

ANNOTATED MINUTES

Tuesday, January 12, 1999 - 9:30 AM
Multnomah County Courthouse, Boardroom 602
1021 SW Fourth Avenue, Portland

LAND USE PLANNING MEETING

Chair Beverly Stein convened the meeting at 9:30 a.m., with Vice-Chair Diane Linn, Commissioners Sharron Kelley and Lisa Naito present, and Commissioner Serena Cruz arriving at 9:31 a.m.

- P-1 NSA 16-98 DE NOVO HEARING WITH TESTIMONY LIMITED TO 20 MINUTES PER SIDE Regarding Hearings Officer Denial of an Appeal Requesting the Placement of Rip Rap on Slopes Exceeding 30% and the Replacement of an Existing Structure for Property Located at 1785 SE HISTORIC COLUMBIA RIVER HIGHWAY, TROUTDALE.

AT THE REQUEST OF APPELLANTS' ATTORNEY ED SULLIVAN AND FOLLOWING DISCUSSION WITH PLANNER PHIL BOURQUIN, COMMISSIONER KELLEY MOVED, SECONDED BY COMMISSIONER LINN, TO RESET THE DE NOVO HEARING TO FEBRUARY 2, 1999. MR. SULLIVAN ADVISED HIS CLIENTS WAIVE THE 150 DAY RULE IN THE HOPE THAT A CODE AMENDMENT SET FOR FIRST READING AND POSSIBLE ADOPTION ON THURSDAY'S BOARD AGENDA WOULD ALLOW THE VEGGENS TO REPAIR FLOOD DAMAGE ON THEIR PROPERTY SUBJECT TO A MODIFIED SITE REVIEW PROCESS, THEREBY ELIMINATING THE NEED FOR A DE NOVO HEARING. MOTION UNANIMOUSLY APPROVED TO RESET THE DE NOVO HEARING IN CASE NSA 16-98 TO 10:30 AM, TUESDAY, FEBRUARY 2, 1999, IN LAND USE PLANNING OFFICE ROOM 103, 1600 SE 190TH AVENUE, WITH TESTIMONY LIMITED TO 20 MINUTES PER SIDE.

- P-2 PUBLIC HEARING on Report of Multnomah County Planning Commission Recommendation to Adopt the West of Sandy River Rural Area Plan Scoping

Report and Giving Transportation and Land Use Planning Division Staff Direction to Move Forward in Drafting the West of Sandy River Rural Area Plan with the Issues Identified in the Scoping Report. Presented by Karen Schilling and Susan Muir.

SUSAN MUIR (WITH KAREN SCHILLING AND APRIL SIEBENALER) EXPLANATION AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION. NO ONE WISHED TO TESTIFY. FOLLOWING BOARD DISCUSSION WITH MS. MUIR, COMMISSIONER KELLEY MOVED AND COMMISSIONER LINN SECONDED, APPROVAL OF A RESOLUTION ADOPTING THE WEST OF SANDY RIVER RURAL AREA PLAN SCOPING REPORT. FOLLOWING DISCUSSION, BOARD CONSENSUS DIRECTING STAFF TO AMEND THE ADDENDUM TO THE SCOPING REPORT EXHIBIT TO REFLECT ADDITIONAL ISSUES ADDED TO THE LIST OF ISSUES TO BE ADDRESSED IN THE PLAN AND TO INCLUDE A FOOTER ON EACH PAGE OF THE PUBLIC COMMENTS NOTING THAT THESE ARE COMMENTS TAKEN DOWN VERBATIM FROM SURVEYS AND THE OPEN HOUSE AND ARE NOT NECESSARILY THOSE EMBRACED BY THE COUNTY. RESOLUTION 99-1 UNANIMOUSLY APPROVED.

There being no further business, the meeting was adjourned at 10:05 a.m.

Tuesday, January 12, 1999 - 2:30 PM
Multnomah County Courthouse, Boardroom 602
1021 SW Fourth Avenue, Portland

BOARD BRIEFING

Chair Beverly Stein convened the meeting at 2:31 p.m., with Vice-Chair Diane Linn, Commissioners Sharron Kelley and Serena Cruz present, and Commissioner Lisa Naito arriving at 2:37 p.m.

B-1 Department of Support Services Briefing and Work Session to Review Performance Trends and Key Results Measures and to Discuss Upcoming

Issues and Opportunities. Presented by Vickie Gates, Division Managers, Kathy Tinkle, Tom Fronk and Larry Aab.

VICKIE GATES, GEORGE FETZER, KATHY TINKLE, TOM FRONK, LARRY AAB, DAVE BOYER AND LISA YEO PRESENTATIONS AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION REGARDING RISK MANAGEMENT DIVISION; VIOLENCE IN THE WORKPLACE; ERGONOMICS; INTEGRATED ENTERPRISE SYSTEM; TRACKING AND MONITORING GRANTS AND CONTRACTS; SOFTWARE VENDOR REQUEST FOR PROPOSALS REQUIREMENTS, BEST PRACTICES AND EFFICIENCIES; SYSTEM UPGRADES, TRAINING, IMPLEMENTATION, BUDGET AND PROPOSED TIMELINES.

There being no further business, the meeting was adjourned at 3:54 p.m.

Wednesday, January 13, 1999 - 4:00 PM
Portland Public Schools, Child Service Center, Room C-19
531 SE 14th, Portland

PUBLIC MEETING

Chair Beverly Stein convened the meeting at 4:05 p.m., with Vice-Chair Diane Linn, Commissioners Sharron Kelley, Lisa Naito and Serena Cruz present.

PH-1 Public Information Meeting and Opportunity for Community Discussion and Input on Proposed Purchase of US Bank Building for Relocation of Various Multnomah County Administrative Offices to 501 SE Hawthorne Boulevard (Corner of Grand Avenue and Hawthorne). Presentations by Chair Beverly Stein and County Staff.

COMMISSIONER NAITO ADVISED SHE MAY NEED TO LEAVE EARLY TO ATTEND A METRO MEETING, BUT WILL LISTEN TO THE TAPE. COMMISSIONER KELLEY ADVISED SHE WILL NEED TO LEAVE AT 4:30 TO GET TO A MEETING IN TROUTDALE THAT STARTS AT 5:00.

CHAIR STEIN PRESENTATION, EXPLANATION AND COMMENTS IN SUPPORT OF OWNED OVER LEASED SPACE, CO-LOCATION OF ADMINISTRATIVE AND SUPPORT FUNCTIONS, LONG TERM FINANCIAL BENEFITS, ASSIST IN VACATION OF THE HANSEN AND MORRISON BUILDINGS, REVITALIZATION OF THE EAST SIDE OF THE RIVER, AND IMPROVED PUBLIC MEETING ACCESS. JIM EMERSON, DAVE BOYER AND SHERIFF DAN NOELLE EXPLANATION AND COMMENTS IN SUPPORT. MR. BOYER RESPONSE TO FINANCING QUESTION OF M'LOU CHRIST. M'LOU CHRIST AND JIM DUNCAN COMMENTS IN SUPPORT. COUNTY EMPLOYEE QUESTION REGARDING COUNTY MOTOR POOL ACCESS.

Commissioner Kelley left at 4:30 p.m.

JOHN RILES TO PROVIDE ASSESSMENT AND TAXATION DATA IN RESPONSE TO A QUESTION FROM A CLACKAMAS COUNTY RESIDENT REGARDING HOW MUCH PROPERTY TAX US BANK PAYS ON THE FACILITY. BOARD DISCUSSION WITH M'LOU CHRIST REGARDING PARKING ISSUES AND EFFORTS TO GET TRIMET TO EXTEND FARELESS SQUARE TO ACROSS THE RIVER OR SOME OTHER RELIEF. VALERIE CHUMAN OF ST FRANCIS CHURCH COMMENTS IN SUPPORT. COMMISSIONERS CRUZ AND LINN COMMENTS IN SUPPORT. BOB OBERST AND CHAIR STEIN EXPLANATION IN RESPONSE TO CITIZEN QUESTION REGARDING COUNTY FACILITY LEASING ISSUES AND TENANT IMPROVEMENTS.

There being no further business, the meeting was adjourned at 4:55 p.m.

Thursday, January 14, 1999 - 9:30 AM
Multnomah County Courthouse, Boardroom 602
1021 SW Fourth Avenue, Portland

REGULAR MEETING

Chair Beverly Stein convened the meeting at 9:35 a.m., with Vice-Chair Diane Linn, Commissioners Sharron Kelley, Lisa Naito and Serena Cruz present.

**CHAIR STEIN GREETED AND ACKNOWLEDGED
FORMER GOVERNOR BARBARA ROBERTS IN
THE AUDIENCE TODAY.**

CONSENT CALENDAR

**UPON MOTION OF COMMISSIONER KELLEY,
SECONDED BY COMMISSIONER LINN, THE
CONSENT CALENDAR (ITEMS C-1 THROUGH C-7)
WAS UNANIMOUSLY APPROVED.**

DEPARTMENT OF ENVIRONMENTAL SERVICES

- C-1 ORDER Authorizing Amendment to Purchase and Sale Agreement to Purchasers Robert Hahn and Sharolyn McCallum as Recorded at Book 98, Page 171910

ORDER 99-2.

- C-2 ORDER Authorizing Amendment to Purchase and Sale Agreement to Purchasers Robert Hahn and Sharolyn McCallum as Recorded at Book 98, Page 171911

ORDER 99-3.

- C-3 Budget Modification DES 99-07 Reclassifying a Plant Maintenance Engineer Position to a HVAC Engineer, and Two Alarm Technician Assistant Positions to Alarm Technicians

SHERIFF'S OFFICE

- C-4 Intergovernmental Agreement 800199 with Portland Community College Providing GED/ABE/ESL Instructional Programs for Inmates in County Correctional Facilities

DEPARTMENT OF JUVENILE AND ADULT COMMUNITY JUSTICE

- C-5 Budget Modification DCJ 8 Reclassifying Five Juvenile Custody Services Supervisor Non-Exempt Positions to Juvenile Justice Supervisor Exempt Positions
- C-6 Budget Modification DCJ 10 Reclassifying an Office Assistant Position to a Senior Office Assistant and a Juvenile Counseling Assistant Position to a Program Development Specialist

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES

- C-7 Amendment 1 to Intergovernmental Revenue Agreement 9910334 with Oregon Mental Health and Developmental Disability Services Division, Funding Mental Health Services on a Capitated Basis for Children and Adults Enrolled in the Oregon Health Plan Medicaid Demonstration Project

REGULAR AGENDA **PUBLIC COMMENT**

- R-1 Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

GARET MARTIN OF CAIDO COMMENTS EXPRESSING DISSATISFACTION WITH ANIMAL CONTROL ENFORCEMENT OF BARKING DOG ORDINANCE AND RESPONSE TO BOARD QUESTIONS. CHAIR STEIN TO DISCUSS WITH DIVISION MANAGER HANK MIGGINS.

NON-DEPARTMENTAL

- R-2 Oregon Youth Conservation Corps 1998 Frank Roberts Conservation Project of the Year Award to Multnomah County and Open Meadow Learning Center's *Corps Restoring Urban Environment* (CRUE) Program. Presented by Mim Swartz.

MIM SWARTZ OF OREGON YOUTH CONSERVATION CORPS PRESENTATION OF AWARDS TO PROJECT RECIPIENT CORPS RESTORING THE URBAN ENVIRONMENT (CRUE) PROGRAM AFFILIATED WITH OPEN MEADOW LEARNING CENTER, AN ALTERNATIVE SCHOOL IN NORTH PORTLAND; ATLAS-COPCO WAGNER, INC. FOR ITS RESTORATION PROJECT OF TWO

1,000 FOOT SEGMENTS OF BUSINESS PROPERTY ALONG THE COLUMBIA SLOUGH, AND MULTNOMAH COUNTY FOR ITS COLLABORATION. ESTHER LEV OF WETLANDS CONSERVANCY ACCEPTED AWARD ON BEHALF OF MR. PIERCE JIM PIERCE OF ATLAS-COPCO WAGNER, INC., AND COMMENTS IN APPRECIATION. CHAIR BEVERLY STEIN ACCEPTED AWARD ON BEHALF OF MULTNOMAH COUNTY AND COMMENTS IN APPRECIATION. CHARLOTTE SCHWARTZ AND DREVER GEE AND RON ADAMS COMMENTS IN APPRECIATION. ANDREW MASON ACCEPTED AWARD ON BEHALF OF CRUE AND COMMENTS IN APPRECIATION. MR. MASON ADVISED 25 STUDENTS WERE INVOLVED IN THE PROJECT OVER THE LAST TWO YEARS AND 12 ARE HERE TODAY. CRUE STUDENTS MICHAEL BEWLEY AND ALLISON BERKENS DESCRIBED THEIR EFFORTS AND LEARNINGS REGARDING REPLACING INVASIVE PLANTS WITH DIVERSE NATIVE AND LOCAL BERRY-PROVIDING PLANTS TO ATTRACT A DIVERSITY OF WILDLIFE AND INCREASE THE STRENGTH OF THE BANK TO REDUCE EROSION, POLLUTION AND RUNOFF INTO THE SLOUGH. COMMISSIONERS LINN, NAITO, KELLEY AND CRUZ COMMENTS IN APPRECIATION OF THE LATE SENATOR FRANK ROBERTS AND THE CRUE PROGRAM. FORMER GOVERNOR BARBARA ROBERTS COMMENTS IN APPRECIATION.

- R-3 Metro Update on Regional Affordable Housing, Goal 5 Analysis of Regional Resources for Fish and Wildlife Protection, and Metro Natural Resources Strategy. Presented by Councilor Rod Park and Planner Glen Bolen.

GLEN BOLEN PRESENTATION AND RESPONSE TO BOARD QUESTIONS REGARDING DEMOGRAPHICS, AFFORDABLE HOUSING GAPS AND NEED FOR MARKET STUDY.

- R-4 Public Affairs Office Presentation and Request for Approval of Multnomah County 1999 Legislative Agenda. Presented by Gina Mattioda.

GINA MATTIODA PRESENTATION AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION ON LEGISLATIVE ISSUES. COMMISSIONERS INVITED TO PRESENT MULTNOMAH COUNTY LEGISLATIVE AGENDA TO LEGISLATURE IN SALEM AT 7:30 PM ON MONDAY, JANUARY 25, 1999. FOLLOWING DISCUSSION, BOARD CONSENSUS THAT WEEKLY AGENDAS INCLUDE BOARD OPPORTUNITY TO DISCUSS LEGISLATIVE ISSUES. UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER NAITO, THE MULTNOMAH COUNTY 1999 LEGISLATIVE AGENDA WORKING DOCUMENT WAS UNANIMOUSLY APPROVED.

DEPARTMENT OF JUVENILE AND ADULT COMMUNITY JUSTICE

- R-5 Budget Modification DCJ 12 Increasing the Community Justice Budget by \$724,047 of State Grant-In-Aid Revenue Carryover from FY 97-98 to Support One-Time Only Expenditures in FY 98-99

COMMISSIONER KELLEY MOVED AND COMMISSIONER LINN SECONDED, APPROVAL OF R-5. MEGANNE STEELE EXPLANATION. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-6 First Reading of an ORDINANCE Amending MCC 11.15 by Incorporating Standards Revising and Implementing the Commercial Forest Use Policies of the West Hills Rural Area Plan for the Study Area Identified in that Plan

ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER KELLEY MOVED AND COMMISSIONER LINN SECONDED, APPROVAL OF FIRST READING. SUSAN MUIR EXPLANATION. PHILIP THOMPSON TESTIMONY IN SUPPORT OF ORDINANCE. IN RESPONSE TO A COMMENT OF MR. THOMPSON, MS. MUIR ADVISED THE PROPERTY IS CORRECTLY IDENTIFIED. FIRST READING UNANIMOUSLY

APPROVED. SECOND READING THURSDAY,
JANUARY 21, 1999.

- R-7 First Reading and Possible Adoption of an ORDINANCE Amending MCC 11.15 by Incorporating Standards Implementing Open Space and Emergency Disaster Response Amendments to the Management Plan for the Columbia River Gorge National Scenic Area, Correcting Certain Errors in the General Management Forest District, and Declaring an Emergency

ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER KELLEY MOVED AND COMMISSIONER LINN SECONDED, APPROVAL OF FIRST READING AND ADOPTION. PHIL BOURQUIN EXPLANATION AND RESPONSE TO BOARD QUESTIONS REGARDING PROVISIONS FOR TEMPORARY EMERGENCY REPAIRS APPLICATION FOR PERMANENT REPAIRS AND COMPLIANCE WITH FEDERAL ENDANGERED SPECIES ACT. MICHAEL LANG OF FRIENDS OF THE COLUMBIA GORGE SUBMITTED WRITTEN AND ORAL TESTIMONY IN SUPPORT OF TODAY'S ORDINANCE WITH SOME RESERVATIONS AND SUGGESTIONS ON FUTURE AMENDMENTS IN CONNECTION WITH PUBLIC NOTICE AND REVIEW REQUIREMENTS AND SCENIC RESOURCE PROTECTION ON SPECIAL MANAGEMENT AREA OPEN SPACE LANDS OR FEDERAL FOREST LANDS WITHIN WOODLAND SETTINGS, AND RESPONSE TO BOARD QUESTIONS. ATTORNEY EDWARD SULLIVAN ON BEHALF OF CLIENTS MEL AND JOYCE VEGGEN, SUBMITTED WRITTEN AND ORAL TESTIMONY IN SUPPORT OF ORDINANCE WHICH WOULD ALLOW HIS CLIENTS TO SEEK APPROVAL TO REPAIR FOUNDATION DAMAGE TO THEIR HOME ON THE SANDY RIVER CAUSED BY HIGH WATER FROM THE DECEMBER, 1998 STORM. FOLLOWING BOARD COMMENTS AND DISCUSSION WITH MR. BOURQUIN REGARDING POLICY ISSUE CONCERNS WITH THE ADDITION OF CERTAIN LANGUAGE IN SUBSECTION MCC 11.15.3556 (4) CONCERNING PUBLIC SAFETY AND THE DEFINITION OF PRIVATE PROPERTY;

COUNTY LANGUAGE BEING CONSISTENT WITH GORGE COMMISSION LANGUAGE; AND THE CONCERNS OF THE FRIENDS OF THE GORGE, THE FIRST READING OF THE ORDINANCE WAS APPROVED, WITH COMMISSIONERS KELLEY, LINN AND STEIN VOTING AYE, AND COMMISSIONERS NAITO AND CRUZ VOTING NO. SINCE FIRST READING OF EMERGENCY ORDINANCE NOT UNANIMOUS, SECOND READING SCHEDULED FOR THURSDAY, JANUARY 28, 1999. CHAIR STEIN DIRECTED STAFF TO ALERT AND DISCUSS ISSUES RAISED TODAY WITH THE PLANNING COMMISSION.

NON-DEPARTMENTAL

- R-8 Second Reading and Possible Adoption of an ORDINANCE Amending MCC 5.005 and MCC 5.006 Prescribing Procedures for Designation of Interim Officers and Appointment of Officers to Vacant Elective Offices

ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER KELLEY MOVED AND COMMISSIONER LINN SECONDED, APPROVAL OF SECOND READING AND ADOPTION. THOMAS SPONSLER EXPLANATION. COMMISSIONER NAITO MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF AN AMENDMENT TO MCC 5.005(B)(1) "COUNTY ELECTED OFFICIALS SHALL EACH DESIGNATE A PERSON TO PERFORM THEIR RESPONSIBILITIES..." WHICH WOULD REQUIRE INTERIM DESIGNEES FOR COMMISSIONERS ONLY, NOT THE CHAIR, SHERIFF OR AUDITOR (SHERIFF'S PROPOSAL). COMMISSIONER NAITO COMMENTS IN SUPPORT. DAN OLDHAM TESTIFIED THAT SHERIFF DAN NOELLE OPPOSES INCLUSION OF SHERIFF TO INTERIM OFFICER DESIGNATION. COMMISSIONER KELLEY COMMENTS IN SUPPORT. FOLLOWING CLARIFICATION BY MR. SPONSLER THAT THE APPOINTMENT OF INTERIM OFFICER DESIGNEE ONLY APPLIES WHEN THAT ELECTED OFFICIAL LEAVES OFFICE PRIOR TO END OF TERM,

COMMISSIONER LINN COMMENTS IN OPPOSITION. AMENDMENT FAILED, WITH COMMISSIONERS KELLEY AND NAITO VOTING AYE, AND COMMISSIONERS LINN, CRUZ AND STEIN VOTING NO. COMMISSIONER LINN'S MOTION FOR AN AMENDMENT ADDING LANGUAGE THAT THE SHERIFF AND AUDITOR WOULD NOMINATE AN INTERIM OFFICER FROM A SLATE OF POTENTIAL PEOPLE FOR THE BOARD TO DRAW FROM IN THE EVENT OF A VACANCY, FAILED FOR LACK OF A SECOND. COMMISSIONER KELLEY'S MOTION FOR AN AMENDMENT TO MCC 5.005(B)(4) ADDING: "ALL PERSONS DESIGNATED TO FILL ELECTIVE OFFICES ON AN INTERIM BASIS SHALL MEET THE CHARTER SECTION 4.10 QUALIFICATIONS FOR APPOINTEES TO SUCH OFFICES." (AUDITOR'S PROPOSAL) DIED FOR LACK OF A SECOND. ORDINANCE 923 UNANIMOUSLY APPROVED.

COMMISSIONER COMMENT

R-9 Opportunity (as Time Allows) for Commissioners to Provide Informational Comments to Board and Public on Non-Agenda Items of Interest. Comments Limited to Three Minutes Per Person.

NO ONE WISHED TO COMMENT.

There being no further business, the meeting was adjourned at 11:40 a.m.

