

ANNOTATED MINUTES

Tuesday, December 15, 1998 - 9:30 AM
Multnomah County Northeast Health Center, First Floor Conference Room
5329 NE Martin Luther King, Jr. Blvd., Portland

BOARD BRIEFING

Vice-Chair Sharron Kelley convened the meeting at 9:41 a.m., with Commissioners Gary Hansen, Diane Linn and Lisa Naito present, and Chair Beverly Stein excused.

- B-1 Health Department Briefing and Work Session to Review Performance Trends and Key Results Measures and to Discuss Upcoming Issues and Opportunities. Presented by Billi Odegaard, Tom Fronk, Denise Chuckovich, Dave Houghton, Gary Oxman, Sharon Armstrong, Kathleen Fuller-Poe, Shirley Orr, Jan Sinclair and Kathy Page.

BILLI ODEGAARD, TOM FRONK, DWAYNE PRATHER, DENISE CHUCKOVICH, GARY OXMAN, KATHLEEN FULLER-POE, SHARON ARMSTRONG, KATHY PAGE, SHIRLEY ORR, JAN SINCLAIR AND DAVE HOUGHTON PRESENTATION AND RESPONSE TO BOARD QUESTIONS, COMMENTS AND DISCUSSION.

There being no further business, the meeting was adjourned at 12:25 p.m.

Thursday, December 17, 1998 - 9:00 AM
Multnomah County Courthouse, Boardroom 602
1021 SW Fourth Avenue, Portland

REGULAR MEETING

Chair Beverly Stein convened the meeting at 9:05 a.m., with Vice-Chair Sharron Kelley, Commissioners Gary Hansen, Diane Linn and Lisa Naito present.

CONSENT CALENDAR

**UPON MOTION OF COMMISSIONER KELLEY,
SECONDED BY COMMISSIONER HANSEN, THE**

CONSENT CALENDAR (ITEMS C-1 THROUGH C-12) WAS UNANIMOUSLY APPROVED.

NON-DEPARTMENTAL

- C-1 ORDER Re-appointing Melvin Y. Zucker to the RAMSEY-WALMAR SPECIAL ROAD DISTRICT

ORDER 98-203.

- C-2 Budget Modification NOND 4 Adding \$12,500 City of Portland Revenue for Co-Sponsorship of the Cultural Diversity Conference in June, 1999

SHERIFF'S OFFICE

- C-3 Package Store Liquor License Renewal for CORBETT COUNTRY MARKET, 36801 E. Historic Columbia River Highway, Corbett

DISTRICT ATTORNEY'S OFFICE

- C-4 Budget Modification DA 99-2 Adding \$48,136 Stop Violence Against Women Formula Grant Program Funding to the Family Justice Division Budget for 1 FTE Deputy District Attorney in the Domestic Violence Unit

DEPARTMENT OF ENVIRONMENTAL SERVICES

- C-5 ORDER Authorizing Execution of Deed D991598 for Repurchase of Tax Foreclosed Property to Former Owner Nancy C. Palmer

ORDER 98-204.

- C-6 Auto Wrecker License Approval for FRANK MILLER TRUCK WRECKING, 15015 NW Mill Road, Portland
- C-7 Auto Wrecker License Approval for LOOP HI-WAY TOWING, 28609 SE Orient Drive, Gresham
- C-8 Auto Wrecker License Approval for ORIENT AUTO PARTS, INC., 28425 SE Orient Drive, Gresham
- C-9 Report the Hearings Officer Decision Regarding Approval of CS 1-98, CU 6-98 and WRG 2-98 with Conditions to Legalize an Illegally Existing Moorage, LUCKY LANDING MARINA, on the Multnomah Channel Located in a Multiple Use Agriculture Zoning District

C-10 Report the Hearings Officer Decision Regarding Approval of CU 10-98 with Conditions to Establish a New Single Family Residence and Barn in the Commercial Forest Use Zoning District on Property Located at 39864 SE TROUT CREEK ROAD, CORBETT

C-11 Report the Hearings Officer Decision Regarding Approval of HV 13-98 with Conditions of the Minor Variance to Allow an Expansion of the Existing Deck on Property Located at 8350 NW ASH STREET, PORTLAND

SHERIFF'S OFFICE

C-12 RESOLUTION Approving Annual Authorization for Designation of a Portion of Compensation as a Housing Allowance for Chaplains Serving Inmates and Employees at the Multnomah County Jails

RESOLUTION 98-205.

REGULAR AGENDA

***AT THE REQUEST OF CHAIR STEIN AND UPON
MOTION OF COMMISSIONER KELLEY,
SECONDED BY COMMISSIONER LINN,
CONSIDERATION OF THE FOLLOWING ITEM
WAS UNANIMOUSLY APPROVED.***

DEPARTMENT OF ENVIRONMENTAL SERVICES

UC-1 FINAL ORDER Land Use Planning Cases PRE 4-98 and PRE 5-98 Affirming the October 16, 1998 Hearings Officer Decision to Approve Both of the Dwelling Approval Validation Requests

***UPON MOTION OF COMMISSIONER KELLEY,
SECONDED BY COMMISSIONER LINN, FINAL
ORDER 98-210 WAS UNANIMOUSLY APPROVED.***

DEPARTMENT OF SUPPORT SERVICES

R-10 RESOLUTION Authorizing Issuance of Advance Refunding Bonds, Series 1999

***COMMISSIONER HANSEN MOVED AND
COMMISSIONER KELLEY SECONDED,
APPROVAL OF R-10. DAVE BOYER***

PUBLIC COMMENT

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

NO ONE WISHED TO COMMENT.

NON-DEPARTMENTAL

- R-2 The Multnomah County Board of Commissioners May Vote on a Possible Option to Purchase Certain Real Property.

COMMISSIONER KELLEY MOVED AND COMMISSIONER NAITO SECONDED, APPROVAL OF OPTION TO PURCHASE U.S. BANK PROPERTY AT 501 SE HAWTHORNE. BOB OBERST, DAVE BOYER, LARRY NICHOLAS AND ALTHEA MILECHMAN PRESENTATION, EXPLANATION AND RESPONSE TO BOARD QUESTIONS AND COMMENTS, ADVISING THE \$200,000 NON-REFUNDABLE OPTION TO PURCHASE APPLIES TOWARD THE PURCHASE PRICE OF \$25,052,000, AND THAT THE OPTION PERIOD ENDS FEBRUARY 1, 1999. BOARD COMMENTS IN SUPPORT OF INVESTMENT AND LOCATION.

- R-3 Budget Modification CFS 5 Transferring \$30,000 from General Fund Contingency to the Domestic Violence Coordinator Division Budget to Complete an In-Depth Review of High Impact/High Priority Households and the Response of Community and Criminal Justice Systems

COMMISSIONER KELLEY MOVED AND COMMISSIONER LINN SECONDED, APPROVAL OF R-3. COMMISSIONER KELLEY AND CHIQUITA ROLLINS EXPLANATION. BOARD COMMENTS IN SUPPORT. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES

- R-6 Results from RESULTS: Chemical Dependency Clinical Quality Audit. Presented by Lorenzo Poe, Laureen Oskochil and Kathleen Saadat.

SUE LARSEN, LAUREEN OSKOCHIL AND KATHLEEN SAADAT PRESENTATION AND RESPONSE TO BOARD QUESTIONS AND COMMENTS IN SUPPORT.

- R-4 RESOLUTION Establishing a Committee to Reduce Drunk Driving and Driving While Suspended or Revoked, and Recommending an Ordinance Declaring Their Vehicles a Nuisance and Providing for the Forfeiture of Those Vehicles

COMMISSIONER NAITO MOVED AND COMMISSIONER LINN SECONDED, APPROVAL OF R-4. FOLLOWING DISCUSSION, COMMISSIONER NAITO MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF AMENDMENT ADDING THE FOLLOWING LANGUAGE: "2. THE SHERIFF SHALL INCLUDE ON THE COMMITTEE ANY NOMINEES FORWARDED TO HIM BY INDIVIDUAL MEMBERS OF THE BOARD OF COMMISSIONERS." AND: "3. PRIOR TO RETURNING TO THE BOARD OF COMMISSIONERS, THE COMMITTEE SHALL FORWARD AND DISCUSS ITS RECOMMENDATIONS WITH THE DUI ADVISORY COMMITTEE AS WELL AS THE ALCOHOL AND CRIMINAL JUSTICE WORKING GROUP OF THE LOCAL PUBLIC SAFETY COORDINATING COUNCIL." DAN OLDHAM EXPLANATION. COMMISSIONERS NAITO AND KELLEY AND SHERIFF DAN NOELLE COMMENTS IN SUPPORT. CHAIR STEIN ADVISED SHE WANTS A SUMMARY OF RESEARCH AND BUDGET IMPACTS AND ANALYSIS, BOTH PROS AND CONS, IN ORDER TO ADDRESS DRUNK DRIVING IN AN EFFECTIVE WAY, USING BEST PRACTICES. COMMISSIONER HANSEN ADVISED HE WANTS THE COMMITTEE TO MAINTAIN CONSISTENCY THROUGHOUT THE COUNTY. SHERIFF NOELLE AND COMMISSIONER NAITO RESPONSE TO BOARD

**COMMENTS. AMENDMENT UNANIMOUSLY
APPROVED. RESOLUTION 98-207 UNANIMOUSLY
APPROVED, AS AMENDED.**

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-5 Budget Modification DES 99-03 Requesting Reclassification of a .5 FTE Sanitarian to a .5 FTE Planner and Request for an Additional .5 FTE Planner within the Land Use Planning Division Budget

**UPON MOTION OF COMMISSIONER KELLEY,
SECONDED BY COMMISSIONER HANSEN, THE
BUDGET MODIFICATION WAS UNANIMOUSLY
APPROVED.**

NON-DEPARTMENTAL

- R-7 Public Affairs Office Briefing and Board Discussion on County Legislative Agenda. Presented by Gina Mattioda and Susan Lee.

**GINA MATTIODA AND SUSAN LEE
PRESENTATION AND RESPONSE TO BOARD
QUESTIONS, COMMENTS AND DISCUSSION.
BOARD TO CONSIDER APPROVAL OF WORKING
LEGISLATIVE AGENDA DOCUMENT ON
THURSDAY, JANUARY 7, 1999.**

Chair Stein recessed the meeting at 10:26 a.m. and reconvened it at 10:30 a.m.

- R-8 RESOLUTION Consenting to a Change in Control of the TCI Cable Franchises (West Multnomah County, Hayden Island) to AT&T with Conditions. Presented by Royal Harshman, David Olson and Ben Walters.

**COMMISSIONER KELLEY MOVED AND
COMMISSIONER HANSEN SECONDED,
APPROVAL OF R-8. ROYAL HARSHMAN, DAVID
OLSON AND NORM THOMAS OF MT. HOOD
CABLE REGULATORY COMMISSION
EXPLANATION, COMMENTS IN SUPPORT AND
RESPONSE TO BOARD QUESTIONS. GREG
PEDEN OF U.S. WEST COMMUNICATIONS
TESTIMONY IN SUPPORT AND RESPONSE TO**

BOARD QUESTION. DEBBIE LUPPOLD OF TCI AND RICK THAYER ATTORNEY FOR AT&T TESTIMONY IN OPPOSITION, EXPLAINING THEY FEEL THE COUNTY AND CABLE REGULATORY COMMISSION DOES NOT HAVE AUTHORITY TO IMPOSE CONDITIONS ON THE TRANSFER. STEPHEN KAFOURY, LISA RACKNER AND RICHARD HORSWELL OF ORISPA TESTIMONY IN SUPPORT AND RESPONSE TO BOARD QUESTIONS. ERIC STACHON TESTIMONY IN SUPPORT. DUANE BOSWORTH ATTORNEY FOR TCI AND AT&T TESTIMONY IN OPPOSITION. UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, TECHNICAL AMENDMENTS TO PARAGRAPH 2 OF THE RESOLUTION AND PARAGRAPH 4 OF THE ACCEPTANCE ATTACHED AS EXHIBIT A TO THE RESOLUTION WERE APPROVED, WITH COMMISSIONERS KELLEY, HANSEN, NAITO AND STEIN VOTING AYE, AND COMMISSIONER LINN VOTING NO. COMMISSIONER LINN DISCLOSED SHE HAS AN EIGHT YEAR HISTORY IN THE CABLE ACCESS BUSINESS AND INVOLVEMENT IN REGULATORY ISSUES AND DECISIONS, AND EXPLAINED SHE DISAGREES ON LEGAL OPINIONS AND BELIEVES TARIFF REGULATIONS SHOULD BE DECIDED AT THE FCC LEVEL. COMMISSIONERS NAITO AND STEIN COMMENTS IN SUPPORT. RESOLUTION 98-208 APPROVED, AS AMENDED, WITH COMMISSIONERS KELLEY, HANSEN, NAITO AND STEIN VOTING AYE, AND COMMISSIONER LINN VOTING NO.

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.

**FOLLOWING BOARD AND STAFF
PRESENTATION AND FESTIVITIES,
PROCLAMATION 98-209 PROCLAIMING
DECEMBER 17, 1998 AS GARY HANSEN RED**

***SOCK DAY IN MULTNOMAH COUNTY WAS
UNANIMOUSLY APPROVED.***

There being no further business, the meeting was adjourned at 12:10 p.m.

OFFICE OF THE BOARD CLERK
FOR MULTNOMAH COUNTY, OREGON

Deborah L. Bogstad

Deborah L. Bogstad



MULTNOMAH COUNTY, OREGON

BOARD OF COMMISSIONERS

Beverly Stein, Chair

1120 SW Fifth Avenue, Suite 1515
Portland, Or 97204-1914
Phone: (503) 248-3308 FAX (503) 248-3093
Email: mult.chair@co.multnomah.or.us

Diane Linn, Commission Dist. 1

1120 SW Fifth Avenue, Suite 1500
Portland, Or 97204-1914
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Email: diane.m.linn@co.multnomah.or.us

Gary Hansen, Commission Dist. 2

1120 SW Fifth Avenue, Suite 1500
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Sharron Kelley, Commission Dist. 4

1120 SW Fifth Avenue, Suite 1500
Portland, Or 97204-1914
Phone: (503) 248-5213 FAX (503) 248-5262
Email: sharron.e.kelley@co.multnomah.or.us

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.**

DECEMBER 15 & 17, 1998

BOARD MEETINGS

FASTLOOK AGENDA ITEMS OF INTEREST

Pg 2	9:30 Tuesday Health Department Briefing @ 5329 NE MLK Jr. Blvd.
Pg 3	9:00 Thursday Regular Board Meeting Opportunity for Public Comment
Pg 3	9:00 Possible Vote on Option to Purchase Certain Real Property
Pg 4	9:30 DCFS RESULTS Presentation
Pg 4	9:45 Legislative Agenda Briefing
Pg 4	10:30 TCI/AT&T Resolution
✱	No Board Meetings are Scheduled Between December 21, 1998 through January 6, 1999
✱	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, 9:00 AM, (LIVE) Channel 30

Friday, 10:00 PM, Channel 30

Sunday, 1:00 PM, Channel 30

Produced through Multnomah Community
Television

Tuesday, December 15, 1998 - 9:30 AM
Multnomah County Northeast Health Center, First Floor Conference Room
5329 NE Martin Luther King, Jr. Blvd., Portland

BOARD BRIEFING

- B-1 Health Department Briefing and Work Session to Review Performance Trends and Key Results Measures and to Discuss Upcoming Issues and Opportunities. Presented by Billi Odegaard, Tom Fronk, Denise Chuckovich, Dave Houghton, Gary Oxman, Sharon Armstrong, Kathleen Fuller-Poe, Shirley Orr, Jan Sinclair and Kathy Page. 2.5 HOURS REQUESTED.
-

Thursday, December 17, 1998 - 9:00 AM
Multnomah County Courthouse, Boardroom 602
1021 SW Fourth Avenue, Portland

REGULAR MEETING

CONSENT CALENDAR

NON-DEPARTMENTAL

- C-1 ORDER Re-appointing Melvin Y. Zucker to the RAMSEY-WALMAR SPECIAL ROAD DISTRICT
- C-2 Budget Modification NOND 4 Adding \$12,500 City of Portland Revenue for Co-Sponsorship of the Cultural Diversity Conference in June, 1999

SHERIFF'S OFFICE

- C-3 Package Store Liquor License Renewal for CORBETT COUNTRY MARKET, 36801 E. Historic Columbia River Highway, Corbett

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DEPARTMENT OF ENVIRONMENTAL SERVICES

- C-5 ORDER Authorizing Execution of Deed D991598 for Repurchase of Tax Foreclosed Property to Former Owner Nancy C. Palmer
- C-6 Auto Wrecker License Approval for FRANK MILLER TRUCK WRECKING, 15015 NW Mill Road, Portland
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SHERIFF'S OFFICE

- C-12 RESOLUTION Approving Annual Authorization for Designation of a Portion of Compensation as a Housing Allowance for Chaplains Serving Inmates and Employees at the Multnomah County Jails

REGULAR AGENDA

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- R-4 RESOLUTION Establishing a Committee to Reduce Drunk Driving and Driving While Suspended or Revoked, and Recommending an Ordinance Declaring Their Vehicles a Nuisance and Providing for the Forfeiture of Those Vehicles

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-5 Budget Modification DES 99-03 Requesting Reclassification of a .5 FTE Sanitarian to a .5 FTE Planner and Request for an Additional .5 FTE Planner within the Land Use Planning Division Budget

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES

- R-6 Results from RESULTS: Chemical Dependency Clinical Quality Audit. Presented by Lorenzo Poe, Laureen Oskochil and Kathleen Saadat. 9:30 AM TIME CERTAIN, 15 MINUTES REQUESTED.

NON-DEPARTMENTAL

- R-7 Public Affairs Office Briefing and Board Discussion on County Legislative Agenda. Presented by Gina Mattioda and Susan Lee. 9:45 AM TIME CERTAIN, 45 MINUTES REQUESTED.
- R-8 RESOLUTION Consenting to a Change in Control of the TCI Cable Franchises (West Multnomah County, Hayden Island) to AT&T with Conditions. Presented by Royal Harshman, David Olson and Ben Walters. 10:30 TIME CERTAIN, 45 MINUTES REQUESTED.

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.

DEPARTMENT OF SUPPORT SERVICES

- R-10 RESOLUTION Authorizing Issuance of Advance Refunding Bonds, Series 1999

MEETING DATE: December 17, 1998
AGENDA #: C-1
ESTIMATED START TIME: 9:00 AM

(Above Space for Board Clerk's use only)

AGENDA PLACEMENT FORM

SUBJECT: Reappointment of Melvin Zucker to the Ramsey-Walmar Road District

BOARD BRIEFING: DATE REQUESTED: _____
REQUESTED BY: _____
AMOUNT OF TIME NEEDED: _____

REGULAR MEETING: DATE REQUESTED: Thursday, December 17, 1998
AMOUNT OF TIME NEEDED: N/A

DEPARTMENT: Non-Departmental DIVISION: Chair's Office

CONTACT: Deb Bogstad TELEPHONE #: 248-3277
BLDG/ROOM #: 106/1515

PERSON(S) MAKING PRESENTATION: Consent Calendar

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

SUGGESTED AGENDA TITLE:

Reappointment of Melvin Y. Zucker to the
Ramsey-Walmar Special Road District

12/17/98 copy of order & two OATH
OF OFFICE forms to the Melvin Zucker.
SIGNATURES REQUIRED: Copies to
John West

ELECTED OFFICIAL: _____

Beverly Stein

(OR)
DEPARTMENT
MANAGER: _____

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES.

Any Questions? Call the Board Clerk @ 248-3277

BOARD OF
COUNTY COMMISSIONERS
98 DEC - 8 PM 10:54
MULTNOMAH COUNTY
OREGON



MULTNOMAH COUNTY OREGON

DEBORAH BOGSTAD, BOARD CLERK

OFFICE OF BEVERLY STEIN, COUNTY CHAIR
1120 SW FIFTH AVENUE, SUITE 1515
PORTLAND, OREGON 97204-1914
TELEPHONE • (503) 248-3277
FAX • (503) 248-3013

BOARD OF COUNTY COMMISSIONERS

BEVERLY STEIN•	CHAIR	•248-3308
DIANE LINN•	DISTRICT 1	•248-5220
GARY HANSEN•	DISTRICT 2	•248-5219
LISA NAITO•	DISTRICT 3	•248-5217
SHARRON KELLEY•	DISTRICT 4	•248-5213

December 17, 1998

Mr. Melvin Y. Zucker
2222 NW Ramsey Drive
Portland, Oregon 97229

Dear Mr. Zucker:

Today the Multnomah County Board of Commissioners voted to reappoint you to another three year term as Commissioner to the Ramsey-Walmar Special Road District.

Enclosed are copies of the agenda, the order of appointment and two original oath of office forms for you to sign before a Notary Public, retaining one for your records and returning one to me in the envelope provided.

Thank you for your willingness to serve.

Sincerely,

Deborah Bogstad
Multnomah County Board Clerk

enclosures

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDER NO. 98-203

Re-appointing Melvin Y. Zucker as a Commissioner to the Ramsey-Walmar Special Road District

The Multnomah County Board of Commissioners Finds:

- a. The Multnomah County Board of Commissioners formed the Ramsey-Walmar Special Road District by Order on September 19, 1985, in accordance with ORS 371.305 to 371.360 for the purpose of providing regular maintenance of roads within the District not maintained by Multnomah County because such roads do not meet County standards;
- b. ORS 372.338 provides the powers of the special road district vested in a board of three commissioners appointed by the Board of Commissioners;
- c. The term of Melvin Y. Zucker, who was last appointed pursuant to Board Order 96-82 expires December 31, 1998, and Mr. Zucker has indicated he is willing and able to continue to serve as a commissioner;

The Multnomah County Board of Commissioners Orders:

1. That Melvin Y. Zucker be re-appointed a commissioner of the Ramsey-Walmar Special Road District, to serve a term beginning on January 1, 1999 and ending on December 31, 2001, consistent with ORS 371.338;
2. Pursuant to ORS 371.338(3), before entering upon the duties of office, Mr. Zucker shall take and subscribe an oath to support the Constitution and laws of the State of Oregon and of the United States, and to well and faithfully perform the duties of office to the best of the commissioner's knowledge and ability.

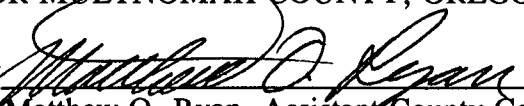
APPROVED this 17th day of December, 1998.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair

THOMAS SPONSLER, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By 
Matthew O. Ryan, Assistant County Counsel

BUDGET MODIFICATION NO.

NOND 4(For Clerk's Use) Meeting Date DEC 17 1998Agenda No. C-2

1. REQUEST FOR PLACEMENT ON THE AGENDA FOR

(Date)

DEPARTMENT

Chair's Office

CONTACT

Carol FordDIVISION NondepartmentalTELEPHONE 248-3596

* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD

Carol FordSUGGESTEDAGENDA TITLE

(to assist in preparing a description for the printed agenda)

Adds City of Portland revenue for Cultural Diversity Conference in June, 1999.

(Estimated Time Needed on the Agenda)

2. DESCRIPTION OF MODIFICATION

(Explain the changes this Bud Mod makes. What budget does it increase? What do changes accomplish? Where does the money come from? What budget is reduced? Attach additional information if you need more space.)

Personnel changes are shown in detail on the attached sheet**Adds \$12,500 from the City of Portland to co-sponsor the Cultural Diversity Conference planned for June, 1999.**

3. REVENUE IMPACT

(Explain revenues being changed and reason for the change)

Increases the General Fund by \$12,500 in FY 1999 only.

4. CONTINGENCY STATUS

(to be completed by Budget & Quality)

Fund Contingency before this modification

Date

After this modification

Originated By

Carol Ford

Date

11/30/98

Department Director

Date

12-2-98

Plan/Budget Analyst

Julie Neburka

Date

11/30/98

Employee Services

Date

Board Approval

Date

12/17/98

BOARD OF
 COUNTY COMMISSIONERS
 MULTNOMAH COUNTY
 OREGON
 98 DEC - 8 PM 11:06 -

PERSONNEL DETAIL FOR BUDGET MODIFICATION NO.

2020 4

5. ANNUALIZED PERSONNEL CHANGES

(Compute on a full-year basis even though this action affects only a part of the fiscal year (FY).)

FTE Increase (Decrease)	POSITION TITLE	ANNUALIZED			
		BASE PAY Increase (Decrease)	Increase/(Decrease)		TOTAL Increase (Decrease)
			Fringe	Ins.	
					0
					0
					0
					0
					0
					0
					0
					0
					0
					0
					0
					0
					0
0	TOTAL CHANGE (ANNUALIZED)	0	0	0	0

6. CURRENT YEAR PERSONNEL DOLLAR CHANGES

(Calculate costs/savings that will take place this FY; these should explain the actual dollar amounts changed by this BudMod.)

Permanent Positions, Temporary, Overtime, or Premium	Explanation of Change	CURRENT FY			
		BASE PAY Increase (Decrease)	Increase/(Decrease)		TOTAL Increase (Decrease)
			Fringe	Ins.	
					0
					0
					0
					0
					0
					0
					0
					0
					0
					0
					0
					0
					0
					0
TOTAL CURRENT FISCAL YEAR CHANGES		0	0	0	0

Cultural Diversity bud mod.xls

Page 1



Beverly Stein, Multnomah County Chair

Room 1515, Portland Building
1120 S.W. Fifth Avenue
Portland, Oregon 97204

Phone: (503) 248-3308
FAX: (503) 248-3093
E-Mail: mult.chair@co.multnomah.or.us

STAFF SUPPLEMENTAL MEMORANDUM

TO : Board of County Commissioners

FROM : Carol M. Ford, Chair's Office *Carol*

DATE : December 1, 1998

RE : Budget Modification for County/City Diversity Conference

I. Recommendation/Action Requested:

Approve Budget Modification to accept \$12,500 in revenues from the City of Portland Police Bureau and Affirmative Office in support of the County/City Diversity Conference, scheduled for June 18, 1999.

II. Background/Analysis:

Since 1994, Multnomah County Countywide Diversity Committee has sponsored a Cultural Diversity Conference open to employees at no cost. Conference themes have ranged from diversity in the 90's, diversity and RESULTS, tools for building bridges to the future and in 1998 – "Respect: The Heart of the Matter." Keynote speakers have included Kathleen Saadat, Donna Redwing, Daisy Santos-Miller, Steve Hanamura, Lee Bussard and Dr. Terry Tafoya. In 1998, 550 County and City employees participated in the daylong conference.

Several County agencies have co-sponsored the conference with the Countywide Diversity Committee – the Chair's Office, Community and Family Services, Health, Support Services and Aging and Disability Services. In 1997, the City of Portland Affirmative Action Office came on as a sponsor and City employees were invited to participate. For the 1999 Conference, the Multnomah County Sheriff's Office, Multnomah County District Attorney's Office and the City of Portland's Police Bureau are co-sponsoring the upcoming Diversity Conference.



The 1999 conference planning committee anticipates over 600 participants. They are working with the Convention Center as the possible location. Talks are underway with Dr. Edward Nichols and attorney Morris Dees to be the keynote speakers.

This budget modification recognizes the contributions from the Portland Police Bureau (\$7,500) and the Affirmative Office (\$5,000) as revenue to the County. The conference budget includes support from the Sheriff's Office (\$7,500), DA's Office (\$7,500), and Support Services (\$5,000 for the conference and \$2,600 for other countywide diversity activities).

III. Financial Impact:

The Bud Mod adds \$12,500 in new revenues to the County. County department support for the conference are in department budgets and do not require new funds.

IV. Legal Issues:

None.

V. Controversial Issues:

None.

VI. Link to Current County Policies:

The County's Good Government benchmarks and the RESULTS Roadmap include a commitment to valuing diversity in our workforce and to appropriately serving diverse communities of clients, customers and contractors.

VII. Citizen Participation:

None direct. However, the conference committee attempts to include speakers and workshop leaders who can connect the conference to the diversity issues within our community.

VIII. Other Government Participation:

The City of Portland is actively involved in the planning of the conference. Also the State of Oregon has expressed an interest in participating.

→ The longevity of Touchstone Staff facilitates the ability to build long-term relationships in the community, in schools, and most importantly, with families.

→ In a County resolution draft for creating a living wage for contracted services, it is recognized that "employees of non-profit social and human services agencies continue to experience low wages and lack of benefits. The County's ability to affect those wages is limited because Oregon Legislature controls the funding..."

If contracted out, quality staff will use Touchstone as a stepping stone since the wages are low. Much of Touchstone's success depends on networking and establishing relationships with schools, communities, and families.

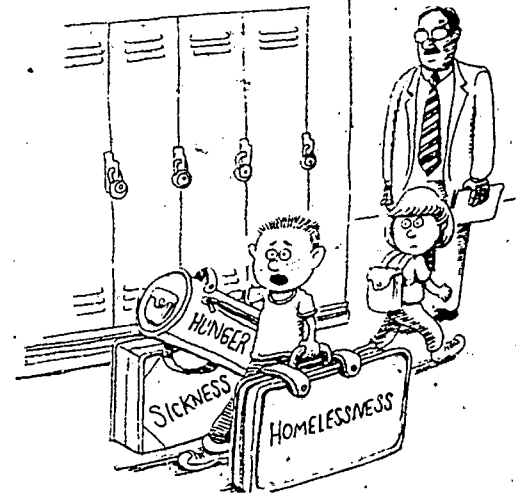
Influencing families to make changes and to climb out of poverty, complete high school and stay away from crime can only come from relationships founded upon trust.....which can only come from stable staff.....which can only come from adequate pay.....which can only come from Multnomah County.

Touchstone Facts

The Multnomah County Touchstone Program is harmonious with the current County Benchmarks.

According to INFOS reports from July 1997 to June 1998:

- ◆ Touchstone brought 588 families closer to climbing out of poverty.
- ◆ Touchstone connected 729 youth to activities which detour crime.
- ◆ Touchstone supported 773 youth in approaching High School completion.



*"Could someone help me with these?
I'm late for math class."*

TOUCHSTONE

The Touchstone Program, housed within Multnomah County's Department of Community and Family Services, has produced remarkable success in the County's mission of building stronger, healthier communities.

Touchstone Staff directly impact the County Benchmarks of reducing the amount of families in poverty, increasing high school completion and decreasing juvenile delinquency.

There is current discussion that the Touchstone Program will be contracted out to various community agencies. There is strong belief that this will be highly detrimental to the families that Touchstone serves.

WHAT IS TOUCHSTONE?

Touchstone is a school-based case management program which builds upon family strengths in order to decrease the risk-factors within the family unit. The key assumption underlying the Touchstone model is that families want the best for their children and that families can show considerable resolve, ingenuity, and adaptability in dealing with stresses in their lives. By utilizing the wrap-around service model, Touchstone Staff support families in their goals of increased health and self-sufficiency.

There are currently 13 sites in elementary and middle schools throughout the County. Services include: case management, information and referral, alcohol and drug intervention/prevention programs, crisis intervention, advocacy with schools and other services/service providers, housing and employment assistance, educational enrichment activities, skill building groups, and community building activities to engage the community and foster community involvement.

Contracting out the Touchstone Program could impact the services currently being provided on three fundamental levels: ACCESS, ADVOCACY & CONTINUITY.

Ultimately, the families will bear the brunt of the weakened Touchstone Program and may go unserved.

ACCESS

Touchstone currently serves families who slip through the cracks of existing social services in the community. All community action agencies have service restrictions which bar many of our "Touchstone Families" from receiving services.

These tend to be families who may be:

- Undocumented or newly migrated.
- Unserved by existing community agencies because of lack of case manager slots or lack of funding.
- Families who are intimidated or confused by all the "no's" and hoops they need to go through to receive assistance.
- Families who may have "burned bridges" in the previous years or who are over-income (barely).
- Families who have either criminal history or tarnished rental history.

Beyond this, many Touchstone clients report feeling mistreated, turned away, or fearful of the mainstream community agencies. Multnomah County Touchstone is seen as a non-threatening entry-point for families who typically fall through the cracks. Contracting out the Touchstone Program to community agencies may leave these families with no where to turn.

ADVOCACY

The majority of the families that we serve have needed Touchstone Staff to pave the way through the system, especially when trying to access emergency programs such as housing and shelter assistance.

Touchstone staff often become the strong, assertive voice confronting the agencies denying families a service. We can do this because we are the objective third party from Multnomah County. Effective advocacy is difficult when the community agency that is challenged in the name of your client is also your employer.

CONTINUITY

The large-scale success of the Touchstone Program throughout the County is owed to an experienced and stable staff. Contracting out a successful program to agencies with notoriously high staff turnover would be extremely detrimental to a program whose success is built upon highly experienced staff who continue to build relationships year upon year upon year.

→ The current staff of 13 has a combined total of 119 years experience of serving children and families.

(continued ⇒)

MEETING DATE: DEC 17 1998

AGENDA #: C-3

ESTIMATED START TIME: 9:00

(Above space for Board Clerk's Use Only)

AGENDA PLACEMENT FORM

SUBJECT: OLCC License Renewal Application

BOARD BRIEFING: DATE REQUESTED: _____

REQUESTED BY: _____

AMOUNT OF TIME NEEDED: _____

REGULAR MEETING: DATE REQUESTED: _____

AMOUNT OF TIME NEEDED: _____

DEPARTMENT: Sheriff's Office DIVISION: _____

CONTACT: Rick Barnett TELEPHONE: 251-2441
BLDG/ROOM: 313/120

PERSON(S) MAKING PRESENTATION: Sergeant Brett Elliott

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL

98 DEC - 9 AM 4:44
CLATSOP COUNTY
CLERK OF COUNTY COMMISSIONERS

SUGGESTED AGENDA TITLE:

This is an OLCC Package Store with Pumps License Renewal application for:

Corbett Country Market
36801 E. Historic Columbia River Highway
Corbett, Oregon 97019

12/17/98 ORIGINAL TO RICK BARNETT

The backgrounds have been checked on applicants: William O. Leigh and Susan D. Larsen-Leigh and no criminal history can be found on the above.

SIGNATURES REQUIRED:

ELECTED
OFFICIAL: _____
(OR)
DEPARTMENT
MANAGER: Sgt. Elliott 18568

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any questions: Call the Board Clerk at 248-3277

Oregon Liquor Control Commission

PO Box 22297, Milwaukie, OR 97269 1-800-452-6522

License Renewal Application

IMPORTANT: Failure to fully disclose any information requested, or providing false or misleading information on this form is grounds to refuse to renew the license. Your license expires December 31, 1998

License Type: Package Store with Pumps	District: 1	County/City: 2600	RO#: R00351A	421/203
---	--------------------	--------------------------	---------------------	----------------

LARSEN LEIGH ENTERPRISES, INC
36801 E HIST. COLUMBIA RVR HWY
CORBETT, OR 97019

Licensee(s) **LARSEN LEIGH ENTERPRISES, INC**

Tradename **CORBETT COUNTRY MARKET**
36801 E HIST. COLUMBIA RVR HWY
CORBETT, OR 97019

Instructions:

1. Answer all questions completely on the renewal application.
2. Have each partner or an authorized corporate officer sign the renewal application.
3. Have the local governing body endorse the renewal application.
4. Return completed renewal application along with the appropriate license fee due before December 11, 1998 to avoid late fees.

Operational Questions:	Responses:
(1) Please list a daytime phone number.	Phone Number: <u>695-2234</u>
(2) Please list all arrests or convictions for any crime, violation, or infraction of any law during the last year even if they are <u>not liquor</u> related for anyone who holds a financial interest in the licensed business. Attach additional sheet of paper to back of form if needed.	Name <u>none</u> Offense <u>none</u> Date <u>none</u> City/State <u>none</u> Result <u>none</u>
(3) Will anyone share in the profits who is not a licensee of this business? If yes, please give name(s) and explain.	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES & EXPLAIN:
(4) Were there any changes of ownership (ie: add/drop partners, change to corporations, etc.) not reported to the OLCC in the last year?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES & EXPLAIN:
(5) Package Store Licenses with Gas Pumps: Report actual grocery inventory at cost (DO NOT INCLUDE BEER OR WINE).	\$ <u>30,000</u>

Endorsement - Please take this form to your local governing body that is listed below before you return it to the OLCC.

The County of MULTNOMAH recommends that this license be GRANTED X REFUSED on (date) 12/17/98

Signed: Beverly Stein Title of Signer BEVERLY STEIN, MULTNOMAH COUNTY CHAIR

License Fees and Late Fee Schedule & Amounts - Do not mail cash.	Dollar Amount (\$)
License Fee for Package Store with Pumps	50.00
TOTAL FEE TO PAY >>>>PLEASE PAY THIS AMOUNT<<<<	<u>50.00</u>
Late Fees	
IF Renewal Application Is Received After December 11, 1998 but before January 01, 1999	Add 12.50 To Total Due
IF Renewal Application Is Received On or After January 01, 1999.	Add 20.00 To Total Due

Print Name	Signature	Date	Social Security #	Date of Birth
<u>Susan D. Larsen Leigh</u>	<u>[Signature]</u>	<u>11-30-98</u>	<u>540 682601</u>	<u>3-19-53</u>
<u>Susan D. Larsen Leigh</u>				
<u>William O. Leigh</u>	<u>[Signature]</u>	<u>11-30-98</u>	<u>542 80 4391</u>	<u>9-5-58</u>

William O. Leigh

BUDGET MODIFICATION NO:

DA # 99-2

(For Clerk's Use) Meeting Date:

DEC 17 1998

Agenda No:

C-4

1. REQUEST FOR PLACEMENT ON THE AGENDA FOR

DEPARTMENT District Attorney DIVISION Family Justice
CONTACT Thomas G Simpson TELEPHONE 248-3863
NAME(s) OF PERSON MAKING PRESENTATION TO THE BOARD Mike Schrunk

SUGGESTED AGENDA TITLE

Budge Modification DA #99-2 requesting the addition of 1.00 Deputy District Attorney to the VAWA grant

(Estimated Time Needed on the Agenda)

2. DESCRIPTION OF MODIFICATION

☒ PERSONNEL CHANGES ARE SHOWN IN DETAIL ON THE ATTACHED SHEET.

3. REVENUE IMPACT

Add \$48,136 of the State Violence Against Women Act Funds

4. CONTINGENCY STATUS

Originated By: <u>Becky J. Hinson</u>	Date: <u>December 9, 1998</u>	Department Director: <u>Thomas G Simpson</u>	Date: <u>December 9, 1998</u>
Plan/Budget Analyst: <u>[Signature]</u>	Date: <u>12/9/98</u>	Employee Services: <u>[Signature]</u>	Date: <u>12/9/98</u>
Board Approval: <u>[Signature]</u>	Date: <u>12/17/98</u>		

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
98 DEC - 8 PM 10:44

PERSONNEL DETAIL FOR BUDGET MODIFICATION DA 99-2

ANNUALIZED PERSONNEL CHANGES

FTE Increase (Decrease)	POSITION TITLE	ANNUALIZED			
		BASE PAY Increase (Decrease)	Fringe	Insur.	TOTAL Increase (Decrease)
1.00	Deputy District Attorney	45,416	8,156.79	5,122.81	58,696
					-
					-
					-
					-
					-
					-
					-
					-
					-
1.00	Total Annualized Change	45,416	8,157	5,123	58,696

CURRENT YEAR PERSONNEL CHANGES

FTE Increase (Decrease)	Explanation of Change	CURRENT FY			
		BASE PAY Increase (Decrease)	Fringe	Insur.	TOTAL Increase (Decrease)
1.00	Deputy District Attorney	45,416	8,157	5,123	58,696
					-
					-
					-
					-
					-
					-
					-
					-
					-
1.00	Total Current Year Changes	45,416	8,157	5,123	58,696

EXPENDITURE TRANSACTION

FUND	AGENCY	ORG	ACTIVITY	REPTG CAT	OBJECT	CURRENT AMOUNT	REVISED AMOUNT	CHANGE	SUBTOTAL	Description
156	023	2438			5100				45,416	Base Pay
156	023	2438			5500				8,157	Fringe
156	023	2438			5550				5,123	Insurance
400	070	7522			6580				5,123	Insurance Fund Transfer
156	023	2438			6110				1,500	Contracts
156	023	2438			7100				3,985	Indirect Costs
100	075	9120			7700				3,985	Indirect Fund Transfer
100	023	2441			6110				(16,045)	Professional Services
100	023	2400			7608				16,045	Cash Transfer
TOTAL EXPENDITURE CHANGE								-	73,289	

REVENUE TRANSACTION

FUND	AGENCY	ORG	ACTIVITY	REPTG CAT	REVENUE CODE	CURRENT AMOUNT	REVISED AMOUNT	CHANGE	SUBTOTAL	Description
156	023	2438			2438				48,136	VAWA
100	023	2441			7601				16,045	General Fund
400	070	7522			6580				5,123	Insurance Fund Transfer
100	075	9120			7700				3,985	Indirect Fund Transfer
TOTAL REVENUE CHANGE								-	73,289	

OREGON DEPARTMENT OF STATE POLICE
CRIMINAL JUSTICE SERVICES DIVISION
STOP VIOLENCE AGAINST WOMEN FORMULA GRANT PROGRAM

GRANT AWARD CONDITIONS AND CERTIFICATIONS

PROJECT NAME:	Prosecution Outreach to Underserved Populations	GRANT NO:	#97-806
GRANTEE:	Multnomah County District Attorney's Office	FY 1997 AWARD:	\$48,136
ADDRESS:	1021 SW Fourth Avenue, Room 600 Portland, OR 97204-1193	AWARD PERIOD:	7/1/98 thru 6/30/99
PROJECT MANAGER:	Rod Underhill	TELEPHONE:	(503) 248-3876
FISCAL MANAGER:	Tom Simpson	TELEPHONE:	(503) 248-3643
		FAX:	(503) 248-3863

BUDGET

INCOME

Federal Grant Funds	\$48,136	
Match Funds	\$16,045	
		TOTAL INCOME: \$64,181

EXPENSES

Personnel	\$58,696	
Contractual	\$1,500	
Administrative	\$3,985	
		TOTAL EXPENSES: \$64,181

This document with the conditions of award, the grant application attached hereto, the Grant Management Handbook and any other document referenced, constitutes an agreement between the Criminal Justice Services Division (CJSD) of the Department of State Police and the Grantee. No waiver, consent, modification or change of terms of this contract shall be binding unless agreed to in writing and signed by both the Grantee and CJSD. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this contract. Grantee, by signature of its authorized representative, hereby acknowledges that he/she has read this contract, understands it, and agrees to be bound by its terms and conditions (including all references to other documents). Failure to comply with this agreement and with applicable state and federal rules and guidelines may result in the withholding of reimbursement, the termination of the agreement, denial of future grants, and/or damages to CJSD.

MICHAEL D. SCHRUNK

Office Memorandum

District Attorney

TO: Board of County Commissioners

FROM: Michael D. Schrunk

DATE: December 9, 1998

REQUESTED PLACEMENT DATE: December 17, 1998

RE: Budget Modification DA #99-2 adding 1.00 Deputy District Attorney to the VAWA grant

-
- I. Recommendation/Action Requested: Approval of the Budget Modification
 - II. Background/Analysis: The objective is to increase prosecution services to underserved populations by maintaining one full time District Court DDA in the Domestic Violence Unit to serve as liaison with agencies, organizations, and groups serving domestic violence clients and to review, issue, and prosecute misdemeanor domestic violence cases. The funding provided is also to be used for administration costs, training, consultation, and technical assistance from Bradley-Angle House and others for possible translation services.
 - III. Financial Impact: Adds \$48,136 of VAWA funds to the District Attorney's Office budget.
 - IV. Legal Issues: N/A
 - V. Controversial Issues: N/A
 - VI. Link to Current County Policies: N/A
 - VII. Other Government Participation: N/A

MEETING DATE: DEC 17 1998

AGENDA NO: C-15

ESTIMATED START TIME: 9:00

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Request Approval of Repurchase Deed to Former Owner

BOARD BRIEFING: Date Requested: _____
Requested By: _____
Amount of Time Needed: _____

REGULAR MEETING: Date Requested: _____
Amount of Time Needed: Consent

DEPARTMENT: Environmental Services DIVISION: Assessment & Taxation

CONTACT: Gary Thomas TELEPHONE #: 248-3590 x22591
BLDG/ROOM #: 166/300/Tax Title

PERSON(S) MAKING PRESENTATION: Consent Calendar

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

SUGGESTED AGENDA TITLE:

Request approval of Repurchase Deed to former Owner, NANCY C PALMER.

Deed D991598 and Board Order attached.

*12/17/98 ORIGINAL DEED & COPIES of ALL to
TAX TITLE*

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____
OR
DEPARTMENT/ MANAGER: *kt Lawrence*

BOARD OF
COUNTY COMMISSIONERS
98 DEC - 9 AM 2:02
MULTNOMAH COUNTY
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk 248-3277

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. 98-204

Authorizing Execution of Deed D991598 for Repurchase of Tax Foreclosed Property to
Former Owner NANCY C PALMER

The Multnomah County Board Of Commissioners Finds:

- a) Multnomah County acquired the real property hereinafter described through foreclosure of liens for delinquent taxes, and that NANCY C PALMER is the former record owner
- b) The above former owner has applied to the County to repurchase said property for the amount of \$13,499.19, which amount is not less than that required by ORS 275.180; and it is in the best interest of the County that said property be sold to said former owner.

The Multnomah County Board of Commissioners Orders:

1. That the Chair of the Multnomah County Board of County Commissioners execute a deed conveying to the former owner the following described real property, situated in the County of Multnomah, State of Oregon:

LOT 14-16, BLOCK 13, COLUMBIA HTS, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.

Approved this 17th day of December, 1998.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

By Beverly Stein
Beverly Stein, Chair



REVIEWED:

Thomas Sponsler, County Counsel
Multnomah County, Oregon

By Matthew O. Ryan
Matthew O. Ryan, Assistant County Counsel

DEED D991598

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to NANCY C PALMER, Grantee, the following described real property, situated in the County of Multnomah, State of Oregon:

LOT 14-16, BLOCK 13, COLUMBIA HTS, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.

The true and actual consideration paid for this transfer, stated in terms of dollars is \$13,499.19.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSONS ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Until a change is requested, all tax statements shall be sent to the following address:

NANCY C PALMER
3001 E ALDER ST
SEATTLE, WA 98122-6339

IN WITNESS, WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of County Commissioners this 17th day of December, 1998, by authority of an Order of said Board of County Commissioners heretofore entered of record.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair



REVIEWED:

Thomas Sponsler, County Counsel
for Multnomah County, Oregon

By 

Matthew O. Ryan, Assistant County Counsel

DEED APPROVED:

Kathy Tuneberg, Director
Tax Collection/Records Management

By 

After recording return to 166/300/Multnomah County Tax Title

Meeting Date: DEC 17 1998
Agenda No: C-6
Est. Start Time: 9:00

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Report to the Board an application for renewal of a Wrecker License for Frank Miller Truck Wrecking.

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

REGULAR MEETING Date Requested: December 17, 1998
Amt. of Time Needed: 5 minutes

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

PERSON(S) MAKING PRESENTATION: Stuart Farmer

ACTION REQUESTED

☐ Informational Only ☐ Policy Direction ☒ Approval ☐ Other

SUGGESTED AGENDA TITLE

Report to the Board an **Approval** of a renewal for a Wrecker License for Frank Miller Truck Wrecking, 15015 NW Mill Rd., Portland, OR 97231

12/17/98 ORIGINAL to FRANK MILLER
TRUCK WRECKING, COPY to Stuart Farmer

SIGNATURES REQUIRED

Elected Official: _____

or

Department Manager: _____

KB [Signature]

BOARD OF
LAND USE COMMISSIONERS
MULTNOMAH COUNTY
OREGON
98 DEC - 8 PM 11:32



DEPARTMENT OF ENVIRONMENTAL SERVICES
LAND USE PLANNING DIVISION
2115 SE MORRISON STREET
PORTLAND, OREGON 97214-2865
(503) 248-3043 FAX: (503) 248-3389

December 8, 1998

Board of County Commissioners
1120 SW Fifth Ave, Suite 1500
Portland, OR 97204

RE: Auto Wrecker's License-Renewal

Frank Miller
15015 NW Miller Road, Portland, OR 97231


Recommend: Approval of Business Location

Dear Commissioners:

The staff of the Land Use Planning Section respectfully recommends that the above license renewal be approved, based upon the findings in the attached staff report that business satisfies the requirements contained in Multnomah County Code Section 5.10.010 B., including the applicable provisions ORS 822.110 and the locational provisions of ORS 882.135 and continues to retain a non-conforming status.

