOURCES PERMIT, AND TO:**

- A. WORK WITH RESIDENTS, COMMUNITY GROUPS AND PARKS COMMISSION TO IDENTIFY RECREATION NEEDS, TO MAINTAIN AND DEVELOP NEIGHBORHOOD PARKS, AND TO IDENTIFY USES FOR UNDER-DEVELOPED PARK LANDS.
- B. WORK WITH FEDERAL, STATE AND LOCAL AGENCIES, COMMUNITY GROUPS AND PRIVATE INTERESTS TO SECURE AVAILABLE FUNDS FOR DEVELOPMENT, MAINTENANCE AND ACQUISITION OF PARK SITES AND RECREATION FACILITIES FOR PARK PURPOSES.
- C. ENCOURAGE THE DEVELOPMENT OF RECREATION OPPORTUNITIES BY OTHER PUBLIC AGENCIES AND PRIVATE ENTITIES;
- ~~D. COORDINATE WITH APPROPRIATE PUBLIC AND PRIVATE AGENCIES AND INDIVIDUALS TO RESOLVE ANY POTENTIAL CONFLICTS WHICH MAY ARISE OVER THE DEVELOPMENT OF OR PROTECTION OF THE OREGON RECREATION TRAILS SYSTEM. IN MULTNOMAH COUNTY, POTENTIAL STATE RECREATION TRAILS INCLUDE THE PORTLAND TO THE COAST TRAIL, THE SANDY RIVER TRAIL, THE COLUMBIA GORGE HIKING TRAIL, THE NORTHWEST OREGON LOOP BICYCLE TRAIL, AND THE 40 MILE LOOP.~~
- E D. IMPLEMENT AND MAINTAIN THAT PORTION OF THE PROPOSED 40 MILE LOOP JOGGING, HIKING, BICYCLING TRAIL SYSTEM WHICH IS IN PUBLIC OWNERSHIP, BY:**
 - 1. REQUIRING DEDICATION OF RIGHTS-OF-WAY/EASEMENTS BY THOSE DEVELOPING PROPERTY ALONG THE PROPOSED 40 MILE LOOP CORRIDOR.
 - 2. COORDINATING WITH THE BICYCLE CORRIDOR CAPITAL IMPROVEMENTS PROGRAM THROUGH EMPHASIS ON DEVELOPMENT OF BIKEWAYS AS CONNECTIONS TO THE SYSTEM.

3. COORDINATING AND ASSISTING OTHER JURISDICTIONS IN STUDIES OF ROUTE ALIGNMENT OF THE 40 MILE LOOP.
4. COORDINATING THE 40 MILE LOOP LAND TRUST STUDIES OF ROUTE ALIGNMENT OF THE 40 MILE LOOP AND DIRECT ASSISTANCE IN ACQUIRING EASEMENTS AND/OR RIGHTS—OF-WAY.
5. ADOPTING TRAIL AND BIKEWAY STANDARDS FOR SEGMENTS OF THE 40 MILE LOOP.

STRATEGIES

- A. As part of the continuing planning program for parks and open space, the County has appointed a County Parks Commission to work in concert with the County to:
 1. Address objectives necessary for the County to meet eligibility criteria for receipt of public and private resources.
 2. ~~Develop a long range master park plan for Multnomah County to be recommended to the Board for adoption~~ Follow the guidelines and directives of the 1984 Multnomah County Neighborhood Park Master Plan in the future maintenance and development of the neighborhood park system.
 3. Raise funds for park purposes as best serves the goals of the Parks Commission, the Parks Master Plan, and the County.
- B. The County should consider the rights and privileges of recreational boaters when evaluating land development proposals.
- C. The continuing planning program should include, in the update of Community Plans, identification of:
 1. specific recreation needs;
 2. plans for developing and maintaining specific park sites; and
 3. implementation strategies.
- D. The County should continue to:
 1. Review all tax foreclosure lands for potential open space or recreational uses.
 2. Coordinate with other agencies and assist in the location of public recreation facilities, including Oregon Recreation Trails in the County.
- E. The Zoning Ordinance should include provisions for privately owned and operated recreational facilities as conditional uses in zones viewed as appropriate by the individual communities.

H. POLICY 40: DEVELOPMENT REQUIREMENTS

INTRODUCTION

While most ~~open-space park~~ and recreation systems involve specific sites, an ideal system is connected by pedestrian and bicycle paths. It is, therefore, important to examine each development proposal for the purpose of determining whether a connection through the site should be provided. In addition, public agencies construct roads and sewer and water systems and often purchase or acquire easements to land. During this process, it is important to determine if there is a multiple use potential.

It is also important to recognize that inclusion of ~~open-spaces parks~~ and landscaped areas in industrial, commercial and multiple family developments is an essential part of the system by providing visual variety and interest to the landscape. These areas can also be used by people as places to rest and relax, and are as important as large recreation areas.

The purpose of this policy is to provide a review process to assure that development proposals will not preclude an interconnected ~~open-space park~~ and recreation system. It is also intended to encourage ~~open-space areas park~~ in large developments where people can sit and enjoy the surroundings.

POLICY 40

THE COUNTY'S POLICY IS TO ENCOURAGE A CONNECTED PARK AND ~~OPEN SPACE~~ RECREATION SYSTEM AND TO PROVIDE FOR SMALL PRIVATE ~~OPEN SPACE~~ RECREATION AREAS BY REQUIRING A FINDING PRIOR TO APPROVAL OF LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

- A. PEDESTRIAN AND BICYCLE PATH CONNECTIONS TO PARKS, ~~OPEN SPACE~~ RECREATION AREAS AND COMMUNITY FACILITIES WILL BE DEDICATED WHERE APPROPRIATE AND WHERE DESIGNATED IN THE BICYCLE CORRIDOR CAPITAL IMPROVEMENTS PROGRAM AND MAP.
- B. LANDSCAPED AREAS WITH BENCHES WILL BE PROVIDED IN COMMERCIAL, INDUSTRIAL AND MULTIPLE FAMILY DEVELOPMENTS, WHERE APPROPRIATE.
- C. AREAS FOR BICYCLE PARKING FACILITIES WILL BE REQUIRED IN DEVELOPMENT PROPOSALS, WHERE APPROPRIATE.

SECTION 3. ADOPTION

ADOPTED THIS _____ day of _____ 1989, being the date of its second reading before the Board of County Commissioners of Multnomah County.

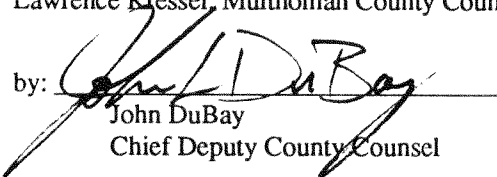
**BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON**

(SEAL)

By _____
Gladys McCoy, County Chair

Reviewed:
Lawrence Kressel, Multnomah County Counsel

by:


John DuBay
Chief Deputy County Counsel

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON**

ORDINANCE NO. ____

An ordinance amending Multnomah County Code Chapter 11.05 to comply with the Periodic Review requirements of the Oregon Department of Land Conservation and Development.

SECTION 1. FINDINGS

The Board of County Commissioners finds that certain amendments of the Multnomah County Code regarding the powers and duties of the Planning Commission are necessary to comply with the Periodic Review requirements of the Oregon Department of Land Conservation and Development.

SECTION 2. AMENDMENT

MCC 11.05 is amended as follows:

Note: Deleted language is bolded and struck thru (~~temporary daytime~~), and new language bolded and enlarged (**is distinguished**).

11.05.120(A)

(A) If the Commission determines that a proposed plan revision or zoning map amendment requested in connection with a required plan revision entails a change of policy, **or the application of policy to a broad class of properties in a uniform manner**, the proposal shall be considered a legislative plan revision or legislative zoning map amendment.

(B) Quasi-judicial zoning map amendments shall be considered by the Commission and Board as action proceedings in accordance with ~~subsections 12.20-12.37.5 of Ordinance No. 100 as amended~~, MCC 11.15.8205-.8295.

MCC 11.05.180 Standards for plan and revisions.

A plan adopted or revised under this chapter shall comply with ORS ~~197.755~~ 197.175(2)(a), 197.610-.625, and 197.732 if a goal exception is required, including any OAR's adopted pursuant to these statutes.

MCC 11.05.290

~~(1) Consistent with the standards in MCC 11.05.180~~

~~(2) In the public interest; and (3) In compliance with the applicable elements of the comprehensive plan.~~

(1) Consistent with the procedures of ORS 197.610-.625 and the standards of ORS 197.732 if a goal exception is required, including any OAR's adopted pursuant to these statutes.

- (2) Evidence that the proposal conforms to the intent of relevant policies in the Comprehensive Plan or that the Plan policies do not apply. In the case of a land use Plan map amendment for a commercial, industrial, or public designation, evidence must also be presented that the plan does not provide adequate areas in appropriate locations for the proposed use; and
- (3) Evidence that the uses allowed by the proposed change will 1) not destabilize the land use pattern in the vicinity, 2) not conflict with existing or planned uses on adjacent lands, and 3) that necessary public services are or will be available to serve allowed uses.

SECTION 3. ADOPTION

ADOPTED THIS _____ day of _____ 1989, being the date of its second reading before the Board of County Commissioners of Multnomah County.

**BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON**

(SEAL)

By _____
Gladys McCoy, County Chair

Reviewed:
Lawrence Kressel, Multnomah County Counsel

by: _____

John DuBay
Chief Deputy County Counsel

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON**

ORDINANCE NO. ____

An ordinance amending Multnomah County Code Chapter 11.15 and selected Sectional Zoning Maps to comply with the Periodic Review requirements of the Oregon Department of Land Conservation and Development.

SECTION 1. FINDINGS

The Board of County Commissioners finds that certain amendments of the Multnomah County Zoning Code are necessary to comply with the Periodic Review requirements of the Oregon Department of Land Conservation and Development.

SECTION 2. AMENDMENT

MCC 11.15 is amended as follows:

Note: Deleted language is bolded and struck thru (~~temporary daytime~~), and new language bolded and enlarged(**is distinguished**).

A. Definitions are amended, added to, or deleted in MCC 11.15.0010 as follows:

Applicant – The record owner or owners of a unit, area or tract of land proposing land development activities covered by this Chapter and includes the authorized representative of the record owner or owners.

Building Permit – A permit required pursuant to Multnomah County Code 11.15.8210(A), certifying compliance with all applicable building regulations.

Day Nursery – A facility for the provision of ~~temporary daytime~~ care **during a portion of a 24-hour day** for five or more children not related to nor the wards of the attending adult. A **Day Nursery with 12 or fewer children is distinguished from Family Day Care** either by:

- (1) Location in a non-residential structure; or
- (2) Provision of care by someone other than a resident of the home.

Family Day Care – A residence where 12 or fewer children are provided care during a portion of a 24-hour day by an adult residing within said residence. Minor children of the provider shall be included in the 12-child limit if also cared for in the home.

Development – Any act requiring a permit stipulated by Multnomah County Ordinances as a prerequisite to the use or improvement of any land, including a building, land use, occupancy, sewer connection or other similar permit, and any associated grading or vegetative.

Group Care Facility – ~~A building or portion thereof, housing six or more persons of any age who are not members of the provider's family and residential staff used for the following purposes:~~

- ~~(a) Residential Care Facility — A building or part thereof, which may provide 24 hour supervision used for the lodging and care of six or more ambulatory persons who may be either handicapped to a degree that makes total self dependence either impossible or undesirable, but who possess sufficient facilities to recognize an emergency situation and to react immediately and positively to attain self preservation.~~
- ~~(b) Residential Treatment Facility — A building or part thereof, operated with 24 hour supervision for the purpose of providing care and planned treatment or planned training to six (6) or more persons who by reason of their circumstance, condition, or placement require such care and planned training or treatment while living as a single housekeeping unit in a dwelling unit.~~
- ~~(c) Child Care Facility — A building or part thereof, providing temporary care of children where the ratio of supervision is less than 1:10 or staff members are allowed to sleep.~~
- ~~(d) Adult Care Home — Any building or part thereof, where one or more frail elderly, mentally handicapped or physically handicapped, or dependent persons over 18, unrelated to the provider, receive room and board for compensation. Providers of these services in the County are required to register as an Adult Care Home with the Multnomah County Department of Human Resources pursuant to Chapter 8.90 of Title 8 of the Multnomah County Code, (8.90.005 — 8.90.260) unless licensed as a Residential Care Facility by the State of Oregon.~~

~~Care means services such as supervision, protection, assistance while bathing, dressing, grooming or eating, management of money, transportation, recreation and simple training of self help skills or assistance with major life activities and the provision of room and board.~~

~~Planned Treatment means a systematic and/or individualized program of counseling, therapy, or other rehabilitative procedures or activities provided for a group of persons of similar or compatible circumstances or conditions. A planned treatment program which requires regular on premise physician's or nurse's care shall not be allowed.~~

~~Planned Training means a pre determined sequence off systematic interactions, activities, or structured learning situations, designed to meet such residents' specified needs in the areas of physical, social, emotional, and intellectual growth.~~

~~A Care and Treatment Facility which requires regular on premises physician's or nurse's care shall not be allowed. Care and treatment facilities in the County where one or more frail elderly, mentally or physically handicapped, or dependent persons over 18, unrelated to the provider, receive room and board for compensation, are required to register as an Adult Care Home with Multnomah County Department of Human Services pursuant to Chapter 8.90 of Title 8 of the Multnomah County Code (8.90.005 — 8.90.260) unless licensed as a Residential Care Facility by the State of Oregon.~~

A building or buildings on contiguous property used to house six or more handicapped or socially dependent persons. This definition includes the definitions of Residential Care Facility, Residential Training Facility, and Residential Treatment Facility contained in ORS 443.400(5), (7) and (9).

Mobile Home — A structure transportable in one or more sections, each built on a permanent chassis, and which is designed to be used for permanent occupancy as a dwelling, including a *Manufactured Home* as defined in ORS 446.003(17)(c).

Wetlands — Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil

conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

B. Subsections of the EFU – Exclusive Farm Use District are amended, added to, or deleted as follows:

11.15.2008 Primary Uses

(A) Farm use, as defined in ORS 215.203(2)(a) ~~for the following purposes only:~~

~~(1) Raising and harvesting of crops;~~

~~(2) Feeding, breeding, managing and selling livestock;~~

~~(3) Dairying; or~~

~~(4) Any other agricultural or horticultural purpose or animal husbandry purpose or any combination thereof,~~

except as provided in MCC .2012(B).

(B) The propagation or harvesting of forest products.

(C) ~~Residential use in conjunction with farm use, consisting of a single family dwelling constructed on a lot of 76 acres or more on Sauvie Island or 38 acres or more elsewhere in the EFU district.~~ Thermal Energy Power Plants, when sited by the Energy Facility Siting Council as authorized under ORS 469.300 to 469.570, 469.590 to 469.621 and 469.930.

(D) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(E) Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of buildings will occur, or no new land parcels result.

(F) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

(G) Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

(H) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a historic property inventory as defined in ORS 358.480.

(I) A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings necessary for its operation.

11.15.2010 Uses Permitted Under Prescribed Conditions

(A) ~~Residential use in conjunction with farm use, consisting of a single family dwelling constructed off site, including a mobile or modular home, subject to the following conditions~~ A residence, including a mobile or modular home, customarily provided in conjunction with an existing use as provided in MCC .2008(A), subject to the

following:

- (1) ~~Construction shall comply with the standards of the Building Code or as prescribed under ORS 446.002 through 446.200, relating to mobile homes.~~ Located on a Lot of Record as described in MCC .2018, or
- (2) ~~The dwelling shall be attached to a foundation for which a building permit has been obtained.~~ Located on a lot created under MCC 11.45, Land Divisions, after August 14, 1980, with a lot size not less than 76 acres on Sauvie Island or 38 acres elsewhere in the EFU district; and
- (3) ~~The dwelling shall have a minimum floor area of 600 square feet.~~ If a mobile or modular home:
 - (a) Construction shall comply with the standards of the Building Code or as prescribed under ORS 446.002 through 446.200, relating to mobile homes.
 - (b) The dwelling shall be attached to a foundation for which a building permit has been obtained.
 - (c) The dwelling shall have a minimum floor area of 600 square feet.
- (4) Demonstration by the applicant that the dwelling is appropriate, accessory, and necessary for the realization of a farm management program as described in subsection (5) below. The record shall include a finding of material improvement in the potential productivity resulting from and dependent upon the existence of the dwelling. That finding shall be based upon factual information, certified by an agency, firm or individual who is recognized, or demonstrates qualifications, as an expert in the proposed area of agricultural production.
- (5) Conducted according to a farm management plan containing the following elements:
 - (a) A written description of a proposed five-year development and management plan which describes the cropping or livestock pattern by type, location and area size and which may include forestry as an incidental use;
 - (b) Soil test or Soil Conservation Service OR-1 soils field sheet data which demonstrate the land suitability for each proposed crop or pasturage use;
 - (c) Certification by the Oregon State University Extension Service, or by person or group having similar agricultural expertise, that the production acreage and the farm management plan are appropriate for the continuation of the existing commercial agricultural enterprise within the area. For the purposes of this Chapter *appropriate for the continuation of the existing commercial agricultural enterprise within the area* means:
 - (i) That the farm use and production acreage are similar to the existing commercial farm uses and production acreages in the vicinity, or
 - (ii) In the event the farm use is different that the existing farm uses in the vicinity, that the production acreage and the farm management plan are reasonably designed to promote agricultural utilization of the land equal to or greater than that in the vicinity. *Agricultural utilization*

means an intended profit-making commercial enterprise which will employ accepted farming practices to produce agricultural products for entry into conventional agricultural markets.

- (d) A description of the primary uses on nearby properties, including lot size, topography, soil types, management practices and supporting services, and a statement of the ways the proposal will be compatible with them.
- (6) The Planning Director shall make findings and a tentative decision within ten business days of the application filing. Notice of the findings and decision and information describing the appeals process shall be mailed by first class mail to the applicant and to the record owners of all property within 500 feet of the property proposed for the use.
- (7) The tentative decision shall be final at the close of business on the tenth calendar day after notice is mailed, unless the applicant or a person entitled to mailed notice or a person substantially affected by the application files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295, except that subsection MCC .8295(C) shall apply only to a notice of appeal filed by the applicant. The persons entitled to notice under subsection (6) of this section shall be given the same notice of the appeal hearing as is given the applicant.
- (B) Residential use consisting of a ~~single family dwelling~~ mobile or modular home for the housing of help required to carry out a farm use when the ~~dwelling~~ residence occupies the same lot as a residence permitted by MCC ~~.2008(C) or .2010(A)~~, subject to the following conditions:
- (1) ~~In the event the dwelling is constructed off site, construction shall comply with MCC .2010(A)(1) and (3).~~ The lot is at least 76 acres, if on Sauvie Island, or 38 acres if located elsewhere in the EFU district;
- (2) The location of the dwelling shall be subject to approval of the Planning Director on a finding that:
- (a) ~~The use is needed to carry out a use listed in MCC .2008(A) or (B).~~ The residence satisfies the requirements of MCC .2010(A)(4)
- (b) The standards of MCC .2016 (C) are satisfied; and
- (c) The minimum distance between dwellings will be 20 feet.
- (3) The decision of the Director shall be made in accordance with MCC .2010(A)(6) and (7) ~~may be appealed to the Hearings Officer pursuant to MCC .8290 and .8295.~~
- (C) ~~A farm use or a residence in conjunction with a farm use as listed in MCC .2008(A) or (C) or MCC .2010(A) under conditions 1 through 3 thereof, subject to the following~~ A single family dwelling on a Lot of Record used for farm use if the dwelling is:
- (1) ~~Located on a Lot of Record of less than 76 acres on Sauvie Island or 38 acres elsewhere in the EFU districts, or~~ Located on the same Lot of Record as the dwelling of the farm operator; and
- (2) ~~Located on a lot created under MCC 11.45, Land Divisions, after August 14, 1980, with a lot size less than 76 acres, but not less than 38 acres on Sauvie Island or less than 38 acres, but not less than 19 acres elsewhere in the EFU district; and~~ Occupied by a relative, which means grandparent, grandchild, parent, child,

brother or sister of the farm operator or the farm operator's spouse, whose assistance in the management of the farm is or will be required by the farm operator.