BOARD CLERK FOR MULTNOMAH COUNTY, OREGON

Deborah L. Bogstad



MULTNOMAH COUNTY, OREGON

BOARD OF COMMISSIONERS

Beverly Stein, Chair

1120 SW Fifth Avenue, Suite 1515
Portland, Or 97204-1914
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Email: mult.chair@co.multnomah.or.us

Diane Linn, Commission Dist. 1

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**ANY QUESTIONS? CALL BOARD
CLERK DEB BOGSTAD @ 248-3277**

Email: deborah.l.bogstad@co.multnomah.or.us

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

JANUARY 12, 13 & 14 1999

BOARD MEETINGS

FASTLOOK AGENDA ITEMS OF INTEREST

Pg. 2	9:30 am Land Use Hearing NSA 16-98
Pg. 2	10:30 am West of Sandy River Rural Area Plan Scoping Report
Pg. 2	2:30 pm Support Services Briefing
Pg. 3	4:00 pm Public Meeting on Proposed County Purchase of US Bank Building
Pg. 4	9:30 am Oregon Youth Conservation Corps Award Presentation
Pg. 4	9:45 am Metro Update Briefing
Pg. 4	10:05 am County Legislative Agenda
Pg. 5	10:25 am Two Land Use Planning Ordinances & Interim Appointments to Vacant Elected Offices Ordinance
✳	Check the County Web Site: http://www.multnomah.lib.or.us

Thursday meetings of the Multnomah County Board of Commissioners are cable-cast live and taped and may be seen by Cable subscribers in Multnomah County at the following times:

Thursday, 9:30 AM, (LIVE) Channel 30

Friday, 10:00 PM, Channel 30

Sunday, 1:00 PM, Channel 30

Produced through Multnomah Community
Television

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1021 SW Fourth Avenue, Portland

LAND USE PLANNING MEETING

- P-1 NSA 16-98 DE NOVO HEARING WITH TESTIMONY LIMITED TO 20 MINUTES PER SIDE Regarding Hearings Officer Denial of an Appeal Requesting the Placement of Rip Rap on Slopes Exceeding 30% and the Replacement of an Existing Structure for Property Located at 1785 SE HISTORIC COLUMBIA RIVER HIGHWAY, TROUTDALE. 1 HOUR REQUESTED.
- P-2 PUBLIC HEARING on Report of Multnomah County Planning Commission Recommendation to Adopt the West of Sandy River Rural Area Plan Scoping Report and Giving Transportation and Land Use Planning Division Staff Direction to Move Forward in Drafting the West of Sandy River Rural Area Plan with the Issues Identified in the Scoping Report. Presented by Karen Schilling and Susan Muir. 45 MINUTES REQUESTED.
-

Tuesday, January 12, 1999 - 2:30 PM
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BOARD BRIEFING

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PUBLIC MEETING

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REGULAR MEETING

CONSENT CALENDAR

DEPARTMENT OF ENVIRONMENTAL SERVICES

- C-1 ORDER Authorizing Amendment to Purchase and Sale Agreement to Purchasers Robert Hahn and Sharolyn McCallum as Recorded at Book 98, Page 171910
- C-2 ORDER Authorizing Amendment to Purchase and Sale Agreement to Purchasers Robert Hahn and Sharolyn McCallum as Recorded at Book 98, Page 171911
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SHERIFF'S OFFICE

- C-4 Intergovernmental Agreement 800199 with Portland Community College Providing GED/ABE/ESL Instructional Programs for Inmates in County Correctional Facilities

DEPARTMENT OF JUVENILE AND ADULT COMMUNITY JUSTICE

- C-5 Budget Modification DCJ 8 Reclassifying Five Juvenile Custody Services Supervisor Non-Exempt Positions to Juvenile Justice Supervisor Exempt Positions
- C-6 Budget Modification DCJ 10 Reclassifying an Office Assistant Position to a Senior Office Assistant and a Juvenile Counseling Assistant Position to a Program Development Specialist

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES

- C-7 Amendment 1 to Intergovernmental Revenue Agreement 9910334 with Oregon Mental Health and Developmental Disability Services Division, Funding Mental Health Services on a Capitated Basis for Children and Adults Enrolled in the Oregon Health Plan Medicaid Demonstration Project

REGULAR AGENDA

PUBLIC COMMENT

- R-1 Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

NON-DEPARTMENTAL

- R-2 Oregon Youth Conservation Corps 1998 Frank Roberts Conservation Project of the Year Award to Multnomah County and Open Meadow Learning Center's *Corps Restoring Urban Environment* (CRUE) Program. Presented by Mim Swartz. 15 MINUTES REQUESTED.
- R-3 Metro Update on Regional Affordable Housing, Goal 5 Analysis of Regional Resources for Fish and Wildlife Protection, and Metro Natural Resources Strategy. Presented by Councilor Rod Park and Planner Glen Bolen. 20 MINUTES REQUESTED.
- R-4 Public Affairs Office Presentation and Request for Approval of Multnomah County 1999 Legislative Agenda. Presented by Gina Mattioda. 15 MINUTES REQUESTED.

DEPARTMENT OF JUVENILE AND ADULT COMMUNITY JUSTICE

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DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-6 First Reading of an ORDINANCE Amending MCC 11.15 by Incorporating Standards Revising and Implementing the Commercial Forest Use Policies of the West Hills Rural Area Plan for the Study Area Identified in that Plan
- R-7 First Reading and Possible Adoption of an ORDINANCE Amending MCC 11.15 by Incorporating Standards Implementing Open Space and Emergency Disaster Response Amendments to the Management Plan for the Columbia River Gorge National Scenic Area, Correcting Certain Errors in the General Management Forest District, and Declaring an Emergency

NON-DEPARTMENTAL

- R-8 Second Reading and Possible Adoption of an ORDINANCE Amending MCC 5.005 and MCC 5.006 Prescribing Procedures for Designation of Interim Officers and Appointment of Officers to Vacant Elective Offices

COMMISSIONER COMMENT

- R-9 Opportunity (as Time Allows) for Commissioners to Provide Informational Comments to Board and Public on Non-Agenda Items of Interest. Comments Limited to Three Minutes Per Person.

Meeting Date: JAN 12 1999
Agenda No: P-1
Est. Start Time: 9:30

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: A DeNovo Hearing before the Board of County Commissioners regarding the Hearings Officer's decision on NSA 16-98.

BOARD BRIEFING Date Requested:
 Amt. of Time Needed:
 Requested By:

REGULAR MEETING Date Requested: January 12, 1999
 Amt. of Time Needed: 1 hour

DEPARTMENT: DES **DIVISION:** Land Use Planning
CONTACT: Philip Bourquin **TELEPHONE:** 248-3043
 BLDG/ROOM: 412 / 109

PERSON(S) MAKING PRESENTATION: Phillip Bourquin & Deniece Won

ACTION REQUESTED

☐ Informational Only ☐ Policy Direction ☒ Approval ☐ Other

SUGGESTED AGENDA TITLE

A DeNovo Hearing before the Board of County Commissioners regarding a **Denial** of an appeal of NSA 16-98, requesting the placement of rip rap on slopes exceeding 30% and the replacement of an existing structure.

SIGNATURES REQUIRED

Elected Official: _____

or

Department Manager: KB Lee D. Nicholas

BOARD OF
COUNTY COMMISSIONERS
99 JAN - 6 PM 12:02
MULTNOMAH COUNTY
OREGON



MULTNOMAH COUNTY

BOARD HEARING: JANUARY 12, 1999

TIME: 9:30 AM

CASE NAME: MELVIN & JOYCE VEGGEN

NUMBER: NSA 16-98

1. Applicant Name/Address:

Melvin & Joyce Veggen
1785 E Historic Columbia River Hwy
Troutdale, OR 97060

2. Action Requested By Applicant:

Applicant requests the Board interpret proposed rip rap of the Sandy River bank to be within the definition of a single family dwelling and therefore allowed outright as repair and maintenance of an existing structure within the Gorge General Residential (GGR-5) zoning district of the Columbia River Gorge National Scenic Area.

Action Requested Of Board

- ☐ Affirm Hearings Officer Decision
☐ Hearing/Rehearing
Scope of Review
☐ On the Record
☒ De Novo
☐ New Information Allowed

3. Planning Staff Recommendation:

The appeal presents arguments not presented prior to the Administrative Decision or Hearings Officer decisions denying a site review application.

Staff interprets that rip rap is a separate structure proposed to be constructed away from and not part of the existing dwelling. Further, repair and maintenance is limited to "activities that restore the size, scope, configuration, and design of a serviceable structure to its previously authorized condition". If the Board interprets that the dwelling is the serviceable structure and the rip rap is a part of that structure, the board would have to make findings that the rip rap is within this definition.

Staff recommends the appeal be denied based on the findings in the attached Staff report (1/12/99), and the Hearings Officers Decision of 11/9/98 be upheld.

4. Hearings Officer Decision:

The Hearings Officer denied the applicants original proposal under provisions for "repair and maintenance of existing structures", because rip rap is a structure and does not qualify as existing. The Hearings Officer also accepted a Staff interpretation that the rip rap may qualify as an accessory building over 60 square feet subject to Site Review, however, Site Review does not authorize buildings on lands with slopes in excess of 30%.

5. If Recommendation And Decision Are Different, Why?

Both the Hearings Officer Decision and Administrative Decisions denying rip rap were substantially similar.

6. Issues:

Rip rap is not a use specifically provided for in under the Columbia River Gorge National Scenic Area Act. This decision will impact how the County chooses to implement the Scenic Area Act. The act was established in part to provide for the natural evolution of the gorge while maintaining views from key viewing areas include the Sandy River. Is rip rap and its effect both on individual parcels and cumulatively acceptable under the Columbia River Gorge Management Plan?

7. Do Any Of These Issues Have Policy Implications? Explain.

Yes, as identified above.



**DEPARTMENT OF ENVIRONMENTAL SERVICES
TRANSPORTATION AND LAND USE PLANNING DIVISION
2115 SE Morrison Street
Portland, OR 97214 (503) 248-3043**

**STAFF REPORT
To The
BOARD OF COUNTY COMMISSIONERS
For a Hearing on January 12, 1999
(NSA 16-98)**

In the matter of an Appeal filed by Melvin and Joyce Veggen of the Multnomah County Hearings Officers Decision denying the placement of rip rap along the bank of the Sandy River.

Parcel location: 1785 SE Historic Columbia River Highway

Legal Description: Township 1N, Range 4E, Section 31, Tax lot 35; SID
1N4E31BC 1600

Background: The Veggen's currently occupy a dwelling that was constructed in 1947. The dwelling (structure) is built of typical construction methods and supported by a standard foundation of that era.

During the floods of the winter of 1996, the riverbank of the Sandy eroded to the point where the foundation of the dwelling is in threat of being undermined and the dwelling potentially lost.

The applicant came to Multnomah County with a request to place rip rap along the embankment in order to prevent further erosion. Both the Planning Director and Hearings Officer denied the applicant's request based on the code. Specifically, the prior decisions found that the proposed rip rap is "a new structure" proposed to be placed on "land" (existing embankment) with "slopes exceeding 30%" and therefore was not allowable under the Gorge General Residential (GGR-2) zoning designation.

The applicant's appeal to the Board contends the rip rap is intended to support the residential "use" of the parcel, which is in threat of being destroyed, and therefore allowed under provisions for "repair and maintenance of an existing structure".

The code and Management Plan provides for the repair, maintenance and operation of existing structures, trails, railroads and utility facilities without review (MCC 11.15.3676, (A)(3)).

Findings:

The applicant's argument fails for the following reasons:

1. A "Structure" is defined as: **"That which is built or constructed, an edifice or building of any kind, or any piece of work that is artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to, buildings, walls, fences, roads, parking lots, signs, and additions/alterations to structures."**

A dwelling built on a standard foundation (the structure) supports the residential use of the parcel. The dwelling was placed as are all structures, on earth/land.

The applicant is asking the Board to interpret the land on which the dwelling was constructed as part of the "existing use", qualifying the placement of rip rap as "repair and maintenance of the existing structure" and therefore allowed outright in the Gorge General Residential zone under MCC (11.15.3676 (A)(3)).

Staff interprets that the earth (land) on which the dwelling was constructed is not within the definition of "structure" as written or intended under the Management Plan as it was not assembled by man. The land/earth was there before the dwelling was placed and will be there long after the dwelling is gone.

Rip-rap includes the placement of large boulder sized rocks in a definite manner, the use of which is intended to minimizing the erosion of earth, and therefore is a structure as defined.

Since the rip rap is separated by earth from the residential structure it is "apart from" and not "part of" the residential structure. Therefore, the proposed rip rap could not qualify as "part of" repair and maintenance of the existing residential structure.

2. **"Repair and Maintenance"** is defined as:

"An activity that restores the size, scope, configuration, and design of a serviceable structure to its previously authorized and undamaged condition. Activities that change the size, scope, and configuration of a structure beyond its original design are not included."

Notwithstanding the interpretation of existing structure under (1) above, in order to qualify as repair and maintenance under the code the structure must be repaired or maintained to its original configuration.

The applicant's burden is to demonstrate what the original configuration and design of the "structure" was and that the proposed work will not result in the structure existing in a manner or configuration different from that originally authorized.

The evidence in the record indicates, based on a letter prepared by the applicant's consultant dated June 3, 1998, that the project is "a repair and augmentation of erosion protection destroyed in the 1996 flooding".

Based on the use of the term augmentation used by the applicant, and lacking any evidence in the record as to the original size, scope, or configuration of any structure previously authorized on the parcel, a finding cannot be made that the proposed rip rap qualifies as repair and maintenance.

3. **Operation of an existing structure:** The applicant appears to be arguing that the rip rap is necessary to continue to operate the existing residence for residential use. Unfortunately, as demonstrated in (1) above, rip rap is "apart from" and "not part of" an existing residential structure. Further, "Repair and Maintenance" does not allow for additional structures or additions to structures in order to continue a use.
4. **Nonconforming Uses:** The applicant argues that there is a presumable argument that not allowing the rip rap would contradict the nonconforming laws under ORS 215.213. The nonconforming laws under ORS 215.213 are not applicable for two reasons: First, the ORS 215.213 provided that Counties "may" adopt these provisions, and Multnomah County has not adopted these provisions into the zoning code sections applicable to the Columbia River Gorge National Scenic Area (CRGNSA). Second, ORS 196.110 provides Counties may deny any permit or otherwise refuse to take any action, notwithstanding ORS 215, that is inconsistent with the purposes of of the Scenic Area Act or management plan.

5. **Alternatives:**

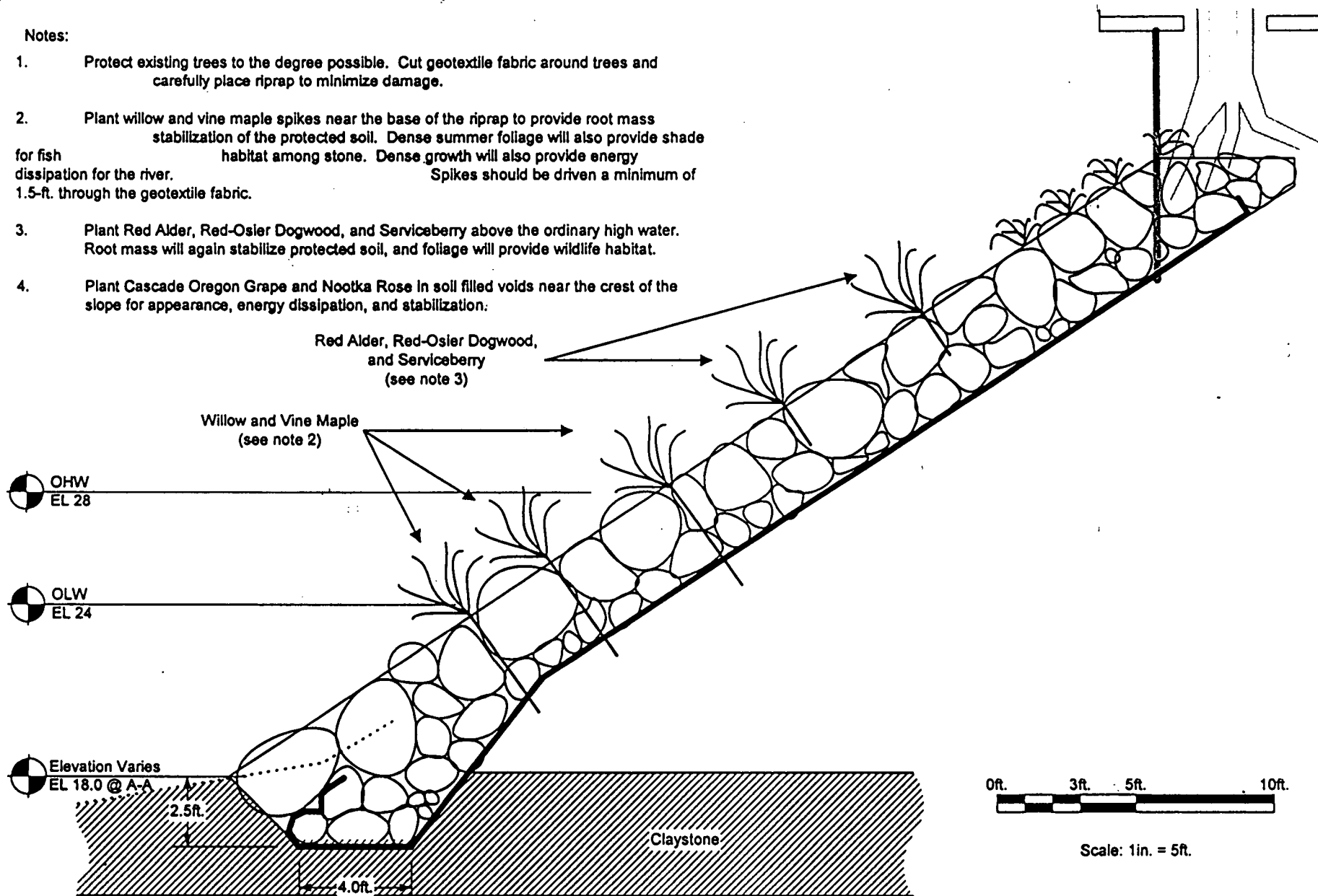
- a) **Could the dwelling be moved?** Yes, under the GGR designation relocating a dwelling away from the embankment would be considered a new dwelling may be established subject to the site review process.
- b) **Are there any other provisions in code to allow the proposed project?** No, as of the writing of this report Staff has not identified any provisions in the GGR designation to allow rip rap.

A hearing on an ordinance to adopt an Emergency/Disaster Response Plan Amendment applicable to all land within the National Scenic Area of Multnomah County is scheduled to be heard by the Board on January 7, 1999. If adopted, it is the opinion of Staff that the proposed project may be able qualify under these provisions provided a new event occurs, necessitating immediate action to prevent or mitigate significant loss or damage to life, property or the environment.

Conclusions: The application for proposed rip rap fails to qualify as repair and maintenance of an existing structure or as use authorized under any portion of the GGR zone designation at this time. Staff recommends the appeal be denied.

Notes:

1. Protect existing trees to the degree possible. Cut geotextile fabric around trees and carefully place riprap to minimize damage.
2. Plant willow and vine maple spikes near the base of the riprap to provide root mass stabilization of the protected soil. Dense summer foliage will also provide shade for fish habitat among stone. Dense growth will also provide energy dissipation for the river. Spikes should be driven a minimum of 1.5-ft. through the geotextile fabric.
3. Plant Red Alder, Red-Osier Dogwood, and Serviceberry above the ordinary high water. Root mass will again stabilize protected soil, and foliage will provide wildlife habitat.
4. Plant Cascade Oregon Grape and Nootka Rose in soil filled voids near the crest of the slope for appearance, energy dissipation, and stabilization.



Willamette
Engineering & Earth Sciences

Drawn By: RJS
Apprv. By: _____
Date: Jun 1, 1998
Project No.
VEG-001.001

Figure 9
Vegetation Restoration and Bio-Stabilization
Veggen Residence Bank Stabilization
1785 SE Historic Columbia River Highway
Troutdale, Oregon

EL 44
100-Yr Flood: EL 42

EL 40
'96 & '97 Floods: EL ~37

EL 36

EL 32

EL 28
OHW: EL 28

EL 24
OLW: EL 24

EL 20

Limits of Erosion
Winter 1997

Restoration Fill
Riprap and Random Fill
May 1997

Section A-A

EL 44
100-Yr Flood: EL 42

EL 40

'96 & '97 Floods: EL ~37

EL 36

EL 32

EL 28
OHW: EL 28

EL 24
OLW: EL 24

EL 20

Limits of Erosion
Winter 1997

Restoration Fill
Riprap and Random Fill
May 1997

Section B-B

0ft. 6ft. 10ft. 20ft.

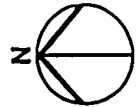
Scale: 1in = 10ft.