Sincerely,

Multnomah County Department of Environmental Services
Land Use Planning Division


By Chuck Beasley, Planner
For: Kathy Busse, Planning Director

Staff Report
Determination of Compliance
1999 Wrecker's License Renewal
15015 NW Mill Road

This Staff Report and Determination of Compliance is made pursuant to the requirements specified by Multnomah County Code Section 5.10.010 Wrecker certificate processing fees. An application for renewal of a Wrecker Certificate as required by the State of Oregon Department of Motor Vehicles was submitted by Frank Miller, 15015 NW Mill Road, Portland, OR 97231.

I. Conditions of Approval:

1. The applicant shall obtain a Business Certificate as a wrecker of motor vehicles from the Oregon Department of Transportation. Applications for future wrecker's license renewals shall include a copy of the prior years wreckers certificate issued by the Oregon Department of Transportation.
2. Applications for future wrecker's license renewals shall include submittal of a site plan drawn to scale, that clearly identifies the dimensional boundaries of the wrecking yard (fenced areas) in relation to property lines. Expansion of the dimensions of the wrecking yard shall not occur without prior approval of the County.

II. Applicable Zoning Considerations:

The applicable zoning considerations as specified in MCC 5.10.010 (C) are addressed below:

A. Compliance with the requirements of ORS 822.110:

The Oregon Department of Transportation shall issue a wrecker certificate to any person if the person meets all of the following requirements:

- (1) The person must establish that the area approved under the wrecker certificate for use in a wrecking business meets one of the following:**
 - (a) The area is more than 1,100 feet from the nearest edge of the right of way of any state highway.**
 - (b) The business conducted within the area is hidden or adequately screened by the terrain or other natural objects or by plantings, fences or other natural objects or by plantings, fences or other appropriate means, so as not to be visible from the main traveled way of the highway, in accordance with rules adopted by the director.**

- (c) The area and the business thereon are located in an area zoned for industrial use under authority of the laws of this state.
- (2) The person must pay the fee required under ORS 822.700 for issuance of a wreckers certificate.
- (3) The person must complete the application for a wrecker certificate described under ORS 822.115.
- (4) The person must deliver to the department any approvals by local governments required under ORS 822.140.
- (5) The person must deliver to the department a bond or letter of credit that meets the requirements of ORS 822.120.

Finding: Photos taken of the site by Land Use Planning code enforcement staff on 11/23/98 indicate that both natural vegetation and a fence screen vehicles from adjacent roads consistent with ORS 833.110 (1)(b). However, due to the higher elevation of St. Helens Hwy, the screening does not hide the site from this main traveled way. Compliance with the requirements with ORS 833.110 (2)-(5) will be ensured by obtaining a Wreckers Certificate issued by the Oregon Department of Transportation.

B. Compliance with the business locational provisions of ORS 822.135:

- (1) A person commits the offense of improperly conducting a wrecking business if the person holds a wrecker certificate issued under ORS 822.110 and the person does any of the following:
 - (b) Expands the dimensions of or moves any of the person's places of business or opens any additional places of business without obtaining a supplemental wrecker certificate by the procedure under ORS 822.125.

Finding: Staff has found no evidence or indication that the dimensions of the wrecking yard have been expanded beyond that of the existing Wreckers Certificate. The applicant has submitted a site plan clearly identifying the dimensional boundaries of the wrecking yard (fenced and/or screened areas) in relation to property lines. Expansion of the dimensions of the wrecking yard shall not occur without prior approval of the County.

- (g) Fails to keep the premises on the outside of the establishment clear and clean at all times.

Finding: The Land Use Planning Section conducted a field inspection on 11/23/98 and completed a Field Inspection Record including photos of the site indicating the area outside the establishment is clear and clean.

(h) Conducts any wrecking, dismantling or altering of vehicles outside the building, enclosure or barrier on the premises of the business.

Finding: Based on the Land Use Planning Section Field Inspection Record dated 11/23/98, no dismantling or altering of vehicles outside the fenced area of the business was evident.

C. Compliance with zoning regulations:

The wrecking yard was determined to be a non-conforming use in the 12/16/91 "Report of Site Inspection" contained in the file on the subject property, located in the Land Use Planning Section. The file contains a record of license renewal requests from 1986 forward. Examination of Department land use inventory maps and zoning maps indicates that the business was in existence on the property in 1975, at which time the property was zoned M-1, which allowed the use. The property was re-zoned in 1997 to MUF-20, a district which does not allow the use, therefore it became non-conforming at that time.

III. Notification:

Notice of this application was sent to both the Multnomah County Sheriff and the Department of Assessment and Taxation on 11/23/98. The response from Assessment and Taxation is that the property and personal tax accounts are current. The response from the County Sheriff indicates a criminal background check was made and approved.

IV. Recommendation:

The staff of the Land Use Planning Section respectfully recommends that the above license renewal be approved, based upon findings that the business satisfies the applicable requirements contained in MCC 5.10.010 and ORS 822.110, ORS 882.135 and continues to retain a non-conforming status.

Dated this 8th day of December, 1998

Multnomah County Department of Environmental Services
Transportation and Land Use Planning Division



By Chuck Beasley, *Planner*
For: Kathy Busse, *Planning Director*



APPLICATION FOR BUSINESS CERTIFICATE

AS A WRECKER OF MOTOR VEHICLES OR
SALVAGE POOL OPERATOR

CERTIFICATE NUMBER

2426

EXPIRATION DATE

INSTRUCTIONS:

- PLEASE TYPE OR PRINT LEGIBLY WITH INK.
- SIGN LINE 14. SUBMIT THIS APPLICATION WITH YOUR SURETY BOND AND THE REQUIRED FEE TO BUSINESS REGULATION SECTION, 1905 LANA AVE. NE, SALEM OR 97314

☐ ORIGINAL
☒ RENEWAL

NAME (CORPORATION AND/OR ASSUMED BUSINESS NAME)

1 Frank Miller Truck Wrecking

BUSINESS TELEPHONE

503-283-1797

MAIN BUSINESS LOCATION (STREET AND NUMBER)

2 15015 N.W. Mill Rd.

CITY
Portland

ZIP CODE

97231

COUNTY

Mult.

MAILING ADDRESS

3

CITY

"

STATE

OR

ZIP CODE

"

A SEPARATE APPLICATION MUST BE COMPLETED FOR EACH ADDITIONAL LOCATION FROM WHICH YOU OPERATE YOUR BUSINESS.

CHECK ORGANIZATION TYPE:

4 ☒ INDIVIDUAL ☐ PARTNERSHIP ☐ CORPORATION

IF CORPORATION, LIST THE STATE UNDER WHOSE LAW BUSINESS IS INCORPORATED:

LIST NAME AND RESIDENCE ADDRESS OF THIS OWNER, ALL PARTNERS OR PRINCIPAL CORPORATE OFFICERS:

NAME

5 Frank Miller

TITLE

owner

DATE OF BIRTH

5-21-43

RESIDENCE TELEPHONE

(503) 429-0273

RESIDENCE ADDRESS

6 59101 Pebble Creek Rd.

CITY

Vernonia

STATE

OR

ZIP CODE

97064

NAME

7

TITLE

DATE OF BIRTH

RESIDENCE TELEPHONE

()

RESIDENCE ADDRESS

8

CITY

STATE

ZIP CODE

NAME

9

TITLE

DATE OF BIRTH

RESIDENCE TELEPHONE

()

RESIDENCE ADDRESS

10

CITY

STATE

ZIP CODE

11 THE DIMENSIONS OF THE PROPERTY ON WHICH THE BUSINESS IS LOCATED ARE 400 ft. X 400 ft.

I CERTIFY THAT I AM THE OWNER, A PARTNER OR A CORPORATE OFFICER OF THIS BUSINESS AND THAT ALL INFORMATION ON THIS APPLICATION IS ACCURATE AND TRUE. I CERTIFY THAT THE RIGHT OF WAY OF ANY HIGHWAY ADJACENT TO THE LOCATION LISTED ABOVE IS USED FOR ACCESS TO THE PREMISES AND PUBLIC PARKING.

NAME

12 Frank Miller

TITLE

Owner

RESIDENCE TELEPHONE

(503) 429-0273

ADDRESS, CITY, STATE, ZIP CODE

13 59101 Pebble Creek Rd. Vernonia OR 97064

SIGNATURE OF OWNER/PARTNER/CORPORATE OFFICER

14 X *[Signature]*

DATE

10/9/98

15 APPROVAL: I CERTIFY THAT THE GOVERNING BODY OF THE ☐ CITY ☒ COUNTY OF MULTNOMAH HAS:

- A) APPROVED THE APPLICANT AS BEING SUITABLE TO ESTABLISH, MAINTAIN OR OPERATE A WRECKING YARD OR BUSINESS (ORIGINAL APPLICATIONS ONLY).
- B) DETERMINED THAT THE LOCATION OR PROPOSED LOCATION MEETS THE REQUIREMENTS FOR LOCATION UNDER OREGON REVISED STATUTE 822.110.
- C) DETERMINED THAT THE LOCATION DOES NOT VIOLATE ANY PROHIBITION UNDER OREGON REVISED STATUTE 822.135.
- D) APPROVED THE LOCATION AND DETERMINED THAT THE LOCATION COMPLIES WITH ANY REGULATIONS ADOPTED BY THE JURISDICTION UNDER OREGON REVISED STATUTE 822.140.

I ALSO CERTIFY THAT I AM AUTHORIZED TO SIGN THIS APPLICATION AND AS EVIDENCE OF SUCH AUTHORITY DO AFFIX HEREON THE SEAL OR STAMP OF THE CITY OR COUNTY.

▼ PLACE STAMP OR SEAL HERE ▼

NAME

16 BEVERLY STEIN

TITLE

COUNTY CHAIR

PHONE NUMBER

(503) 248-3308

SIGNATURE

17 X *[Signature]*

DATE

12/17/98

FEE: \$54.00

735-373 (7-93)

SURETY BOND

▼ **BOND NUMBER** ▼

801881

NOTE: TO BE COMPLETED BY BONDING COMPANY. FAILURE TO ACCURATELY COMPLETE THIS FORM WILL CAUSE DELAY. PLEASE TYPE OR PRINT LEGIBLY WITH INK.

LET IT BE KNOWN:THAT Frank Miller

(OWNER, PARTNERS, CORPORATION NAME)

DOING BUSINESS AS _____

(ASSUMED BUSINESS NAME, IF ANY)

HAVING PRINCIPAL PLACE OF BUSINESS AT 15015 NW Mill Rd Portland, Or 97231

(ADDRESS, CITY, STATE, ZIP CODE)

WITH ADDITIONAL PLACES OF BUSINESS AT _____

(ADDRESS, CITY, STATE, ZIP CODE)

(ADDRESS, CITY, STATE, ZIP CODE)

STATE OF OREGON, AS PRINCIPAL(S), AND CONTRACTORS BONDING & INSURANCE COMPANY

(SURETY NAME)

1827 NE 44th Ave #100 Portland, Or 97213503-287-6000

(ADDRESS, CITY, STATE, ZIP CODE)

TELEPHONE NUMBER

A CORPORATION ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF WASHINGTON, AND AUTHORIZED TO TRANSACT A SURETY BUSINESS IN THE STATE OF OREGON, AS SURETY, ARE HELD AND FIRMLY BOUND UNTO THE STATE OF OREGON IN THE PENAL SUM OF \$2,000 FOR THE PAYMENT OF WHICH WE HEREBY BIND OURSELVES, OUR RESPECTIVE SUCCESSORS AND ASSIGN, JOINTLY AND SEVERALLY, FIRMLY BY THESE PRESENTS.

A CONDITION OF THIS OBLIGATION IS SUCH THAT, WHEN THE ABOVE NAMED PRINCIPAL HAS BEEN ISSUED A CERTIFICATE TO CONDUCT, IN THIS STATE, A BUSINESS WRECKING, DISMANTLING AND SUBSTANTIALLY ALTERING THE FORM OF VEHICLES, SAID PRINCIPAL SHALL CONDUCT SUCH BUSINESS WITHOUT FRAUD OR FRAUDULENT REPRESENTATION, AND WITHOUT VIOLATION OF ANY OF THE PROVISIONS OF THE OREGON VEHICLE CODE SPECIFIED IN ORS 822.120(2) THEN AND IN THAT EVENT THIS OBLIGATION TO BE VOID, OTHERWISE TO REMAIN IN FULL FORCE AND EFFECT UNLESS CANCELED PURSUANT TO ORS 743.755.

THIS BOND IS EFFECTIVE January 1 19 99 AND EXPIRES December 31 19 99 (BOND MUST EXPIRE ON THE LAST DAY OF THE MONTH.)

-- ANY ALTERATION VOIDS THIS BOND --

IN WITNESS WHEREOF, THE SAID PRINCIPAL AND SAID SURETY HAVE EACH CAUSED THESE PRESENTS TO BE EXECUTED BY ITS AUTHORIZED REPRESENTATIVE OR REPRESENTATIVES AND THE SURETY CORPORATE SEAL TO BE HEREUNTO AFFIXED THIS 16th DAY OF September 19 98

SIGNATURE OF OWNER, PARTNER OR CORPORATE OFFICER

TITLE

X

SIGNATURE OF SURETY (AUTHORIZED REPRESENTATIVE)

TITLE

X

ATTORNEY-IN-FACT**SURETY'S AGENT OR REPRESENTATIVE MUST COMPLETE THIS SECTION:****PLACE SURETY SEAL BELOW**

IN THE EVENT A PROBLEM ARISES CONCERNING THIS BOND, CONTACT:

NAME

C.B.I.C.

TELEPHONE NUMBER

287-6000

ADDRESS

Po Box 12053

CITY, STATE, ZIP CODE

Portland, Oregon 97212

APPROVED BY ATTORNEY GENERAL'S OFFICE



Limited Power of Attorney

Home Office:
1213 Valley Street
P.O. Box 9271
Seattle, WA 98109-0271
(206) 622-7053

KNOW ALL MEN BY THESE PRESENTS that CONTRACTORS BONDING AND INSURANCE COMPANY, a corporation duly organized and existing under the laws of the State of Washington and having its principal office in Seattle, King County, Washington, does by these presents make, constitute and appoint DEBI LEWIS, of Portland, Oregon, its true and lawful attorney-in-fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver contractors' license bonds issued pursuant to RCW Chapter 18.27 and ORS Chapter 701; electricians' license bonds issued pursuant to RCW Chapter 19.28; miscellaneous bonds, as those bonds are generally understood in the trade, not exceeding the penal sum of \$25,000; other license bonds not exceeding the penal sum of \$25,000; and permit bonds not exceeding the penal sum of \$25,000; and to bind the Company thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the Company and duly attested by its Secretary; hereby ratifying and confirming all that the said attorney-in-fact may do in the premises. Said appointment is made under and by authority of the following resolutions adopted by the Board of Directors of the CONTRACTORS BONDING AND INSURANCE COMPANY on January 22, 1993:

RESOLVED that the President is authorized to appoint as attorney-in-fact of the Company DEBI LEWIS with power and authority to sign on behalf of the Company contractors' license bonds issued pursuant to RCW Chapter 18.27 and ORS Chapter 701; electricians' license bonds issued pursuant to RCW Chapter 19.28; miscellaneous bonds, as those bonds are generally understood in the trade, not exceeding the penal sum of \$25,000; other license bonds not exceeding the penal sum of \$25,000; and permit bonds not exceeding the penal sum of \$25,000.

RESOLVED FURTHER that the authority of the Secretary of the Company to certify the authenticity and effectiveness of the foregoing resolution in any Limited Power of Attorney is hereby delegated to the following persons, the signature of any of the following to bind the Company with respect to the authenticity and effectiveness of the foregoing resolution as if signed by the Secretary of the Company: Donald Sirkin, Tom Dymont, JoAnn Johnson and Pat Dorney.

RESOLVED FURTHER that the signatures (including certification that the Power of Attorney is still in force and effect) of the President, Notary Public and person certifying authenticity and effectiveness, and the corporate and Notary seals appearing on any Limited Power of Attorney containing this and the foregoing resolutions as well as the Limited Power of Attorney itself and its transmission, may be by facsimile; and such Limited Power of Attorney shall be deemed an original in all aspects.

RESOLVED FURTHER that all resolutions adopted prior to today appointing the above named as attorney-in-fact for CONTRACTORS BONDING AND INSURANCE COMPANY are hereby superseded.

IN WITNESS WHEREOF, CONTRACTORS BONDING AND INSURANCE COMPANY has caused these presents to be signed by its President and its corporate seal to be hereto affixed this 10th day of January, 1997.

CONTRACTORS BONDING AND INSURANCE COMPANY

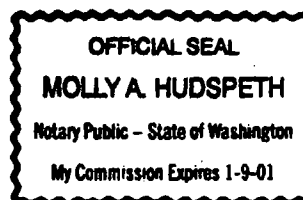
By: 
Steven A. Gaines, President



STATE OF WASHINGTON—COUNTY OF KING

On this 10th day of January, 1997, personally appeared STEVEN A. GAINES, to me known to be the President of the corporation that executed the foregoing Limited Power of Attorney and acknowledged said Limited Power of Attorney to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said Limited Power of Attorney.

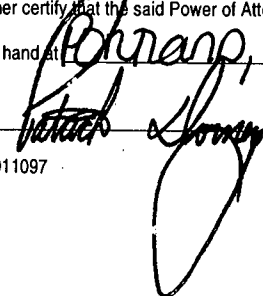
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.




Notary Public in and for the State of Washington, residing at Seattle

The undersigned, acting under authority of the Board of Directors of CONTRACTORS BONDING AND INSURANCE COMPANY, hereby certifies, as or in lieu of Certificate of the Secretary of CONTRACTORS BONDING AND INSURANCE COMPANY, that the above and foregoing is a full, true and correct copy of the Original Power of Attorney issued by said Company, and does hereby further certify that the said Power of Attorney is still in force and effect.

GIVEN under my hand at Bellevue, OR this 16th day of September, 19 98.


PoDL01.04-US011097

Meeting Date: DEC 17 1998
Agenda No: 1C-7
Est. Start Time: 9:00

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Report to the Board an application for a renewal of a Wrecker License for Loop Hi-Way Towing.

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

REGULAR MEETING Date Requested: December 17, 1998
Amt. of Time Needed: 5 minutes

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

PERSON(S) MAKING PRESENTATION: Stuart Farmer

ACTION REQUESTED

☐ Informational Only ☐ Policy Direction ☒ Approval ☐ Other

SUGGESTED AGENDA TITLE

Report to the Board an **Approval** of a renewal for a Wrecker License for Loop Hi-Way Towing,
28609 SE Orient Dr., Gresham, OR 97080

12/17/98 ORIGINAL to LOOP HI-WAY TOWING, COPY to
STUART FARMER

SIGNATURES REQUIRED

Elected Official: _____

or

Department Manager: KB Lee E. Nicholas

98 DEC - 3 PM 11:33
MULTNOMAH COUNTY
OREGON
BOARD OF
COUNTY COMMISSIONERS



DEPARTMENT OF ENVIRONMENTAL SERVICES
LAND USE PLANNING DIVISION
2115 SE MORRISON STREET
PORTLAND, OREGON 97214-2865
(503) 248-3043 FAX: (503) 248-3389

December 8, 1998

Board of County Commissioners
1120 SW Fifth Ave, Suite 1500
Portland, OR 97204

RE: Auto Wrecker's License-Renewal

Loop Hi-Way Towing
28609 SE Orient Dr. Gresham, OR 97080

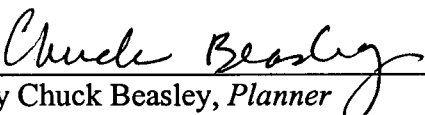
Recommend: Approval of Business Location

Dear Commissioners:

The staff of the Land Use Planning Section respectfully recommends that the above license renewal be approved, subject to the conditions stated in the staff report, based upon the findings in the attached staff report that business satisfies the requirements contained in Multnomah County Code Section 5.10.010 B., including the applicable provisions ORS 822.110 and the locational provisions of ORS 882.135 and continues to retain a non-conforming status.

Sincerely,

Multnomah County Department of Environmental Services
Land Use Planning Division


By Chuck Beasley, Planner
For: Kathy Busse, Planning Director

Staff Report
Determination of Compliance
1999 Wrecker's License Renewal
28609 SE Orient Drive

This Staff Report and Determination of Compliance is made pursuant to the requirements specified by Multnomah County Code Section 5.10.010 Wrecker certificate processing fees. An application for renewal of a Wrecker Certificate as required by the State of Oregon Department of Motor Vehicles was submitted by Loop Highway Towing, 28609 SE Orient Drive, Gresham, OR 97080.

I. Conditions of Approval:

1. The applicant shall obtain a Business Certificate as a wrecker of motor vehicles from the Oregon Department of Transportation. Applications for future wrecker's license renewals shall include a copy of the prior years wreckers certificate issued by the Oregon Department of Transportation.
2. Applications for future wrecker's license renewals shall include submittal of a site plan drawn to scale, that clearly identifies the dimensional boundaries of the wrecking yard (fenced areas) in relation to property lines. Expansion of the dimensions of the wrecking yard shall not occur without prior approval of the County.
3. The property owner shall bring the property into current tax status as verified by the County Assessor, prior to the year 2000 renewal.

II. Applicable Zoning Considerations:

The applicable zoning considerations as specified in MCC 5.10.010 (C) are addressed below:

A. Compliance with the requirements of ORS 822.110:

The Oregon Department of Transportation shall issue a wrecker certificate to any person if the person meets all of the following requirements:

- (1) The person must establish that the area approved under the wrecker certificate for use in a wrecking business meets one of the following:**
 - (a) The area is more than 1,100 feet from the nearest edge of the right of way of any state highway.**
 - (b) The business conducted within the area is hidden or adequately screened by the terrain or other natural objects or by plantings, fences or other**

natural objects or by plantings, fences or other appropriate means, so as not to be visible from the main traveled way of the highway, in accordance with rules adopted by the director.

- (c) The area and the business thereon are located in an area zoned for industrial use under authority of the laws of this state.**
- (2) The person must pay the fee required under ORS 822.700 for issuance of a wreckers certificate.**
- (3) The person must complete the application for a wrecker certificate described under ORS 822.115.**
- (4) The person must deliver to the department any approvals by local governments required under ORS 822.140.**
- (5) The person must deliver to the department a bond or letter of credit that meets the requirements of ORS 822.120.**

Finding: Photos taken of the site by Land Use Planning code enforcement staff on 10/29/98 indicate that both natural vegetation and a fence screen vehicles from adjacent roads consistent with ORS 833.110 (1)(b). Compliance with the requirements with ORS 833.110 (2)-(5) will be ensured by obtaining a Wreckers Certificate issued by the Oregon Department of Transportation.

B. Compliance with the business locational provisions of ORS 822.135:

- (1) A person commits the offense of improperly conducting a wrecking business if the person holds a wrecker certificate issued under ORS 822.110 and the person does any of the following:**
 - (b) Expands the dimensions of or moves any of the person's places of business or opens any additional places of business without obtaining a supplemental wrecker certificate by the procedure under ORS 822.125.**

Finding: Staff has found no evidence or indication that the dimensions of the wrecking yard have been expanded beyond that of the existing Wreckers Certificate. Applications for future wrecker's license renewals shall include submittal of a site plan clearly identifying the dimensional boundaries of the wrecking yard (fenced and/or screened areas) in relation to property lines. Expansion of the dimensions of the wrecking yard shall not occur without prior approval of the County.

- (g) Fails to keep the premises on the outside of the establishment clear and clean at all times.**

Finding: The Land Use Planning Section conducted a field inspection on 10/29/98 and completed a Field Inspection Record including photos of the site indicating the area outside the establishment is clear and clean.

(h) Conducts any wrecking, dismantling or altering of vehicles outside the building, enclosure or barrier on the premises of the business.

Finding: Based on the Land Use Planning Section Field Inspection Record dated 10/29/98, no dismantling, altering, or storage of wrecked vehicles outside the fenced area of the business was evident.

C. Compliance with zoning regulations:

The file contains a record of license renewal requests from 1961 to the current time, however some years are missing. Examination of Planning Division land use inventory maps and zoning maps indicates that the business was in existence on the property before 1977, at which time the property was zoned M-2, which allowed the use. The property was re-zoned in 1977 (Ordinance 148) to RC, a district which does not allow the use, therefore it became non-conforming at that time.

III. Notification:

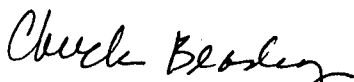
Notice of this application was sent to both the Multnomah County Sheriff and the Department of Assessment and Taxation on 11/13/98. The Assessor's office indicates delinquent taxes owed on the property. The property owner has agreed to bring the tax status to "current" prior to the year 2000 renewal. The response from the County Sheriff indicates a criminal background check was made and approved.

IV. Recommendation:

The staff of the Land Use Planning Section respectfully recommends that the above license renewal be approved, subject to conditions, based upon findings that the business satisfies the applicable requirements contained in MCC 5.10.010 and ORS 822.110, ORS 882.135 and continues to retain a non-conforming status.

Dated this 8th day of December, 1998,

Multnomah County Department of Environmental Services
Transportation and Land Use Planning Division



By Chuck Beasley, *Planner*
For: Kathy Busse, *Planning Director*



APPLICATION FOR BUSINESS CERTIFICATE

AS A WRECKER OF MOTOR VEHICLES OR
SALVAGE POOL OPERATOR

CERTIFICATE NUMBER

EXPIRATION DATE

INSTRUCTIONS:

- PLEASE TYPE OR PRINT LEGIBLY WITH INK.
- SIGN LINE 14, SUBMIT THIS APPLICATION WITH YOUR SURETY BOND AND THE REQUIRED FEE TO BUSINESS REGULATION SECTION, 1905 LANA AVE. NE, SALEM OR 97314

☐ ORIGINAL
☒ RENEWAL

NAME (CORPORATION AND/OR ASSUMED BUSINESS NAME)

BUSINESS TELEPHONE

1 Loop Hi-Way Towing

(503) 663-3111

MAIN BUSINESS LOCATION (STREET AND NUMBER)

CITY

ZIP CODE

COUNTY

2 28609 SE Orient Dr.

Gresham

97080

Mult.

MAILING ADDRESS

CITY

STATE

ZIP CODE

3 28609 S.E. Orient Dr.

Gresham

OR.

97080

A SEPARATE APPLICATION MUST BE COMPLETED FOR EACH ADDITIONAL LOCATION FROM WHICH YOU OPERATE YOUR BUSINESS.

CHECK ORGANIZATION TYPE:

IF CORPORATION, LIST THE STATE UNDER WHOSE LAW BUSINESS IS INCORPORATED:

4 ☐ INDIVIDUAL ☒ PARTNERSHIP ☐ CORPORATION

LIST NAME AND RESIDENCE ADDRESS OF THIS OWNER, ALL PARTNERS OR PRINCIPAL CORPORATE OFFICERS:

NAME

TITLE

DATE OF BIRTH

RESIDENCE TELEPHONE

5 Harold M. Milne

Partner

8-5-43

(503) 663-5843

RESIDENCE ADDRESS

CITY

STATE

ZIP CODE

6 28304 S.E. Orient Dr.

Gresham

OR.

97080

NAME

TITLE

DATE OF BIRTH

RESIDENCE TELEPHONE

7 Carl H. Milne

Partner

1-11-49

(503) 663-5462

RESIDENCE ADDRESS

CITY

STATE

ZIP CODE

8 33915 S.E. Wusted Rd.

Gresham

OR.

97080

NAME

TITLE

DATE OF BIRTH

RESIDENCE TELEPHONE

9

()

RESIDENCE ADDRESS

CITY

STATE

ZIP CODE

11 THE DIMENSIONS OF THE PROPERTY ON WHICH THE BUSINESS IS LOCATED ARE _____ ft. X _____ ft.

I CERTIFY THAT I AM THE OWNER, A PARTNER OR A CORPORATE OFFICER OF THIS BUSINESS AND THAT ALL INFORMATION ON THIS APPLICATION IS ACCURATE AND TRUE. I CERTIFY THAT THE RIGHT OF WAY OF ANY HIGHWAY ADJACENT TO THE LOCATION LISTED ABOVE IS USED FOR ACCESS TO THE PREMISES AND PUBLIC PARKING.

NAME

TITLE

RESIDENCE TELEPHONE

12 Harold M. Milne

Partner

(503) 663-5843

ADDRESS, CITY, STATE, ZIP CODE

13 28304 S.E. Orient Dr., Gresham, OR., 97080

SIGNATURE OF OWNER/PARTNER/CORPORATE OFFICER

DATE

14 X Harold M. Milne

10-15-98

15 APPROVAL: I CERTIFY THAT THE GOVERNING BODY OF THE ☐ CITY ☒ COUNTY OF MULTNOMAH HAS:

- A) APPROVED THE APPLICANT AS BEING SUITABLE TO ESTABLISH, MAINTAIN OR OPERATE A WRECKING YARD OR BUSINESS (ORIGINAL APPLICATIONS ONLY).
- B) DETERMINED THAT THE LOCATION OR PROPOSED LOCATION MEETS THE REQUIREMENTS FOR LOCATION UNDER OREGON REVISED STATUTE 822.110.
- C) DETERMINED THAT THE LOCATION DOES NOT VIOLATE ANY PROHIBITION UNDER OREGON REVISED STATUTE 822.135.
- D) APPROVED THE LOCATION AND DETERMINED THAT THE LOCATION COMPLIES WITH ANY REGULATIONS ADOPTED BY THE JURISDICTION UNDER OREGON REVISED STATUTE 822.140.

I ALSO CERTIFY THAT I AM AUTHORIZED TO SIGN THIS APPLICATION AND AS EVIDENCE OF SUCH AUTHORITY DO AFFIX HEREON THE SEAL OR STAMP OF THE CITY OR COUNTY.

▼ PLACE STAMP OR SEAL HERE ▼

NAME

TITLE

PHONE NUMBER

16 BEVERLY STEIN

COUNTY CHAIR

(503) 248-3308

FEE: \$54.00

SIGNATURE

DATE

17 X Beverly Stein

12/17/98

SURETY BOND

BOND NUMBER

YLI 200603

NOTE: TO BE COMPLETED BY BONDING COMPANY. FAILURE TO ACCURATELY COMPLETE THIS FORM WILL CAUSE DELAY. PLEASE TYPE OR PRINT LEGIBLY WITH INK.

LET IT BE KNOWN:THAT HAROLD M. MILNE AND CARL H. MILNE

(OWNER, PARTNERS, CORPORATION NAME)

DOING BUSINESS AS LOOP HI-WAY TOWING

(ASSUMED BUSINESS NAME, IF ANY)

HAVING PRINCIPAL PLACE OF BUSINESS AT 28609 SE ORIENT DR., GRESHAM, OR 97080

(ADDRESS, CITY, STATE, ZIP CODE)

WITH ADDITIONAL PLACES OF BUSINESS AT _____

(ADDRESS, CITY, STATE, ZIP CODE)

(ADDRESS, CITY, STATE, ZIP CODE)

STATE OF OREGON, AS PRINCIPAL(S), AND OLD REPUBLIC SURETY COMPANY

(SURETY NAME)

P.O. BOX 4627PORTLAND, OR 97208

(ADDRESS, CITY, STATE, ZIP CODE)

(503) 245-6242

TELEPHONE NUMBER

A CORPORATION ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF WISCONSIN AND AUTHORIZED TO TRANSACT A SURETY BUSINESS IN THE STATE OF OREGON, AS SURETY, ARE HELD AND FIRMLY BOUND UNTO THE STATE OF OREGON IN THE PENAL SUM OF \$2,000 FOR THE PAYMENT OF WHICH WE HEREBY BIND OURSELVES, OUR RESPECTIVE SUCCESSORS AND ASSIGN, JOINTLY AND SEVERALLY, FIRMLY BY THESE PRESENTS.

A CONDITION OF THIS OBLIGATION IS SUCH THAT, WHEN THE ABOVE NAMED PRINCIPAL HAS BEEN ISSUED A CERTIFICATE TO CONDUCT, IN THIS STATE, A BUSINESS WRECKING, DISMANTLING AND SUBSTANTIALLY ALTERING THE FORM OF VEHICLES, SAID PRINCIPAL SHALL CONDUCT SUCH BUSINESS WITHOUT FRAUD OR FRAUDULENT REPRESENTATION, AND WITHOUT VIOLATION OF ANY OF THE PROVISIONS OF THE OREGON VEHICLE CODE SPECIFIED IN ORS 822.120(2) THEN AND IN THAT EVENT THIS OBLIGATION TO BE VOID, OTHERWISE TO REMAIN IN FULL FORCE AND EFFECT UNLESS CANCELED PURSUANT TO ORS 743.755.

THIS BOND IS EFFECTIVE JANUARY 1, 19 99 AND EXPIRES DECEMBER 31 19 99 (BOND MUST EXPIRE ON THE LAST DAY OF THE MONTH.)

-- ANY ALTERATION VOIDS THIS BOND --

IN WITNESS WHEREOF, THE SAID PRINCIPAL AND SAID SURETY HAVE EACH CAUSED THESE PRESENTS TO BE EXECUTED BY ITS AUTHORIZED REPRESENTATIVE OR REPRESENTATIVES AND THE SURETY CORPORATE SEAL TO BE HEREUNTO AFFIXED THIS 2nd DAY OF SEPTEMBER 19 98.

SIGNATURE OF OWNER, PARTNER OR CORPORATE OFFICER

x Harold M. Milne

TITLE

Partner

SIGNATURE OF SURETY (AUTHORIZED REPRESENTATIVE)

Renee L. Grindel

RENEE L. GRINDELAND

TITLE

ATTORNEY-in-FACT

SURETY'S AGENT OR REPRESENTATIVE MUST COMPLETE THIS SECTION:

PLACE SURETY SEAL BELOW

IN THE EVENT A PROBLEM ARISES CONCERNING THIS BOND, CONTACT:

NAME

TELEPHONE NUMBER

OLD REPUBLIC SURETY COMPANY(503) 245-6242

ADDRESS

P.O. BOX 4627

CITY, STATE, ZIP CODE

PORTLAND, OR 97208ATTN: BRANCH MANAGER

APPROVED BY ATTORNEY GENERAL'S OFFICE



POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That OLD REPUBLIC SURETY COMPANY, a Wisconsin stock insurance corporation, does make, constitute and appoint:

Renee L. Grindeland, Portland, OR

its true and lawful Attorney(s)-in-Fact, with full power and authority for and on behalf of the Company as surety, to execute and deliver and affix the seal of the Company thereto if a seal is required, bonds, undertakings, recognizances or other written obligations in the nature thereof, as follows:
All written instruments in an amount not to exceed an aggregate of Two hundred fifty thousand (\$250,000.00) DOLLARS for any single obligation, regardless of the number of instruments issued for the obligation.

and to bind OLD REPUBLIC SURETY COMPANY thereby, and all of the acts of said Attorneys-in-Fact, pursuant to these presents, are ratified and confirmed. This appointment is made under and by authority of the board of directors at a special meeting held on February 18, 1982.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following resolutions adopted by the board of directors of the OLD REPUBLIC SURETY COMPANY on February 18, 1982.

RESOLVED that the president, any vice president or assistant vice president, in conjunction with the secretary or any assistant secretary, may appoint Attorneys-in-Fact or agents with authority as defined or limited in the instrument evidencing the appointment in each case, for and on behalf of the Company to execute and deliver and affix the seal of the Company to bonds, undertakings, recognizances, and suretyship obligations of all kinds; and said officers may remove any such Attorney-in-Fact or agent and revoke any Power of Attorney previously granted to such person.

RESOLVED FURTHER that any bond, undertaking, recognizance, or suretyship obligation shall be valid and binding upon the Company
(i) when signed by the president, any vice president or assistant vice president, and attested and sealed (if a seal be required) by any secretary or assistant secretary; or
(ii) when signed by the president, any vice president or assistant vice president, secretary or assistant secretary, and countersigned and sealed (if a seal be required) by a duly authorized Attorney-in-Fact or agent; or
(iii) when duly executed and sealed (if a seal be required) by one or more Attorneys-in-Fact or agents pursuant to and within the limits of the authority evidenced by the Power of Attorney issued by the Company to such person or persons.

RESOLVED FURTHER that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any Power of Attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed.

IN WITNESS WHEREOF, OLD REPUBLIC SURETY COMPANY has caused these presents to be signed by its proper officer, and its corporate seal to be affixed this 28th day of February, 19 95.

OLD REPUBLIC SURETY COMPANY

Geraldine J. Stelter
Assistant Secretary



[Signature]
Vice President

STATE OF WISCONSIN, COUNTY OF WAUKESHA -- SS

On this 28th day of February, 19 95, personally came before me, Jess J. Wadle and Geraldine J. Stelter, to me known to be the individuals and officers of the OLD REPUBLIC SURETY COMPANY who executed the above instrument, and they each acknowledged the execution of the same, and being by me duly sworn, did severally depose and say: that they are the said officers of the corporation aforesaid, and that the seal affixed to the above instrument is the seal of the corporation, and that said corporate seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority of the board of directors of said corporation.



[Signature]
Notary Public

My Commission Expires: 2/23/97

CERTIFICATE

I, the undersigned, assistant secretary of the OLD REPUBLIC SURETY COMPANY, a Wisconsin corporation, CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolutions of the board of directors set forth in the Power of Attorney, are now in force.



Signed and sealed at the City of Brookfield this 2nd day of SEPTEMBER, 19 98

[Signature]
Assistant Secretary

Meeting Date: DEC 17 1998
Agenda No: C-8
Est. Start Time: 9:00

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Report to the Board an application for a renewal of a Wrecker License for Orient Auto Parts, Inc.

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

REGULAR MEETING Date Requested: December 17, 1998
Amt. of Time Needed: 5 minutes

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

PERSON(S) MAKING PRESENTATION: Stuart Farmer

ACTION REQUESTED

☐ Informational Only ☐ Policy Direction ☒ Approval ☐ Other

SUGGESTED AGENDA TITLE

Report to the Board an **Approval** for a renewal of a Wrecker License for Orient Auto Parts, Inc.
28425 SE Orient Dr., Gresham, OR 97080

12/17/98 ORIGINAL to Orient Auto Parts, Inc. &
Stuart Farmer

SIGNATURES REQUIRED

Elected Official: _____

or

Department Manager: _____

KB [Signature]

98 DEC - 8 PM 11:32
MULTNOMAH COUNTY
OREGON
CLERK OF COUNTY COMMISSIONERS



MULTNOMAH COUNTY

**Department of Environmental Services
Land Use Planning Division
2115 SE Morrison Street
Portland, OR 97214 Phone: (503) 248-3043**

December 7, 1998

Board of County Commissioners
1120 SW Fifth Ave, Suite 1500
Portland, OR 97204

RE: Auto Wrecker's License-Renewal

Rex M. Davis
Orient Auto Parts Inc.
28425 SE Orient Drive, Gresham, OR 97080

Recommend: Approval of Business Location

Dear Commissioners:

The Land Use Planning Staff respectfully recommends that the above license renewal be approved, based upon the findings in the attached staff report that the business satisfies the requirements contained in Multnomah County Code Section 5.10.010 B., including the applicable provisions ORS 822.110 and the locational provisions of ORS 882.135 and continues to retain a non-conforming status.

Sincerely,

Multnomah County Department of Environmental Services
Land Use Planning Division

By Tricia R. Sears, *Land Use Planner*
For: Kathy Busse, *Planning Director*

Staff Report
Determination of Compliance
Wrecker's License Renewal
Orient Auto Parts, Inc.
28425 SE Orient Drive

This Staff Report and Determination of Compliance is made pursuant to the requirements specified by Multnomah County Code Section 5.10.010 Wrecker certificate processing fees. An application for renewal of a Wrecker Certificate as required by the State of Oregon Department of Motor Vehicles was submitted by Orient Auto Parts Inc., 28425 SE Orient Drive, Gresham, OR 97080.

I. Conditions of Approval:

1. The applicant shall obtain a Business Certificate as a wrecker of motor vehicles from the Oregon Department of Transportation. Applications for future wrecker's license renewals shall include a copy of the prior year's wrecker's certificate issued by the Oregon Department of Transportation. The application materials submitted to Multnomah County Land Use Planning did not include a copy of this document.
2. Applications for future wrecker's license renewals shall include submittal of a site plan drawn to scale, that clearly identifies the dimensional boundaries of the wrecking yard (fenced areas) in relation to property lines. Expansion of the dimensions of the wrecking yard shall not occur without prior approval of the County. This Condition of Approval was included in the December 22, 1997 Staff Report for the renewal request in 1997.

II. Applicable Zoning Considerations:

The applicable zoning considerations as specified in MCC 5.10.010 (C) are addressed below:

A. Compliance with the requirements of ORS 822.110:

The Oregon Department of Transportation shall issue a wrecker certificate to any person if the person meets all of the following requirements:

- (1) The person must establish that the area approved under the wrecker certificate for use in a wrecking business meets one of the following:**
 - (a) The area is more than 1,100 feet from the nearest edge of the right of way of any state highway.**
 - (b) The business conducted within the area is hidden or adequately screened by the terrain or other natural objects or by plantings, fences or other natural objects or by plantings, fences or other appropriate means, so as not to be visible from the main traveled way of the highway, in accordance with rules adopted by the director.**
 - (c) The area and the business thereon are located in an area zoned for industrial use under authority of the laws of this state.**

- (2) The person must pay the fee required under ORS 822.700 for issuance of a wrecker's certificate.
- (3) The person must complete the application for a wrecker certificate described under ORS 822.115.
- (4) The person must deliver to the department any approvals by local governments required under ORS 822.140.
- (5) The person must deliver to the department a bond or letter of credit that meets the requirements of ORS 822.120.

Finding: Photos taken of the site by Land Use Planning code enforcement Staff on November 30, 1998 indicate that both natural vegetation and a fence screen vehicles from adjacent roads consistent with ORS 833.110 (1)(b). Code enforcement Staff state that the site is screened by arborvitae, evergreen trees, and high fencing. The applicant has provided a Surety Bond with a dated effectiveness of January 1, 1999 to December 31, 1999. Compliance with the requirements with ORS 833.110 (2)-(5) will be ensured by obtaining a Wreckers Certificate issued by the Oregon Department of Transportation.

B. Compliance with the business location provisions of ORS 822.135:

- (1) A person commits the offense of improperly conducting a wrecking business if the person holds a wrecker certificate issued under ORS 822.110 and the person does any of the following:
 - (b) Expands the dimensions of or moves any of the person's places of business or opens any additional places of business without obtaining a supplemental wrecker certificate by the procedure under ORS 822.125.

Finding: Staff has found no evidence or indication that the dimensions of the wrecking yard have been expanded beyond that of the existing Wreckers Certificate. Applications for future wrecker's license renewals shall include submittal of a site plan clearly identifying the dimensional boundaries of the wrecking yard (fenced and/or screened areas) in relation to property lines. Expansion of the dimensions of the wrecking yard shall not occur without prior approval of the County. Site visit photos taken November 30, 1998 illustrate the site.

- (g) Fails to keep the premises on the outside of the establishment clear and clean at all times.

Finding: Land Use Planning Staff conducted a field inspection on November 30, 1998 and completed a Field Inspection Record including photos of the site indicating the area outside the establishment is clear and clean.

- (h) Conducts any wrecking, dismantling or altering of vehicles outside the building, enclosure or barrier on the premises of the business.

Finding: Based on the Land Use Planning Field Inspection Record dated November 30, 1998, no dismantling or altering of vehicles outside the fenced area of the business was evident.

C. Compliance with zoning regulations:

The wrecking yard was determined to be a non-conforming use on April 5, 1977 and January 15, 1987. Evidence within the Multnomah County file labeled Auto Wrecking – 28425 SE Orient Drive contains a record that the use of the site as an auto wrecker business has occupied the site continuously and in compliance with zoning regulations since 1977. Examination of Department land use inventory maps and zoning maps indicates that the business was in existence on the property prior to 1977. The land use map shows the site with a case file MC 1-62 listed for the subject parcel.

III. Notification:

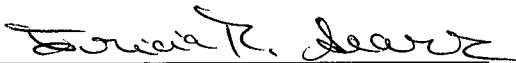
Notice of this application was sent to both the Multnomah County Sheriff and the Department of Assessment and Taxation. On December 4, 1998, Paula Gadotti of the Sheriff's Department stated, "The following tow/ storage yards have had a criminal background investigation conducted and have been approved: Loop Hi-Way, Fred Miller, and Orient Auto Parts Inc." Debbie Huff of Assessment and Taxation faxed a response on December 7, 1998 illustrating the tax account status of the subject parcel. The report shows the R account #99419-0820 and the P account # 08-16165-00; no taxes are due on the subject parcel according to the faxed statement provided by A & T.

IV. Recommendation:

The staff of the Land Use Planning Section respectfully recommends that the above license renewal be approved, based upon findings that the business satisfies the applicable requirements contained in MCC 5.10.010 and ORS 822.110, ORS 882.135 and continues to retain a non-conforming status.

Dated this 7th day of December, 1998,

Multnomah County Department of Environmental Services
Land Use Planning Division



By Tricia R. Sears, *Land Use Planner*
For: Kathy Busse, *Planning Director*



DEPARTMENT OF TRANSPORTATION
DRIVER AND MOTOR VEHICLE SERVICES
1905 LANA AVE NE, SALEM OREGON 97314

APPLICATION FOR BUSINESS CERTIFICATE

AS A WRECKER OF MOTOR VEHICLES OR
SALVAGE POOL OPERATOR

CERTIFICATE NUMBER

EXPIRATION DATE

INSTRUCTIONS:

- PLEASE TYPE OR PRINT LEGIBLY WITH INK.
- SIGN LINE 13. SUBMIT THIS APPLICATION WITH YOUR SURETY BOND AND THE REQUIRED FEE TO BUSINESS LICENSE UNIT, 1905 LANA AVE NE, SALEM OR 97314

FEE: \$54

☐ ORIGINAL ☒ RENEWAL

NAME (CORPORATION AND/OR ASSUMED BUSINESS NAME)

BUSINESS TELEPHONE

1 Orient Auto Parts, Inc.

503-663-1909

MAIN BUSINESS LOCATION (STREET AND NUMBER)

CITY

ZIP CODE

COUNTY

2 28425 SE Orient Dr.

Gresham

97080

Multnomah

MAILING ADDRESS

CITY

STATE

ZIP CODE

3 28425 SE Orient Dr.

Gresham

OR

97080

A SEPARATE APPLICATION MUST BE COMPLETED FOR EACH ADDITIONAL LOCATION FROM WHICH YOU OPERATE YOUR BUSINESS.

CHECK ORGANIZATION TYPE:

☐ L.L.C.

IF CORPORATION, LIST THE STATE UNDER WHOSE LAW BUSINESS IS INCORPORATED:

OREGON REGISTRY #

4 ☐ INDIVIDUAL ☐ PARTNERSHIP ☒ CORP.

Oregon

495683-89

LIST NAME AND RESIDENCE ADDRESS OF THIS OWNER, ALL PARTNERS, LLC MEMBERS OR PRINCIPAL CORPORATE OFFICERS:

NAME	TITLE	DATE OF BIRTH	RESIDENCE TELEPHONE
RESIDENCE ADDRESS	CITY	STATE	ZIP CODE
NAME	TITLE	DATE OF BIRTH	RESIDENCE TELEPHONE
RESIDENCE ADDRESS	CITY	STATE	ZIP CODE
NAME	TITLE	DATE OF BIRTH	RESIDENCE TELEPHONE
RESIDENCE ADDRESS	CITY	STATE	ZIP CODE

see attached

11 THE DIMENSIONS OF THE PROPERTY ON WHICH THE BUSINESS IS LOCATED ARE 500 ft. X 1150 ft.

False certification is a Class B misdemeanor under ORS 162.085 and is punishable by six months in jail, a fine of up to \$1,000 or both. In addition, DMV sanctions against you or your wrecker certificate may be imposed. With this in mind... I certify that I am the owner, a partner or a corporate officer of this business and that all information on this application is accurate and true. I certify that the right of way of any highway adjacent to the location listed above is used for access to the premises and public parking.

PRINTED NAME

Rex McDowd

SIGNATURE

13 Rex M. McDowd

DATE

11/16/98

APPROVAL

By signing this application you are authorizing wrecker business to be conducted at the location listed on Line 2 of this application, as defined in ORS 822.100. If wrecker business cannot be conducted here, or if any of the conditions below are not met, do not sign this approval.