~~(3) Conducted according to a farm management plan containing the following elements:~~

~~(a) A written description of a five year development and management plan which describes the proposed cropping or livestock pattern by type, location and area size and which may include forestry as an incidental use;~~

~~(b) Soil test or Soil Conservation Service OR 1 soils field sheet data which demonstrate the land suitability for each proposed crop or pasturage use;~~

~~(c) Certification by the Oregon State University Extension Service, or by person or group having similar agricultural expertise, that the production acreage and the farm management plan are appropriate for the continuation of the existing commercial agricultural enterprise within the area. For the purposes of this Chapter "appropriate for the continuation of the existing commercial agricultural enterprise within the area" means:~~

~~(i) That the proposed farm use and production acreage are similar to the existing commercial farm uses and production acreages in the vicinity, or~~

~~(ii) In the event the proposed farm use is different that the existing farm uses in the vicinity, that the production acreage and the farm management plan are reasonably designed to promote agricultural utilization of the land equal to or greater than that in the vicinity. "Agricultural utilization" means an intended profit making commercial enterprise which will employ accepted farming practices to produce agricultural products for entry into conventional agricultural markets.~~

~~(d) A description of the primary uses on nearby properties, including lot size, topography, soil types, management practices and supporting services, and a statement of the ways the proposal will be compatible with them.~~

~~(e) Exception: A written description of the farm management program on that parcel as a separate management unit for the preceding five years may be substituted for subsections (a), (b) and (c) above.~~

~~(4) The Planning Director shall make findings and a tentative decision within ten business days of the application filing. Notice of the findings and decision and information describing the appeals process shall be mailed by first class mail to the applicant and to the record owners of all property within 500 feet of the property proposed for the use.~~

~~(5) The tentative decision shall be final at the close of business on the tenth calendar day after notice is mailed, unless the applicant or a person entitled to mailed notice or a person substantially affected by the application files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295, except that subsection MCC .8295(C) shall apply only to a notice of appeal filed by the applicant. The persons entitled to notice under subsection (4) of this section shall be given the same notice of the appeal hearing as is given the applicant.~~

11.15.2012 Conditional Uses.

(A) The following uses may be permitted when approved by the Hearings Officer pursuant to the

provisions of MCC .7005 to .7030:

- (1) Public or private schools;
 - (2) Churches;
 - (3) Utility facilities ~~including those for the purpose of generating power for public use by sale~~ necessary for public service, including transmission towers over 200 feet in height, except commercial facilities for the purpose of generating power for public use by sale;
 - (4) Operations for the exploration of geothermal resources as defined in ORS 522.005;
 - (5) Private parks, playgrounds, hunting and fishing preserves and campgrounds;
 - (6) Parks, playgrounds, or community centers owned and operated by a governmental agency or non-profit community organization; and
 - (7) Golf courses.
 - (8) A site for the disposal of solid waste for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.
 - (9) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.
 - (10) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
 - (11) Improvement of public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.
- (B) The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC .7105 to .7865:
- (1) Commercial activities that are in conjunction with farm uses;
 - (2) Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005 or exploration, mining and processing of aggregate and other mineral resources or other subsurface resources;
 - (3) Residential use not in conjunction with farm use, consisting of a single family dwelling, including a mobile or modular home. The lot shall be a Lot of Record under MCC .2018, or ~~, if otherwise below the minimum lot size, be have been created divided~~ under the applicable provisions of MCC 11.45, Land Divisions. The Hearings Officer shall find that a dwelling on the lot as proposed:
 - (a) Is compatible with farm uses described in paragraph (A) of subsection (2) of ORS 215.203 and is consistent with the intent and purposes set forth in ORS 215.243;
 - (b) Does not interfere seriously with accepted farming practices, as defined in paragraph (c) of subsection (2) of ORS 215.203, on adjacent lands devoted to farm use;
 - (c) Does not materially alter the stability of the overall land use pattern of the area;

- (d) Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract;
- (e) Complies with subparts ~~(1)(a)~~, ~~(2)(b)~~ and ~~(3)(c)~~ of MCC .2010(A)(3) if constructed off-site;
- (f) Complies with such other conditions as the Hearings Officer considers necessary to satisfy the purposes of MCC .2002;
- (g) Construction shall comply with the standards to the Building Code or as prescribed under ORS 446.002 through 446.200, relating to mobile homes;
- (h) The dwelling shall be attached to a foundation for which a building permit has been obtained; and
- (i) The dwelling shall have a minimum floor area of 600 square feet.
- (j) **The owner shall record with the Division of Records and Elections a statement that the owner and successors in interest acknowledge the rights of nearby property owners to conduct accepted farming and forestry practices.**
- (k) **The applicant shall provide evidence that all additional taxes and penalties, if any, have been paid if the property has been receiving special assessment as described in ORS 215.236(2). In the alternative, the Approval Authority may attach conditions to any approval to insure compliance with this provision.**
- ~~(4) Raising any type of fowl, or processing the by products thereof, for sale at wholesale or retail;~~
- ~~(5) Feed Lots;~~
- ~~(6) Raising of four or more swine over three months of age;~~
- ~~(7) Raising of fur bearing animals for sale at wholesale or retail;~~
- ~~(8)~~ 4) Home occupations pursuant to provisions of ORS 215.213(2)(h);
- ~~(9)~~ 5) Facilities for the primary processing of forest products, pursuant to ORS 215.213(2)(i); and
- ~~(10)~~ 6) **The breeding, boarding and training of horses for profit.**
- ~~(11)~~ 7) Mortgage Lot: Residential use consisting of single family dwelling in conjunction with a primary use listed in MCC .2008(A) located on a mortgage lot created after August 14, 1980, subject to the following:
 - (a) The minimum lot size for the mortgage lot shall be two acres;
 - (b) Except as may otherwise be provided by law, a mortgage lot shall not be conveyed as a zoning lot separate from the tract out of which it was created or such portion of the tract as conforms with the dimensional requirements of the Zoning Ordinance then in effect. The purchaser of a mortgage lot shall record a statement referring to this limitation in the Deed Records pertaining to said lot.

- (c) No permit shall be issued for improvement of a mortgage lot unless the contract seller of the tract out of which the mortgage lot is to be created and the mortgagee of said mortgage lot have agreed in writing to the creation of the mortgage lot.

(12 8) Homestead Lot: The purpose of this provision is to encourage the retention of agricultural lands in large parcels, while providing the opportunity for residents who are no longer able or who no longer desire to farm the land to retain their homes and sell the balance of the property. *Homestead Lot* means a lot of from two to five acres depending upon the conditions of soil, topography or other circumstances which govern parcel size on which the existing dwelling shall have been the principal farm dwelling for at least ten years prior to August 14, 1980. The Hearings Officer may approve a homestead lot division as a non-farm use, provided that all of the following area satisfied:

- (a) The remainder of the parcel shall satisfy the lot size and other requirements of this district for farm use;
- (b) Not more than one homestead lot may be divided from a Lot of Record;
- (c) The owner of the parcel from which the homestead lot was divided shall have the first right of refusal to purchase the homestead lot;
- (d) The dwelling is compatible with farm uses described in paragraph (a) of subsection (2) of ORS 215.203 and is consistent with the intent and purposes set forth in ORS 215.243;
- (e) The dwelling does not interfere seriously with accepted farming practices, as defined in paragraph (c) of subsection (2) of ORS 215.203 on adjacent lands devoted to farm use;
- (f) The dwelling does not materially alter the stability of the overall land use pattern of the area; and
- (g) The dwelling is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.

(13 9) The propagation, cultivation, maintenance and harvesting of aquatic species.

(14 10) Personal use airports, as defined in ORS 215.283(g).

(15 11) Dog Kennels.

(12) Residential homes for handicapped persons, as those terms are defined in ORS 443.580, in existing dwellings.

11.15.2014 Accessory Uses.

The uses or structures incidental and accessory to the uses permitted under MCC .2008 through .2012 are:

- (A) Structures such as garages, carports, studios, pergolas, private workshops, **barns, loafing sheds**, storage buildings, greenhouses or similar structures, whether attached or detached, when in accordance with the yard requirements of this district;
- (B) Structures or fenced runs for the shelter or confinement of poultry or livestock;
- (C) Signs, pursuant to the provisions of MCC .2024;

- (D) Off-street parking and loading; and
- (E) Other structures or uses customarily incidental to any use permitted or approved in this district.
- (F) **A mobile home on a Health Hardship pursuant to the provisions of MCC .8710.**

11.15.2016 Dimensional Requirements.

- (A) Except as provided in MCC .2010(C), .2012(B)(3), **.2017**, .2018 and .2020, the minimum lot size shall be 76 acres on Sauvie Island and 38 acres elsewhere in the EFU district.
- (B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the size of such lot.

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

- (D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by Ordinance.
- (E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.
- (F) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated “2A”, “3A”, or “3C” in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
 - (1) **To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

11.15.2017 Lot Line Adjustment

- (A) **The Planning Director may approve an adjustment of the common lot line between contiguous Lots of Record based on a finding that:**
 - (1) **The permitted number of dwellings will not thereby be increased above that otherwise allowed in this district;**
 - (2) **The resulting lot configuration is at least as appropriate for the continuation of the existing commercial agricultural enterprise in the area as the lot configuration prior to adjustment; and**
 - (3) **Neither of the properties is developed with a dwelling approved under the**

provisions of MCC .2010(B) or (C), or .2014(F).

The decision of the Planning Director may be appealed to the approval authority pursuant to MCC .8290 and .8295.

11.15.2018 Lot of Record.

(A) For the purposes of this district, a Lot of Record is ~~a parcel of land~~:

(1) ~~For which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form, prior to August 14, 1980; and~~ A parcel of land:

(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to August 14, 1980;

(b) Which satisfied all applicable laws when the parcel was created; and

(c) Which satisfies the minimum lot size requirements of MCC .2016, or

(2) ~~Which, when established, satisfied all applicable laws.~~ A parcel of land:

(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to (— adoption date —);

(b) Which satisfied all applicable laws when the parcel was created;

(c) Does not meet the minimum lot size requirements of MCC .2016; and

(d) Which is not contiguous to another substandard parcel or parcels under the same ownership, or

(3) A group of contiguous parcels of land:

(a) For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to (— adoption date —);

(b) Which satisfied all applicable laws when the parcels were created;

(c) Which individually do not meet the minimum lot size requirements of MCC .2016, but, when considered in combination, comply as nearly as possible with a minimum lot size of nineteen acres, without creating any new lot line; and

(d) Which are held under the same ownership.

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

- ~~(1) Parcels of land which are contiguous and in which greater than possessory interests are held by the same person, partnership or business entity, shall be aggregated to comply as nearly as possible with the area or front lot line minimum of this district. The word contiguous shall refer to parcels of land which have any common boundary and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way.~~
- ~~(2) Nothing in this subpart shall be deemed to alter or amend the other provisions of this Chapter.~~

For the purposes of this subsection:

- (1) *Contiguous* refers to parcels of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way;
- (2) *Substandard Parcel* refers to a parcel which does not satisfy the minimum lot size requirements of MCC .2016; and
- (3) *Same Ownership* refers to parcels in which greater than possessory interests are held by the same person or persons, spouse, minor age child, single partnership or business entity, separately or in tenancy in common.
- (C) A Lot of Record which has less than the front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.

11.15.2030 Right To Complete Single Family Dwelling.

A single family dwelling, uncompleted prior to ~~August 14, 1980~~ (— *adoption date* —), but which meets the tests stated in this subsection, may be completed although not listed as a primary use in this district.

- (A) Actual construction shall have commenced prior to ~~August 14, 1980~~ (— *adoption date* —), under a sanitation, building or other development permit applicable to the lot. *Actual construction* means:
- (1) Placement of construction materials in a permanent position;
 - (2) Site excavation or grading;
 - (3) Demolition or removal of an existing structure;
 - (4) The value of purchased building materials; or
 - (5) Installation of water, sanitation or power systems.
- (B) Actual construction shall not include:
- (1) The cost of plan preparation; or
 - (2) The value of the land.
- (C) The value of actual construction commenced prior to ~~August 14, 1980~~ (— *adoption date* —)

shall be \$1,000 or more, for each \$20,000 of the total estimated value of the proposed improvements as calculated under the Uniform Building Code.

C. Subsections of the CFU – Commercial Use District are amended, added to, or deleted as follows:

11.15.2050 Uses Permitted Under Prescribed Conditions

(A) Residential use in conjunction with a primary use listed in MCC .2048 including a mobile or modular home, subject to the following:

- (1) The lot size shall meet the standards of MCC .2058(A), or MCC .2062(A) and (B), but shall not be less than ten acres;
- (2) A resource management program for at least 75% of the productive land of the lot, as described in subsection MCC .2052(C)(2)(a), consisting of:
 - (a) A forest management plan certified by the Oregon State Department of Forestry, the Oregon State University Extension Service, or by a person or group having similar forestry expertise, that the lot and the plan are physically and economically suited to the primary forest or wood processing use;
 - (b) A farm management plan certified by the Oregon State University Extension Service, or by a person or group having similar agricultural expertise, that the lot and the plan are physically and economically suited to the primary purpose of obtaining a profit in money, considering accepted farming practice;
 - (c) A resource management plan for a primary use listed in MCC .2048, based upon income, investment or similar records of the management of that resource on that property as a separate management unit for at least two of the preceding three years;
 - (d) A fish, wildlife or other natural resource conservation management plan, certified by the Oregon State Fish and Wildlife Department or by a person or group having similar resource conservation expertise, to be suited to the lot and to nearby uses;
 - (e) A small tract timber option under ORS Chapter 321.705, a Western Oregon Forest Land designation under ORS 321.257, or participation in a current forestry improvement program of the U.S. Agricultural Stabilization and Conservation Service; or
 - (f) A cooperative or lease agreement with a commercial timber company or other person or group engaged in commercial timber operations, for the timber management of at least 75% of the productive timberland of the property. Productive timberland is that portion of the property capable of growing 50 cubic feet/acre/year.
- (3) The dwelling will not require public services beyond those existing or programmed for the area;
- (4) The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices;
- (5) The residential use development standards of MCC .2074.

~~(B) Residential use, consisting of a single family dwelling for the housing of help required to carry out a primary use listed in MCC .2048(C) or (D) when the dwelling occupies the same~~

~~lot as a residence permitted by MCC .2050(A), subject to the residential use development standards under MCC .2074;~~

- (C B) Wholesale or retail sales of farm or forest products raised or grown on the premises or in the vicinity, subject to the following condition:

The location and design of any building, stand or sign in conjunction with wholesale and retail sales shall be subject to approval of the Planning Director on a finding that the location and design are compatible with the character of the area, provided that the decision of the Director may be appealed to the approval authority pursuant to MCC .8290 and .8295.

11.15.2062 Lot of Record

- (A) For the purposes of this district, a Lot of Record is ~~a parcel of land:~~

- (1) ~~For which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form, prior to August 14, 1980; and~~ A parcel of land:

(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to August 14, 1980;

(b) Which satisfied all applicable laws when the parcel was created; and

(c) Which satisfies the minimum lot size requirements of MCC .2058, or

- (2) ~~Which, when established, satisfied all applicable laws.~~ A parcel of land:

(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to (— adoption date —);

(b) Which satisfied all applicable laws when the parcel was created;

(c) Does not meet the minimum lot size requirements of MCC .2058; and

(d) Which is not contiguous to another substandard parcel or parcels under the same ownership, or

- (3) A group of contiguous parcels of land:

(a) For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to (— adoption date —);

(b) Which satisfied all applicable laws when the parcels were created;

(c) Which individually do not meet the minimum lot size requirements of MCC .2058, but, when considered in combination, comply as nearly as possible with a minimum lot size of nineteen acres, without creating any new lot line; and

(d) Which are held under the same ownership.

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

~~(1) Parcels of land which are contiguous and in which greater than possessory interests are held by the same person, partnership or business entity, shall be aggregated to comply as nearly as possible with the area or front lot line minimum of this district. The word contiguous shall refer to parcels of land which have any common boundary and shall include, but not be limited to, parcels separated only by an alley, street or other right of way.~~

~~(2) Nothing in this subpart shall be deemed to alter or amend the other provisions of this Chapter.~~

For the purposes of this subsection:

(1) *Contiguous* refers to parcels of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way;

(2) *Substandard Parcel* refers to a parcel which does not satisfy the minimum lot size requirements of MCC .2058; and

(3) *Same Ownership* refers to parcels in which greater than possessory interests are held by the same person or persons, spouse, minor age child, single partnership or business entity, separately or in tenancy in common.

- (C) ~~Except as otherwise provided by MCC .2060, .2062(B) and .2064, no sale or conveyance of any portion of a lot, other than for a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot with less than the size or width requirements of this district~~ A Lot of Record which has less than the front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.

D. Subsections of the F-2 – Agricultural District are amended, added to, or deleted as follows:

11.15.2096 Dimensional Requirements

Except as provided in MCC .2090(B), .2098, .7720 and .2100, the minimum lot size for a single family dwelling shall be as follows:

- (A) For agricultural lands as defined in MCC .0010: 20 acres;
- (B) For forest lands as defined in MCC .0010: 38 acres;
- (C) For nonagricultural and nonforest lands, the minimum lot size for a single family dwelling shall be the product of a base lot size of two acres multiplied by each of the multiplies according to the area or lot characteristics in the following table:

Area or Lot Characteristic	Multiplier
Urbanizable Area	1
Rural Area	2
County Road Frontage	1
No access to County Road within 500 feet of the portion of the lot on which a dwelling could be constructed under this Ordinance	2
Public Water Supply	1
Private Water Supply	2
Soil limitations for residential use:	
Slight	1
Moderate	2
Severe—See Subpart (E) of this subsection.	

- (D) Except as required in an approval of a rural planned development pursuant to MCC .7720, no lot size need exceed eight acres.

Example of minimum lot size calculation

Base Size	Rural Area	County Road	Public Water	Moderate Soil	Minimum Size
2 ac.	x 2	x 1	x 1	x 2	= 8 ac.

- (E) A property having soil of severe limitation for residential development may only be developed with a single family dwelling on approval of a rural planned development pursuant to MCC .7720.
- (F) For the purposes of subparts (E) and (F) of this subsection only, the following definitions apply:
- (1) *Urbanizable Area* means all land zoned F-2, located east of the Willamette River or Multnomah Channel and west of the Sandy River.
 - (2) *Rural Area* means land zoned F-2 located west of the Willamette River or Multnomah Channel and east of the Sandy River.
 - (3) *Soil suitability for residential use* shall be determined according to the descriptions of suitability of soils for dwellings without basements in Table 2, *General Soil Map with Soil Interpretations for Land Use Planning - Multnomah County, Oregon* Soil Conservation Service and Oregon Agricultural Experiment Station, August, 1974.
- (G) Minimum Yard Dimensions - Feet
- | | | | |
|-------|------|-------------|------|
| Front | Side | Street Side | Rear |
| 30 | 10 | 30 | 30 |
- Maximum Structure Height – 35 feet
- Minimum Front Lot Line Length – 50 feet.
- (H) Structures or portions thereof, such as barns, silos, windmills, antennae, or chimneys are exempt from the height restrictions if located at least 30 feet from any property line.
- (I) The minimum front yard, side yard or setback requirements as provided in subparts (G) and (H)

of this subsection, shall be increased where the Hearings Officer determines that a yard or setback abuts a street having insufficient right-of-way width to serve the area. The Hearings Officer shall determine the necessary right-of-way widths and the additional yard or setback requirements not otherwise established by ordinance.

- (J) Except as otherwise provided by MCC .2098, .2100, and .7720, no sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than minimum lot, yard or setback requirements or result in a lot of less than the size or width requirements of this district.
- (K) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
 - (1) **To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
 - (2) **To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

E Subsections of the MUA – Multiple Use Agriculture District are amended, added to, or deleted as follows:

11.15.2132 Conditional Uses

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

- (A) Community Service Uses pursuant to the provisions of MCC .7005 through .7041;
- (B) The following Conditional Uses pursuant to the provisions of MCC .7105 through .7640:
 - (1) Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005; or exploration, mining and processing of aggregate and other mineral or subsurface resources;
 - (2) Commercial processing of agricultural products primarily raised or grown in the region;
 - (3) Raising any type of fowl or processing the by-products thereof for sale at wholesale or retail;
 - (4) Feed lots;
 - (5) Raising of four or more swine over four months of age;
 - (6) Raising of fur bearing animals for sale at wholesale or retail;
 - (7) Commercial dog kennels; and

- (8) Commercial processing of forest products primarily grown in the region.
- (9) Houseboats and Houseboat Moorages.
- (C) The following Conditional Uses may be permitted on lands not predominantly of Agricultural Capability Class I, II or III soils:
 - (1) ~~Rural p~~Planned developments for single-family residences, as provided in MCC ~~.7705 through .7760~~.6200 through .6226;
 - (2) Pursuant to the provisions of MCC .7105 through .7640:
 - (a) Cottage industries,
 - (b) Limited rural service commercial uses such as local stores, shops, offices, repair services and similar uses, and
 - (c) Tourist commercial uses such as restaurants, gas stations, motels, guest ranches and similar uses.