Willamette
Engineering & Earth Sciences

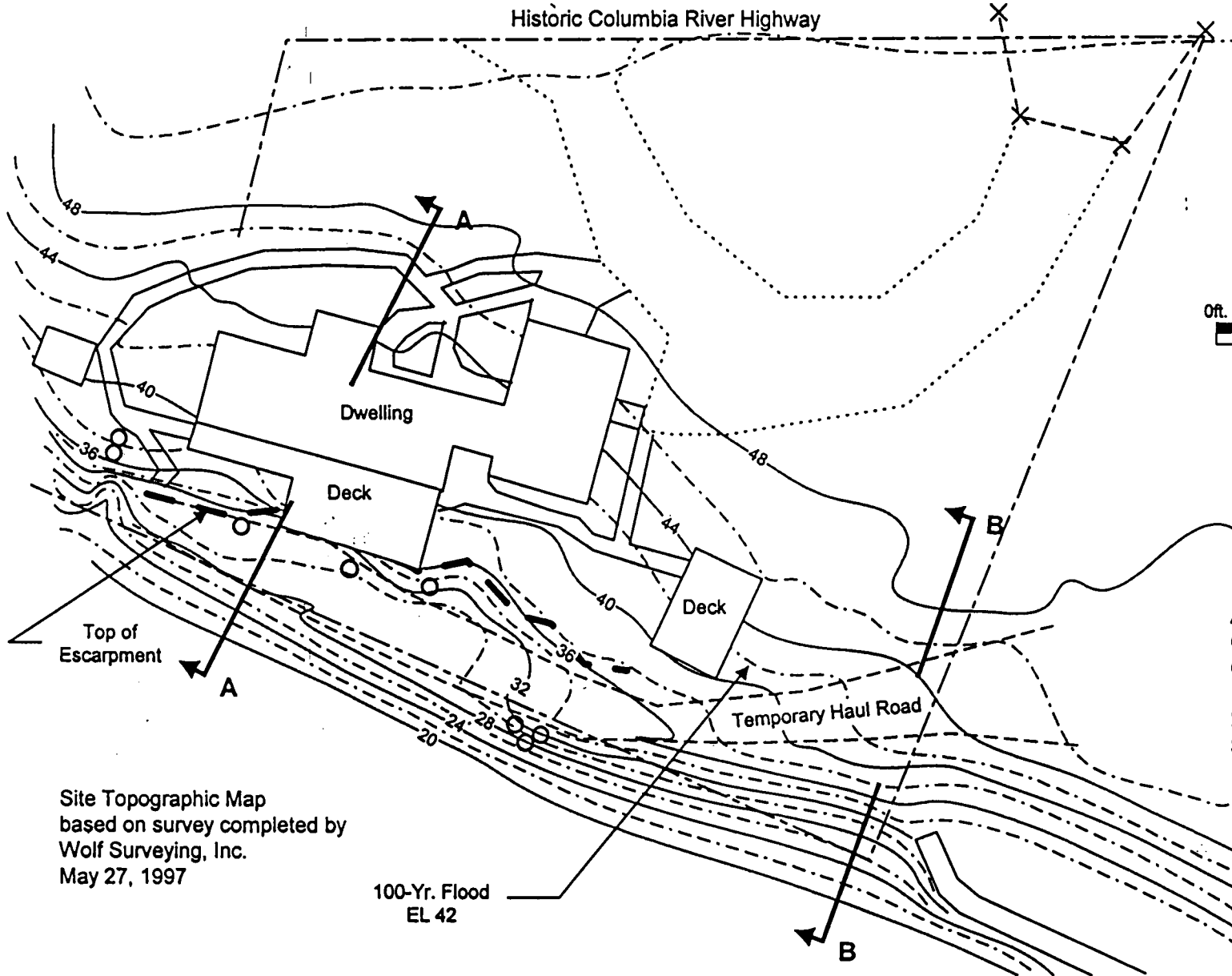
Drawn By: RJS
Apprv. By: _____
Date: Jun 1, 1998
Project No.
VEG-001.001

Figure 4
Existing Sections A and B
Veggen Residence Bank Stabilization
1785 SE Historic Columbia River Highway
Troutdale, Oregon

Historic Columbia River Highway



Scale: 1in. = 30ft.



Approximate River Mile 3.9
Ordinary Low Water: EL 24
Ordinary High Water: EL 28
100-Year Flood: EL 42
Based on FIRM Map 41084
Sept. 30, 1988

Site Topographic Map
based on survey completed by
Wolf Surveying, Inc.
May 27, 1997

100-Yr. Flood
EL 42

Willamette
Engineering & Earth Sciences

Drawn By: RJS
Apprv. By: _____
Date: Jun 1, 1998
Project No.
VEG-001.001

Figure 3
Site Topographic Map
Veggen Residence Bank Stabilization
1785 SE Historic Columbia River Highway
Troutdale, Oregon



PRESTON GATES & ELLIS LLP
ATTORNEYS

William K. Kabeiseman
Attorney at Law

January 7, 1999

HAND DELIVERED

Ms. Deb Bogstad
Board Clerk
Multnomah County
Suite 1515
1120 SW 5th Avenue
Portland, OR 97201

Re: Appeal to Multnomah County Board of Commissioners
Case File No. NSA 16-98

Dear Ms. Bogstad:

Enclosed for inclusion in the Commissioners' packet is a Memorandum supporting the appeal of the hearings officer's decision entitled Case File No. NSA 16-98, scheduled to be heard on Tuesday, January 12, 1999 at 9:30 a.m.

Thank you for your assistance.

Very truly yours,

PRESTON GATES & ELLIS LLP

By
William K. Kabeiseman

WKK:dm
Enclosure
cc: Clients
Leslie Ann Hauer
Robert Slyh
Phil Bourquin

K139316100001\WKK\WKK_L300K 1/7/99 1:18 PM

99 JAN -7 PM 2:42
MULTNOMAH COUNTY
OREGON
COUNTY COMMISSIONERS



PRESTON GATES & ELLIS LLP
ATTORNEYS

MEMORANDUM

To: Multnomah County Board of Commissioners

From: Edward Sullivan
William Kabeiseman

Date: January 7, 1999

Subject: Case File No. NSA 16-98

This memorandum is written on behalf of Melvin and Joyce Veggen, property owners who were denied the ability to protect their home from erosion caused by the Sandy River. In this proceeding, you are reviewing a hearings officer's decision that prevented the Veggens from repairing the bank-erosion protection that is necessary to protect their home from the Sandy river. The hearings officer's decision is contrary to the provisions of the Multnomah County Code (MCC) and contrary to common sense. Moreover, the decision has put the Veggen's home, built over fifty years ago, and their personal safety at risk by not allowing erosion protection to be installed in time for this winter's rains. In this *de novo* review, we ask you to reverse the hearings officer's decision so the Veggens may save their home from being swept into the Sandy River.

1. INTRODUCTION

The Veggens are an elderly couple who live on the east bank of the Sandy river in Troutdale. The home entered the Veggen's possession in 1978 and they have lived in it ever since. Directly behind their home, their property falls off in a steep slope to the river. The property is a single parcel with an urban residential zoning designation within the city of Troutdale. However, the County's Gorge Scenic Act Overlay divides the property into two parts. The upland residential area has a Gorge General Residential overlay (GGR) while the river bank has a General Gorge Open Space (GGO) overlay.

Since 1978, there have been numerous episodes of high water, usually one or two per year. During that time, the Veggens had a bank-erosion protection along the bank to support the land under their home.¹ That all changed with the heavy rains, snowmelt and flooding of 1996. After flood waters receded in June of 1996, the Veggens discovered that the bank directly under

¹ According to the Veggens, the bank had numerous large concrete chunks on it when they bought the house in 1978. They added to the protection annually with rebar and bags of concrete. Nothing more was required to protect their home until the winter of 1996.

their home had severely eroded. More significantly, they discovered that a landslide on the west bank of the river had changed the flow of the river. Before the landslide, the main course of the river was along the west bank; after the landslide, the main channel flows directly toward and along the bank under the Veggens' home and the bank erodes further every time the water rises and flow velocity increases.

Because of the erosion, in April of 1997 the Veggens began placing rock rip rap on the bank. The City of Troutdale stopped the project in May 1997 and informed them that permits were required from the Corps of Engineers, the Division of State Lands and the City of Troutdale. Relying on that information, the Veggens took every step necessary to secure those permits, until Troutdale city staff informed them, at the design review hearing in late May 1998, that an additional county approval under the Columbia Gorge Natural Scenic Act was required. The Veggens filed this application a few days later on June 3, 1998. The Multnomah County Planning Director denied the application on August 31, 1998; that decision was appealed to a hearings officer, who denied the appeal.² The Hearings Officer's Decision (HOD) is being appealed to you. Erosion continues to this day; during late December 1998, only two weeks ago, the river was over the bank and causing more damage to the support for the Veggens' home. The Veggens urge you to approve the permit they need to stop further damage.

A recent development has occurred that might make this hearing unnecessary. The Veggens have been informed that this Board is scheduled to hold a hearing on an "emergency/disaster response" ordinance. The Veggens may ask this Board to set over the hearing on this appeal to determine if the new ordinance will moot this appeal. If we do ask for a set over, we will waive the 150 day rule.

II. DISCUSSION

The HOD was based on a fundamental misconception of the nature of the structure at issue. This led to several mistakes and a confused decision on several points. This memorandum will first lay out the correct analysis and then address specific errors the hearings officer made.

² The Veggens were not represented before the Hearings Officer. They attempted to explain their problem and the history of this application. The Hearings Officer told them:

"* * * I think what I'm hearing from you primarily is an appeal for some compassion. And that's not what I'm here to do. * * * I have to follow the rules that apply and * * * unfortunately the law says that it's a person's responsibility to know the law; it's not government's responsibility to go around informing people about what the law is. That wouldn't be feasible."

The Veggens were not allowed to speak at their appeal because they had not signed in; Bob Slyh, their project engineer spoke on their behalf.

This appeal is not about "compassion" but the correct application of the Gorge Act to assure that an existing home will not slide into the Sandy River from a combination of the Veggens (and the planners) not knowing the rules, misinterpretation of those rules, and lack of concern over the result.

The repair occurs in two separate Gorge districts, GGO and GGR,³ and the project must meet the requirements of both districts. The hearings officer correctly concluded that the rip rap is an outright permitted use in the GGO.⁴ The only issue is whether the rip rap is allowed in the GGR district. The GGR district allows outright the "repair, maintenance and operation of existing structures." MCC 11.15.3676(A)(3). A structure is defined as "[t]hat which is built or constructed, * * * any piece of work artificially built up or composed of parts joined together in some definite manner." The erosion protection is an integral part of the Veggens' home; without it, the home will be lost to the Sandy river. The Veggens must be allowed to repair the erosion protection under MCC 11.15.3676(A)(3).

The hearings officer treated the erosion protection as if it were unrelated to anything else and a separate structure. Nobody builds erosion protection because it is lovely to look at or a joy to have; erosion protection is built to protect some other existing or planned use. Erosion protection has only one purpose, to protect the other use. As such, it is an integral part of the other use and joined to it; the other use cannot exist without it and the erosion protection is part of the existing structure, in this case, the Veggen's home.

The hearings officer's misconception is laid bare in a statement contained in the staff report. The report, at page 2, in its interpretation of a "structure," states that "the earth (land) is not part of the structure" because "the land/earth was there before the dwelling was placed and will be there long after the dwelling is gone." That fundamental error by the staff is demonstrated every day as the Veggen's look out to their back yard and watch their land/earth disappear down river. The question is not whether the land/earth is part of the Veggen's structure, but whether the erosion protection is. The clear answer to that question is in the affirmative. The staff report's artificial conclusion, which appears to rest on the idea that the home and the protection are separate because they do not touch, is illusory and finds no support in the code. Moreover, the proposed erosion protection will come up under the deck of the house and may well satisfy the staff's interpretation of "joined." In any event, the better conclusion is that, because the home cannot exist without the protection, they are joined in a definite manner and are part of the same structure.

Even if the hearings officer is somehow correct that the pertinent structure is solely the erosion protection, the Veggens should be allowed to repair it under MCC 11.15.36.76(A)(3). The hearings officer did not allow the repair under this provision because she concluded that "the applicant has not demonstrated that it [the erosion protection] was legally established before February 6, 1993" and because she concluded that the erosion protection was no longer serviceable.

³ The GGO includes the property in the river west of the Veggen's property; the GGR includes the Veggen's property.

⁴ If the hearings officer's conclusions are correct, the Veggens are permitted to do whatever it takes to protect their home on public lands in the GGO designation, but are barred from doing the exact same thing on their own land. Surely, such an anomalous result cannot be correct.

The hearings officer incorrectly assigned to the Veggens the burden of demonstrating the legality of the previous erosion protection. When the Veggens purchased their home the erosion protection was already there. They maintained it for nearly twenty years, until the 1996 and 1997 floods damaged it beyond the level of repair they could handle. In this case, where the protection has existed for over twenty years, was created by the Veggen's predecessor and likely before any permit was required, the legality of its establishment would be almost impossible to demonstrate. The state recognized that reality when it created ORS 215.130(10)(a) allowing counties to adopt a rebuttable presumption that a use is lawful if it has existed for at least ten years. If the county has not adopted this provision, it should at least guide your decision in recognizing the burden of proving the legality of a use that has existed for many years. Because the Veggen's erosion protection has existed for more than two decades, and significantly before February 6, 1993, the erosion protection should be considered legally established and the repair should be allowed to proceed.

The hearings officer also concluded that, because the protection in place was completely destroyed by the 1997 floods, it is not "presently serviceable" and can no longer be repaired. Instead, it would only be allowed as new construction. HOD at 19. That conclusion ignores the idea that the erosion protection is only part of the Veggen's home, as discussed above, and the home is presently serviceable. In addition, it ignores the way erosion protection works. When it is "destroyed" it serves its purpose by dissipating the energy that would otherwise erode the bank and damage the house. To require the abandonment of the erosion protection solely because it performs its job does not make sense. Moreover, much of the old erosion protection remains on the bank. A repair is possible and should be allowed to proceed to protect the Veggen's home.

The Hearings Officer did conclude that the support structure may be allowed if it is considered an accessory building and, therefore, a use under prescribed conditions under MCC 11.15.3678(A)(2), which allows:

"Buildings exceeding 60 square feet in area and/or 18 feet in height as measured at the roof peak, which are accessory to a dwelling." HOD 13-14.

To be allowed as a "use under prescribed conditions," however, the accessory building must meet the requirements of MCC 11.15.3564, which includes the requirement of meeting MCC 11.15.3814(20), i.e., that a "new building" may not be permitted on lands visible from key viewing areas with slopes in excess of 30%. MCC 11.15.3814(20). The hearings officer found that the proposal did not meet this requirement because the slope exceeded 30%. The entire site, however, is less than a 30% slope.⁵ And while the support structure supports a "building" (the house), that house already exists and will not be changed as to its visual impact. Moreover,

⁵ The Hearings Officer defined the building "site" for the bank armor as the slope adjacent to the river. That area is clearly in excess of 30%. But the residential site area is the flat portion of the property on which the house exists. Including the whole site, the average slope is 25% (30 feet/125 feet).

MCC 11.15.3814(20) limits its scope to "new buildings." There is no new building here, merely the repair of the existing erosion protection. The Hearings Officer incorrectly construed the County Code in this case. The erosion protection, by itself, is not a "building" but the support for the building, which is unchanged in its visual impact.

Finally, the Hearings Officer incorrectly found that the application was made for repair of a structure which was not "serviceable" and "presently usable" because much of the support eroded in the 1996 flood. HOD at 18. Again, the relevant structure the Veggen's have which, though undermined, is presently usable and serviceable; that structure is the house supported by the erosion protection. The Veggens need this permit in order to keep their home intact in the event of future flooding and erosion

III. CONCLUSION

The Veggen's home has stood along the banks of the Sandy river for over half a century. Their home and their safety is now threatened by that river and by the county's decision to prevent them from repairing their erosion protection. You are the best chance the Veggens have of sleeping more comfortably at night.⁶ There is no doubt that the Veggen's home is a lawful established use that should be allowed to continue. The only question is whether you will read the county code in harmony with the Columbia Gorge National Scenic Act and county regulations implementing the act⁷ or if you will read the code in the pinched and grudging manner adopted by the hearings officer. The Veggens encourage you to interpret and apply the MCC in such a way that they can rebuild the erosion protection and sleep at night.

WKK:wkk

cc: Clients
Leslie Ann Hauer
Robert Slyh

K:\39316\00001\WKK\WKK_M200H

⁶ Unfortunately, real relief for the Veggens will not arrive until this summer when flow restrictions for work in the river will allow the project to proceed.

⁷ The County Regulations state at the beginning of the Gorge residential sections in the Zoning Ordinance at MCC 11.15.3670:

The purposes of the Gorge General Residential and Gorge Special Residential districts are to protect and enhance the character of existing residential areas, and to insure that new residential development does not adversely affect the scenic, cultural, natural and recreation resources of the Columbia River Gorge National Scenic Area."



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

11#
ZONING
TOTAL 530.00
0000-001 11/20/98
9060 CHUCK 3:31PM

NOTICE OF REVIEW

1. Name: Willamette Engineering and Earth Sciences, c/o Bob Slyh
2. Address: P.O. Box 1139, Dallas, Oregon 97338
3. Telephone: (503) 623 - 0304

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

Melvin and Joyce Veggen

1785 E. Historic Columbia River Highway

Troutdale, OR 97060

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

Denial of request for shoreline repair.

6. The decision was announced by the Hearing Officer on November 9, 19 98

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

Representative of applicant who participated in proceedings before Hearings Officer.

MULTNOMAH COUNTY
PLANNING SECTION

98 NOV 20 PM 3:23

RECEIVED

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

See attached

9. Scope of Review (*Check One*):

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

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

Board Resolution 95-55 allows for a de novo hearing at the request of the appellant. There were no opponents and the applicants were not represented by counsel before the Hearings Officer. The applicants need a de novo hearing to respond fully to the Hearings Officer's report.

Signed: _____

Attorney for Applicant and Appellant

Date: _____

November 20, 1998

For Staff Use Only

Fee:

Notice of Review = \$530.00

Received by: _____

Date: _____

Case No. _____

The Veggens are an elderly couple who own a home in Troutdale along the Sandy River, purchased by Mrs. Veggen in 1978. In 1996, flooding eroded the bank of the river under their home. When the water receded in June and they discovered the extent of the erosion, the Veggens began to take steps to protect their home. In early 1997, they contracted to have rock placed on the bank, but were stopped by the City of Troutdale. They then applied for permits at the City, but Troutdale city staff failed to inform them they would also need approval from the County under the Columbia River Gorge Natural Scenic Act until late in May, 1998 at the City's Design Review hearing. The Veggens then made this application, which has been denied by the Hearings Officer,¹ and ask the Board of Commissioners to reverse that denial.

While the property is a single parcel with an underlying urban residential zoning designation, the County's Gorge Scenic Act Overlay divides the property in two parts. The upland residential area has a Gorge General Residential overlay (GGR) while the river bank has an overlay as General Gorge Open Space (GGO). The Director and the Hearings Officer concur that the repairs work in the GGO overlay and is an outright permitted use. Hearings Officer's Decision ("HOD") at 11. The only issue left was whether the repair was allowed in the GGR overlay zone. That use is also an outright permitted case under MCC 11.15.3676(A)(3) which allows "repair, maintenance and operation of existing structures," the very same rationale used to allow the repair in the GGO zone, as acknowledged by the Hearings Officer and Director.

¹ The Veggens were not represented before the Hearings Officer and attempted to explain their problem and the history of this application. The Hearings Officer told them:

"* * * I think what I'm hearing from you primarily is an appeal for some compassion. And that's not what I'm here to do. I'm sorry to say, although I personally feel some * * * I have to follow the rules that apply and * * * and unfortunately the law says that it's a person's responsibility to know the law; it's not government's responsibility to go around informing people about what the law is. That wouldn't be feasible."

The Hearings Officer specifically rejects the Director's implicit decision that the repair had to be undertaken within a year limitation only with regard to structures destroyed by fire. HOD at 12. The Veggens agree with the Hearings Officer.

However, the Hearings Officer then states that the structure to be repaired must have been lawfully existing in 1993 and says there is no evidence that the Veggens bank stabilization existed in 1993. In response, the Veggens contend:

1. The "structure" to be repaired is the house that has existed on the Veggen's property since 1925, well before zoning, not the riprap.
2. If the riprap were a separate "structure," ORS 215.130(10)(a) creates a rebuttable presumption that it is lawful if it has existed for at least ten years. The burden is not on the Veggens to demonstrate the riprap is lawful or to show previous authorization.

The Hearings Officer also incorrectly distinguishes the house from its support in finding the terms "repair" and "maintenance" refer to a servicable structure to the bank stabilization area rather than to the house and its supporting ground along the bank. The Board should construe the "servicable structure" to be the house and its support. The Board should also determine, for the reasons set forth in the preceding paragraph, that this single residential use was lawfully established and that the destruction of a portion of the support in the 1996 flood does not prevent the repair because one portion of the entire use (i.e., portions of the eroded slope) is not a "servicable" structure." See HOD at 13. Only if the Board views the support separate from the house would this contorted definition of "servicable structure" be applicable. It is the residential use that is sought to be maintained and repaired and not just the bank by itself.

This appeal is not about "compassion" but the correct application of the Gorge Act to assure that an existing home will not slide into the Sandy River from a combination of the Veggens' (and the planners) not knowing the rules, misinterpretation of those rules, and lack of concern over the result.

As an alternative, the Hearings Officer concluded that the support structure may be allowed as a use under prescribed conditions under MCC 11.15.3678(A)(2), which allows:

"Buildings exceeding 60 square feet in area and/or 18 feet in height is measured at the roof peak, which are accessory to a dwelling."

HOD 13-14.

However, the Hearings Officer found the proposal failed to meet one of the Scenic Area criteria, i.e., that a "new building" may not be permitted on lands visible from key viewing areas with slopes in excess of 30%. MCC 11.15.3814(20). The entire site, however, is less than a 30% slope.² And while the support structure supports a "building" (the house), that house already exists and will not be changed as to its visual impact. Moreover, MCC 11.15.3814(20) limits its scope to "new buildings." There is no new building here, merely repair of an existing structure. The Hearings Officer incorrectly construed the County Code in this case. The riprap, by itself, is not a "building" but the support for the building, which is unchanged in its visual impact. In any case, it is not a new building.

Finally, the Hearings Officer incorrectly found that the application was made for repair of a structure which was not "servicable" and "presently usable" because much of the support eroded in the 1996 flood. HOD at 18. Again, the relevant structure the Veggen's have which, though undermined, is presently usable and servicable. The Veggens need this permit in order to keep their home intact in the event of future flooding and erosion.

² The Hearings Officer defined the building "site" for the bank armor as the slope adjacent to the river. That area is clearly in excess of 30%. But the residential site area is the flat portion of the property on which the house exists. Including the whole site, the average slope is 25% (30 feet/125 feet).