I CERTIFY THAT THE GOVERNING BODY OF THE ☐ CITY ☒ COUNTY OF MULTNOMAH HAS:

- A) APPROVED THE APPLICANT AS BEING SUITABLE TO ESTABLISH, MAINTAIN OR OPERATE A WRECKING YARD OR BUSINESS (ORIGINAL APPLICATIONS ONLY).
- B) DETERMINED THAT THE LOCATION OR PROPOSED LOCATION MEETS THE REQUIREMENTS FOR LOCATION UNDER OREGON REVISED STATUTE 822.110.
- C) DETERMINED THAT THE LOCATION DOES NOT VIOLATE ANY PROHIBITION UNDER OREGON REVISED STATUTE 822.135.
- D) APPROVED THE LOCATION AND DETERMINED THAT THE LOCATION COMPLIES WITH ANY REGULATIONS ADOPTED BY THE JURISDICTION UNDER OREGON REVISED STATUTE 822.140.

I ALSO CERTIFY THAT I AM AUTHORIZED TO SIGN THIS APPLICATION AND AS EVIDENCE OF SUCH AUTHORITY DO AFFIX HEREON THE SEAL OR STAMP OF THE CITY OR COUNTY.

▼ PLACE STAMP OR SEAL HERE ▼

NAME

15 BEVERLY STEIN

TITLE

COUNTY CHAIR

PHONE NUMBER

(503) 248-3308

SIGNATURE

16 Beverly Stein

DATE

12/17/98

SURETY BOND

BOND NUMBER

NOTE: TO BE COMPLETED BY BONDING COMPANY. FAILURE TO ACCURATELY COMPLETE THIS FORM WILL CAUSE DELAY. PLEASE TYPE OR PRINT LEGIBLY WITH INK.

LET IT BE KNOWN:

THAT _____
(OWNER, PARTNERS, CORPORATION NAME)

DOING BUSINESS AS _____
(ASSUMED BUSINESS NAME, IF ANY)

HAVING PRINCIPAL PLACE OF BUSINESS AT _____
(ADDRESS, CITY, STATE, ZIP CODE)

WITH ADDITIONAL PLACES OF BUSINESS AT _____
(ADDRESS, CITY, STATE, ZIP CODE)

_____ (ADDRESS, CITY, STATE, ZIP CODE)

STATE OF OREGON, AS PRINCIPAL(S), AND _____
(SURETY NAME)

_____ (ADDRESS, CITY, STATE, ZIP CODE) TELEPHONE NUMBER _____

A CORPORATION ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF _____ AND AUTHORIZED TO TRANSACT A SURETY BUSINESS IN THE STATE OF OREGON, AS SURETY, ARE HELD AND FIRMLY BOUND UNTO THE STATE OF OREGON IN THE PENAL SUM OF \$2,000 FOR THE PAYMENT OF WHICH WE HEREBY BIND OURSELVES, OUR RESPECTIVE SUCCESSORS AND ASSIGN, JOINTLY AND SEVERALLY, FIRMLY BY THESE PRESENTS.

A CONDITION OF THIS OBLIGATION IS SUCH THAT, WHEN THE ABOVE NAMED PRINCIPAL HAS BEEN ISSUED A CERTIFICATE TO CONDUCT, IN THIS STATE, A BUSINESS WRECKING, DISMANTLING AND SUBSTANTIALLY ALTERING THE FORM OF VEHICLES, SAID PRINCIPAL SHALL CONDUCT SUCH BUSINESS WITHOUT FRAUD OR FRAUDULENT REPRESENTATION, AND WITHOUT VIOLATION OF ANY OF THE PROVISIONS OF THE OREGON VEHICLE CODE SPECIFIED IN ORS 822.120(2) THEN AND IN THAT EVENT THIS OBLIGATION TO BE VOID, OTHERWISE TO REMAIN IN FULL FORCE AND EFFECT UNLESS CANCELED PURSUANT TO ORS 743.755.

THIS BOND IS EFFECTIVE _____ 19 ____ AND EXPIRES _____ 19 ____ (BOND MUST EXPIRE ON THE LAST DAY OF THE MONTH)

-- ANY ALTERATION VOIDS THIS BOND --

IN WITNESS WHEREOF, THE SAID PRINCIPAL AND SAID SURETY HAVE EACH CAUSED THESE PRESENTS TO BE EXECUTED BY ITS AUTHORIZED REPRESENTATIVE OR REPRESENTATIVES AND THE SURETY CORPORATE SEAL TO BE HEREUNTO AFFIXED

THIS _____ DAY OF _____ 19 ____

SIGNATURE OF OWNER, PARTNER OR CORPORATE OFFICER

TITLE

X

SIGNATURE OF SURETY (AUTHORIZED REPRESENTATIVE)

TITLE

X

SURETY'S AGENT OR REPRESENTATIVE MUST COMPLETE THIS SECTION:

PLACE SURETY SEAL BELOW

IN THE EVENT A PROBLEM ARISES CONCERNING THIS BOND, CONTACT:

NAME

TELEPHONE NUMBER

ADDRESS

CITY, STATE, ZIP CODE

APPROVED BY ATTORNEY GENERAL'S OFFICE

Meeting Date: DEC 17 1998
Agenda No: C-9
Est. Start Time: 9:00

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Report to the Board the Hearings Officer's decision on CS 1-98, CU 6-98 & WRG 2-98

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

REGULAR MEETING Date Requested: December 17, 1998
Amt. of Time Needed: 5 minutes

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

PERSON(S) MAKING PRESENTATION: Stuart Farmer

ACTION REQUESTED

☐ Informational Only ☐ Policy Direction ☒ Approval ☐ Other

SUGGESTED AGENDA TITLE

Report to the Board the Hearings Officer's decision regarding an **Approval** of CS 1-98, CU 6-98 & WRG 2-98 with conditions to legalize an illegally existing moorage, Lucky Landing Marina, on the Multnomah Channel located in a Multiple Use Agriculture zoning district.

SIGNATURES REQUIRED

Elected Official: _____

or

Department Manager: _____

KB [Signature]

BOARD OF
COUNTY COMMISSIONERS
98 DEC - 8 PM 1:33
MULTNOMAH COUNTY
OREGON



BOARD HEARING OF DECEMBER 17, 1998

TIME 9:30am

CASE NAME: Lucky Landing Marina.
NUMBER: CS 1-98/CU 6-98/WRG 2-98.

1. Applicant Name/Address

Kevin Brady
Fulcrum Consulting
3463 SW Alice
Portland, OR 97219

2. Property Owner/Address

Michael and Pamela Yerger
4909 Willamette Drive
Vancouver, WA 98661

Property Address: 12940, 12902, 12900 NW Marina Way
Tax Lot 51, Section 28, T. 2 N., R. 1 W.
Tax Lots 16, 24, 30, Section 33, T. 2 N, R. 1 W.
Site size: 11.27 acres.

2. Action Requested by Applicant

Community Service, Conditional Use, and Willamette River Greenway approvals to legalize an illegally existing moorage, Lucky Landing Marina, on Multnomah Channel. The subject property is located in the Multiple Use Agriculture (MUA-20) zoning district.

3. Planning Staff Recommendation

Denial of CS 1-98, CU 6-98, and WRG 2-98 unless the Hearings Officer determines that the specified criteria identified by Staff have been met by the applicant. Those criteria were identified by Staff on page 2 of the Staff Report issued October 12, 1998. Approval with conditions was suggested (and the Conditions of Approval were identified on pages 2-3 of the October 12th Staff Report) if the Hearings Officer determined that the required information had been submitted and satisfied the criteria.

Action Requested of Board

- ☒ Affirm Hearings Officer Decision
Hearing/Rehearing
- ☐ Scope of Review
- ☐ On The Record
- ☐ De Novo
- ☐ New information allowed

4. Hearings Officer Decision

Approval, with conditions. The Hearings Officer stated, "The applications either comply or can be made to comply through conditions of approval, with all applicable criteria. The Hearings Officer hereby approves CS 1-98, CU 6-98, and WRG 2-98, subject to the conditions contained within this decision."

5. If recommendation and decision are different, why?

At the hearing on October 21, 1998, the applicant provided additional narrative and presented a new site plan to Staff and to the Hearings Officer. In addition, the applicant provided supplemental narrative after the public hearing, per the Hearings Officer's request, regarding the specified criteria. The Hearings Officer determined the criteria have been met by the applicant or can be met through the Conditions of Approval.

6. Issues:

The applications for the CS, CU, and WRG were to legalize the existing boat moorage in the Multiple Use Agriculture (MUA-20) zone. The proposed development was considered new for the purposes of the applications. The subject moorage did not meet the reconciliation provisions of the Sauvie Island/ Multnomah Channel Rural Area Plan (SI/MC RAP) and hence was required to submit the applications cited herein.

7. Do any of these issues have policy implications? Explain.

No policy implications have been identified.

RECEIVED

98DEC -4 AM 9:52

MULTNOMAH COUNTY
PLANNING DECTION

**BEFORE THE HEARINGS OFFICER
FOR MULTNOMAH COUNTY, OREGON
FINAL ORDER**

This Decision consists of Conditions, Findings of Fact and Conclusions

December 3, 1998

Case File: CS 1-98, CU 6-98, WRG 2-98

WHAT: Community Service (CS), Conditional Use (CU) and Willamette River Greenway (WRG) permits to legalize an existing boat moorage in the Multiple Use Agriculture (MUA-20) zone. The proposed development is considered new for the purposes of these applications.

Site Address: 12940, 12900, 12902 NW Marina Way

Legal Description: Tax Lot 51, Section 28, T2N R1W, WM.
Tax Lots 24, 30, and 16, Section 33, T2N R1W, WM.

Tax Accounts: R97128-0510, R97133-0240, R97133-0300, and R97133-0160

Applicant's Representative: Kevin Brady
Fulcrum Consulting
3463 SW Alice
Portland, OR 97219

Property Owner: Michael and Pamela Yerger
4909 Willamette Drive
Vancouver, WA 98661

Site Size: 11.27 acres

Plan Designation: Multiple Use Agriculture

Zoning District: MUA-20

Hearings Officer Decision: Approval of the proposed Community Service (CS 1-98), Conditional Use (CU 6-98), and Willamette River Greenway (WRG 2-98) permits to bring the illegally existing moorage into legal compliance.

The applicant requests approval for six living units (one home office/garage, five combinations, and eight garages) in the Community Service and the Conditional Use applications. The home office is used for the business of operating the moorage. The WRG application, under the provisions of Section .6360 (B), is to be reviewed concurrently with the CS and CU applications.

If the required information is submitted to the Hearings Officer and determined by the Hearings Officer to satisfy the applicable criteria noted above, the following Conditions of Approval are recommended:

CONDITIONS OF APPROVAL:

1. A Grading and Erosion Control (GEC) Permit will be required for any volume of soil or earth disturbed, stored, disposed of, excavated, moved, or used as fill greater than 50 cubic yards.
2. The applicant must receive Design Review approval prior to the issuance of building or land use permits. The submittal of the Design Review application and any other subsequent administrative decisions related to the legalization of the existing moorage for the subject parcels shall occur within six (6) months of the date of the approval of CS 1-98, WRG 2-98, and CU 6-98 applications by the Hearings Officer. The Design Review application may have additional Conditions of Approval and timelines.
3. Approval of this Conditional Use shall expire two years from the date of this Decision unless "substantial construction" has taken place in accordance with MCC 11.15.7110 (C) or the subject proposal is completed as approved or the Approval Authority establishes a specific expiration date.
4. Approval of the Community Service shall expire two years from the date of issuance of this Decision unless "substantial construction" has taken place with MCC 11.15.7010 (C) or the subject proposal is completed as approved or the Approval Authority establishes a specific expiration date.
5. The applicant shall construct the parking lot and the ingress and egress areas of the site two feet above the 100-year flood boundary so as to be in compliance with the provisions of Section .7520 (B), Waterfront Uses CU.
6. Prior to approval of Design Review, the applicant shall clearly delineate and dimension on the site plan, all areas utilized for proposed accessory uses on the site such as boat and trailer storage, trash and recycling bins, portals etc. Proposed accessory uses will be reviewed through Design Review and limitations set to maintain them as an accessory use to the moorage.

7. Prior to issuance of building permits or any subsequent land use permits, the applicant/ property owners shall provide documentation that violations with the City of Portland have been resolved.
8. When ready to have land use or building permits signed-off, the applicant shall contact the Staff Planner, for an appointment to review and sign the plans. The applicant shall submit five (5) copies of the required building plans. Multnomah County will keep one (1) copy and four (4) copies will be returned to the applicant for processing with the City of Portland.
9. No additional land use action and/ or permit requests shall be accepted, relating to the subject application, until such time as all required fees for the said applications have been paid in full.
10. This approval is based on the submitted material. The existing boat moorage shall be maintained on the site in accordance with the design, size, and location shown and described in the application materials submitted by the applicant in the CS 1-98, WRG 2-98, and CU 6-98 case files. Additional submittals and actions may be required of the applicant as noted in these Conditions of Approval.
11. Any signs on the property shall comply with the provisions in MCC 11.15.7902 - .7982.
12. The property owner shall allow the public access to the river by way of the driveway and the ramp to the moorage.
13. Any harvesting of timber, beyond the vegetative fringes, shall be conducted in a manner which shall insure that the natural scenic qualities of the greenway will be maintained to the greatest extent practicable.
14. Within one year of the date of this Decision, the application shall plant the site as proposed on the revised site plan and narrative submittals dated October 1998.

BURDEN OF PROOF

In this proceeding, the burden of proof is upon the applicant.

BACKGROUND

Mr. and Mrs. Yerger own four contiguous parcels on which they operate the Lucky Landing Marina. Tax Lot 51 has a tenancy from the Division of State Lands on which there is a moorage operation. The purpose of these applications is to legalize that moorage

which was established without all necessary land use permits. Tax Lot 24 is south of Tax Lot 51. According to the site plan, there is a boat ramp, a large parking area, restroom facilities and a storage shed on Tax Lot 24. Tax Lot 16 is at the southwest corner of Tax Lot 24. Tax Lot 30 is a narrow rectangular parcel along the south edge of Tax Lot 24. These applications do not address the uses on Tax Lots 16, 24 or 30. The site plan includes all of the Yerger's property. However, the applications relate only to uses on Tax Lot 51.

The property owners request approval for the following land use applications: Community Service (CS), Willamette River Greenway (WRG), and Conditional Use (CU). The land use applications are required to legalize the existing moorage. For purposes of reviewing these land use applications, the development is treated as though it were proposed new development.

The current owners (Michael and Pam Yerger) purchased the property in 1991 from the Kennagy/Bruce Company. When the Yergers purchased the property it was being used as a salvage operation and 3 to 4 houseboat moorages. The Yergers have added houseboats and combos and ceased the salvage operation.

The subject property is located northeast of NW Marina Way, between Marina Way and the Multnomah Channel. The property is located just outside the Portland city limits. Tax Lot 51 is an irregular-shaped parcel with approximately 460' of frontage along Multnomah Channel and 240' of frontage along NW Marina Way. The north property line is approximately 358' and the south property line, abutting Tax lot 24 is approximately 514'. The east and west dimensions are not provided on the site plan. According to the record, the west frontage along the Multnomah Channel is approximately 600 feet. Tax Lots 30 and 16 are very small parcels adjacent to Tax Lots 24 and 51.

In addition to this upland area, the Yergers had a State waterway lease for the adjacent submerged and submersible lands from the Division of State Lands of the State of Oregon, Lease ML-9200. The lease commenced December 1, 1986 and expired November 30, 1996. A condition of renewal of the lease is satisfaction of County Land Use Planning policies and procedures. The previous owner of the subject property did not go through the proper permitting procedure, hence these applications. The moorage is located on the submerged and submersible leasehold area. A driveway, parking lot, subsurface disposal system, trash enclosure area and proposed landscaping are located on the uplands area.

A portion of the property is located within areas of 100-year and 500-year floods. The southwest portion of the property is located within a wetland area. The improvements to the site are accessed by a graveled driveway ending in a small parking lot.

The existing moorage consists of a 3' x 75' metal access ramp, a 10' x 20' wood ramp float, wood pilings and wood float walks approximately 8' x 500'. The wooden walkway runs parallel with the shoreline with only two separate perpendicular wood fingers. The development provides moorage for boat garages and 'combos' (combination of living unit and boat garage). The Sauvie Island / Multnomah Channel Rural Area Plan defines

"houseboat" as 1) any houseboat, and 2) any boathouse or combo which is used as a residence (occupied 7 or more days per month." There are a total of 14 structures connected to the wood float dock and pilings (see site plan). Structures numbered 2, 3, 5, 8, and 12 on the site plan are 'combos' for a total of 5 'combos'. Structures numbered 1, 4, 6, 9, 10, 11, 13, 14 are boat garages for a total of 8 boat garages. Structure number 7 is a barge used for both a dwelling for the owner and a home office for operating the moorage business and workshop to repair and maintain boats at the moorage and the moorage itself.¹ Aside from the boat moorages, there are no other commercial types of activity on the site.

Multnomah County adopted the Sauvie Island/ Multnomah Channel Rural Area Plan (SI/MC RAP) on October 30, 1997. Policy #10 of SI/ MC RAP established a procedure for Multnomah County to determine the status of existing moorage/ marina use. Policy #10 established a July 1, 1997 deadline to legally establish existing moorages to continue the use and level of intensity in existence at the moorage. Although the property owners had a pre-application conference in January 1997, these applications were not filed until May and February 1998 and were not deemed complete until August 31, 1998. The property owners for Lucky Landing Marina did not obtain permits by the July 1, 1997 date.

The subject properties of the Lucky Landing Marina have been in violation of Multnomah County regulations, City of Portland Bureau of Building regulations, Department of Environmental Quality regulations, and the Department of State Lands regulations. Because the marina was in violation of non-County permits it did not qualify to be permitted under the Policy 10 procedures.

Modifications to the existing site improvements include new parking and landscaping, as well as a recently installed sewer drain field and trash enclosure area.

The property was involved in a violation proceeding with the Division of State Lands for illegal fill in the wetlands on Tax Lots 51 and 24. In those proceedings the property owners agreed to a consent order which required them to remove the fill and restore the wetlands to their natural condition. The terms of the consent order have been fulfilled and DSL has closed the violations case.

¹ There is conflicting evidence in the record concerning the number of living units. A site plan in the record contains and written notations of the use of each structure, as a "combo," a "boathouse" or a houseboat." According to that plan there are four combos and five houseboats, plus a dwelling on the owner's barge. In addition, the record contains an inventory of the site by the Planning Staff on December 9, 1997, which states there were 10 houseboats. Also, the on-site sewage disposal application was for "7 units and one barge." This Decision is based on the applicant's written description of the use of the site, which was used in the staff report and with which no one took issue.

According to a letter from DSL dated July 7, 1998 the Yerger's waterway lease expired on November 30, 1996. Upon the expiration of the lease, the Yerger's tenancy became a "holdover tenancy" and a month to month tenancy was created. One of the conditions precedent to DSL renewal of the waterway lease is compliance with Multnomah County requirements. The letter is attached as Exhibit #6.

The Yergers were in violation of DEQ regulations for discharging sewage into Multnomah Channel. The property owner has constructed a subsurface sewage system on Tax Lot 51. The City of Portland, which implements the DEQ sanitary program for Multnomah County, stated in a September 8, 1997 letter that the Yergers needed to obtain Land Use Planning approval for the appropriate land use applications before the City could approve the sewage disposal system.

The property owner attended a Pre-Application Meeting with Multnomah County Land Use Planning Staff on January 23, 1997. The property owner applied for Community Service and Willamette River Greenway permits on February 20, 1998. Both applications were deemed incomplete March 9, 1998. The property owner applied for the Conditional Use permit on May 19, 1998. The property owner and applicant submitted additional information and the CS, WRG, and CU were deemed complete on August 31, 1998.

A site plan of Tax Lots 16, 24, 30 and 51 is Exhibit #1 to this Decision. The applicant has requested approval for 14 structures - eight garages, five combinations, and one home office. The applicant states that six living units will be located on Multnomah Channel. Combos or combinations are houseboats plus garages together (hence combined). Multnomah County Code does not have a specific provision for combinations. Therefore, the combinations treated as houseboats. In addition, the site plan illustrates the existing house, built in 1919, on Tax Lot 16 (R96133-0160).

On May 18, 1998, the National Marine Fisheries Service (NMFS) listed Steelhead as a threatened species in the lower Columbia Valley. The Endangered Species Act prohibits "taking" of Steelhead without a permit from NMFS. Destruction or modification of habitat may constitute a "take" under the Endangered Species Act. This application is subject to compliance with the Endangered Species Act because the proposed moorage activities may result in destruction or modification of habitat. Staff recommends the applicant/ property owner contact the National Marine Fisheries Service (NMFS) to ensure this development complies with the applicable elements of the Endangered Species Act.

TESTIMONY AND EVIDENCE PRESENTED

A public hearing was held on October 21, 1998. After the close of the hearing the Hearings Officer left the record open for the submittal of additional evidence by the applicant for 7 days, by opponents for an additional 7 days followed by a 7 day period for the applicant to rebut any opponent evidence, and finally a 7 day period for staff evaluation of additional evidence.

1. Tricia Sears, County planner, summarized the staff report. She presented slides showing the site. She stated that the property owner did not obtain approval for the reconciliation process for existing moorages. She stated that the home office is used for operating the moorage operations. She read applicable code provisions to demonstrate why both a CUP and a CS application are required. If the Hearings Officer finds that the applicable requirements are met, the staff has recommended conditions that the Hearings Officer should impose on any approval. The Hearings Officer asked whether the home office is a "home occupation" and why it doesn't need approval as a home occupation.
2. Kevin Brady, representing the applicant, submitted a letter dated October 14, 1998 responding to the items that the staff report indicated the applicant failed to comply with. (Exhibit D1). The letter responds to subjects the staff found that the applicant did not comply with. The applicant revised the site plan. They created a riparian buffer. They also revised the site plan and set back the parking area to provide 2 additional parking spaces. The hearings officer noted that the applicant had submitted new evidence, therefore the hearing would need to be continued.
3. Jay McCaulley, representing Dan Gulbrandson/A1 Moorage, an adjacent property owner testified. Mr. Gulbrandson is concerned that the last houseboat added in the subject moorage in 1995 may be located on or so near Mr. Gulbrandson's leasehold that it creates an encroachment on Mr. Gulbrandson's property. He stated that this structure does not have adequate piling to support it. He also stated concern about the adequacy of utility services, specifically sewer and water. It is his understanding that water service does not extend to Tax Lot 51 and that sanitary services are not used.
4. Stephen Purchase, Assistant Director of Field Operations with the Division of State Lands, wrote a letter dated October 21, 1998 to Tricia Sears. He stated that DSL will work with Mr. Yeager and Mr. Gulbrandson at A-1 Moorage to resolve the encroachment issue after the County has made the land use decision.
5. Kevin Brady responded to Mr. McCaulley concern about a possible encroachment of one of the houseboats into Mr. Gulbrandson's leasehold. Mr. Brady stated that the Yerger's leased area has been surveyed and that all of the moorage improvements are within the Yerger's leased area. He also argued that any issue relating to a possible encroachment onto another person's property interests is not relevant to the land use decisions before the Hearings Officer.
6. During the period that the record was open, Kevin Brady submitted a letter dated October 26, 1998 addressing issues raised in the staff report.

STANDARDS AND CRITERIA, ANALYSIS AND FINDINGS OF FACT

In this section of the Decision, the applicable zoning code criteria are set forth in bold print followed by the hearings officer's findings of fact, analysis and conclusions on each criterion.

I. MULTNOMAH COUNTY ZONING CODE (MCC 11.15) APPROVAL CRITERIA

I. Multiple Use Agriculture (MUA-20)

A. 11.15.2126 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 .2128 through .2136.

B. 11.15.2132 Conditional Uses

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

(A) Community Service Uses pursuant to the provisions of MCC .7005 through .7041;

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

* * *

(9) Houseboats and Houseboat Moorages.

(D) Type B home occupation as provided for in MCC 11.15.7455.

11.15.2134 Accessory Uses

(A) Signs, pursuant to the provisions of MCC 11.15.7902-.7982

(B) Off-street parking and loading;

(C) Type A home occupations pursuant to the definition and restrictions of MCC 11.15.0010;

Findings and Conclusions. The zoning of the subject parcel is MUA-20. Section .2132 (B)(9) of the MUA-20 Code provisions lists houseboats and houseboat moorages as a

Conditional Use. Section .2132 (B) establishes Community Services as permitted uses provided for in Section .7005 - .7041. In Section .7020 (A)(1), the Community Service Code provisions, "boat moorage, marina, or boathouse moorage" is listed as a use. Section .7505 includes definitions for houseboats and moorages. A houseboat, "shall mean any floating structure designed as a dwelling for occupancy by one family and having only one cooking facility." A houseboat moorage, "shall mean the provision of facilities for two or more houseboats." Thus, the applicant is required to obtain Community Service approval and Conditional Use approval. Both applications require a public hearing with a Hearings Officer acting as the approval authority. The property owner applied for the appropriate land use actions (Community Service, Conditional Use and Willamette River Greenway), but did not apply for a Conditional use for the home-occupation that is being conducted on the site.

C. Home occupation

MCC 11.15.0010 defines Home Occupation:

- (A) A type A home occupation is one where the residents use their home as a place of work. Type A home occupations may have up to one non-resident employee or customer on the premises at any one time in addition to the resident participant. No new buildings or modifications to existing structures shall be allowed (constructed after March 14, 1998). No deliveries other than those normally associated with a single family dwelling and between the hours of 7 a.m. - 6 p.m. No outdoor storage or displays shall occur (including vehicle parking associated with the Home Occupation). No signage shall be allowed (including temporary signage and those exempted under MCC 11.15.7912 with the exception of those required under MCC 11.05.500 - .575), and no noise above 50 dba (decibels adjusted) at the property lines shall be permitted. No repair or assembly of any vehicles or motors can occur as part of a type A home occupation. A type A home occupation may not serve as headquarters or dispatch where employees come to the site. A type A home occupation must have direct access to a public road (no easements). Type A home occupations shall be filed on a form provided by the Planning Director. Type A Home Occupations must be in conformance with all other applicable state codes.**
- (B) Type B home occupation is one where the residents use their home site as a place of work but exceeds the standards of the type A home occupation. Type B home occupations shall be approved as per MCC 11.15.7105 and .7455.**

Findings and Conclusions. According to the record, the property owner conducts a home occupation on the barge. The home occupation includes activities to operate the moorage business. Those activities include repair of boats. A type A home occupation may not

include the repair of vehicles or motors. A boat is a vehicle. Consequently the owner's home occupation is not a type A home occupation but is a type B home occupation. A type B home occupation requires approval as a conditional use. This application does not include a request a conditional use permit for the home occupation. If these applications are approved, the owner will need to obtain approval for the home occupation through a conditional use procedure pursuant to MCC 11.15.7105 and MCC 11.15.7455.

D. 11.15.2138 Dimensional Requirements

- (A) Except as provided in MCC .2140, .2142, .2144 and .7629, the minimum lot size shall be 20 acres.**

Findings and Conclusions. None of the four subject parcels of the application of the Lucky Landing Marina meet the minimum lot size of 20 acres for the MUA-20 zoning designation. The four (4) parcels are on Map 2N, 1W:

<u>R#</u>	<u>Tax Lot #</u>	<u>Section #</u>	<u># Acres</u>	<u>Address</u>
R97128-0510	Tax Lot 51	Section 28	2.82 acres	12940 NW Marina Way
R97133-0240	Tax Lot 24	Section 28	6.38 acres	12900 NW Marina Way
R97133-0300	Tax Lot 30	Section 33	0.64 acres	12900 NW Marina Way
R97133-0160	Tax Lot 16	Section 33	1.43 acres	12902 NW Marina Way

The parcels are Lots of Record according to Section .2142. Multnomah County Sectional Zoning Maps from September 1977 indicate the parcels were established in their current size and configuration by that date. See discussion below concerning Section .2142.

- (B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.**

- (C) Minimum Yard Dimensions - Feet**

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height - 35 feet

Minimum Front Lot Line Length - 50 feet.

Findings and Conclusions. The site plan attached as Exhibit #1 shows the moorage site. The moorage use occurs outside the boundaries of Tax Lot 51, within a leasehold for submerged and submersible lands. The setback requirements do not apply to these structures. No structures are proposed on the uplands.

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

Findings and Conclusions. No structures are proposed on the privately owned land.

E. 11.15.2142 Lot of Record

- (A) For the purposes of this district, a Lot of Record is a parcel of land for which a deed or other instrument dividing land was recorded with the Department of Administrative Services or was in recordable form prior to October 6, 1977, and which, when established, satisfied all applicable laws.
- (B) A Lot of Record which has less than the area or front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.
- (C) Separate Lots of Record shall be deemed created when a street or zoning district boundary intersects a parcel of land.
- (D) Except as otherwise provided by MCC .2140, .2144, .6256 and .7720, no sale or conveyance of any portion of a lot, other than for a public purpose, shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

Findings and Conclusions. As described in discussion of MCC Section .2138 (A), all four parcels are less than the required minimum lot size of the MUA-20 zone. The current size and configuration of the parcels was established prior to October 6, 1977, according to pages 70 and 85 of the Multnomah County Sectional Zoning Maps, dated September 1977. The subject parcels are Lots of Record.

F. 11.15.2146 Off-Street Parking and Loading

Off-Street parking and loading shall be provided as required by MCC .6100 through .6148.

Findings and Conclusions. If the application is approved, the property owners would be required to submit a Design Review application. Compliance with the OP provisions could be assured through the Design Review process. According to the revised site plan, the parking and loading area is located near the ramp leading to the proposed boat moorage. Six living units are proposed, therefore, 12 parking spaces are proposed. Each space is 9 feet wide by 18 feet deep. The loading area designated at the east end of the parking area allows small trucks ingress and egress to the trash and sewer disposal area, without affecting the access for the required parking spaces. At the north border of the parking area is a 4-foot wide bio-swale that is incorporated into the 20-foot upland buffer. Finally, the parking area will be elevated to 29 feet to meet requirements of MCC .7520.

G. 11.15.2148 Access

Any lot in this district shall abut a street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles.

Findings and Conclusions. The subject properties abut NW Marina Way. This is adequate access. This criterion is met.

II. Community Service

A. 11.15.7005 Purpose

MCC .7005 through .7041 provides for the review and approval of the location and development of special uses which, by reason of their public convenience, necessity, unusual character or effect on the neighborhood, may be appropriate in any district, but not suitable for listing within the other sections of this Chapter.

11.15.7010 General Provisions

(A) Application for approval of a Community Service use shall be made in the manner provided in MCC .8205 through .8280.

Findings and Conclusions. Boat moorages uses are listed community service uses in MCC .7020(A)(1). The applicant submitted the Community Service (CS) application on February 20, 1998. The CS application was deemed complete on August 31, 1998, along with the Conditional Use and Willamette River Greenway applications. MCC .8295 through .8280 contain procedures applicable to community service uses, including a public hearing. The applicant complied with this criterion.

- (B) Except as provided in MCC .7022 (F) and (G), the Approval Authority shall hold a public hearing on each application for a Community Service Use, modification thereof, or time extension.

Findings and Conclusions. The application for the Community Service, CS 1-98, for Lucky Landing Marina was filed as required in MCC .7020(A) and is not subject to the exceptions from a public hearing under subsections (F) and (G). The application was reviewed by the Hearings Officer at a public hearing on October 21, 1998. In addition, the applications for the Willamette River Greenway, 2-98, and the Conditional Use, CU 6-98, were reviewed with CS 1-98 at the public hearing. This criterion was met.

- (C) The approval of a Community Service Use shall expire two years from the date of issuance of the Board Order in the matter, or two years from the date of final resolution of subsequent appeals, unless:
- (1) The project is completed as approved, or
 - (2) The Approval Authority establishes an expiration date in excess of the two year period, or
 - (3) The Planning Director determines that substantial construction or development has taken place. That determination shall be processed as follows:
 - (a) Application shall be made on appropriate forms and filed with the Director at least 30 days prior to the expiration date.
 - (b) The Director shall issue a written decision on the application within 20 days of filing. That decision shall be based on findings that:
 - (i) Final Design Review approval has been granted under MCC .7845 on the total project; and
 - (ii) At least ten percent of the dollar cost of the total project value has been expended for construction or development authorized under a sanitation, building or other development permit. Project value shall be as determined by MCC .9025(A) or .9027(A).
 - (c) Notice of the Planning Director decision shall be mailed to all parties as defined in MCC .8225.

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

Findings and Conclusions. This Code provision is procedural, it is not an approval criterion. The staff proposed a condition to be imposed if the application were approved to inform the applicant that approval would expire in two years.

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

Findings and Conclusions. This Code provision is procedural, it is not an approval criterion. If the application were approved, a condition could be imposed limiting the uses approved and to assure that all the Code and other legal requirements are met.

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

Findings and Conclusions. This Code provision is procedural, it is not an approval criterion. It authorizes the Hearings Officer to impose conditions on an approval.

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

Findings and Conclusions. If the decision is approved, a Design Review application would be required for this land use application. The staff proposed a condition of approval to establish a time line for the applicant to submit a Design Review application.

- (G) A Community Service approval shall not be construed as an amendment of the Zoning Map, although the same may be depicted thereon by appropriate color designation, symbol or short title identification.

Findings and Conclusions. This Code provision is procedural, it is not an approval criterion. If the CS application were approved, Multnomah County staff would make the appropriate

designations would be made on land use maps. This criterion does not apply to this decision to deny the application.

B. 11.15.7015 Approval Criteria

In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria . . .

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

Findings and Conclusions. The Lucky Landing Marina is located on Multnomah Channel and is accessed by NW Marina way. The improvements on the site consists a floating moorage having a 3' x 75' metal access ramp, a 10' x 20' wood ramp float, wood pilings and wood float walks approximately 8' x 500'. In addition, there are 14 structures attached to the float walks and pilings that are used for combos and boat garages. This boat moorage is capable only of side-ties for smaller outboard fishing boats and houseboats.

Exhibit #2 is the Multnomah Channel Southern Portion map from the Sauvie Island / Multnomah Channel Rural Area Plan. To the south of the subject properties is Fred's Marina and to the north is A-1 Moorage. This map shows that Lucky Landing Marina is one of numerous moorages located on the Multnomah Channel. Due to the waterfront location, zoning and accessibility, marinas and moorage are the primary land uses in the area. Other dominant land uses in the area include a wood chip facility to the south of the property. The upland areas are used principally for parking. Residential development in the surrounding area is limited to several houses located across Highway 30 on a bluff overlooking the river and Multnomah Channel. The moorage is proposed for location in an area designated by Multnomah County's Comprehensive Plan Policy 26 as appropriate for houseboats. The existing improvement on the subject property compliments the existing moorage and launch uses of the neighboring area, reinforcing the marine-oriented character of the area. The proposed use of the site as a moorage is consistent with the character of the area. The application meets the criteria.

(B) Will not adversely affect natural resources;

Findings and Conclusions. The subject parcels of the Lucky Landing Marina are identified as part of the Willamette River Greenway. By definition, this is a significant natural resource. Tax Lot 51 of the site includes a wetland that is recognized by the DSL as a wetland. The site includes parcels identified on the riparian area/ corridors of the *Significant Wetlands* maps, but does not include a wetland designated on Multnomah County *Significant Wetlands* maps. As part of the Goal 5 Inventory, Multnomah County hired a consultant in 1988 to identify riparian and wetland areas in Multnomah County. According to the Proposed Local Review Order and Supplemental Findings (February 1989), "Riparian areas adjacent to the wetlands and water areas were also evaluated and mapped as part of the inventory because of the inter-relationship they have for wildlife habitat." A map, attached as Exhibit #10 (four pages), shows fifteen Significant Wetland Areas.

Multnomah Channel is #5 on the list. Aerial photographs, recorded by section, were used to identify Significant Wetlands and riparian corridors on individual parcels. A map, attached as Exhibit #11, illustrates the parcel specific boundaries of the riparian corridor on the subject parcels of Lucky Landing Marina. The Multnomah Channel and the wetland on the site provide habitat for fish and wildlife. The natural resources of the site are important and extreme care should be taken to minimize any impacts to these resources. The applicant has not identified the impacts of the proposed development to the riparian corridor.

In October 1995, the property owners entered a Consent Agreement with DSL to "resolve the fill violation by removing the material and reestablishing the original contours and by planting native vegetation to restore the wetlands" (January 26, 1998 letter from Jerry Hedrick to Kevin Brady). Exhibit #4 shows the Wetland Restoration plan and Exhibit #5 shows the River Bank Restoration plan. According to Exhibit D1, the applicant has restored the wetland according to the wetland and riverbank restoration plans. The natural contours were re-established, manmade debris and non-native vegetation was removed and native vegetation was planted. The restoration was completed last summer and was done according to the plans approved by Jerry Hedrick of DSL. Jerry Hedrick visited the site and wrote a letter indicating that the applicant has complied with the conditions of the applicant's consent agreement with DSL (Exhibit #3). The violation case has been closed.

The expired submerged lands lease on the site, according to DSL correspondence, cannot be renewed until the property owner completes the approval process for land use applications at Multnomah County. Exhibit #6 is a July 1998 letter from Jerry Hedrick to the property owners regarding the renewal of the lease with DSL.

After the staff report the applicant revised the site plan. The driveway and parking lot have been relocated away from the riparian area and upland buffer to minimize any impacts created by that part of the development. The driveway area was also reduced in size to further protect upland areas of the site. No uses are proposed for the upland area except for the vehicle areas and underground sewer system. The applicant proposes to grade the parking area so that it drains away from the river and the wetland. In addition a oil/water separator system is proposed to be installed in the parking area.

According to Exhibit D1, the sewer situation has been resolved through the construction of an on-site subsurface sewage disposal system. The City of Portland cannot grant final approval of the system until the land use applications are approved. The sewer system can handle up to 15 housing units, though only 6 are proposed. The system is self-contained and designed and constructed under industry standards. The applicant states that no wastewater will be discharged from the boats, moorage or any other development on the site.

The applicant has demonstrated that any adverse effects of the development on natural resources will be mitigated.

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

Findings and Conclusions. The subject properties of the Lucky Landing Marina are not currently used for farm or forest practices. The nearest agricultural uses are on Sauvie Island, separated from the subject property by the Multnomah Channel. A pattern of marine uses has long been established in this segment of MUA-zoned land. In addition, MUA-20 zoned lands that are suitable for commercial forest uses are separated from the subject property by railroad tracks and US Highway 30. It is not likely that the continued use of the site as a moorage will conflict with farm or forest practices on surrounding parcels. The application meets the criteria.

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

Findings and Conclusions. The improvements on the site utilize existing public services including electrical, communication and water. The applicant has provided completed Service Provider forms. A drywell is proposed in the parking lot area to accommodate water run-off. The existing use is connected to a subsurface sewage disposal system that will be approved after a Community Service Use and Willamette River Greenway are approved. Because adequate electrical, communication, water and sewage disposal is currently existing, public service extensions are not required.

- (E) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;**

Findings and Conclusions. The subject parcel is not identified as a parcel on Multnomah County's Wildlife Habitat Map within the Sensitive Big Game Wintering Areas. This criterion does not apply.

- (F) Will not create hazardous conditions; and**

Findings and Conclusions. The site is located within the 100-year and 500-year floodplain areas. Soil maps at Multnomah County identify that the majority of the subject parcels contain Sauvie silt loam. The Soil Survey of Multnomah County, Oregon states that the main limitations for urban development for Sauvie silt loam (44) "are frequent flooding and a seasonal high water table." The site also contains Urban land, 0 to 3 percent slope (50A). According to the Soil Survey, the parcels "are subject to flooding." Flood hazard provisions in the code have been addressed and met (see MCC .6315.)

The site has not been identified as being subject to erosion or other potential natural hazard conditions. No hazardous materials have been used at this site and none are proposed. The new sewer system meets industry and DEQ standards. The improvements to the site are subject to applicable local and state building code and development standards and applicable state and federal environmental and safety regulations.

The use of the site as a houseboat moorage and marina is not likely to create hazardous conditions.

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

Findings and Conclusions. The Comprehensive Plan Policies are addressed separately in this Decision. This criterion is met.

- (H) Will satisfy such other applicable approval criteria as are stated in this Section.

Findings and Conclusions. All applicable approval criteria have been considered and the Hearings Officer has found that the either are met or can be met through conditions of approval.

C. 11.15.7020 Uses

- (A) Except as otherwise provided in MCC 11.15.2008 through .2012 and MCC 11.15.2048 through .2050, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority.

- (1) Boat moorage, marina or boathouse moorage.

Findings and Conclusions. This section requires a boat moorage to obtain Community Service Use approval through a public hearing process. The applicant requested approval for the existing marina to become a legal existing marina through the application process for Community Service Use (CS) as well as Conditional Use (CU) and Willamette River Greenway (WRG) permits. The existing moorage has not been legally authorized, therefore the moorage is reviewed as a new development for the purposes of the CS, CU, and WRG applications.

- (B) Approval of a Community Service Use shall be deemed to authorize associated public utilities, including energy and communication facilities.

Findings and Conclusions. This subsection of the Community Service section of the Code is not an approval criterion. It provides that if a community service use is approved, associated public utilities are authorized.

D. 11.15.7025 Restrictions

A building or use approved under MCC .7020 through .7030 shall meet the following requirements:

- (A) Minimum yards in . . . MUA-20, . . . Districts:

- (1) Front yards shall be 30 feet.

- (2) Side yards for one-story buildings shall be 20 feet; for two-story buildings, 25 feet.
- (3) Rear yards shall be as required in the district.

Findings and Conclusions. The dimensional standards of the site have been evaluated under Section .2138. Because the moorage use is not on a lot, the dimensional standards are not applicable.

- (E) Off-street parking and loading shall be provided as required in MCC .6100 through .6148.

Findings and Conclusions. Parking standards are addressed above under subsection .2146. According to the revised site plan, the parking and loading area is located near the ramp leading to the proposed boat moorage. Six living units are proposed, therefore, 12 parking spaces are proposed. Each space is 9 feet wide by 18 feet deep. The loading area designated at the east end of the parking area allows small trucks ingress and egress to the trash and sewer disposal area, without affecting the access for the required parking spaces. At the north border of the parking area is a 4-foot wide bio-swale that is incorporated into the 20-foot upland buffer. Finally, the parking area will be elevated to 29 feet to meet requirements of MCC .7520.

If the Conditional Service Use were approved the parking standards could be met by the imposition of a condition of approval to obtain a Design Review approval which includes meeting the parking standards. The applicant has shown the proposed parking on the site plan showing that the standards could be met.

- (F) Signs for Community Service Uses located in districts in MCC .2002 - .2966 pursuant to the provisions of MCC .7902 - .7982.

Findings and Conclusions. If the Community Service Use were approved, compliance with the sign standards could be assured by imposition of a condition of approval. There is nothing inherent in the site to indicate that it is not feasible to meet these standards.

- (G) Other restrictions or limitations of use or development not required under this subsection shall be provided in the district.

Findings and Conclusions. All restrictions or limitations of the proposed use and development required in other subsections in the Code have been considered in this Decision to assure that they will be provided.

III. Conditional Use

A. 11.15.7105 Purposes

Conditional uses as specified in a district or described herein, because of their public convenience, necessity, unique nature, or their effect on the Comprehensive Plan, may be permitted as specified in the district or described herein, provided that any such conditional use would not be detrimental to the adjoining properties or to the purpose and intent of the Comprehensive Plan.

11.15.7110 General Provisions

- (A) Application for approval of a Conditional Use shall be made in the manner provided in MCC .8205 through .8280.

Findings and Conclusions. Houseboat Moorages are specified in the conditional use section (MCC .7505) as waterfront uses that require a conditional use permit. The applicant submitted an application for the Waterfront Conditional Use on May 19, 1998. The application for the Conditional Use, CU 6-98, was reviewed concurrently with CS 1-98 and WRG 2-98, at the public hearing on October 21, 1998. The Hearings Officer is the Approval Authority. The purposes section requires that any condition use will not be detrimental to the adjoining properties. There is no evidence in the record that the proposed use would be detrimental to adjoining properties. In addition the purposes section requires that a conditional use will not be detrimental to the intent of the Comprehensive Plan. The Comprehensive Plan provisions are addressed separately in this Decision and found to be met.

- (B) The Approval Authority shall hold a public hearing on each application for a Conditional Use, modification thereof, time extension or reinstatement of a revoked permit.

Findings and Conclusions. The application for the Conditional Use, CU 6-98, was reviewed concurrently with CS 1-98 and WRG 2-98, at a public hearing on October 21, 1998. The Hearings Officer is the Approval Authority. This provision has been complied with.

- (C) Except as provided in MCC .7330, the approval of a Conditional Use shall expire two years from the date of issuance of the Board Order in the matter, or two years from the date of final resolution of subsequent appeals, unless:

- (1) The project is completed as approved, or
- (2) The Approval Authority establishes an expiration date in excess of the two year period, or
- (3) The Planning Director determines that substantial construction or development has taken place. That determination shall be processed as follows:

- (a) Application shall be made on appropriate forms and filed with the Director at least 30 days prior to the expiration date.
- (b) The Director shall issue a written decision on the application within 20 days of filing. That decision shall be based on findings that:
 - (i) Final Design Review approval has been granted under MCC .7845 on the total project; and
 - (ii) At least ten percent of the dollar cost of the total project value has been expended for construction or development authorized under a sanitation, building or other development permit. Project value shall be as determined by MCC .9025(A) or .9027(A).
- (c) Notice of the Planning Director decision shall be mailed to all parties as defined in MCC .8225.
- (d) The decision of the Planning Director shall become final at the close of business on the tenth day following mailed notice unless a party files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295.

Findings and Conclusions. This Code provision is procedural, it is not an approval criterion. The staff proposed a condition to be imposed if the conditional use were approved to inform the applicant that approval would expire in two years.

- (D) A Conditional Use permit shall be issued only for the specific use or uses, together with the limitations or conditions as determined by the Approval Authority. Any change of use or modification of limitations or conditions shall be subject to approval authority approval after a public hearing.
- (E) The findings and conclusions made by the approval authority and the conditions, modifications or restrictions of approval, if any, shall specifically address the relationships between the proposal and the approval criteria listed in MCC .7120 and in the district provisions.

B. 11.15.7115 Conditions and Restrictions

Except as provided for Mineral Extraction and Processing activities approved under MCC .7305 through .7325 and .7332 through .7335, the approval

authority may attach conditions and restrictions to any conditional use approved. Conditions and restrictions may include a definite time limit, a specific limitation of use, landscaping requirements, off-street parking, performance standards, performance bonds, and any other reasonable conditions, restrictions or safeguards that would uphold the purpose and intent of this Chapter and mitigate any adverse effect upon the adjoining properties which may result by reason of the conditional use allowed.

C. 11.15.7120 Conditional Use Approval Criteria

(A) A Conditional Use shall be governed by the approval criteria listed in the district under which the conditional use is allowed. If no such criteria are provided, the approval criteria listed in this section shall apply. In approving a Conditional Use listed in this section, the approval authority shall find that the proposal:

- (1) Is consistent with the character of the area;
- (2) Will not adversely affect natural resources;
- (3) Will not conflict with farm or forest uses in the area:
 - (a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
 - (b) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- (4) Will not require public services other than those existing or programmed for the area;
- (5) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;
- (6) Will not create hazardous conditions; and
- (7) Will satisfy the applicable policies of the Comprehensive Plan.

Findings and Conclusions. These conditional use approval criteria duplicate the approval criteria for a community service use. Those criteria have been addressed under the Community Service Approval Criteria in Section .7015.

D. 11.15.7125 Design Review

Uses authorized under this section shall be subject to design review approval under MCC .7805 through .7865.