11.15.2134 Accessory Uses

- (A) Signs, pursuant to the provisions of MCC 11.15.7902-.7982.]
- (B) Off-street parking and loading;
- (C) Home occupations; and
- (D) Other structures or uses customarily accessory or incidental to any use permitted or approved in this district-; **and**
- (E) Family Day Care.**

11.15.2138 Dimensional Requirements

- (A) Except as provided in MCC .2140, .2142, .2144 and .7629, the minimum lot size shall be 20 acres.
- (B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.
- (C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.
- (D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.
- (E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.

(F) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:

- (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
- (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

F. Subsections of the MUF – Multiple Use Forest District are amended, added to, or deleted as follows:

11.15.2170 Uses Permitted Under Prescribed Conditions

(A) Residential use, in conjunction with a primary use listed in MCC .2168, consisting of a single-family dwelling, including a mobile or modular home, subject to the following:

- (1) The lot size shall meet the standards of MCC .2178(A) or MCC .2182(A) to (C), but shall not be less than ten acres.**
- (2) A resource management program for at least 75% of the productive land of the lot, as described in MCC .2172(D)(2)(a) consisting of:**
 - (a) A forest management plan certified by the Oregon State Department of Forestry, the Oregon State University Extension Service, or by a person or group having similar forestry expertise, that the lot and the plan are physically and economically suited to the primary forest or wood processing use;**
 - (b) A farm management plan certified by the Oregon State University Extension Service, or by a person or group having similar agricultural expertise, that the lot and the plan are physically and economically suited to the primary purpose of obtaining a profit in money, considering accepted farming practice;**
 - (c) A resource management plan for a primary use listed in MCC .2168, based upon income, investment or similar records of the management of that resource on the property as a separate management unit for at least two of the preceding three years;**
 - (d) A fish, wildlife or other natural resource conservation management plan certified by the Oregon State Fish and Wildlife Department or by a person or group having similar resource conservation expertise, to be suited to the lot and to nearby uses;**
 - (e) A small tract timber option under ORS Chapter 321.705, a Western Oregon Forest Land designation under ORS Chapter 321.257, a Reforestation deferral under ORS Chapter 321.257, or participation in a current forestry improvement program of the U.S. Agricultural Stabilization and Conservation Service; or**
 - (f) A cooperative or lease agreement with a commercial timber company, or other person or group engaged in commercial timber operations, for the timber management of at**

least 75% of the productive timberland of the property. Productive timberland is that portion of the property capable of growing 50 cubic feet/acre/year.

- (3) The dwelling will not require public services beyond those existing or programmed for the area;
- (4) The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices; and
- (5) The residential use development standards of MCC .2194.

~~(B) Residential use consisting of a single family dwelling, for the housing of help required to carry out a primary use listed in MCC .2168(C) or (D), when the dwelling occupies the same lot as a residence permitted by MCC .2170(A), subject to the residential use development standards under MCC .2194.~~

- (C B) Wholesale or retail sales of farm or forest products raised or grown on the premises or in the immediate vicinity, subject to the following condition:

The location and design of any building, stand or sign in conjunction with wholesale or retail sales shall be subject to approval of the Planning Director on a finding that the location and design are compatible with the character of the area; provided that the decision of the Director may be appealed to the Hearings Officer pursuant to MCC .8290 and .8295.

11.15.2172 Conditional Uses

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

- (A) Community Service Uses pursuant to the provisions of MCC .7005 through .7041.
- (B) The following Conditional Uses pursuant to the provisions of MCC .7105 through .7640:
 - (1) Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005 or exploration, mining and processing of aggregate and other mineral or subsurface resources;
 - (2) Commercial processing of forest products, primarily grown in the region, other than as specified in MCC .2168(B);
 - (3) Raising any type of fowl, or processing the by-products thereof, for sale at wholesale or retail;
 - (4) Feed lots;
 - (5) Raising of four or more swine over four months of age;
 - (6) Raising of fur-bearing animals for sale at wholesale or retail; and
 - (7) Commercial dog kennels.
 - (8) Houseboats and Houseboat Moorages.
- (C 9) The following Conditional Uses may be permitted upon findings in addition to those required by MCC .7105 through .7640 that:

(1 a) The capability of the land for resource production is maintained;

(2 b) The use will neither create nor be affected by any hazards; and

(3 c) Access for fire protection of timber is assured:

~~(a) Rural planned developments for single family residences as provided in MCC .7705 through .7760, and~~

~~(b) Pursuant to the provisions of MCC .7105 through .7640:~~

(i) Cottage Industries;

(ii) Limited rural service commercial uses, such as local stores, shops, offices, repair services and similar use; and

(iii) Tourist commercial uses such as restaurants, gas stations, motels, guest ranches and similar uses.

(D C) Residential use, not in conjunction with a primary use listed in MCC .2168, consisting of a single-family dwelling, including a mobile or modular home, subject to the following findings:

(1) The lot size shall meet the standards of MCC .2178(A), .2180(A) to (C), or .2182(A) to (C);

(2) The land is incapable of sustaining a farm or forest use, based upon one of the following:

(a) A Soil Conservation Service Agricultural Capability Class of IV or greater for at least 75% of the lot area, and physical conditions insufficient to produce 50 cubic feet/acre/year of any commercial tree species for at least 75% of the lot area,

(b) Certification by the Oregon State University Extension Service, the Oregon Department of Forestry, or a person or group having similar agricultural and forestry expertise, that the land is inadequate for farm and forest uses and stating the basis for the conclusion, or

(c) The lot is a Lot of Record under MCC .2182(A) through (C), and is ten acres or less in size;

(3) A dwelling as proposed is compatible with the primary uses as listed in MCC .2168 on nearby property and will not interfere with the resources or the resource management practices or materially alter the stability of the overall land use pattern of the area;

(4) The dwelling will not require public services beyond those existing or programmed for the area;

(5) The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices; and

(6) The residential use development standards of MCC .2194 will be met.

(E D) Mortgage Lot: Residential use consisting of a single-family dwelling in conjunction with a primary use listed in MCC .2168, located on a mortgage lot created after August 14, 1980, subject to the following:

(1) The minimum lot size for the mortgage lot shall be two acres;

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

11.15.2182 Lot of Record.

(A) For the purposes of this district, a Lot of Record is ~~a parcel of land~~:

(1) ~~For which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form, prior to August 14, 1980; and~~ A parcel of land:

(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to August 14, 1980;

(b) Which satisfied all applicable laws when the parcel was created; and

(c) Which satisfies the minimum lot size requirements of MCC .2178, or

(2) ~~Which, when established, satisfied all applicable laws.~~ A parcel of land:

(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to (— *adoption date* —);

(b) Which satisfied all applicable laws when the parcel was created;

(c) Does not meet the minimum lot size requirements of MCC .2178; and

(d) Which is not contiguous to another substandard parcel or parcels under the same ownership, or

(3) A group of contiguous parcels of land:

(a) For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to (— *adoption date* —);

(b) Which satisfied all applicable laws when the parcels were created;

(c) Which individually do not meet the minimum lot size requirements of MCC .2178, but, when considered in combination, comply as nearly as possible with a minimum lot size of nineteen acres, without creating any new lot line; and

(d) Which are held under the same ownership.

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

~~(1) Parcels of land which are contiguous and in which greater than possessory interests are held by the same person, partnership or business entity, shall be aggregated to comply as nearly as possible with the area or front lot line minimum of this district. The word contiguous shall refer to parcels of land which have any common boundary and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way.~~

~~(2) Nothing in this subpart shall be deemed to alter or amend the other provisions of this Chapter.~~

For the purposes of this subsection:

(1) *Contiguous* refers to parcels of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way;

(2) *Substandard Parcel* refers to a parcel which does not satisfy the minimum lot size requirements of MCC .2178; and

(3) *Same Ownership* refers to parcels in which greater than possessory interests are held by the same person or persons, spouse, minor age child, single partnership or business entity, separately or in tenancy in common.

(C) Separate Lots of Record shall be deemed created when a County maintained road or an EFU, CFU, MUA-20, RR or RC zoning district boundary intersects a parcel, or aggregated group of contiguous parcels, of land.

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

(E) Except as otherwise provided by MCC .2180 and .2184, no sale or conveyance of any portion of a Lot of Record, other than for a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

G. Subsections of the RR – Rural Residential District are amended, added to, or deleted as follows:

11.15.2212 Conditional Uses.

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

(A) Community Service Uses under the provisions of MCC .7005 through .7041.

(B) The following Conditional Uses under the provisions of MCC .7105 through .7640:

- (1) Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005 or exploration, mining and processing of aggregate and other mineral or subsurface resources;
- (2) Commercial processing of agricultural products, primarily raised or grown in the region;
- (3) Raising of any type of fowl, or processing the by-products thereof, for sale at wholesale or retail;
- (4) Feed lots;
- (5) Raising of four or more swine more than four months of age;
- (6) Raising of fur-bearing animals for sale at wholesale or retail;
- (7) Commercial dog kennels;
- (8) ~~Rural~~ Planned developments for single-family residences, as provided in MCC ~~.7705 through .7760~~ .6200 through .6226;
- (9) Cottage industries, under the provisions of MCC .7105 through .7640.
- (10) Limited rural service commercial uses, such as local stores, shops, offices, repair services and similar uses; and
- (11) Tourist commercial uses such as restaurants, gasoline stations, motels, guest ranches, and similar uses.

11.15.2214 Accessory Uses

- (A) Signs, pursuant to the provisions of MCC 11.15.7902-.7982.
- (B) Off-street parking and loading;
- (C) Home occupations; ~~and~~
- (D) Other structures or uses customarily accessory or incidental to any use permitted or approved in this district; ~~and~~
- (E) **Family Day Care.**

11.15.2218 Dimensional Requirements.

- (A) Except as provided in MCC .2220, .2222, .2224 and .7720, the minimum lot size shall be five acres.
- (B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.
- (C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

- (D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional requirements not otherwise established by Ordinance.
- (E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.
- (F) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated “2A”, “3A”, or “3C” in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
 - (1) **To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
 - (2) **To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

H. Subsections of the RC – Rural Center District are amended, added to, or deleted as follows:

11.15.2252 Conditional Uses

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

- (A) Community Service Uses pursuant to the provisions of MCC .7005 through .7041
- (B) The following Conditional Uses pursuant to the provisions of MCC .7105 through .7640:
 - (1) Limited rural service commercial uses such as local stores, shops, offices, repair shops, and similar uses;
 - (2) Tourist commercial uses such as restaurants, taverns, gas stations, motels, guest ranches, and similar uses;
 - (3) The Light Manufacturing Uses of MCC .5120 which require the daily employment of twenty or fewer persons; and
 - (4) Commercial processing of agricultural or forestry products primarily grown in the vicinity.
- (C) ~~Rural p~~**Planned developments for single-family residences, as provided in MCC .7705 through .7760 .6200 through .6226. Duplex and apartment dwellings, not to exceed four dwelling units per lot, may be approved by the approval authority pursuant to the provisions of MCC .7750.**

(D) Existing light industrial uses permitted by MCC .2252(B)(3) may be expanded up to a daily total of 40 employees, based on findings that:

- (1) The proposed expansion is a result of normal growth of the existing use and not required as a result of diversification of the business;
- (2) The use provides a public benefit to the rural center by employing primarily persons who reside within the rural center or surrounding rural area, and this same employment pattern will continue with the proposed expansion;
- (3) The proposed expansion satisfies the applicable elements of Comprehensive Framework Plan Policies:
 - (a) No. 20 – Arrangement of Land Uses,
 - (b) No.30 – Industrial Location (Isolated Light Industrial),
 - (c) No. 36 – Transportation System Development Requirements,
 - (d) No. 37 – Utilities, and
 - (e) No. 38 – Facilities.
- (4) The proposed expansion satisfies the Design Review provisions of MCC .7805 through .7865.

11.15.2254 Accessory Uses

- (A) Signs pursuant to the provisions of MCC 11.15.7902-.7982.
- (B) Off-street parking and loading;
- (C) Home occupations; and
- (D) Other structures or uses customarily accessory or incidental to any use permitted or approved in this district; **and**
- (E) **Family Day Care.**

11.15.2258 Dimensional Requirements

- (A) Except as provided in MCC .2260, .2262, .2264 and .7720, the minimum lot size shall be one acre.
- (B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.
- (C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.
- (D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the

necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.

- (E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.
- (F) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
 - (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
 - (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

I. Subsections of the UF – Urban Future District are amended, added to, or deleted as follows:

11.15.2360 Exceptions to Dimensional Requirements

- (A) When a lot has been included in a Future Street Plan approved under the Land Division Chapter, MCC 11.45, development of that lot, including area and setback requirements, shall be in compliance with the street and lotting pattern of that Future Street Plan, or approved revision thereof, under MCC 11.45.180.
- (B) The minimum yard requirement shall be increased to provide for street widening in the event a yard abuts a street having a width less than that specified for the functional classification by MCC Chapter 11.60.
- (C) Except as provided in the LF district, structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.
- (D) The approval authority may grant a Lot of Exception to permit the creation of a lot smaller than the minimum required, after July 26, 1979, when in compliance with the other dimensional requirements of the district. Any exception shall be based on findings that the proposal will:
 - (1) Substantially maintain or support the character and stability of the overall land use pattern of the area;
 - (2) Be compatible with accepted farming or forestry practices on adjacent lands;
 - (3) Be consistent with the purposes described in MCC .2354;
 - (4) Satisfy the applicable standards of water supply, sewage disposal and minimum access; and
 - (5) Not require public services beyond those existing in the area.

- (E) Except as provided in MCC .2360(G), no Lot of Exception shall be approved unless:
- (1) The Lot of Record to be divided exceeds the area requirements of the district, and
 - (2) The division will create no more than one lot which is less than the minimum area required in the district.
- (F) The approval authority may attach conditions to the approval of any Lot of Exception to insure that the use is consistent with the Comprehensive Plan and the purposes described in MCC .2354.
- (G) The Planning Director may grant a Lot of Exception based on a finding that the permitted number of dwellings will not thereby be increased above that otherwise allowed in the district; provided that the decision of the Planning Director may be appealed according to the provisions of MCC .8290 and .8295.
- (F) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:
- (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.
 - (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

J. Subsections of the LDRGP – Urban Low Density Residential General Provisions are amended, added to, or deleted as follows:

11.15.2480 Exceptions to Dimensional Requirements.

- (A) When a lot has been included in a future street plan approved under the Land Division Chapter, development of that lot, including area and setback requirements, shall be in compliance with the street and lotting pattern of that future street plan, or approved revisions thereof, under MCC 11.45.180 of the Land Division Chapter.
- (B) In acting to approve a land division under the Land Division Chapter, the approval authority may grant an Exception not to exceed ten percent of the lot area or 25 percent of any other dimensional requirements upon findings that such Exception will result in any of the following:
- (1) More efficient use of the site;
 - (2) A greater degree of privacy, safety or freedom from noise, fumes or glare;
 - (3) An improved solar and climatic orientation;
 - (4) The preservation of natural features, where appropriate; or
 - (5) The provision of pedestrian circulation facilities where needed.
- (C) Cornices, eaves, belt courses, sills, canopies, or similar architectural features may extend or

project into a required yard not more than 30 inches. Fireplace chimneys may project into a required front, side or rear yard not more than two feet, provided the width of such side yard is not reduced to less than three feet.

- (D) Open porches or balconies, not more than 30 inches in height and not covered by a roof or canopy, may extend or project into a required rear yard not more than four feet and such porches may extend into a required front yard not more than 30 inches.
- (E) The minimum yard requirement shall be increased to provide for street widening in the event a yard abuts a street having a width less than that specified for the functional classification by MCC Chapter 11.60.
- (F) A fence, lattice work, screen, wall or similar feature with a maximum height of six feet may be located in any required yard provided, however, that the maximum height shall be four feet if the feature is within 15 feet of a front property line or five feet of a street side property line.
- (G) Except as provided in the LF District, chimneys, antennae, or similar structures may exceed height maximums established by Ordinance if located at least 20 feet from any property line.
- (H) A two-unit dwelling may be located with one unit on each of two adjoining lots. In such event, the minimum lot size and yard requirements shall apply to each unit, except that no yard shall be required between the units.
- (I) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:
 - (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.
 - (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

K. Subsections of the MHRGP – Urban Medium and High Density Residential General Provisions are amended, added to, or deleted as follows:

11.15.2692 Exceptions to Dimensional Requirements

- (A) When a lot has been included in a future street plan approved under the Land Division Chapter, development of that lot, including area and setback requirements, shall be in compliance with the street and lotting pattern of that future street plan or approved revision thereof, under MCC 11.45.180 of the Land Division Chapter.
- (B) In acting to approve a land division under the Land Division Chapter, the approval authority may grant an exception not to exceed ten percent of the lot area or 25 percent of any other dimensional requirement upon findings of the manner in which such exception will result in any of the following:
 - (1) More efficient use of the site:

- (2) A greater degree of privacy, safety or freedom from noise, fumes or glare;
 - (3) An improved solar and climatic orientation;
 - (4) The preservation of natural features, where appropriate; or
 - (5) The provision of pedestrian circulation facilities, where needed.
- (C) The side yard adjacent to an accessway created under MCC 11.45, the Land Division Chapter may be reduced to five feet for a pre-existing structure, under the provisions of subsection (B) above.
 - (D) Cornices, eaves, belt courses, sills, canopies or similar architectural features may extend or project into a required yard not more than 30 inches. Fireplace chimneys may project into a required front, side or rear yard not more than two feet, provided the width of such side yard is not reduced to less than three feet.
 - (E) Open porches or balconies, not more than 30 inches in height and not covered by a roof or canopy, may extend or project into a required rear yard not more than four feet, and such porches may extend into a required front yard not more than 30 inches.
 - (F) The minimum yard requirement shall be increased to provided for street widening in the event a yard abuts a street having a width less than that specified for the functional classification by the Street Standards Chapter MCC 11.60.
 - (G) A fence, lattice work, screen, wall or similar feature with a maximum height of six feet may be located in any required yard; provided, however, that the maximum height shall be four feet if the feature is within 16 feet of a front property line or five feet of a street side property line.
 - (H) Except as provided in the LF district, chimneys, antennae or similar structures may exceed height maximums established by Ordinance, if located at least 20 feet from any property line.
 - (I) A two-unit or an apartment dwelling may be located with attached units or adjoining lots. In such event, the minimum lot size and yard requirements shall apply to the units on each lot, except that no yard shall be required adjacent to the common property line.
 - (J) The land area dedicated without compensation for the widening or the extension of a public street may be included in calculating the number of dwelling units permitted on a lot in an Urban Medium or High Density Residential District.
 - (K) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
 - (1) **To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
 - (2) **To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

L. Subsections of the R-40 – Single Family Residential District are amended, added to, or deleted as follows:

11.15.2834 Restrictions

(A) Lot Size

The minimum lot size shall be 40,000 square feet. The minimum average lot width shall be 100 feet. The minimum average lot depth shall be 140 feet.

(B) Yard Requirements:

(1) Front Yard. There shall be a front yard with a minimum depth of 30 feet.

(2) Side Yard. Side yards shall be a minimum of 10 feet.

(3) Rear Yard. There shall be a rear yard with a minimum depth of 30 feet to any permanent structure.

(C) Accessory Buildings

Accessory buildings may be allowed if they fulfill the front, side, and rear yard requirements of the district.

(D) Off-Street Parking

Two automobile spaces on the lot shall be provided for each dwelling unit.

(E) Height Restrictions

Maximum height of any structure shall be 35 feet.

(F) Lot Coverage

The maximum area that may be covered by the dwelling unit and accessory buildings shall not exceed 20% of the total area of the lot.

(G) All lots in this district shall abut a street, or shall have such other access held suitable by the Hearings Officer.

(H) Half Streets

The minimum front or side yards or other setbacks as stated herein, shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such case.

(I) No sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard, or setback requirements of this district.

(J) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan.