If the Board allows the Hearings Officer decision to stand, the result is that these homeowners will not be allowed to maintain their home, a result certainly contrary to the Columbia Gorge Act and the County regulations implementing that Act.³

The Veggens ask the Board to all them to repair the bank supporting their home in order to prevent the residence (and the Historic Columbia River Highway which that bank also supports) from being undermined and lost to the river.

The Veggens also request that the Board place this matter on their agenda as soon as possible, due to the potential that flooding through this winter may cause additional damage to the bank and create a hazardous condition for their residence.

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³ The County Regulations state at the beginning of the Gorge residential sections in the Zoning Ordinance at MCC 11.15.3670:

The purposes of the Gorge General Residential and Gorge Special Residential districts are to protect and enhance the character of existing residential areas, and to insure that new residential development does not adversely affect the scenic, cultural, natural and recreation resources of the Columbia River Gorge National Scenic Area."

**MULTNOMAH COUNTY, OREGON
HEARINGS OFFICER DECISION**

Case File: NSA 16-98

Request: Shoreline repair along Sandy River

Applicant: Willamette Engineering & Earth Sciences
Bob Slyh
P.O. Box 1139
Dallas, OR 97338

Property Owner: Melvin and Joyce Veggan
1785 E Historic Columbia River Hwy.
Troutdale, Oregon 96060

Location: 1785 SE Historic Columbia River Highway.

Legal Description: Township 1N, Range 4E, Section 31; Tax Lot '35'; SID 1N4E31BC 1600

Plan Designation: General Management Area, Gorge General Residential (GGR-2) and General Gorge Open Space (GGO).

Site Size: Approximately 4 acres

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PLANNING SECTION

DECISION

Based on the findings, analysis and conclusions contained in this decision, the Hearings Officer **denies** the appeal of the Director's decision, dated August 21, 1998, denying a Columbia Gorge National Scenic area Site Design review application for a proposed bank stabilization project.

PROCEDURAL ISSUES

A. Impartiality of the Hearings Officer.

1. No ex parte contacts. I did not have any ex parte contacts before the hearing of this matter. I did not make a site visit.

2. No conflicting personal or financial or family interest. I have no financial interest in the outcome of this proceeding. I have no family or financial relationship with any of the parties.

B. **Burden of Proof.** The burden of proof in this proceeding is upon the applicant.

SUMMARY OF REQUEST

- A. **Background.** The riverbank, west of the dwelling on the subject parcel, experienced increased erosion in February 1997 which damaged the owner's riverbank protection. The increased erosion was caused by a landslide on the west bank of the Sandy River, at approximately river mile 4.0. The Veggan property is on the east bank, down stream from the landslide about 0.1 miles. After the landslide, the energy of the river was redirected. Increased river flow during the unusually wet seasons along with the redirection of the river's energy, caused the then-existing bank erosion protection along the property's shoreline to fail in February 1997. The erosion caused a significant loss of the Veggans' riverbank, affecting the stability of the Veggans' home. Without protection, the riverbank will likely continue to erode, potentially resulting in undermining the foundation of the home, creating an unsafe home. The Veggans seek approval to construct proposed bank stabilization.

The proposed bank stabilization project involves the installation of riprap "armoring" and approximately 1,665 cubic yards of fill. Riprap armoring involves the placing of stone to diffuse and deflect the river's energy away from areas that have been eroding. The riprap is proposed to be constructed from a base elevation of approximately 17-foot elevation to the 100-year flood elevation of approximately 42 feet. The project involves planting vegetation within the bank stabilization to augment the riprap armor with biological stabilization.

The proposed bank stabilization project is in the General Management area of the Columbia River Gorge National Scenic Area (NSA). Multnomah County has adopted a land use ordinance that carries-out the NSA Management Plan for Multnomah County's portion of the NSA, including lands within the City of Troutdale. Thus, the bank stabilization project must meet the requirements of the County Code relating to the NSA.

Because the west part of the project is west of the Veggan's property line, extending into the channel of the Sandy River, the applicant must obtain United States Army Corps of Engineers (COE) and Oregon Division of State Lands (DSL) permits. The property owner has obtained approval from the COE (Permit No. 1997-000768) and has applied for a permit from DSL (Permit No. SP 14120) to do the construction. Because the project is within the City of Troutdale, the applicant must obtain City of Troutdale site and design review approval. Troutdale approved the property owner's request for the bank stabilization project, subject to conditions

(Case File No. 98-016). One of Troutdale's approval conditions requires the property owner to obtain approval from Multnomah County of a NSA site review permit.

On June 3, 1998, the applicant applied for NSA Site Review permits from Multnomah County to install riprap to repair bank erosion between the Sandy River and an existing dwelling on the subject parcel. On August 31, 1998, the Multnomah County Planning Director issued a decision denying the application. On September 24, 1998, the applicant filed an appeal of the Administrative Decision.

The "Action Proceedings" section of the Multnomah County zoning code at MCC 11.15.8290 (B)(3) requires that a Notice of Appeal contain the specific grounds the appellant relies on for reversal or modification of the decision. That section provides:

11.15.8290 Appeal of Administrative Decision by the Planning Director

- (A) A decision by the Planning Director on an administrative matter made appealable under this Section by ordinance provision, shall be final . . . unless prior thereto, the applicant files Notice of Appeal with the Department, under subsections (B) and (C).
- (B) A Notice of Appeal shall contain:

* * *
- (3) The specific grounds relied on for reversal or modification of the decision.

The Hearings Officer's hearing considerations are limited under MCC 11.15.8295 (A) to the specific reasons the appellant relies on in his Notice of Appeal for. That section provides:

11.15.8295 Procedure on Appeal

* * *

- (A) A hearing before the Hearings Officer on a matter appealed under MCC .8290(A) shall be limited to the specific grounds relied on for reversal or modification of the decision in the Notice of Appeal.

* * *
- (C) The findings adopted by the Hearings Officer shall specifically address the relationships between the grounds for reversal or modification of the decision as stated in the Notice of Appeal and the criteria on

which the Planning Director's decision was required to be based under this Chapter.

B. Grounds For Appeal

The applicants stated grounds for appeal are as follows:

"MCC 11.15.3841 (B)(20)"

"Staff['s interpretation of [the County C]ode regarding permitting buildings on slopes greater than 30 percent does not consider that the "building" is Riprap. The application of the code in that regard appears inappropriate. Further, in the findings and conclusions section of the decision, staff interpreted the word "destroyed" from the Willamette Engineering and earth Sciences report to mean that all portions of the former erosion control protection had been eliminated."

"While flooding in [in the winter of] 1996 destroyed the integrity and function of the erosion protection, as a storm or fire could destroy the integrity of a house, remnants of the former erosion protection remained until 1997 when the property owners attempted to repair and replace the former erosion protection. Excavation for the improvements required removal of many of the remnants of the upper portions of the former erosion protection to complete the repair of the lower areas near the river. Portions of the structure were therefore in place until the summer of 1997, within the 1-year required in the code, and some of the biological stabilization remains."

- C. Site and vicinity information.** The site is on the east edge of the Sandy River. The site has approximately 170 feet of river frontage. The proposed development is viewable from the Sandy River Key Viewing Area for a distance of approximately ½ mile.

The existing topography of the site includes slopes nearing vertical in proximity of the existing dwelling. The applicant submitted two cross sections of the proposed building site (Figure 6 of applicant's submittal). The first cross section measures approximately 38-feet horizontal and 22.5-feet vertical (59% slope) and the second measures approximately 60-feet horizontal and 27.5-feet vertical (45% slope). These cross sections are typical of the proposed development area. Based on the applicant's submittal, the average slope of the building area is much greater than 30 percent. The home is just above the 100-year flood plain at approximately elevation 42 feet. A deck on the house extends beyond the 100-foot flood plain elevation and the applicant proposes to extend the riprap under the deck.

The site is within the regional urban growth boundary, within the City of Troutdale and within the Columbia national scenic area. The subject parcel is designated Gorge General Residential (GGR-2). The applicants' proposal includes placing rip-rap over their property line and extending west over property in the Sandy River owned by the Oregon Division of State Lands (DSL). The Gorge General Open Space boundary, as identified on Maps prepared by the Gorge Commission, extends up to the western property line of the subject parcel. Because the applicant wishes to do work on both sides of the property line, the Code requires compliance with both the GGO and GGR-2 designations. However, as discussed under the approval criteria section of this Hearings Officer Decision, the Code allows outright the portion of the proposed project within the area designated GGO, without review, under MCC 11.15.3635(A)(2). Only the Code provisions relating to the GGR zone are the subject of this appeal.

HEARING AND TESTIMONY

- A. The Hearings Officer held a hearing on the appeal on October 21, 1998.
- B. The planning department file is designated as an exhibit to this opinion. The staff showed no slides or video of the subject site at the public hearing.
- C. Phil Bourquin, Multnomah County Planner, summarized the staff report and the history of the application. He emphasized that the only basis to authorize the proposed bank stabilization in the GGR zone is to find that the riprap bank stabilization is a building accessory to a dwelling under MCC 11.15.3678(A)(2). He also pointed out that there is no evidence in the record to prove that the bank protection alleged to have existed before the February 1997 flooding was legally established and that there is no information in the record concerning the size, scope, or configuration of the bank stabilization the applicant says previously existed on the site.
- D. Robert J. Slyh, Engineer, testified for the applicant/property owner. In the original application, the applicant/owners argued that they may repair the riprap in the GGR zone as a use allowed outright, without review. The applicant contended and the staff agreed, that the rip-rap is a structure which both the Columbia River Gorge National Scenic Area Management Plan Glossary and MCC 11.15.3560 define as follows:

"That which is built or constructed, an edifice or building of any kind, or any piece of work that is artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to, buildings, walls, fences, roads, parking lots, signs, and additions/alterations to structures."
[Emphasis added].

According to the applicant, "the property owners placed, or artificially built up the previous erosion protection, both mechanical and biological, with the intent of protecting the then existing stream bank." The applicant testified that the former erosion control was maintained annually before the flooding, and before the implementation of the National Scenic Area Management Plan. Mr. Slyh argued that therefore, the Code allows it to be repaired without County review under GGR 11.15.3676(A)(3).

Mr. Slyh outlined the history of the erosion protection on the Veggan property. He said that flooding substantially destroyed the erosion protection in February 1997. Mr. Slyh said the Veggans began to repair the erosion protection on May 10, 1997. The City of Troutdale issued a stop work order for the erosion repair on May 13, 1997. The Corps issued a letter approving emergency repair of the erosion protection in August 1997. Also in August 1997, Willamette Engineering and Earth Sciences (Willamette) began a review of an erosion repair project and began to evaluate the requirements of the City of Troutdale which included review by the Corps and DSL. Willamette filed a permit application with the City of Troutdale and issued a design report for the erosion protection project on March 12, 1998. The City of Troutdale held a Design Review hearing on May 22, 1998. A condition of Troutdale's approval is that the application/owner meet the NSA criteria. The applicant applied to Multnomah County for NSA permits on June 3, 1998.

Mr. Slyh testified that during the discussions with the city of Troutdale, the Corps, and DSL, no one informed the applicant or property owner of the necessity to comply with the Multnomah County NSA requirements. Because the applicant/owners were not made aware of the County review requirement until late, the County NSA site review application was filed more than one year after the previously existing bank protection structure was damaged by flooding.

- B. Beth Englander, staff for the Friends of the Columbia Gorge, appeared. She did not testify, but did ask whether more than a year had lapsed since the prior structure failed.

APPROVAL CRITERIA, ANALYSIS, FINDINGS OF FACT AND CONCLUSIONS

The Hearings Officer reviewed Multnomah County Code provisions concerning the Columbia River Gorge National Scenic Area applicable to the GGO and GGR designations. The Hearings Officer found that the following criteria are applicable. The applicable criteria are set out in bold print followed by the Hearings Officer's findings and conclusions on each criterion

A. COLUMBIA RIVER GORGE NATIONAL SCENIC AREA GENERAL PROVISIONS NSA/GP

11.15.3554 Uses

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged, . . . in the Columbia River Gorge National Scenic Area except for the uses listed in MCC .3606 through .3762; when considered under the applicable procedural and approval provisions of this Chapter.

In the definitions section of the Code (MCC 11.15.3556) the following pertinent definitions are found:

Building: A structure used or intended to support or shelter any use or occupancy. [Emphasis added.]

Existing use or structure: A legally established use that existed before February 6, 1993. "Legally-established" means established in accordance with the law in effect at the time of establishment. [Emphasis added.]

Preexisting: Existing prior to February 6, 1993, the date of adoption of the Columbia River Gorge National Scenic Area Management Plan.

Repair and maintenance: An activity that restores the size, scope, configuration, and design of a serviceable structure to its previously authorized and undamaged condition. Activities that change the size, scope, and configuration of a structure beyond its original design are not included. [Emphasis added.]

Serviceable: Presently usable.

Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to buildings, walls, fences, roads, parking lots, signs and additions/alterations to structures. [Emphasis added.]

Findings, Analysis and Conclusions. The Planning Director's administrative decision found that the installation of the proposed riprap bank stabilization involves the placement of large boulder-sized rocks "joined together in some definite manner" and therefore is a "structure" as defined in the Code. The Director also found that the proposed riprap, as a "structure" is also a "building" as defined in the Code, which is a "structure" used to "support or shelter" a use or occupancy. It is a "building" because the Code defines a "structure" as "an edifice or building of any kind." In addition, the proposed riprap falls within the definition of a "building" because it would "support or shelter" the existing dwelling use of the parcel.

The Director did not find that the prior bank stabilization was an "existing structure," apparently because there was no evidence in the record that the previous bank stabilization was established according to the law in effect when the structure was established. To be an "existing structure" the prior structure needed to meet the definition of an "existing structure" which requires the applicant to demonstrate that the prior structure was a legally established use that existed before February 6, 1993. There is no evidence in the record concerning when the prior bank stabilization was established nor concerning whether it was established according to the law in effect when the prior bank stabilization was established.

The Hearings Officer finds that the Director's interpretation that the proposed riprap is both a "structure" and a "building" as defined in the Code is a credible interpretation of the Code's definitions. The Hearings Officer concludes that while the proposed riprap is both a "structure" and a "building", the prior bank stabilization structure that the applicant says existed on February 6, 1993 that was damaged by flooding was not an "existing structure" because there is no evidence in the record that the previous bank stabilization was established according to the law in effect when the bank stabilization was established.

Because the proposed bank stabilization is a structure or a building, it cannot be erected unless allowed by provisions in MCC 11.15.3606 through .3762.

11.15.3562 Existing Uses

Except as otherwise provided below, existing uses may continue, notwithstanding the provisions of MCC .3550 through .3834.

- (A) Any use or structure existing on February 6, 1993 may continue so long as it is used in the same manner and for the same purpose as on that date.**
- (B) Any use or structure damaged or destroyed by fire shall be treated as an existing use or structure if an application for replacement in kind and in the same location is filed within one year of such damage or destruction. Such uses or structures shall be subject to compliance with standards for protection of scenic resources involving color, reflectivity and landscaping. Replacement of an existing use or structure by a use or structure different in purpose, size or scope shall be subject to MCC .3550 through .3834 to minimize adverse effects on scenic, cultural, natural and recreation resources.**

*** * ***

The general provisions of the NSA lists some uses allowed under "prescribed Conditions" and some uses allowed as "conditional uses." The uses allowed as prescribed conditions include: land divisions, temporary health hardship dwellings, private docks, home occupations and bed and breakfast Inns. The uses allowed as

conditional uses include: land divisions, cluster developments, home occupations and bed and breakfast inns. None of these categories include the proposed installation of riprap. Neither the prescribed use nor the conditional use procedures can authorize the proposed use.

Findings, Analysis and Conclusions. This section generally refers to "existing: structures. As noted above, the applicant has not demonstrated that the previous bank stabilization meets the definition of an "existing structure."

The Planning Director in his administrative decision found that the February 1997 flooding destroyed the erosion protection measures previously in place which he assumed, but did not decide, existed on February 6, 1993. The Planning Director concluded that the proposed bank stabilization does not qualify for replace under MCC 11.15.3562(B) because the February 1997 flooding destroyed the prior structure and the applicants did not apply to replace it within one year after the February 1997 flooding destroyed the structure. The Director concluded that MCC 11.15.3562 does not provide a basis for the County to authorize replacement of the bank stabilization structure that once existed on the property because the applicants failed to apply for the replacement within one year of the damage.

This Code section allows a previously existing structure to continue to exist. This Code section allows an owner to replace such a structure if the structure is damaged or destroyed by fire if an application for replacement is filed within one year of such damage or destruction. The Code is very narrow in what forces may cause "damage" or "destruction" which allow an owner to replace structures. The Code specifically limits such damage or destruction only to that caused by fire. Flooding or erosion are not listed as causes of damage or destruction of a structure allowing an owner to replace previously existing structures. Consequently, the Code does not allow the owner to replace a previously existing bank stabilization structure damaged or destroyed by flooding or erosion.

The Hearings Officer concludes that the Director correctly concluded that MCC 11.15.3562 does not authorize replacement of the bank stabilization structure. First, The Code's definition of "existing use or structure" limits the application of this section of the Code. To be an "existing use or structure" the preexisting bank stabilization structure needed to be legally established before February 6, 1993. To prove that it was legally established, the applicant has the burden to prove that the prior bank stabilization protection was established in accordance with the law in effect at the time of establishment. There is no evidence in the record to prove that the prior structure was legally established. Second, the former structure was not destroyed by fire and therefore cannot be treated as an existing use or structure under this section of the Code eligible for replacement. Third, the application for replacement was not filed within one year of the damage or destruction of the structure. Even if the applicant could prove the prior erosion protection meets the definition of an "existing structure", the requirement that the damage was caused by fire would prohibit approval of the application under this section.

B. COLUMBIA RIVER GORGE NATIONAL SCENIC AREA OPEN SPACE DISTRICTS NSA
GGO & GSO

11.15.3654 Uses

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC. 3656 through .3666.

11.15.3656 primary Uses

(A) The following uses are allowed on all lands designated GGO . . . without review:

- (1) Repair, maintenance, operation and improvement of structures, trails, roads, railroads, utility facilities and hydro facilities.
- (2) Removal of timber, rocks or other materials for purposes of public safety and placement of structures for public safety.

* * *

Findings, Analysis and Conclusions. The NSA GGO district lists some uses allowable under "prescribed Conditions" including: low intensity recreation and certain land divisions, in addition, certain similar uses are allowable if consistent with an open space plan approved by the U.S. Forest Service. The GGO district lists no uses allowable as conditional uses. None of these allowable uses include the proposed installation of riprap. The prescribed use provisions cannot authorize the proposed structure.

In the initial application, the applicant argued that they could construct the proposed bank stabilization project in the GGO zone as a use allowed outright, without review, under MCC 11.15.3656(A)(1) as an "improvement" of a structure.

MCC 11.15.3656(A)(1) authorizes the repair, maintenance, operation and improvement of structures in the GGO district. The NSA/GP definitions (MCC 11.15.3556) provide the following definition of "Repair and maintenance":

"Repair and maintenance: An activity that restores the size, scope, configuration, and design of a serviceable structure to its previously authorized and undamaged condition. Activities that change the size, scope and configuration of a structure beyond its original design are not included." Emphasis added.

The language of the repair and maintenance definition limits the uses that may be repaired, maintained, operated or improved to serviceable structures. The Code defines "serviceable" as "presently useable." The evidence in the record is that any bank stabilization that may have existed is not presently useable, assuming that "presently" applies to the time this

application was filed with the County. The definition also limits the size, scope, configuration, and design of the repairs and maintenance that may be done to that of the previously authorized use. There is no evidence in the record that the damaged bank stabilization structure that is proposed to be repaired was previously authorized and there is no evidence in the record concerning its size, scope, configuration and design. The Hearings Officer concludes that the Director's rejection of MCC 11.15.3656(A)(1) as a basis for approval of the proposed bank stabilization project was correct.

The Director found that the riverbank of the Sandy River along the western edge of the subject parcel has eroded to the point that it affects the stability of the existing home on the subject parcel. Based on the Engineers report of March 12, 1998 the Director found that the proposed riprap bank stabilization structure is necessary to protect ("support and shelter") the existing home from further erosion that could endanger the home or its occupants. The Director's reasoning was that because the proposed riprap bank stabilization structure is necessary to protect ("support and shelter") the existing home from further erosion that could endanger the home or its occupants, and because "public safety" can apply to individual members of the public as well as the public at large, the proposed riprap bank stabilization structure which the Veggans want to build to protect their home from such risk, is within the meaning of "public safety" as used in MCC 11.15.3656(A)(2). The Director concluded that the proposed riprap structure is a use that the Code allows outright in the GGO zone as provided by MCC 11.15.3656(A)(2). Based on this conclusion, the Director concluded that review of this application was limited to only those portions of the development falling within the GGR designation.

On appeal, the appellant did not contest the Director's conclusions concerning MCC 11.15.3656. The Code requires the Hearings Officer to accept the Director's conclusion without analysis because the Hearings Officer's review is limited to those items raised in the appeal.

C. COLUMBIA RIVER GORGE NATIONAL SCENIC AREA RESIDENTIAL DISTRICTS NSA GGR & GSR

*** * ***

11.15.3674 Uses

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except the uses listed in MCC .3676 through .3688.

11.15.3676 Primary Uses

- (A) The following uses are allowed on all lands designated GGR without review:**

* * *

- (3) Repair, maintenance and operation of existing structures, trails, roads, railroads and utility facilities.

11.15.3678 Uses Under Prescribed Conditions

- (A) The following uses may be allowed on lands designated GGR, pursuant to MCC .3564:

* * *

- (2) Buildings exceeding 60 square feet in area and/or 18 feet in height as measured at the roof peak, which are accessory to a dwelling.

* * *

Findings, Analysis and Conclusions. The NSA GGR district lists some uses allowable as "conditional uses." None of these allowable conditional uses include the proposed installation of riprap or any similar construction. The conditional use provisions cannot authorize the proposed use.