Findings and Conclusions. A Design Review application is required to be submitted, subsequent to completion of the land use approval process for the Conditional Use, Community Service, and Willamette River Greenway applications. The staff proposed a Condition of Approval to be imposed if the conditional use were approved. In addition, the Off-Street Parking and Loading (OP) provisions are applicable to the proposed development. Section .7805 (A)(5) discusses pedestrian and vehicular circulation and parking for a site. Requirements for this are found in the OP provisions. Section 11.15.6102 states, "In the event of a new building or an addition to an existing building, or any change or use in the use of an existing, building, structure or land which results in an intensified use by customers, occupants, employees or other persons, off-street parking and loading shall be provided according to the requirements of this Section." The use of the site as a moorage is being reviewed as a new land use application because it has not previously been lawfully established. As described above in the background section of this Decision the property owner did not meet the provisions of the reconciliation process outlined in Policy #10 of SI/MC RAP. The Lucky Landing Marina is subject to all applicable Code provisions. Section .2146 of the MUA-20 provisions, Section .7025 (E) of the Community Service provisions, and Section .7120 (B) of the Waterfront Uses provisions require compliance with Section .6100 through .6148 of the Code (the OP Section). The OP provisions will be reviewed under the DR application. As previously noted, the applicant indicated the proposed parking plan. The applicant has shown that it is feasible to meet the parking requirements.

E. 11.15.7130 Conditional Use Permit

A conditional use permit shall be obtained for each conditional use approved, before development of the use. The permit shall specify any conditions and restrictions imposed by the approval authority or Board of County Commissioners, in addition to those specifically set forth in this Chapter.

Findings and Conclusions. The applicant has applied for a conditional use permit for the moorage. The application did not request approval for a conditional use permit for the home occupation.

F. Home occupations CU

11.15.7460 Purposes

The purposes of the type B home occupation section are to address the need for home based business that are small scale businesses (not more than 5 employees) and that fit in with the characteristic of the neighborhood or the area. The regulations are designed to:

- (A) Protect the individual characteristics of areas in unincorporated Multnomah County and maintain the quality of life for all residents of the communities.
- (B) Join in an effort to reduce vehicle miles traveled, traffic congestion and air pollution in the State of Oregon.

11.15.7465 Criteria for Approval

The approval authority shall find that the following standards are met:

- (A) The standards found in MCC 11.15.7120.
- (B) The home occupation does not employ more than 5 employees.
- (C) The site has on-site parking as per MCC 11.15.6100 to accommodate the total number of employees and customers.
- (D) No deliveries other than those normally associated with a single family dwelling and between the hours of 7 a.m. - 6 p.m.
- (E) No outdoor storage or display.
- (F) No signage (including temporary signage and those exempted under MCC 11.15.7912) with the exception of those required under MCC 11.05.500 - .575.
- (G) No noise above 50 dba at the property lines.
- (H) No repair or assembly of any vehicles or motors.
- (I) The application has been noticed to and reviewed by the Small Business Section of the Department of Environmental Quality.
- (J) Each approval issued by a hearings officer shall be specific for the particular home occupation and reference the number of employees allowed, the hours of operation, frequency and type of deliveries, the type of business and any other specific information for the particular application.

Findings and Conclusions. The application indicates that one of the existing uses at the moorage is a home occupation. The application did not apply for a conditional use for the home occupation. The existing home occupation use is unauthorized. Continuation of the home occupation will require a conditional use application.

G. Waterfront Uses CU

11.15.7505 Houseboats and Houseboat Moorage

The location of a houseboat or the location or alteration of an existing houseboat moorage shall be subject to approval of the approval authority:

- (A) Houseboats shall mean any floating structure designed as a dwelling for occupancy by one family and having only one cooking facility.**
- (B) Houseboat moorage shall mean the provision of facilities for two or more houseboats.**

Findings and Conclusions. The proposed houseboat moorage, Lucky Landing Marina, has more than two houseboats. The subject moorage includes five combinations, eight boat garages and one home office/ barge repair shop as described by the applicant. As described earlier in the Staff portion of the Findings section, a combination consists of a houseboat plus a boathouse. Multnomah County Code does not have specific provisions for combinations, thus, the combinations are treated in this Decision as houseboats.

- (C) Location Requirements: Houseboats shall be permitted only as designated by the Comprehensive Plan.**

Findings and Conclusions. The Comprehensive Plan includes the Sauvie Island/ Multnomah Channel Rural Area Plan (SI/MC RAP). The Rural Area Plan establishes Policy #10 and the implementation of regulations regarding existing and proposed moorages. Policy 26 of the Comprehensive Plan designates areas suitable for houseboats. One of those areas is the west side of Multnomah Channel "from the City of Portland corporate limits north to ½ mile north of the Sauvie Island Bridge." The subject properties are located within this area. The applicant's subject marina is located in accordance with the sites designated for moorages under the Comprehensive Plan.

- (D) Criteria for Approval: In approving an application pursuant to this subsection, the approval authority shall find that:**

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

Findings and Conclusions. The existing improvement on the site is a floating moorage consisting of a 3' x 75' metal access ramp, a 10' x 20' wood ramp float, wood pilings and wood float walks approximately 8' x 500'. In addition, there are 14 structures attached to the float walks and pilings that are used for combos and boat garages. This boat moorage is capable only of side-ties for smaller outboard fishing boats and houseboats.

Exhibit #2 shows the Multnomah Channel Southern Portion map from SI/ MC RAP. The Lucky Landing Marina is one of numerous moorage/ marina sites along Multnomah Channel. Due to the waterfront location, zoning and accessibility, marinas and moorage are the

primary land uses in the area. Other dominant land uses in the area include wood chip export facilities. The upland areas are used principally for parking. Residential development in the area is limited to several houses located across Highway 30 on a bluff overlooking the river and the Multnomah Channel. The use of the site as a moorage is in keeping with the development of the surrounding area.

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

Findings and Conclusions. "Fluvial" means a river or stream. Thus, the requirement is that the development will not be adversely affected by normal processes of the river nor adversely affect such processes. Such processes would include, but not be limited to, tidal effects, flooding and siltation. All development at this site is either floating on the surface of the river channel or is setback from the bank of the channel. The only development that would affect fluvial processes are the pilings used to anchor the boats and walkways. The pilings are 1 foot in diameter, therefore, the pilings are not large enough to impact normal fluvial processes. Even where pilings are tied together at the top, the bases are separated by 4-6 feet, thereby allowing natural deposit and erosion of river material and the natural ebb and flow of water.

The site is likely to be strongly influenced by fluvial processes. The site is identified as being within the 100- and 500-year floodplain areas. The applicant has addressed Flood Hazard Code provisions and has submitted an Elevation Certificate as required by the Code and by the Federal Emergency Management Agency (FEMA). See Section .6315 for discussion of Flood Hazard Code provisions.

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

Findings and Conclusions. The applicant has been working with all applicable government agencies: City of Portland, Division of State Lands, US Army Corps of Engineers, Department of Environmental Quality, and Multnomah County. The applicant has received some letters of compliance from some agencies. The applicant will receive letters of compliance from the remaining applicable agencies after these land use reviews through Multnomah County have been approved, therefore, all applicable regulations will be met.

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

Findings and Conclusions. The existing development is already served by public facilities and services including, schools, roads, police, fire, water and a yet-to-be approved subsurface on-site sewage disposal system. Approval of the existing and modified development will not generate the untimely extension or expansion of public facilities and services.

H. 11.15.7510 Density

The maximum density of houseboats shall not exceed one for each 50 feet of waterfront frontage. The Hearings Officer in approving a houseboat moorage may reduce the density below the maximum allowed upon finding that:

- (A) Development at the maximum density would place an undue burden on school, fire protection, water, police, road, basic utility or any other applicable service.

Findings and Conclusions. The subject parcels of the Lucky Landing Marina, as described by the applicant, includes five combinations, eight boat garages, and one home office/ barge repair shop. In addition, there is an existing house on Tax Lot 24. The house on Tax Lot 24 is not included in this application. There are a total of 6 living units, including the existing farm house. The site plan, attached as Exhibit #1 (a reduced copy) illustrates that the amount of waterfront frontage is approximately 600 feet. Based on the allowance of one unit per 50 feet, the allowed density would be 12 units, therefore, the development proposal meets the maximum frontage requirement.

The applicant has provided the appropriate, completed, Service Provider forms regarding utilities, fire and police services, and water, all indicating the services are adequate.

- (B) Development at the maximum density would endanger an ecologically fragile natural resource or scenic area.

Findings and Conclusions. The applicant owner does not propose to develop at the maximum density of 12 houseboats. One of the subject parcels of Lucky Landing Marina, Tax Lot 51, includes a wetland. Although the property had a Department of State Lands violation, that violation case has been rectified and closed. No development is proposed in the wetland area.

The entire site is designated as part of the Willamette River Greenway. Thus, it is an important natural resource and scenic area. The site contains riparian corridors as identified on Multnomah County maps (aerial photos described in Section .6376). See also MCC .7015 (B) and findings and conclusions under the Willamette River Greenway Code provisions below.

I. 11.15.7520 Parking

- (A) Two automobile spaces shall be provided for each houseboat.

Findings and Conclusions. The original site plan (Exhibit #1), shows 10 parking spaces in the parking area. Six living units (houseboats) are present, thus 12 parking spaces are required for the parking lot. After the staff report, the applicant revised the site plan. The revised site plan provides for 12 parking spaces. The parking area has been designed to accommodate truck loading for the purposes of sewer and trash collection. The parking

area has been reduced in size and relocated to enhance protection of the riparian area and to improve the scenic qualities of the river. According to the revised site plan, the parking and loading area is located near the ramp leading to the proposed boat moorage. Each parking space is 9 feet wide by 18 feet deep. The loading area designated at the east end of the parking area allows small trucks ingress and egress to the trash and sewer disposal area, without affecting the access for the required parking spaces. At the north border of the parking area is a 4-foot wide bio-swale that is incorporated into the 20-foot upland buffer. Finally, the site will be graded so that the elevation of the parking area will be 29 feet (2 feet above the base flood elevation of 27 feet) to meet requirements of MCC .7520.

If these applications were approved, the applicant would be required to apply for Design Review. Parking requirements as outlined in Section .6100 through .6148, the Off-Street Parking and Loading (OP) section will be applicable to the project. Section .2146 of the MUA-20 provisions and Section .7025 of the Community Service section both require compliance with the Off-Street Parking and Loading requirements. The applicant demonstrated that it is feasible to meet the parking requirements. The driveway and parking area will be further reviewed during Design Review. The application can meet this criterion.

- (B) The parking area and all ingress and egress thereto shall be constructed two feet above the elevation of the 100 year flood boundary, and under the provision of MCC .6100 through .6148.**

Findings and Conclusions. The applicant submitted the FEMA Floodplain Elevation Certificate. The Elevation Certificate states the base flood elevation of the site is at 27 feet NGVD and parking lot area is at 28.4 feet NGVD; the "elevation of lowest grade immediately adjacent to the building." The driveway from NW Marina Way accessing the parking lot is at a similar elevation. The revised site plan shows the parking lot to be constructed 2 feet above the 100-year flood boundary. The site plan meets the requirement for elevation of the existing parking area at 2 feet above the 100-year flood boundary. The proposed project, to legalize the existing moorage, is required to meet the Design Review requirements and is subject to the provisions of the Off-Street Parking and Loading requirements. At the time of the Design Review submittal, the applicant shall provide plans and narrative documentation illustrating compliance with this requirement to build the parking area and the ingress and egress areas two feet above the 100-year flood boundary elevation. Condition of Approval #5 establishes this requirement. Condition of Approval #2 requires the applicant to submit for Design Review. Section .6315 (I) provides a means for exemption to the Development Standards of the Flood Hazard provisions upon submittal of an acceptable elevation survey. As previously stated, the applicant provided this survey. The survey exempts the project from certain standards when the "subject land is at least one foot above the base flood level." See also Flood Hazard requirements. The Code does not provide for exemptions to the requirements of Section .7520 (B).

The applicant can meet this criterion.

J. 11.15.7525 Other Requirements

- (A) All ramps, walkways and moorage spaces shall be designed, constructed and maintained to provide maximum safety in all weather conditions.**
- (B) Lighting adequate to provide for the safety of residents and visitors shall be provided throughout a houseboat moorage.**
- (C) Siting and design of all pickup and delivery facilities shall insure maximum convenience with minimum adverse visual impacts.**

Findings and Conclusions. According to the applicant's letters dated September 14, 1998 and October 26, 1998 all ramps and walkways within the moorage have been treated with sand-surfaced tape. This provides traction for pedestrians under all weather conditions. In addition, the ramps and walkway also have railings. Lighting for the moorage area is provided by two overhead lights at the base of the ramp, as well as another lamp providing light to the parking area and walkway connecting the parking area with the top of the ramp. Finally, the parking area has been designed to accommodate truck loading for the purposes of sewer and trash collection. The loading area designated at the east end of the parking area allows small trucks ingress and egress to the trash and sewer disposal area, without affecting the access for the required parking spaces. In addition, the trash area will be screened with natural vegetation in order to minimize adverse visual impacts. These features can be further reviewed in Design Review.

IV. Willamette River Greenway

A. 11.15.6350 Purposes

The purposes of the Willamette River Greenway subdistrict are to protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River; to implement the County's responsibilities under ORS 390.310 to 390.368; to establish Greenway Compatibility Review Areas; and to establish criteria, standards and procedures for the intensification of uses, change of uses, or the development of lands within the Greenway.

11.15.6352 Area Affected

MCC .6350 through .6374 shall apply to those lands designated WRG on the Multnomah County Zoning Map.

11.15.6354 Uses - Greenway Permit Required

All uses permitted under the provisions of the underlying district are permitted on lands designated WRG; provided, however, that any development, change of use or intensification of use, except as provided in MCC .6358, shall be subject to a Greenway Permit issued under the provisions of MCC .6362.

Findings and Conclusions. The subject parcels of the Lucky Landing Marina are designated as part of the Willamette River Greenway. The applications were filed to legalize an existing moorage. The site is zoned MUA-20. The MUA-20 zoning district permits moorage uses. The proposal is subject to the Willamette Greenway provisions of MCC .6362. This provision is not a mandatory approval criteria, it is a procedural requirement that a Willamette Greenway permit must be obtained.

B. 11.15.6360 Greenway Permit Application

An application for a Greenway Permit shall address the elements of the Greenway Design Plan and shall be filed as follows:

- (A) For a Permitted Use or a Use Under Prescribed Conditions, in the manner provided in MCC .8210(B);
- (B) For a Conditional Use as specified either in the underlying district or in MCC .7105 through .7640, or for a Community Service Use as specified in MCC .7005 through .7030, or for a change of zone classification, or for any other action as specified in MCC .8205, the Greenway Permit Application shall be combined with the required application for the proposed action and filed in the manner provided in subsections MCC .8210 and .8215.

Findings and Conclusions. A moorage is a Conditional Use in the MUA-20 zone, as described by Section .2132 (B). In addition, Section .7020 (A)(1) lists "boat moorage, marina, or boathouse moorage" as a Community Service. The applicant representative has submitted the required land use applications for the Community Service, CS 1-98, the Conditional Use, CU 6-98, and the Willamette River Greenway, WRG 2-98. A Design Review application and potentially a GEC application will be required for this project subsequent to approval of these applications.

C. 11.15.6362 WRG Permit - Required Findings

A decision on a Greenway Permit application shall be based upon findings of compatibility with the elements of the Greenway Design plan listed in MCC .6372.

11.15.6368 Scope of Approval

Approval of a Greenway Permit shall be deemed to authorize associated public utilities, including energy and communication facilities.

11.15.6370 Appeals

- (A) A decision by the Planning Director on a Greenway Permit application may be appealed to the Hearings Officer in the manner provided in MCC .8290 and .8295.**
- (B) A decision by the Hearings Officer on a Greenway Permit application may be appealed to the Board of County Commissioners in the manner provided in MCC .8260.**

11.15.6372 Greenway Design Plan

The elements of the Greenway Design Plan are:

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

Findings and Conclusions. Following the staff report, the applicant revised the site plan. The revised site plan shows that all areas between the edge of the water and the top of the bank will be planted with native grasses and that native shrubs will be planted at 30-foot intervals. In addition, all manmade debris and non-native species are proposed to be removed. Adjacent to the top of the bank, away from the water, an upland buffer 20-feet wide is proposed. This buffer is to be planted with native grasses and native trees planted at 30 foot intervals. The revised site plan relocates the driveway and parking lot away from the riparian area and upland buffer to minimize any impacts created by that part of the development

The applicant has demonstrated that the maximum amount of landscaped area, scenic and aesthetic enhancement, open space or vegetation will be provided between the upland use and the river. The application meets the criterion.

- (B) Reasonable public access to and along the river shall be provided by appropriate legal means to the greatest possible degree and with emphasis on urban and urbanizable areas.**

Findings and Conclusions. The applicant stated that:

"There is no approved public access along Multnomah Channel in the vicinity of the subject property. However, the existing use does not prohibit or restrict access to the river. There is access to the river and the boat moorage by way of a graveled driveway.

"Reasonable public access to the river has been and will continue to be provided."

This criterion requires that reasonable public access to and along the river shall be provided to the greatest possible degree. The criterion emphasizes the need for providing public access in urban and urbanizable areas, however the criterion applies to all Willamette Greenway applications whether urban or not. The applicant has made no effort to demonstrate how reasonable public access to and along the river will be provided to the greatest possible degree. The applicant simply states that reasonable public access to the river has been and will continue to be provided. The Code requires that public access shall be provided by appropriate legal means. The applicant has not addressed the legal means through which public access will be provided. A condition of approval has been imposed which requires that the property owner shall allow public access to the river by way of the driveway and ramp to the moorage.

- (C) Developments shall be directed away from the river to the greatest possible degree, provided, however, that lands in other than rural and natural resource districts may continue in urban uses.**

Findings and Conclusions. The site is adjacent to and within the waters of Multnomah Channel. Under the Comprehensive Plan Policies of Multnomah County, including Policy 26 and the Sauvie Island/Multnomah Channel Rural Area Plan (SI/ MC RAP), the subject properties are an appropriate location for a moorage. The site contains water dependent uses and upland uses including access, a parking lot and a subsurface sewage disposal system. The water dependent use cannot be directed away from the river. The applicant has revised the site plan to direct development of upland uses away from the river to the greatest possible degree. For example, the proposed parking lot has been located further away from the the border between land and water. The applicant has addressed how the River Bank Restoration plan (Exhibit #5) has been implemented. The site contains riparian corridors as designated on the Significant Wetlands maps that should be protected in addition to the wetland protection requirements designated by DSL. Exhibit #11 illustrates the location of the riparian corridor on the subject parcels. The application meets the criterion.

- (D) Agricultural lands shall be preserved and maintained for farm use.**

Findings and Conclusions. Neither the subject property nor adjacent parcels are used for farm or agricultural purposes. The nearest agricultural uses are on Sauvie Island, separated from the subject property by the Multnomah Channel. Therefore, agricultural lands will not be impacted by this proposal. The Comprehensive Plan provides that this stretch of the Multnomah Channel may be used for moorages.

- (E) The harvesting of timber, beyond the vegetative fringes, shall be conducted in a manner which shall insure that the natural scenic qualities of the Greenway will be maintained to the greatest extent practicable or will be restored within a brief period of time on those lands inside the Urban Growth Boundary.**

Findings and Conclusions. The subject property has not been identified as having timber through the Comprehensive Planning process or the pre-application phase of this application, nor is the site suitable for timber production. The subject parcel is not used for harvesting timber. The requirement that the natural scenic qualities be restored applies only to lands inside the urban growth boundary. This site is located outside the regional Urban Growth Boundary. Therefore, the restoration of scenic qualities part of this criterion does not apply here. This criterion could be met by imposing a condition of approval that "any harvesting of timber, beyond the vegetative fringes, shall be conducted in a manner which shall insure that the natural scenic qualities of the Greenway will be maintained to the greatest extent practicable."

- (F) Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflicts with farm uses.**

Findings and Conclusions. The existing site improvements are utilized primarily by fishing boats and houseboats. The nearest farm uses are on Sauvie Island across Multnomah Channel. The use of the site supports private waterfront recreation. There is no evidence in the record that the use of the site conflicts with farm uses across the Multnomah Channel. Comprehensive Plan Policy #24 states that the maximum number of units allowed for houseboats is one per fifty feet of waterfront. The applicant does not propose to exceed this requirement. Further evaluation of this requirement can be found under Comprehensive Plan Policy #24 and Section .7510 of Waterfront Uses CU. This criterion is met.

- (G) Significant fish and wildlife habitats shall be protected.**

Findings and Conclusions. The Multnomah Channel and the wetlands on the property provide habitat for fish and wildlife. Because there is no development in the wetlands, this proposal does not impact or intrude on the fish or wildlife habitats in the wetlands.

The applicant has revised the site plan to include planting of native grasses and shrubs between the edge of the water and the top of the bank. These plants will protect wildlife habitat. Approval of the sewage disposal system construction on site pursuant to DEQ standards will protect fish habitats. The Staff recommends the applicant contact the National Marine Fisheries Service (NMFS) regarding compliance with applicable elements of the Endangered Species Act.

- (H) Significant natural and scenic areas and viewpoints and vistas shall be preserved.**

Findings and Conclusions. The subject parcels are designated as part of the Willamette River Greenway, such areas are valued for the natural and scenic qualities of the properties adjacent to the Willamette River. In addition, Comprehensive Plan Policy #15 establishes the "County's policy is to protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities along the Willamette River."

After the staff report the applicant revised the site plan. The revised site plan shows that all areas between the edge of the water and the top of the bank will be planted with native grasses and native shrubs which will be planted at 30 foot intervals. In addition the applicant stated that all they will remove all manmade debris and non-native species. A 20-foot wide buffer is shown on the revised site plan adjacent to the top of the bank away from the water. This buffer is proposed to be planted with native grasses and native trees planted at 30 foot intervals. This proposed landscaping will preserve and improve the scenic quality of the river.

According to a letter dated October 14, 1998 (Exhibit D1), the wetland area of the site was restored according to the wetland and riverbank restoration plans (Exhibits 4 and 5). The natural contours were re-established and non-native species and manmade debris were removed. Native planting was planted according to the plant palette listed in the plan. The implementation, including the planting, was done this summer and was done according to the plans approved by Jerry Hedrick of the Division of State Lands. Jerry Hedrick visited the site to inspect the area, and subsequently wrote a letter indicating the applicant has complied with the conditions of the consent agreement. See Exhibit 3.

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

Findings and Conclusions. The applicant has requested the land use applications to legalize an existing moorage that was not legally established. The applicant has provided a completed copy of the Police Services form (dated 12/20/96). The proposed alterations to the existing moorage will not alter the level of safety provided by the Multnomah County Sheriff's office. The level of service provided by the Sheriff's office is the maximum the County has determined necessary within its budgetary constraints. The owner and residents are on the subject property on a daily basis. Their presence enhances site security, especially from vandalism and trespass. There is a safe and efficient access to the subject property both by water and by land. Therefore public safety and protection of public and private property are provided to the maximum extent possible.

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

Findings and Conclusions. After the staff report the applicant revised the site plan. The revised site plan shows that all areas between the edge of the water and the top of the bank will be planted with native grasses and that native shrubs will be planted at 30-foot intervals. In addition, the applicant proposes to remove all manmade debris and non-native species. The site plan proposes to create a 20-foot wide upland buffer adjacent to the top of the bank away from the water. This buffer is proposed to be planted with native grasses and native trees at 30-foot intervals. This revised site plan will enhance the natural vegetation along the river and enhance the scenic quality of the site from the river,

will protect the bank from erosion, will screen the uplands improvements from the river and help maintain a continuous riparian corridor.

According to Exhibit D1, the wetland area of the site was restored last summer according to the wetland and riverbank restoration plans (Exhibits 4 and 5). The natural contours were re-established, non-native species and manmade debris were removed and native vegetation was planted according to the plant palette listed in the plan. The wetlands restoration was found by DSL to comply with the conditions of the applicant's consent agreement with DSL. See Exhibit 3.

The application can comply with this criterion through compliance with a condition of approval requiring the applicant to make the proposed improvements.

- (K) **Extraction of known aggregate deposits may be permitted, pursuant to the provisions of MCC .7105 through .7640, when economically feasible and when conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise, safety, and to guarantee necessary reclamation.**

Findings and Conclusions. The site has not been identified as having known aggregate deposits either through the Comprehensive Planning process or the pre-application phase of this application. The application does not involve the extraction of aggregate deposits. Therefore, this criterion is not applicable to these applications.

- (L) **Areas of annual flooding, flood plains, water areas and wetlands shall be preserved in their natural state to the maximum possible extent to protect the water retention, overflow and natural functions.**

Findings and Conclusions. A portion of the subject property is located within areas of 100 year and 500 year floods. In addition to the flood plain area, a portion of the subject property along the southeast property line is a wetland area. This wetland is not designated as a Significant Wetland on Multnomah County maps. There will be no expansion of the existing improvement into the wetland area. Because the existing wetland will be retained in its natural state, water retention and overflow functions of the wetland will remain consistent, in compliance with this element. The site plan contains no buildings that would affect the water retention, overflow or natural functions. The applicant proposes to pave the parking area with grass-crete which allows water to percolate through the surface.

- (M) **Significant wetland areas shall be protected as provided in MCC .6376.**

Findings and Conclusions. A portion of the subject property along the southeast property line is a wetland area. Under Multnomah County's Goal 5 Inventory, the site was

designated as an area with riparian corridors but not as a Significant Wetland. The applicant is not required to address Section .6376.

- (N) Areas of ecological, scientific, historical or archaeological significance shall be protected, preserved, restored, or enhanced to the maximum extent possible.**

Findings and Conclusions. The site contains a riparian corridor designation and is part of the Willamette River Greenway and a wetland protected by DSL requirements. The applicant has provided a Wetland Restoration plan, attached as Exhibit #4, and a River Bank Restoration plan, attached as Exhibit #5. According to Exhibit D these plans were implemented last summer with respect to the wetland area.

After the staff report the applicant revised the site plan. The revised site plan shows that all areas between the edge of the water and the top of the bank will be planted with native grasses and that native shrubs will be planted at 30-foot intervals. In addition, the applicant proposes to remove all manmade debris and non-native species. The site plan proposes to create a 20-foot wide upland buffer adjacent to the top of the bank away from the water. This buffer is proposed to be planted with native grasses and native trees at 30-foot intervals. The proposed planting of native vegetation within the riparian area and upland buffer will provide for enhanced habitat conditions for wildlife.

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

Findings and Conclusions. If these applications were approved, the property owner would be required to apply for Design Review. During Design Review the proposed parking would be evaluated for the site. If any site activities create a disturbance of greater than 50 cubic yards of earth materials, the applicant is required to obtain a Grading and Erosion (GEC) permit. This criterion can be met.

- (P) The quality of the air, water and land resources in and adjacent to the Greenway shall be preserved in development, change of use, or intensification of use of land designated WRG.**

Findings and Conclusions. The moorage development has already occurred. Existing improvement to the subject has been and will continue to be subject to applicable local and state building code and development standards and applicable state and federal environmental regulations. The existing use does not nor will not create any adverse environmental impact, including but not limited to air, land or water degradation, noise, glare, vibration or other impacts which may impact the surrounding and adjacent uses.

Proposed modifications to the improvements include alterations to the parking lot. If the application is approved, the applicant would be required to obtain Design Review approval and if more than 50 cubic yards of material are disturbed, a Grading and Erosion(GEC)

permit is required. These procedures protect the quality of the air, water and land resources in and adjacent to the Greenway.

- (Q) A building setback line of 150 feet from the ordinary low waterline of the Willamette River shall be provided in all rural and natural resource districts, except for non-dwellings provided in conjunction with farm use and except for buildings and structures in conjunction with a water-related or a water dependent use.

Findings and Conclusions. The building setback line is not applicable for the houseboats on Multnomah Channel because these are exempted structures in conjunction with a water dependent use. There are no other structures on Tax Lot 51 that require this building setback of 150 feet from the ordinary low waterline of the Willamette River.

- (R) Any development, change of use or intensification of use of land classified WRG, shall be subject to design review, pursuant to MCC .7805 through .7865, to the extent that such design review is consistent with the elements of the Greenway Design Plan.

Findings and Conclusions. The property owner and applicant are aware that the use in this application is subject to design review if these applications are approved. This subsection is a procedural standard, it is not a mandatory approval criterion.

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

Findings and Conclusions. Compliance with applicable policies of the Comprehensive Plan are addressed below.

D. 11.15.6374 Notice to Department of Transportation

The Planning Director shall mail to the State Department of Transportation a copy of any application for a Greenway Permit within ten days of the filing , under MCC .6364(B) or .8255, as appropriate.

E. 11.15.6376 Significant Wetlands

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

Findings and Conclusions. The subject parcels do not contain a wetland that has been designated by Multnomah County as Significant Wetland on the maps described in this section.

F. Flood Hazard

11.15.6303 Area Affected

The provisions of MCC .6301 - .6323 shall apply to all areas within the 100-year flood boundary as identified on the Flood Boundary and Floodway Maps and the Flood Insurance Rate Maps as published by the Federal Emergency Management Agency (FEMA). . .

G. 11.15.6305 Uses

In areas subject to the provisions of this Section, all uses permitted under the provisions of the underlying district may be permitted, subject to the additional requirements and limitations of MCC .6301-6323.

H. 11.15.6307 Permits

- (A) No structure or manufactured home shall be erected, located, altered, improved or enlarged and no other new development including but not limited to grading, mining, excavation and filling shall occur on lands within the 100-year flood boundary unless a Floodplain Development Permit specifically authorizing the proposal has been obtained from Multnomah County.

* * *

I. 11.15.6315 Development Standards

The following standards shall apply to all new construction, substantial improvement or other development in areas within the 100-year flood boundary:

* * *

- (G) All new and replacement water and sewer systems, including on-site waste disposal systems, shall be designed to:
- (1) Minimize infiltration of floodwaters into the system;
 - (2) Minimize discharge from systems into floodwaters;
 - (3) Avoid impairment or contamination during flooding.

Findings and Conclusions. These applications seek to obtain development permits in the Floodplain for the illegally established moorage. The Hearings Officer has found that the uses may be established in the MUA-20 zoning district. The applicant has installed a new

sewer system. The City of Portland implements the Department of Environmental Quality sanitary sewer regulations for Multnomah County. The City of Portland has tentatively approved by the sanitary sewer system which is self-contained and periodically maintained and cleaned. The system was designed to withstand and continue to function under flooding conditions and to minimize infiltration and discharge during flooding. The property owner has not received sanitary system approval because the property owner has not received land use approval from Multnomah County.

- (II) Land may be exempted from the requirements of MCC .6315 upon review and approval by the Director of an acceptable elevation survey, certified by a State of Oregon Registered Professional Engineer or Land Surveyor, which demonstrates that the subject land is at least one foot above the base flood level.

Findings and Conclusions. The applicant submitted an Elevation Certificate that stated the base flood elevation of the site is at 27 feet NGVD. The "elevation of the lowest grade immediately adjacent to the building is 28.4 feet NGVD." The certificate is acceptable and exempts the project from the Development Standards of the Flood Hazard section.

J. 11.15.6317 Floodway Requirements

In areas identified as floodway on the Flood Boundary and Floodway Maps, the following restrictions, in addition to the requirements of MCC .6315, shall apply:

No development shall be permitted that would result in any measurable increase in base flood levels. Encroachment is prohibited, including fill, new construction, substantial improvement and other development, unless a detailed step backwater analysis, certified by a Registered Professional Engineer, is provided which demonstrates that the proposed encroachment will cause no measurable increase in flood levels (water surface elevations) during a base flood discharge.

Findings and Conclusions. Community Panel #410179-0135 of the Floodway Boundary and Floodway Maps illustrates the location of the subject parcels in relationship to the floodway boundary. The subject parcels are not identified in the floodway on the Flood Boundary and Floodway Maps. The applicant is requesting land use approvals for Lucky Landing Marina to become a legally existing marina. The applicant is not required to submit a backwater analysis for the WRG, CU, and CS applications.

II. MULTNOMAH COUNTY COMPREHENSIVE PLAN POLICIES

Policies in the Comprehensive Plan which are applicable to this Quasi-judicial Decision are addressed as follows:

1. **Policy No. 2, Off-Site Effects:** The County's policy is to apply conditions to its approval of land use actions where it is necessary to:
 - A. **Protect the public from the potentially deleterious effects of the proposed use; or**
 - B. **Fulfill the need for public service demands created by the proposed use.**

Findings and Conclusions. The existing use on the site, which these applications seek to legalize, is a floating moorage consisting of a 3' x 75' metal access ramp, a 10' x 20' wood ramp float, wood pilings and wood float walks approximately 8' x 500'. In addition, there are 14 structures attached to the float walks and pilings that are used for combos and boat garages. This boat moorage is capable only of side-ties for smaller outboard fishing boats and houseboats. There are no manufacturing, boat lift or repair capabilities or the use of hazardous materials in large volumes. The existing use does not require modification of existing public facilities and services to the site.

The existing use has been operating on this site for a number of years. Because the existing improvement is for a boat moorage and 6 living units, a sewer system has been installed. The sewer system violation with the City of Portland Bureau of Buildings would be resolved if the land use applications are approved. No potentially unexpected harmful effects from this existing use on neighboring properties or on natural resources has been identified other than the sanitary sewerage and potential erosion if more than 50 cubic yards of earth material are disturbed. The public services necessary to serve the development have already been extended. If the applications were approved conditions could be imposed to assure that these potentially deleterious effects are dealt with.

2. **Policy No. 10, Multiple Use Agricultural Land:** The County's policy is to designate and maintain as multiple use agriculture, land areas which are:
 - A. **Generally agriculture in nature, with soils, slope and other physical factors indicative of past or present small scale farm use;**
 - B. **Parcelized to a degree where the average lot size, separate ownerships, and non-farm uses are not conducive to commercial agricultural use;**
 - C. **Provided with a higher level of services than a commercial agricultural area has; or**
 - D. **In agricultural or micro-climates which reduce the growing season or affect plant growth in a detrimental manner (flooding, frost etc.).**

The County's policy, in recognition of the necessity to protect adjacent exclusive farm use area's, is to restrict multiple use agricultural uses to those compatible with exclusive farm uses.

Findings and Conclusions. The subject property is designated Multiple Agricultural Use (MUA-20). Due to its waterfront location, the primary uses in the immediate area are for marinas and moorage. The Comprehensive Plan has identified this area as suitable for moorage uses. This Plan Policy is directed at long range comprehensive planning and is not an approval criteria applicable to quasi-judicial land use decisions.

3. **Policy No. 13, Air, Water and Noise Quality: Multnomah County, ... Supports efforts to improve air and water quality and to reduce noise levels. ... Furthermore, it is the County's policy . . . to require, prior to approval of a legislative or quasi-judicial action, a statement from the appropriate agency that all standards can be met with respect to Air Quality, Water Quality, and Noise Levels. If the proposal is a noise-sensitive use and is located in a noise-impacted area, or if the proposed use is a noise generator, the following shall be incorporated into the site plan:**

1. **Building placement on the site in an area having minimal noise level disruptions.**
2. **Landscaping or other techniques to lessen noise generation to levels compatible with surrounding land uses.**
3. **Insulation or other construction techniques to lower interior noise levels in noise-impacted areas.**

Findings and Conclusions. The existing development on the subject property, which the applicant seeks to legalize, consists of a boat moorage, mostly capable only side-ties for smaller outboard fishing boats and houseboat spaces. The site improvements are not noise-sensitive uses nor is the site in a noise-impacted area. There are no residential uses or other noise sensitive uses within the immediate vicinity. The site is within an area which is affected by river traffic and noise and by air quality impacts generated by the adjacent railroad and truck traffic on Highway 30.

Since the existing improvement on the subject property has been and will continue to be subject to applicable local and state building code and development standards and applicable state and federal environmental regulations, all standards have been and will continue to be met with regard to air quality, water quality and noise level.

5. **Policy No. 14, Development Limitations. The County's Policy is to direct development and land form alterations away from areas with development limitations except upon a showing that design and construction techniques can mitigate any public harm or associated public cost, and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:**

- A. **Slopes exceeding 20%;**

Findings and Conclusions. The subject property is generally flat and at street grade with the abutting street. The site is not on the Multnomah County Slope Hazard Map. The slope of the site does not exceed 20% according to the soil type map at Multnomah County and the Soil Survey of Multnomah County, Oregon.

B. Severe soil erosion potential;

Findings and Conclusions. Erosion is not identified as a problem of the soil type Urban land, 3 to 15 percent slopes, according to the Soil Survey of Multnomah County, Oregon. The Survey states that Sauvie silt loam that the "hazard of erosion from overflow is high." The only proposed improvements on the uplands is the parking lot. The proposed uplands development has been directed away from the portion of the site having the severest potential for erosion, the bank.

C. Land within the 100 year flood plain;

Findings and Conclusions. The subject property is within the 100-year and 500-year floodplain. The application is subject to the Flood Hazard provisions of Section .6301. The applicant submitted an Elevation Certificate for residential and non-residential structures on August 19, 1998. Sauvie silt loam is identified by the Soil Survey as "subject to frequent flooding from December to June." In addition, "The main limitations for urban development are frequent flooding and a seasonal high water table" according to the Soil Survey. The only proposed improvements on the uplands is the parking lot. The proposed uplands development has been directed away from the portion of the site having the severest potential for flooding, the bank. While the subject property is within 100 year flood plains, the design and construction of the floating docks mitigates any potential adverse effects [Policy C].

D. A high seasonal water table within 0-24 inches of the surface for more than 3 or more weeks of the year;

Findings and Conclusions. Sauvie silt loam has a water table within a depth of 12 inches from May to June according to the Soil Survey. The water table for Urban land, 0 to 3 percent slopes is not identified by the Soil Survey. The only proposed improvements on the uplands is the parking lot.

E. A fragipan less than 30 inches from the surface; and

Findings and Conclusions. The Soil Survey does not identify a fragipan for Urban land, 0 to 3 percent slopes or Sauvie silt loam.

F. Lands subject to slumping, earth slides or movement.

Findings and Conclusions. The Soil Survey does not specify slumping, earth slides, or movement as a problem for the Urban land, 0 to 3 percent slopes or the Sauvie Silt loam.

6. **Policy No. 22, Energy Conservation:** The County's policy is to promote the conservation of energy and to use energy resources in a more efficient manner. The County shall require a finding prior to approval of a legislative or quasi-judicial action that the following factors have been considered:

- A. The development of energy-efficient land uses and practices;
- B. Increased density and intensity of development in urban areas, especially in proximity to transit corridors and employment, commercial and recreation centers;
- C. An energy-efficient transportation system linked with increased mass transit, pedestrian and bicycle facilities;
- D. Street layouts, lotting patterns and designs that utilize natural environmental and climactic conditions to advantage.
- E. Finally, the County will allow greater flexibility in the development and use of renewable energy resources.

Findings and Conclusions. Subsections A through D are directed at urban developments. This site is outside the regional urban growth boundary and these policies do not apply. Subsection E relates to the development and use of renewable energy resources. That policy does not apply because no development or use of renewable energy resources is proposed. The existing improvements, which the applicant seeks to legalize in these applications, are currently connected to electrical service. The existing use has minimal impact on energy resource consumption.

10. **Policy No. 24, Housing Location:**

The County's policy is to accommodate the location of a broad range of housing types in accordance with:

- A. The applicable policies in this plan;
- B. The locational criteria applicable to project scale and standards.

Definition and Standards:

Population and Scale:

Residential Project:

Description:

A project which will have a minimum impact on the surrounding area and on the support system.

Approximate

Population

Increase:

Minor: Less than 50 people.

* * *

Maximum Number of Units Allowed by Housing Type:

* * *

Houseboats 1 each 50 feet of waterfront

* * *

Findings and Conclusions. The applicant stated that the property would provide housing for no more than 40 people at any given time. The applicant does not state how he calculated 40 people as the number of people residing in the moorage at any given time. However, there are six living units in the application. At the average population of 2.7 persons per household, the project would be expected to provide housing for 16.2 persons. Therefore, the population increase of this property is undoubtedly less than 50 people. Consequently, the project qualifies as a Minor Residential Project.

In the applicant's project description, the applicant stated that five combinations, eight boat garages, and one home office/ barge exist on the site, which the applicant seeks to legalize with these applications. In addition there is an existing farm house on Tax Lot 24 which is not subject to these applications. A total of 6 living units are proposed. There is approximately 600 feet of waterfront frontage. Based on the allowance of one unit per 50 feet, the allowed density would be 12 units, therefore, the development proposal meets the density requirement established in Policy 24.

Minor Residential Project Locational Criteria:

A. Access:

- (1) Site access will not cause dangerous intersections or traffic congestion, considering the roadway capacity, existing and project traffic counts, speed limits, and number of turning movements.
- (2) There is direct access from the project to a public street.

Findings and Conclusions. In Exhibit D1 the applicant states that the traffic generation from the site is about 12 vehicle trips per day. The applicant does not provide details on how the number of trips per day to the site was calculated. He does state that most of the tenants are there only part of the year, while others simply store boats there for extended periods of time. The average dwelling generates approximately 10 trips per day. The 6 dwellings proposed would be expected to generate a total of 60 trips per day. There is no evidence in the record that the access will cause dangerous intersections or traffic congestion.

The subject parcel has direct, existing, access to NW Marina Way. The applicant does not propose to alter this access in any way.

B. Site characteristics:

- (1) The site is of a size and shape which can reasonably accommodate the proposed and future allowable uses in a manner which emphasizes user convenience and energy conservation.
- (2) The unique natural features, if any, can be incorporated into the design of the facilities or arrangement of land uses.
- (3) The land intended for development has an average site topography of less than 20% grade, or it can be demonstrated that through engineering techniques, all limitations to development and the provision of services can be mitigated.

Findings and Conclusions. The applicant is applying for land use approval for the Community Service, Conditional Use, and Willamette River Greenway applications to become a legally existing moorage and the development is considered new for purposes of this Decision. The development is subject to all applicable Code provisions and Comprehensive Plan Policies. The applicant does not request to alter the existing size and scope of the moorage. The use activity is located primarily on the water, though the land portion of the site is adequate to accommodate parking and an on-site sewer system. The site can and does reasonably accommodate the proposed uses.

The site is relatively flat except for the bank of the channel. The site contains a wetland and significant riparian corridors, and is adjacent to and within the waters of Multnomah Channel. These unique natural features have been incorporated into the design of the development.

The slope of the site is less than 20% grade.

C. Impact of the Proposed Change on Adjacent Lands:

- (1) The scale is compatible with the surrounding uses.
- (2) It will reinforce orderly and timely development and delivery of urban services.
- (3) Privacy of adjacent residential developments can be protected.
- (4) The project can be integrated into the existing community.

Findings and Conclusions. The scale of the proposal is very similar to moorages within the vicinity and is also compatible in terms of function and form. Services are available to the site. The privacy of the adjacent parcels is not threatened by the moorage. As has been noted previously, the applicant is requesting approval for an existing development, which is already integrated into the community, to become a legally existing moorage.

12. **Policy No. 26, Houseboats:** The County, in order to provide a broad range of housing opportunities for its citizens, recognizes houseboats as a housing option. Therefore, it is the County's policy to provide for the location of houseboats in a manner which accords with:

- A. The applicable policies in this plan, including policies 2 (Off-Site Effects), 13 (Air, Water, Noise), 15 Significant Environmental Concern, 16 (Natural Resource), 24 (Housing Location), 37 (Utilities), and 38 (Facilities).

Findings and Conclusions. The applicant has provided narrative addressing the above noted Comprehensive Plan Policies. Compliance with each of these policies is addressed separately within this Decision.

- B. Any other applicable federal, state, or local policies that regulate waterway area development.

Findings and Conclusions. The applicant was in violation of DEQ requirements for sewage disposal discharge implemented by the City of Portland Bureau of Buildings. The property owner has constructed an on-site sewage disposal system on Tax Lot 51. The Bureau of Buildings requires Multnomah County and use approval of all applicable applications before granting approval for the sewage system. The applicant's waterway lease from the Department of State Lands (DSL) has expired. DSL requires that the property owners receive approval from Multnomah County for all applicable land use applications before DSL grants renewal of the expired lease. The applicant has applied for the Conditional Use, Community Service, and Willamette River Greenway permits for the moorage. The applicant has not applied for a Conditional User permit for the home office. If the applications were approved the applicant would be required to apply for Design Review. Also, should more than 50 cubic yards of earth material be disturbed on the site, a Grading and Erosion Control (GEC) permit shall be submitted. If the application were approved, all other applicable federal, state and local policies that regulate waterway development could be complied with.

- C. The following criteria for locating or expanding a houseboat moorage:

1. The mean low water line exceeds five feet;

Findings and Conclusions. The mean low water line is 20-feet. Consequently C.1. is met.

2. The moorage area should be protected from siltation problems which might require costly dredging to achieve the proper water depth;

Findings and Conclusions. According to Exhibit D1, no siltation or significant erosion problems have ever been associated with this site. The moorage is designed to allow natural flow of silt with normal river currents. No situation will be created that will allow unnatural deposit of river silt. Therefore criterion C.2. is met.

3. **The moorage is adequately protected from the adverse effects of wind, wave action, icy conditions, and other hazards.**

Findings and Conclusions. According to Exhibit D1, the moorage is anchored to land through pylons that are strategically located around the perimeter of the moorage. The moorage is attached to the pylons through the use of pile hoops. During emergency flooding this system can be augmented with the use of cables and anchors and/or tug boats.

4. **Adequate land area exists to accommodate parking and any accessory building requirements;**

Findings and Conclusions. According to Exhibit D1, the site is nearly 3 acres in area. The only proposed development occurring on the land is the parking lot and driveway, which occupy about 3,000 square feet. Therefore, there is adequate land to accommodate the proposal. This criterion is met.

5. **The proper maintenance and operation of dikes, as determined by the Army Corps of Engineers is not adversely affected by the moorage;**

Findings and Conclusions. According to Exhibit D1, the Corps of Engineers does not consider any part of this site to contain a dike, Therefore, this criterion is not applicable.

6. **The upland area adjacent to the moorage does not have unique recreational, ecological, or wildlife habitat value; and**

Findings and Conclusions. According to Exhibit D1, a portion of the upland area has unique values. This portion of the upland is the wetland area that is being enhanced and protected, as indicated in the wetland restoration plan (Exhibit 4). Since the area will be protected, this criterion will be met.

7. **The upland area adjacent to the moorage is not zoned for exclusive agricultural use.**

Findings and Conclusions. The upland area adjacent to the moorage is zoned Multiple Use Agriculture, therefore, C.7. criterion is met.

The following areas are designated as suitable for houseboats:

1. **Multnomah Channel (West Side).**
 - (A) **From Rocky Point Moorage, or from an area 1650 feet north of the southern boundary of Section 36, T3N, R2W, known as Rocky Point, north to the Columbia County boundary.**

- (B) From the City of Portland corporate limits north to 1/2 mile north of the Sauvie Island Bridge.

Houseboats and moorages existing outside these areas shall be limited to existing sites and levels of development.

No houseboats shall be located on the Columbia River east of the Sandy River, or in violation of Federal Aviation Administration Clear Zone standards, or in violation of any other applicable Federal, State, or local standards.

Findings and Conclusions. The subject property is in an area designated as suitable for houseboats [Policy C, Multnomah Channel West Side 1 (B)].

13. **Policy No. 33b, Marine Transportation System:** The County's policy is to identify, evaluate and encourage the development of sufficient needed port and marine facilities, provisions will be made to:
- A. Inventory the acreage available for marine terminal facilities and determine if more land is needed, in accordance with County Framework Policy 6.
 - B. Explore the concept of a joint public/ private partnership, including cooperation with other governmental agencies, to finance infrastructure in accordance with County Framework Policy 4. However, it is the primary responsibility of the property owner/ developer to provide the infrastructure necessary to support development.
 - C. Encourage improvements to public and private elements of the Portland area harbor which support regional economic development and diversity, in accordance with County Framework Policy 5.

Findings and Conclusions. Policy 33b is primarily concerned with commercial port operations. In addition this policy is directed at the County's responsibility for planning for development of port and marine facilities. It is not an approval criteria applicable to quasi-judicial land use decisions.

14. **Policy No. 37, Utilities:** The County's policy is to require a finding prior to approval of a legislative hearing or quasi-judicial action that:

WATER DISPOSAL SYSTEM:

- A. The proposed use can be connected to a public sewer and water system, both of which have adequate capacity; or
- B. The proposed use can be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or

- C. There is an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or
- D. There is an adequate private water system, and a public sewer with adequate capacity.