This yard or setback requirement may be reduced as follows:

- (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
- (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

M. Subsections of the R-30 – Single Family Residential District are amended, added to, or deleted as follows:

11.15.2844 Restrictions

(A) Lot Size

The minimum lot size shall be 30,000 square feet. The minimum average lot width shall be 80 feet. The minimum average lot depth shall be 130 feet.

(B) Yard Requirements

- (1) Front Yard.** There shall be a front yard with a minimum depth of 30 feet.
- (2) Side Yard.** Side yards shall be a minimum of 10 feet.
- (3) Rear Yard.** There shall be a rear yard with a minimum depth of 30 feet to any permanent structure.

(C) Accessory Buildings

Accessory buildings may be allowed if they fulfill the front, side, and rear yard requirements of the district.

(D) Off-Street Parking

Two automobile spaces on the lot shall be provided for each dwelling unit.

(E) Height Restrictions

Maximum height of any structure shall be 35 feet..

(F) Lot Coverage

The maximum area that may be covered by the dwelling unit and accessory buildings shall not exceed 25% of the total area of the lot.

(G) All lots in this district shall abut a street, or shall have such other access held suitable by the Hearings Officer.

(H) Half Streets

The minimum front or side yards or other setbacks as stated herein, shall be increased where such

yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

- (I) No sales or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard or setback requirements of this district.
- (J) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:
 - (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.
 - (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

N. Subsections of the R-20 – Single Family Residential District are amended, added to, or deleted as follows:

11.15.2854 Restrictions

(A) Lot Size

The minimum lot size shall be 20,000 square feet. The minimum average lot width shall be 80 feet. The minimum average lot depth shall be 120 feet.

(B) Yard Requirements

- (1) **Front Yard.** There shall be a front yard having a minimum depth of 30 feet, unless a previous building line less than this has been established, in which case the minimum front yard for interior lots shall be the average of the setbacks of the main structures on abutting lots on either side if both lots are occupied; if one lot is occupied and the other vacant, the setback shall be the setback of the occupied lot, plus one-half of the remaining distance to the required 30 foot setback. If neither of the abutting side lots or tracts are occupied by a structure, the setback shall be 30 feet.
- (2) **Side Yard.** Side yards shall be a minimum of 10 feet.
- (3) **Rear Yard.** There shall be a rear yard with a minimum depth of 30 feet to any permanent structure.

(C) Accessory Buildings

Accessory buildings may be allowed if they fulfill the front, side, and rear yard requirements of the district.

(D) Off-Street Parking

Two automobile spaces on the lot shall be provided for each dwelling unit.

(E) Height Restrictions

Maximum height of any structure shall be 35 feet.

(F) Lot Coverage

The maximum area that may be covered by the dwelling unit and accessory buildings shall not exceed 30% of the total area of the lot.

(G) All lots in this district shall abut a street, or shall have such other access held suitable by the Hearings Officer.

(H) Half Streets

The minimum front or side yards or other setbacks as stated herein, shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

(I) No sales or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard or setback requirements of this district.

(J) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:

- (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.
- (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

O. Subsections of the R-10 – Single Family Residential District are amended, added to, or deleted as follows:

11.15.2864 Restrictions

(A) Lot Size

The minimum lot size shall be 10,000 square feet. The minimum average lot width shall be 70 feet, and the minimum lot width at the building line shall be 70 feet. The minimum average lot depth shall be 100 feet.

(B) Yard Requirements

- (1) Front Yard. There shall be a front yard having a minimum depth of 30 feet, unless a

previous building line less than this has been established, in which case the minimum front yard for interior lots shall be the average of the setbacks of the main structure on abutting lots on either side if both lots are occupied. If one lot is occupied and the other vacant, the setback shall be the setback of the occupied lot, plus one-half the remaining distance to the required 30 foot setback. If neither of the abutting side lots or tracts is occupied by a structure, the setback shall be 30 feet.

(2) Side Yards. Side yards shall be a minimum of ten feet.

(3) Rear Yards. There shall be a rear yard with a minimum depth of 25 feet to the main building.

(4) Corner lots may have a rear yard of not less than 10 feet if the front yard is not less than 30 feet and if the side yards are not less than 20 feet.

(C) Accessory Buildings

Accessory buildings may be allowed if they fulfill the following requirements:

(1) If attached to the main building or separated by a breezeway they shall fulfill the front and side yard requirements of the main building.

(2) If detached and located behind the rear most line of the main building, or a minimum of 35 feet from the front lot line, whichever is greater, any one-story accessory building may be located adjacent to or on a rear and/or side lot line not fronting on a street, when in compliance with the Building Code.

(D) Off-Street Parking

Two automobile spaces on the lot shall be provided for each dwelling unit.

(E) Height Restrictions

Maximum height of any structure shall be 35 feet.

(F) Lot Coverage

The maximum area that may be covered by the dwelling unit and accessory building shall not exceed 30% of the total area of the lot.

(G) All lots in this district shall abut a street or shall have such other access held suitable by the Hearings Officer.

(H) Half Streets

The minimum front or side yards or other setbacks as stated herein, shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

(I) No sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard or setback requirements of this district.

(J) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral

and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:

- (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.
- (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

P. Subsections of the R-7 – Single Family Residential District are amended, added to, or deleted as follows:

11.15.2874 Restrictions

(A) Lot Size

The minimum lot size shall be 7,000 square feet. The minimum average lot width shall be 60 feet, and the minimum lot width at the building line shall be 60 feet. The minimum average lot depth shall be 80 feet.

(B) Yard Requirements

- (1) **Front Yard.** There shall be a front yard having a minimum depth of 20 feet, unless a previous building line less than this has been established, in which case the minimum front yard for interior lots shall be the average of the setbacks of the main structures on abutting lots on either side if both lots are occupied. If one lot is occupied and the other vacant, the setback shall be the setback of the occupied lot, plus one-half the remaining distance to the required 20 foot setback. If neither of the abutting side lots or tracts are occupied by a structure, the setback shall be 20 feet.
- (2) **Side Yards.** Side yards shall be a minimum of five feet, on corner lots the side yard shall be a minimum of ten feet on the side abutting the street.
- (3) **Rear Yards.** There shall be a rear yard with a minimum depth of 25 feet to the main building.
- (4) **Corner lots** may have a rear yard of not less than 5 feet if the front and side yards are not less than 20 feet.

(C) Accessory Buildings

Accessory buildings may be allowed if they fulfill the following requirements:

- (1) If attached to the main building or separated by a breezeway, they shall fulfill the front and side yard requirements of the main building.
- (2) If detached and located behind the rear-most line of the main building, or a minimum of 50 feet from the front lot line, whichever is greater, any one-story accessory building may be located adjacent to or on a rear and/or side lot line fronting on a street, when in compliance with the Building Code.

(D) Off-Street Parking

Two automobile spaces on the lot shall be provide for each dwelling unit.

(E) Height Restrictions

Maximum height of any structure shall be 35 feet.

(F) Lot Coverage

The maximum area that may be covered by the dwelling unit and accessory buildings shall be 35% of the total area of the lot.

(G) All lots in this district shall abut a street or shall have such other access held suitable by the Hearings Officer.

(H) Half Streets

The minimum front or side yards or other setbacks as stated herein shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

(I) No sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard or setback requirements of this district.

(J) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**

- (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
- (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

Q. Subsections of the R-4 – Two-Family Residential District are amended, added to, or deleted as follows:

11.15.2884 Restrictions

(A) Lot Size

The minimum lot size shall be 8,000 square feet for a two-family dwelling, 7,000 square feet for a single-family dwelling, and 4,000 square feet for each dwelling unit in dwelling groups permitted under MCC .2882(C). The minimum average lot width shall be 60 feet, the minimum width at the building line shall be 60 feet, and the minimum average lot depth shall be 80 feet.

(B) Yard Requirements

- (1) Front Yard. There shall be a front yard having a minimum depth of 20 feet, unless a previous building line less than this has been established, in which case the minimum front yard for interior lots shall be the average of the setbacks of the main structures on abutting lots on either side if both lots are occupied; if one lot is occupied and the other vacant, the setback shall be the setback of the occupied lot, plus one-half the remaining distance to the required 20 foot setback. If neither of the abutting side lots or tracts are occupied by a structure, the setback shall be 20 feet.
- (2) Side Yard. Side yards shall be a minimum of five feet, on corner lots the side yard shall be a minimum of ten feet on the side abutting the street.
- (3) Rear Yard. There shall be a rear yard with a minimum depth of 25 feet to the main building.

(C) Accessory Buildings

Accessory buildings may be allowed if they fulfill the following requirements:

- (1) If attached to the main building or separated by a breezeway they shall fulfill the front and side yard requirements of the district.
- (2) If detached and located behind the rear-most line of the main building, or a minimum of 50 feet from the front lot line, whichever is greater, any one-story accessory building may be located adjacent to or on a rear and/or side lot line not fronting on a street, when in compliance with the Building Code.

(D) Off-Street Parking

Two automobile spaces on the lot shall be provided for each dwelling unit. Off-street parking for dwelling groups permitted under MCC .2882(C) shall be provided according to the requirements of MCC .6100 through .6148.

(E) Height Restrictions

Maximum height of any structure shall be 35 feet.. Maximum height of any structure in a dwelling group permitted under MCC .2882(C) shall be one-story, unless the Planning Director shall determine that a greater height is in harmony with the neighborhood.

(F) Lot Coverage

The maximum area that may be covered by the dwelling(s) and accessory buildings shall not exceed 40% of the total area of the lot.

- (G) All lots in this district shall abut a street or shall have such other access held suitable by the Hearings Officer.

(H) Half Streets

The minimum front or side yards or other setbacks as stated herein shall be increased where such yard or setback abuts a street having insufficient right-of-way widths to serve the area. The

Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

- (I) No sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard or setback requirements of this district.
- (J) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
 - (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.
 - (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

R. Subsections of the A-2 – Apartment Family Residential District are amended, added to, or deleted as follows:

11.15.2894 Restrictions

(A) Lot Size and Coverage.

No. of Dwelling Units	Minimum Lot Size in Square Feet	Percent Lot Coverage
1	7,000	35%
2	8,000	40%

No. of Dwelling Units	Minimum Lot Size in Square Feet	Percent Lot Coverage
3	11,000	40%
4	14,000	45%
5	16,500	45%
6	19,000	45%
7-10	21,500 + 2,250 for each unit over 7	45%
11-20	30,500 + 2,000 for each unit over 11	45%
21-37	50,750 + 1,750 for each unit over 21	50%
38-63	79,500 + 1,500 for each unit over 38	55%
	each unit over 64	55%

64-up 118,500 + 1,000 for

- (1) The minimum average lot width shall be 60 feet, and the minimum lot width at the building line shall be 60 feet. The minimum average lot depth shall be 80 feet.

- (2) Where the number of dwelling units erected on a lot is calculated in accordance with this Section, no greater number of units shall in any event be permitted at any time except in compliance with MCC .2892(G).

(B) Yard Requirements

- (1) Front Yard. There shall be a front yard having a minimum depth of 20 feet, unless a previous building line less than this has been established, in which case the minimum front yard for interior lots shall be the average of the setbacks of the main structures on abutting lots on either side if both lots are occupied; if one lot is occupied and the other vacant, the setback shall be the setback of the occupied lot plus one-half the remaining distance to the required 20 foot setback. If neither of the abutting side lots or tracts are occupied by a structure, the setback shall be 20 feet.
- (2) Side Yard. For buildings one or two stories in height, side yards shall be a minimum of five feet; for buildings exceeding two stories in height, the side yards shall be a minimum of one foot horizontally for every three feet of building height; on corner lots the side yard for all structures shall be a minimum of ten feet on the side abutting the street.
- (3) Rear Yard. There shall be a rear yard with a minimum depth of 15 feet to the main building.

(C) Accessory Buildings

Accessory buildings may be allowed if they fulfill the following requirements:

- (1) If attached to the main building or separated by a breezeway they shall fulfill the front and side yard requirements of the main building.
- (2) If detached and located behind the rear-most line of the main building, or a minimum of 45 feet from the front lot line, whichever is greater, any one-story accessory building may be located adjacent to or on a rear and/or side lot line not fronting on a street when in compliance with the Building Code.

(D) Off-Street Parking

Off-street parking shall be provided as required in MCC.6100 through .6148.

(E) Height Restrictions

Maximum height of any structure shall be 35 feet. Structures exceeding 35 feet may be permitted if in harmony with the neighborhood after a public hearing before the Hearings Officer.

- (F) All lots in this district shall abut a street or shall have such other access held suitable by the hearings Officer.

(G) Half Street

The minimum front or side yards or other setbacks as stated herein shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

- (H) No sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard or setback

requirements of this district.

- (H) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**

- (1) **To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
- (2) **To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

- S. Subsections of the Planned Development Subdistrict are amended, added to, or deleted as follows:**

11.15.6218 Density Computation for Residential Developments

In order to preserve the integrity of the Comprehensive Plan and relate to a residential Planned Development to it, the number of dwelling units permitted shall be determined as follows:

- (A) Divide the total site area by the minimum lot area per dwelling unit required by the underlying district or districts in which the Planned Development is located.
- (B) **Optional Density Standards inside the Urban Growth Boundary.** The following standards for the calculation of residential density may be used singularly or in combination, when approved by the Planning Commission:
 - (1) The permitted number of dwelling units determined under subsection (A) above may be increased up to 25 percent upon a finding by the Planning Commission that such increased density will contribute to:
 - (a) Satisfaction of the need for additional urban area housing of the type proposed;
 - (b) The location of housing which is convenient to commercial, employment and community services and opportunities;
 - (c) The creation of a land use pattern which is complementary to the community and its identity, and to the community design process;
 - (f) The conservation of energy;
 - (g) The efficient use of transportation facilities; and
 - (h) The effective use of land and of available utilities and facilities.
 - (2) The permitted number of dwelling units may be increased above those computed under subsection (A) or (B) of this section, upon a finding by the Planning Commission that:
 - (a) The total number of persons occupying the site will not exceed the total otherwise

permitted or authorized in the district, based upon the difference between the average family size occupying permitted units in the vicinity and the family size limited by the proposed number of bedrooms, the proposed number of kitchens, the age composition of prospective residents, or other similar occupancy limitations; and

(b) The proposal will satisfy the provisions of MCC .6218 (B) (I).

11.15.6222 Permitted Uses

In an underlying residential district, the following uses may be permitted in a Planned Development District:

- (A) Housing types may include single family detached or attached dwellings, duplexes, row houses, town houses or apartments, **except that in the MUA-20, RR, and RC districts only duplexes and single family detached or attached dwellings are permitted.**
- (B) In the LR-7 and the LR-5 districts, outside a *Developed Neighborhood* as designated in the Community Plan, the housing type may include mobile homes:
 - (1) On individual lots in a subdivision approved for the purpose under MCC 11.45, the Land Division Chapter, subject to the development standards of MCC .2704, except subpart (A) (2) thereof;
 - (2) In a mobile home park, subject to the development standards of MCC .2708.
- (C) A related commercial use which is designated to serve the development of which it is a part, upon approval by the Planning Commission.
- (D) A Community Service use listed in MCC .7005 through .7030, when designated to serve the development or the adjacent area of which it is a part, upon approval by the Planning Commission.
 - (1) A Community Service use, when approved under the provisions of MCC .7005 through .7030, may also be designed to serve the adjacent area outside the Planned Development if found by the Planning Commission to be appropriate and consistent with Comprehensive Plan policies.
- (E) A use or structure customarily accessory or incidental to a permitted or approved use.
- (F) For an underlying commercial or industrial district, the following uses may be permitted in a Planned Development District:
 - (1) Uses permitted in the underlying district.
 - (2) Community Service Uses when approved by the Planning Commission under the provisions of MCC .7005 through .7030.
 - (3) Any other use as approved by the Planning Commission when found to be consistent with the Development Plan and Program and the purposes of this Chapter.

T. Subsections of the Willamette River Greenway Subdistrict are amended, added to, or deleted as follows:

11.15.6358 Exceptions

A Greenway Permit shall not be required for the following:

- (A) Farm Use, as defined in ORS 215.203(2)(a), including buildings and structures accessory thereto on **"converted wetlands" as defined by ORS 541.695(9) or on upland areas;**
- (B) The propagation of timber or the cutting of timber for public safety or personal use;
- (C) Gravel removal from the bed of the Willamette River, conducted under a permit from the State of Oregon;
- (D) Customary dredging and channel maintenance **and the removal or filling, or both, for the maintenance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation ditches and tile drain systems as allowed by ORS 541.695(6);**
- (E) The placing, by a public agency, of signs, markers, aids, etc., to serve the public;
- (F) Activities to protect, conserve, enhance and maintain public recreational, scenic, historical and natural uses on public lands;
- (G) On scenic easements acquired under ORS 390.332(2)(a), the maintenance authorized by that statute and ORS 390.368;
- (H) The use of a small cluster of logs for erosion control;
- (I) The expansion of capacity, or the replacement, of existing communications or energy distribution and transmission systems, except substations;
- (J) The maintenance and repair of existing flood control facilities; and
- (K) Uses legally existing on the effective date of this Chapter; provided, however, that any change or intensification of such use shall require a Greenway Permit.

11.15.6364 Decision by Planning Director

- (A) A decision on a Greenway Permit application for a Permitted Use or a Use Under Prescribed Conditions shall be made by the Planning Director. The Director may approve the permit, disapprove it, or approve it with such modifications and conditions as may be consistent with the Comprehensive Plan or necessary to assure compatibility with the elements of the Greenway Design Plan. **Such conditions may relate to the locations, design, and maintenance of existing and proposed improvements, including but not limited to buildings, structures and use areas, parking, pedestrian and vehicular circulation and access, natural vegetation and landscaped areas, fencing, screening and buffering, excavations, cuts and fills, signs, graphics, exterior colors, and lighting.**
- (B) Within ten business days following receipt of a completed Greenway Permit application, the Planning Director shall file a decision with the Director of the Department of Environmental Services and shall mail a copy of the decision to the applicant and to other persons who request the same.
- (C) A decision by the Planning Director on a Greenway Permit application shall include written conditions, if any, and findings and conclusions. The conditions, findings, and conclusions shall specifically address the relationships between the proposal and the elements of the Greenway Design Plan.

11.15.6372 Greenway Design Plan

The elements of the Greenway Design Plan are:

- (A) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and the river.
- (B) Reasonable public access to and along the river shall be provided by appropriate legal means to the greatest possible degree and with emphasis on urban and urbanizable areas.
- (C) Developments shall be directed away from the river to the greatest possible degree, provided, however, that lands in other than rural and natural resource districts may continue in urban uses.
- (D) Agricultural lands shall be preserved and maintained for farm use.
- (E) The harvesting of timber, beyond the vegetative fringes, shall be conducted in a manner which shall insure that the natural scenic qualities of the Greenway will be maintained to the greatest extent practicable or will be restored within a brief period of time **on those lands inside the Urban Growth Boundary.**
- (F) Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflicts with farm uses.
- (G) Significant fish and wildlife habitats shall be protected.
- (H) Significant natural and scenic areas and viewpoints and vistas shall be preserved.
- (I) Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.
- (J) The natural ~~vegetative~~ **vegetation fringe** along the river, **lakes, wetlands, and streams** shall be enhanced and protected to the maximum extent practicable to assure scenic quality, protection from erosion, ~~and~~ screening of uses from the river, **and continuous riparian corridors.**
- (K) Extraction of known aggregate deposits may be permitted, pursuant to the provisions of MCC .7105 through .7640, when economically feasible and when conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise, safety, and to guarantee necessary reclamation.
- (L) Areas of annual flooding, flood plains, water areas and wetlands shall be preserved in their natural state to the maximum possible extent to protect the water retention, overflow and natural functions.
- (M) **Significant wetland areas shall be protected as provided in MCC .6376.**
- (N) Areas of ecological, scientific, historical or archeological significance shall be protected, preserved, restored, or enhanced to the maximum extent possible.
- (O) Areas of erosion or potential erosion shall be protected from loss by appropriate means which are compatible with the character of the Greenway.
- (P) The quality of the air, water and land resources in and adjacent to the Greenway shall be preserved in development, change of use, or intensification of use of land designated WRG.
- (Q) A building setback line of 150 feet from the ordinary low waterline of the Willamette River shall be provided in all rural and natural resource districts, except for non-dwellings provided in conjunction with farm use and except for buildings and structures in conjunction with a water-related or a water dependent use. **Any exceptions to this setback must be processed as a Goal Exception under the standards of OAR 660-04-022(4).**
- (R) Any development, change of use or intensification of use of land classified WRG, shall be

subject to design review, pursuant to MCC .7805 through .7865, to the extent that such design review is consistent with the elements of the Greenway Design Plan.