Concerning authorization for the bank stabilization project under MCC 11.15.3676(A)(3) as a "repair" of an "existing structure," the Director found that the February 1997 flooding destroyed the bank stabilization that the applicant/owner says previously existed on the property. Therefore, the structure the applicant proposes to repair did not exist when the applicant applied for the permit in June 1998. The Director found that any bank stabilization structure that the applicant/owner said previously existed on the property ceased to exist on February 1997, more than a year before the applicant filed this application in June 1998.

The Hearings Officer finds that the Director implicitly decided that the application to construct the riprap bank stabilization does not qualify as a "repair" of a "existing structure" under MCC 11.15.3676(A)(3) because the previous structure the applicant/owner says existed is not presently useable and was not previously authorized. The Hearings Officer notes that the one year period for filing an application for a replacement structure is contained only in Code section 11.15.3562, applying to all NSA zones to replacement of structures damaged or destroyed by fire. It does not apply to the Code section under discussion here, which applies to repairing, maintaining or operating existing structures in the GGR zone.

To be eligible for repair, maintenance and operation, a structure in the GGR zone is required by this section of the Code to be an "existing structure." The term "existing structure" is defined as a "legally established use that existed before February 6, 1993." "Legally

established is defined as a use "established in accordance with the law in effect at the time of establishment. To prove that the previous bank stabilization structure was "legally established" requires the applicant to demonstrate that the use was established according to the law in effect at the time of establishment. There is no evidence in the record that the damaged bank stabilization structure that is proposed to be repaired was previously authorized and there is no evidence in the record concerning its size, scope, configuration and design.

The NSA/GP definitions (MCC 11.15.3556) provide the following definition of "Repair and maintenance":

"Repair and maintenance: An activity that restores the size, scope, configuration, and design of a serviceable structure to its previously authorized and undamaged condition. Activities that change the size, scope and configuration of a structure beyond its original design are not included." Emphasis added.

The language of the repair and maintenance definition of the Code limits the uses that may be repaired, maintained and operated to "serviceable structures." The Code defines "serviceable" as "presently useable." The evidence in the record is that any bank stabilization project that may have existed is not presently useable, assuming that "presently" applies to when this application was filed with the County. The repair and maintenance definition also limits the size, scope, configuration, and design of the repairs and maintenance that may be done to that of the previously authorized use. The record contains no evidence that the existing structure was lawfully authorized. The record contains no evidence about the size, scope, and configuration of the existing structure upon which the Director could decide that the repair and maintenance of the previous structure are within or beyond the original design of the structure.

Concerning the County's ability to approve the proposed riprap bank stabilization structure as a prescribed use under MCC 11.15.3678(A)(2), which authorizes approval of new buildings in the GGR zone larger than 60 square feet which are accessory to a dwelling, the staff found that the proposed riprap qualified as a "building" allowable by this Code section. The Director's reasoning was that a "building" is defined by the Code as a "structure" used to "support" any use or occupancy. The proposed riprap bank stabilization structure supports the existing dwelling use on the parcel. The riverbank of the Sandy River along the western edge of the subject parcel has eroded to the point that the stability of the existing residence on the subject parcel is affected. The proposed structure (the riprap) is necessary to protect ("support or shelter") the existing residence from further erosion that could, if left in its current state, endanger the residence or occupants of the residence.

Based on the Engineers report of March 12, 1998, the Director concluded that the proposed riprap structure will support the dwelling and is therefor a use that may be allowed in the GGR-2 zone as provided by MCC 11.15.3678(A)(2). The Director's conclusion that the construction of riprap bank stabilization structure is allowable in the GGR zone was based on the necessity to support an existing dwelling having a condition specific to the site. In most instances riprap is not allowable in the zone.

The staff testified in the appeal hearing that they had looked at every conceivable basis of authority for the County to approve construction of a bank stabilization structure for the subject property. The only plausible support that the staff could agree with is the above interpretation that the riprap bank stabilization project could be authorized as a prescribed use by MCC 11.15.3678(A)(2) as a building accessory to a dwelling. The Hearings Officer concludes that the staff is correct. Uses authorized under this section .3678(A)(2) of the code are subject to prescribed use procedures set out in MCC 11.15.3564, including NSA Site Review approval.

On appeal, the appellant does not provide any alternative basis of authority for approval of the proposed structure. Consequently, the proposal to construct the proposed riprap stabilization "building" must comply with the NSA Site Review approval criteria.

D. 11.15.3814 GMA Scenic Review Criteria

Findings, Analysis and Conclusions. The Director's administrative decision addressed the applicable scenic review standards. The Director concluded that all of these standards could be met, with the imposition of conditions of approval, except MCC 11.15.3814(B)(20). The notice of appeal raised no issues with the Director's Scenic Review Criteria findings or conclusions, except for those related to MCC 11.15.3814(B)(20). Consequently, this Hearings Officer Decision Order addresses only this one scenic review criterion which is at issue on appeal. This criteria provides:

MCC 11.15.3814 Scenic review

The following scenic review standards shall apply to all Review Uses in the General Management Area of the Columbia River Gorge National Scenic Area:

* * *

(B) All uses Under Prescribed Conditions and Conditional Uses visible from Key Viewing Areas:

* * *

(20) New buildings shall not be permitted on lands visible from Key Viewing Areas with slopes in excess of 30 percent. A variance may be authorized if the property would be rendered unbuildable through the application of this standard. In determining the slope, the average percent slope of the proposed building site shall be utilized.

Findings, Analysis and Conclusions. The proposed bank stabilization building would be located on lands visible from the Sandy Key Viewing Area. The existing topography of the land in question includes slopes nearing vertical in proximity of the existing dwelling. The applicant submitted two cross sections of the proposed building site (Figure 6 of

applicant's submittal). The first cross section measures approximately 38-feet horizontal and 22.5-feet vertical (59% slope), the second measures 60-feet horizontal and 27.5-feet vertical (45% slope). These cross sections are typical of the proposed development area. Based on the applicant's submittal, the average slope of the building area is well in excess of 30 percent. Consequently, the County is prohibited by the Code from approving a new building in the proposed location, unless there is a variance authorized.

Section 11.15.3814(B)(20) of the Code provides that a variance from this slope limitation may be granted, but only if the property would be rendered unbuildable by denial of the application. The applicant has not requested a variance. To demonstrate that the property would be unbuildable without a variance, the applicant (who has the burden of proof) must provide evidence that shows that no building, regardless of type, could be placed at any location on the subject parcel. The Director found that the record does not contain evidence from which it could be found that denial of the application would render the parcel unbuildable. The Director therefore concluded that the application fails to meet this criterion and must be denied.

The Hearings Officer concludes that the application cannot be approved without a variance and no variance was requested.

ISSUES ON APPEAL

A. Whether installation of riprap is a "building" under the Multnomah County Code.

In the applicant's words, the first issue on appeal is:

"Staff's interpretation of code regarding permitting buildings on slopes greater than 30 percent does not consider that the "building" is riprap. The application of the code in that regard appears inappropriate."

Findings, Analysis, Conclusion. Riprap is not expressly listed as a use that may be allowed in the GGR zone. MCC 11.15.3556 defines a "Building" as a "structure used or intended to support or shelter any use or occupancy." The Director found the proposed riprap was necessary to protect (support or shelter) the existing residence from further erosion [pg 3-4 of Staff report]. Consequently, according to the staff's interpretation of the Code, the riprap is within the definition of "building." Therefore, the Director concluded that the riprap could be authorized under MCC 11.15.3678(A)(2), subject to NSA Site Review.

On appeal the applicant argues that for purposes of site review criterion 11.15.3814(B)(20) the Planning Director incorrectly found that the riprap is within the definition of "buildings." In order for the County to approve the construction of the proposed bank stabilization structure, the structure must be a use that is authorized by some provision of the County Code. The Director found, and the Hearings Officer agrees, that the only authorization is provided in MCC 11.15.3678(A)(2). This section authorizes a building which is accessory to a dwelling. Although such a use may be allowed by the County, the county's approval

is subject to the applicable procedural and approval criteria contained within the County Code. The staff notes, and the Hearings Officer agrees, that if the appellant's argument is that the riprap is not a building, the consequence is that there is no basis within the Code upon which to authorize the proposed structure and therefore the application must be denied.

One of the applicable approval criteria in the County Code is the NSA site review criteria that prohibits new buildings on lands visible from Key Viewing Areas with slopes exceeding 30 percent unless a variance is authorized. The evidence in the record shows that the slopes of the lands subject to this application exceed 30 percent. The applicant did not request a variance from this approval criterion. In addition, the applicant provided no evidence that the site is unbuildable because of application of the MCC 11.15.3814(B)(2) approval criterion.

At the appeal hearing the applicant suggested that the prohibition of new buildings on lands in excess of 30 percent should apply only to the land which provides the base for the proposed structure. According to the applicant's testimony the area within the Sandy River where the base of the riprap is proposed to be placed is nearly flat. East of that flat area the river bank rises steeply to the area where the dwelling is located. Read literally, the approval standard's slope consideration relates to the "lands visible from Key Viewing Areas" not to the lands upon which the foundation of the structure is located. The lands visible from the Sandy Key Viewing Area are the bank, the area rising from the water to the uplands. According to the applicant's submittal, the slopes of these areas are well in excess of 30 percent.

The Hearings Officer concludes that the Director correctly concluded that the slope limitation applies to the entire area visible from the Sandy Key Viewing Area. The visible slopes exceed thirty percent, consequently a building cannot be approved in this location without a variance. Concerning the main appeal question, the only basis for approval of the proposed development is that it is a building accessory to a dwelling. Having determined that the proposed development is a building under MCC 11.15.3678(A)(2), the criterion in MCC 11.15.3814(B)(20) applies.

B. Whether the former protection was "destroyed."

In the applicant's words, the second issue on appeal is:

"[I]n the Findings and conclusions section of the decision, staff interpreted the word "destroyed" from the Willamette Engineering and Earth Sciences report to mean that all portions of the former erosion protection had been eliminated.

"While flooding in 1996 destroyed the integrity and function of the erosion protection, as a storm or fire could destroy the integrity of a house, remnants of the former erosion protection remained until 1997 when the property

owners attempted to repair and replace the former erosion protection. Excavation for the improvements required removal of many of the remnants of the upper portions of the former erosion protection to complete the repair of the lower areas near the river. Portions of the structure were therefore in place until the summer of 1997, within the 1-year required in the code, and some of the biologic stabilization remains."

Findings, Analysis and Conclusions. According to the appellant, remnants of the former erosion protection remained until the summer of 1997 within the 1-year required in the code to qualify to repair and maintain or to qualify to replace, the existing structure. In addition, some of the biological stabilization remains today. The appellant argues that based on these facts the erosion protection was not destroyed in its entirety and therefore is eligible to be repaired and replaced, even though flooding in 1997 destroyed the integrity and function of the erosion protection.

The Director found that the language "destroyed" and "former erosion control" were used by the applicants in their narrative to describe the result of flooding during February 1997. The staff concluded that:

"[W]hen the riprap was no longer substantially serving the function for which it was constructed (erosion control), it is reasonable to say it no longer existed. The existence of remnants in [the summer of] 1997 is not enough to find a structure exists or existed within the past year."

Additionally, the staff found that it was unclear from the record that any riprap that may previously have existed was ever placed there lawfully.

The issue of whether the previous structure was "damaged or destroyed" relates to the replacement provisions in Code Section 11.15.3562 which requires that the damage or destruction result from fire. The Hearings Officer has concluded this section of the Code does not authorize the proposed project. This is the only one of the Code's approval criteria that apply to this application that uses the "damaged or destroyed" terminology.

Under Code section 11.15.3676 an "existing structure" in the GGR district may be "repaired" without County review. That is, a "serviceable structure" may be restored to its "previously authorized and undamaged" condition without County review. "Damage" is a consideration that applies to the condition of the former serviceable structure. It is not a consideration relating to whether or not repair of the former usable structure can occur, which depends on whether the former structure is "serviceable." Damage relates to the extent of the repair that may be done if the structure qualifies for repair under this section. The scope, size, configuration and design of the repair must restore the structure to its "previously authorized and undamaged condition."

The fact that remnants of the damaged structure remain is not relevant to the question of whether the former structure was "previously authorized". Nor it is it relevant to the

question of the scope, size, configuration and design of the structure that may have been authorized.

The definition of "repair" requires that the structure be a "serviceable" structure. The Code defines "serviceable" as "presently useable." Thus, after a structure is determined to have been legally established, whether it can be repaired next depends on whether it is "presently useable." The Code appears to allow structures that are damaged to be repaired if they remain serviceable after damage, but not if the damage is so extensive that the structure is rendered unusable. If the damage is so extensive that the structure is rendered unusable, then any construction to replace the structure is new construction not repair. The applicant concedes that the flooding in February 1997 "destroyed the integrity and function of the erosion protection." The fact that the function of the former bank erosion protection has been destroyed is equivalent to saying that the former structure is not presently useable.

The Hearings Officer concludes that the Director was correct to conclude that the previous structure is not "serviceable" and "presently useable."

CONCLUSIONS

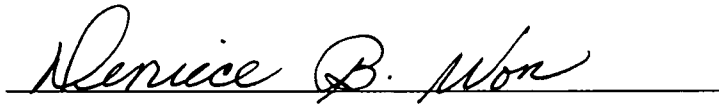
1. The proposed project cannot be approved under the replacement of an existing structure provisions in MCC 11.15.3562(B) because the damage was caused by flooding. This section only allows replacement of structures damaged by fires.
2. The portion of the proposed project located in the GGO district can be built without county NSA Site Design Review under MCC 11.15.3656(A)(2) because it is a structure for public safety.
3. The portion of the proposed project located in the GGR district cannot be repaired under MCC 11.15.3676(A)(3) because the applicant has not demonstrated that it was legally established before February 6, 1993. However, the project can be built under MCC 11.15.3678(A)(2) as a "building accessory to a dwelling" if code provisions that apply to prescribed uses can be met.
4. The project could not be approved because the NSA Site Review criterion applying to new buildings visible from Key Viewing Areas were not met. MCC 11.15.3814(B)(20) prohibits new structures on lands visible from Key Viewing Areas with slopes greater than 30%, unless there is a variance authorized. The site slopes are greater than 30%. The applicant did not request a variance. Had a variance been requested, the applicant would have needed to prove that the property would be unbuildable without the variance.
5. In order for the County to approve construction of the proposed bank stabilization, the use to be constructed must be a use that is authorized by some provision in the

Code. The only possible authorization is MCC 11.15.3678(A)(2) which authorizes a building accessory to a dwelling as a prescribed use. The determination that the proposal is a building makes MCC 11.15.3814(B)(20) applicable because that section is one of the criteria applying to all prescribed uses.

6. Under Code section 11.15.3676 an "existing structure" (defined as a legally established structure) in the GGR district may be "repaired" (defined as restoration of a serviceable structure) without County review. The definition of "repair" requires that the structure be a "serviceable" structure. The Code defines "serviceable" as "presently useable." After a structure is determined to have been legally established, whether it can be repaired next depends on whether it is "presently useable." The Code appears to allow structures that are damaged to be repaired if they remain serviceable after damage, but not if the damage is so extensive that the structure is rendered unusable. If the damage is so extensive that the structure is rendered unusable, then any construction to replace the structure is new construction not repair. The applicant concedes that the flooding in February 1997 "destroyed the integrity and function of the erosion protection." The fact that the function of the former bank erosion protection has been destroyed is equivalent to saying that the former structure is not presently useable.

The Hearings Officer concludes that the Director was correct to conclude that the previous structure is not "serviceable" and "presently useable."

IT IS SO ORDERED, this 9th day of November 1998



Deniece B. Won, Hearings Officer

Appeal to the Board of County Commissioners:

The Hearings Officer Decision may be appealed to the Board of County Commissioners (Board) by any person or organization who appears and testifies at the hearing, or by those who submit written testimony into the record. An appeal must be filed with the County Planning Division within ten days after the Hearings Officer decision is submitted to the Clerk of the Board. An Appeal requires a completed "Notice of Review" for and a fee of \$500.00 plus a \$3.50 per minute charge for a transcript of the initial hearing(s). [ref. MCC 11.15.8260(A)(1) and MCC 11.15.9020(B)] Instructions and forms are available at the County Planning Office at 2115 SE Morrison Street (in Portland) or you may call 248-3043 for additional instructions.

Meeting Date: JAN 12 1999
Agenda No: P-2
Est. Start Time: 10:30

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: West of Sandy of Rural Area Plan

BOARD BRIEFING Date Requested: January 12, 1999
 Amt. of Time Needed: 45 minutes
 Requested By: Kathy Busse

REGULAR MEETING Date Requested:
 Amt. of Time Needed:

DEPARTMENT: DES **DIVISION:** Land Use Planning
CONTACT: Susan Muir **TELEPHONE:** 248-3043 x22599
 BLDG/ROOM: 412 / 109

PERSON(S) MAKING PRESENTATION: Karen Schilling, x83636, Susan Muir, x22599

ACTION REQUESTED

☐ Informational Only ☐ Policy Direction ☒ Approval ☐ Other

SUGGESTED AGENDA TITLE

Adoption of West of Sandy River Rural Area Plan Scoping Report

SIGNATURES REQUIRED

Elected Official: _____
or
Department Manager: KB Layton Nicholas

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
99 JAN - 6 PM 12:02

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM BRIEFING
STAFF REPORT SUPPLEMENT**

To: Board of County Commissioners

From: Susan Muir, Principal Planner, Karen Schilling, Transportation Planning Administrator

Today's Date: January 4, 1999

Requested Placement Date: January 12, 1999

Subject: Public hearing on report of Multnomah County Planning Commission recommendation to adopt the Scoping Report and giving Transportation and Land Use Planning Division staff direction to move forward in drafting the West of Sandy River Rural Area Plan with the issues identified in the Scoping Report.

I. Recommendation / Action Requested:

Recommend approval of the West of Sandy River Rural Area Plan Scoping Report and direction to staff to move forward in drafting the West of Sandy River Rural Area Plan with issues identified in the Scoping Report. The next step in this process would be the appointment of a Citizens' Advisory Committee to guide the preparation of the plan and provide a forum for public discussion of major issues.

II. Background / Analysis:

This is the fifth in a series of transportation and land use plans for the rural areas of Multnomah County. The process of identifying issues for the West of Sandy River Rural Area Plan, conducted by Planning and Transportation staff, began in October, 1998 with a Community Open House, attended by approximately 100 citizens. In addition, 1,100 mailers were mailed out, and agency/stakeholder scoping was conducted through interviews with local, state and federal representatives. The attached Scoping Report identifies all issues raised during the issue identification process, and makes a recommendation as to which issues should be addressed by the Rural Area Plan.

III. Financial Impact

This plan is a part of both the Land Use Planning and Transportation Division budgets which have allocated the required funds for initiating this project. An important cost effective measure has been taken in this particular plan which is different from previous plans in that Land Use and Transportation have been able to work together on this plan and save on processing, mailing and other costs.

IV. Legal Issues

No legal issues have been identified. The revisions proposed are not known to be in violation of any County Planning Policy, Statewide Planning Goals, Statutes and Rules.

V. Controversial Issues

No controversial issues have been identified at this time.

VI. Link to Current County Policies

This scoping report completes the first phase in the adoption of the West of Sandy River Rural Area Plan, and thus implements current County policy regarding the preparation and adoption of new plans for the County's rural areas.

VII. Citizen Participation

This scoping report reflects significant citizen participation in the identification of major issues facing the West of Sandy River Rural Area Plan. Formation of a Citizens' Advisory Committee after approval of this report will allow for continued citizen participation in the preparation of this plan.

VIII. Other Government Participation

This scoping report reflects significant input from other governmental agencies interested in various issues within the Sauvie Island/Multnomah Channel Rural Area.

Attachments:

- **Scoping Report dated December, 1998**
- **Addendum to December 1998 Scoping Report**
- **Planning Commission Resolution**

Addendum to Scoping Report

West of Sandy River Rural Area Plan Scoping Report draft dated December, 1998.

The following issues will be added to the list of issues to be addressed in the plan starting on p. 12.

1. **Cultural Resource Preservation** – The rural landscape and the value of cultural resources should be included in the issues to be addressed in the plan.
2. **EFU** - There were problems during the adoption of the Exclusive Farm Use Zone and some areas should be checked to see if any “mis-zoning” occurred.
3. **Tree cutting** – The County should restrict tree cutting in residential areas where possible.
4. **“Night Sky”** – This plan should look at the possibility of adopting a “night sky” ordinance which limits the amount of outdoor lighting that can detract from the character of the area.
5. **River Ownership** – The issue of public ownership of the river should be looked at through this plan due to some differences in the high and low water lines and some past confusion.
6. **Metro** – all of the specific points provided by Metro should be included in the scoping report and they include generally: watershed scale protection measures, avoiding impacts from transportation and development projects that may impact fish and wildlife habitat, re-evaluation of hazard areas such as floodplains and steep slopes, and the Wild and Scenic River and State Scenic Waterways policies should be protected. The letter is attached to this addendum.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 99-1

Adopting the West of Sandy River Rural Area Plan Scoping Report.

The Multnomah County Board of Commissioners Finds:

- a. In 1993 Planning Division staff was directed to begin Rural Area Planning Program to address land use issues faced by the rural areas of Multnomah County.
- b. There are five rural area plans, one being the West of Sandy River Rural Area.
- c. County staff has conducted meetings with key stakeholders, held interviews with other governmental agencies, solicited written comment and conducted a Community Open House at Sam Barlow High School in order to gain input on major issues facing Multnomah County.
- d. The attached Scoping Report and addendum represents all of the issues identified by key stakeholders, other governmental agencies, the residents and the Planning Commission for the West of Sandy River Rural Area Plan.
- e. The Planning Commission conducted a Public Hearing on December 7, 1998 and has forwarded a recommendation to adopt the Scoping Report and addendum.