Findings and Conclusions. The existing improvements on the site are served by the Burlington Water District. The water district's main line is in Highway 30. The moorage's water line is served from a meter in NW Marine Way next to the house on Tax Lot 16. The water line runs across Tax Lots 16 and 24 to the river and then along the river and dock. The improvements are connected to a subsurface sewage disposal system. The Certification of On-Site Sewage Disposal has been submitted by the applicant. In addition, the Land Feasibility Study (LFS 162-95) dated October 27, 1995 states that it is suitable for the use of a standard septic tank/ drainfield disposal system. On September 8, 1997, a letter was sent to the property owners regarding a violation of OAR 340-71-130; a complaint had been received that sewage was dumped into the water. Permit #015664 was issued by the City of Portland to construct a subsurface sewage system. A letter dated July 17, 1997 was submitted by the sanitarian. Portland has stipulated that the violation cannot be fully resolved until the property owner receives approval for the appropriate land use applications with Multnomah County. The subsurface sewage disposal system could be approved pursuant to DEQ requirements if the land use were approved. The application complies with Policy B.

DRAINAGE:

- E. There is adequate capacity in the storm water system to handle the increased run-off; or
- F. The water run-off can be handled on the site or adequate provisions can be made; and
- G. The run-off from the site will not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjacent lands.

Findings and Conclusions. Storm water run-off from the site flows into the Multnomah Channel of the Columbia River. The only development on land that is proposed is the vehicle area (parking lot and driveway) and subsurface sewage disposal system. The applicant proposes to grass-crete the parking. The applicant proposes to install an oil/water separator to protect water quality in the channel and wetlands. The applicant proposes to grade the driveway so that drainage will occur away from the wetlands area. The septic tank is a sealed, self-contained unit that will be maintained on a regular basis. The drainage policies can be met.

ENERGY AND COMMUNICATIONS:

- H. There is an adequate energy supply to handle levels projected by the plan;
and
- I. Communications facilities are available.

Findings and Conclusions. Electrical and communications facilities are currently provided to the site. No new connections are required. The application complies with the energy and communications policies.

15. Policy No. 38, Facilities: The County's Policy is to require a finding prior to approval of a legislative or quasi-judicial action that:

- A. The appropriate School District has had an opportunity to review and comment on the proposal.

Findings and Conclusions. The Portland School District (Sauvie Island) has had an opportunity to comment on this proposal. The applicant has provided a signed (12/19/96) School District Service Provider form. The application meets the criteria.

- B. There is adequate water pressure and flow for fire fighting purposes; and
- C. The appropriate fire district has had an opportunity to review and comment on the proposal.

Findings and Conclusions. The area is within the Burlington Water District which provides fire service under contract by the Portland Fire Bureau. The Portland Fire Bureau (St. John's District) has had an opportunity to review and comment on this proposal. The applicant has submitted a signed (1/14/97) Service Provider form. Written comment from the Fire District includes, "The nearest fire hydrant is over 1000 feet away. Portland provides contract fire service to this area." The application meets the criteria.

- D. The proposal can receive adequate local police protection with the standards of the jurisdiction providing police protection.

Findings and Conclusions. The Multnomah County Sheriff's Department has had an opportunity to review and comment on this proposal. The applicant has submitted a signed (12/20/96) Police Service Provider form. The application meets the criteria.

16. Policy No. 40, Development Requirements: The County's policy is to encourage a connected park and recreation system and to provide for small private recreation areas by requiring a finding prior to approval of legislative or quasi-judicial action that:

- A. Pedestrian and bicycle path connections to parks, recreation areas and community facilities will be dedicated where appropriate and where designated in the bicycle corridor capital improvements program and map.

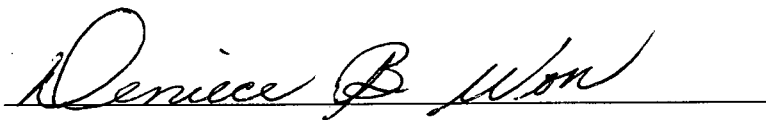
- B. Landscaped areas with benches will be provided in commercial, industrial and multiple family developments, where appropriate.
- C. Areas for bicycle parking facilities will be required in development proposals, where appropriate.

Findings and Conclusions. There has been no identified need for pedestrian and bicycle path connections from this area to parks, recreation areas or community facilities. There is no bicycle corridor crossing the site designated on the capital improvements program and map. The development is residential and the living units are single family. Landscaped areas with benches are not required. If the applications were approved the applicant would be required to apply for Design Review. The design review process could determine whether it would be appropriate to include a facility for bicycle parking. Policy 40 can be met.

CONCLUSION

The applications either comply or can be made to comply thorough conditions of approval, with all applicable criteria. The Hearings Officer hereby approves CS 1-98, CU-98, and WRG 2-98, subject to the conditions contained in this decision.

IT IS SO ORDERED, THIS 3rd DAY OF DECEMBER, 1998



Deniece B. Won, Land Use 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" form 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 Multnomah County Land Use Planning Office at 2115 SE Morrison Street in Portland, or you may call 503-248-3043 for additional instructions.

List of Exhibits

List A: Staff/ Applicant Exhibits:

1. Applicant site plan.
2. Sauvie Island/ Multnomah Channel Rural Area Plan (SI /MC RAP) Map (page 8).
3. April 30, 1998 Letter from Jerry Hedrick, DSL, to property owners.
4. Wetland Restoration Plan, dated September 20, 1995.
5. River Bank Restoration Plan, dated September 20, 1998.
6. July 1998 Letter from Jerry Hedrick, DSL, to property owners.
7. 1990 Letter from DSL, regarding waterway lease, to property owners.
8. September 9, 1997 Letter from Mike Ebeling, City of Portland, to property owners.
9. September 19, 1997 Letter from Anne Cox, DEQ, to property owners.
10. Significant Wetlands documentation from Multnomah County's Goal 5 Inventory.
11. Goal 5 Significant Wetlands Map illustrating the riparian corridors of the subject parcels.

List B: Notification Information:

1. "Complete application" Letter, 2 pages
2. Notice of Hearing, 4 pages

List C: Multnomah County Documents

1. Staff Report - October 12, 1998

List D: Documents Submitted at October 21, 1998 Public Hearing or during open record period:

1. October 14, 1998 letter from Kevin Brady to the Hearings Officer
2. October 21, 1998 letter from Jay McCaulley to Trisha Sears
3. October 21, 1998 letter from Sephen Purchase, DSL, to Trisha Sears and an attached letter from Jay McCaulley to Steve Purchase
4. October 26, 1998 letter from Kevin Brady to the Hearings Officer

Meeting Date: DEC 17 1998
Agenda No: C-10
Est. Start Time: 9:00

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Report to the Board the Hearings Officer's decision on CU 10-98.

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

REGULAR MEETING Date Requested: December 17, 1998
 Amt. of Time Needed: 5 minutes

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

PERSON(S) MAKING PRESENTATION: Stuart Farmer

ACTION REQUESTED

☐ Informational Only ☐ Policy Direction ☒ Approval ☐ Other

SUGGESTED AGENDA TITLE

Report to the Board the Hearings Officer's decision regarding an **Approval** of CU 10-98 with conditions to establish a new single family residence and barn in the Commercial Forest Use zoning district.

SIGNATURES REQUIRED

Elected Official: _____

or

Department Manager: KB Larry R. Nicholas

98 DEC -3 PM 11:35
MULTNOMAH COUNTY
OREGON
CLERK OF
COUNTY COMMISSIONERS



**CASE NAME: CONDITIONAL USE PERMIT FOR
TEMPLATE DWELLING**

NUMBER: CU 10-98

1. Applicant Name/Address:

David Wentz
39864 SE Trout Creek Road
Corbett, Oregon 97019

2. Action Requested By Applicant:

A conditional use permit request for a "Template Dwelling", to allow a new single family dwelling and barn on Commercial Forest Use zoned property.

3. Planning Staff Recommendation:

Approval of the application subject to specific conditions listed in the staff report.

4. Hearings Officer Decision:

Approval of the Conditional Use Permit, to allow a new single family dwelling and barn on Commercial Forest Use zoned property, subject to compliance with specific conditions as listed in the decision.

5. If Recommendation And Decision Are Different, Why?

The Hearings Officer's decision is consistent with the staff recommendation.

6. Issues:

None are apparent.

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

Action Requested Of Board

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



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

RECEIVED
NOV 30 1998

DECISION

Conditional Use Permit for Template Dwelling

Case File: CU 10-98

Hearings Officer: Liz Fancher

Related Cases: Conditional Use Permit (CU 5-98)
Grading and Erosion Control Permit (GEC 26-98)

Hearing Date: November 18, 1998

Proposal: A conditional use permit request for a "Template Dwelling", to allow a new single family dwelling on Commercial Forest Use zoned property.

Location: 39864 SE Trout Creek Road
Tax Lot 13, Sec 13, T1S, R4E, W.M (R-99413-0130)

Applicant/Owner: David Wentz
39864 SE Trout Creek Road
Corbett, Oregon 97019

Site Size: 40.70 acres

Present Zoning: Commercial Forest Use (CFU-4)

Approval Criteria: Multnomah County Code (MCC): MCC 11.ES.2042
Commercial Forest Use; MCC 11.15.7105 Conditional Use;
Comprehensive Plan Policies 13, 14, 22, 37, 38, & 40

Hearings Officer Decision:

Approval of the proposed Conditional Use Permit for a "Template Dwelling" to allow the placement of a single-family dwelling, outbuildings, and new private driveway on Commercial Forest Use zoned property, subject to compliance with the following specific conditions.

Conditions:

1. This conditional use approval is specific to the use described in the land use application together with the limitations or conditions as determined herein. Any change of use from the use described in the land use application or modification of limitations or conditions imposed upon the dwelling as a result of this proceeding shall require new land use approval.
2. As long as the property is under forest resource zoning the applicant shall provide and maintain primary and secondary fire safety zones around all new structures, in accordance with the requirements of MCC 11.15.2074 (A)(5). These fuel break areas shall be provided prior to issuance of the building permit for the template dwelling.
3. A signed statement is to be submitted by the applicant confirming that they have provided a copy of the forest stocking survey to the county assessor in accordance with the procedures and provisions of MCC 11.15.2052 (A)(6) prior to issuance of a building permit for the template dwelling.
4. The dwelling shall have a fire retardant roof and all chimneys shall be equipped with spark arresters. The dwelling shall also comply with Uniform Building Code and be attached to a foundation for which a building permit has been obtained.
5. Approval of this Conditional Use shall expire two years from the date of the Board Order unless "substantial construction" has taken place in accordance with MCC 11.15.7110(C) or the subject proposal is completed as approved. For the purposes of this decision, "completion" of the development under this conditional use review will involve, at a minimum, the following (summarized actions) to have taken place prior to the expiration date of the two year period:
 - A. Fire safety zones cleared and inspected by Planning staff.
 - B. Statement is submitted confirming that a copy of the forest stocking survey report has been provided to the county assessor.
 - C. The conditions of approval relating to the fire retardant roof, chimney spark arresters, and foundation are shown on the building plans.
 - D. The constructed building shall be a single family dwelling based on the following characteristics: be lawfully established under required building permits; have intact interior walls and roof structures inspected under that building permit; has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to an approved and permitted sanitary waste disposal system; has interior wiring for interior lights inspected under an electrical permit; and has a heating system.
 - E. If the dwelling is not completed, then the method of determination that "substantial construction" has taken place is an application to the Planning Director. The application must be submitted on a General Application Form with supporting documentation at least 30 days prior to the expiration date. The decision of the Planning Director will be a land

use decision that may be appealed to a Hearings Officer by a party entitled to notice [MCC 11.15.7110 (C)(3)].

Findings of Fact

Note: The Hearings Officer has used the staff report as a starting point in writing her decision. The findings proposed by staff and the applicant are listed following each land use approval criterion. Headings for each finding are underlined. Multnomah County Code requirements are referenced using a **bold** font. Written responses by the applicant, demonstrating compliance with code criteria, are *italicized*. Planning staff comments and analysis may follow applicant responses. Where this occurs, the notation "Staff" precedes such comments. Staff and applicant comments constitute findings in support of the hearings officer's decision unless noted otherwise in the Hearings Officer's findings that follow staff comments. If no Hearings Officer findings are included, the Hearings Officer has determined that the applicant and staff comments are accurate and demonstrate compliance with the applicable approval criterion. The notation "Hearings Officer" precedes Hearings Officer findings.

The Staff Report did not specifically address the East of Sandy River Rural Area Plan. John H. Christensen raised concerns that approval of the template dwelling application would violate this Plan. As a result, the Hearings Officer has reviewed the Plan and made findings of compliance with the specific requirements of that Plan. The Hearings Officer has also addressed all concerns raised by Mr. Christensen in a separate section that follows findings regarding compliance with the East of Sandy River Plan.

1. Project Description:

Staff: The applicant's request is for approval of a "Template Dwelling" to allow the placement of a single-family dwelling, outbuildings, and new private driveway on a Commercial Forest Use zoned parcel. Proposed site improvements, with the exception of the temporary structure housing the well, are identical to those approved August 20, 1998 with Conditional Use Permit CU 5-98 (Exhibit B1). The reason for this application is that the applicant has been unable to satisfy Condition #2 of the prior approval. This condition of approval reads as follows:

"Prior to issuance of a building permit, a copy of a recorded restriction, condition, or covenant, shall be submitted as evidence that the other parcel within this tract, described under Tax Account #R-99413-0310, is precluded from all current and future rights to site a dwelling. Such restriction, condition, or covenant, shall be in a format consistent with "Exhibit A" to the Oregon Administrative Rules (OAR), Chapter 660, Division 6 (December 1995)."

This condition is required when an application is made for template dwelling on a "lot of record" parcel that is adjacent to another "lot of record" parcel or parcel(s) under common ownership. Such was the circumstance with CU 5-98. Both the subject property and the parcel adjacent to the west (Tax Account #R-99413-0310) were undeveloped and under common ownership at the time the decision was issued. Both parcels constituted the "tract" within which only one single-family dwelling may exist (MCC .2052(A)(3)(f)). Therefore, approval of a dwelling on the parcel the applicant intended to purchase required that a covenant be filed prohibiting residential development on the other parcel within the tract (MCC .2052(9)).

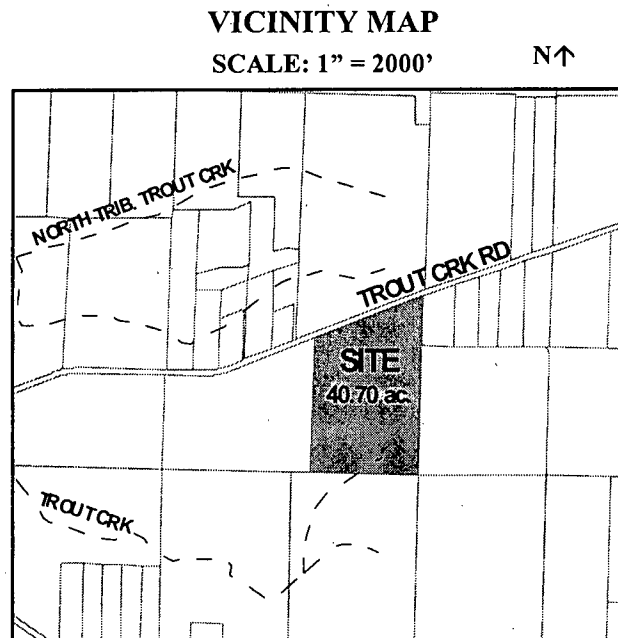
After the hearing on CU 5-98, the applicant informed staff that the landowner had conveyed an ownership interest in the adjoining parcel to a third party. The applicant further indicated that they would not be able to get the third party to sign the covenant required by Condition #2 of the decision. A copy of the recorded land sales contract evidencing the conveyance is attached as Exhibit B5.

Prior to initiating this application, the applicant acquired the subject property. In doing so the applicant dissolved the common ownership link between the two parcels that triggered the covenant requirement. However, this action by the applicant also reduced the area of the tract to a single lot of record parcel, thus altering the location of the 160-acre square template area used to determine eligibility for a residence (Note: The 160-acre square template area must be centered on the subject tract (MCC .2052(A)(3)(c)). For this reason a new application was necessary to determine if the new tract qualifies for a template dwelling.

As of August 8, 1998, prior to the filing of the pending conditional use application, the zoning for the subject property was changed from Commercial Forest Use (CFU) to Commercial Forest Use 4 (CFU-4). Therefore, this application has been evaluated against the criteria of the CFU-4 zone district, as it is the law in effect at the time of the filing of the new application. ORS 215.428 (3).

2. Site and Vicinity Characteristics:

Staff: The parcel upon which the improvements are proposed is approximately 40.70 acres in size. Access to the parcel is available off of SE Trout Creek Road. The site is currently undeveloped. A logging road currently extends from the property to the west, south into the parcel as illustrated on the applicant's site plan (Exhibit A17). Overhead utilities run along the eastern edge of the site. As evidenced in the applicant's written narratives the parcel was clearcut and replanted early in 1998. A tributary of Trout Creek extends into the southeast corner of the parcel. The property slopes away from Trout Creek Road to the south.



Multnomah County zoning on all adjacent properties is Commercial Forest Use (CFU-4). A pocket of Rural Residential (RR) zoned land exists to the northwest. As illustrated on the aerial photograph provided by the applicant (Exhibit A14), properties in this area are sparsely developed and forested. Evidence of timber harvesting activities is apparent on several of the adjoining parcels. Existing residential development exists along Trout Creek Road on the RR zoned properties to the northwest and on CFU zoned parcels northeast of the applicant's site.

3. Conditional Use (CU) Permit Required:

11.ES.2046 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 .2048 through .2056.

* * *

11.ES.2050 Conditional Uses

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

* * *

(B) A Template Dwelling pursuant to the provisions of MCC .2052(A), .2053(B) and .2074.

* * *

Staff: As established under MCC .2050(B), a "Template Dwelling" request requires Conditional Use approval in this Commercial Forest Use zone district.

4. Compliance with MCC 11.ES.2052 Template Dwelling Requirements:

Per MCC .2052(A), a template dwelling may be sited on a tract, subject to the following:

- A. MCC .2052(A)(1), The lot or lots in the tract shall meet the lot of record standards of MCC .2062(A) or (E), and (B) and have been lawfully created prior to January 25, 1990;

Staff: This criterion has been satisfied. Compliance with Lot of Record requirements of MCC .2062 is established under Finding #6. One parcel makes up the tract. The parcel was created as a result of a minor partition, which was completed in May of 1986. Copies of the recorded partition documents are included in the record as part of Exhibit A4.

- B. MCC .2052(A)(2), The tract shall be of sufficient size to accommodate siting the dwelling in accordance with MCC .2074 with minimum yards of 60 feet to the centerline of any adjacent public or private road serving two or more properties and 130 feet to all other property lines. Exceptions to this standard shall be pursuant to MCC .2075, as applicable;

Staff: This criterion has been satisfied. Compliance with MCC .2074 is established under Finding #7. As illustrated on the applicant's scaled site plan (Exhibit A17) the yard requirements of the Commercial Forest Use district have been met.

- C. MCC .2052(A)(3)(c), The tract shall be composed primarily of soils which are capable of producing above 85 cf/ac/yr of Douglas Fir timber; and

(i) The lot upon which the dwelling is proposed to be sited and at least all or part of 11 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and

(ii) At least five dwellings lawfully existed on January 1, 1993 within the 160-acre square.

Staff: This criterion has been satisfied. As referenced in the applicant's Forest Management Plan (Exhibit A12) and supported in the Soil Conservation Services "Soil Survey of Multnomah County," Cazadero series soils exist on the subject property. Cazadero series soils are Class II soils capable of producing in excess of 145 cf/ac/yr.

Exhibit A15, prepared by applicant, illustrates that all or part of 17 parcels fall within a 160-acre square centered on the subject tract. Exhibits A13 demonstrates that 5 dwellings lawfully existed on January 1, 1993 within the 160-acre square centered on the tract.

<u>Parcel #</u>	<u>Year Built</u>
R-99413-0150	- 1964
R-99413-0200	- 1974
R-99413-0410	- 1979
R-99413-0220	- 1978
R-99413-0230	- 1992 (A&T system indicates structure added to tax rolls in 1993. Manufactured home finalized by the City of Gresham 10/27/92.)

- D. **MCC .2052(A)(3)(d), Lots and dwellings within urban growth boundaries shall not be counted to satisfy (a) through (c) above.**

Staff: None of the lots or dwellings used fall within an urban growth boundary.

- E. **MCC .2052(A)(3)(e), There is no other dwelling on the tract,**

Staff: No dwellings currently exist within the tract.

- F. **MCC .2052(A)(3)(f), No other dwellings are allowed on other lots (or parcels) that make up the tract;**

Staff: No other parcels exist within the tract, therefore this criterion has been satisfied.

- G. **MCC .2052(A)(3)(g), Except as provided for a replacement dwelling, all lots (or parcels) that are part of the tract shall be precluded from all future rights to site a dwelling; and**

Staff: This tract includes only one parcel. Consistent with the provisions of the Commercial Forest Use zone district, a template dwelling approved at this location will be

the only dwelling permitted on the parcel.

- H. **MCC .2052(A)(3)(h), No lot (or parcel) that is part of the tract may be used to qualify another tract for the siting of a dwelling;**

Staff: None of the parcels used to qualify this dwelling are part of this tract or any other tract containing a template dwelling.

- I. **MCC .2052(A)(4), The dwelling will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife, or that agency has certified that the impacts of the additional dwelling, considered with approvals of other dwellings in the area since acknowledgment of the Comprehensive Plan in 1980, will be acceptable.**

Staff: As evidenced by the applicant on a copy of the Multnomah County Sensitive Big Game Wintering Areas map (Exhibit A19), the subject tract does not fall within a big game winter habitat area.

- J. **MCC .2052(A)(5), Proof of a long-term road access use permit or agreement shall be provided if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the United States Forest Service. The road use permit may require the applicant to agree to accept responsibility for road maintenance;**

Staff: Vehicular access to the proposed dwelling is available via a new private driveway that is owned and maintained by the applicant. The driveway connects directly to SE Trout Creek Road.

- K. **MCC .2052(A)(6), A condition of approval requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules, provided, however, that:**

(a) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;

(b) The property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules. The assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met;

(c) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation

pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372;

Staff: A copy of the applicant's forest management plan, acknowledged by the Department of Forestry, explains that the subject parcel was logged in 1997 and describes how the property was re-stocked in January and February of 1998 (Exhibit A12). To comply with this criterion the applicant must provide a copy of the plan to the county assessor. A condition of approval has been included to address this matter.

- L. MCC .2052(A)(7), The dwelling meets the applicable development standards of MCC .2074;**

Staff: Compliance with this criterion is demonstrated under Finding #7.

- M. MCC .2052(A)(8), A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices;**

Staff: This requirement has been satisfied. A copy of the recorded statement is enclosed as Exhibit A22.

- N. MCC .2052(A)(9), Evidence is provided, prior to the issuance of a building permit, that the covenants, conditions and restrictions form adopted as "Exhibit A" to the Oregon Administrative Rules (OAR), Chapter 660, Division 6 (December, 1995), or a similar form approved by the Planning Director, has been recorded with the county Division of Records; ...**

Staff: This requirement is only applicable when two or more parcels exist within the tract. Since the subject property is a one parcel tract, an "Exhibit A" restriction need not be filed.

5. Compliance with MCC 11.ES.2053, Use Compatibility Standards:

Per MCC .2053(B), Single family dwellings as specified in MCC .2050 (A); (B) and (C) may be allowed upon a finding that they will not significantly impact open space, public facilities, wildlife habitat, and rural community character.

Staff: This criterion has been satisfied. Template dwelling approval criteria contained herein have been drafted to ensure that new dwellings will not significantly impact rural community character, wildlife habitat, public facilities, and open space. New residential development is restricted to those areas that have an established residential presence. As demonstrated under Finding 4I the site is not within big game winter habitat. Findings 8D and 8E demonstrate that public facilities will not be significantly impacted. Staff is unaware of any open space areas within close proximity of the subject property.

6. Compliance with MCC 11.ES.2062, Lot of Record Requirements:

Per MCC .2062(A)(2), for the purposes of this district, a Lot of Record is a parcel of land:

- A. **MCC .2062(A)(2)(a), For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to February 20, 1990;**

Staff: Applicant Exhibit A4 contains copies of a minor partition survey and legal description for the parcel that constitutes this tract. These documents, recorded in May of 1986, are evidence that the "recordable form" test of this criterion has been met.

- B. **MCC .2062(A)(2)(b), Which satisfied all applicable laws when the parcel was created;**

Staff: An exempt minor partition, approved by Multnomah County is evidence that the parcel met applicable laws at the time of its creation (Exhibit A4).

- C. **MCC .2062(A)(2)(c), Does not meet the minimum lot size requirements of MCC .2058;**

Staff: The parcel subject to this request is approximately 40.70 acres in size, well below the minimum lot size of 80 acres as defined under MCC .2058.

- D. **MCC .2062(A)(2)(d), Which is not contiguous to another substandard parcel or parcels under the same ownership.**

Staff: Exhibit A4 contains a copy of the deed transferring ownership of the subject property to the applicant. The applicant does not own any property adjacent to the parcel that is subject to this request.

7. Compliance with MCC 11.ES.2074, Commercial Forest Use Zone District Development Standards:

Except as provided for the alteration, replacement or restoration of dwellings under MCC .2048(D), .2048(E) and .2049 (B), all dwellings and structures located in the CFU district after January 7, 1993 shall comply with the following:

- A. **Per MCC .2074(A)(1), the dwelling or structure shall be located such that it has the least impact on nearby or adjoining forest or agricultural lands and satisfies the minimum yard and setback requirements of .2058(C) through (G);**

The placement of the dwelling exceeds the required 200-foot yard setback as required by MCC 11.15.2058. The proposed distance-of the dwelling is 300 feet from the nearest property boundary (see site plan). Area between the dwelling and surrounding properties will be maintained as a managed forest operation, with practices matching current industry expectations used on the surrounding plots. Therefore, the intent of Commercial Forest Use zoning of this plot and the surrounding plots will be maintained.

Staff: As evidenced on the applicant's site plan (Exhibit A17), the minimum yard requirements of MCC .2058 have been met.

- B. **Per .2074(A)(2), the dwelling or structure shall be located such that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.**

The proposed dwelling will be sited to take advantage of the already, existing disturbance and land currently removed from production by the existing access roads. The area has been harvested by clear-cut. The proposed dwelling site has been located in an area of least productivity as shown by the 1994 aerial photograph (Exhibit A14). The location allows for the minimum amount of property to be used while maintaining the needed setbacks. The property surrounding the dwelling beyond the primary fire safety zones will be managed as a timber crop. The dwelling is located approximately 500 feet from SE Trout Creek Road, beyond the 60-foot required setback to take advantage of the existing entrance roads and needed topography for the house placement (See accompanying topographic map) Exhibit A18.

- C. **Per .2074(A)(3), the dwelling or structure shall be located such that the amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized.**

The area of impact within the forest boundary (see the site map Exhibit A17) is estimated to be 2.47 acres. The impact from the road to the house is estimated to be 0.11 acres, giving a total estimated impact of 2.58 acres. The actual area impacted by the dwelling is 1,438 square feet. The barn is estimated to be approximately 1,080 square feet.

Staff: In siting the structure in a cleared area and by incorporating portions of the existing logging road into the new driveway, the applicant has taken steps to minimize disturbance of on-site forest lands.

- D. **Per .2074(A)(4), the dwelling or structure shall be located such that any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and**

The proposed dwelling location will require a driveway of approximately 500 feet from SE Trout Creek Road. The length of the road is necessary due to the existing roadway... and to utilize the closest level area to the required setbacks (see the topographic map).

Staff: As evidenced on the site plan (Exhibit A17) the access road does not exceed 500 feet, therefore, the above criterion has been met.

- E. **Per .2074(A)(5), the dwelling or structure shall be located such that the risks associated with wildfire are minimized. Provisions for reducing such risk shall include:**

- (a) **The proposed dwelling will be located upon a tract within a fire protection district or the dwelling shall be provided with residential fire protection by**

contract;

(b) Access for a pumping fire truck to within 15 feet of any perennial water source on the lot. The access shall meet the driveway standards of MCC .2074(D) with permanent signs posted along the access route to indicate the location of the emergency water source;

(c) Maintenance of a primary and a secondary fire safety zone on the subject tract.

(i) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.

(ii) On lands with 10 percent or greater slope the primary fire safety zone shall be extended down the slope from a dwelling or structure as follows:

Percent Slope In Feet	Distance
Less than 10	Not required
Less than 20	50
Less than 25	75
Less than 40	100

(iii) A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with planning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection District. The secondary fire safety zone required for any dwelling or structure may be reduced under the provisions of MCC 11.ES.2058(D) and .2075.

(iv) No requirement in (i), (ii), or (iii) above may restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules; and

(v) Maintenance of a primary and a secondary fire safety zone is required only to the extent possible within the area of an approved yard (setback to property line).

(d) The building site must have a slope less than 40 percent.

A Fire District Review form has been submitted to the Multnomah County Rural Fire Protection Department Number 14. It was returned as "...There is adequate water pressure and flow for fire fighting purposes." This was signed by Brent A Younker, Assistant Chief, dated February 27, 1998 (Exhibit A7).

The nearest perennial water source on the subject property is located in the southeast section of the lot, with a pond bordering the property. As shown in the site map an access road reaching the pond will be retained as part of the forest management practices of the forest plantation. Road and driveway construction design have been reviewed by the fire protection district and approved. A Multnomah County Minimum Design Standards for Residential Driveways and Privately Maintained Roads sheet and inspection form has been completed, reviewed, and approved. A copy of this document has been submitted as part of this application (Exhibit A7).

The primary and secondary fire safety zones are represented on the Site Plan and Site Topography figures (Exhibits A17 & A18). The dwelling will be located as such to allow a primary safety zone of a minimum of 30 feet in all directions. Any trees within this area will be managed at a spacing of greater than 15 feet between crowns and other considerations as discussed in MCC 11.15.2074(A)(5)(c)(i). The dwelling location is on a grade of less than 10 percent. Therefore, extension of the primary fire safety zone is not required. In addition a secondary, fire safety zone of a minimum of 100 feet beyond the primary fire safety zone, in all directions. Any trees within this area will be managed with undergrowth and brush removed.

The building site, as described in the Site Topography Map... maintains a change of elevation of approximately 15 feet over a distance of approximately 400 feet. This gives an approximate slope of 4 percent.

Staff: It appears that the access road has been constructed consistent with the requirements of MCC .2074(D). A copy of an Engineer's statement, indicating that the road is constructed to withstand a vehicle weight of 52,000 lbs. GVW, is enclosed as Exhibit A21. Verification that primary and secondary fire safety zones have been established, as delineated on the site plan, must occur prior to a building permit being issued for the dwelling. This concern has been addressed with conditions of approval contained herein.

F. Per MCC .2074(B), the dwelling shall:

- (1) Comply with the standards of the Uniform Building Code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;**
- (2) Be attached to a foundation for which a building permit has been obtained;**
- * * *
- (4) Have a fire retardant roof; and**
- (5) Have a spark arrester on each chimney.**

A description and floor plan of the proposed dwelling is provided as a separate document

(Exhibit A20). *The dwelling will be a manufactured home of 1,438 square feet. The structure will be attached to permitted foundation, is over 600 square feet, have a fire retardant roof, and will maintain a working spark arrester on any chimney. A description of the proposed home is provided as part of this application.*

Staff: Evidence of compliance with each of the elements of MCC 2074(B) must be verified at time of building permit review and inspection. A condition of approval has been included herein addressing this concern.

- G. **Per MCC .2074(C), the applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class 11 stream as defined in the Forest Practices Rules.**

(1) **If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.**

(2) **Evidence of a domestic water supply means:**

* * *

(c) **Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.**

A groundwater well will be installed, according to the Oregon, Department of Water Resources requirements by a licensed well installer. The well will be constructed by McInally and Sons Well Drilling, Inc., Well Driller's License #1380 of Boring Oregon. This company has been contacted by the client and agreed to complete the work. The general location of the well will be to the northwest of the dwelling, as represented on the Site Map (Exhibit A17).

Attempts were made by DBA (Applicant's Consultant) to obtain water well logs of properties adjacent to the subject property from the Oregon Department of Water Resources. However, well logs were not available at the time of this submittal.

Staff: This criterion has been satisfied. A copy of the well report has been provided as evidence of an on-site domestic water supply (Exhibit A6).

- H. **Per MCC .2074(D), a private road (including approved easements) accessing two or more dwellings, or a driveway accessing a single dwelling, shall be designed, built, and maintained to:**

(1) **Support a minimum gross vehicle weight (GVW) of 52,000 lbs. Written**

verification of compliance with the 52,000 lb. GVW standard from an Oregon Professional Engineer shall be provided for all bridges or culverts;

- (2) Provide an all-weather surface of at least 20 feet in width for a private road and 12 feet in width for a driveway;
- (3) Provide minimum curve radii of 48 feet or greater;
- (4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;
- (5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments, except as provided below:
 - (a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades exceeding 6 percent;
 - (b) The maximum grade may be exceeded upon written approval from the fire protection service provider having responsibility;
- (6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;
- (7) Provide for the safe and convenient passage of vehicles by the placement of:
 - (a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or
 - (b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length at a maximum spacing of 1/2 the driveway length or 400 feet whichever is less.

The existing forest management service road (see the aerial photograph and site map Exhibits A14 & A17), historically used for heavy vehicle transport, will be utilized. This will give a compacted base for the driveway. After re-grading, a subbase of 4-inch minus will be placed and compacted. The drive surface shall then be placed, consisting of 3/4-inch minus. This will be smoothed by tractor. The driveway will maintain a minimum width of 12 feet.

There are no curvatures between the dwelling and SE Trout Creek Road (see site map). The straight course of the driveway will also give unobstructed clearance. There is no vegetation or structures to impair the 13 feet, 6 inches of vertical clearance. The existing grade is approximately 4 percent. Therefore, there will be no section of the driveway greater than 8 percent grade.

As shown in the site plan, a turnout of a minimum of 20 X 40 feet will be constructed. The distance from SE Trout Creek Road will be approximately 200 feet. The distance from the dwelling will be approximately 200 feet. The driveway will not cross any perennial water systems and therefore will not require bridge crossings and an engineer's approval.

Road and driveway construction design have been reviewed by the fire protection district and approved. A Multnomah County Minimum Design Standards for Residential Driveways and Privately Maintained Roads sheet and inspection form has been completed, reviewed, and approved. The review was completed by Brent A. Younker, Assistant Chief for Multnomah County Rural Fire Protection District Number 14. Mr. Younker can be contacted at (503) 695-2272. The review was completed February 27, 1998. A copy of this document has been submitted as part of this application (Exhibit A7).

Staff: An access road has been constructed, consistent with the design specifications of this criterion, at the location specified on the site plan. A copy of an Engineer's statement indicating that the road has been constructed to withstand a vehicle weight of 52,000 lbs. is enclosed as Exhibit A21.

8. Compliance With Applicable Comprehensive Plan Policies:

A. Policy 13: Air, Water And Noise Quality

It is the county's policy to require, prior to approval of a legislative or quasi-judicial action, a statement from the appropriate agency that all standards can be met with respect to air quality, water quality, and noise levels.

The development of the single family residence as allowed b Multnomah County's Template Dwelling process will maintain and manage a forest crop on the property utilizing Best Management Practices for forest crop management. The choice of residence will utilize a small square footage (approximately 1,438 square feet). The home is of new construction utilizing currently accepted energy saving measures.

The sewage disposal system will manage disposal in a way that will not impact local waterways. A preliminary inspection has been conducted and the site approved by the City of Portland.

The placement of the structures utilizes the localized topography for the restriction of noise produced from Trout Creek Road. The residence is placed in a topographic, "low", surrounded on three sides by topographic "highs".

Continued management of the property, as a forest crop will maintain an ecosystem which will enhance air and water quality. Forest ecosystems provide oxygen production, air purification, water thermal pollution reduction, stormwater runoff attenuation, and surface water filtration. Placement of the residence at this location will allow for close proximity of the forest manager assisting in cultivation and expedient management of the woodland.

The development of the single-family residence as allowed by Multnomah County's Template Dwelling process, is not located within impact of any high noise generating sources. The nearest commercial use is the location of high voltage power lines and towers. These are not high noise generating.

B. Policy 14: Developmental Limitations

The County's policy is to direct development and land form alterations away from areas with development limitations except upon a showing that design and construction techniques can mitigate any public harm or associated public cost, and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:

A. Slopes exceeding 20%;

The building site, as described in the Site Topography Map... maintains a change of elevation of approximately 15 feet over a distance of approximately 400 feet. This gives an approximate slope of 4 percent. Therefore this location satisfies criteria A.

B. Severe soil erosion potential;

The soil slope of the building site is approximately 4 percent. The soils are classified as Cazadero Soil. Therefore, this soil is given a Capability Classification of IIe². This gives the soil a moderate limitation due to erosion, as opposed to severe or extremely severe erosion limitations. The forest manager will maintain Best Management Plans of erosion control, including immediate replanting of disturbed areas. Therefore this location satisfies criteria B.

C. Land within the 100 year flood plain;

The dwelling will be located approximately 500 feet northwest of the nearest surface water, which is a wetland associated with Trout Creek, as represented in Site Topography (Exhibit A18). The wetland acts as a flood retention system. The building site is located at an elevation approximately 20 feet above the surface water. The Cazadero Soils are listed as not having flooding potential, with a seasonal high water table of greater than six feet from the ground surface. Therefore, this location satisfies criteria C.

D. A high seasonal water table within 0-24 inches of the surface for 3 or more weeks of the year;

The Cazadero Soils, as described in the Soil Survey for Multnomah County, maintain a high seasonal water table of greater than six feet from the ground surface. Therefore, this location satisfies criteria D.

E. A fragipan less than 30 inches from the surface;

The Soil Survey for Multnomah County does not list a fragipan associated with the Cazadero soils. Field investigation of soil pits constructed on the property showed no presence of a fragipan. Therefore this location satisfies criteria E.

F. Land subject to slumping, earth slides or movement.

The building site soil grade is within the angle of repose for this soil classification. Field examination revealed no evidence of slumping or earth movements associated with the building site. The Soil Survey of Multnomah County rates the soil as moderate for erosion hazard, no mention of soil failures for the Cazadero soils.

C. **Policy 22: Energy Conservation**

The County's policy is to promote the conservation of energy and to use energy resources in a more efficient manner. In addition, it is the policy of Multnomah County to reduce dependency on non-renewable energy resources and to support greater utilization of renewable energy resources. The county shall require a finding prior to the approval of legislative or quasi-judicial action that the following factors have been considered:

A. The development of energy-efficient land uses and practices;

The development of the single family residence as allowed by Multnomah County's Template Dwelling process, will maintain and manage a forest crop on the property, utilizing Best Management Practices for forest crop management. The choice of residence will utilize a small square footage (approximately 1,438 square feet) making the dwelling far more energy efficient than that of a larger structure. The home is of new construction, utilizing currently accepted energy saving measures.

Placement of the residence at this location will allow for close proximity of the forest manager assisting in cultivation and expedient, efficient management of the woodland. Location of the residence near the forest crop will allow for reduced transportation for the forest manager and necessary equipment needed for the management of the woodland. Therefore, this application fulfills criteria A.

B. Increased density and intensity of development in urban areas, especially in proximity to transit corridors and employment, commercial and recreational centers;

The tree farm located, on the property is intended as a retirement investment for the forest manager. Construction of the small residence near the woodland allows for intrinsic management of the forest resource. This long-term project will be sustained throughout his retirement. The dwelling and associated structures are required for the forest manager's residence and equipment storage associated with the needed management practices. Therefore this fulfills the location to employment centers addressed in criteria B.

C. An energy-efficient transportation system linked with increased mass transit, pedestrian and bicycle facilities;

The location of the project allows for numerous transportation alternatives. The closest public transit terminal is located in Troutdale, Oregon. The possible travel route system is from Trout Creek Road to Gordon Creek Road to Evans Road to Corbett. From Corbett two transportation routes are possible. The first is Corbett

Hill Road to Interstate 84 to Troutdale. The second is Evans Road to Hurlburt Road to Crown Point Road to Troutdale. The Public Transit terminal is located at the Outlet Store Complex, approximately 12 Miles, from the project. Tri-Met lines 24, 80, and 81 serve this facility.

Limited public transit is provided to the town of Sandy. The possible travel route system to this transit terminal is Trout Creek Road to Gordon Creek Road to Bull Run Road to Ten Eyck Road to the town of Sandy. The Public Transit terminal is approximately 13 miles from the project.

The dwelling and associated structures are within a linked transportation that includes primary arterial and public transportation systems. Therefore, this application fulfills criteria C.

D. Street layouts, lotting patterns and designs that utilize natural environmental and climactic conditions to advantage.

The development of the single family residence as allowed by Multnomah County's Template Dwelling process, is not a development requiring street layouts, lotting patterns, or multiple dwelling and structure design. However, the placement of the dwelling will utilize existing topographies and the future growth of the forest crop for additional protection of weather extremes and climatic control.

E. Finally, the county will allow greater flexibility in the development and use of renewable energy resources.

The development of the single family residence, as allowed by Multnomah County's Template Dwelling process is being proposed to allow the forest manager close proximity to the forest resource, enhancing the management and oversight of this woodland. While not considered a direct energy resource, forestry does perpetuate the continued management of a renewable resource. Material gained from this project will be used for energy efficient building material, localized supply for pulp and paper manufacturing, and energy production in the form of a biomass heating resource. The management of this woodlot will increase the forest yield, providing a renewable resource for the community in the future.

D. Policy 37: Utilities

The County's policy is to require a finding prior to approval of a legislative or quasi-judicial action that:

- A. The proposed use can be connected to a public sewer and water system, both of which have adequate capacity; or**
- B. The proposed use can be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or**

- C. **There is an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or**
- D. **There is an adequate private water system, and a public sewer with adequate capacity.**
- E. **There is adequate capacity in the storm water system to handle the run-off; or**
- F. **The water run-off can be handled on the site or adequate provisions can be made; and**
- G. **The run-off from the site will not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjoining lands.**
- H. **There is an adequate energy supply to handle the needs of the proposal and the development level projected by the plan; and**
- I. **Communications facilities are available.**

Furthermore, the County's policy is to continue cooperation with DEQ, for the development and implementation of a groundwater quality plan to meet the needs of the county.

A groundwater well will be installed according to the Oregon Department of Water Resources requirements by a licensed well installer. The well will be constructed by McInally and Sons Well Drilling, Inc., Well Driller's License #1380, of Boring Oregon. Attempts were made by DBA to obtain water well logs of properties adjacent to the subject property from the Oregon Department of Water Resources. However, well logs were not available at the time of this submittal.

A land feasibility site evaluation was conducted of the building site by Mr. Phillip Crawford, Environmental Soils Inspector for the City of Portland, Bureau of Buildings. The result of the study is that the "...site is SUITABLE for the use of a standard septic drainfield system in compliance with the standards set forth in On-Site Sewage Disposal Rule..." The minimum type and size of the system and absorption area required for the three bedroom home proposed in this project is 1,000 gallons for the septic system, and 300 feet of linear feet absorption trench. The report is referenced by LFS 13-98 (Exhibit A5). Therefore, criteria C is satisfied.

Drainage absorption trenches have been recommended by the City of Portland. The required minimum is 300 linear feet. There is ample area, as described in the Site Plan, to handle all drainage from roof runoff. The area of coverage is 1438 square feet. The topography slopes to the southeast, providing slope drainage into vegetated areas. The slope will prevent ponding around the structure. Therefore criteria F is satisfied.

The nearest surface water is a wetland area associated with Trout Creek, located

approximately 500 feet to the southeast.... Stormwater from roof drainage will be directed downslope to the southeast. However, the runoff will be directed into 'vegetated topography and infiltrate into the soils. Direct flow will not impact the existing surface waters. The building site has been located and the drainage designed so as to not impact nor alter any existing drainage patterns. Therefore, criteria G is satisfied.

The development of the single family residences, as allowed by Multnomah County's Template Dwelling process is-not a development requiring a large power supply. Power is currently supplied to residences located adjacent to the subject property. Although not a local power source, high voltage power lines bound the eastern side of the property. Therefore, criteria H is satisfied.

An underground telecommunications system bounds the north side of the property. A junction to the telecommunication is located approximately 50 feet east of the proposed drive. Therefore, criteria I is satisfied.

E. Policy 38: Facilities

The County's policy is to require a finding prior to approval of a legislative or quasi-judicial action that:

- A. The appropriate school district has had an opportunity to review and comment on the proposal.**

A School District Review form has been submitted to the Corbett School District Number 39. It was returned as "...The District has no comment...", signed by the Superintendent, dated February 20, 1998. Therefore, criteria A is satisfied (Exhibit A9).

- B. There is adequate water pressure and flow for fire fighting purposes; and**
C. The appropriate fire district has had an opportunity to review and comment on the proposal.

A Fire District Review form has been submitted to Multnomah County Rural Fire Protection District Number 14. It was reviewed and returned, stating there is adequate water pressure and flow for fire fighting purposes, with water- supply being provided by water shuttles with water tenders. This was completed by- Brent A. Younker, Assistant Chief, dated February 27, 1998. Therefore, criteria B and C are satisfied (Exhibit A7).

- D. The proposal can receive adequate local police protection in accordance with the standards of the jurisdiction providing police protection.**

A Police Services Review form has been submitted to the Multnomah County Sheriff. It was reviewed and returned, "...stating the level of police service available to serve the proposed project is ADEQUATE..." The form was completed by Mel Hedgpeth, Commander, dated February 24, 1998. Therefore, criteria D is satisfied (Exhibit A8).

F. **Policy 40: Development Requirements**

The county's policy is to encourage a connected park and recreation system and to provide for small private recreation areas by requiring a finding prior to approval of legislative or quasi-judicial action that:

- A. **Pedestrian and bicycle path connections to parks, recreation areas and community facilities will be dedicated where appropriate and where designated in the bicycle corridor capital improvements program and map.**

The development of the single-family residence, as allowed by Multnomah County's Template Dwelling process will not affect any existing or future bicycle path routes or projects. Therefore, criteria A is satisfied.

- B. **Landscaped areas with benches will be provided in commercial, industrial and multiple family developments, where appropriate.**

The development of the single-family residence, as allowed by Multnomah County's Template Dwelling process is not a commercial, industrial or multiple family development. Therefore, criteria B does not apply.

- C. **Areas for bicycle parking facilities will be required in development proposals, where appropriate.**

The development of the single-family residence, as allowed by Multnomah County's Template Dwelling process, does not necessitate bicycle parking facilities. Therefore, criteria C is not appropriate.

Staff: This proposal does not impact any existing or planned park and recreation areas or bicycle facilities.

9. **Compliance With East of Sandy River Plan:**

A. **Preamble/Vision Statement**

For our future, we envision:

- **The residential density east of the Sandy River stabilized at levels allowed by current zoning.**

Hearings Officer: This general vision statement indicates that the zoning ordinance, not the East of Sandy River Plan, regulates the density of development in the area governed by the plan. As a template dwelling is allowed by the applicable zoning ordinance, approval of such a dwelling is consistent with this provision of the Plan.

B. **Trout Creek Road Area, Map 8**

Hearings Officer: The Trout Creek Road Area map shows the Wentz property as being 40.7 acres in size. The map also shows that the property is adjacent to a 39-acre parcel that, at the time of mapping, was an aggregate lot due to contiguous ownership.

The Hearings Officer finds that this map does not address the legal effect of showing these two parcels as sharing an "aggregated lot line for contiguous ownership." On one hand, this line could indicate that the parcels have been combined due to provisions of the adoption of the map. On the other hand, the map could be intended to show then current ownership patterns without dictating future development. As other Plan provisions cited below clearly recognize that "dis-aggregation" of aggregated lots is allowed, the Hearings Officer adopts the later interpretation of intended effect of the Plan map. As a result, the Wentz property is a separate parcel that may be "dis-aggregated" from the 39-acre parcel.

C. **COMMERCIAL FOREST USE**

Multnomah County's rules regarding dwellings in the Commercial Forest Use zone limit new development in three important ways.

1. **New dwellings must pass a template test.**

Hearings Officer: The Wentz dwelling passes the template test, as determined above.

2. **Current Multnomah County Zoning rules (although not required by the state) do not allow dis-aggregation of an individual parcel from a group of parcels owned by the same individual if the parcel is less than 19 acres. Oregon Revised States only require aggregation at the time of an actual application for a dwelling. Thus, the owner of two parcels, one or both of which is less than 19 acres, could have a single-family residence on only one of them.**

Hearings Officer: This summary of land use regulations indicates that the framers of the East of Sandy River Plan understood that parcels of the size involved in this application, 39 acres and 40.7 acres, could be "dis-aggregated" and separately developed. This policy makes it clear that then current regulations only prevented dis-aggregation for parcels of less than 19 acres in size. This is still the case under current County rules.