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

11.15.6376 Significant Wetlands

Significant wetlands consist of those areas designated as *Significant* on aerial photographs of a scale of 1"=200' made a part of the supporting documentation of the Comprehensive Framework Plan. Any proposed activity or use requiring an WRG permit which would impact those wetlands shall be subject to the following:

(A) In addition to other WRG Permit submittal requirements, the application shall also include:

- (1) A site plan drawn to scale showing the wetland boundary as determined by a documented field survey, the location of all existing and proposed structures, roads, watercourses, drainageways, stormwater facilities, utility installations, and topography of the site at a contour interval of no greater than five feet;
- (2) A description and map of the wetland area that will be affected by the proposed activity. This documentation must also include a map of the entire wetland, an assessment of the wetland's functional characteristics and water sources, and a description of the vegetation types and fish and wildlife habitat;
- (3) A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, grading, dredging, and vegetation removal, including the amounts and methods;
- (4) A study of any flood hazard, erosion hazard, or other natural hazards in the proposed development area and any proposed protective measures to reduce such hazards;
- (5) Detailed Mitigation Plans as described in subsection (D), if required;
- (6) Description of how the proposal meets the approval criteria listed in subsection (B) below.

(B) In addition to the criteria listed in MCC .6372, the applicant shall demonstrate that the proposal:

- (1) Is water-dependent or requires access to the wetland as a central element of its basic design function, or is not water dependent but has no practicable alternative as described in subsection (C) below.
- (2) Will have as few adverse impacts as is practical to the wetland's functional characteristics and its existing contour, vegetation, fish and wildlife resources, shoreline anchoring, flood storage, general hydrological conditions, and visual amenities. This impact determination shall also consider specific site information contained in the adopted wetlands inventory and the economic, social, environmental, and energy (ESEE) analysis made part of the supporting documentation of the comprehensive plan;
- (3) Will not cause significant degradation of groundwater or surface-water quality;
- (4) Will provide a buffer area of not less than 50 feet between the wetland boundary and upland activities for those portions of regulated activities that

need not be conducted in the wetland;

- (5) Will provide offsetting replacement wetlands for any loss of existing wetland areas. This Mitigation Plan shall meet the standards of subsection (D).
- (C) A finding of no practicable alternative is to be made only after demonstration by the applicant that:
- (1) The basic purpose of the project cannot reasonably be accomplished using one or more other practicable alternative sites in Multnomah County that would avoid or result in less adverse impact on a wetland. An *alternative site* is to be considered *practicable* if it is available for purchase and the proposed activity can be conducted on that site after taking into consideration costs, existing technology, infrastructure, and logistics in achieving the overall project purposes;
 - (2) The basic purpose of the project cannot be accomplished by a reduction in the size, scope, configuration, or density of the project as proposed, or by changing the design of the project in a way that would avoid or result in fewer adverse effects on the wetland; and
 - (3) In cases where the applicant has rejected alternatives to the project as proposed due to constraints, a reasonable attempt has been made to remove or accommodate such constraints.
- (D) A Mitigation Plan and monitoring program may be approved upon submission of the following:
- (1) A site plan and written documentation which contains the applicable information for the replacement wetland as required by MCC .6372 and .6376 (A);
 - (2) A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;
 - (3) A Mitigation Plan which demonstrates retention of the resource values addressed in MCC .6376 (B)(2);
 - (4) Documentation that replacement wetlands were considered and rejected according to the following order of locational preferences:
 - (a) On the site of the impacted wetland, with the same kind of resource;
 - (b) Off-site, with the same kind of resource;
 - (c) On-site, with a different kind of resource;
 - (d) Off-site, with a different kind of resource.

U. Subsections of the Significant Environmental Concern Subdistrict are amended, added to, or deleted as follows:

11.15.6400 Purposes

The purposes of the Significant Environmental Concern subdistrict are to protect, conserve, enhance,

restore, and maintain significant natural and man-made features which are of public value, including among other things, river corridors, streams, lakes and islands, domestic water supply watersheds, flood water storage areas, natural shorelines and unique vegetation, **wetlands**, wildlife and fish habitats, significant geological features, tourist attractions, ~~historical and~~ archeological features and sites, and scenic views and vistas, and to establish criteria, standards, and procedures for the development, change of use, or alteration of such features or of the lands adjacent thereto.

11.15.6404 Uses – SEC Permit Required

- (A) All uses permitted under the provisions of the underlying district are permitted on lands designated SEC; provided, however, that the location and design of any use, or change or alteration of a use, except as provided in MCC .6406, shall be subject to an SEC permit. The excavation of any archeological site shall require an SEC permit, under MCC .6412, regardless of the zoning designation of the site.
- (B) Any excavation or any removal of materials of archeological, historical, prehistorical or anthropological nature shall be conducted under the conditions of an SEC permit.
- (C) **Any building, structure, or physical improvement within 100 feet of the normal high water level of a Class I stream, as defined by the State of Oregon Forest Practice Rules, shall require an SEC permit under MCC .6412, regardless of the zoning designation of the site.**

11.15.6406 Exceptions

An SEC permit shall not be required for the following:

- (A) Farm use, as defined in ORS 215.203(2)(a), including buildings and structures accessory thereto **on “converted wetlands” as defined by ORS 541.695(9) or on upland areas;**
- (B) Except as provided in MCC .6420(C), the propagation of timber or the cutting of timber for public safety or personal use or the cutting of timber in accordance with the **State Forest Practices Act** ~~from a farm woodlot or less than 20 acres as described in the definition of farm use in ORS 215.203;~~
- (C) Customary dredging and channel maintenance **and the removal or filling, or both, for the maintenance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation ditches and tile drain systems as allowed by ORS 541.695(6), but not the placement of spoils;**
- (D) The placing, by a public agency, of signs, markers, aids, etc., to serve the public;
- (E) Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses on public lands;
- (F) Activities regulated pursuant to the provisions of ORS 390.805 to 390.925 on lands designated as scenic waterways under the Oregon Scenic Waterways System;
- (G) The expansion of capacity, or the replacement, of existing communication or energy distribution and transmission systems, except substations;
- (H) The maintenance and repair of existing flood control facilities; **and**
- (I) Uses legally existing on the effective date of this Chapter; provided, however, that any change or alteration of such use shall require an SEC permit as provided herein; **and**
- (J) **Those Class 1 streams located:**

- (1) **Within mineral and aggregate resource areas designated "2A", "3A" or "3C" by a Statewide Planning Goal 5 Economic, Social, Environmental and Energy analysis, or**
- (2) **Within the Willamette River Greenway.**

11.15.6420 Criteria for Approval of SEC Permit

- (A) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, **wetland**, or floodwater storage area.
- (B) Agricultural land and forest land shall be preserved and maintained for farm and forest use.
- (C) The harvesting of timber on lands designated SEC **inside the Urban Growth Boundary** shall be conducted in a manner which will insure that natural, scenic, and watershed qualities will be maintained to the greatest extent practicable or will be restored within a brief period of time.
- (D) A building, structure, or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance.
- (E) Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflict with areas of environmental significance.
- (F) The protection of the public safety and of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.
- (G) Significant fish and wildlife habitats shall be protected.
- (H) The natural ~~vegetative vegetation fringe~~ along rivers, lakes, **wetlands**, and streams shall be protected and enhanced to the maximum extent practicable to assure scenic quality, ~~and~~ protection from erosion, **and continuous riparian corridors**.
- ~~(I) Buildings, structures, and sites of historic significance shall be preserved, protected, enhanced, restored, and maintained in proportion to their importance to the County's history.~~
- (I) Archeological areas shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry.
- (J) Extraction of aggregates and minerals, the depositing of dredge spoils, and similar activities permitted pursuant to the provisions of MCC .7105 through .7640, shall be conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, historical or archeological features, vegetation, erosion, stream flow, visual quality, noise, and safety, and to guarantee necessary reclamation.
- (K) Areas of annual flooding, floodplains, water areas, and wetlands shall be retained in their natural state to the maximum possible extent to preserve water quality and protect water retention, overflow, and natural functions.
- (L) **Significant wetland areas shall be protected as provided in MCC .6422.**
- (M) Areas of erosion or potential erosion shall be protected from loss by appropriate means which are compatible with the environmental character.

- (N) The quality of the air, water, and land resources and ambient noise levels in areas classified SEC shall be preserved in the development and use of such areas.
- (O) The design, bulk, construction materials, color and lighting of buildings, structures and signs shall be compatible with the character and visual quality of areas of significant environmental concern.
- (P) An area generally recognized as fragile or endangered plant habitat or which is valued for specific vegetative features, or which has an identified need for protection of the natural vegetation, shall be retained in a natural state to the maximum extent possible.
- (Q) The applicable policies of the Comprehensive Plan shall be satisfied.

11.15.6422 Significant Wetlands

Significant wetlands consist of those areas designated as **Significant** on aerial photographs of a scale of 1"=200' made a part of the supporting documentation of the Comprehensive Framework Plan. Any proposed activity or use requiring an SEC permit which would impact those wetlands shall be subject to the following:

- (A) In addition to other SEC Permit submittal requirements, the application shall also include:
 - (1) A site plan drawn to scale showing the wetland boundary as determined by a documented field survey, the location of all existing and proposed structures, roads, watercourses, drainageways, stormwater facilities, utility installations, and topography of the site at a contour interval of no greater than five feet;
 - (2) A description and map of the wetland area that will be affected by the proposed activity. This documentation must also include a map of the entire wetland, an assessment of the wetland's functional characteristics and water sources, and a description of the vegetation types and fish and wildlife habitat;
 - (3) A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, grading, dredging, and vegetation removal, including the amounts and methods;
 - (4) A study of any flood hazard, erosion hazard, or other natural hazards in the proposed development area and any proposed protective measures to reduce such hazards;
 - (5) Detailed Mitigation Plans as described in subsection (D), if required;
 - (6) Description of how the proposal meets the approval criteria listed in subsection (B) below.
- (B) In addition to the criteria listed in MCC .6372, the applicant shall demonstrate that the proposal:
 - (1) Is water-dependent or requires access to the wetland as a central element of its basic design function, or is not water dependent but has no practicable alternative as described in subsection (C) below.
 - (2) Will have as few adverse impacts as is practical to the wetland's functional characteristics and its existing contour, vegetation, fish and wildlife resources, shoreline anchoring, flood storage, general hydrological conditions, and visual amenities. This impact determination shall also consider specific site

information contained in the adopted wetlands inventory and the economic, social, environmental, and energy (ESEE) analysis made part of the supporting documentation of the comprehensive plan;

- (3) Will not cause significant degradation of groundwater or surface-water quality;
 - (4) Will provide a buffer area of not less than 50 feet between the wetland boundary and upland activities for those portions of regulated activities that need not be conducted in the wetland;
 - (5) Will provide offsetting replacement wetlands for any loss of existing wetland areas. This Mitigation Plan shall meet the standards of subsection (D).
- (C) A finding of no practicable alternative is to be made only after demonstration by the applicant that:
- (1) The basic purpose of the project cannot reasonably be accomplished using one or more other practicable alternative sites in Multnomah County that would avoid or result in less adverse impact on a wetland. An *alternative site* is to be considered *practicable* if it is available for purchase and the proposed activity can be conducted on that site after taking into consideration costs, existing technology, infrastructure, and logistics in achieving the overall project purposes;
 - (2) The basic purpose of the project cannot be accomplished by a reduction in the size, scope, configuration, or density of the project as proposed, or by changing the design of the project in a way that would avoid or result in fewer adverse effects on the wetland; and
 - (3) In cases where the applicant has rejected alternatives to the project as proposed due to constraints, a reasonable attempt has been made to remove or accommodate such constraints.
- (D) A Mitigation Plan and monitoring program may be approved upon submission of the following:
- (1) A site plan and written documentation which contains the applicable information for the replacement wetland as required by MCC .6372 and .6376 (A);
 - (2) A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;
 - (3) A Mitigation Plan which demonstrates retention of the resource values addressed in MCC .6376 (B)(2);
 - (4) Documentation that replacement wetlands were considered and rejected according to the following order of locational preferences:
 - (a) On the site of the impacted wetland, with the same kind of resource;
 - (b) Off-site, with the same kind of resource;
 - (c) On-site, with a different kind of resource;
 - (d) Off-site, with a different kind of resource.

V. A Hillside Development and Erosion Control Subdistrict is added as follows:

11.15.6700 Purposes

The purposes of the Hillside Development and Erosion Control subdistrict are to promote the public health, safety and general welfare, and minimize public and private losses due to earth movement hazards in specified areas and minimize erosion and related environmental damage in unincorporated Multnomah County, all in accordance with ORS 215, LCDC Statewide Planning Goal No. 7 and OAR 340-41-455 for the Tualatin River Basin, and the Multnomah County Comprehensive Framework Plan Policy No. 14. This subdistrict is intended to:

- (A) Protect human life;
- (B) Protect property and structures;
- (C) Minimize expenditures for rescue and relief efforts associated with earth movement failures;
- (D) Control erosion, production and transport of sediment; and
- (E) Regulate land development actions including excavation and fills, drainage controls and protect exposed soil surfaces from erosive forces.

11.15.6710 Permits Required

- (A) All persons proposing development, construction, or site clearing (including tree removal) on property located in hazard areas as identified on the "Slope Hazard Map", or on lands with average slopes of 25 percent or more shall obtain a Hillside Development Permit as prescribed by this subdistrict, unless specifically exempted by MCC .6715.
- (B) All persons proposing site grading where the volume of soil or earth material disturbed, stored, disposed of or used as fill exceeds 50 cubic yards, or which obstruct or alter a drainage course or on any sites within the Tualatin River Drainage Basin, shall obtain a Grading and Erosion Control Permit as prescribed by this subdistrict, unless exempted by MCC .6715(B)(2) through (8) or .6715(C). Development projects subject to a Hillside Development Permit do not require a separate Grading and Erosion Control Permit.

11.15.6715 Exempt Land Uses and Activities

The following are exempt from the provisions of this Chapter:

- (A) Development activities approved prior to (— adoption date —); except that within such a development, issuance of individual building permits for which application was made after (— adoption date —) shall conform to site-specific requirements applicable herein.
- (B) General Exemptions – All land-disturbing or land-filling activities or soil storage shall be undertaken in a manner designed to minimize earth movement hazards, surface runoff, erosion, and sedimentation and to safeguard life, limb, property, and the public welfare. A person performing such activities need not apply for a permit pursuant to this subdistrict, if :
 - (1) Natural and finished slopes will be less than 25 %;

- (2) The disturbed or filled area is 20,000 square feet or less;
 - (3) The volume of soil or earth materials to be stored is 50 cubic yards or less;
 - (4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet;
 - (5) Impervious surfaces, if any, of less than 10,000 square feet are to be created;
 - (6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified;
 - (7) The activity will not take place within 100 feet by horizontal measurement from the top of the bank of a watercourse, the mean high watermark (line of vegetation) of a body of water, or within the wetlands associated with a watercourse or water body, whichever distance is greater; and
 - (8) Any tree clearing work will be subject to the State Forest Practices Act.
- (C) Categorical Exemptions – Notwithstanding MCC .6715(A) and (B)(1) through (8), the following activities are exempt from the permit requirements:
- (1) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished height greater than five feet.
 - (2) Cemetery graves, but not cemetery soil disposal sites.
 - (3) Refuse disposal sites controlled by other regulations.
 - (4) Excavations for wells.
 - (5) Mineral extraction activities as regulated by MCC .7305 through .7335.
 - (6) Exploratory excavations under the direction of certified engineering geologists or geotechnical engineers.
 - (7) Routine agricultural crop management practices.
 - (8) Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazards.

11.15.6720 Application Information Required

An application for development subject to the requirements of this subdistrict shall include the following:

- (A) A map showing the property line locations, roads and driveways, existing structures, trees with 8-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s) and trees proposed for removal.
- (B) An estimate of depths and the extent and location of all proposed cuts and fills.

- (C) The location of planned and existing sanitary drainfields and drywells.**
- (D) Additional narrative, map or plan information necessary to demonstrate compliance with MCC .6730(A).,**

11.15.6725 Hillside Development Permit Process and Standards

- (A) A Hillside Development permit may be approved by the Director only after the applicant provides:**

- (1) Additional topographic information showing that the proposed development to be on land with average slopes less than 25 percent, and located more than 200 feet from a known landslide, and that no cuts or fills in excess of 6 feet in depth are planned. High groundwater conditions shall be assumed unless documentation is available, demonstrating otherwise; or**
- (2) A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development; or**
- (3) An HDP Form-1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with his/her stamp and signature affixed indicating that the site is suitable for the proposed development.**
 - (a) If the HDP Form-1 indicates a need for further investigation, or if the Director requires further study based upon information contained in the HDP Form-1, a geotechnical report as specified by the Director shall be prepared and submitted .**

- (B) Geotechnical Report Requirements**

- (1) A geotechnical investigation in preparation of a Report required by MCC .6725(A)(3)(a) shall be conducted at the applicant's expense by a Certified Engineering Geologist or Geotechnical Engineer. The Report shall include specific investigations required by the Director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from earth movement hazards.**
 - (2) Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the Geotechnical Report to ensure safety of the proposed development.**
 - (3) Observation of work required by an approved Geotechnical Report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant's expense; the geologist's or engineer's name shall be submitted to the Director prior to issuance of the Permit.**
 - (4) The Director, at the applicant's expense, may require an evaluation of HDP Form-1 or the Geotechnical Report by another Certified Engineering Geologist or Geotechnical Engineer.**
- (C) Development plans shall be subject to and consistent with the Design Standards For Grading and Erosion Control in MCC .6730(A) through (D). Conditions of approval may be imposed to assure the design meets those standards.**

11.15.6730 Grading and Erosion Control Permit Standards

Approval of development plans on sites subject to a Grading and Erosion Control Permit shall be based on findings that the proposal adequately addresses the following standards. Conditions of approval may be imposed to assure the design meets the standards:

(A) Design Standards For Grading and Erosion Control

(1) Grading Standards

- (a) Fill materials, compaction methods and density specifications shall be indicated. Fill areas intended to support structures shall be identified on the plan. The Director or delegate may require additional studies or information or work regarding fill materials and compaction;**
- (b) Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified;**
- (c) Cuts and fills shall not endanger or disturb adjoining property;**
- (d) The proposed drainage system shall have adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency;**
- (e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the displaced streamflow for a storm of 10-year design frequency;**

(2) *Erosion Control Standards*

- (a) On sites within the Tualatin River Drainage Basin, erosion control plans shall satisfy the requirements of OAR 340-41-455. [An *Erosion Control Plans Technical Guidance Handbook* (November, 1989) is available to assist applicants in meeting State erosion control standards in the Tualatin Basin.]**
- (b) Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;**
- (c) Development Plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff;**
- (d) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;**
- (e) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;**
- (f) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;**

- (g) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;**
- (h) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized;**
- (i) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding;**
- (j) All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural watercourses, drainage swales, or an approved drywell system;**
- (k) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion;**
- (l) Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:**
 - (i) Energy absorbing devices to reduce runoff water velocity;**
 - (ii) Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;**
 - (iii) Dispersal of water runoff from developed areas over large undisturbed areas.**
- (m) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures;**
- (n) Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.**

(B) Responsibility

- (1) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project;**
- (2) It is the responsibility of any person, corporation or other entity doing any act on or across a communal stream watercourse or swale, or upon the floodplain or right-of-way thereof, to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain, or right-of-way during such activity,**

and to return it to its original or equal condition.

(C) Implementation

- (1) **Performance Bond** – A performance bond may be required to assure the full cost of any required erosion and sediment control measures. The bond may be used to provide for the installation of the measures if not completed by the contractor. The bond shall be released upon determination the the control measures have or can be expected to perform satisfactorily. The bond may be waived if the Director determines the scale and duration of the project and the potential problems arising therefrom will be minor.
- (2) **Inspection and Enforcement.** The requirements of this subdistrict shall be enforced by the Planning Director. If inspection by County staff reveals erosive conditions which exceed those prescribed by the Hillside Development Permit or Grading and Erosion Control Permit, work may be stopped until appropriate correction measures are completed.

(D) Final Approvals

A certificate of Occupancy or other final approval shall be granted for development subject to the provisions of this subdistrict only upon satisfactory completion of all applicable requirements.