The Multnomah County Board of Commissioners Resolves:

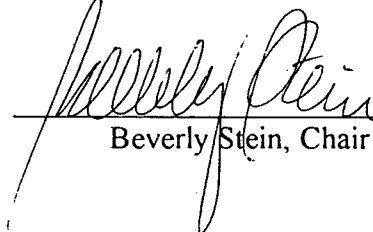
1. The Multnomah County Board of Commissioners adopts the attached Scoping Report and addendum, containing issues to be addressed in the West of Sandy River Rural Area Plan.

Adopted this 12th day of January, 1999.



REVIEWED:

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair

Thomas Sponsler, County Counsel
For Multnomah County, Oregon

By 
Jeff Litwak, Assistant County Counsel

Addendum to Scoping Report

West of Sandy River Rural Area Plan Scoping Report draft dated December, 1998.

The following issues will be added to the list of issues to be addressed in the plan starting on p. 12.

1. **Cultural Resource Preservation** – The rural landscape and the value of cultural resources should be included in the issues to be addressed in the plan.
2. **EFU** - There were problems during the adoption of the Exclusive Farm Use Zone and some areas should be checked to see if any “mis-zoning” occurred.
3. **Tree cutting** – The County should restrict tree cutting in residential areas where possible.
4. **“Night Sky”** – This plan should look at the possibility of adopting a “night sky” ordinance which limits the amount of outdoor lighting that can detract from the character of the area.
5. **River Ownership** – Distribute information regarding the issue of public ownership from the Division of State Lands and other agencies to clarify confusion regarding the high and low water lines.
6. **Metro** – all of the specific points provided by Metro should be included in the scoping report and they include generally: watershed scale protection measures, avoiding impacts from transportation and development projects that may impact fish and wildlife habitat, re-evaluation of hazard areas such as floodplains and steep slopes, and the Wild and Scenic River and State Scenic Waterways policies should be protected. The letter is attached to this addendum.
7. **Slide and Hazard Areas** – Include a thorough look at hazard areas in the task force/citizen advisory committee discussion and look at and evaluate the need for mapping and better guidelines for development in those areas.
8. **Formatting for comments** – Include a footer on each page of the public comments noting that these are comments taken down verbatim from surveys and the open house and not necessarily those embraced by the County.

800 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 197 1700 | FAX 503 197 1797



METRO

Kathy Busse, Director
Multnomah County Dept. of Environmental Services
Transportation and Land Use Planning Division
2115 SE Morrison Street
Portland, OR 97214

**Subject: Multnomah County's Request to Metro to Identify Scoping Issues
for Multnomah County's West of the Sandy River Rural Area Plan**

Dear Ms. Busse:

December 3, 1998

Metro appreciates the opportunity to participate in the scoping process for the Sandy River Rural Area Plan. The purpose of this letter is to elaborate on scoping issues that were presented verbally by Metro staff at an October 26, 1998 meeting with Susan Muir and Karen Schilling. The following comments represent input from three Metro departments; Regional Parks and Greenspaces, Growth Management Services and Transportation. Metro recommends that the following issues be addressed in the rural area plan:

1. Watershed scale protection of Johnson and Beaver Creeks and their tributaries for water quality and flood control purposes. The headwaters for both of these streams are in the rural area plan study area and both streams are listed by Oregon Department of Environmental Quality as "water quality limited" for violations of a variety of parameters.

Senate Bill 1010 requires the Oregon Department of Agriculture to convene groups of farmers and rural residents to develop plans to address "water quality limited" streams per section 303D of the Clean Water Act. A Sandy River Basin group is being formed now and their plan is intended to be done by June 1999. Beaver Creek will be affected by the Sandy River Basin Plan. If the committee fails to forward a plan by June 1999, the County should be prepared to institute its own strategy regarding protection of the Beaver Creek segment in the study area.

Johnson Creek contains current and historic runs of lower Columbia River Steelhead which has been listed as threatened under the federal Endangered Species Act. We recommend that Multnomah County coordinate the rural area planning process with the City of Portland's

ongoing work to protect and restore lower reaches of Johnson Creek and its tributaries. The County should also coordinate with the Community Headwater Group whose mission is protection of the Johnson Creek headwaters.

In addition, the County is required to implement Title 3 of Metro's Urban Growth Management Functional Plan in the study area. Title 3 sets minimum protection standards for stream corridors and other water features.

2. Avoid impacts from transportation and development projects that would impact fish and wildlife habitat or movement in the study area. We recommend that existing stream crossings be retrofitted if they are currently a barrier to fish movement. Al Miritti at the Oregon Department of Fish and Wildlife has prepared a report on the status of existing stream crossings in Multnomah County which can be used to assist the County with this effort.
3. The planning process should address hazard lands such as floodplains and steep slopes. Metro will provide the County planning staff with a map titled Landslide Locations and Zones of High Landslide Potential in the Portland Metropolitan Region (1996-1997) and a report titled Landslides in the Portland, Oregon Metropolitan Area Resulting from the Storm of February 1996: Inventory Map, Database and Evaluation.
4. The study area includes sections of the Sandy River designated National Wild and Scenic River and State Scenic Waterway. Metro recommends the rural area plan should provide similar protection policies and strategies for these river sections as contained in policy 28 of the East of Sandy River Rural Area Plan for the same sections of the Sandy River.

Attached for your information is correspondence between Multnomah County and Oregon Parks and Recreation Department regarding a mutual agreement to cooperate in specific ways to improve management of the Sandy River Scenic Waterway at the County level. Two approaches were identified;

- Multnomah County petition OPRD to amend the Sandy River Scenic Water Rule to address vague and over general rules.
- Multnomah County work with OPRD during the rural area planning process to improve scenic waterway protection at the County level.

Policy 28 of the East of the Sandy River Rural Area Plan incorporates the spirit of the cooperative agreement by recognizing the need to protect the outstanding public values for which sections of the Sandy River have

We would be glad to discuss any of the above comments and suggestions at your convenience. Thank you for the opportunity to enter this letter into the public record for the West of the Sandy River Rural Area Plan scoping process.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mike Burton". The signature is fluid and cursive, with the first name "Mike" and last name "Burton" clearly distinguishable.

Mike Burton, Executive Officer

CC: Multnomah County Planning Commission
Charles Ciecko, Regional Parks and Greenspaces Department Director
Andy Cotugno, Transportation Department Director
Elaine Wilkerson, Growth Management Services Department Director

Enclosure

Oregon

December 29, 1993

Charles Ciecko Director
Parks Services Division
1620 SE 190th Ave.
Portland, OR 97233

PARKS AND
RECREATION
DEPARTMENT

Dear Charlie,

This confirms the decisions, agreements and commitments reached at our meeting Thursday, December 16, on the John Pospisil-Sandy River matter. Others attending the meeting included Jim Lind, Regional Park Supervisor, Oxbow Park, and Jim Payne, Scenic Waterways Program, Parks and Recreation Department.

I believe you made a strong case that Thomas Sears violated the terms of the construction approval issued to him on February 7, 1992. When this was discovered, 18 months had passed and the property had changed hands. We believe the best remedy now lies in non-confrontational negotiation with the current landowner rather than in pressing the violation issue.

The remainder of this letter will recap the wrap-up I made at the meeting along with the additional details you provided.

Our discussion covered four main issues: scenic waterways notification procedures; the John Pospisil notification (file number 53-156-93); proposed Sandy River Scenic Waterway rule amendments; and measures to improve Sandy River Scenic Waterway coordination with Multnomah County.

Scenic Waterway Notification Procedures

In both the Thomas Sears and John Pospisil cases you identified inadequacies in our process. Your requests for additional information and an on-site visit were not answered timely or at all. We acknowledge our failure to be responsive in these cases. We also recognize the benefit of having more, rather than less, documentation in our files in case of appeal. Our commitment to you and ourselves is to be more responsive in the remainder of our dealings in this and future scenic waterway notification cases.

John Pospisil Notification

We agreed to contact John Pospisil by phone and letter to pursue mitigation of scenic waterway impacts represented by his building plans and land clearing under the previous owner. The letter will address the case Multnomah County



525 Trade Street SE
Salem, OR 97310
(503) 378-6305
FAX (503) 378-6417
73110-806

Charles Ciecko - Sandy River

December 29, 1993

Page 2

has made that a violation occurred on property Mr. Pospisil now owns. The letter will also request Mr. Pospisil to plant trees designed to screen his proposed home. The letter will specify the type, number, spacing and age of trees to be planted. The letter will express the expectation that the trees are to be adequately maintained to insure their survival and growth. We will also ask Mr. Pospisil to set his proposed house back 30 feet from the rim of the canyon. A copy of the letter will be sent to you.

Sandy River Scenic Waterway Rule Amendments

We all agreed that provisions of the Sandy River Scenic Waterway rules (OAR 390-40-075), are vague and over general. We discussed alternative approaches for bringing this issue before the Parks and Recreation Commission (Commission). As staff to the Commission, we could bring this matter before it ourselves. Alternatively, Multnomah County could petition the Commission to amend the Sandy River Scenic Waterway rule. We prefer this approach. It keeps the county actively involved and demonstrates your continued interest and good faith in cooperating with us in addressing this situation.

We agreed to draft proposed rule changes in cooperation with you. We will provide the county with the necessary direction to prepare a complete and acceptable petition. The county will prepare and file the petition with the jointly prepared proposed rule changes on the understanding that we (OPRD staff) will support it.

Concepts we discussed for rulemaking included: setbacks (from the rim); measurable standards for filtering, vegetation cutting, low-limbing and replanting; alternative site development; and an administrative process providing access to the Parks and Recreation Commission. We also discussed a standard delay between the notification approval issue date and effective date. This would allow interested parties to file objections before approval became effective.

We also agreed to lay out a proposed time schedule within which we believe this rulemaking could be accomplished.

Sandy River Scenic Waterway Coordination with Multnomah County

We discussed opportunities for better coordination with Multnomah County in protecting scenic waterway values. We all agreed scenic waterway rules and county zoning and ordinances could be more complementary. You suggested we prepare a letter to Betsy Williams, Director, Department of Environmental Services, proposing greater cooperation. You advised us that Multnomah County is currently involved in rural plan updates. This process can provide the forum for improving scenic waterway protection at the county level. The focus is currently on the northwest county. Rural plan

Charles Ciecko - Sandy River
December 29, 1993
Page 3

update for the Sandy River area is at least several months off. You agreed to support and facilitate our contact and discussions with the county on this initiative. You suggested a copy of our letter to Betsy Williams also be sent to Scott Pemble, Director, Land Use and Development.

In further summary, we agreed to write three letters effecting the decisions, agreements and commitments described above. This letter confirming the outcome of our meeting is the first. The letters to John Pospisil and Betsy Williams are the second and third.

You also requested a copy of the approval letter dated February 7, 1992, that we originally sent to Thomas Sears. A copy of that letter is enclosed.

Based on our commitments to these agreements, you have agreed to write us a letter withdrawing your appeal of our decision in the John Pospisil case.

I believe this letter captures the sum and substance of our meeting. We are prepared to proceed based on the understandings set forth here. Any omissions or inaccuracies are unintentional. Please let us know immediately if I have overlooked something or misrepresented some aspect of our meeting.

I look forward to your continued interest and cooperation in protecting the Sandy River Scenic Waterway.

Sincerely,

Steven C. Brutscher

Steven C. Brutscher
Manager, Recreation Programs Administration

Enclosure

cc: Laurence Kressel, Multnomah County Counsel
✓ Jim Lind, Regional Park Supervisor, Oxbow
Bob Meinen, Director, OPRD
Nancy Rockwell, Deputy, OPRD
Nan Evans, Administrator, OPRD
Jerry Lidz, Assistant Attorney General
Brian Booth, Chairman, Parks and Recreation Commission
Gay Greger, Parks and Recreation Commission
Sara Vickerman, Parks and Recreation Commission

ciecksan.ltr

Oregon

PARKS AND
RECREATION
DEPARTMENT

May 19, 1995

Charles Ciecko, Director
Regional Parks and Greenspaces
METRO
600 NE Grand Avenue
Portland, OR 97232-2736



Dear Charlie,

This confirms my receipt of your letter about coordination with Multnomah County and rule amendments for the Sandy River Scenic Waterway. Thanks for the reminder. I will be trying to contact Betsy Williams by phone later today. You'll be sent copies of written communications I have with her.

I'll be working with Jim Payne on the proposed rule amendments. Our original thinking on this was for you to petition our commission to amend the rule. We will think this through again to be sure that is still the way we would like to handle the matter.

I'll be out of the office for much of the next two weeks so I won't be able to really attack these items until I return. I look forward to working with you on this.

Sincerely,

Steven C. Brutscher
Rivers Program

ciko519



1115 Commercial St. NE
Salem, OR 97310-1001
(503) 378-6305
FAX (503) 378-6447

73410-406



METRO

May 2, 1995

Steven C. Bruscher
Oregon State Parks
Recreation Programs Administration
525 Trade Street, SE
Salem, Oregon 97310

Dear Steven:

I write in reference to our December 16, 1994 meeting (Sandy River matters). At that meeting, we agreed to cooperate on a number of fronts to improve management of the Sandy River Scenic Waterway. For your convenience, I enclose a copy of your letter re-capping our agreement.

In regards to the fourth issue discussed "Sandy River Scenic Waterway coordination with Multnomah County", I am requesting you to prepare a letter to Betsy Williams, Director, Department of Environmental Services, proposing greater cooperation and coordination in protecting scenic waterway values at the County level. This letter will be timely because Multnomah County is beginning the process to update land use plans for all areas East of the Sandy River. This includes the east bank of the Scenic Waterway. As previously discussed, we feel this process provides the opportunity to coordinate County Zoning Ordinances with Scenic Waterway Management objectives. As the scoping phase has just begun, now is an ideal time to get involved. We will be available to participate in your discussion with the County on this initiative.

In regards to the third issue addressed "Sandy River Scenic Waterway Rule Amendments", this may be the appropriate time to address the problems with vague and over general rules. We are interested in working with you to draft proposed rule changes.

We are looking forward to your assistance with these matters so that adequate protection for the values that led to Scenic Waterway designation will be conserved.

Please feel free to call me at (503) 797-1843 if you wish to discuss this matter further. Thank you for your assistance in this matter.

Sincerely,

Charles Ciecko,
Director, Regional Parks and Greenspaces

cc: Betsy Williams
R. Scott Pemble
Bob Radcliff
Jim Lind

West of Sandy River Rural Area Plan

A Transportation and Land Use Plan

*Scoping Report
December, 1998 Draft*



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Introduction

The Scoping Report

The purpose of this scoping report is to provide a compilation of all potential issues identified through the scoping process and to identify common themes among those issues. This document also contains recommendations regarding issues proposed for analysis in the West of Sandy River Rural Area Plan. This report also contains a recommendation regarding issues that were discovered during the scoping process that are either not within Multnomah County jurisdiction or are more appropriately addressed by another agency. The conclusion of this report contains recommendations for a planning process including specific public involvement processes and policy analysis.

Why a Rural Area Plan?

Multnomah County is beginning the fifth in a series of transportation and land use plans for the rural areas in the County. These planning efforts are intended to build upon the County's Comprehensive Framework Plan and provide specific policy direction for rural, unincorporated areas. The plans may also result in development of new implementation measures or new ways of using existing measures to carry out rural area policies.

The County has completed three rural area plans and one transportation system plan to date. The West of Sandy River Rural Area Plan provides the unique opportunity of combining the efforts of land use and transportation planning. This is the first of the series of plans that will be developed in a cooperative manner that will save time and effort and provide a more congruent process for the public.

Why a West of Sandy River Plan?

Development of rural area plans and transportation system plans are part of the process of updating the Comprehensive Plan to address state requirements that plans be updated and maintained to meet state mandates and reflect changing conditions. These planning efforts are intended to provide policy direction for rural, unincorporated areas, including how to accommodate predicted growth while preserving the qualities of livability that draw people to the area. The plans may result in development of new implementation measures or new ways of using existing measures to carry out rural area plans. Development of the

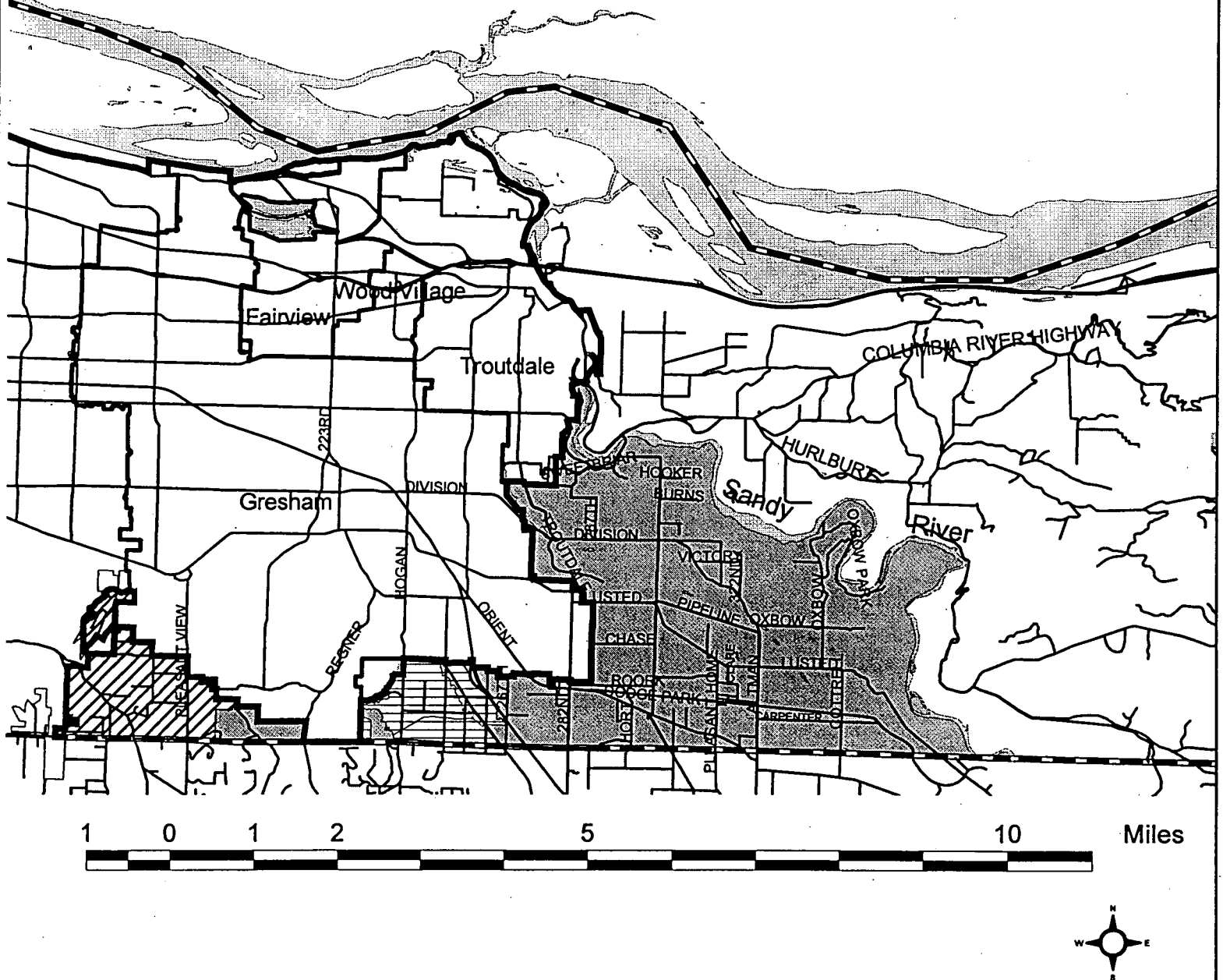
plan is expected to take about one year. Implementation of the plan should be completed in three years. The West of Sandy River Plan follows the East of Sandy River Rural Area Plan, the West Hills Rural Area Plan, the Sauvie Island/Multnomah Channel Rural Area Plan and the Westside Transportation System Plan.

Among the issues that must be addressed are new state and federal regulations. These include growth issues, transportation issues, protection of natural resources including wildlife, historic sites, natural areas, and minerals; and tradeoffs between additional rural residential development and resource management of forest and agricultural lands.

Planning Area

The following map outlines the area that will be covered in the West of Sandy River Rural Area Plan. The boundaries will be the City of Troutdale to the north, The City of Gresham to the west, the Sandy River to the east and the County boundary to the south. Since this is a rural area plan, those areas currently within the existing Urban Growth Boundary and those within the Tier 1 or Tier 2 areas of the Urban Reserves will not be included in this plan.

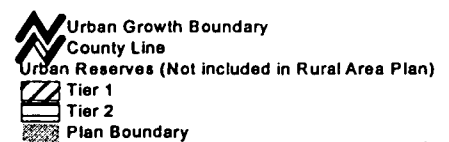
West of Sandy River Rural Area



PREPARED BY:
DEPARTMENT OF
ENVIRONMENTAL SERVICES
TRANSPORTATION & LAND
USE PLANNING DIVISION
SOURCE:
METRO RLIS LITE DATA
DICTIONARY, JANUARY 1997

The information on this map was derived from digital databases on Multnomah County GIS. Care was taken in the creation of this map but it is provided "as is". Multnomah County cannot accept any responsibility for errors, omissions, or positional accuracy in the digital data or the underlying records. There are no warranties, express or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

Legend



Scoping Process

The first phase of the rural area planning process – called the “scoping phase” – is intended to identify issues that state agencies, local governments and community residents believe need to be addressed by the plan. Scoping techniques include: meetings with governmental agencies and key stakeholders; a community open house; and a newsletter/questionnaire mailing to all property owners within the plan area.