Commercial Forest Use Policies

1. **Maintain existing commercial forest use areas as forest lands. Do not allow parcelization that detracts from continued forest operations and incidental protection of open space, wildlife habitat, and rural community values.**

STRATEGY: Multnomah County shall not consider large-scale "exceptions" to Goal 4 of the Oregon Statewide Planning Program (Forest Lands).

Hearings Officer: Policy 1 is implemented by adoption the cited implementation strategy. The approval of the Wentz template dwelling application does not violate Policy 1 because it does not involve the approval of a large-scale exception to Goal 4.

2. **Allow new dwellings on lands designated for commercial forest use only when it can be demonstrated that they will have no significant impact upon forestry practices, open space, public facilities, wildlife habitat, and rural community character.**

STRATEGY: The finding of no significant impact shall be met through compliance with approval criteria in the Multnomah County Zoning Ordinance.

Hearings Officer: Policy 2 is implemented by adoption the cited implementation strategy. The approval of the Wentz template dwelling application on CFU zoned land complies with Policy 2 and its implementing strategy because it complies with all approval criteria in the zoning ordinance. That ordinance does not prohibit "dis-aggregation" of legally created parcels of the size involved in this application.

4. **Allow new dwellings on the remainder of the Commercial Forest Use zoned lands east of the Sandy River if the lot meets current County standards regarding the template test or if a lot meets the legal requirements regarding ownership since 1985 set forth in Oregon Revised Statutes or Oregon Administrative Rules.**

STRATEGY: Multnomah County shall implement this policy through amendments to the Multnomah County Zoning Ordinance Commercial Forest zoning district. However, Multnomah County shall retain its current standards for "template dwellings," which require five residences within a half-mile square template centered on the center of the property.

Hearings Officer: Policy 4 is implemented by adoption the cited implementation strategy. Multnomah County has amended its zoning ordinances as expected in the cited strategy. The approval of the Wentz template dwelling application on CFU zoned land also complies with Policy 4 and its implementing strategy because the dwelling meets the five residence template dwelling standards of the amended CFU zoning district. Compliance has been documented above.

- 4A. **Allow dis-aggregation of existing legally-created lots for purposes of consideration of an additional dwelling unit on a lot less than 19 acres in size under the following conditions: * * ***

Hearings Officer: Policy 4A is not directly applicable to the Wentz application

because it relates to "dis-aggregation" of lots that are smaller than the Wentz property and its adjoining formerly aggregated parcel. The policy does, however, show that the East of Sandy River Plan liberalized "dis-aggregation" requirements and that it is even possible for lots that are much smaller than 19 acres in size to be "dis-aggregated." Multnomah County has amended its zoning ordinances as expected in the cited strategy. The approval of the Wentz template dwelling application on CFU zoned land also complies with Policy 4 and its implementing strategy because the dwelling meets the five residence template dwelling standards of the amended CFU zoning district. Compliance has been documented above.

5. **Ensure that any proposed new dwellings in the commercial forest use designated areas receive appropriate public review by providing comprehensive notice and review opportunity prior to any land use decision.**

STRATEGY: Multnomah County shall implement this policy through the public notice provisions of the Multnomah County Zoning Ordinance.

Hearings Officer: Policy 5 has been implemented through the public notice requirements of the zoning ordinance. Notice of review of the Wentz application was provided to area property owners and other affected parties, as required by the zoning ordinance.

10. **Findings Regarding Opponent's Objections**

The County received one letter in opposition to approval of the template dwelling from John F. Christensen. Mr. Christensen's concerns are addressed below. Text in bold is a summary of Mr. Christensen's concerns.

1. **The prior template dwelling approval required Mr. Wentz to aggregate the 40.7-acre lot with the adjoining property owned by Schoppert Logging.**

Hearings Officer: The prior decision approving a template dwelling on the Wentz property was approved at a time that Schoppert Logging owned the Wentz property and the adjoining 39 acre tract. As a result, land use rules required that the Hearings Officer require aggregation due to the common ownership. When Mr. Wentz reapplied for approval of a template dwelling, he owned the 40.7-acre tract and Schoppert and a third party owned the 39-acre tract. As the parcels were not and are not now held in common ownership and Multnomah County and State of Oregon regulations do not prohibit "dis-aggregation" of properties held in common ownership, Mr. Wentz is entitled to obtain approval of a template dwelling on the subject property. It should also be noted that the Wentz property was lawfully divided into a separate parcel prior to 1990 and that the approval of a template dwelling on this parcel does not create an additional parcel of land.

2. **The aggregation requirement is inconsistent with the CFU Policies of the East of Sandy Rural Area Plan.**

Hearings Officer: The East of Sandy River Plan recognizes the fact that parcels over 19 acres in size may be "dis-aggregated." Approval of the Wentz template dwelling

application without requiring aggregation with the adjoining 39 acre tract owned by Schoppert Logging, therefore, does not violate either the spirit or the text of the East of Sandy River Plan. The specific policies of the Plan have been discussed above. The approval of the application does not cause parcelization because the two properties in question were lawfully created and remain lawful lots under ORS 92.017 once divided.

3. Schoppert's sale of the Wentz parcel violates the spirit of the Oregon administrative rule that raises the minimum lot size for dwelling in forest zones to 80 acres.

Hearings Officer: The Oregon administrative rules do not require an 80-acre minimum lot size for a template dwelling. The sale of the Schoppert parcel may not effectuate DLCD's intent in adopting the aggregation rules but DLCD has advised Multnomah County that it understands that "dis-aggregation" is permissible under its forest zone rules.

4. The selling of the adjacent parcel shows cynical disregard for the intent of the deed restriction requirement of the prior approval.

Hearings Officer: The requirement in the prior approval was imposed due to facts in existence at the time. As the facts have changed, the applicable law no longer supports the imposition of this condition. As discussed earlier, Schoppert Logging and the applicant are specifically allowed by County land use rules to "dis-aggregate" the parcels. Cynical disregard for an inapplicable requirement does not merit denial of this application or the imposition of such a condition by this land use decision.

5. Approval of this dwelling will effectively allow two dwellings on lots that were formerly jointly owned by Schoppert Logging.

Hearings Officer: This is the effect of allowing "dis-aggregation" of the lots. Yet, this is a result that is intended by the County land use regulations and allowed by State administrative rules.

6. Approval of this dwelling could potentially increase the number of dwellings that could be used to satisfy future template tests.

Hearings Officer: Approval of this application will not increase the number of dwelling that may be used to satisfy future template tests for dwellings on other parcels because the template dwelling criteria requires that a dwelling must be in existence on January 1, 1993 in order to be used to meet the template test.

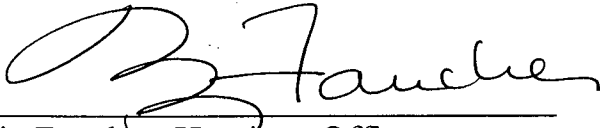
7. Approval will seriously erode the low-density objectives of the East of Sandy River Plan.

Hearings Officer: The Plan specifically provides that density will be determined by the zoning regulations. As the Wentz application meets those regulations, its approval does not erode the density expectations of the Plan.

Conclusion

Considering the findings and other information provided herein, this application for approval of a "Template Dwelling," to allow a new single family dwelling on Commercial Forest Use zoned property, as conditioned, satisfies applicable Comprehensive Framework Plan policies, East of Sandy River Rural Area Plan and Multnomah County Zoning Ordinance requirements. Compliance with local regulations establishes compliance with the applicable statewide regulations as well. The County regulations have been acknowledged by the State of Oregon as effectuating the requirements of State of Oregon forest zone regulations.

Dated this 24th day of November 1998.



Liz Fancher, 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 \$530.00 plus a \$3.70 - 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: DEC 17 1998
Agenda No: C-117
Est. Start Time: 9:00

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Report to the Board the Hearings Officer's decision on HV 13-98.

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

REGULAR MEETING Date Requested: December 17, 1998
 Amt. of Time Needed: 5 minutes

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

PERSON(S) MAKING PRESENTATION: Stuart Farmer

ACTION REQUESTED

☐ Informational Only ☐ Policy Direction ☒ Approval ☐ Other

SUGGESTED AGENDA TITLE

Report to the Board the Hearings Officer's decision regarding an **Approval** with conditions of the Minor Variance to allow an expansion of the existing deck.

SIGNATURES REQUIRED

Elected Official: _____
or
Department Manager: KB Larry E. Nicholas

BOARD OF
COUNTY COMMISSIONERS
98 DEC - 8 PM 11:30
MULTNOMAH COUNTY
OREGON



CASE NAME: MINOR VARIANCE

NUMBER: HV 13-98

1. Applicant Name/Address:

Gregory A. Darmohray
8350 NW Ash Street
Portland, OR 97229

2. Action Requested By Applicant:

A request to exceed the 30% maximum lot coverage requirement to allow an addition to an existing single family dwelling. The enclosed area of the proposed addition is allowed outright. The applicant desires to extend a deck 3 feet beyond the enclosure and it is the deck extension that exceeds the 30% maximum lot coverage.

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:

Approval of the application subject to specific conditions listed in the staff report.

4. Hearings Officer Decision:

Approved the Minor Variance request to allow an expansion of the existing deck, subject to compliance with specific conditions as listed in the decision.

5. If Recommendation And Decision Are Different, Why?

The Hearings Officer's decision is consistent with the staff recommendation. However, the content of the decision does deviate substantially from the staff report in that much of the evidence upon which the decision is based was received either at the hearing or after the hearing, before the record was closed.

6. Issues:

An adjoining property owner has contested this minor variance. Their concerns relate to visual impacts of the project, including a loss of privacy and a potential adverse impact on the resale value of their home. Conditions are included in the Hearings Officer's decision to mitigate these impacts.

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

This approval grants a variance to a County land use requirement. The Hearing's Officers findings discuss in detail the threshold that must be met in order for a landowner to deviate from land use requirements that are applicable to all other people that reside within the same zone district. It is this threshold, and the rationale used to establish it, that appears to be the key policy issue at hand.

**MULTNOMAH COUNTY, OREGON
DECISION OF LAND USE HEARINGS OFFICER**

NOV 30 1998

This Decision consists of Conditions, Findings of Fact and Conclusions

November 25, 1998

Case File: HV 13-98

Proposal: A minor variance request to exceed the 30% maximum lot coverage requirement, to allow an addition to an existing single family dwelling. The enclosed area of the proposed addition is allowed outright. The applicant desires to extend a deck 3 feet beyond the enclosure and it is the deck extension that exceeds the 30% maximum lot coverage.

Location: 8350 NE Ash Street
Lot 3, Block 1, Taylor Crest (R-82200-0140)

Applicant: Gregory A. Darmohray
8350 NW Ash Street
Portland, OR 97229

Site Size: 10,438 sq. ft.

Zoning: Single Family Residential (R-10)

Approval Criteria: Multnomah County Code (MCC): MCC 11.15.8505 Variances;
Comprehensive Plan Policies 13, 14, 22, 37, 38, and 40

HEARINGS OFFICER DECISION

Approve, subject to a condition, a minor variance which permits the allowed 30% lot coverage to be exceeded based on the findings and Conclusions contained herein.

CONDITION OF APPROVAL

1. This approval is based on the submitted written narrative(s) and site plan. No development activities shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.
2. Consistent with MCC 11.15.8505(B), this variance shall be void if no substantial construction or substantial expenditure has occurred on the affected property within (18) months of the date of this approval. If necessary, determination of substantial construction or substantial expenditure shall be performed pursuant to MCC .8505(B)(1) through .8505(B)(4).
3. Application for building permits may be made with the City of Portland after the close of the appeal period for this decision. When ready to have building permits signed off, the applicant shall call the Staff Planner, Derrick I. Tokos, AICP, at (503) 248-3043, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building permits to the City of Portland. Five (5) sets each of the site plan and building plan are needed for building permits sign-off.
4. No additional land use action and/or permit requests shall be accepted, relating to the subject application, until such time as required fees for said application have been paid in full.
5. The property owner shall plant and maintain two Douglas Fir trees, 12 to 14 feet in height, on his property which shall within two years obscure the improvements from the sight of Mr. and Mrs. Mary's property and provide privacy between the Darmohray and the Mary properties. The property owner shall install a drainage system to ensure these trees have an adequate growing environment.
6. The property owner shall install a 3-foot high opaque deck railing along the west end of the deck and a roll-down blind mounted from a 6.5 feet high trellis along the west railing of the deck that can be extended down to the top of the railing.

PROJECT DESCRIPTION

The applicant originally proposed an addition to an existing single family dwelling that would add up to 200 square feet of additional ground coverage. Proposed improvements include expansions to the family room/kitchen area and deck. The initial application, filed on June 6, 1998, requested two variances, one from the 10-foot side yard setback requirement applicable to the west side yard and the second to exceed the maximum lot coverage requirement by 4.5%. On August 12, 1998, the application was determined to be complete. On August 31, 1998, the applicant deleted the request for a variance from the west side yard setback by eliminating a proposed staircase and reducing the width of the west deck by 1-foot. As reflected on the site plan (Exhibit A11), no improvements are to occur within 10 feet of the west property line. As amended, the application under consideration consists of an increase in lot coverage of 3 feet by 24 feet in the southern direction and 1 foot by 14 feet in the western direction. The amended increase in lot coverage is 87 square feet or an additional .08% increase in lot coverage. The existing lot coverage is 32.6 percent, with approval of the variance the lot coverage would be 32.68%.

SITE AND VICINITY CHARACTERISTICS

The parcel upon which the improvements are proposed is approximately 10,439 square feet in size. Access to the parcel is off of NW Ash Street. The property currently contains a single family dwelling with an attached garage, constructed in 1990.

The subject parcel lies within the 31 lot, Taylor Crest subdivision, approved by the Board of County Commissioners April 26, 1986. Lot sizes within the subdivision range between 10,010 square feet and 45,726 square feet in size. Most of the parcels adjoining the applicant's property are developed. This area is located inside the Urban Growth Boundary. The parcel and all adjoining properties are within the Multnomah County Single Family Residential (R-10) Zone District.

HEARING AND TESTIMONY

A public hearing on the request was held on October 21, 1998. At the close of the hearing, the Hearings Officer left the record open for seven days for the applicant to furnish additional evidence in support of his application, followed by seven days for the opponents to respond to the applicant's evidence and to make any further arguments against the request, followed by seven days for the applicant to rebut any opponent evidence and final argument.

1. Derrick Tokos, County Planner, summarized the Staff Report
2. Gregory Darmohray, applicant, testified in favor of his application.

3. Scott Mary, property owner of the adjacent parcel immediately to the west, testified in opposition.
4. Cindy Quines, Canfel Home Designs, while the record was open for proponent evidence, submitted a letter dated October 23, 1998 on behalf of the applicant. Mr. Quines concludes in his letter that "The impact on the local neighborhood housing density is insubstantial. In fact from an aesthetic standpoint[,] the optimal design will not only enhance your property, it will have a positive rather than negative impact on the surrounding neighborhood."
5. David Leach, Shadow Lands Design, submitted a letter dated October 26, 1998 on behalf of the applicant. In the letter Mr. Leach stated that he proposes that Mr. Darmohray plant two Douglas Fir trees, 12 to 14 feet in height, on his property to provide additional privacy between the Darmohray and the Mary properties. He stated that the two trees should provide an immediate visual screen when viewing the first floor of Mr. Mary's house from Mr. Darmohray's family room and that within one to two years there should be a substantially complete visual screen of Mr. Mary's second floor. He stated that in addition Mr. Mary could plant one Douglas Fir tree in the southeast corner of his lot. He also stated that Mr. Darmohray has contracted with him to install a drainage system in the planting area to assure the trees will have the best possible growing environment.
6. William Hooper, William Hooper Construction, submitted a letter dated October 26, 1998 sent to Mr. Darmohray.
7. Ms. Mary Raetz, Sales Associate with White Realty, submitted a letter dated October 27, 1998. Mrs. Raetz stated that the net impact of Mr. Darmohray's project will be positive.
8. Mr. Darmohray submitted a letter dated October 28, 1998, while the record was open for the applicant to provide additional information in support of his variance application. He noted that his original plans called for extending the deck in the southern direction by 4 feet and the western direction by 1 foot. He now requests that the deck be extended only 3 feet in the southern direction. He says that this will still leave enough room for a walkway on the deck running east-west and will reduce the requested increase of lot coverage. The Hearings officer notes that the revised deck plans as stated in the October 28, 1998 letter are inconsistent with the plans stated in Mr. Darmohray's November 11, 1998 letter concerning whether he plans to extend the west deck. In the November 11 letter, he states he plans to extend the west deck by 1-foot. The Hearings Officer bases this decision on a proposal to extend the west deck by 1 foot
9. Scott Mary submitted a letter dated November 2, 1998 responding to the applicant's additional evidence. He stated that there are three adverse effects on his property: visual impact, privacy and resale value.

10. Mr. and Mrs. Robert Bolton, 8429 NW Copeland St., owners of a lot in the Taylor Crest subdivision, in a letter dated November 2, 1998 responded to the application during the seven-day period that the record was open for additional opposition evidence. Their concerns related to the property values, visual effect and affect on the open character of the neighborhood.
11. Mr. Darmohray, submitted a letter dated November 11, 1998, during the final seven day period the record was open for the applicants to rebut opponents' evidence and argument.

APPROVAL CRITERIA

In this section, the approval criteria are set forth in bold print, following by the hearings officer's findings and conclusions on each criterion.

1. Proposed Use is Permitted in the R-10 Zone District:

MCC 11.15.2862 ET. SEQ. - Single Family Residential (R-10)

11.15.2862 Use

No buildings, structure or land shall be used and no building or structure shall be hereafter erected, altered, or enlarged in this district except for the following uses:

- (A) Single family dwellings.**
- (B) Accessory buildings such as garages, carports, studios, pergolas, private workshops, playhouses, private greenhouses or other similar structures related to the dwelling in design, whether attached or detached.**

Findings and conclusions. This request involves alterations to an existing single family dwelling and attached deck, both of which are permissible uses in the R-10 district (MCC 11.15.2862(A) and (B)).

2. Variance to R-10 Zone District Dimensional Standards Required:

11.15.2864 Restrictions

*** * ***

(F) Lot Coverage

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

Findings and Conclusions. Multnomah County's Code controls building bulk and density in urban single family residential zones with several tools. The minimum lot size, lot width, yard setback requirements and building height restrictions control intensity. In addition intensity of use is controlled by limiting the portion of the lot that may be covered by buildings. Each zone has different limitations resulting in a graduated scale of intensity of development from LR-40 at the low end to LR-5 at the more intense end of the scale.

The Darmohray application was filed on July 6, 1998 and deemed to be complete on August 31, 1998. After the Darmohray application was filed, Multnomah county revised its zoning ordinance. The Darmohray application is subject to the criteria in the Code at the time the application was filed. Under former MCC .2864(F), a dwelling unit and/or accessory building in the R-10 zone may not cover more than 30% of a lot. The Hearings Officer notes that the current code has increased the area that may be covered in the R-10 zone to 35%. The 30% lot coverage standard is applicable to this application. As modified, the application proposes to increase the lot coverage to approximately 33.4% of the lot.

As discussed in the staff's August 12, 1998 letter to Mr. Darmohray (Exhibit B2) structural improvements exceeding 30-inches in height are included in calculating lot coverage. Accordingly, the area covered by the deck is considered lot coverage. Existing lot coverage on the subject property, including a single family residence, attached garage and deck, is approximately 3,400 square feet or 32.6% of the total lot area. The originally proposed new improvements would add not more than 200 square feet of coverage, increasing total lot coverage to 34.5 percent. As amended, the proposal would increase the lot coverage by 0.8% to a total lot coverage of 33.4%. The amount of existing and proposed lot coverage exceeds the 30% threshold established under MCC .2864(F), applicable when the application was filed. Therefore, a variance to this dimensional standard is required. The Hearings Officer notes that if the application for remodeling the dwelling were filed under the new standards, no variance would be required.

In general, the reasons that a government controls the intensity of development include securing public safety from fire and other dangers, to prevent overcrowding of land, to obtain adequate light, air and sunshine, freedom from noise, opportunity for rest and relation, facilities for children to play on the premises, opportunity for cultivation of flowers, shrubs and vegetables, preservation of a suburban character by assuring sufficient open space around buildings to create a dominate visual impression of open space rather than structures, preservation of the natural capacity of the soil to absorb rainfall thus providing protection against flooding and soil erosion, provision of some "high class" low-density residential areas, protection of the value of houses previously constructed on large lots against the depreciation that would result if parcels here and there were more intensely developed.

The Multnomah County zoning code does not specify the purposes it seeks to achieve with its lot coverage limitations. Public safety can be provided at considerably more intense levels of development than allowed in the R-10 zone. Therefore, the protection of the public safety does not appear to be the reason for the limits. Considering the various single

family residential zones provided by the Multnomah County zoning code which allow varying degrees of intensity of building, it appears that the different intensities of development are allowed to provide choices to the citizens of the County for various living environments each having a different character concerning open space. It also appears that the various residential zones provided by Multnomah County were selected and applied to areas to protect differing topographic, geologic, vegetative and soil characteristics of different areas within the County. The values that open space provides include light, air, sunshine, vegetation, separation between buildings which affects noise and privacy. In general, the county has applied the less intense zones in hillside areas. This suggests that a purpose of the intensity limitations is to preserve the capacity of the soil to absorb rainfall in order to restrict the potential for flooding and soil erosion. It also suggests that a purpose is to facilitate the retention of vegetation because vegetation has an aesthetic value and protects the soil from erosion and landslides.

The Hearings Officer concludes that contrary to Mr. Darmohray's contention, a purpose of the lot coverage limitations is to secure the degree of privacy between buildings that is characteristic of the level of intensity the zone allows.

3. Determination that the Requested Variance Meets the Threshold for Classification as a "Minor Variance":

11.15.8515 Variance Classifications

* * *

(B) A Minor Variance is one that is within 25 percent of an applicable dimensional requirement. The Planning Director is authorized to grant a Minor Variance in accordance with the following procedures and conditions:

(1) Application shall be made on forms provided by the Planning Director and shall be accompanied by the written consent of the owner or owners of each lot adjoining and across any street from the subject property;

* * *

(4) The Planning Director may, without notice or hearing, grant the variance for which the application is made and may attach reasonable conditions thereto.

Findings and conclusions. This request qualifies as a minor variance. Lot coverage is a dimensional standard within the R-10 zone district (MCC .2864). The original requested variance would allow 34.5% of the total lot area to be covered, a 15% increase to the applicable dimensional requirement. The lot coverage request was amended, reducing the deck width such that the total area to be covered will be 33.4%.

Consistent with MCC 11.15.8515(B)(1), the Planning Director is authorized to grant a minor variance request, provided the applicant acquires the written consent of the owner or owners of each lot adjoining and across any street from the subject property. The applicants could not obtain all of the required signatures, therefore, a Hearing was required.

4. Compliance With MCC 11.15.8505, Minor Variance Approval Criteria:

11.15.8505 Variance Approval Criteria

- (A) The Approval Authority may permit and authorize a variance from the requirements of this Chapter only when there are practical difficulties in the application of the Chapter . . . A Minor Variance shall meet criteria (3) and (4).
 - (3) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or adversely affect[] the appropriate development of adjoining properties.
 - (4) The granting of the variance will not adversely affect the realization of the Comprehensive Plan nor will it establish a use which is not listed in the underlying zone.

a. Compliance with the Practical Difficulties Standard

Findings and Conclusions. The terminology in the variance standards, including "practical difficulties," "materially detrimental," and "injurious" are ambiguous. Multnomah County does not, in its ordinance, supply a definition of these terms. To reach a decision on the requested variance requires some interpretation of the meaning of the ambiguous terms. The Hearings Officer was not pointed to any prior interpretations of the variance criteria by Multnomah County. Nor does the variance section contain any purposes or intent statement to illuminate the meaning of the terms. Lacking information on any prior County Board interpretation or on the Board's legislative intent, the Hearings Officer interprets the words used in the variance provisions according to the meaning of the words and their context, considering the interpretation given to those terms by Oregon case law.

Since 1992, local governments may interpret their own locally enacted code provisions. Local interpretations should be sustained on appeal, unless they are contrary to express words, purpose or policy of the local enactment or to a state statute, statewide planning goal or administrative rule which the local enactment implements. *Clark v. Jackson County*, 313 Or. 508, 836 P.2d 710 (1992). The Clark decision was effectively codified by the 1993 Legislature, ORS 197.829. Variances are not governed by statute, goals or rules. Thus, Multnomah County is not bound by Court interpretations of similar code provisions in other jurisdictions. This deference to local government interpretations applies

only to interpretations made the decision-making body, it does not apply to interpretations made by the administrative staff or a hearings authority.

The Code authorizes approval of a variance when there are "practical difficulties in the application" of the zoning Code (if other criteria are also met). The applicant must demonstrate that there are "practical difficulties" in applying the requirements of the Code to the property for which the variance is requested. If the applicant first satisfies this threshold requirement, then the criteria in subsections (3) and (4) must be satisfied. If the applicant does not demonstrate that the practical difficulties requirement is met, the variance request must be denied.

"Practical difficulties or unnecessary hardship" has been interpreted in Oregon as a demanding standard. The Oregon courts have followed the rule subscribed to by most jurisdictions and decided that the "hardship or practical difficulty" which must be shown to must arise out of conditions in the land. That is, in order to obtain a variance, an individual property owner must demonstrate some hardship or practical problem relating to the land not shared by others. *Lovell v. Independence Planning Comm.*, 37 Or. App. 3, 586 P.2d 99 (1978). Further, the courts in Oregon have generally held that the variance must be the minimal variance necessary to make use of the property. Oregon courts have decided that "practical difficulties and hardships" are those conditions which, without a variance, would result in the virtual uselessness of the property. *Standard Supply Co. v. Portland*, 1 Or LUBA 259 (1980), *Erickson v. City of Portland*, 9 Or. App. 256, 496 P.2d 726 (1972); see also Anderson, American Law of Zoning, sec. 1843 (1977).

Neither LUBA nor the courts have precisely defined the terms but have held that the difficulties must be more than an obstruction of the personal desires of the landowner and must not be self created. Traditionally a variance is not personal to the property owner, but goes with the land. The personal preference of the owner is not a subject for a variance. *Chou v. City of Keizer*, 15 Or LUBA 420 (1987, citing 3 R, Anderson, American Law of Zoning, Sec. 20.30 (3rd ed., 1986). The applicant for a variance must show that the condition is one arising out of the property itself, not out of something personal to the owners. *Lovell v. Independence Planning Commission*, 27 Or. App. 3, 586 P.2d 99 (1978).

In view of the latitude in interpreting local ordinances given to governing bodies by Clark and subsequent cases interpreting Clark and ORS 197.829, it is unlikely Oregon courts would interpret variance standards in the same way today as in the cases cited above. Variance standards may now be interpreted by the local governing body without reference to traditional interpretations. *deBardelaben v. Tillamook County*, 142 Or App. 319, 922 P.2d 683 (1996). If the County Board disagrees with the Hearings Officer's interpretation of the Code, the Board could adopt its own interpretation on appeal.

Multnomah County has adopted a threshold standard that includes only "practical difficulties," excluding the "unnecessary hardship" language. Traditionally, where a distinction is made, "practical difficulties" is treated as a less strict standard than "unnecessary hardship." *Corbett/Terwilliger Neigh. Assoc. V. City of Portland*, 16 Or LUBA 49, 60 (1987), citing Anderson, American law of Zoning, 3rd Ed., Section 20.10,

20.51. The Hearings Officer was unable to find an Oregon case interpreting a Code, like Multnomah County's, that has only a "practical difficulties" threshold standard.

In addition to the "practical difficulties" threshold standard, the Multnomah County Code contains four variance criteria. All four apply to "major" variances, while only the last two apply to "minor" variances. The first two criteria require that 1) the property have a circumstance or condition that does not generally apply to other properties in the same vicinity, which relates to characteristics of the land, its improvements, or the use of the land compared to surrounding uses; and 2) the use of the property would be restricted by strict application of the zoning requirement more than other properties are restricted. Multnomah County has specifically excluded these two requirements from applications for minor variances. That is to say, a minor variance need not consider whether the property has a circumstance or condition that does not generally apply to other properties, nor whether the circumstance or condition relates to the size, shape, natural features and topography of the property, the location of improvements, or the nature of the use compared to surrounding uses. Nor need the variance decision consider whether the property is restricted to a greater degree than other properties in the vicinity or the district.

As noted, the Code does not define the term "practical difficulty," the threshold condition that all variances must meet. The dictionary defines the noun "difficult" as "1. Hard to be made, done, or performed; not easy; . . . " "Difficulty" is defined as "1. The condition or fact of being difficult, 2. that which is hard to be performed or surmounted..." The adjective "practical" is defined as "1. of, exhibited in, or obtained through practice or active use: opposed to speculative; as a practical understanding; and in distinction from ideal and theoretical." Webster's New Universal Unabridged Dictionary, deluxe second edition. Thus, it appears that the Code provides that when it is "hard" for a property owner to comply with the Code, and when that difficulty in complying is actual not speculative, a variance may be granted (if the applicable variance criteria can be met).

The practical difficulties standard is silent as to whether the practical difficulties must relate to the character of the land or may relate to the difficulties of the land owner who requests the variance. Typically, personal factors relating to the owner are not relevant to a zoning determination. It has been held in Oregon that the practical difficulty must arise "out of the property itself." See *Canfield v. Lane County*, 16 Or LUBA (1988), *Chou v. City of Keizer*, 15 Or LUBA 420, 422-423 (1987). *Erickson v. City of Portland*, 9 Or. App. 256, 261, 496 P.2d 726 (1972). In *Erickson*, like here, the City of Portland Code did not contain language requiring that the practical difficulties or unnecessary hardships relate to the land itself. The Court found that the "age or physical condition of the owner cannot justify a variance which allows a permanent deviation from an existing plan."

The practical difficulties section of the Code does not limit the nature of qualifying practical difficulties at all. It could be inferred that a variance may only be granted when the property for which the variance is requested is somehow different from other property in the zoning district. That is because if application of the zoning requirement imposes difficulties to a large number of properties within the zone, the appropriate response is to

amend the zoning code.¹ Traditionally, if the land is physically unique, the classic circumstance for a variance exists. If the land is not unique but is disadvantaged by a zoning restriction equally with other property in the area, issuance of a variance is improper.

However, considering the context of the practical difficulties requirement in the Multnomah County Code leads to a different conclusion. The limitation that the difficulty must relate to a circumstance or condition of the property is found in section .8505(A)(1) which specifically does not apply to a minor variance. The Hearings Officer concludes that the practical difficulties that are created by application of the Code's criteria may include circumstances that relate to the owner as well as circumstances that relate to the subject land. By distinguishing between major and minor variances, the Board of Commissioners appears to have decided that "minor" deviations from the Code's requirements may be authorized, regardless of whether or not the "difficulty" arises from the land itself, so long as the public or other property will not be harmed and the purposes of the comprehensive plan will be realized.

The difficulty for the Darmohrays created by applying the lot coverage limitation is that they are prevented from making an addition to their deck which increases its lot coverage. Mr. Darmohray argued that he is prevented from increasing the living area of his house altogether, but it was not shown that other remodeling configurations would not increase the living area. For example, if the remodel occupied the area covered by the existing deck, there would be no increase in the lot coverage and no need for a variance. In fact Mr. Darmohray proposes the remodel to enclose within the living space area now within the deck area and thus, within the current lot coverage. It is his desire to extend deck 3 feet further south and 1 foot further west that results in the need for the variance.

Mr. Darmohray claims that a difficulty the lot coverage limitation creates is that he is prevented from having a deck while other houses in the neighborhood are allowed decks. The Code does not prevent decks. It prevents more than 30% of the lot from being covered with buildings, unless a variance is granted. It is the property owner's choice as to how he allocates use of the 30% area he is allowed to cover. He can enclose the entire 30% area inside the living quarters, or he can enclose less and have a deck. If he wishes to cover more than 30% of the lot, he must meet the variance criteria.

Mr. Darmohray states that his home has approximately 3100 sq. ft., while other dwellings in the neighborhood range from 3200 to over 4000 sq. ft. He argues that the zoning Code creates the difficulty that he cannot have a home as large as others in his neighborhood. The 30% lot coverage limitation applies to all the lots in the R-10 zone uniformly. Lots that are considerably larger than 10,000 square feet will be able to accommodate larger homes than lots that are closer to 10,000 square feet. Again, Mr. Darmohray can make his dwelling larger, within the existing lot coverage. It is his desire to extend the deck that

¹See *Lovell v. Planning Commission of City of Independence*, 37 Or App. 3, 7, 486 P.2d 99 (1978); *Hill v. Marion Co. Bd. Of Comm.*, 12 Or App. 242, 248-49, 506 P2d 519 (1973)

takes his proposed improvement beyond the allowed 30% lot coverage and beyond the existing lot coverage. This application relates to the proposed deck, not to the proposed living area expansion.

In his October 23, 1998 letter, Candy Quines stated:

"The original design of your family room, kitchen nook, and kitchen area was less than ideal. It looked as if it was a standard home design that did not take into considerations your view of the valley or multiple forest tree lines. The three windows in the kitchen nook area are small and poorly positioned for optimal viewing. Your family suffers from not enough light from the small sized windows. The door leading to the deck is a horrible design in that you cannot easily walk from the kitchen to the deck for outdoor cooking or eating.

"The only way to properly address these original design deficiencies is to implement the remodeling plans we proposed with Mr. Hooper's input. This optimal design includes a good wide view of both the forests and the valley, significantly more light into your family room, an increased eating and kitchen area, and easy access between the deck and kitchen through a sliding glass door. At the same time we have limited the line of sight between your kitchen nook area and the neighbor's house by use of blinds in the windows, opaque deck railing, and hanging blinds above the deck railing.

This letter does not address the practical difficulties that the code creates for Mr. Darmohray. Most of the problems with the existing house that he addresses can be solved without increasing the lot coverage. It is the desire to accommodate the "optimal" design that creates the difficulty. The windows could be replaced and the enclosed living space increased without the variance requested. The variance is desired to accommodate the new deck.

Mr. Darmohray, In his October 28 letter, addressed the practical difficulties requirement. In that letter he repeats his original claims that practical difficulties are created by the code and adds the following:

- 1) My home has a southwestern view of the Beaverton Valley and south and east views of forest trees from our family room, kitchen nook, and deck. However, the original design was inadequate in that the home was not designed to take advantage of the view.
- 2) Based on work with a home designer and general contractor, we can find no other way of taking advantage of the lot view except by the proposed plan to have a minor increase in the footprint of the dwelling and attached deck.

* * *

- 3) I have made a significant investment in the design and planning of this remodel. I have already spent approximately \$4,500 in various professional service fees to-date. These expenditures will be wasted if I cannot proceed with the remodeling plans to correct the present inadequacies of my home's design.
- 4) One of the reasons my family purchased this home was because of the view of Beaverton Valley. Our remodel plans include a 6-foot sliding glass door facing west, and a 9-foot sliding glass door facing south so we can have an unobstructed view of the Beaverton Valley and forests and to let more light into our family room area.

"As indicated in the letters from both my general contractor and my home designer, the only way to properly address the design and structural inadequacies of my home is to implement the optimized remodeling plans presently submitted . . . "

As the Hearings Officer found with Mr. Quines letter, Mr. Darmohray's desires to improve his views from within his home and to increase the light in his home can be accommodated without the variance by altering the windows or expanding the remodel in the area where he currently has a deck which is already within the covered area of the lot. The additional points made in this October 28 letter do not address the practical difficulties that the code creates for Mr. Darmohray with respect to the deck at issue here. The view issues can be solved without increasing the lot coverage. The windows could be replaced and the enclosed living space increased without the variance requested. The variance is requested to accommodate the new deck.

The fact that Mr. Darmohray has made a significant investment in the design and planning of his desired remodel which might be wasted if he cannot proceed with the remodeling plans is not a practical difficulty caused by the lot coverage requirement. Any property owner in the R-10 (or any other zone) who expends resources to create a plan that proposes to build in areas of the lot beyond the area allowed to be covered incurs the risk that those expenditures may be wasted if their variance request is not approved. This results from the requirement that he obtain a variance approval, not from the Code's lot coverage limitation from which he seeks a variance.

As the Hearings Officer has interpreted the "practical difficulties" requirement, the fact the difficulty arises from the property owner's desires rather than from the nature of the land itself does not prevent the variance from being approved. In addition, the Darmohrays have developed a plan for their proposed remodel which exceeds the lot coverage allowed outright. Therefore, the difficulty is not speculative.

Addressing the requirement that "practical difficulties" exist in the application of the Chapter, the applicants claimed in their application that there are three conditions of their property which result in difficulty for the Darmohrays in remodeling their home and complying with the Code's lot coverage limitation. They are:

- 1) The lot is only 10,439 square feet, one of the smallest in the neighborhood.
- 2) The existing house on the lot has less living space than many other houses in the neighborhood but because it has 2400 sq. ft. on the main floor and 700 sq. ft. in the daylight basement it covers a larger percentage of the lot.
- 3) The current dwelling covers approximately 31% of the total area of the lot - already exceeding the lot coverage limitation.

In setting forth these conditions of his property, Mr. Darmohray appears to be addressing the standard in .8505(A)(1), which does not apply to a minor variance. The focus in the practical difficulty standard is on the difficulty created by application of the lot coverage restriction. The applicant for a minor variance need not demonstrate that this difficulty arises from a circumstance or condition of the property.

The difficulty Mr. Darmohray has with expanding his home result from the facts that he purchased a home that already covered 32.6% of the lot and that contained 10,439 square feet (4% more lot area than the minimum required in the zone). The difficulty directly results from the improvements that have already been made to the lot. Nonetheless, a variance may be permitted if the applicant demonstrates there is a practical difficulty in complying with the Code. The Hearings Officer has concluded that the difficulty may arise from the desires of the property owner as well as to difficulties arising from the land itself. The difficulty that has been demonstrated is that Mr. Darmohray may not add a new deck to his dwelling (which he can remodel within the allowed lot coverage). By showing some practical difficulty exists, the applicant has complied with the practical difficulties standard for a variance.

b. Compliance with Subsection (3) - Findings and Conclusions

Subsection (3) of the criterion requires the applicant to prove that the variance will not:

- c. Be "materially detrimental to the public welfare";
- d. Be "materially" . . . "injurious to property in the vicinity or district in which the property is located"; or
- C. "[A]dversely affect the appropriate development of adjoining properties."

(1) Materially detrimental to the public welfare.

Concerning the first prong of subsection (3), requiring the variance will not be materially detrimental to the public welfare, there is no evidence in the record that the requested variance would be materially detrimental to the public welfare. Mr. Darmohray, in his October 28, 1998 letter, addressed the effect of the variance on the public welfare:

"Mr. Mary's privacy concerns . . . do not rise to the level of "material detriment to the public welfare." The public, in the vicinity, i.e., the neighborhood in general, has no objection or complaint. Further, as illustrated in the letters from my home designer and from a licensed real estate agent familiar with this application, the modifications to my home that I am proposing will have a positive, aesthetic impact on the surrounding neighborhood rather than a negative one as Mr. Mary suggests. . . If anything, the proposed improvements will merely serve to improve the neighborhood and, therefore, increase property values generally.

The Hearings Officer concludes that there is no evidence in the record that supports a conclusion that approval of the variance would be materially detrimental to the public welfare.

(2) Materially injurious to property in the vicinity or district in which the property is located

The Hearings Officer notes that the structure of the clauses in subsection (3) makes it unclear whether the "injurious" to property clause is qualified by the word "materially." The difference affects the degree of injury that the a variance may have on other property. If the clause is qualified by "material" the variance may not result in a significant injury to other property. If the clause is not qualified by "material" the variance may result in no injury at all to other property, whether significant or not. It appears more likely that the Board of County Commission's intended that the variance should not result in a material (significant) injury to other property. Therefore, the Hearings Officer concludes that the Board of Commissioners intended that the "injurious" clause is modified by the word "materially."

The Code does not limit the nature of the injury that may be inflicted on property in the vicinity or district. Some codes specifically limit injury to affects on property values or environmental conditions on other properties. Because the Multnomah County Code contains no limitations, the Hearings Officer concludes that the applicant must prove that there will be no material injury to other property, regardless of the nature of the injury.

Scott Mary, the owner of the parcel immediately west of the applicant's site, testified at the hearing with concerns about the proposed variance. His concerns related to visual impact and loss of privacy. His visual impact concern relates to the allowance of additional bulk of the building on the property, beyond that allowed outright.

Mr. and Mrs. Bolton, in a November 2, 1998 letter, suggested that they had concerns about the effect of the variance on their property values, the visual effect of the additional bulk, and on the open character of the neighborhood:

"We are opposed to this expansion. The existing domicile is already quite large. It is larger than ours, which is 3000 [square feet]. It is on a smaller lot. The building envelope is already a large percentage of the lot.

"Our home is one of the most important and largest investments to us. When we moved into Taylor Crest i[t] was with the understanding that our conditions and restrictions contract [and] R-10 zoning would be upheld. We like the open spacious feeling that these allow.

Both Mr. Mary and Mr. and Mrs. Bolton appear to be concerned about the entire remodeling project proposed by Mr. Darmohray. The only issue before the Hearings Officer is whether the lot coverage can be increased by extending the deck. The Code allows Mr. Darmohray to enlarge the living area of his dwelling without land use review within the 30% lot coverage restriction. This decision relates to the deck, not the expansion of the dwelling which is proposed to take place within the existing lot coverage.

Mr. Darmohray raises the issue in his November 11, 1998 letter, of whether the applicant is required to demonstrate that the variance will not harm the "value and livability" of the property of adjacent owners.

"[Mr. Mary] mistakenly relies on MCC 11.15.8515(B)(2). The "value and livability" language Mr. Mary relies on is applicable only in the context of obtaining approval of a minor variance, without a public hearing and with the signed consent of each adjoining property owner. The provision merely states that if each adjoining property owner declares that the variance will not harm the value and livability of his property, "the Planning Director may, without notice or hearing, grant the variance and may attach reasonable conditions thereto. As I understand it, if an adjoining property owner is not willing to sign such a declaration, a public hearing must be held. [Emphasis in original].

"However, the neighbor's subjective unwillingness to agree on value and livability issues does not defeat the application. Otherwise, there would be no point in having a hearing. In other words, the zoning ordinance does not give an adjoining neighbor veto power based on that neighbor's subjective dissatisfaction with a proposed variance. The purpose of the hearing is to consider the objective evidence and to determine whether or not the approval criteria contained in MCC 8505(A)(3) and (4) are satisfied.

Mr. Darmohray is correct that a "value and livability" statement is required to be made by an applicant in his request for consent of adjacent property owners for a minor variance. However, the Hearings Officer has concluded that there is no limit on the nature of the injury that may result from the variance on other properties in the vicinity or district. Therefore, value or livability injury could result in denial of a minor variance request if it is material.

Mr. Scott Mary, in his November 2 letter addressed his concern about injury to his **privacy** interests:

"In the letter of October 28, 1998, Mr. Darmohray tries to address the privacy issue by adding blinds and trees. In the hearing of October 21, 1998, he [gave] testimony

that the trees do not live in that area of his yard. The blinds will be a benefit to give his family privacy but does nothing for the overall privacy between the two properties. [Emphasis in original].

Mr. Darmohray has contracted to have drainage installed in the area where the trees are to be planted to create a suitable growing environment. The Hearings Officer has imposed a condition requiring that this be done.

William Hooper addressed the privacy issue in his October 26, 1998 letter:

"I would also like to briefly address the visibility between your kitchen dining room area and the neighbors on the west side of your lot. Your plans call for the following:

- Pella windows on the west and south side of your family room that will have built-in blinds.
- A 3-foot high opaque deck railing that runs along the west end of the deck.
- A roll-down blind mounted from a 6.5 feet high trellis running along the west railing of the deck. The deck blind can be extended down to the top of the railing.

"The combination of the opaque deck railing and roll-down blind will provide a more than adequate visual screen between the Darmohray's deck and the neighboring house. I am confident that the above design addresses the visibility and privacy concerns you or your neighbor might have . . .

The Hearings Officer has imposed a condition of approval requiring these visual screening features be installed.

David Leach, Shadow Lands Design, submitted a letter dated October 26, 1998 on behalf of the applicants. Mr. Leach stated in the letter that he proposes that two Douglas Fir trees, 12 to 14 feet in height, be planted on Mr. Darmohray's property to provide additional privacy between the Darmohray and the Mary properties. He stated that the two trees should provide an immediate visual screen when viewing the first floor of Mr. Mary's house from Mr. Darmohray's family room and that within one to two years there should be a substantially complete visual screen of Mr. Mary's second floor. He stated that in addition, one Douglas Fir tree could be planted in the southeast corner of Mr. Mary's lot.

The Hearings Officer understands Mr. Leach's letter to concede that the requested variance could be injurious to the privacy interests of Mr. and Mrs. Mary's adjacent property, without deciding whether or not the injury is "material." Mr. Leach implicitly suggests that such injury could be mitigated by the imposition of a condition requiring the planting of trees. The suggestion to plant a tree on the Mary's property is not well taken. The Hearings Officer cannot require the Mary's to do something on their property to protect

them from activities, uses, or structures on the Darmohray property in the context of deciding a variance for the Darmohray property.

Mr. Darmohray, in his October 28 letter, addressed the effect of the variance on Mr. Mary's privacy:

"The zoning ordinance states, 'The maximum area that may be covered by the dwelling unit and accessory building shall not exceed 30% of the total area of the lot.' As Mr. Tokos stated at the hearing on October 21, the intent of this ordinance is to assure that the density of bulk of the single family dwelling and lot is appropriate for the neighborhood. The intent of this zoning ordinance is not related to visibility of privacy between neighboring properties. Likewise[,] the intent of the criteria to be met for [a] Minor Variance does not appear to be directed at a neighbor's subjective dissatisfaction with the design and architecture of the remodeling of a home."

"I would like to illustrate the point that the visibility and privacy issues Mr. Mary raises do not relate to the dimensional standard at-issue in my request for a Minor Variance. I can receive a building permit to replace my current family room's 3-foot glass door with a 6-foot glass window along the west side of my house and I can do this within the 30% lot coverage zoning ordinances. The window can be placed in the exact same western facing position as I am planning in my proposed remodel. Note that neighbors would not have any input regarding the design or architecture of the remodel. Once the construction is finished, I could then apply for a 30% lot coverage Minor Variance that will be nothing more than a request to extend my deck in a southerly direction by 3-feet. There would be virtually no change in visibility or privacy with the Mary's property by extending my deck 3-feet. Thus, Mr. Mary's concerns are misdirected and have nothing to do with the slight increase in the building footprint.

"In any event, Mr. Mary's concern about visibility and privacy between our homes will be addressed. We plan to plant two large Douglas Fir trees directly between the line of site between our deck and the back of his house. Additionally, our remodeling plans include interior shades on all windows, 3-foot high opaque deck railing along the deck facing west, and a roll-down shade from 6.5 feet high to the top of the deck railing . . . As the letter from my landscaping architect confirms, we plan to plant Douglas Fir trees to act as a natural vegetative screening which will adequately address any privacy concerns Mr. Mary may have. There will be four layers of visual screen between his home and ours: one set of interior blinds on Mr. Mary's windows, one set of interior blinds, one set of exterior blinds, and a row of trees on my property. Mr. Mary could choose to plant a similar Douglas Fir tree to provide a fifth layer of visual screen.

The Hearings Officer concludes that there may be some additional intrusion into the Mary's privacy by extension of the deck 3 additional feet to the south and 1 foot to the west and that privacy is within the injuries that a variance may not create. However, the primary

concern of Mr. Mary seems to relate to the increased ability for the Mary's and the Darmohrays to see one another inside the dwellings due to the remodeling of the residence apart from the extension of the deck. Those effects can occur regardless of the variance request. The effect of the extension of the deck alone, which is the only matter subject to this variance, is not material and can be mitigated by planting trees to screen the deck.

Concerning the effect of the variance on **property values**, Mary Raetz, in her October 27 letter provided the following information:

"... In my opinion, the net impact of the project on surrounding properties will be positive. Relative property values are based in significant part on the comparative value of other homes in the neighborhood. In my experience as a real estate sales associate, most buyers give (and, therefore, the real estate market in general gives) serious comparative consideration to the value of surrounding homes. Mr. Darmohray's home is presently tax assessed at \$330,000. Based on a market comparison of the most recent sales and homes currently on the market, the real market value of Mr. Darmohray's property is approximately \$340,000 to \$350,000. The average market value in Mr. Darmohray's neighborhood is \$405,000. Thus, Mr. Darmohray's property has a below-average property value for the neighborhood.