11.15.6735 Hillside Development and Erosion Control Related Definitions:

- (A) ***Certified Engineering Geologist*** – Any person who has obtained certification by the State of Oregon as an engineering geologist.
- (B) ***Cut***
 - (1) An excavation;
 - (2) The difference between a point on the original ground surface and the point of lowest elevation on the final grade;
 - (3) The material removed in excavation work.
- (C) ***Development Area*** – The total area of alteration of the naturally occurring ground surface resulting from construction activities whether permanent or temporary.
- (D) ***Drainage Area*** – The subject property together with the watershed (acreage) contributing water runoff to and receiving water runoff from the subject property.
- (E) ***Drainageway*** – Any natural or artificial stream, swale, creek, river, ditch, channel, canal or other open water-course.
- (F) ***Earth Movement*** – Any type of land surface failure resulting in the downslope movement of material . The term includes, but is not limited to, soil creep, mudflow, rockslides, block failures, and massive landslides.
- (G) ***Erosion*** – The wearing away or removal of earth surface materials by the action of natural elements or forces including, but not limited to, wind, water or gravity.
- (H) ***Excavation*** – Any act by which earth, sand, gravel, rock or any similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed,

including the conditions resulting therefrom.

(I) **Fill:**

- (1) Any act by which earth, sand, gravel, rock or similar material is pushed, placed, dumped, stacked, pulled, transported, or in any way moved to a new location above the existing natural surface of the ground or on the top of a stripped surface, including the condition resulting therefrom.
- (2) The difference in elevation between a point on the original ground surface and the point of higher elevation on a finished grade.
- (3) The material used to make a fill.

(J) **Geotechnical Engineer** - A Civil Engineer, licensed to practice in the State of Oregon, who by training, education and experience is competent in the practice of geotechnical or soils engineering practices.

(K) **Geotechnical Report** - Any information required in addition to Form 1 which clarifies the geotechnical conditions of a proposed development site. Examples of this would be reports on test hole borings, laboratory tests or analysis of materials, or hydrologic studies.

(L) **Grading** - Any stripping, cutting, filling, stockpiling or any combination thereof, including the land in its cut or filled condition.

(M) **HDP Form-1** - The form required for specified developments subject to the Hillside Development and Erosion Control subdistrict. It contains a geotechnical reconnaissance and stability questionnaire which must be filled out and certified by a Certified Engineering Geologist or Geotechnical Engineer.

(N) **Landscaping Activities** - The artistic adornment or improvement of a section of ground or site by contouring the land and by planting flowers, shrubs, trees, lawns or groundcover plants.

(O) **Mulch** - Materials spread over the surface of the ground, especially freshly graded or exposed soils, to prevent physical damage from erosive agents such as storm water, precipitation or wind, and which shield soil surfaces until vegetative cover or other stabilization measures can take effect.

(P) **Slope:**

- (1) Any ground whose surface makes an angle from the horizontal; or
- (2) The face of an embankment or cut section.

(Q) **Slope Hazard Map** - A series of maps (Figures 1A. through 6A.) prepared by Shannon & Wilson, Inc., dated September, 1978, and on file in the Office of the Director, Department of Environmental Services;

(R) **Spoil Material** - Any rock, sand, gravel, soil or other earth material removed by excavation or other grading activities.

(S) **Topographic Information** - Surveyed elevation information which details slopes, contour intervals and drainageways. Topographic information shall be prepared by a registered land surveyor or a registered professional engineer qualified to provide

such information and represented on maps with a contour interval not to exceed 10 feet.

- (T) *Vegetation* – All plant growth, especially trees, shrubs, grasses and mosses.
- (U) *Vegetative Protection* – Stabilization of erosive or sediment-producing areas by covering the soil with:
 - (1) Permanent seeding, producing long-term vegetative cover;
 - (2) Short-term seeding, producing temporary vegetative cover;
 - (3) Sodding, producing areas covered with a turf or perennial sod-forming grass; or
 - (4) Netting with seeding if the final grade has not stabilized.

W. A Subsection of the CS – Community Service Subdistrict is added as follows:

11.15.7010 General Provisions.

- (A) Application for approval of a Community Service use shall be made in the manner provided in MCC .8205 through .8280.
- (B) Except as provided in MCC .7022(F) and (G), the Approval Authority shall hold a public hearing on each application for a Community Service Use, modification thereof, or time extension.
- (C) The approval of a Community Service Use shall expire two years from the date ~~of such approval if substantial construction or development has not taken place, unless the Approval Authority shall have established a longer period.~~ of issuance of the Board Order in the matter, or two years from the date of final resolution of subsequent appeals, unless:
 - (1) The project is completed as approved, or
 - (2) The Approval Authority establishes an expiration date in excess of the two year period, or
 - (3) The Planning Director determines that substantial construction or development has taken place. That determination shall be processed as follows:
 - (a) Application shall be made on appropriate forms and filed with the Director at least 30 days prior to the expiration date.
 - (b) The Director shall issue a written decision on the application within 20 days of filing. That decision shall be based on findings that:
 - (i) Final Design Review approval has been granted under MCC .7845 on the total project; and
 - (ii) At least ten percent of the dollar cost of the total project value has been expended for construction or development authorized under a sanitation, building or other development permit. Project value shall be as determined

by MCC .9025(A) or .9027(A).

(c) Notice of the Planning Director decision shall be mailed to all parties as defined in MCC .8225.

(d) The decision of the Planning Director shall become final at the close of business on the tenth day following mailed notice unless a party files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295.

(D) A Community Service approval shall be for the specific use or uses approved together with the limitations or conditions as determined by the approval authority. Any change of use or modification of limitations or conditions shall be subject to approval authority approval after a public hearing.

(E) In granting approval of a Community Service Use, the approval authority may attach limitations or conditions to the development, operation or maintenance of such use including but not limited to setbacks, screening and landscaping, off-street parking and loading, access, performance bonds, noise or illumination controls, structure height and location limits, construction standards, periods of operation and expiration dates of approval.

(F) Uses authorized pursuant to this section shall be subject to Design Review approval under MCC .7805 through .7865.

(G) A Community Service approval shall not be construed as an amendment of the Zoning Map, although the same may be depicted thereon by appropriate color designation, symbol or short title identification.

11.15.7020 Uses

(A) Except as otherwise provided in MCC .2012, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority.

(1) Boat moorage, marina or boathouse moorage.

(2) Camp, campground or recreational vehicle park.

(3) Cemetery, crematory, mausoleum, mortuary or funeral home.

(4) Church.

(5) Group care facility.

(6) Government building or use.

(7) Hospital, sanitarium, rest or retirement home.

(8) Kindergarten or day nursery.

(9) Library.

(10) Park, playground, sports area, golf course or recreational use of a similar nature.

(11) Philanthropic or eleemosynary institution.

- (12) Power substation or other public utility building or use.
- (13) Private club, fraternal organization, lodge.
- (14) Racetrack.
- (15) Radio and television transmission towers.
 - (a) VHF and UHF television towers, FM radio towers, two-way radio, common carrier, and cellular telephone towers, and fixed point microwave towers are permitted in any district, provided only self-supporting structures are permitted in the Exclusive Farm Use district.
 - (b) Low-power television towers, satellite ground stations, AM radio towers, and building-mounted towers are permitted in any district except urban residential districts, provided only self-supporting structures are permitted in the Exclusive Farm Use district.
 - (c) Ham radio, amateur sole source emitters, Citizen Band transmitters, and structures to support them are permitted in any district as an accessory use and do not require a Community Service use designation if used for non-commercial purposes only. Any such tower shall comply with the regulations of the district in which it is located. Non-amateur sole source emitters shall also comply with the registration requirements of MCC .7035(F)(2).
 - (d) Receive-only facilities in conjunction with a permitted use are exempt from the provisions of this section, but shall comply with all other requirements of MCC. 7020(15), .7035, and .7040.
- (16) Refuse dump or sanitary landfill.
- (17) Resort, dude ranch, hunting or fishing lodge.
- (18) Recycling collection center.
- (19) Riding academy or the boarding of horses for profit.
- (20) School, private, parochial or public; educational institution.
- (21) Transit station.
- (22) Waste collection, transfer, processing, or recovery facility.
- (23) Accessory uses to the above.
- (24) Ambulance Service Substation.
- (25) Regional Sanitary Landfills
- (26) Mining and processing of geothermal resources.**

11.15.7025 Restrictions

A building or use approved under MCC .7020 through .7030 shall meet the following requirements:

- (A) Minimum yards in EFU, CFU, F-2, MUA-20, MUF, RR, RC, UF-20, UF-10, LR-40, LR-30, LR-20, LR-10, R-40, R-30, R-20, and R-10 Districts:
 - (1) Front yards shall be 30 feet.

- (2) Side yards for one-story buildings shall be 20 feet; for two-story buildings, 25 feet.
- (3) Rear yards shall be as required in the district.
- (B) Minimum yards in LR-7.5, LR-7, LR-5, MR-4, MR-3, HR-2, HR- 1, R-7.5, R-7, R-4, A-2, BPO, and A-1-B Districts:
 - (1) Front yards shall be 30 feet.
 - (2) Side yards for buildings 25 feet or less in height shall be 15 feet; for buildings over 25 feet, 20 feet.
 - (3) Rear yards shall be as required in the district.
- (C) Minimum yards in other districts shall be as required in the district.
- (D) Minimum Site Size;
 - (1) A day nursery or kindergarten shall provide not less than 100 square feet per child, of outdoor play area located other than in a required front yard.
 - (2) Primary (kindergarten through fourth grade), private and parochial schools shall be on sites of one acre for each 90 pupils or one acre for each three classrooms, whichever is greater.
 - (3) Elementary public schools shall be on sites of one acre for each 75 pupils or one acre for each two and one-half classrooms, whichever is greater.
 - (4) Churches shall be on sites of 15,000 square feet.
- (E) Off-street parking and loading shall be provided as required in MCC .6100 through .6148.
- (F) Signs for Community Service Uses located in districts in MCC .2002 - .2966 pursuant to the provisions of MCC .7902 - .7982.
- (G) Other restrictions or limitations of use or development not required under this subsection shall be provided in the district.
- (H) **For noise sensitive uses as defined in MCC .7305(E) the minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
 - (1) To 50 feet if the property owner records with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
 - (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

X. Subsections of the CU – Conditional Use Subdistrict are amended, added to, or deleted as follows:

11.15.7110 General Provisions

- (A) Application for approval of a Conditional Use shall be made in the manner provided in MCC .8205 through .8280.
- (B) The Approval Authority shall hold a public hearing on each application for a Conditional Use, modification thereof, time extension or reinstatement of a revoked permit.
- (C) **Except as provided in MCC .7330, the approval of a Conditional Use shall expire two years from the date of such approval if substantial construction or development has not taken place, unless the Approval Authority shall have established a longer period. of issuance of the Board Order in the matter, or two years from the date of final resolution of subsequent appeals, unless:**
 - (1) The project is completed as approved, or
 - (2) The Approval Authority establishes an expiration date in excess of the two year period, or
 - (3) The Planning Director determines that substantial construction or development has taken place. That determination shall be processed as follows:
 - (a) Application shall be made on appropriate forms and filed with the Director at least 30 days prior to the expiration date.
 - (b) The Director shall issue a written decision on the application within 20 days of filing. That decision shall be based on findings that:
 - (i) Final Design Review approval has been granted under MCC .7845 on the total project; and
 - (ii) At least ten percent of the dollar cost of the total project value has been expended for construction or development authorized under a sanitation, building or other development permit. Project value shall be as determined by MCC .9025(A) or .9027(A).
 - (c) Notice of the Planning Director decision shall be mailed to all parties as defined in MCC .8225.
 - (d) The decision of the Planning Director shall become final at the close of business on the tenth day following mailed notice unless a party files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295.
- (D) A Conditional Use permit shall be issued only for the specific use or uses, together with the limitations or conditions as determined by the Approval Authority. Any change of use or modification of limitations or conditions shall be subject to approval authority approval after a

public hearing.

- (E) The findings and conclusions made by the approval authority and the conditions, modifications or restrictions of approval, if any, shall specifically address the relationships between the proposal and the approval criteria listed in MCC .7120 and in the district provisions.

11.15.7115 Conditions and Restrictions

Except as provided for Mineral Extraction and Processing activities approved under MCC .7305 through .7325 and .7332 through .7335, the approval authority may attach conditions and restrictions to any conditional use approved. Conditions and restrictions may include a definite time limit, a specific limitation of use, landscaping requirements, off-street parking, performance standards, performance bonds, and any other reasonable conditions, restrictions or safeguards that would uphold the purpose and intent of this Chapter and mitigate any adverse effect upon the adjoining properties which may result by reason of the conditional use allowed.

11.15.7120 Conditional Use Approval Criteria

- (A) A Conditional Use shall be governed by the approval criteria listed in the district under which the conditional use is allowed. If no such criteria are provided, the approval criteria listed in this section shall apply. In approving a Conditional Use listed in this section, the approval authority shall find that the proposal:

- (A 1) Is consistent with the character of the area;
- (B 2) Will not adversely affect natural resources;
- (C 3) Will not conflict with farm or forest uses in the area;
- (D 4) Will not require public services other than those existing or programmed for the area;
- (E 5) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;
- (F 6) Will not create hazardous conditions; and
- (G 7) Will satisfy the applicable policies of the Comprehensive Plan.

- (B) **Except for off-site stockpiling, subpart (A) of this subsection shall not apply to applications for mineral extraction and processing activities. Proposals for mineral extraction and processing shall satisfy the criteria of MCC .7325.**

11.15.7305 Definitions

- (A) Mining means the removal of minerals **or aggregate material**, whether extracted from land or water, by any method, including but not limited to shoveling, blasting, scooping, and dredging.
- (B) Minerals include any and all **solid** mineral products, metallic and non-metallic, ~~solid, liquid or gaseous, and mineral waters of all kinds~~ extracted for commercial, industrial or construction use from natural deposits.
- (C) ~~Geothermal Resources shall have the meaning contained in ORS 522.005~~ **Aggregate material includes crushed or uncrushed gravel, crushed stone, or sand from natural deposits.**
- (D) Reclamation Plan shall have the meaning contained in ORS 517.750.

- (E) Noise Sensitive Uses include dwellings, schools, public parks, churches, hospitals, public libraries, offices or other similar uses determined to be noise-sensitive uses by the Department of Environmental Quality.
- (F) Dust Sensitive Uses include dwellings, schools, public parks, churches, hospitals, public libraries, offices, food service or other similar uses determined to be dust-sensitive uses by the Department of Environmental Quality.
- (G) ESEE is an abbreviation for the "Economic, Social, Environmental, and Energy" analysis procedure for Goal 5 resources described in OAR 660-16-000 through 660-16-025 and which is adopted as a part of the Comprehensive Plan.

11.15.7315 Purposes

The purposes of the Mineral Extraction section are to promote the public health, safety and general welfare, all in accordance with ORS 215, ORS 517, and 522, LCDC Statewide Planning Goal #5, and the Multnomah County Comprehensive Plan. The regulation of uses within this district are designed to:

- (A) Recognize mineral and aggregate resource extraction as a land use influenced largely by the location of the natural resource and the location of the market;
- (B) Provide maximum flexibility for location of the extraction process within a variety of underlying zones, while at the same time minimizing potentially adverse effects on the public and property surrounding the extraction site;
- (C) ~~Recognize the potential for future changes in the character of the area in which the extraction site may be located, and allow for periodic modification of restrictions which may be placed upon the extraction operation in recognition of these changes~~ Recognize mineral and aggregate resource sites which receive an ESEE designation of "2A", "3A", or "3C" as being appropriate for extraction operations when in compliance with MCC .7325 - .7332; and
- (D) Recognize mineral extraction as a temporary use dependent to a large degree upon market conditions and resource size and that reclamation and the potential for future use of the land for other activities must also be considered.

11.15.7322 Exceptions

Exempted from the requirements of this section are those mineral extraction sites and activities which:

- (A) If zoned EFU, produce less than 1,000 cubic yards of material and affect less than one acre, or
- (B) Produce less than 5,000 cubic yards of material and affect less than one acre in any consecutive 12 month period, and which over time affect less than a total of five acres, or
- (C) Produce materials which are used by the owner or tenant for construction and maintenance of on-site access roads, and farming or forest practices.

11.15.7325 Criteria for Approval

The approval authority shall find that:

- (A) ~~An economic deposit of the mineral resource proposed to be extracted exists~~ The site is designated "2A", "3A", or "3C" through an ESEE analysis.
- (B) There is a proposed reclamation plan which ~~is in conformance with~~ will allow the property to be utilized as envisioned by the Comprehensive Plan and the underlying district .
- (C) ~~Adverse impacts on surrounding areas with regard to the following have been, or can be mitigated~~ The following general operation requirements and standards have been, or will be met:
- (1) Access and traffic.
 - (a) Prior to any surface mining activity, all on-site roads used in the mining operation and all roads from the site to a public right-of-way shall be designed and constructed to accommodate the vehicles and equipment which will use them.
 - (b) All on-site and private access roads shall be paved or adequately maintained to minimize dust and mud generation within 100 feet of a public right-of-way or 250 feet of a dust sensitive land use.
 - (c) No material which creates a safety or maintainance problem shall be tracked or discharged in any manner onto any public right-of-way.
 - (d) The applicant shall identify the most commonly used routes of travel from the site and the County Engineer shall certify that those roads:
 - (i) Are adequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity, or
 - (ii) Are inadequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity, but the applicant has committed to finance installation of the necessary improvements under the provisions of 02.200(a) or (b) of the *Multnomah County Rules for Street Standards*.
 - (2) Screening, landscaping, ~~lighting~~, and visual appearance;
 - (a) All existing vegetation and topographic features which would provide screening and which are within 50 feet of the boundary of the proposed area of extraction shall be preserved.
 - (b) If existing natural vegetation and topography is found to be insufficient to obscure views of the site, the site shall be screened with landscape berms, hedges, trees, walls, fences or similar features. Required screening shall be in place prior to commencement of the extraction activities.
 - (c) The Approval Authority shall grant exceptions to the screening requirements only upon finding that:
 - (i) The proposed extraction area is not visible from any dwelling, school, public park, church, hospital, public library, or publicly maintained road, or
 - (ii) Screening will be ineffective because of the topographic location of the site with respect to surrounding properties, or

(iii) The area is part of the completed portion of a reclamation plan.

(3) Signing†

Signing shall be controlled by the standards of MCC .7932(A)-(D), except that only one sign for each point of access to each differently named improved street may be allowed for any operation not in a GC, EC, LM, GM, HM, C-2, M-4, M-3, M-2, and M-1 district.

(4) Hours of operation†

Operation shall be allowed from 7:00 am to 8:00 pm, except no blasting shall be allowed on Sundays or on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day. Exceptions to the hours of operation may be approved pursuant to the provisions of MCC .8705.

(5) Air, water, and noise ~~pollution~~ quality.

(a) The discharge of airborne contaminants and dust created by the extraction operation shall comply with the air quality standards established by the Department of Environmental Quality.

(b) Sedimentation and erosion resulting from the extraction operation shall comply with the standards established by the Department of Environmental Quality.

(c) Sound generated by an operation shall comply with the noise standards of the Department of Environmental Quality. Methods to control and minimize the effects of sound generated by the operation on off-site locations may include, but not be limited to, the installation of earth berms, equipment location, limitations on the hours of operation, and relocation of access roads.

(6) ~~Insurance and liability~~ Fish and wildlife protection.

(a) Fish and wildlife habitat identified by the Comprehensive Plan, or recognized as significant by an ESEE analysis, or found to be significant during project review shall be protected to the maximum possible. Where appropriate, such habitat may be mitigated by such enhancement measures as the provision of additional feed and cover for wildlife or fish stream habitat.

(b) The extent of the operation's impact on and the importance of the fish and wildlife values present shall be determined in consultation with the State Department of Fish and Wildlife.

(c) The Approval Authority may place restrictions on extraction activities found to impact identified fish and wildlife habitat. Restrictions may include limitations on the operating season and size or location of extraction activity. These restrictions shall consider the need to balance the importance of the fish and wildlife resources against the mineral and aggregate resource identified by the ESEE, among others.

(d) Streamside riparian vegetation shall be retained for all streams not a part of direct extraction activities.

(7) ~~Architectural designs of structures;~~ Setbacks.

(a) For mineral and aggregate processing activities:

(i) 200 feet to a property line, or

(ii) 400 feet to a noise sensitive land use existing on (eff. date of ord. amend.);

(b) For access roads and residences located on the same parcel as the mining or processing activity, setbacks shall be as required by the underlying district; and

(c) For mineral extraction and all other activities:

(i) 50 feet to a property line, or

(ii) 250 feet to a noise sensitive land use existing on (eff. date of ord. amend.).