The scoping process began in October, 1998 with a Community Open House and will conclude in early 1999 with approval by the County Board of Commissioners of the issues to be analyzed in the Plan. The following outline describes the methods used during this process:

Scoping Activities

- Public scoping through both a questionnaire included as part of a newsletter mailed to all property owners in the planning area and a community open house conducted on October 14, 1998.
 - Approximately 1100 mailers were mailed to property owners
 - Approximately 100 attendees came to the Community Open House
 - Approximately 45 questionnaire responses were received
- Agency/stakeholder scoping through interviews conducted in person or via telephone to local, state, regional and federal representatives.
 - Agencies/stakeholders scoped include: Metro Growth Management, Transportation and Greenspaces programs, ODOT, City of Portland Water Bureau, the Department of Land Conservation and Development Commission, the Department of Agriculture, the Farm Bureau, the Division of State Lands, the Army Corps of Engineers, Commissioner Kelley's Office, Oregon Parks and Recreation, Local Fire Districts, the Natural Resources Conservation District, Multnomah County Sheriff's Office, Clackamas County, City of Gresham and City of Troutdale.

Important Note: Scoping is an ongoing process and additional issues may be identified during Plan development.

Recommendation of Issues to be addressed

The following table lists the common issues found in the citizen and stakeholder scoping process. It is recommended that the following issues be addressed through the planning phase of this process, within the framework of Statewide Planning Goals.

<p style="text-align: center;">Growth</p> <ul style="list-style-type: none"> • Encroaching development, lots are too small, creating impacts on rural area (runoff, etc.) • Need better planning to accommodate population increases
<p style="text-align: center;">Transportation</p> <ul style="list-style-type: none"> • Speeding Traffic, speed limits too high, more enforcement • Need for shoulders as safety improvements and to provide space for disabled vehicles, bicyclists and pedestrians. • Increasing volumes of traffic and truck traffic; need truck routes • Accessibility – numerous driveways, sight problems, improvements to intersections • Nursery trucks and traffic – need to address their needs through the plan, is air freight involved as part of their operation, other farm transportation issues • Hwy 26 is designated a "green corridor" and policies in the Functional Plan should apply through this plan.
<p style="text-align: center;">Services/Facilities</p> <ul style="list-style-type: none"> • Overcrowding in schools, parks, etc. • Sewer issues around school facilities (currently not on sewer line). • Need coordination regarding educating property owners who have conduits on their property that may conflict with right of ways over lines.
<p style="text-align: center;">Land Use</p> <ul style="list-style-type: none"> • Farm and nursery preservation, rural lifestyle • Improper zoning exists on some properties • Lack of housing for farm help
<p style="text-align: center;">Parks/open space</p> <ul style="list-style-type: none"> • High value on recreation and open space • There has been an unfulfilled commitment on the Sandy River protection program with both federal and state that should be addressed through the plan

- Oxbow Master Plan – would like some type of overlay/base zone for the park. Dabney State Park – changes to surrounding uses will impact park.
- Scenic Waterways – develop local code standards, with the state, to achieve the same goals to make a “seamless” approach for citizens.

Environmental/water quality

- Stream/watershed protection
- Soil erosion
- Protection of streams – particularly Johnson and Beaver Creek, must comply with Title 3 and other federal requirements (ESA, etc.)
- Increased protection of steep slopes (20%)
- Explore timing restrictions to allow all construction during dry parts of year and limit during wet seasons.

Recommendation of issues to be forwarded on to other agencies and will not be included in the Transportation and Land Use Plan. These issues are no less important or valuable than the issues to be addressed in the Rural Area Plan. However, these issues would be better dealt with under a different effort and should be forwarded on to the relevant agency.

Growth

Urban Growth Boundary – The Urban Growth Boundary (UGB) is the responsibility of Metro and is addressed through the 2040 functional plan to manage growth within the 24-city and 3-county metropolitan region. It is recommended that this plan not address moving the Urban Growth Boundary, but focus on planning for the rural areas.

Services

Lack of other agency services should be forwarded on to relevant authority (i.e. Sheriff).

The Community and Citizens

The questionnaire that was sent out asked the question "What are the best things about your community and why?". This question gives an indication of the existing community and it's residents. The responses are listed here, although they are generally not issues to be addressed during the plan, they can be the basis for a vision that can be referenced throughout the planning process.

What are the best things about your community and why? <ul style="list-style-type: none"> • Rural setting and lifestyle, no "housing developments" • Open spaces • Agriculture/nurseries
Mostly quiet and peaceful, isolated from town
The use of the land for farming berries and nursery plantings
Our family enjoys living in a rural center. The nursery land provides a beautiful backdrop to our home, gives us opportunities to go on long walks and bike rides, and creates a feeling of isolation from noise, pollution, large concentrations of people.
Rural setting, established neighbors that have a vested interest in the area and it's schools. Not so transient.
Quiet, rural – the way we like it and why we have lived here for many years.
Location, view, community/neighbors
#1. It is zoned farm use. #2. Not a lot of traffic. #3. Quiet and peaceful. #4 No housing density.
Individual home owners, quiet area – neighbors respect each other. Various – senior retired to families with young preschoolers. Many open areas, people have room to restore and retreat to themselves.
1). Some open spaces and parks, some berry fields. 2). Wild birds. 3). Country feeling of space.
We have not yet turned into what places like Rockwood have become.
It is country; except for 2 homes built recently, it has remained the same for many more than the 32+ years we have lived here. We razed an old home and built ours in virtually the same location.
The schools
Economy appears strong
Good neighbors, space to garden, plant trees, enjoy views, wildlife, hear frogs, crickets, birds.
Close to schools, community college.
Agriculture and forestry.

Where we live (Orient area) we don't seem to have any crime – it's like living out in the country – and yet we're only 5 minutes from Gresham shopping- it's quiet and there's not much traffic.
rural atmosphere – for the most part peace and quiet.
No traffic, no strip malls, no chain restaurants, no housing developments.
High quality housing developments with attention to attractive greenspace area are being developed in our area, this boosts property value.
The Sandy dell area is quiet & peaceful no thru traffice & beautiful homesites, well kept up. With little or no government rules & regulations to concern with!
Beautiful farm community – reasonably quiet and friendly – low crime – reasonably good roads – good schools – nice park (Oxbow) – reasonable access to downtown Portland – near mountains for recreation and skiing – near Columbia for boating, water sports – near community college – two nice small towns and service areas.
No housing developments close to us. I would like that to stay that way. Excellent school district. Population is starting to effect it though.
The fields of nursery stock and fields of berries. The rural area is very valuable in producing food also.
Close to shopping, rural atmosphere.
Clean air, beautiful scenery and wildlife.
The houses are far apart. There is lots of agriculture. I can raise cattle, goats, chickens. I don't mind being without electricity during winter storms because we are at the end of the road, but I do mind the brownouts & low water pressure from growth.
The feeling of peace & quiet. The ability to carry out farming practices without interruption from people.
Orient is darn nice area. Leave it alone!
The best things about my community are twofold. The first and most important is aesthetic, a value not generally prized in a materialistic society. I love the quiet, the view outside of raspberry and cauliflower fields, the tidy rows of conifers and other nursery stock (Oregon's primary agricultural crop now, I believe), the business of farming, planting and harvest. Second, I feel secure, free of the minor annoyances and major anxieties of suburbia: car alarms, petty theft, unruly kids (and parents), lack of any privacy. Why? I live outside of the urban growth boundary.
We are still outside the city limits.
Rural, quieter, less traffic, some of the tall firs still remain. Good School District.
Green wooded areas. Easy access to schools. Clean air.
Lots of green and not many houses, Why "the Urban Growth Boundary " helps.
Good access to I-84; Proximity to Hwy 26/with some conflicts and tie-ups; 1-3 hrs to Winter recreation areas, 2-3 hrs to Ocean beaches, ans 2-3 hrs to high desert climate, Several large rivers, several semi-wild and scenic rivers for water recreation.
Its Rural nature, No traffic, no developments.
Rural living – space between homes ..this is changing quickly.
Easy access to I-84, close to Portland, with quick travel to employment and also

Portland and Troutdale Airports.

Close to Mt. Hood Comm. College and Mt. Hood Medical Center.

Close to Winter Recreation areas and also Mt. Hood National Forest for summer use.

The flyer talks about "preserving the qualities of livability that draw people to the area." What about the qualities of livability that keep the people that live here here? Good schools, a solid infrastructure, and freedom from the constant threat to this livability seem to be what has been valuable about living in this west of Sandy River rural planning area.

We have not yet turned into what place like Rockwood have become.

Small enough to be personable but not for long.

Adequately planned growth building to this point.

Preservation of parks & recreation areas

Transportation good but not complete

The views to the East & South on a sunny day.

Oh, this one is so easy to answer. Room to breath. No tightness in my chest when I get on the roads. (I'm a survivor of commuting on the Banfield for a year. Enough said.) Vistas that take your breath away. Horses on the horizon. Peace. Blessed peace that I never feel in the city. Wildflowers. Greenery. My husband and I feel the luckiest of people, and we never take it for granted. We've noticed, for example, a huge increase on trash out here on Kerslake Road. (The traffic on this little country road has tripled, thanks to growth out on Sweetbriar. Don't even get me started on growth!) So in the morning we get up and, with plastic bags in hand, walk down the road and pick up trash. And mind you, my husband is 64 years old! No one knows we do this. But we so respect our environment out here.

What else is good? No noise. (No ulcers!) Our local stores serve all our needs and, should we decide for a night of "big city" culture, it pains us not to hop in our car and drive to Portland. (We're still blown away that they cut down those beautiful trees on the corner of Stark and Kane and put up a Jack-in-the-box, for God's sake!! Boy, now there's something we need another of! Where are people's heads??)

Above all, the "feel" of the place is good for the heart and the head. People have lost touch with what they need to survive. Clean air and water —and yes, trees! -- are vital!

Citizen Scoping

Results below include the property owner input from returned questionnaires and an open house held 10/14/98 at Sam Barlow High School. The table shows issues that are grouped into the following categories; Growth, Transportation, Services, Land Use, Parks/Open Space, Environmental/Water Quality and Miscellaneous. The written questionnaire asked the following questions:

- 1) What are the best things about your community right now and why?
(see p. 9 for results)
- 2) What are the problem areas in your community right now and why?
- 3) What issues are important to you and why?
- 4) Other comments?

There were approximately 1,100 questionnaires/notices mailed out and 45 of those were completed and returned. Approximately 100 people attended the community open house and there are 11 people interested in serving on, or finding out more about a citizen advisory committee.

This table is formatted to include all comments. Under the general heading a list of the most common issues that need to be addressed have been provided. These summaries are then included in the recommendations beginning on p. 7.

Growth
<ul style="list-style-type: none"> • Encroaching development, lots are too small, creating impacts on rural area (runoff, etc.) • Urban Growth Boundary location • Need better planning to accommodate population increases
Encroaching development seems to be the biggest problem area. A high density development such as Sam Barlow View Estates threatens to defeat our purpose for living in this area. We feel very strongly about preserving the rural atmosphere that lured us to this area in the first place.
Encroaching development.
Too many apartment in Mult. Co Gresham area – too transit. We want a community that people stay in their homes for 20-30 years it builds security in families.
Increased development – lots are too small

Growth Issues Continued

The largest problem by far is threatened growth. The myth that "growth is inevitable" is such a joke. Says who?? Growth is NOT inevitable. There are plenty of communities who've had the good sense to know when enough is enough, and shut the doors. Money lines the pockets of developers who could give a damn that the commute across Gresham now takes close to half an hour. It's the developers who take their money and run, leaving us to deal with the asphalt nightmare they create.

Population increases

Need a better attitude toward future growth and development to help facilitate better planning in a more timely manner.

Population encroachment – on agriculture who is responsible to maintain the pleasant green belt around the urban area

Regulation that allow individuals to harass agriculture.

Metro turning this beautiful scenic farming area into another L.A.

I've lived out here most of my life – it's sad to see some of the land being destroyed by houses. The traffic has increased significantly over the past couple of years. Very aggravating! With all this will surely come crime and pollution.

The "blight" known as "urban sprawl".

Farm preservation. As taxes increase on the property, the income from farming does not meet those tax increases. The result is the division of the land for residential use. More taxes, more development.

The "blight" known as "urban sprawl".

Population increases

Expansion of UGB. Traffic.

I want the Urban Growth Boundary expanded. I own 10 ¼ acre on Rugner Road but can't subdivide, thus my property value upside potential is very limited.

The urban boundary is approximately one mile from my property. I own a little less than 5 acres directly across from the back side of Barlow High School. My property is zoned farm land, and therefore not divisible at this time. Less than 5 acres especially a steep sloping property such as mine is of little use to farm and the purchase of a tractor for such a small piece of property would not be cost effective.

Keep Urban Growth Boundary at its present location

Preserving what we have now, farms, scenery, wildlife, clean air free of over population.

Lot sizes should be increased, to prevent over crowding.

There are many vacant lots in NE Portland near jobs. Building your housing there. Don't ruin our area.

It is very disturbing to see all of the growth occurring over the last few years – there are laws to say it happen – where are the laws to stop it?

Too damn many people!!!

Minimize growth

Do not extend urban growth boundary east of Gresham into farmland!

Limit growth – too much traffic

Limit growth – pressure on school district

Move UGB out to the river

Plan now for future growth and development

Growth Issues Continued

Too much pressure for growth already – move UGB out to accommodate

Farms aren't profitable – should be developed properly. Need plans in place to accommodate growth

Growth inside UGB will impact rural area, we need to plan for it (garbage, traffic, recreational use, run-off, water quality, mud in streets)

Urban sprawl – control growth, isolate potential problems, due to over building, multi-family housing.

Urban growth pressures on rural area

Metro and developers will cover every space within a few years with dwellings necessitating mother and father to work to pay for their home. More children with no supervision. I pray the lust for money will not leave our beautiful Willamette Valley void of what we have enjoyed all these years. A realtor from California said we are looking like California!

Fifteen years ago we moved here for the quality of rural living, so close to Gresham and downtown Portland. To us and our neighbors, the Metro growth boundaries as proposed, will significantly reduce our livability and already is beginning to do so.

With the expected growth in the next two decades I think it to be very important that the growth be controlled and planned to the best of our ability. That housing (single and multi family) be controlled and planned in locations that won't threaten the personable community that now exists.

Sadly, I believe that Metro and Mult. Co. are greatly missing the boat. Both should be strongly and aggressively working to limit growth rather than to simply accommodate it.

Growth is not inevitable unless we allow it

UGB should move to 302nd

Keep UGB where it is!

There seems a fine line between "accommodating predicted growth" and encouraging development and, therefore, growth. Who profits? With what result for us who live here? Our schools are being filled to the point where people are forced to choose between impacted education for those of the future or ever larger tax bills. Roads, while increasingly overcrowded, are now, what seem to be, constantly in disrepair or under repair. Drinking water from the Bull Run reservoirs becomes scarcer and more threatened more often. They dig wells along the south shore of the Columbia and they become contaminated. They threaten to use water from the Willamette and we know what else this "river" is used for. Now, an absolutely mindboggling amount of pure Bull Run water is used daily to wash microchips. Is this "accommodating predicted growth?" All for what end?

Criminal activity is a problem with increased population here.

Transportation

- **Speeding Traffic, speed limits too high, more enforcement**
- **Need for shoulders as safety improvements and to provide space for disabled vehicles, bicyclists and pedestrians.**
- **Increasing volumes of traffic and truck traffic routes**
- **Accessibility – numerous driveways, sight problems, improvements to intersections**

High speed traffic on Lusted Road and SE 282nd. A poor to bad intersection at the junction of the above streets.

some traffic problems

Increased traffic on rural roads.

Traffic

Increased traffic

My wife and I were both born in Oregon. Too much traffic past my house.

Traffic congestion due to increased housing

Automobiles with young people exceeding speed limit

Roads with no shoulders, bike or walking paths. Dangerous intersections that need four way stops, blind dips and hills where driveways enter and speed is too fast. No warning signs for these stretches of road.

Dodge Park (the park by the water bu. plant on the Sandy River). Even though it is in Clackamas County the disorderly persons (drunks etc.) on summer weekends is an attractive nuisance. They drive down Lusted Road in Multnomah County at excessive speeds. They throw trash out their car windows. It was a nice reprieve when the Lusted Rd. bridge over the Sandy River was being repaired in the summer of 1998.

High speed drivers on country roads.

Speed of traffic on SE Pleasant Home Rd. – no one pays attention to the speed limit.

Traffic pattern conflicts – general use

Heavy truck traffic routing from I-84 to Hwy 26

Too many cars on the road. People don't live close to their jobs.

I live off 282nd and my children are asked to cross the street to catch their school bus. The traffic is awful on the north bound lane. We need a stop light or sign on Lusted and Powell Valley.

The access road to the Sandy Dell area is a problem and is chane (?) to keep in usable repair.

Roads – substandards for the requirements of increased population and expanded agriculture & nursery production.

Traffic on Oxbow Drive. Used by bicyclists, too narrow through curves for them and traffic. Farm workers use it for moving farm equipment people speed, this is a very dangerous stretch of road. I don't mind the farm equipment I do mind the bicyclists.

Transportation Issues Continued

Lusted road is a fairly high traffic area, due to the school traffic and being a main route to traffic to Dodge Park. I live on a corner of a four way stop. There is a tremendous disregard for that stop in all directions as well as speeds exceed the limit posted. This is a problem primarily caused by adults not necessarily school age children. I would like speed bumps on this road to regulate speeding.

Kerslake Road is crumbling on all the shoulders because of the increasing traffic. We have called the highway department, tho, and they are working on it, bless'em.

Transportation

Traffic enforcement (speeding)

Transportation could be improved by space for bikes and pedestrians on roads. Too dangerous to encourage alternate modes as roads exist now.

Possibility of Hwy 26 arterial being built through the area.

We don't want the I-84 → Rt. 26 connection (Mt. Hood Freeway) to run through this area.

I would like to see a bike lane created somewhere other than Oxbow Drive. I would like a stop light at 302nd and Division. Far too many accidents occur there.

Insufficient traffic control on 282nd.

Transportation – make it slow & difficult to live out here & commute in to Portland.

I strongly support public transportation, for which incentives should be provided or punishment, in the pocket, for those unwilling to inconvenience themselves.

Oh –maybe a bike path on now-crumbling Kerslake Rd. (the highway dept. would LOVE that request) because we have a lot of students from Mt Hood Community College who bike out here. There is no bike path, nor sidewalk.

The lack of adequate shoulders on most of the paved roads and streets is more than an inconvenience. It's a real hazard, particularly in snow or icy weather especially with a flat tire or other mishap where one has to pull the car off the pavement.

The Sandy Dell Road committee could use some County help in maintaining the access road e.i. use of a dump truck, or grader, ditcher & brush cutter.

Traffic is increasing, nurseries are increasing, nurseries use trucks for all product – trucks are getting longer and longer and bigger – roads must get wider and thicker

Road accessibility is critical in future. Some roads should be designated as major arterials and should be improved.

Poor access to Salem – Oregon City & Willamette Valley – increasing road deaths

Need better signed route for traffic trying to get from I-84 to Hwy. 26. Dangerous intersection at 302 and Division. Need 4 way stop, another serious accident 10/19/98.

Too much traffic on Dodge Park/Lusted in summer

Need more enforcement along Dodge park for speeding/drinking

Need shoulders for pedestrians/bikes

45 mph too fast on most roads (also enforcement)

More mass transit availability (linkage to Gresham/Troutdale) Tri-met bus should serve Barlow

More traffic enforcement on Lusted – Dodge Park

Increase in traffic impacts the area farms – example the school makes the surrounding area un-farmable

Parking on shoulder/roadway w/ 302nd ave on Division (north side) county facility for children

Transportation Issues Continued

302nd Ave/ Division St. Intersection – safety concerns, perhaps needs better signage let people know it's not a 4 way stop

Transportation – accessibility for all, limit congestion

Stone Rd. Intersection 2/ US 26 isn't safe, needs overcrossing

What can be done to reduce traffic speeds: Chase Rd., Lusted rd., Powell Valley Rd., Pleasant Home Rd.

Widen shoulder on Troutdale Rd. North of Division especially at the sharp turn

One access from development onto Roork Road. Intersections confusing with some as 2-way/4-way stops

Chase and Lusted need shoulders for bikes

L-turn at 302nd and Kerslake very dangerous: speeding and missing the turn

Make every major road a bikeway (everyone pays fair share)

Need ramp at US 26/282nd Ave

Equestrian use as well as bike use on shoulders (pay fare share)

No new roadways

Bus service (Lusted Road)

Lots of semi-trucks on Cottrell; roads not built to accommodate – keep trucks off local roads (that don't have destination in area)

Speed limit not posted on Cottrell and people driving too fast – lots of driveways

Chase Road – reduce speeds

Make roads more safe for animals

282nd / Chase Road – light or better traffic control

Modify intersections that are V's or Y's to enter perpendicular or better sight line

Transportation issues – high speed drivers on country roads. The ability of the current road system to handle the increased traffic flow from residential developments.

Bike lane on Kerslake/302nd for use by MHCC students runners and bike riders

Transportation Issues Continued

Truck traffic on division (perhaps should be arterial)

Parking in triangle at 302nd / Lusted should be prohibited

Dirt berm on Division Drive E / 302nd

Loud, noise vehicles drive at high speeds during the day and late at night. Speeding right up to a 4 way stop. No speed limit signs on Pleasant Home Road.

We don't know if we're included in Troutdale or not - they will not maintain our one-way gravel road off Stark St. and serving approx. 14 permanent homes. In the past they graded and graveled it periodically. It is in bad shape with many pot holes. Service vehicles are threatening to discontinue service.

Services

- Lack of Sheriff's presence and increase in suspicious activity
- Overcrowding in schools, parks, etc.
- Sewer issues around school facilities (currently not on sewer line).

The lack of Multnomah County Sheriff attention to the area at night, with the increasing population.

There is actually an abandoned car left out in the middle of a raspberry field up the street that the sheriff's dept isn't too interested in, but that's hardly major. This is an unfortunate new development, tho -- a sign of encroaching "civilization" perhaps?