"The proposed improvements will include a fully remodeled kitchen and master bath and will significantly enhance the aesthetic and monetary value of the home. The home's market value will increase to approximately \$390,000 to \$400,000 which will be more consistent with the values in the neighborhood. As an incidental effect, the average value of the neighborhood will increase due to the enhanced value of what previously was a lesser-valued home. In essence, a neighbors home improvement improves the neighborhood making it a nicer overall location in which to live. Market values simply reflect this reality.

"Furthermore, the relatively minor dimensional enhancements, which, I understand, are at issue in the variance proceeding ... will likely have no negative impact whatsoever. The majority of homeowners, real estate brokers, and appraisers would not assign any significant deduction [of] the neighbor's value based on this minor dimensional increase."

Mr. Scott Mary, in his November 2 letter addressed his concern about the effect of the variance on property values:

"The letter by the realtor, Mary Raetz, gives reasons to why Mr. Darmohray should remodel his home. The fully remodeled kitchen and master bath will help add monetary value to his home. Again, we encourage Mr. Darmohray to make these improvements but to do it without adding more to the footprint and having a negative impact on adjoining property.

The Hearings Officer is not persuaded that a 3-foot extension of a deck to the south and 1-foot to the west will have a materially injurious effect on property values in the vicinity or

district. The only evidence in the record suggests that one homeowner's property improvements has a positive effect on the value of other properties.

Mr. Scott Mary, in his November 2 letter addressed his concern about the additional bulk of the Darmohray's dwelling:

"... Our issue is not with the remodel project in general, but with the expanded footprint that is requested. This additional structure will have a substantial negative visual impact from our home. The subject property already exceeds the maximum percentage and there is no reason why it is necessary to add additional square footage at the expense of adjoining properties. [Emphasis in original].

* * *

"... we encourage Mr. Darmohray to make these improvements but to do it without adding more to the footprint and having a negative impact on adjoining property.

"... The R-10 zoning which determines the set back of 10 feet on the side yard and 25 feet in our back yard and the 10 feet from the Darmohrays side yard only gives 35 feet of separation between the two homes. Typical homes in our neighborhood are situated where there are two back yards of 25 feet that total 50 feet minimum between the homes.

"The R-10 zoning is one of the main reasons why we chose to purchase property in this neighborhood. We have CC&R's that give specific rules in which all neighbors must abide by. In Article I section 2 building location: All buildings shall be located to comply with the Multnomah County Ordinances. This includes the restrictions 11.15.2864 section (F) "The maximum area that may be covered by the dwelling unit and accessory building shall not exceed 30% of the total area of the lot." These restrictions are required by the R-10 zoning to protect the integrity of the neighborhood.

"Mr. Darmohray states in his letter that our concerns are unfounded. His realtor talks about how his monetary value will be enhanced. His designer talks about how his view and lighting will be improved. What Mr. Darmohray cannot prove is how this variance will not have a negative impact on our property.

"We are opposed because the position of our home is such that we have all of the negative impact of this project ...

"With the home already large and in full view it is hard to comprehend the home would be increased further. Please review the list of additional neighbors that would like to show their opposition and to prevent the neighborhood from having overbuilt lots. The city [sic] ordinance was established to protect the integrity of the neighborhood and those that are property owners within.

"It clearly states in the 11.15.8518 variance approval criteria/86-2, that the variance approval shall not harm the value and livability of adjoining properties (see attached). This minor variance request will definitely have a negative impact on the livability and potential value of our property. We appreciate your consideration and respectfully request that this application for a minor variance be denied.

As the Hearings Officer has already found, the Darmohray dwelling may be enlarged without a variance. The additional building bulk is allowed outright. The variance request is limited to a 3-foot extension of a deck to the south and 1-foot to the west. The effect of the deck extension can be mitigated by the planting of trees which will obscure the deck from sight. The Hearings Officer concludes that any injury to the Mary property resulting from approval of the variance for the deck is not material.

(3) Authorization of the variance will not adversely affect the appropriate development of adjoining properties.

Mr. Darmohray, in his October 28 letter addressed this criteria.

"My requested minor increase in the dwelling/lot size ratio will not adversely impact the development of adjoining properties. All adjoining properties are already developed as single family residences and no neighbor, including Mr. Mary, has identified any impact on their ability to properly develop their properties."

The record contains no evidence that approval of the variance will have an adverse effect on the development of adjoining property. The Hearings Officer concludes that it will not.

C. Compliance with Subsection (4) - Findings and Conclusions.

The granting of a variance for the above two mentioned zoning ordinances does not adversely affect the realization of the Comprehensive Plan nor will it establish a use which is not listed in the underlying zone. The Comprehensive plan policies are discussed below.

5. MULTNOMAH COUNTY COMPREHENSIVE PLAN POLICIES

Policies in the Comprehensive Plan which are applicable to this Quasi-judicial Decision are addressed as follows:

Policy No. 13, Air, Water and Noise Quality: Multnomah County, . . . Supports efforts to improve air and water quality and to reduce noise levels . . . Furthermore, it is the County's policy to require, prior to approval of a legislative or quasi-judicial action, a statement from the appropriate agency that all standards can be met with respect to Air Quality, Water Quality, and Noise Levels.

Findings and Conclusions. The minor dimensional increase to the existing home by extension of the deck which is the subject of the variance request will have no adverse impact on air, water and/or noise quality standards. The Hearings Officer notes that the air water and noise policy is not a mandatory approval criterion.

Policy No. 14, Development Limitations: The County's Policy is to direct development and land form alterations away from areas with development limitations except upon a showing that design and construction techniques can mitigate any public harm or associated public cost, and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:

- A. Slopes exceeding 20%;
- B. Severe soil erosion potential;
- C. Land within the 100-year flood plain;
- D. A high seasonal water table within 0-24 inches of the surface for more than 3 or more weeks of the year;
- E. A fragipan less than 30 inches from the surface; and
- F. Lands subject to slumping, earth slides or movement.

Findings and Conclusions. Policy 14 regarding developmental limitations does not apply because the property does not fit within any of those characterizations.

Policy No. 22, Energy Conservation: The County's policy is to promote the conservation of energy and to use energy resources in a more efficient manner . . . The County shall require a finding prior to approval of a legislative or quasi-judicial action that the following factors have been considered:

- A. The development of energy-efficient land uses and practices;
- B. Increased density and intensity of development in urban areas, especially in proximity to transit corridors and employment, commercial and recreation centers;
- C. An energy-efficient transportation system linked with increased mass transit, pedestrian and bicycle facilities;
- D. Street layouts, lotting patterns and designs that utilize natural environmental and climactic conditions to advantage.
- E. Finally, the County will allow greater flexibility in the development and use of renewable energy resources.

Findings and Conclusions. Policy 22 is not a mandatory approval criterion. It contains factors which every quasi-judicial decision must consider. Policy 22 is largely inapplicable to the variance request because it deals with the conservation of energy primarily by reducing urban sprawl and improving public transportation. It expressly indicates that where possible the County is in favor of increasing density rather than decreasing it in already urbanized areas. In the sense that the variance is to increase the area covered by structures, the application increases density. The variance is for an existing subdivision lot

in a developed neighborhood. The other factors are not relevant to this variance application.

Policy No. 37, Utilities: The County's policy is to require a finding prior to approval of a legislative hearing or quasi-judicial action that:

WATER DISPOSAL SYSTEM:

- A. The proposed use can be connected to a public sewer and water system, both of which have adequate capacity; or
- B. The proposed use can be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or
- C. There is an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or
- D. There is an adequate private water system, and a public sewer with adequate capacity.

DRAINAGE:

- E. There is adequate capacity in the storm water system to handle the increased run-off; or
- F. The water run-off can be handled on the site or adequate provisions can be made; and
- G. The run-off from the site will not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjacent lands.

Findings and Conclusions. Policy 37 relating to utilities is not affected by the variance application which relates to the extension of a deck on an already existing dwelling. The dwelling is already connected to utility services.

Policy No. 38, Facilities: The County's Policy is to require a finding prior to approval of a legislative or quasi-judicial action that:

- A. The appropriate School District has had an opportunity to review and comment on the proposal.
- B. There is adequate water pressure and flow for fire fighting purposes; and

- C. The appropriate fire district has had an opportunity to review and comment on the proposal.
- D. The proposal can receive adequate local police protection with the standards of the jurisdiction providing police protection.

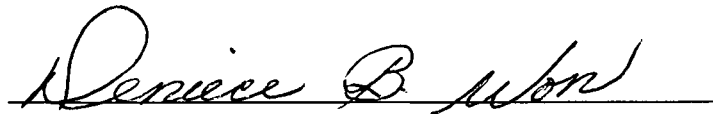
Findings and Conclusions. The approval of the lot coverage variance to enable a deck to be expanded will have no impact on school, fire or police protection.

Policy No. 40, Development Requirements: The County's policy is to encourage a connected park and recreation system and to provide for small private recreation areas by requiring a finding prior to approval of legislative or quasi-judicial action that:

- A. Pedestrian and bicycle path connections to parks, recreation areas and community facilities will be dedicated where appropriate and where designated in the bicycle corridor capital improvements program and map.
- B. Landscaped areas with benches will be provided in commercial, industrial and multiple family developments, where appropriate.
- C. Areas for bicycle parking facilities will be required in development proposals, where appropriate.

Findings and Conclusions. Policy 40 concerns parks and recreation systems, related pedestrian and bicycle paths, and bicycle parking facilities. The minor dimensional increase to the dwelling will not justify any dedication of paths and none are designated on the bicycle corridor capital improvements program and map. The development is residential, therefore the landscaped area requirements do not apply. There is no need to provide bicycle parking facilities related to the proposed expansion of deck for an existing dwelling.

IT IS SO ORDERED, this 25th 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: DEC 17 1998
AGENDA NO: C-17
ESTIMATED START TIME: 9:00

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Annual Authorization for Designation of a Portion of Compensation as a Housing Allowance for Chaplains Serving Inmates and Employees at the Multnomah County Jails

BOARD BRIEFING: DATE REQUESTED: _____
REQUESTED BY: _____
AMOUNT OF TIME NEEDED: _____

REGULAR MEETING: DATE REQUESTED: ¹⁷December 23, 1998
AMOUNT OF TIME NEEDED: 10 Minutes

DEPARTMENT: Sheriff DIVISION: _____
CONTACT: Larry Aab TELEPHONE #: 251-2489
BLDG/ROOM #: 313

PERSON(S) MAKING PRESENTATION: Larry Aab

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

SUGGESTED AGENDA TITLE:

Annual Authorization for Designation of a Portion of Compensation as a Housing Allowance for Chaplains Serving Inmates and Employees at the Multnomah Count Jails.

12/17/98 copies to Larry AAB

Consent Agenda

SIGNATURES REQUIRED:

ELECTED OFFICIAL: DAN NOBLE ^{3P} [Signature]
(OR)
DEPARTMENT
MANAGER: _____

BOARD OF
COUNTY COMMISSIONERS
98 DEC 10 AM 3:39
MULTNOMAH COUNTY
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 98-205

Annual Authorization for Designation of a Portion of Compensation as
a Housing Allowance for Chaplains Serving Inmates and Employees
at the Multnomah County Jails

The Multnomah County Board of Commissioners Finds:

- a. The Multnomah County Sheriff's Office employs Joyce Borders and Lewis Kyle as chaplains serving inmates and employees at the County jails.
- b. The Sheriff's Office does not provide housing to either chaplain.
- c. 26, USC 107(2) allows clergy to exclude from the calculation of their gross income the housing allowance paid as part of their compensation, to the extent used by them to rent or provide a home.

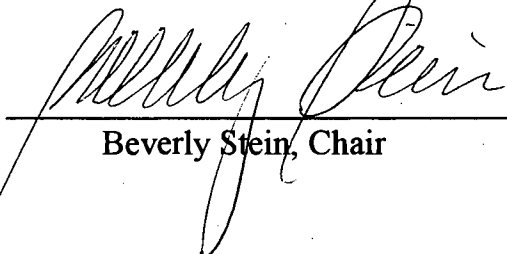
The Multnomah County Board of Commissioners Resolves:

Joyce Borders is allowed to designate \$9,000 per annum of her compensation as a housing allowance for calendar year 1999, and Lewis Kyle is allowed to designate \$12,000 per annum of his compensation as a housing allowance for calendar year 1999, subject to the requirements and limitations of internal revenue law.

Adopted this 17th day of December, 1998.




BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON


Thomas Sponsler, County Counsel

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY

Land Use Planning Cases PRE 4-98 and PRE 5-98)
Affirming the October 16, 1998 Hearings) FINAL ORDER
Officer Decision to Approve Both of the Dwelling) 98-210
Approval Validation Requests.)

WHEREAS, this matter is before the Multnomah County Board of Commissioners as an appeal, filed by Arnold Rochlin and Christopher Foster, representing themselves, of the Hearing Officer's Decision in land use cases PRE 4-98 and PRE 5-98; and

WHEREAS, the Board hereby informs the applicant of the effect of ORS 197.625(3)(c) upon any development of the subject properties. This statute puts in jeopardy of removal, development which is undertaken if Ordinance 903, Dwelling Approval Validation, does not gain acknowledgement.

WHEREAS, after proper notice of a public hearing, the Board of County Commissioners accepted testimony and evidence presented at a de novo hearing on December 10, 1998, and the Board being fully advised; now therefore

IT IS HEREBY ORDERED that the Hearing Officer's decision dated October 16, 1998 in the matters of PRE 4-98 and PRE 5-98 is AFFIRMED.

IT IS FURTHER ORDERED that the Board of County Commissioners (Board) adopts the following findings and conclusions:

1. The Board finds that LUBA remanded Ordinance 903 back to Multnomah County on December 7, 1998.
2. The Board finds that Ordinance 903 is under appeal to the Court of Appeals.
3. The Board concludes that notwithstanding LUBA's remand, Ordinance 903 is applicable to PRE 4-98 and PRE 5-98.
4. The Board adopts the Hearings Officer's findings and conclusions in the decision dated October 16, 1998.
5. The Board adopts the findings and conclusions of law in the Planning Director's July 22, 1998 decision, except to the extent modified and supplemented by the Hearings Officer's October 16, 1998 decision.

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DATED this 17th day of December, 1998.

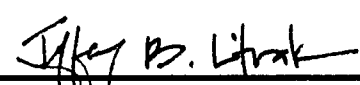
BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Beverly Stein, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By 

Jeffrey B. Litwak, Assistant County Counsel

**BEFORE THE HEARINGS OFFICER
FOR MULTNOMAH COUNTY, OREGON
FINAL ORDER**

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

October 16, 1998

PRE 4-98 & PRE 5-98

Appeals of two Administrative Decisions of two applications for Dwelling Approval Validation (Implementation of Approved Farm Management Plans). The appeals were combined for purposes of hearing and this decision.

**Legal Description
& Location of
Properties:**

PRE 4-98: 12955 NW Skyline Blvd.
Parcel 1 of Partition Plat 1993-4, 2N-2W Section 36
PRE 5-98: 12989 NW Skyline Blvd.
Parcel 2 of Partition Plat 1993-4, 2N-2W Section 36

Zoning Designation:

EFU (Exclusive Farm Use)

Owner/Applicant:

Western States Development
20285 NW Amberwood Dr.
Hillsboro, OR 97124

Applicant's Attorney:

Jeff Bachrach
O'Donnell Ramis Crew Corrigan & Bachrach
1727 NW Hoyt Street
Portland, OR 97209

Appellants:

Arnold Rochlin
P.O. Box 83645
Portland, OR 97283

Christopher Foster
15400 NW McNamee Rd.
Portland, OR 97231

RECEIVED
MULTNOMAH COUNTY
PLANNING SECTION
98 OCT 20 PM 12:49

PROCEDURAL ISSUES

1. Impartiality of the Hearings Officer

- A. No ex parte contacts. I did not have any ex parte contacts prior to the hearing of this matter. I did not make a site visit.
- B. 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.

SCOPE OF APPEAL

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

The applicant contends that the appellant's substantial evidence challenge concerning MCC 11.15.2031 is barred because the issue was not raised with sufficient specificity in the Notice of Appeal.

The Notice of Appeal for both applications contained the following language:

"A farm dwelling is wrongly approved without determination of compliance with OAR 660-33-135 or implementing provisions of MCC .2010. Compliance with an approved farm plan is not established by the substantial evidence (See MCC 11.15.2010(D)).

The applicant contends that the second sentence of the grounds for the Notice of Appeal appears to apply to MCC 11.15.2010(D). Appellants contend that it should be obvious that the substantial evidence reference was not intended to apply to .2010, since 11.15.2010 does not relate to approved farm plans.

Section 11.15.2031 relating to dwelling approval validation provides that approvals described in MCC .2031(B) shall continue to be valid if:

- (B) The property owner applies for determination of substantial compliance with the approved farm plan management plan.

This appears to be the issue that the second sentence of the appeal notice was questioning. I do find that the Notice of Appeal is sufficiently specific to raise the question of whether the requirements of 11.15.2031(B) of Multnomah County Code were met.

At hearing, the appellant contended that a Hearings Officer had inherent authority to consider issues not raised in a Notice of Appeal. I disagree. Where as here, a Code requires a Notice of Appeal to raise the specific grounds relied on for the appeal, the appeal is limited to the grounds cited in the Notice of Appeal. See, Johns vs. City of Lincoln City, 146 Or App 594 (1997), also Smith vs. Douglas County, 308 Or 191 (1989).

APPLICATION TIMELINE

The applications herein were deemed complete by staff on July 15, 1998. The hearing before the Hearings Officer was held on September 16, 1998. September 16, 1998 constituted the 63rd day on the 150-day clock.

At the hearing, the property owner, acting by and through his attorney, Jeff Bachrach, of O'Donnell Ramis Crew Corrigan & Bachrach, requested seven days in order to submit additional argument. Pursuant to ORS 197.763(6)(e), the local government shall allow the applicant at least seven days after the record is closed to submit final written argument. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. The seven day period shall not be subject to the limitations of ORS 215.428 or 227.178. Accordingly, I find that the application timeline for purposes of ORS 215.428 did not continue to run during the seven days. On September 23, 1998, the applicant's attorney did in fact submit additional argument. Accordingly, on that date the clock again started to run.

Since the subject property is not within an Urban Growth Boundary, I find that pursuant to Section 2, Chapter 414, Oregon Laws 1997, a governing body must take final action on the application within 150 days after the application is deemed complete.

Accordingly, I find that September 30th was 70th day on the clock and that today's date, October 16, 1998, would constitute the 86th day on the 150 day clock.

I also reviewed Mr. Bachrach's submittal to determine if any new evidence was presented. I found that the submittal was simply legal argument. Therefore, I will not receive or consider additional submittals from Appellants.

FACTS

1. Applicant's Proposal

A. PRE 4-98

The applicant's May 7, 1998 Introduction describes the application and gives a brief history of farm dwelling approval on the subject parcel (see Exhibit A1, pg1 of Staff Report). In addition to the farm management plan approval in PRE 26-89, a lot line adjustment was approved between the subject parcel and parcel 2 in PLA 16-95. This approved lot line adjustment results in two potential dwelling sites and crop areas for the subject parcel as indicated in Exhibit A2 of Staff Report.

B. PRE 5-98

The applicant's May 7, 1998 Introduction describes the application and gives a brief history of farm dwelling approval on the subject parcel (see Exhibit A1, pg1 of Staff Report). In addition to the farm management plan approval in PRE 27-89, a lot line adjustment was approved between the subject parcel and parcel 1 in PLA 16-95. This approved lot line adjustment results in two potential dwelling sites and crop areas for the subject parcel as indicated in Exhibit A2 of Staff Report.

2. Procedural History

In 1989, Western States Development Corporation, as applicant, received approvals in the matter of PRE 26-89 and 27-89. The approvals related to Parcel 1 and Parcel 2 of LD 26-89. Approvals were issued in accordance with the County ordinance provisions in effect at the time. Subsection 11.15.2010(C) of the Multnomah County Code, as it existed in 1989, allowed the approval of a residence in conjunction with farm use when certain conditions were met, including that the proposal be conducted according to a farm management plan, containing approved elements as specified in the ordinance. The approvals did not contain any expiration dates. As an administrative matter, it had been a practice of staff to treat these old approvals as valid approvals.

On appeal, the Board of County Commissioners has affirmed decisions of Hearings Officers which held that approvals for farm dwellings issued pursuant to the Code provisions in effect in 1989 and 1990 are still valid approvals. See Final Order 97-215.

Since the time of the original PRE approvals in 1989, State law and County Code have been amended. In 1994, the State adopted OAR 660-33-135. That administrative rule has a fairly stringent farm income test. The County implemented the standards set forth in the OAR in MCC 11.15.2010(D), in 1997. The new requirements now codified in 11.15.2010(D) did not apply when the old PRE permits were approved and the income test was not applied to the old PRE approvals.

The County adopted MCC 11.15.2031, the dwelling approval validation ordinance, in order to set an expiration date for all unbuilt farm management plan approvals (PRE's) and to insure that the property meets the statutory requirement of ORS 215.203, that the property is "currently employed" for farm use. That ordinance amendment became effective May 4, 1998. The applicant herein filed for dwelling approval validation pursuant to 11.15.2031, for both case file number PRE 4-98 and PRE 5-98, relating respectively to PRE 26-89 and 27-89, on May 8, 1998.

3. Site and Vicinity Information

These two parcels are located on the East Side of Skyline Blvd., approximately one mile northwesterly of its intersection with NW Cornelius Pass Road. The property varies in slope from nearly level to over 30° and has been used for various agricultural purposes for a number of years prior to receiving approvals in PRE 26-89 and 27-89.

The majority of soils on this and surrounding properties are Cascade Silt Loam. Properties in the surrounding area range in size from less than one to over 80 acres.

4. Testimony and Evidence Presented

- A. Chuck Beasley testified for the County, summarized the history of the application, and the administrative decisions and subsequent appeals therefrom.
- B. Arnold Rochlin, the appellant submitted oral and written testimony on behalf of himself and co-appellant Christopher Foster.
- C. Christopher Foster also testified in regards to the appeal.
- D. Jeff Bachrach, attorney for applicant, testified at the hearing and subsequently submitted written argument.

STANDARDS, CRITERIA, ANALYSIS AND FINDINGS OF FACT

The appellants in this proceeding appear to be most concerned about the validity of Ordinance 903, partially codified as Section 11.15.2031 of the Multnomah County Code. They currently have an appeal pending to LUBA relating the validity of the ordinance. I will be discussing the effect of that appeal on this decision in more detail, later in this opinion.

As pointed out above in the discussion on the scope of the appeal, the appellant raised two issues in the Notices of Appeal. The first issue related to whether the provisions of OAR 660-33-135 and the current implementing Code provisions of MCC .2010 apply to this application. The second issue related to whether there was substantial evidence demonstrating compliance with an approved farm plan.

In arguing the appeal, the appellants have submitted both oral and written testimony containing various subissues related to each of the two main issues on appeal.

In discussing these issues, I will discuss the various sub-issues under each primary question in this appeal proceeding.

1. Are the standards set forth in MCC 11.15.2010(D) and OAR 660-33-135 applicable to an application for dwelling approval validation filed pursuant to MCC 11.15.2031?

Appellants contend that the provisions of OAR 660-33-135, as implemented by MCC 11.15.2010(D) are applicable in the instant proceeding. Basically, appellants are arguing that Multnomah County Ordinance 903, which is codified as MCC 11.15.2030 and .2031, is invalid. The appellants submitted a written memorandum at hearing, which memorandum was marked Exhibit "H-2". The memorandum reiterated much of the argument appellants submitted in LUBA Case 98-067, wherein they challenged the validity of Ordinance 903.

Duration of Permits

Appellants contend that development rights conferred by existing permits cannot survive significant new requirements with which the existing permits do not comply.

Appellants further contend that the Multnomah County ordinance unlawfully sustains rights to dwellings in conjunction with farm use without establishing compliance with OAR 660-33-135 and MCC 11.15.2010(D).

The appellants further contend that unimplemented permits are not irrevocable. In support of that position, appellants cited the case of Struve vs. Umatilla County, 12 Or LUBA 54 (1984), as well as a number of other cases. In Struve, the applicant had obtained a permit from Umatilla County to build a road. Certain ordinance changes occurred, the City and County entered a Joint Agreement relating to planning responsibilities, the Pendleton Planning Commission became the Pendleton Urban Growth Area Planning Commission, and the Pendleton Comprehensive Plan and Zoning Ordinance became applicable to the proposed use. Thus, in essence, the question in Struve was whether a permit issued by one jurisdiction would avoid the need to obtain a permit from another jurisdiction that had authority over the proposed use. Thus, the factual background in Struve, is not analogous to the applications on review herein.

Similarly, I do not find the other cases cited by Appellants persuasive on this issue. ORS 215.428 and ORS 215.130, protect both applications in process and previously approved uses from changes in the law. The adoption of OAR 660-33-135 did not revoke permits PRE 26-89 and 27-89.

PRE 26-89 and 27-89 were approved based on a farm plan with a 10 year duration. Although the ordinance in effect at the time of approval of these two permits only required the submittal of a five-year plan, the applicant did in fact submit a 10-year farm plan. It does not seem logical that the dwelling approvals based on that plan would expire before the 10 years contemplated in the farm plan had passed.

A finding that permits 26-89 and 27-89 are valid is consistent with Multnomah County precedent on this issue. Prior to adoption of Multnomah County Ordinance #903, the Multnomah County Board of Commissioners had ruled on the validity of a PRE approval issued pursuant to the provisions of MCC 11.15.2010(C), as that ordinance existed in 1989 and 1990. In Final Order 97-215, the Multnomah County Board of Commissioners, consistent with prior decisions, found that the PRE approval retained its validity.

As a Hearings Officer for Multnomah County, and subordinate to the Board of County Commissioners, I must defer to that determination by the Board. Accordingly, regardless of the effect of .2030 and .2031 on this application, I find that the PRE approvals 26-89 and 27-89 are valid approvals which have not expired.

Validity of 11.15.2031

As indicated above, the appellants contend that 11.15.2031 is unlawful, and that the hearings officer must apply OAR 660-33-135 and MCC 11.15.2010(D). I disagree.

Multnomah County adopted 11.15.2030 to provide an expiration date for certain single family dwelling approvals that had been issued by the County, based on applications received before August 7, 1993. Section .2030 provides that applications for residences in conjunction with a farm use under MCC .2010(C), which were received between August 14, 1980 and February 19, 1990, would expire two years from the effective date of 11.15.2030, except as provided in .2031. A process for recognition of the continued validity of the approvals was adopted in Section 11.15.2031.

By definition, Section 11.15.2031 does not require a new application for a farm dwelling under 11.15.2010, relating to uses permitted under prescribed conditions.

Rather, .2031 provides a process for recognizing the continued validity of existing permits. The statute is a procedural statute that related solely to existing permits; it does not establish approval criteria for new permits. The Multnomah County Board of Commissioners adopted the ordinance. I will defer to the Board and enforce the ordinance as written. Accordingly, I find that the provisions of OAR 660-33-135 and the implementing provisions of MCC .2010 are not applicable to a dwelling approval validation process under MCC 11.15.2031. Under the provisions of .2030, PRE approvals 26-89 and 27-89 are valid approvals, which have not expired.

Although County Ordinance # 903 has been appealed to LUBA, ORS 197.625 provides that the ordinance is effective at this time. Accordingly, for purposes of this proceeding, I find that MCC 11.15.2031 is the effective land use regulation relating to dwelling approval validation. The dwelling validation application does not propose to approve a new use or otherwise alter the land use approval issued in 1989 pursuant to an acknowledged land use regulation. Accordingly, I find that neither ordinance No. 903 or the dwelling validation approvals issued thereunder implicate the statewide planning goals.

2. Is there substantial evidence relating to PRE 4-98 and 5-98 to support a finding of substantial compliance with the approved farm management plan

Appellants contend that compliance with an approved farm plan is not established by substantial evidence. The actual standard that will be addressed is whether there is substantial evidence in the record to establish "substantial compliance" with the approved farm management plan.

The following section of this decision will discuss the dwelling approval validation criteria set forth in 11.15.2031(B).

A. Dwelling Approval Validation

11.15.2031 Dwelling Approval Validation

Approvals described in MCC .2030(B) shall continue to be valid if:

* * *

(B) The property owner applies for a determination of substantial compliance with the approved farm management plan. That determination shall be initiated and processed as follows:

(1) Application shall be made on appropriate forms and filed with the Planning Director prior to two years after the effective date of this Ordinance;

Staff Comments as to applications PRE 4-98 and 5-98: The Dwelling Approval Validation ordinance provisions became effective May 4, 1998, 30 days after adoption by the Board of County Commissioners. The applications were filed on the appropriate forms on May 8, 1998.

Hearing Officer: The evidence on this issue is undisputed, I find that the applicant made timely application on appropriate forms for both PRE 4-98 and 5-98.

(2) The Planning Director shall find substantial compliance with the approved farm management plan, based on evidence provided by the applicant, if the activities provided for in the first two years of the farm management plan have been implemented.

Staff: The applicant's submittals described the measures taken to substantially comply with the management activities for the first two years as set out in the plan. A copy of the approved plan is included in the file exhibits. The plan is actually a 10-year plan, with a pre-planting soil conditioning phase in the year prior to planting. The "year 1" activities listed in the plan are therefore actually the second year management activities.

At the hearing, the staff discussed the "substantial compliance" standard. Staff stated that the County does not consider the substantial compliance requirement a strict compliance standard. The applicant had implemented the activities generally described in the first two years of the farm plan.

Staff had also viewed the trees after planting and stated that the trees had survived the summer and were growing.

Issues Raised by Appellants:

Was the number of trees planted sufficient to establish substantial compliance with the approved farm plan for PRE 5-98?

The appellants contend that the farm plan requires the planting of 9,000 trees on 6 acres in the first 2 plan years for parcel 2. 7,000 trees were planted on 4 acres of parcel two, as that parcel is now configured.

Appellants also argue that a plan approved under 1989 standards can not be reapportioned to accommodate new lot lines. Appellants contend that the planting does not comply with the plan and can not support a finding of substantial compliance unless, at least 9,000 trees spread over at least six acres of parcel two as that parcel is now configured has occurred.

The applicant submitted credible evidence indicating that 21,000 trees were planted (the number called for in the farm plan). The trees were planted in the exact locations called for in the 1989 approved farm management plan. The plan called for planting approximately 12,000 Christmas trees on parcel 1 and 9,000 trees on parcel 2, as those lots were configured in 1989. The trees were planted in accordance at the locations specified in the plan. The trees were planted in the projected numbers for each parcel as those parcels were described and configured in 1989. As the result of a 1995 lot line adjustment, the parcels were reconfigured, resulting in 14,000 trees on parcel 1 and 7,000 trees on parcel 2 as those lots are now configured.

The lot line adjustment did not amend, modify or alter the approved farm management plan. The applicant has established substantial compliance with the approved farm plan both as to the number and location of trees planted.

Was there substantial Evidence of Implementation of Pre-planting Activities?

The appellants contend that there is no substantial evidence indicating that the described pre-planting activities were carried out.

Substantial evidence is evidence a reasonable person would rely on in reaching a decision. Brandt vs. Marion Co., 23 Or LUBA 316 (1992). In a case where the relevant facts are not in dispute, the choice between different

reasonable conclusions based on evidence in the record belongs to the County. Dority III vs. Clackamas Co., 23 Or LUBA 384 (1992).

The appellants contend that the cancelled check to Chaparral Reforestation is insufficient to establish that pre-planting activity occurred on the site. Appellants also contend that the BTN statement only addresses only herbicides not the balance of planned pre-planting activities.

At the hearing, the appellants did not present any evidence directly contradicting the factual evidence submitted by applicants. Rather, the appellants chose to question the adequacy and accuracy of the information presented by the applicants.

Christopher Foster testified in regards to pre-planting activities carried on by the applicant. Mr. Foster questioned whether the applicants had adequately prepared the soil and fully complied with the farm plan pre-planting requirements. However, when I asked Mr. Foster if he had any direct knowledge if any of the activities had occurred to not, or the manner in which the soil had been prepared, he indicated he did not. He simply doubted that the applicant had actually done all the work claimed.

The applicant's farm management plan is general in nature. The plan lists the type location and quantity of crops needed, and then analyzes the financial viability of the plan.

The anticipated work schedule for the first two years of the plan was to prepare for planting and plant the seedlings. The applicant states in the plan:

"The ground to be planted with Noble fir seedlings is already cleared, but must be prepared in the year before planting. As outlined on the cost sheet, there will be some leveling, spraying, plowing and cultivating, and subsoiling to 18 inches. The spraying may be done by backpack or by helicopter."

The plan contemplated "some" leveling, spraying, plowing and cultivating and subsoiling. There is no indication that all of these tasks were required for the entire acreage to be planted. The basic plan has been accomplished, under a somewhat compressed time line.

The written materials submitted by applicant, together with the credible testimony does provide substantial evidence that pre-planting activity occurred. The written and oral testimony by appellants is not sufficient to

controvert the substantial evidence submitted by applicant. The substantial compliance standard is not a strict compliance standard. The substantial evidence presented by applicant does demonstrate that there is substantial compliance with the farm management plan.

(3) If the applicant applies for a dwelling location other than that approved by the management plan or an approved and active lot line adjustment, the new location shall:

- (a) Satisfy all applicable setback and siting standards including MCC .2016, MCC.6400 through .6425, MCC .6700 through .6735, and MCC 9.40, and
- (b) Be on a portion of the property with a soil classification of no higher value than the original approved location.

Staff Comments as to PRE 4-98: The subject parcel has an approved and active lot line adjustment, which is described in Exhibit A2. The applicant states that either the dwelling location of the original parcel 1 or the location shown in the lot line adjustment may be used for the dwelling location.

Staff Comments as to PRE 5-98: The subject parcel has an approved and active lot line adjustment, which is described in Exhibit A2 of the Staff Report. The applicant states that either the dwelling location of the original parcel 2 or the location shown in the lot line adjustment may be used for the dwelling location.

B. Quasi-Judicial Framework Plan Policies

The appellants have not challenged the staff findings in relation to the Comprehensive Plan policies discussed by staff in the decisions on appeal. Accordingly, I will adopt staff's findings in relation to the Framework Plan Policies for both decisions by this reference herein.

CONCLUSION

Based on the findings and the substantial evidence cited or referenced herein, I conclude that both applications satisfy all applicable approval criteria, subject to the conditions of approval set forth below. Neither Ordinance 903 or the dwelling validation approvals issued thereunder implicate the Statewide Planning Goals

because the dwelling validation does not approve a new use or otherwise alter the land use approval issued in 1989 pursuant to an acknowledged land use regulation. The Planning Director's approvals of PRE 4-98 and PRE 5-98, finding substantial compliance with an approved farm management plan, is affirmed and the appeal of those decisions is denied.

Conditions of Approval:

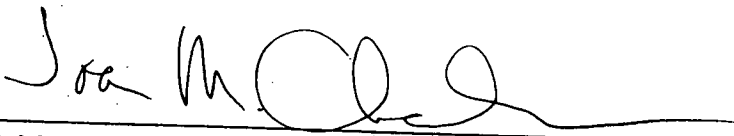
A. PRE 4-98

1. The applicant or property owner shall satisfy the provisions of MCC 11.15.2031(B)(6) for obtaining a Building Permit. Failure to follow the procedures for obtaining a Building Permit, and for keeping it valid, will result in voiding of this decision.
2. The applicant shall demonstrate that stormwater runoff generated from development of the parcel will be controlled on site prior to approval of the building permit.
3. The property owner shall obtain a fire and life safety review prior to final Building Permit approval.

B. PRE 5-98

1. The applicant or property owner shall satisfy the provisions of MCC 11.15.2031(B)(6) for obtaining a Building Permit. Failure to follow the procedures for obtaining a Building Permit, and for keeping it valid, will result in voiding of this decision.
2. The applicant shall demonstrate that stormwater runoff generated from development of the parcel will be controlled on site prior to approval of the building permit.
3. The property owner shall obtain a fire and life safety review prior to final Building Permit approval.

IT IS SO ORDERED, this 16th day of October, 1998.



JOAN M. CHAMBERS, Hearings Officer



DEPARTMENT OF ENVIRONMENTAL SERVICES
LAND USE PLANNING DIVISION
2115 SE MORRISON STREET
PORTLAND, OREGON 97214-2865
(503) 248-3043 FAX: (503) 248-3389

DECISION OF THE PLANNING DIRECTOR

NOTICE OF DECISION

DWELLING APPROVAL VALIDATION
(Implementation of Approved Farm Management Plan)
Use Permitted Under Prescribed Conditions
Case File No.: PRE 4-98;
July 22, 1998

What: The applicants requested a Dwelling Approval Validation and determination of substantial compliance with an approved Farm Management Plan. The approval is needed before a Building Permit for a dwelling in-conjunction with farm use can be approved on the property under the provisions of the 1989 Farm Management Plan, casefile PRE 26-89.

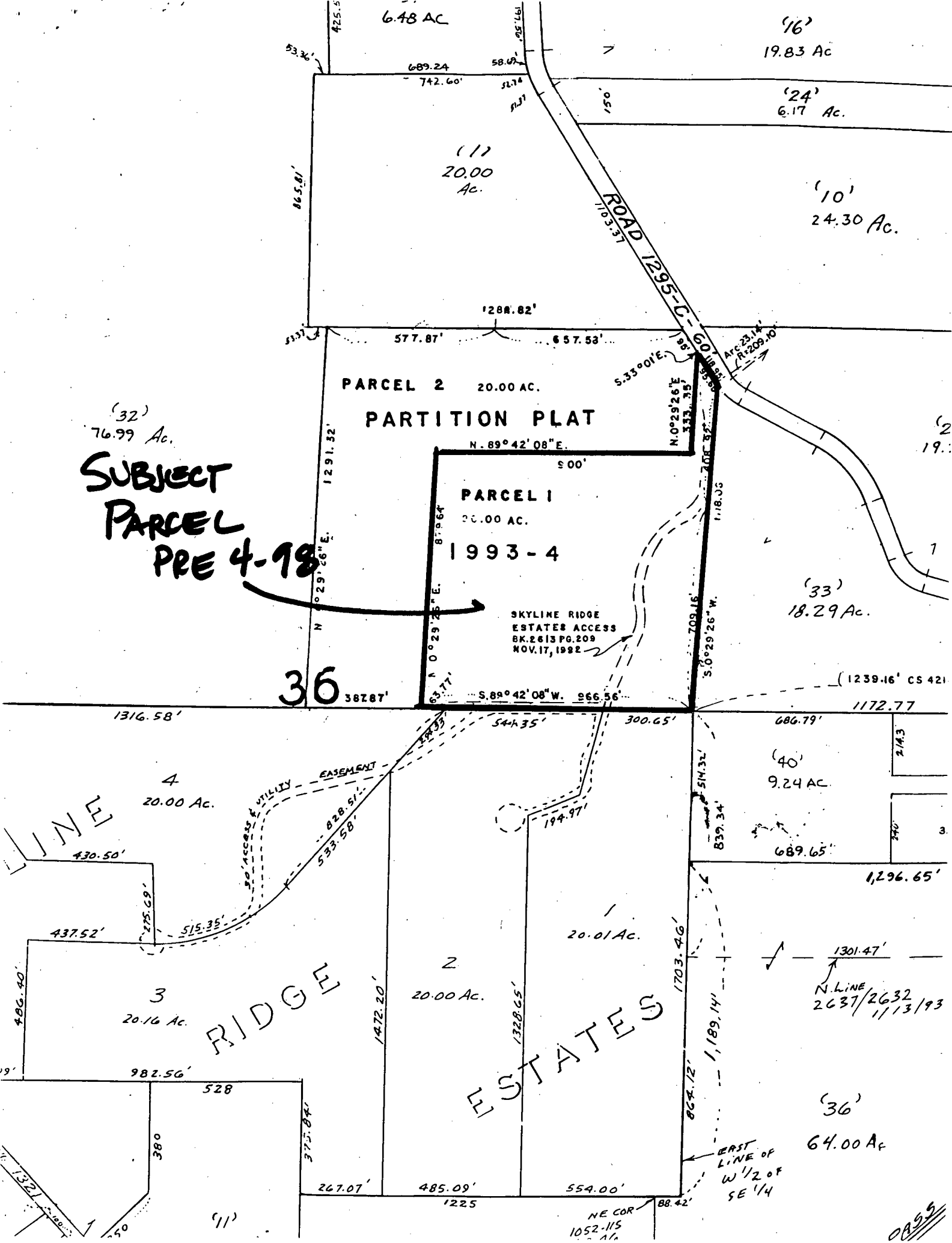
Where: The subject property is located at:
12955 NW Skyline Blvd.
2N2W, Section 36, Parcel 1 of Partition Plat 1993-4.

Property Owner/: Western States Development
Applicant 20285 NW Amberwood Dr.
Hillsboro, OR 97124

Applicant's Attorney: Jeff Bachrach
O'Donnell Ramis Crew Corrigan & Bachrach
1727 NW Hoyt Street
Portland, OR 97209

Zoning: EFU, Exclusive Farm Use
SECh, Significant Environmental Concern, Wildlife Habitat

Decision: Approve, subject to the conditions below, the requested determination of substantial compliance with the approved farm management plan, based on the following findings and conclusions.



(32)
76.99 Ac.
**SUBJECT
PARCEL
PRE 4-18**

PARCEL 2 20.00 AC.

PARTITION PLAT

PARCEL 1

20.00 AC.

1993-4

SKYLINE RIDGE
ESTATES ACCESS
BK. 2613 PG. 209
NOV. 17, 1992

RIDGE
ESTATES

N. LINE
2637/2632
11/13/93

0099

I. CONDITIONS OF APPROVAL

1. The applicant or property owner shall satisfy the provisions of MCC 11.15.2031(B)(6) for obtaining a Building Permit. Failure to follow the procedures for obtaining a Building Permit, and for keeping it valid, will result in voiding of this decision.
2. The applicant shall demonstrate that stormwater runoff generated from development of the parcel will be controlled on site prior to approval of the building permit.
3. The property owner shall obtain a fire and life safety review prior to final Building Permit approval.

For questions about Conditions of Approval and to make an appointment for Building Permit Sign-off, contact Chuck Beasley, at 248-3043.

STAFF REPORT FORMAT

This staff report addresses the requested action, a Dwelling Approval Validation and determination of substantial compliance with the approved farm management plan for a dwelling in conjunction with farm use. The Applicant's evidence in support of the application is contained in Exhibits A1 through A4. Findings by staff are included as necessary to address approval requirements.

FINDINGS:

II. BACKGROUND AND DESCRIPTION OF PROPOSAL

The applicant's May 7, 1998 Introduction describes the application and gives a brief history of farm dwelling approval on the subject parcel (see Exhibit A1, pg1). In addition to the farm management plan approval in PRE 26-89, a lot line adjustment was approved between the subject parcel and parcel 2 in PLA 16-95. This approved lot line adjustment results in two potential dwelling sites and crop areas for the subject parcel as indicated in Exhibit A2.

III. APPLICABLE CRITERIA

1. 11.15.2031 Dwelling Approval Validation is the ordinance revision adopted to both set an expiration date for all un-built farm management plan approvals (PRE's), and to ensure that the property meets the statutory requirement in ORS 215.203 that the property is "currently employed" for farm use. The farm management plan decisions approved parcels for dwellings in-conjunction with farm use based on a 5 year farm management plan, a portion of which must be implemented to establish the farm use.

2. Comprehensive Framework Plan Policies: 13, 22, 37, 38, and 40, apply to all quasi-judicial decisions in the county.

IV. ANALYSIS

A. Dwelling Approval Validation

11.15.2031 Dwelling Approval Validation

Approvals described in MCC .2030(B) shall continue to be valid if:

Staff: The applicant provided a copy of the approved farm management plan in PRE 26-89 as evidence that this application qualifies for the Dwelling Approval Validation process under MCC .2030(B). The applicant's statement is on page 2 of Exhibit A1.

Staff received a letter from Arnold Rochlin, on behalf of himself and Chris Foster, in opposition to the request. This letter is included as Exhibit B1. of this decision. The letter states that the ordinance provisions under which this decision is made do not address all of the necessary current state requirements for approval of dwellings in EFU zones. In addition, the letter states that PRE farm management plan approvals which do not have expiration dates do not remain valid after state regulations change. The Board of Commissioners has made a decision in a similar case, and adopted the ordinance under which this application is made. Although the ordinance adoption is under appeal at LUBA, staff must implement its provisions until and unless the ordinance adoption is reversed.

- (A) A dwelling has been constructed or placed on the property as approved prior to the effective date of this ordinance; or**

Staff: No dwelling has been constructed on the property.

- (B) The property owner applies for a determination of substantial compliance with the approved farm management plan. That determination shall be initiated and processed as follows:**

- (1) Application shall be made on appropriate forms and filed with the Planning Director prior to two years after the effective date of this Ordinance;**

Staff: The Dwelling Approval Validation ordinance provisions became effective May 4, 1998, 30 days after adoption by the Board of County Commissioners. The application was filed on the appropriate forms on May 8, 1998.

- (2) The Planning Director shall find substantial compliance with the approved farm management plan, based on evidence provided by the applicant, if the activities provided for in the first two years of the farm management plan have been implemented.**

Staff: The applicant describes the measures taken to substantially comply with the management activities for the first two years as set out in the plan. A copy of the

approved plan is included in Exhibit A1.#2. The plan is actually a 10 year plan, with a pre-planting soil conditioning phase in the year prior to planting. The "year 1" activities listed in the plan are therefore actually the second year management activities. The applicant describes the management activities which have been accomplished on page 3 of Exhibit A1. These include the pre-planting soil conditioning and planting of approximately 14,000 Noble fir Christmas tree seedlings. In addition to the pre-planting and post planting activities, the management plan calls for planting approximately 12,000 Noble fir seedlings on the parcel.

- (3) If the applicant applies for a dwelling location other than that approved by the management plan or an approved and active lot line adjustment, the new location shall:**
 - (a) Satisfy all applicable setback and siting standards including MCC .2016, MCC.6400 through .6425, MCC .6700 through .6735, and MCC 9.40, and**
 - (b) Be on a portion of the property with a soil classification of no higher value than the original approved location.**

Staff: The subject parcel has an approved and active lot line adjustment which is described in Exhibit A2. The applicant states that either the dwelling location of the original parcel 1 or the location shown in the lot line adjustment may be used for the dwelling location.

- (4) Notices of the application and decision of the Planning Director shall be mailed to all individuals entitled to notice as defined in MCC .8220(C).**
- (5) The decision of the Planning Director shall become final at the close of business on the tenth day following mailed notice unless a party files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295.**
- (6) If the Planning Director issues a determination of substantial compliance, the property owner shall, within one year of the final date of that decision or one year from the date of final resolution of an appeal of the Planning Director's decision of substantial compliance, apply for a building permit for the dwelling under the permit regulations of the applicable government issuer. The property owner shall obtain a building permit for the proposed dwelling within one year of application for that permit and continue to keep the building permit valid until completion of the dwelling. Failure to obtain a building permit within the specified one year period, or the additional one year period allowed by MCC 11.15.2031(B)(7), or failure to continuously keep the building permit valid, or failure to complete construction or placement of the dwelling under the above described valid permit, shall void the decision of the Planning Director.**
- (7) The Planning Director may approve a singular, one year extension to the time allowed for obtaining a building permit if the property owner demonstrates that failure to obtain a building permit was due to circumstances beyond the control of the property owner and the property owner acted with due diligence to obtain the building permit. Application**

for this one year extension shall be made on appropriate forms and filed with the Planning Director at least 30 days prior to the expiration of the one year period following application for a building permit. The Planning Director shall process the application pursuant to the provisions of MCC 11.15.2031(B)(4) and (5).

Staff: The provisions of (4) and (5) above are procedural provisions implemented by the County. Numbers (6) and (7) above are implicit conditions of approval of this decision.