(8) Reclaimed Topography ~~Excavation depths, lateral support, and slopes.~~

All final reclaimed surfaces shall be stabilized by sloping, benching, or other ground control methods. Reclaimed surfaces shall blend into the natural landforms of the immediately surrounding terrain.

(9) ~~Blasting and other vibration causing actions;~~ shall be restricted to the hours of 9:00 am to 5:00 pm, Monday through Saturday.

(10) Safety and security†

Safety and security measures, including fencing, gates, signing, lighting, or similar measures, shall be provided to prevent public trespass to identified hazardous areas such as steep slopes, water impoundments, or other similar hazard where it is found that such trespass is probable and not otherwise preventable.

(11) Phasing program†~~and.~~

All phases of an extraction operation shall be reclaimed before beginning the next, except where the Approval Authority finds that the different phases cannot be operated and reclaimed separately.

(12) Reclamation Schedule.

The reclamation plan shall include a timetable for continually reclaiming the land. The timetable shall provide for beginning reclamation within twelve (12) months after extraction activity ceases on any segment of the mined area and for completing reclamation within three (3) years after all mining ceases.

(D) The proposed operations will not result in the creation of a geologic hazard to surrounding properties, such as through slumping, sliding, or drainage modifications, and have been certified by a registered soils or mining engineer, or engineering geologist as meeting this requirement.

(E) ~~Setbacks for the proposed operations are appropriate for the nature of the use and the area where the use is to be conducted~~ Proposed blasting activities will not adversely affect

the quality or quantity of groundwater within wells in the vicinity of the operation.

- (F) Conditional or preliminary approval for all phases of the proposed operation, including reclamation, has been received from all governmental agencies having jurisdiction over mineral extraction, and the applicable requirements in ORS 517 and ORS 522 have been complied with.
- (G) ~~The applicable standards in MCC .7120 have been complied with~~ The Approval Authority may establish a program for periodic monitoring and reporting.

11.15.7327 Off-Site Stockpiling and Processing

Stockpiling, processing, and distribution activities listed in MCC .7320, related to but not including extraction, may be approved by the Approval Authority under the procedural provisions of MCC .7110 through .7120 on sites other than ESEE designated "2A", "3A", and "3C" resource locations upon a finding that the applicable standards of MCC .7325 are satisfied.

11.15.7330 Time Limit

A Conditional Use permit hereunder shall ~~not expire. be valid for a maximum of five years from date of final approval. The applicant may apply for renewal not less than 90 days prior to the expiration of such permit. The renewal application may be denied, approved subject to previous conditions, or approved subject to new conditions in light of the following factors, among others:~~

- ~~(A) Previous impacts of the use upon surrounding lands and activities;~~
- ~~(B) Changes in surrounding land uses and activities; and~~
- ~~(C) Changes in technology and activities of the operation which will impact the surrounding lands and activities.~~

11.15.7332 Monitoring

The Planning Director shall periodically monitor all extraction operations. If the Director determines that an extraction operation is not in compliance with MCC .7325, such enforcement proceedings deemed appropriate by the Multnomah County Legal Counsel shall be instituted to require compliance.

Y. Subsections MCC .7705 – .7760 (Rural Planned Development) are deleted.

Z. Subsections of the Action Proceedings are amended, added to, or deleted as follows:

11.15.8220 Notice of Hearing – Contents

- (A) Notice of hearing before the Planning

Commission or Hearings Officer shall contain the following:

- (1) The date, time and place of the hearing;
- (2) A legal description of the subject property;
- (3) **A street address or other easily understood geographical reference to the**

subject property;

- (4) The nature of the proposed action **and the proposed use or uses that could be authorized;**
 - (5) **A listing of the applicable Zoning Code and comprehensive plan policies that apply to the application;**
 - (6) A statement that all interested parties may appear and be heard;
 - (7) **A statement that failure to raise an issue, either in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to LUBA based on that issue;**
 - (8) A statement that the hearing shall be held pursuant to the adopted Rules of Procedure; ~~and~~
 - (9) In the case of a hearing by the Planning Commission, the names of the members of the Commission and, in the case of a hearing by the Hearings Officer, the name of the Officer **and the name of the staff representative to contact and the telephone number where additional information may be obtained;**
 - (10) **A statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;**
 - (11) **A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and.**
 - (12) **A copy of the Planning Commission's Rules of Procedure.**
- (B) When the proposed action is a change of zone classification, the Planning Director may include in the notice of hearing a statement that the approval authority may consider classifications other than that for which the action is initiated.
- (C) In addition to the notice required by MCC .8120(B) and any other notice required by law, notice shall be mailed at least ~~ten~~ **twenty** days prior to the hearing to the following persons:
- (1) The applicant;
 - (2) All record owners of property within ~~100 feet of the subject property on matters listed under MCC .8205(D) and (E), and to record owners of property within 250 feet of the subject property on all other matters:~~
 - (a) **100 feet of the subject property on matters listed under MCC .8205(D) and (E), and on all other matters within the Urban Growth Boundary.**
 - (b) **250 feet of the subject property where the subject property is outside the Urban Growth Boundary and not within a farm or forest zone;**
 - (c) **500 feet of the subject property where the subject property is within a farm or forest zone.**
 - (3) **Owners of *Public Use Airports* when the property subject to a zone change application is:**

- (a) Within 5,000 feet of the side or end runway of an airport determined by the Department of transportation to be a *visual airport*, or
- (b) Within 10,000 feet of the side or end runway of an airport determined by the Department of Transportation to be an *instrument airport*.
- (4) All tenants of a mobile home park when the proposed action is a zone change request involving all or part of that mobile home park.
- (D) The record of the Department of Administrative Services shall be used to determine who is entitled to mailed notice; and persons whose names and addresses are not on record at the time of the initiation of the proposed action need not be notified of the hearing. The failure of a property owner to receive notice shall not invalidate the action if a good faith attempt was made to notify all persons entitled to mailed notice.
- (E) In addition to the notice required by MCC .8220(C), the party initiating an action under MCC .8205(A), (B), (C) or (F) shall, at the party's expense, post signs on the property conspicuously displaying notice of the pending hearing at least ten days prior to the date of the hearing. One sign shall be required for each 300 feet, or part thereof, of frontage of the subject property on any street. The content, design, size and location of the signs shall be as determined by the Planning Director to assure that the information thereon is legible from the public right-of-way. As a precondition to a hearing, the party shall file an Affidavit of such posting with the Planning Director not less than five days prior to the hearing.
- (F) A hearing may be continued from time to time as necessary. If a hearing is adjourned to a date certain, no additional notice shall be given unless ordered by the approval authority.

11.15.8240 Decisions

- (A). The Planning Commission or Hearings Officer may approve an application as submitted, deny it, or approve it with such modifications or conditions as may be necessary to carry out the Comprehensive Plan or to obtain the objectives of subsection (D)(2) below.
- (B) In the case of an action by the Planning Commission, a decision to approve a zone change, community service use or conditional use, shall be by majority vote of the entire Commission.
- (C) The Planning Commission or Hearings Officer shall render a decision upon the close of the hearing or at the time to which the matter is continued. Within ten days after a decision is made, it shall be reduced to writing, signed by the Chairperson of the Planning Commission or by the Hearings Officer, filed by the Planning Director with the Clerk of the Board, and mailed to those persons entitled to mailed notice under MCC .8220(C), and to such other persons who request the same.
- (D) The following limitations shall be applicable to conditional approvals:
 - (1) Conditions shall be fulfilled within a time limitation set forth in the approval thereof, or if no time limit is set, within a reasonable time.
 - (2) Conditions shall be reasonably designed to fulfill public needs emanating from the proposed land use in either of the following respects:
 - (a) Protection of the public from the potentially deleterious effects of the proposed use; or
 - (b) Fulfillment of the need for public services created by the proposed use.
 - (3) Failure to fulfill any conditions to the grant of a proposal within the time limitations

provided may be grounds for initiation of an action.

- (4) A bond, in a form acceptable to the Planning Director, or a cash deposit from the property owner in such an amount as will assure compliance with the conditions imposed pursuant to this subsection, may be required.
- (E) Any change or alteration of conditions attached to conditional approvals shall be processed as a new action, except that the Planning Director may approve a change or alteration which does not:
 - (1) Increase density;
 - (2) Change boundaries;
 - (3) Change any use; or
 - (4) Change the location or amount of land devoted to specific land uses.
- (F) An alternative zoning classification may be substituted by the Planning Commission or Hearings Officer for the proposed action if the alternative classification is in the same general classification (i.e., residential, commercial, industrial) and the hearing notice included notification of this possibility as provided by MCC .8220(C).
- (G) If the application is denied, either initially and no review taken, or upon review by the Board or by action of the courts, no new application for the same or substantially similar action shall be filed for at least six months from the date of the final action denying the application.
- (H) Age, gender or physical disability shall not be an adverse consideration in making a land use decision.**

11.15.8280. Board Decision

- (A) The Board may affirm, reverse or modify the decision of the Planning Commission or Hearings Officer and may grant approval subject to such modifications or conditions as may be necessary to carry out the Comprehensive Plan or to achieve the objectives of MCC .8240(D).
- (B) The Board shall state all decisions upon the close of its hearing or upon continuance of the matter to a time certain.
- (C) Written findings of fact and conclusions, based upon the record, shall be signed by the Presiding Officer of the Board and filed with the Clerk of the Board with a decision within five business days following announcement of the decision under subsection (B) above.
- (D) The Board's decision shall be final at the close of business on the tenth day after the Decision, Findings of Fact and Conclusions have been filed under subsection (C) above, unless the Board on its own motion grants a rehearing under MCC .8285(A).
- (E) The Board shall render a decision within 120 days from the time the application for that action is accepted as being complete, except when:**
 - (1) A participant requests an extension before the conclusion of the initial evidentiary hearing, in which case the extension shall not be subject to the 120 day limitation, or**
 - (2) Additional documents or evidence is provided in support of the application less than 20 days prior to or at the initial evidentiary hearing and a party requests a continuance of the hearing, in which case the continuance shall not be subject to the 120 day limitation.**

AA. Subsections of Non-Conforming Uses are amended, added to, or deleted as follows:

11.15.8805 ~~Non-Conforming Uses~~ Restoration, Replacement, or Abandonment of a Non-Conforming Use

- (A) ~~A non-conforming structure or use may not be changed or altered in any manner except as provided herein, unless such change or alteration more nearly conforms with the regulations of the district in which it is located~~ Restoration or replacement of a non-conforming use shall be permitted when the restoration or replacement is made necessary by fire, other casualty or natural disaster. Restoration or replacement shall be commenced within one year from the date of occurrence of the fire, casualty or natural disaster.
- (B) ~~In case of destruction beyond reasonable repair as determined by the Hearings Officer, by fire or other causes, a non-conforming structure or use shall not be rebuilt unless it conforms to all requirements of the district in which it is located~~ If a non-conforming structure or use is abandoned or discontinued for any reason for more than two years, it shall not be re-established unless the resumed use conforms with the requirements of this code at the time of the proposed resumption.
- (C) ~~If a non-conforming structure or use is abandoned or discontinued for any reason for more than one year, it shall not be re-established unless specifically approved by the Hearings Officer~~ A non-conforming structure or use may be maintained with ordinary care.
- (D) ~~A non-conforming structure or use may be maintained with ordinary care.~~

11.15.8810 Alteration of a Non-Conforming Use

- (A) Alteration of a non-conforming use includes:
 - (1) A change in the use of no greater adverse impact on the neighborhood.
 - (2) A change in the structure or physical improvements of no greater impact to the neighborhood.
- (B) Alteration of a non-conforming use shall be permitted when necessary to comply with any lawful requirement for alteration in the use.
- (C) An alteration as defined in (A) above may be permitted to reasonably continue the use.
- (D) A proposal for an alteration under (C) above shall be considered a contested case and a hearing conducted under the provisions of MCC .8205 - .8295 using the standards of (E) below.
- (E) An alteration of a non-conforming use may be permitted if the alteration will affect the surrounding area to a lesser negative extent than the current use, considering:
 - (1) The character and history of the use and of development in the surrounding area;
 - (2) The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable at the property line;
 - (3) The comparative numbers and kinds of vehicular trips to the site;
 - (4) The comparative amount and nature of outside storage, loading and parking;

- (5) The comparative visual appearance;
- (6) The comparative hours of operation;
- (7) The comparative effect on existing vegetation;
- (8) The comparative effect on water drainage;
- (9) The degree of service or other benefit to the area; and
- (10) Other factors which tend to reduce conflicts or incompatibility with the character or needs of the area.

SECTION 3. ZONING MAP AMENDMENTS

The following Sectional Zoning Maps are amended to reflect those new boundaries of the Significant Environmental Concern subdistrict as depicted in that collection of maps entitled *1989 Amendments of the Significant Environmental Concern Subdistrict*: No. 5, 29, 37, 548 – 549, 550 – 551, 556 – 563, 574, 586, 592, 638, 639, 649 – 652, 653 – 656, 657a – 657d, 658 – 661, 662 – 665, 666, 667 – 670, 744, 759, 760, 764, 765, 772, 773, 774, 775, 776, 779, 783, 784, 786, and 787.

SECTION 4. ADOPTION

ADOPTED THIS _____ day of _____ 1989, being the date of its second reading before the Board of County Commissioners of Multnomah County.

**BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON**

(SEAL)

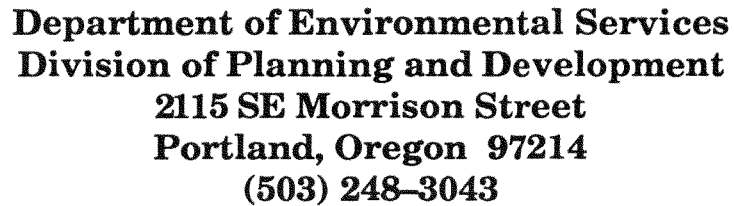
By _____
Gladys McCoy, County Chair

Reviewed:
Lawrence Kressel, Multnomah County Counsel

by: 
John DuBay
Chief Deputy County Counsel

Appendix to Ordinance No. _____

Form-1 — Geotechnical Reconnaissance and Stability Questionnaire



1. What is the general topography of the property? Attach topographic survey or sketch with pertinent notes.

2. Are there any visible signs of instability or other potentially adverse site features (landslides, slumps, mud flows, creep, ravines, fills, cuts, seeps, springs, ponds, *etc.*) within the surrounding area for a minimum distance of 100 feet beyond the subject property boundaries? Describe and indicate on attached topographic survey or sketch.

3. Is any earthwork proposed in connection with site development?

(Please Circle)YesNo

If yes, indicate depth and extent of cuts/fills; describe fill types.

4. In your opinion, will the proposed earthwork cause potential stability problems for the subject and/or adjacent properties?

(Please Circle)

Yes

No

If yes, express probability. *(Please Circle)*

Very Probable

Possibly

Possible, but remote

If Very Probable or Possibly, explain.

5. In your opinion, will the proposed development (structures, foundations, parking area, streets, etc.) create potential stability problems for the subject and/or adjacent properties?

(Please Circle)

Yes

No

If yes, express probability. *(Please Circle)*

Very Probable

Possibly

Possible, but remote

If Very Probable or Possibly, explain.

6. In your opinion would the subsurface disposal of sewage effluent on the site (*i.e.*, drain fields) have an adverse affect on stability of the site or adjacent areas?

(Please Circle)

Yes

No

If yes, express probability. *(Please Circle)*

Very Probable

Possibly

Possible, but remote

If Very Probable or Possibly, explain.

7. If answer is Very Probable or Possibly to questions 4 or 5, is it your opinion, on the basis of a visual evaluation, that adequate stability might be achieved by preferred siting of the development, alternative foundation support, earthwork, drainage, *etc.*?

(Please Circle)

Yes

No

If yes, explain.

8. Do you recommend additional geotechnical studies (*i.e.*, mapping, testing pits or borings, stability analysis, *etc.*) prior to site development?

(Please Circle)

Yes

No

If yes, explain.

Signature _____ Date _____

*Affix State of Oregon
Registration Stamp and
Number*

(Periodic Updates)

1 COLLECT, DEVELOP DATA
ON GOAL 5 RESOURCES

(Plan Amendments)

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

1A
AVAILABLE INFORMATION ON LOCATION,
QUALITY AND QUANTITY INDICATES
RESOURCE SITE NOT IMPORTANT:

NOT INCLUDED ON PLAN INVENTORY;
NO FURTHER ACTION REQUIRED OR
APPROPRIATE FOR GOAL 5 COMPLIANCE

1B
SOME INFORMATION AVAILABLE
BUT INADEQUATE TO IDENTIFY
THE RESOURCE SITE:

INCLUDE ON PLAN INVENTORY
AS A SPECIAL CATEGORY;

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

1C
INFORMATION AVAILABLE:

PROVIDE INFORMATION ON
LOCATION, QUALITY, AND
QUANTITY AND INCLUDE
ON PLAN INVENTORY

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

2 IDENTIFY CONFLICTING USES

2A
NO CONFLICTING USES
IDENTIFIED:

MANAGE RESOURCE SITE
SO AS TO PRESERVE
ORIGINAL CHARACTER

2B
CONFLICTING USES IDENTIFIED:

DETERMINE ECONOMIC, SOCIAL,
ENVIRONMENTAL, ENERGY
CONSEQUENCES OF CONFLICTING USES

3 DEVELOP A PROGRAM
TO ACHIEVE THE GOAL:

RESOLVE CONFLICTS BASED
ON PRESENTLY AVAILABLE
INFORMATION AND DETERMINATION
OF ECONOMIC, SOCIAL, ENVIRONMENTAL,
ENERGY CONSEQUENCES:

- 3A PRESERVE THE RESOURCE SITE;
- 3B ALLOW CONFLICTING USE; OR
- 3C SPECIFICALLY LIMIT CONFLICTING USE

(Pre-acknowledgment)

(Post-acknowledgment)

PERIODIC UPDATES
THROUGH PLAN AMENDMENTS

ADDRESS AS STATED IN THE PLAN,
AS A PLAN AMENDMENT

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

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

LOCATION:

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

DESCRIPTION:

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

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

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

☒ **YES - GO TO B**

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

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

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

C. ZONING:

BASED ON ZONING, ARE THERE CONFLICTING USES ?

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

☐ **YES - GO TO D**

D.

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

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

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

DESCRIPTION:

DOGAMI I.D. #26-0059

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

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

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

X YES - GO TO B

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

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

YES - INCLUDE IN PLAN INVENTORY AND GO TO C

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

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

BASED ON ZONING, ARE THERE CONFLICTING USES ?

NO - DESIGNATE 2A : PRESERVE RESOURCE

X YES - GO TO D

D. DESCRIBE EXISTING OR POTENTIAL CONFLICTING USES:

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

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

DESCRIBE CONSEQUENCES OF ALLOWING CONFLICTING USES:

OAR 660-16-005 (2): "...Both the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences. The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate, at this stage of the process. A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain why decisions are made for specific sites."

ECONOMIC:

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

SOCIAL:

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

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

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

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

ENVIRONMENTAL:

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

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

3. Requirements of other applicable State Goals:

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

ENERGY:

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

2. Impacts on conflicting uses: N/A

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

CONCLUSION: THE RESOURCE AT THIS SITE SHOULD:

BE FULLY PROTECTED - DESIGNATE 3A.

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

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

PROGRAM:

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

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

LOCATION:

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

DESCRIPTION:

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

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

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

☐ **YES - GO TO B**

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

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

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

C. ZONING:

BASED ON ZONING, ARE THERE CONFLICTING USES ?

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

☐ **YES - GO TO D**

D. DESCRIBE EXISTING OR POTENTIAL CONFLICTING USES:

**MULTNOMAH COUNTY
GOAL 5 INVENTORY**

(11/3/89)

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

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

DESCRIPTION:

DOGAMI I.D. #26-0019

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

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

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

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

X YES - GO TO B

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

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

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

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

BASED ON ZONING, ARE THERE CONFLICTING USES ?

NO - DESIGNATE 2A : PRESERVE RESOURCE

X YES - GO TO D

D. DESCRIBE EXISTING OR POTENTIAL CONFLICTING USES:

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

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

DESCRIBE CONSEQUENCES OF ALLOWING CONFLICTING USES:

OAR 660-16-005 (2): "...Both the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences. The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate, at this stage of the process. A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain why decisions are made for specific sites."