No fire protection for residences on Lusted Road on the properties overlooking the Sandy River.

concern for drug activity going on
trash dumpers

Overcrowding in schools – increased population

Concern about the possibility of overcrowded schools, parks, etc.

Not enough code enforcement

We need the sewer system extended out here.

The sewer needs to be extended up Kelly Creek so Barlow HS, Orient grade schools and the Fire Dept. can make use of it – think of all the tax payers dollars it would save – they wouldn't have to pump the tanks every day and the fire dept. wouldn't have to move.

With those developments come a strain on our roads, school and other public service facilities. Developed and new company's coming in to the area should pay for the needed expansion to accommodate this growth.

The rapid development puts incredible pressure on our schools. East Orient School has gone from 200 students 12 years ago to over 400 in the same facility.

winter power outages too frequent – cable very inadequate.

Power – subject to electrical failure annually due to normal Oregon storms.

No fire protection. Nearest fire hydrant is a mile away from homes on the bank overlooking the Sandy River. Many fir and maple trees on the hillside overlooking the Sandy River are dying. They are very likely to attract lightening strikes and cause a serious fire. The whole area of the Sandy River and Dodge Park and Oxbow Park could be destroyed by fire.

The schools & roads are getting crowded.

We have well water down here – living near the Sandy (on the river) we're very concerned about preservation of natural resources, water quality. The Troutdale sewer issue is a serious concern – no more building capacity and bad odors at Columbia Gorge Outlet Stores area.

There is some criminal activity now and I would appreciate more police patrols.

We need more schools in Gresham-Barlow District – too overcrowded.

West Orient School is at capacity. I am concerned about more growth in the area.

Sewage needs to be extended to Sam Barlow High – Orient Grade Schools – Fire station #7

Don't extend sewer lines out here

More schools to keep up with growth

Dodge Park needs more Sheriff enforcement

Land Use

- Farm and nursery preservation, rural lifestyle
- Improper zoning exists on some properties
- Lack of farm help housing

Some improper zoning. Some areas zoned forestry when they should have zoned agriculture.

Well, you've given us this opportunity to vent, and we're grateful. Will you tell us how to keep this area from being paved over? Could you do that for us? Are we alone in this pitiful little cry?

You see we sit on a narrow strip of land and it's zoned EFU – well there isn't enough land to farm – and the way it is zoned we can't sell any either. It needs to be rezoned out here.

No decent regional mall in East Mult. Co. Gresham has become the city of restaurants but must drive to either Clackamas or Lloyd Center Malls.

Conflicts between agricultural practices and homeowners.

Farm preservation definitely. Would encourage senior retirement community as the need is there. Fairlawn retirement center is great.

Hire more code enforcement inspectors/ planners

Should be no logging allowed along river

Protect nurseries

We want the farm and nursery land preserved for future generations.

Open space, including farms, should be preserved. A moratorium on high density dwellings should be enforced county wide until voters vote on this issue.

I've been here a long time and the numbers of people and houses has grown tremendously. I moved here (1954) to get away from the crowd.

Responsible planned growth in the area that in the past was developed so that existing agricultural ground has been left isolated in small pockets. Farming is no longer profitable because of decreased markets in Portland, and a lack of competition between fruit processing plants leading to prices near or below production costs for many years.

Farm preservation. We have grown virtually all our produce, including most fruit for 32 years and shared with friends and visitors.

No apparent air pollution here.

Please do not cover our beautiful fertile soil with concrete and homes.

Land Use Issues Continued

In order of importance:

farm preservation

transportation – already we are experiencing crowded roads & streets.

Water quality – okay now but will it continue to be?

Declining quality of housing, living.

Good farmland should be protected and used for farm purposes.

Farm and forestry preservation. No further subdivision. There appears to be or has been a lot of rural subdivisions in the area of Dodge Park Blvd. & Pleasant Rd.

Wells – water supply – if farms are to be preserved they must be allowed to be viable then the environment will be preserved – if farm preservation is not a high priority then the whole “West of the River” should be designated future urban growth.

Zoning to maintain quality of living out here and to prevent overcrowding.

The area should remain rural & agricultural and should not be converted into “MacMansions” style housing development such as in the Tualitin/West Linn area.

Farm preservation – less houses hence less people.

Farm Preservation. As more homes are built in our valley, the more degradation to the river by fun seekers.

The urban boundary is approximately one mile from my property. I own a little less than 5 acres directly across from the back side of Barlow High School. My property is zoned farm land, and therefore not divisible at this time. Less than 5 acres especially a steep sloping property such as mine is of little use to farm and the purchase of a tractor for such a small piece of property would not be cost effective.

Conserve farm land!

Make sure any development conforms to all land use laws and limit any lot size to 15000 sq. ft. or above

Seemingly, at random zone changes with little or no consideration for values plus or minus affects to property owners interests, or user rights.

Believe East Mult. Co. agricultural, i.e. Food production, is no longer economically practical.

Farm preservation is top issue. These soil types out here are unique in that although fairly heavy – they hold an abundance of water and nutrients and are very well suited for the type of crops grown here.

Far above anything else, farm property must be preserved. The little left west of the Sandy River is very productive, mostly nursery stock. I sometimes wonder, however, exactly how much water is going to continue to be available for the heavy irrigation.

Most of East Mult. Co. tax lots are of 4 ac. or less – we are not talking agricultural food production in any real sense here. We have a small nursery industry in what is left of the County, however, it's of no more real value than a golf course or cemetery.

I've lived in Pleasant Home for 15 yrs. and enjoyed every moment due to its rural nature. Don't let our rural farm land be destroyed by development. Keep open farm land open.

Land Use Issues Continued

About 200 ft. from my property 15 acres is being developed to accommodate 50 homes. My property should be zoned the same as this 15 acre plot.

new laws for labor heavy nurseries will require housing. It should not be an impossible task to get housing approval – more people and more law enforcement will be necessary – the town of orient and pleasant home should be more clearly defined.

I would like to be able to divide this property for five houses which I believe would not take away from the rural atmosphere of this area.

I'm disheartened by the evidence all around me of the disparity of incomes in our so-called prosperous state. Since much of the property around me is scenically attractive, contractors' dream houses, ostentatious absurdities, loom on the surrounding hills, overlooking (in both senses) rows and rows of jerry-built low cost housing and dismal trailer parks. Can responsible land use planning do anything about this disgraceful situation? Money, I suppose, triumphs over everything.

The increase in property taxes forces farmers to sell the farmland. The prices for farm produce are very low and cost of raising crops is high. No profit for the farmer. He sells the land for development.

Building sites limited to one acre or more. No multi-dwelling houses.

Keep the zoning the same – Farm & Forest

Protect the agriculture

Keep zoning the way it is now

No change

Keep Rural Residential areas along roads if they're expanded, but don't want them expanded

Keep the area the way it is – protect the farms (i.e. nurseries)

There is a demand for 2nd units out in rural areas (2 houses – 1 lot)

Need more enforcement for any plan

Need to be stricter with permits to allow farm help dwellings. They should be temporary but they convert to rental units often.

Do not rezone around High school for lunches ..put it on existing campus in the existing buildings

Retaining the existing zoning (large lots) will help facilitate future development once UGB moves (easier to develop large lots).

Need more commercial uses in the area

Need more flexibility in lot sizes in Rural Center zone (smaller than 1 acre)

Protect farmland

Inform property owners of stream wetlands locations & regulations

Keep the area the same for open space, rural living

Zoning to maintain quality of living out here and to prevent overcrowding.

Protect berry & nursery crop land from urban/dense housing

Parks/open space

- High value on recreation and open space

The Sandy River Gorge between Dodge Park and Oxbow Park is being loved to death. There should be limited access to the area and something done to address the sewage generated by users of the Sandy River for recreation.

Keep Oxbow Park the way it is – a treasure

Environmental/water quality

- Stream/watershed protection
- Soil erosion

Water quality especially. The Forest Service plan for Bull Run Lake doesn't match the real need for the future. No fish habitat should be allowed. No modifications to the lake. Only impoundment of drinkable water should be allowed.

soil erosion needs to be addressed

Streams such as Beaver Creek have been degraded.

Water and air quality are very important.

The land in the Sandy River drainage area North of Division is too steep and highly erodable, making any kind of cultivated crops either farming or nursery, detrimental to water quality in the nearby streams and rivers. But not enough farm land to keep in permanent pasture for profitable livestock production.

clean air & water

Water quality

Proper drainage from new developments.

Water quality

Some areas where logging accomplished were not replanted adequately. When logging permit was issued, they did not meet the condition of the permit. State failed to follow up on the permit to see if they replanted properly. timing of site prep spraying & release sprays was not done properly. OSU extension forester not available to landowners. Land owners of forested areas not knowledgeable. Need to be educated to the permit requirements. Erosion off some horse pastures unacceptable. Heavily overgrazed. Some farm & forestry lands left open and not seeded in the fall causing erosion. Silt erosion off land by far the biggest water quality problems compared to phos. & nitrogen runoff.

Water quality

Preservation and improvement of the Sandy River Watershed.

Every time a canoe, raft or floating group goes down the river, there is a trail of trash and a disturbance to the wildlife that live along the banks of the river. No toilets and excrement is found on the banks off the river. Need to charge to use the river and provide toilets.

There is a development going in above our acreage. They want permission to drain their run-off and storm drains into our creek (Beaver Creek mid-branch) Can they do that?

Certainly water & air quality are vital to us. We do our part out here to protect it.

Drinking water from wells is poor quality (high iron)

Bull run exposed waterlines cause erosion, abandoned pipes are big problem

Miscellaneous

A) Noise from jet aircraft

B) Nurseries won't tell us what pesticides they are applying

Mexican immigrants who use facilities such as schools, police, fire at a much accelerated rate. My property taxes are at 4500 per year, I've never had the police out nor fire.

Families in transition (divorce, loss of job) are moving in to the new houses and apartments. We have had a stable population – these kids change our schools.

Increased social problems – mailbox bashings, etc.

Good community input process – but who is listening? Will our opinions matter?

Miscellaneous Issues Continued

You people are a bad joke; you don't even enforce the existing zoning laws. My neighborhood is no longer a neighborhood, it is now more like an industrial park, because of people operating manufacturing businesses in violation of zoning. One neighbor has added buildings and additions at least five times and has a large parking lot full of employees vehicles; yet the county claims they know nothing about the business. They said they would do something months ago, but nothing has been done. I'm convinced by now that someone is getting paid off, so I won't sign this for fear of reprisal. This may help to explain why people are bitter and cynical about government.

Lots of trespassing causes property damage result is more gates/fences due to vandalism and tree theft.

Need to know who to call when trash dumping occurs (Metro).

Not enough legal dump sites in area.

Illegal trash dumping is a problem. Need dumpsters/enforcement. Construction waste from inside city gets dumped in rural areas.

Poaching of deer is evident and there should not be guns discharging in the area that has so many people living and playing on the river. We no longer see deer in our yard or fields due to poaching.

Better enforcement of forest practice act

The most important issue is keeping the government regulations out of the area example "Columbia River Gorge".

Problems for park activities in Clackamas Co.

Cougars in area causing loss of domestic pets/ fear for children

Stray dogs packing up causing farm animal loss

Provide youth activities to reduce crime, educate them

Concern about coyotes taking cats & small dogs

constant litter to pick up along our 1,000' road frontage.

Periodically some jerk dumps his rubbish in a creek bed on my property – a deposit from suburbia?

Overabundance of immigrant workers (illegal)

This is due to farmers livability to attract U.S. Citizen laborers.

As mentioned above, the rural climate is of utmost importance to us. We are raising two sons in the setting we feel best suits their needs. We are not city dwellers although we work in cities. We come home from our city jobs to a more fundamental and slow-paced existence. It allows us to turn the pressure of the city completely off at the end of the day.

less government controls – not more

Property owners who are clueless concerning debris and cast offs left to mar the neighborhood.

Too much light pollution is bad for the area

Stakeholder/Agency Scoping

Issues below are the results from scoping stakeholders/agencies for issues. The issues were gained during interviews with the Transportation and Land Use Planning Staff. Agencies/stakeholders scoped include: City of Portland Water Bureau, Metro, Natural Resources Conservation Service, Clackamas County, Cities of Troutdale and Gresham, ODOT, the Department of Agriculture, the Farm Bureau, the Division of State Lands, the Army Corps of Engineers, Oregon Parks and Recreation, Local Fire Districts and the Multnomah County Sheriff's Office. The issues below that can be dealt with during the plan are included in the list of common issues on p. 7.

Metro – growth management, transportation and parks

Tier 2 of the Urban Reserve most likely won't be brought in for 6+ years, Tier 1 including the Persimmon area will most likely be brought in this year.

Protection of streams – particularly Johnson and Beaver Creek, must comply with Title 3 and other federal requirements (ESA, etc.)

There has been an unfulfilled commitment on the Sandy River protection program with both federal and state that should be addressed through the plan

Oxbow Master Plan – would like some type of overlay/base zone for the park

Increased protection of steep slopes (20%)

Nursery trucks and traffic – need to address their needs through the plan, is air freight involved as part of their operation, other farm transportation issues

Hwy 26 is designated a "green corridor" and policies in the Functional Plan should apply through this plan.

Natural Resources Conservation Service

Construction on steep slopes creates water quality problems, too much occurring currently in the area

Explore timing restrictions to allow all construction during dry parts of year and limit during wet seasons

Clackamas County – Transportation and Land Use

Currently updating Functional Classification System. Plan to examine minor arterial classification to reduce the number of minor arterials. Probably no changes otherwise.

No real development activity occurring in that area.

Clackamas County has a Weighmaster Program in place that identifies truck use on roads and roads where load limits are in place. The County is trying to upgrade roads to reduce the load limits.

City of Troutdale

The Sandy Dell Road area could be simplified, can it be fewer zones?

ODOT

Should not increase current level of access to US 26.

Department of Agriculture

Gave input into key farm bureau members and others to participate in the plan and would be able to give assistance in technical aspects throughout the plan.

Portland Water Bureau

Conduits are currently going through earthquake analysis to cover footing/support structures and everything from Bull Run into town. Need coordination regarding educating property owners who

have conduits on their property that may conflict with right of ways over lines

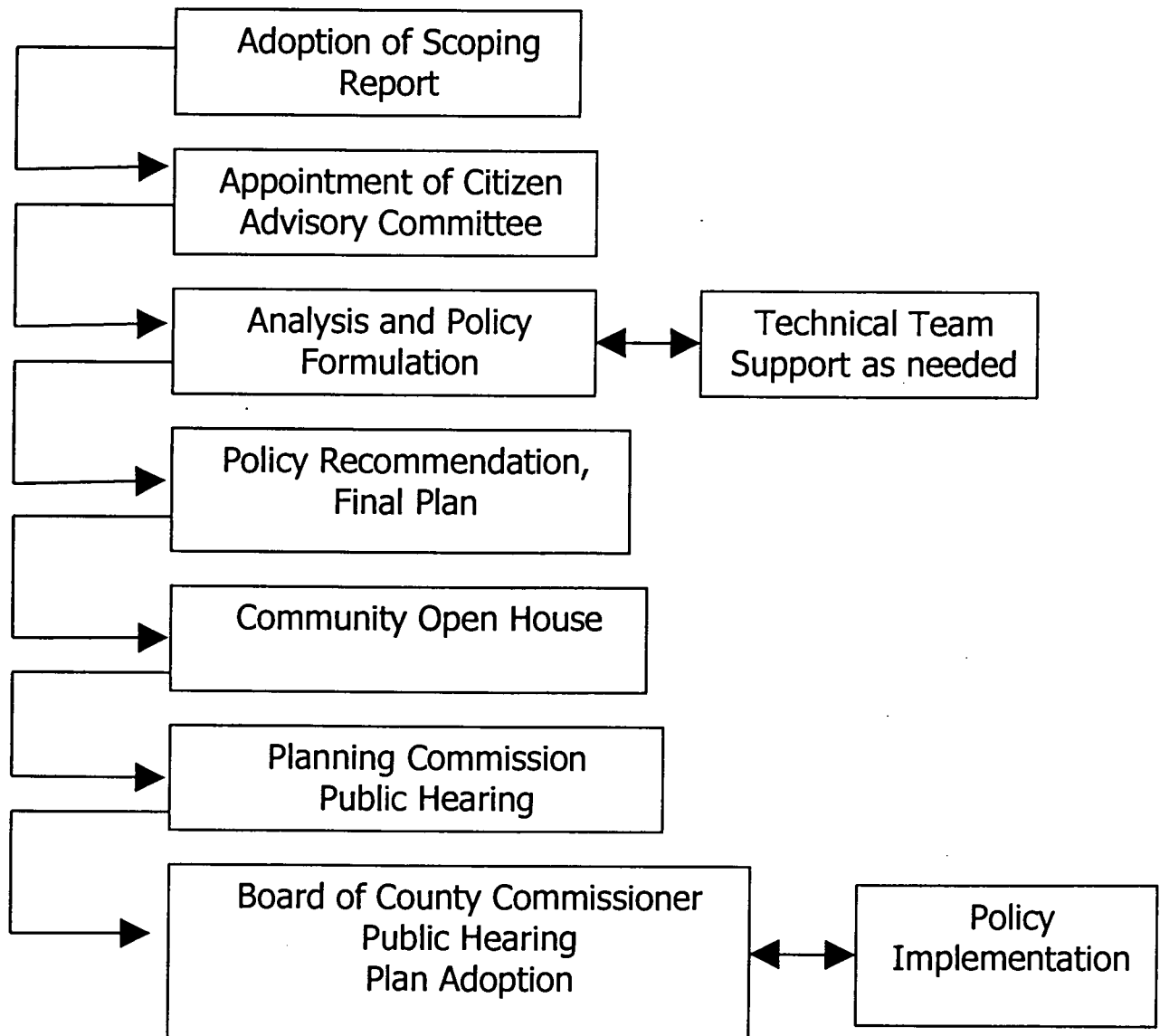
State Parks

Scenic Waterways – administrative rules are in place to protect scenic values in the waterway corridor. Should work on local code standards, with the state, to achieve the same goals to make a "seamless" approach for citizens.

Dabney State Park – over-development/encroaching development is impacting the park. Would like to maintain rural setting surrounding park (buffer zone).

Planning Process

The next phase of the planning process is to develop a citizen involvement process including a Citizen Advisory Committee (CAC), appointed by the Board, to work through the agreed upon issues. Once members of the community have been selected for the committee, the staff will begin holding monthly meetings addressing the issues within the framework of the statewide transportation and planning goals. The "CAC" will recommend policies along with the completed plan and forward those on to the Planning Commission. There will be a public open house in the community prior to the Planning Commission public hearing. The Planning Commission recommendation will then be presented to the Board of County Commissioners at a public hearing for their approval. The development of the plan is anticipated to take a year to complete. The following chart outlines the recommended procedure:



**BEFORE THE PLANNING COMMISSION
OF MULTNOMAH COUNTY, OREGON**

In the matter of accepting the West of Sandy River)	
Rural Area Plan Scoping Report and directing)	RESOLUTION
the Transportation and Land Use Planning Divisions)	C 14-98
of the Department of Environmental Services)	
to implement a work program to prepare)	
the West of Sandy River Rural Area Plan)	

The Multnomah County Planning Commission finds:

- a. In 1993, the Multnomah County Board of Commissioners directed the Planning Division to begin the Rural Area Planning Program to address land use issues faced by the rural areas of Multnomah County,
- b. The Statewide Planning Goals require a 20 year transportation system and land use plan consistent with state rules,
- c. The Board of Commissioners requested five rural area plans, one being the West of Sandy River Rural Area,
- d. The Transportation and Land Use Planning Divisions conducted the following activities in order to gain input on issues to be addressed in the West of Sandy River Rural Area Plan;
 - Mailed out approximately 1,100 questionnaires and notices
 - Conducted a community open house
 - Conducted scoping meetings with agencies and individual stakeholders
- e. The Transportation and Land Use Planning staff synthesized all information gathered and prepared a Scoping Report, identifying issues raised during the scoping process, recommended issues and a process for moving forward with a rural area plan; and
- f. On December 7, 1998, the Multnomah County Planning Commission held a public hearing on the draft scoping report for the West of Sandy River Rural Area Plan attached as Exhibit A and has the following changes:

The following issues will be added to the list of issues to be addressed in the plan starting on p. 12.

1. **Cultural Resource Preservation** – The rural landscape and the value of cultural resources should be included in the issues to be addressed in the plan.
2. **EFU** - There were problems during the adoption of the Exclusive Farm Use Zone and some areas should be checked to see if any “mis-zoning” occurred.
3. **Tree cutting** – The County should restrict tree cutting in residential areas where possible.

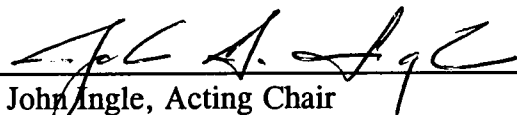
4. **"Night Sky"** – This plan should look at the possibility of adopting a "night sky" ordinance which limits the amount of outdoor lighting that can detract from the character of the area.
5. **River Ownership** – The issue of public ownership of the river should be looked at through this plan due to some differences in the high and low water lines and some past confusion.
6. **Metro** – all of the specific points provided by Metro should be included in the scoping report and they include generally: watershed scale protection measures, avoiding impacts from transportation and development projects that may impact fish and wildlife habitat, re-evaluation of hazard areas such as floodplains and steep slopes, and the Wild and Scenic River and State Scenic Waterways policies should be protected. The letter is attached to this addendum.

It is hereby resolved:

That the Multnomah County Planning Commission hereby recommends that the proposed scoping report attached as Exhibit A be adopted by the Multnomah County Board of Commissioners.

APPROVED this 7th day of December, 1998.

By



John Angle, Acting Chair
Multnomah County Planning Commission
Multnomah County, Oregon