ECONOMIC:

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

SOCIAL:

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

ENVIRONMENTAL:

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

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

ENERGY:

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

CONCLUSION: THE RESOURCE AT THIS SITE SHOULD:

BE FULLY PROTECTED - DESIGNATE 3A.

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

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

PROGRAM:

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

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

**MULTNOMAH COUNTY
GOAL 5 INVENTORY**

(11/3/89)

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

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

DESCRIPTION:

DOGAMI I.D. #26-0029

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

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

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

X YES - GO TO B

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

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

X YES - INCLUDE IN PLAN INVENTORY AND GO TO C

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

BASED ON ZONING, ARE THERE CONFLICTING USES ?

NO - DESIGNATE 2A : PRESERVE RESOURCE

X YES - GO TO D

D. DESCRIBE EXISTING OR POTENTIAL CONFLICTING USES:

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

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

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

DESCRIBE CONSEQUENCES OF ALLOWING CONFLICTING USES:

OAR 660-16-005 (2): "...Both the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences. The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate, at this stage of the process. A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain why decisions are made for specific sites."

ECONOMIC:

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

SOCIAL:

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

ENVIRONMENTAL:

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

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

ENERGY:

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

CONCLUSION: THE RESOURCE AT THIS SITE SHOULD:

BE FULLY PROTECTED - DESIGNATE 3A.

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

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

PROGRAM:

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

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

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

LOCATION:

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

DESCRIPTION:

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

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

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

☐ **YES - GO TO B**

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

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

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

C. ZONING:

BASED ON ZONING, ARE THERE CONFLICTING USES ?

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

☐ **YES - GO TO D**

D. DESCRIBE EXISTING OR POTENTIAL CONFLICTING USES:

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

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

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

DESCRIPTION:
DOGAMI I.D. #26-0064

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

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

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

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

X YES - GO TO B

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

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

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

C. ZONING: Rural Residential

BASED ON ZONING, ARE THERE CONFLICTING USES ?

NO - DESIGNATE 2A : PRESERVE RESOURCE

X YES - GO TO D

D. DESCRIBE EXISTING OR POTENTIAL CONFLICTING USES:

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

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

DESCRIBE CONSEQUENCES OF ALLOWING CONFLICTING USES:

OAR 660-16-005 (2): "...Both the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences. The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate, at this stage of the process. A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain why decisions are made for specific sites."

ECONOMIC:

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

SOCIAL:

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

ENVIRONMENTAL:

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

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

(1). Fish and wildlife areas and habitat:

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

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

ENERGY:

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

CONCLUSION: THE RESOURCE AT THIS SITE SHOULD:

BE FULLY PROTECTED - DESIGNATE 3A.

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

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

PROGRAM:

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

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

**MULTNOMAH COUNTY
GOAL 5 INVENTORY**

(11/3/89)

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

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

DESCRIPTION:

DOGAMI I.D. #26-0065

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

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

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

X YES - GO TO B

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

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

X YES - INCLUDE IN PLAN INVENTORY AND GO TO C

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

BASED ON ZONING, ARE THERE CONFLICTING USES ?

NO - DESIGNATE 2A : PRESERVE RESOURCE

X YES - GO TO D

D. DESCRIBE EXISTING OR POTENTIAL CONFLICTING USES:

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

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

DESCRIBE CONSEQUENCES OF ALLOWING CONFLICTING USES:

OAR 660-16-005 (2): "...Both the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences. The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate, at this stage of the process. A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain why decisions are made for specific sites."

ECONOMIC:

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

3. Requirements of other applicable State Goals:

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

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

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

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

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

SOCIAL:

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

ENVIRONMENTAL:

1. Impacts on resource: N/A
2. Impacts on conflicting uses: Noise, dust particulates, and blasting are potential impacts on such sensitive land uses as homes, schools, and public parks if they are too close to the extraction operation.
3. Requirements of other applicable State Goals:

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

(1). Fish and wildlife areas and habitat: There is a Class 1 stream immediately north of the resource ridge.. The mapped resource area does not include the stream and it appears that extraction can occur without disturbance of the stream.

(2). Wetlands: The Class 1 stream noted in (1) above also is identified as a wetland on the U.S. Fish and Wildlife "National Wetland Inventory".

B. Goal 7, Areas Subject to Natural Disasters and Hazards:

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

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

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

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

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

ENERGY:

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

CONCLUSION: THE RESOURCE AT THIS SITE SHOULD:

BE FULLY PROTECTED - DESIGNATE 3A.

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

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

PROGRAM:

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

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

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

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

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

LOCATION:

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

DESCRIPTION:

DOGAMI I.D. #:26-0066.

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

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

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

☐ **YES - GO TO B**

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

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

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

C. ZONING:

BASED ON ZONING, ARE THERE CONFLICTING USES ?

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

☐ **YES - GO TO D**

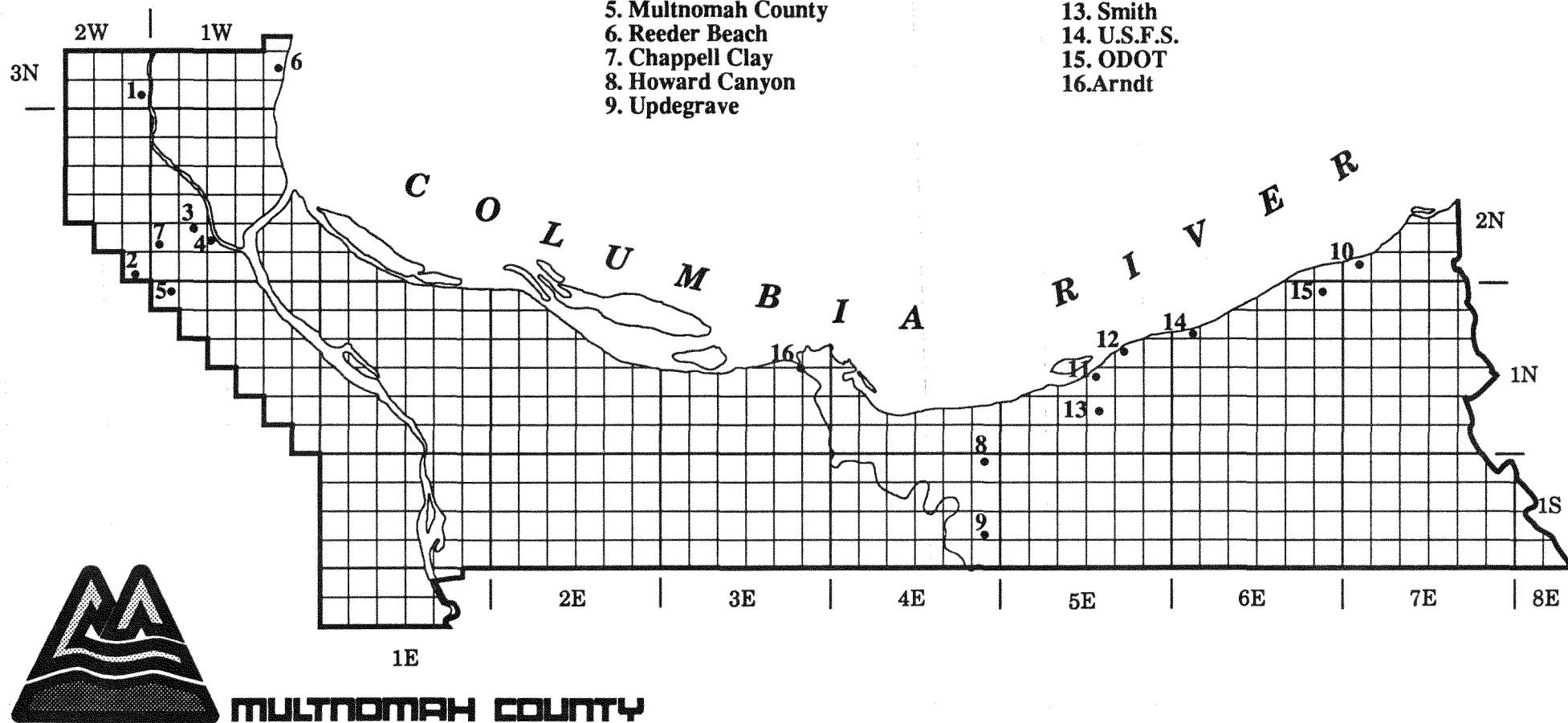
D. DESCRIBE EXISTING OR POTENTIAL CONFLICTING USES:

MINERAL RESOURCES

1. ODOT
2. Krueger
3. Hidden Valley
4. Angell Bros.
5. Multnomah County
6. Reeder Beach
7. Chappell Clay
8. Howard Canyon
9. Updegrave

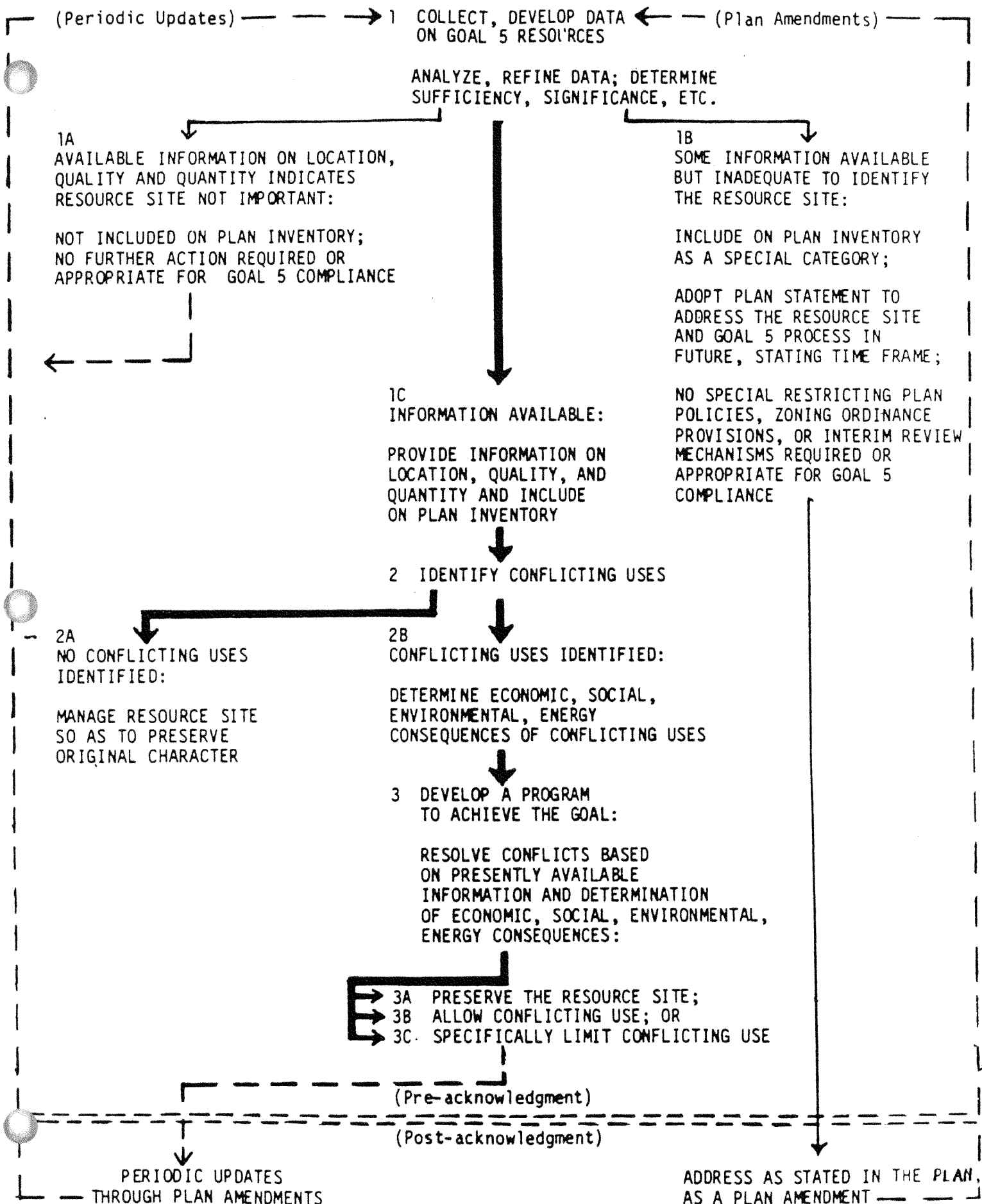
Inside CRGNSA

10. ODOT
11. McGriff
12. ODOT
13. Smith
14. U.S.F.S.
15. ODOT
16. Arndt



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

Figure 1.



(DLCD Example)

ATTACHMENT

GOAL 5 WORKSHEET

Type of Resource: Historic Building

Description: Saloon built in 1880

1. Inventory Requirement

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

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

If NO, proceed.

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

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

If NO, proceed.

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

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

Location 450 Main Street

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

Quantity This is the oldest building in Beaver County

Proceed to 2

2. Conflicting Use Determination and Analysis

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

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

If YES, proceed.

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

Demolition or alteration of building

Complete ESEE Analysis of Conflicting Uses:

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

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

Environmental: No environmental consequences

Energy: No energy consequences

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

Proceed to 3

3. Program for Resource Protection

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

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

If NO, proceed.

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

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

If NO, proceed.

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

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

(See development ordinance, section, 8.0)

MULTNOMAH COUNTY GOAL 5 INVENTORY

11/15/89

TYPE OF RESOURCE: Wildlife Habitat and Travel Corridor

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

DESCRIPTION:

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

A. AVAILABLE INFORMATION INDICATES SITE IS IMPORTANT?:

NO—DESIGNATE 1A:DO NOT INCLUDE IN PLAN INVENTORY

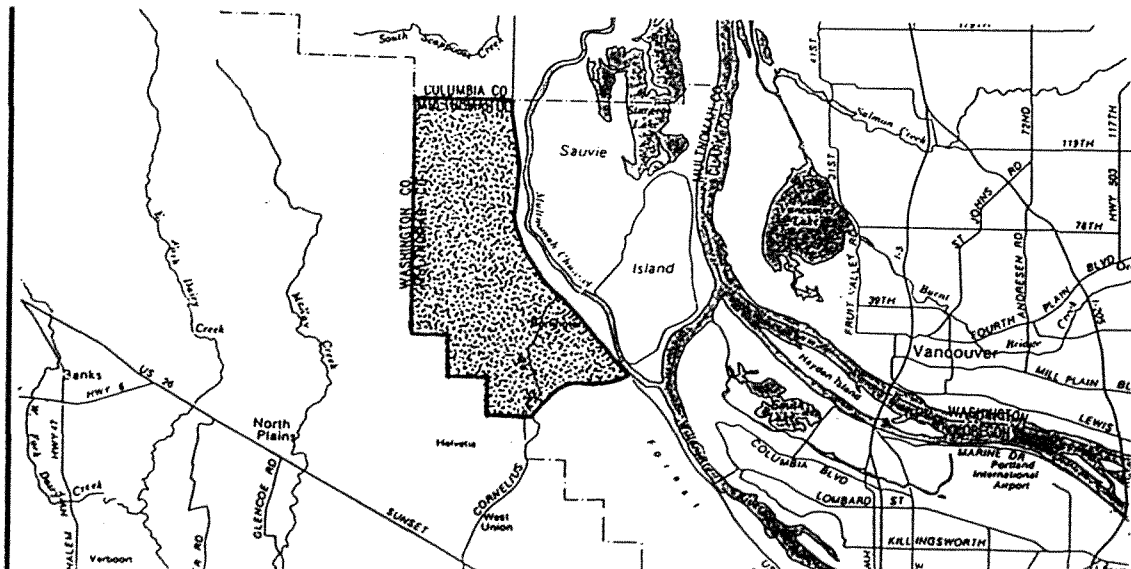
☒ YES - GO TO B

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

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

YES - INCLUDE IN PLAN INVENTORY AND GO TO C

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



**MULTNOMAH COUNTY
GOAL 5 INVENTORY**

11/15/89

TYPE OF RESOURCE: Scenic View

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

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

A. AVAILABLE INFORMATION INDICATES SITE IS SIGNIFICANT:

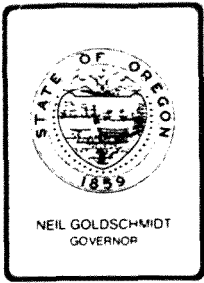
NO-DESIGNATE 1A:DO NOT INCLUDE IN PLAN INVENTORY

X YES - GO TO B

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

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

YES - INCLUDE IN PLAN INVENTORY AND GO TO C



Department of Land Conservation and Development

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

November 22, 1989

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

Recommended Procedure

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

Background

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

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

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

SB:DB/deb
<pr>

cc: County Planning Directors
City Planning Directors

RECEIVED

DEC 01 1989

Multnomah County
Zoning Division



DEPARTMENT OF JUSTICE

GENERAL COUNSEL DIVISION

Justice Building

Salem, Oregon 97310

Telephone: (503) 378-6986

November 21, 1989

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

Re: Opinion Request OP-6349

Dear Ms. Brody:

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

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

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

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

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

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

DISCUSSION

1. . Background

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

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

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

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

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

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

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

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

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

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

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

LCDC has adopted rules to implement this statute and to help cities and counties determine when a substantial change in circumstances exists. See OAR 660-19-057.¹ Generally, a city or county must consider major developments or events since acknowledgment; cumulative effects resulting from plan and land use amendments; oversight or delay in implementing goal requirements; new inventory information; and consistency with new rules and statutes. Subsection (2) of the rule also allows cities and counties to consider additional factors:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Susan Brody
Page 8
November 21, 1989

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

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

Sincerely,



Donald C. Arnold
Chief Counsel
General Counsel Division

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

¹ OAR 660-19-057 states:

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

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

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

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

"* * * * *

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

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

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

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

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

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

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

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



MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES
DIVISION OF PLANNING
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BOARD OF COUNTY COMMISSIONERS
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December 9, 1989

MEMORANDUM

TO: Board of County Commissioners

FROM: Lorna Stickel

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

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

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

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

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

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

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

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

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

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

A. GOAL 4, FOREST

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

B. LOT OF RECORD

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

C. HILLSIDE DEVELOPMENT AND EROSION CONTROL ORDINANCE

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

D. EXPIRATION OF COMMUNITY SERVICE AND CONDITIONAL USES

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

E. WETLANDS

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

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

F. MINERAL AND AGGREGATE EXTRACTION

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

G. WILDLIFE HABITAT

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

H. SCENIC VIEWS

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

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

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

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

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY**

In the Matter of Submitting to the State)
the County's Local Review Order under)
ORS 197.640.)

**RESOLUTION
C 1-88**

WHEREAS, O.R.S. 197.640 requires counties to review their comprehensive plans and land use regulations periodically and make changes necessary to keep plans and regulations up to date, in compliance with the statewide planning goals, and coordinated with the plans and programs of state agencies; and

WHEREAS, On August 28, 1987 the County received its periodic review notice and received two extensions of the date required to submit its proposed Order to February 28, 1989; and

WHEREAS, The County has received permission from the Department of Land Conservation and Development Commission to delay periodic review for areas inside the urban services boundaries of cities due to major annexation programs that have resulted in a 50% reduction of unincorporated population since acknowledgement in 1980; and

WHEREAS, Briefings of the Planning Commission, and public workshops were held, Board staff has been briefed and agencies contacted; and

WHEREAS, A Proposed Local Review Order which analyzed the Factors in the Periodic Review Notice and suggested changes to the County Comprehensive Framework Plan findings and policies, ordinances, and zoning maps intended to bring the County into compliance with the State planning program was presented to the Department of Land Conservation and Development on February 28, 1989; and

WHEREAS, The Department of Land Conservation and Development recommended changes to selected items in the Proposed Local Review Order; and

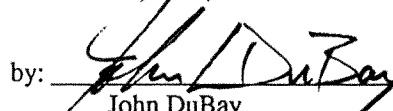
WHEREAS, Those DLCD recommended changes, plus several other modifications suggested at public workshops and meetings of the Planning Commission, are incorporated in the document entitled *Local Review Order - December, 1989* and its appendant ordinances and maps.

NOW, THEREFORE BE IT RESOLVED that the Board of County Commissioners directs that the attached Local Review Order be submitted to the Department of Land Conservation and Development.

Approved this 9th day of January, 1990

Gladys McCoy
Chair, Board of County Commissioners

Reviewed:
Lawrence Kressel, Multnomah County Counsel

by: 
John DuBay
Chief Deputy County Counsel