Conclusion: The request meets the procedural requirements for a Dwelling Approval Validation in that PRE 26-89 qualifies for the process under MCC .2030(B), there is no dwelling on the property, and the application was timely filed using the appropriate forms. The applicant has demonstrated substantial compliance with the approved farm management plan by performing the pre-planting, planting, and post planting activities specified for the first two years in the plan, which results in establishment of a substantial Christmas tree crop on the subject parcel. Two dwelling locations are allowed under the original parcel configuration and the active lot line adjustment, and the applicant has stated that either one may be used. The other procedural requirements of (6) and (7) are imposed as conditions of approval to be met at a later date. Therefore, staff finds that the application meets the ordinance requirements, subject to compliance with the procedural provisions.

B. Quasi-Judicial Framework Plan Policies

- (1) **Policy 13, Air, Water and Noise Quality.** MULTNOMAH COUNTY, ... SUPPORTS EFFORTS TO IMPROVE AIR AND WATER QUALITY AND TO REDUCE NOISE LEVELS. ... FURTHERMORE, IT IS THE COUNTY'S POLICY TO REQUIRE, PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION, A STATEMENT FROM THE APPROPRIATE AGENCY THAT ALL STANDARDS CAN BE MET WITH RESPECT TO AIR QUALITY, WATER QUALITY, AND NOISE LEVELS.

Applicant: The site is not a noise sensitive use, nor will the dwelling be sited in a noise impacted area. The land use directly surrounding the single family dwelling will be agricultural, as provided for in the farm management plan. Any new noises will be limited to typical home oriented noises, and the pruning and harvesting of Christmas trees.

There will be no adverse effect on air resources, since the proposed use does not create air-emitting pollutants.

Water resources will be protected through the application for a grading and erosion permit. Waste disposal will be addressed as part of the septic system approval process. Therefore, compliance with these requirements is established with conditions of approval

Staff: The applicant's response to these Framework Plan policies is contained in Exhibit A3.

- (3) **Policy 22, Energy Conservation.** THE COUNTY'S POLICY IS TO PROMOTE THE CONSERVATION OF ENERGY AND TO USE ENERGY RESOURCES IN A MORE EFFICIENT MANNER. IN ADDITION, IT IS THE POLICY OF MULTNOMAH COUNTY TO REDUCE DEPENDENCY ON NON-RENEWABLE ENERGY RESOURCES AND TO SUPPORT GREATER UTILIZATION OF RENEWABLE ENERGY RESOURCES. THE COUNTY SHALL REQUIRE A FINDING PRIOR TO THE APPROVAL OF LEGISLATIVE OR QUASIJUDICIAL ACTION THAT THE FOLLOWING FACTORS HAVE BEEN CONSIDERED:
- A. THE DEVELOPMENT OF ENERGY-EFFICIENT LAND USES AND PRACTICES;
 - B. INCREASED DENSITY AND INTENSITY OF DEVELOPMENT IN URBAN AREAS, ESPECIALLY IN PROXIMITY TO TRANSIT CORRIDORS AND EMPLOYMENT, COMMERCIAL AND RECREATIONAL CENTERS;
 - C. AN ENERGY-EFFICIENT TRANSPORTATION SYSTEM LINKED WITH INCREASED MASS TRANSIT, PEDESTRIAN AND BICYCLE FACILITIES;
 - D. STREET LAYOUTS, LOTTING PATTERNS AND DESIGNS THAT UTILIZE NATURAL ENVIRONMENTAL AND CLIMACTIC CONDITIONS TO ADVANTAGE.
 - E. FINALLY, THE COUNTY WILL ALLOW GREATER FLEXIBILITY IN THE DEVELOPMENT AND USE OF RENEWABLE ENERGY RESOURCES.

Applicant: The dwelling unit will conform to energy efficiency standards provided by the building code.

- (4) **Policy 37, Utilities:** THE COUNTY'S POLICY IS TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

Water and Disposal System

- A. THE PROPOSED USE CAN BE CONNECTED TO A PUBLIC SEWER AND WATER SYSTEM, BOTH OF WHICH HAVE ADEQUATE CAPACITY; OR
- B. THE PROPOSED USE CAN BE CONNECTED TO A PUBLIC WATER SYSTEM, AND THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) WILL APPROVE A SUBSURFACE SEWAGE DISPOSAL SYSTEM ON THE SITE; OR
- C. THERE IS AN ADEQUATE PRIVATE WATER SYSTEM, AND THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) WILL APPROVE A SUBSURFACE SEWAGE DISPOSAL SYSTEM; OR

D. THERE IS AN ADEQUATE PRIVATE WATER SYSTEM, AND A PUBLIC SEWER WITH ADEQUATE CAPACITY.

Applicant: A well was drilled on **Parcel 1** in January 1998. The applicant has submitted a water supply well report that shows the well is 765 feet deep and yields 30 gallons per minute. In addition, the applicant is submitting a laboratory test report which shows the well water supply passed the basic purity tests. For these reasons, **Parcel 1** has an adequate private water system.

The applicant has submitted land feasibility study report, LFS 25-93 (**Parcel #1**). The parcel is considered *suitable* for the use of a standard septic tank/drainfield disposal system. The location of the septic test areas may change somewhat because the homesite may be different. However, the report is substantial evidence that shows it is feasible to find that a septic system will be approved by DEQ.

For these reasons, Plan Policy 37, subsection C is satisfied for **Parcel 1**.

Staff: Exhibit A4 contains a map showing both the lot line adjusted and original parcel configurations. The well locations shown confirm that the wells will each be on a parcel in either configuration. Exhibit A3 shows the approved septic system location which will result in an approved system area on both parcel configurations.

Drainage

- E. THERE IS ADEQUATE CAPACITY IN THE STORM WATER SYSTEM TO HANDLE THE RUN-OFF; OR
- F. THE WATER RUN-OFF CAN BE HANDLED ON THE SITE OR ADEQUATE PROVISIONS CAN BE MADE; AND
- G. THE RUN-OFF FROM THE SITE WILL NOT ADVERSELY AFFECT THE WATER QUALITY IN ADJACENT STREAMS, PONDS, LAKES OR ALTER THE DRAINAGE ON ADJOINING LANDS.

Applicant: The soil on **Parcel 1** is considered suitable for home sites, according to the SCS Soil Survey of Multnomah County. A soils map and description of the soils is included in the farm management plan was submitted with this application. Nearly all of the site is Cascade silt loam (7B, 7C, 7D and 7E). According to the soil survey report on each of those soils:

“Increased population growth has resulted in increased homesite construction on this soil. The main limitations for urban development are a seasonal high water table, slow permeability, low strength, a fragipan at a depth of 20 to 30 inches, and slopes....

Dwellings and roads need to be designed to offset these limitations.”

SCS report, pp. 23-27.

This report indicates that it is feasible to find that dwellings and roads can be designed to control on-site drainage in the Cascade soils.

The water management portion of the soil table submitted with the farm management plan states that the only drainage problems for Cascade soils are "percs slowly, slope." The slopes vary with the soil classification, but as shown in the photographs in application Exhibit 3, most of this property is gently sloped. The parcel contains twenty acres.

For these reasons, the SCS soil survey provides substantial evidence that it is feasible to find that the water run-off from Parcel 1 can be handled on the site.

Staff: The applicant will be required to demonstrate that stormwater runoff generated from development of the parcel will remain on site prior to approval of the building permit. Staff agrees that the soils information presented demonstrates that this can be accomplished on the parcel.

Energy and Communications

- H. THERE IS AN ADEQUATE ENERGY SUPPLY TO HANDLE THE NEEDS OF THE PROPOSAL AND THE DEVELOPMENT LEVEL PROJECTED BY THE PLAN; AND
- I. COMMUNICATIONS FACILITIES ARE AVAILABLE.

FURTHERMORE, THE COUNTY'S POLICY IS TO CONTINUE COOPERATION WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY, FOR THE DEVELOPMENT AND IMPLEMENTATION OF A GROUNDWATER QUALITY PLAN TO MEET THE NEEDS OF THE COUNTY.

Applicant: Both US West and GTE have their services available either on the property or very near the property.

- (5) **Policy 38, Facilities:** THE COUNTY'S POLICY IS TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

School

- A. THE APPROPRIATE SCHOOL DISTRICT HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENT ON THE PROPOSAL.

Fire Protection

- B. THERE IS ADEQUATE WATER PRESSURE AND FLOW FOR FIRE FIGHTING PURPOSES; AND
- C. THE APPROPRIATE FIRE DISTRICT HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENTS ON THE PROPOSAL.

Police Protection

D. THE PROPOSAL CAN RECEIVE ADEQUATE LOCAL POLICE PROTECTION IN ACCORDANCE WITH THE STANDARDS OF THE JURISDICTION PROVIDING POLICE PROTECTION.

Applicant:

Staff: The only service provider confirmation of compliance needed for this application is for adequate fire protection. The applicant has received an indication of adequate fire service subject to final plan review from the Tualatin Valley Fire & Rescue dated 7/7/98.

(6) Policy 40, Development Requirements: THE COUNTY'S POLICY IS TO ENCOURAGE A CONNECTED PARK AND RECREATION SYSTEM AND TO PROVIDE FOR SMALL PRIVATE RECREATION AREAS BY REQUIRING A FINDING PRIOR TO APPROVAL OF LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

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

Applicant: The subject property is not designated as an area designated in the bicycle corridor capital improvement plan, nor is it in an area considered appropriate to require a pedestrian and bicycle connection to the network of parks. The subject property is not in a commercial, industrial, or multi-family development, so no landscaped area is needed. In addition, the application is not a development proposal, so no area for bicycle facilities is required. Therefore, policy 40 does not apply to this application.

Staff: Agrees.

Conclusion: The applicable Comprehensive Framework Plan Policies addressed above relate primarily to drainage and adequate services. The property owner will need to demonstrate compliance with the drainage retention policy as a condition of approval, prior to building permit approval. The adequacy of fire service has been indicated and will be ensured by the applicant obtaining a fire and life safety review. Adequacy of the septic system appears feasible and will be proved when the system is constructed in compliance with DEQ requirements.

V. EXHIBITS

- A1. Applicant's submittal dated May 7, 1998 and attachments.
 - 1. Planning Director Decision in PRE 26-89.
 - 2. Approved Farm Management Plan dated August, 1989.
 - 3. Photographs of planted Noble fir trees, well, utilities, and access road.
 - 4. Proof of purchase of Noble fir trees.
 - 5. Christmas Tree Work Contract.
 - 6. Statement for Tree planting.
- A2. June 24, 1998 letter from applicant to staff, includes Lot Line Adjustment PLA 16-95.
- A3. July 7, 1998 letter from applicant to staff, includes response to Framework Plan policies, well report, fire district service provider form, LFS 25-93, Planning Director decision in PRE 26-89, soils information, staff report and decision in LD 26-89.
- A4. July 15, 1998 letter from applicant to staff with well locations.
- B1. July 20, 1998 letter from Arnold Rochlin and Chris Foster to staff.

In the matter of : PRE 4-98

Multnomah County Department of Environmental Services
Land Use Planning Division

By : Chuck Beasley
Chuck Beasley, Planner

For: Kathy Busse, Planning Director

This decision was filed with the Director of the Department of Environmental Services on July 22, 1998.

NOTICE

State law requires a public notice (by mail) to nearby property owners and to any recognized Neighborhood Association of a Planning Director decision which applies discretionary or subjective standards or criteria to land use or development permit applications. The notice must describe the method to challenge the staff decision; and, if appealed, the County must hold a public hearing to consider the merits of the application. ORS 197.763, ORS 215.416(11)

The Administrative Decision(s) detailed above will become final unless an appeal is filed within the 10-day appeal period which starts the day after the notice is mailed. If the 10th day falls on Saturday, Sunday, or a legal holiday, the appeal period extends through the next full business-day. If an appeal is filed, a public hearing will be scheduled before a County

Hearings Officer pursuant to Multnomah County Code section 11.15.8290 and in compliance with ORS 197.763. To file, complete an Appeal of Administrative Decision form , and submit to the County Planning Division Office, together with a \$100.00 fee and supplemental written materials (as needed) stating the specific grounds, approval criteria, or standards on which the appeal is based. To review the application file(s), obtain appeal forms, or other instruction, call the Multnomah County Planning Division at (503) 248-3043, or visit our offices at 2115 SE Morrison Street, Portland, Oregon, 97214 [hours: 8:30 a.m. – 4:30 p.m.; M—F].

The appeal period ends August 3, 1998 at 4:30 p.m.

Notice to Mortgagee, Lien Holder, Vendor or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.



DEPARTMENT OF ENVIRONMENTAL SERVICES
LAND USE PLANNING DIVISION
2115 SE MORRISON STREET
PORTLAND, OREGON 97214-2865
(503) 248-3043 FAX: (503) 248-3389

DECISION OF THE PLANNING DIRECTOR

NOTICE OF DECISION

DWELLING APPROVAL VALIDATION
(Implementation of Approved Farm Management Plan)
Use Permitted Under Prescribed Conditions
Case File No.: PRE 5-98;
July 22, 1998

What: The applicants requested a Dwelling Approval Validation and determination of substantial compliance with an approved Farm Management Plan. The approval is needed before a Building Permit for a dwelling in-conjunction with farm use can be approved on the property under the provisions of the 1989 Farm Management Plan, casefile PRE 27-89.

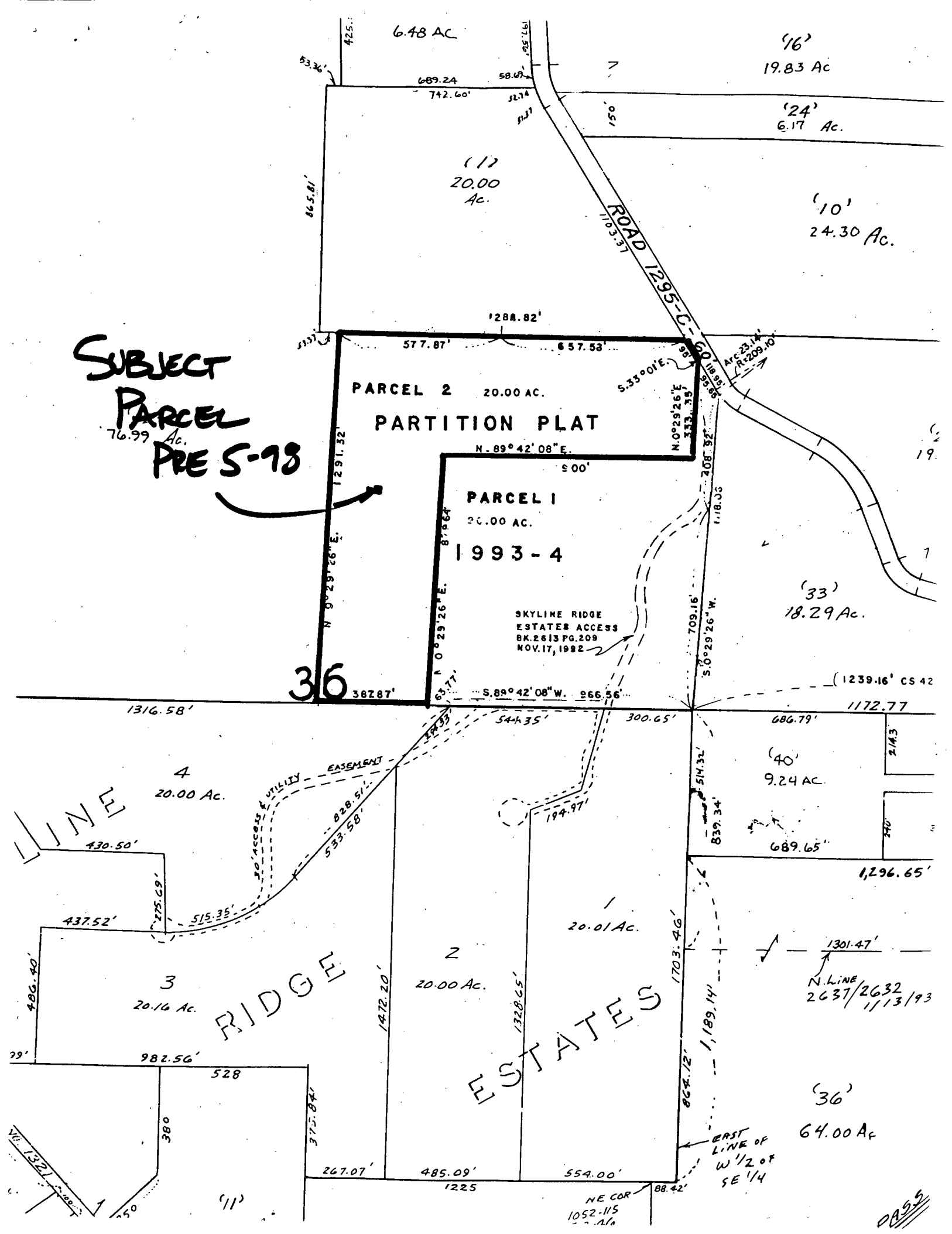
Where: The subject property is located at:
12989 NW Skyline Blvd.
2N2W, Section 36, Parcel 2 of Partition Plat 1993-4.

**Property Owner/
Applicant:** Western States Development
20285 NW Amberwood Dr.
Hillsboro, OR 97124

Applicant's Attorney: Jeff Bachrach
O'Donnell Ramis Crew Corrigan & Bachrach
1727 NW Hoyt Street
Portland, OR 97209

Zoning: EFU, Exclusive Farm Use
SECh, Significant Environmental Concern, Wildlife Habitat

Decision: Approve, subject to the conditions below, the requested determination of substantial compliance with the approved farm management plan, based on the following findings and conclusions.



I. CONDITIONS OF APPROVAL

1. The applicant or property owner shall satisfy the provisions of MCC 11.15.2031(B)(6) for obtaining a Building Permit. Failure to follow the procedures for obtaining a Building Permit, and for keeping it valid, will result in voiding of this decision.
2. The applicant shall demonstrate that stormwater runoff generated from development of the parcel will be controlled on site prior to approval of the building permit.
3. The property owner shall obtain a fire and life safety review prior to final Building Permit approval.

For questions about Conditions of Approval and to make an appointment for Building Permit Sign-off, contact Chuck Beasley, at 248-3043.

STAFF REPORT FORMAT

This staff report addresses the requested action, a Dwelling Approval Validation and determination of substantial compliance with the approved farm management plan for a dwelling in conjunction with farm use. The Applicant's evidence in support of the application is contained in Exhibits A1 through A4. Findings by staff are included as necessary to address approval requirements.

FINDINGS:

II. BACKGROUND AND DESCRIPTION OF PROPOSAL

The applicant's May 7, 1998 Introduction describes the application and gives a brief history of farm dwelling approval on the subject parcel (see Exhibit A1, pg1). In addition to the farm management plan approval in PRE 27-89, a lot line adjustment was approved between the subject parcel and parcel 1 in PLA 16-95. This approved lot line adjustment results in two potential dwelling sites and crop areas for the subject parcel as indicated in Exhibit A2.

III. APPLICABLE CRITERIA

1. 11.15.2031 Dwelling Approval Validation is the ordinance revision adopted to both set an expiration date for all un-built farm management plan approvals (PRE's), and to ensure that the property meets the statutory requirement in ORS 215.203 that the property is "currently employed" for farm use. The farm management plan decisions approved parcels for dwellings in-conjunction with farm use based on a 5 year farm management plan, a portion of which must be implemented to establish the farm use.

2. Comprehensive Framework Plan Policies: 13, 22, 37, 38, and 40, apply to all quasi-judicial decisions in the county.

IV. ANALYSIS

A. Dwelling Approval Validation

11.15.2031 Dwelling Approval Validation

Approvals described in MCC .2030(B) shall continue to be valid if:

Staff: The applicant provided a copy of the approved farm management plan in PRE 27-89 as evidence that this application qualifies for the Dwelling Approval Validation process under MCC .2030(B). The applicant's statement is on page 2 of Exhibit A1.

Staff received a letter from Arnold Rochlin, on behalf of himself and Chris Foster, in opposition to the request. This letter is included as Exhibit B1. of this decision. The letter states that the ordinance provisions under which this decision is made do not address all of the necessary current state requirements for approval of dwellings in EFU zones. In addition, the letter states that PRE farm management plan approvals which do not have expiration dates do not remain valid after state regulations change. The Board of Commissioners has made a decision in a similar case, and adopted the ordinance under which this application is made. Although the ordinance adoption is under appeal at LUBA, staff must implement its provisions until and unless the ordinance adoption is reversed.

- (A) A dwelling has been constructed or placed on the property as approved prior to the effective date of this ordinance; or**

Staff: No dwelling has been constructed on the property.

- (B) The property owner applies for a determination of substantial compliance with the approved farm management plan. That determination shall be initiated and processed as follows:**

- (1) Application shall be made on appropriate forms and filed with the Planning Director prior to two years after the effective date of this Ordinance;**

Staff: The Dwelling Approval Validation ordinance provisions became effective May 4, 1998, 30 days after adoption by the Board of County Commissioners. The application was filed on the appropriate forms on May 8, 1998.

- (2) The Planning Director shall find substantial compliance with the approved farm management plan, based on evidence provided by the applicant, if the activities provided for in the first two years of the farm management plan have been implemented.**

Staff: The applicant describes the measures taken to substantially comply with the management activities for the first two years as set out in the plan. A copy of the approved plan is included in Exhibit A1.#2. The plan is actually a 10 year plan, with a pre-planting soil conditioning phase in the year prior to planting. The "year 1" activities

listed in the plan are therefore actually the second year management activities. The applicant describes the management activities which have been accomplished on page 3 of Exhibit A1. These include the pre-planting soil conditioning and planting of approximately 7,000 Noble fir Christmas tree seedlings. In addition to the pre-planting and post planting activities, the management plan calls for planting approximately 9,000 Noble fir seedlings on the parcel.

- (3) If the applicant applies for a dwelling location other than that approved by the management plan or an approved and active lot line adjustment, the new location shall:**
 - (a) Satisfy all applicable setback and siting standards including MCC .2016, MCC.6400 through .6425, MCC .6700 through .6735, and MCC 9.40, and**
 - (b) Be on a portion of the property with a soil classification of no higher value than the original approved location.**

Staff: The subject parcel has an approved and active lot line adjustment which is described in Exhibit A2. The applicant states that either the dwelling location of the original parcel 2 or the location shown in the lot line adjustment may be used for the dwelling location.

- (4) Notices of the application and decision of the Planning Director shall be mailed to all individuals entitled to notice as defined in MCC .8220(C).**
- (5) The decision of the Planning Director shall become final at the close of business on the tenth day following mailed notice unless a party files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295.**
- (6) If the Planning Director issues a determination of substantial compliance, the property owner shall, within one year of the final date of that decision or one year from the date of final resolution of an appeal of the Planning Director's decision of substantial compliance, apply for a building permit for the dwelling under the permit regulations of the applicable government issuer. The property owner shall obtain a building permit for the proposed dwelling within one year of application for that permit and continue to keep the building permit valid until completion of the dwelling. Failure to obtain a building permit within the specified one year period, or the additional one year period allowed by MCC 11.15.2031(B)(7), or failure to continuously keep the building permit valid, or failure to complete construction or placement of the dwelling under the above described valid permit, shall void the decision of the Planning Director.**
- (7) The Planning Director may approve a singular, one year extension to the time allowed for obtaining a building permit if the property owner demonstrates that failure to obtain a building permit was due to circumstances beyond the control of the property owner and the property owner acted with due diligence to obtain the building permit. Application for this one year extension shall be made on appropriate forms and filed with the Planning Director at least 30 days prior to the expiration of the one**

year period following application for a building permit. The Planning Director shall process the application pursuant to the provisions of MCC 11.15.2031(B)(4) and (5).

Staff: The provisions of (4) and (5) above are procedural provisions implemented by the County. Numbers (6) and (7) above are implicit conditions of approval of this decision.

Conclusion: The request meets the procedural requirements for a Dwelling Approval Validation in that PRE 27-89 qualifies for the process under MCC .2030(B), there is no dwelling on the property, and the application was timely filed using the appropriate forms. The applicant has demonstrated substantial compliance with the approved farm management plan by performing the pre-planting, planting, and post planting activities specified for the first two years in the plan, which results in establishment of a substantial Christmas tree crop on the subject parcel. Two dwelling locations are allowed under the original parcel configuration and the active lot line adjustment, and the applicant has stated that either one may be used. The other procedural requirements of (6) and (7) are imposed as conditions of approval to be met at a later date. Therefore, staff finds that the application meets the ordinance requirements, subject to compliance with the procedural provisions.

B. Quasi-Judicial Framework Plan Policies

- (1) **Policy 13, Air, Water and Noise Quality.** MULTNOMAH COUNTY, ... SUPPORTS EFFORTS TO IMPROVE AIR AND WATER QUALITY AND TO REDUCE NOISE LEVELS. ... FURTHERMORE, IT IS THE COUNTY'S POLICY TO REQUIRE, PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION, A STATEMENT FROM THE APPROPRIATE AGENCY THAT ALL STANDARDS CAN BE MET WITH RESPECT TO AIR QUALITY, WATER QUALITY, AND NOISE LEVELS.

Applicant: The site is not a noise sensitive use, nor will the dwelling be sited in a noise impacted area. The land use directly surrounding the single family dwelling will be agricultural, as provided for in the farm management plan. Any new noises will be limited to typical home oriented noises, and the pruning and harvesting of Christmas trees.

There will be no adverse effect on air resources, since the proposed use does not create air-emitting pollutants.

Water resources will be protected through the application for a grading and erosion permit. Waste disposal will be addressed as part of the septic system approval process. Therefore, compliance with these requirements is established with conditions of approval.

Staff: The applicant's response to these Framework Plan policies is contained in Exhibit A3.

(3) Policy 22, Energy Conservation. THE COUNTY'S POLICY IS TO PROMOTE THE CONSERVATION OF ENERGY AND TO USE ENERGY RESOURCES IN A MORE EFFICIENT MANNER. IN ADDITION, IT IS THE POLICY OF MULTNOMAH COUNTY TO REDUCE DEPENDENCY ON NON-RENEWABLE ENERGY RESOURCES AND TO SUPPORT GREATER UTILIZATION OF RENEWABLE ENERGY RESOURCES. THE COUNTY SHALL REQUIRE A FINDING PRIOR TO THE APPROVAL OF LEGISLATIVE OR QUASIJUDICIAL ACTION THAT THE FOLLOWING FACTORS HAVE BEEN CONSIDERED:

- A. THE DEVELOPMENT OF ENERGY-EFFICIENT LAND USES AND PRACTICES;
- B. INCREASED DENSITY AND INTENSITY OF DEVELOPMENT IN URBAN AREAS, ESPECIALLY IN PROXIMITY TO TRANSIT CORRIDORS AND EMPLOYMENT, COMMERCIAL AND RECREATIONAL CENTERS;
- C. AN ENERGY-EFFICIENT TRANSPORTATION SYSTEM LINKED WITH INCREASED MASS TRANSIT, PEDESTRIAN AND BICYCLE FACILITIES;
- D. STREET LAYOUTS, LOTTING PATTERNS AND DESIGNS THAT UTILIZE NATURAL ENVIRONMENTAL AND CLIMACTIC CONDITIONS TO ADVANTAGE.
- E. FINALLY, THE COUNTY WILL ALLOW GREATER FLEXIBILITY IN THE DEVELOPMENT AND USE OF RENEWABLE ENERGY RESOURCES.

Applicant: The dwelling unit will conform to energy efficiency standards provided by the building code.

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Applicant: The applicant has submitted land feasibility study report, LFS 26-93 (Parcel #2). The parcel is considered *suitable* for the use of a standard septic tank/drainfield disposal system. The location of the septic test areas may change somewhat because the homesite may be different. However, the report is substantial evidence that shows it is feasible to find that a septic system will be approved by DEQ on Parcel 2, because the soil types are consistent throughout the areas which would be desirable as a homesite location.

A well was drilled on **Parcel 2** in May of 1998. The applicant has submitted a water supply well report that shows the well is 575 feet deep and yields 30 gallons per minute. For these reasons, **Parcel 2** has an adequate private water system.

For these reasons, Plan Policy 37, subsection C is satisfied for **Parcel 2**.

Staff: Exhibit A4 contains a map showing both the lot line adjusted and original parcel configurations. The well locations shown confirm that the wells will each be on a parcel in either configuration. Exhibit A3 shows the approved septic system location which will result in both systems being on parcel 1 if the lot line adjustment is implemented. Staff concurs with the applicant's evidence that it is reasonable to find that a system can be located on parcel 2 given existing approvals and soil types.

Drainage

- E. THERE IS ADEQUATE CAPACITY IN THE STORM WATER SYSTEM TO HANDLE THE RUN-OFF; OR**
- F. THE WATER RUN-OFF CAN BE HANDLED ON THE SITE OR ADEQUATE PROVISIONS CAN BE MADE; AND**
- G. THE RUN-OFF FROM THE SITE WILL NOT ADVERSELY AFFECT THE WATER QUALITY IN ADJACENT STREAMS, PONDS, LAKES OR ALTER THE DRAINAGE ON ADJOINING LANDS.**

Applicant: The soil on **Parcel 2** is considered suitable for home sites, according to the SCS Soil Survey of Multnomah County. A soils map and description of the soils is included in the farm management plan was submitted with this application. Nearly all of the site is Cascade silt loam (7B, 7C, 7D and 7E). According to the soil survey report on each of those soils:

"Increased population growth has resulted in increased homesite construction on this soil. The main limitations for urban development are a seasonal high water table, slow permeability, low strength, a fragipan at a depth of 20 to 30 inches, and slopes....

Dwellings and roads need to be designed to offset these limitations."

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This report indicates that it is feasible to find that dwellings and roads can be designed to control on-site drainage in the Cascade soils.

The water management portion of the soil table submitted with the farm management plan states that the only drainage problems for Cascade soils are "percs slowly, slope." The slopes vary with the soil classification, but as shown in the photographs in application Exhibit 3, most of this property is gently sloped. The parcel contains twenty acres.

For these reasons, the SCS soil survey provides substantial evidence that it is feasible to find that the water run-off from Parcel 1 can be handled on the site.

Staff: The applicant will be required to demonstrate that stormwater runoff generated from development of the parcel will remain on site prior to approval of the building permit. Staff agrees that the soils information presented demonstrates that this can be accomplished on the parcel.

Energy and Communications

- H. THERE IS AN ADEQUATE ENERGY SUPPLY TO HANDLE THE NEEDS OF THE PROPOSAL AND THE DEVELOPMENT LEVEL PROJECTED BY THE PLAN; AND
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FURTHERMORE, THE COUNTY'S POLICY IS TO CONTINUE COOPERATION WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY, FOR THE DEVELOPMENT AND IMPLEMENTATION OF A GROUNDWATER QUALITY PLAN TO MEET THE NEEDS OF THE COUNTY.

Applicant: Both US West and GTE have their services available either on the property or very near the property.

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Fire Protection

- B. THERE IS ADEQUATE WATER PRESSURE AND FLOW FOR FIRE FIGHTING PURPOSES; AND
- C. THE APPROPRIATE FIRE DISTRICT HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENTS ON THE PROPOSAL.

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D. THE PROPOSAL CAN RECEIVE ADEQUATE LOCAL POLICE PROTECTION IN ACCORDANCE WITH THE STANDARDS OF THE JURISDICTION PROVIDING POLICE PROTECTION.

Applicant:

Staff: The only service provider confirmation of compliance needed for this application is for adequate fire protection. The applicant has received an indication of adequate fire service subject to final plan review from the Tualatin Valley Fire & Rescue dated 7/7/98.

(6) Policy 40, Development Requirements: THE COUNTY'S POLICY IS TO ENCOURAGE A CONNECTED PARK AND RECREATION SYSTEM AND TO PROVIDE FOR SMALL PRIVATE RECREATION AREAS BY REQUIRING A FINDING PRIOR TO APPROVAL OF LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

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

Applicant: The subject property is not designated as an area designated in the bicycle corridor capital improvement plan, nor is it in an area considered appropriate to require a pedestrian and bicycle connection to the network of parks. The subject property is not in a commercial, industrial, or multi-family development, so no landscaped area is needed. In addition, the application is not a development proposal, so no area for bicycle facilities is required. Therefore, policy 40 does not apply to this application.

Staff: Agrees.

Conclusion: The applicable Comprehensive Framework Plan Policies addressed above relate primarily to drainage and adequate services. The property owner will need to demonstrate compliance with the drainage retention policy as a condition of approval, prior to building permit approval. The adequacy of fire service has been indicated and will be ensured by the applicant obtaining a fire and life safety review. Adequacy of the septic system appears feasible and will be proved when the system is constructed in compliance with DEQ requirements.

V. EXHIBITS

- A1. Applicant's submittal dated May 7, 1998 and attachments.
 - 1. Planning Director Decision in PRE 27-89.
 - 2. Approved Farm Management Plan dated August, 1989.
 - 3. Photographs of planted Noble fir trees, utilities, and access road.
 - 4. Proof of purchase of Noble fir trees.
 - 5. Christmas Tree Work Contract.
 - 6. Statement for Tree planting.
- A2. June 24, 1998 letter from applicant to staff, includes Lot Line Adjustment PLA 16-95.
- A3. July 7, 1998 letter from applicant to staff, includes response to Framework Plan policies, well report, fire district service provider form, LFS 26-93, Planning Director decision in PRE 27-89, soils information, staff report and decision in LD 26-89.
- A4. July 15, 1998 letter from applicant to staff with well locations.
- B1. July 20, 1998 letter from Arnold Rochlin and Chris Foster to staff.

In the matter of : PRE 5-98

Multnomah County Department of Environmental Services
Land Use Planning Division

By :


Chuck Beasley, Planner

For: Kathy Busse, Planning Director

This decision was filed with the Director of the Department of Environmental Services on July 22, 1998.

NOTICE

State law requires a public notice (by mail) to nearby property owners and to any recognized Neighborhood Association of a Planning Director decision which applies discretionary or subjective standards or criteria to land use or development permit applications. The notice must describe the method to challenge the staff decision; and, if appealed, the County must hold a public hearing to consider the merits of the application. ORS 197.763, ORS 215.416(11)

The Administrative Decision(s) detailed above will become final unless an appeal is filed within the 10-day appeal period which starts the day after the notice is mailed. If the 10th day falls on Saturday, Sunday, or a legal holiday, the appeal period extends through the next full

business-day. If an appeal is filed, a public hearing will be scheduled before a County Hearings Officer pursuant to Multnomah County Code section 11.15.8290 and in compliance with ORS 197.763. To file, complete an Appeal of Administrative Decision form , and submit to the County Planning Division Office, together with a \$100.00 fee and supplemental written materials (as needed) stating the specific grounds, approval criteria, or standards on which the appeal is based. To review the application file(s), obtain appeal forms, or other instruction, call the Multnomah County Planning Division at (503) 248-3043, or visit our offices at 2115 SE Morrison Street, Portland, Oregon, 97214 [hours: 8:30 a.m. – 4:30 p.m.; M—F].

The appeal period ends August 3, 1998 at 4:30 p.m.

Notice to Mortgagee, Lien Holder, Vendor or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.



Fact Sheet

(draft working document – not for distribution)

Proposed Purchase of US Bank Building

Project Description

Proposed purchase of US Bank Building and relocation of various Multnomah County administrative offices.

Occupants may include:

- Board of County Commissioners
- County Chair's Office
- County Auditor
- County Counsel
- Public Affairs Office
- Citizen Involvement Committee
- Public Safety Coordinating Council
- Commission on Children, Families, and Community
- Multnomah County Sheriff – Command Staff/Administration only
- Department of Juvenile and Adult Community Justice Administration
- Department of Support Services
- Assessment and Taxation
- Board of Property Tax Appeals

Location

US Bank Building
501 SE Hawthorne Boulevard
(Corner of Grand Avenue and
Hawthorne)
Portland, Oregon

Contacts

Althea Milechman,
Multnomah County Public Affairs Office,
phone:736-6800, fax:736-6801 or
email:pao.org@co.multnomah.us.or

Maria Lisa Johnson,
Multnomah County Chair's Office,
248-3960

Timeline

Outreach to community stakeholders	December 1998 – January 1999
Preliminary contract negotiation	Through mid- December 1998
Public information meeting	January 13, 1999
Board approval	end January, 1999
Completion of Purchase	end January, 1999
Occupancy	beginning July, 1999

Opportunity for Public Input

Public Information Meeting
Wednesday, January 13, 1999
Location TBA
4:00pm – 6:00pm

Multnomah County has been investing in its direct public services, like libraries, health clinics, and jails, and in making necessary upgrades to the buildings that house those services. The administrative functions supporting County services remain scattered, often in leased space. The availability of the US Bank Building provides a number of benefits including:

- Financially, the building is much less expensive than a similar new building would be. Investing in a building owned by the County is less expensive in the long run than continuing to lease space.
- Citizens will be able to find their elected officials and many administrative County functions in one easy-to-reach place.
- Key officials and support groups will be together for better communication, less time spent traveling between offices, and more efficient combined support operations. The County move to the East Side near Metro and the State Office Building will improve access between all three agencies.

Community Benefits

The addition of approximately 550 employees and additional visitors will help to anchor businesses at the south end of the redeveloping business district. The site also has easier road access from East County cities such as Gresham and Troutdale. The combination of good bus access, the County's transit pass program for employees, and the large parking garage will minimize traffic and parking issues in the surrounding area.

OPTION AGREEMENT

THIS OPTION AGREEMENT ("Agreement") is made as of December __, 1998, between U.S. BANK NATIONAL ASSOCIATION, a national banking association ("Seller"), and MULTNOMAH COUNTY, a political subdivision of the State of Oregon ("Buyer").

In consideration of this Agreement, Seller and Buyer agree as follows:

1. Grant of Option. Seller grants to Buyer the option ("Option") to purchase from Seller, the following property (collectively, "Property"):

- 1.1 Real Property. The real property having an address of 501 S.E. Hawthorne in Portland, Oregon and legally described on Exhibit A attached hereto (the "Land"), together with (1) all buildings, the parking structure and all other improvements constructed or located on the Land, and (2) all easements and rights benefitting or appurtenant to the Land (collectively the "Real Property").
- 1.2 Personal Property. That personal property owned by Seller, if any, situated at the Real Property and used exclusively for operation and maintenance of the Building, as more fully described on Exhibit F attached hereto (the "Personal Property").
- 1.3 Leases. Seller's interests as lessor in the leases identified on attached Exhibit B (collectively, "Leases").
- 1.4 Contracts. Seller's interests in the contracts, if any, identified on attached Exhibit C, (collectively, "Contracts").
- 1.5 Permits, Warranties, Records. Seller's interests in the following items, all of which relate to the Property: transferable permits, if any (the "Permits"); transferable warranties and guaranties, if any (provided that Buyer makes all arrangements for the transfer thereof and pays any transfer fees) (collectively, the "Warranties"); and nonconfidential business records, including real estate taxes, assessments, maintenance, repairs, capital improvements and services (the "Records").

2. Purchase Price and Manner of Payment. In consideration of the granting of this Option, Buyer pays to Seller, and Seller acknowledges receipt of, a non-refundable (subject to Sections 6 and 9 hereof) amount equal to US\$200,000.00 (the "Option Fee"), which Option Fee shall be applied to the Purchase Price at Closing. If this Option is exercised, then the total purchase price ("Purchase Price") to be paid for the Property shall be US\$25,052,000.00. The

Purchase Price shall be payable, by wire transfer or other collected funds acceptable to Seller, on the Closing Date.

3. Exercise of Option. This Option shall be exercised, if at all, by Buyer giving written notice to Seller (accompanied by collected funds in the amount of US\$200,000.00, which funds shall be considered additional Option Fee and shall be applied to the Purchase Price at Closing) exercising this Option on or before 4:00 p.m. Central Standard Time on the date that is forty-five (45) days after the date that the last party hereto executes this Agreement. If Buyer exercises the Option pursuant to this Section, Seller shall deliver the second \$200,000.00 of the Option Fee to Norris, Beggs & Simpson and shall cause such broker to deposit such portion of the Option Fee in an interest bearing account pending Closing. If Buyer fails to exercise this Option as herein provided, then Buyer shall have no further rights in or to the Property, Seller shall retain the initial \$200,000.00 Option Fee payment, and this Option shall thereafter be of no further force or effect. It is acknowledged that time is of the essence, and it shall be presumed Seller shall be prejudiced if Buyer shall fail to meet the time limits for exercise and extension herein provided.

4. Closing. The closing of the purchase and sale contemplated by this Agreement (the "Closing") shall occur on June 30, 1999 (the "Closing Date"). Seller and Buyer acknowledge that the Closing Date is based on Seller's determination of the date by which Seller can vacate the Property and, as such, Seller may accelerate the Closing Date (provided that such date is consistent with Buyer's option rights hereunder) by giving Buyer not less than 30 days' prior written notice of the new closing date. The Closing shall take place by correspondence at 10:00 a.m. local time on the Closing Date at the office of First American Title Insurance Company of Oregon ("Title") in Portland, Oregon. Seller agrees to deliver possession of the Property to Buyer on the Closing Date.

4.1 Seller's Closing Documents. On the Closing Date, Seller shall execute and deliver to Buyer the following (collectively, "Seller's Closing Documents"), all in form and content reasonably satisfactory to Buyer:

4.1.1 Deed. A Quit Claim Deed conveying the Real Property to Buyer.

4.1.2 Assignment of Leases. An Assignment of Leases, quitclaiming to Buyer all of Seller's right, title and interest in and to the Leases.

4.1.3 Bill of Sale. A Bill of Sale conveying the Personal Property listed on Exhibit F attached hereto to Buyer.

4.1.4 Assignment of Contracts. An Assignment of Contracts, quitclaiming to Buyer all of Seller's right, title and interest in and to the Contracts, if any.

- 4.1.5 Assignment of Permits and Warranties. An Assignment of Permits and Warranties, if any, quitclaiming to Buyer all of Seller's right, title and interest in and to the Permits and Warranties.
- 4.1.6 Original Documents. Original copies of the Permits, Warranties and Records, plus all surveys, soil and engineering tests, plans and specifications for the Property, if and to the extent in Seller's possession.
- 4.1.7 Non-Foreign Affidavit. A non-foreign affidavit, properly executed, containing such information as is required by Internal Revenue Code Section 1445(b)(2) and its regulations.
- 4.1.8 Notice to Tenants. Notices to the tenants under the Leases, advising such tenants of the sale of the Property and directing the tenants to make future lease payments to Buyer at the place designated by Buyer.
- 4.1.9 Other Documents. All other documents reasonably determined by Buyer or Title to be necessary to transfer the Property to Buyer as contemplated by this Agreement.
- 4.2 Buyer's Closing Documents. On the Closing Date, Buyer will execute and deliver to Seller the following (collectively, "Buyer's Closing Documents"):
 - 4.2.1 Purchase Price. Funds representing the unpaid balance of the Purchase Price, by wire transfer or other collected funds acceptable to Seller.
 - 4.2.2 Assumption Agreement. An agreement whereby Buyer assumes all of Seller's obligations under the Leases, the Permits and the Contracts that accrue on and after the Closing Date.
 - 4.2.3 Other Documents. All other documents reasonably determined by Buyer or Title to be necessary to transfer the Property to Buyer as contemplated by this Agreement.
- 5. Prorations. Seller and Buyer agree to the following pro-rations and allocations of costs regarding this Agreement:
 - 5.1 Title Insurance and Closing Fee. Seller will pay all costs of the Existing Commitment, Updated Commitment and Survey. Buyer will pay all premiums required for the issuance of the title policy issued pursuant to the Title

Commitment. Seller and Buyer will each pay one-half of any closing fee or charge imposed by any closing agent or by Title.

- 5.2 Deed Tax. Seller shall pay all deed and transfer taxes payable in connection with the recording of the deed. Buyer shall pay all fees and taxes payable in connection with Buyer's financing, including any fees or taxes imposed in connection with the execution, delivery and/or recording of any mortgage, deed to secure debt, deed of trust or other security document.
- 5.3 Real Estate Taxes and Special Assessments. General real estate taxes and installments of special assessments due and payable in the tax year immediately preceding the tax year in which the Closing occurs and all prior years will be paid by Seller (a tax year in the state of Oregon consists of the time from July 1 of a given year to June 30 of the following year). General real estate taxes and installments of special assessments due and payable in the tax year in which the Closing occurs shall be prorated by Seller and Buyer as of the Closing Date based upon the tax year. Buyer shall assume all real estate taxes and installments of special assessments due and payable in all tax years following the tax year in which the Closing occurs. For purposes of this Section, real estate taxes and installments of special assessments shall be deemed to be "due and payable" in the last tax year in which such payment can be made without incurring interest or penalties for late payment. Seller may elect, at its sole option, to commence proceedings prior to the Closing Date to contest the real estate taxes and/or special assessments now or hereafter levied against the Property (a "Tax Contest"). Any rebate, refund or reduction of real estate taxes or special assessments for the tax year of the Closing or earlier years resulting from any such Tax Contest, whether received before, on or after the Closing Date, shall be applied first to reimburse Seller for all costs and expenses, including reasonable attorneys' fees and other legal costs, incurred by Seller in connection with such Tax Contest, and the balance, if any, shall be prorated and paid to Seller and Buyer in proportion to the amount of such real estate taxes and assessments originally allocated to each of them pursuant to this Section.
- 5.4 Basic Rents. All basic rent and other charges under the Leases will be prorated as of the Closing Date. If at the Closing Date the tenant under any Lease is delinquent in any payments required of it, then to the extent Buyer receives from such tenant amounts in excess of the payments due Buyer pursuant to this Agreement, Buyer will remit such amounts to Seller. However, Buyer will have no obligation to seek or collect any such payments and will only be obligated to make such payment to Seller after Buyer is fully paid for all amounts due it.

- 5.5 Additional Tenant Amounts. To the extent operating expenses, including real estate taxes and special assessments are chargeable to the tenants under the Leases, Buyer shall pay to Seller on the Closing Date the amount of all such operating expenses prepaid by Seller and which are reimbursable but not yet reimbursed by tenants and Buyer shall thereafter collect and retain all tenant reimbursements. Seller shall transfer to Buyer at the Closing Date and without additional charge all security deposits and interest thereon, prepaid rents and all deposits or prepayments by the tenants with respect to operating expenses.
- 5.6 Other Costs. All other operating costs of the Property shall be allocated between Seller and Buyer as of the Closing Date, so that Seller pays that part of operating costs accruing before the Closing Date, and Buyer pays that part of operating costs accruing from and after the Closing Date.
- 5.7 Attorney's Fees. Each of the parties will pay its own attorney's fees, except that a party defaulting under this Agreement or any Closing Document will pay the reasonable attorney's fees and court costs incurred by the nondefaulting party to enforce its rights hereunder.

6. Title Examination. Seller has furnished to Buyer an existing title insurance commitment issued to Seller by Title (Commitment No. 839213, Supplemental Report), a copy of which is attached hereto as Exhibit D ("Existing Commitment"). Seller has also furnished to Buyer a survey of the Property dated February 2, 1998, prepared by W & H Pacific, a copy of which is attached hereto as Exhibit E (the "Survey"). Buyer acknowledges that Buyer has no objections to the encumbrances shown by such Existing Commitment or to matters disclosed by the Survey ("Permitted Encumbrances"). Seller shall, within 10 days after the date of this Agreement, furnish to Buyer an update to the Existing Commitment showing the Seller as the owner, the Buyer as the insured and the Purchase Price as the insured amount (the "Updated Commitment"). Within 10 days after receiving the Updated Commitment, Buyer will make written objections ("Objections") to the form and/or contents thereof; provided, however, that Buyer may not object to the Permitted Encumbrances. Buyer's failure to make Objections within such time period will constitute waiver of Objections. Seller will have 30 days after receipt of the Objections to cure the Objections, during which period the Closing will be postponed, if necessary. Seller shall not be required to expend any moneys to cure the Objections. If Seller is unable to cure the Objections within such 30-day period, Buyer will have the option to do either of the following:

- 6.1 terminate this Agreement and receive a refund of all Option Fee monies paid to Seller by Buyer; or
- 6.2 waive the Objections and proceed to close.

7. Operation Prior to Closing. During the period from the date that the last party hereto executes this Agreement to the Closing Date (the "Executory Period"), Seller shall operate and maintain the Property in the ordinary course of business in accordance with prudent, reasonable business standards, including the maintenance of adequate liability insurance and insurance against loss by fire, windstorm and other hazards, casualties and contingencies, including vandalism and malicious mischief. Seller shall execute no contracts, leases or other agreements regarding the Property during the Executory Period that are not terminable on or before the Closing Date, without the prior written consent of Buyer, which consent may be withheld by Buyer at its sole discretion.

8. "As Is Sale". Buyer acknowledges its receipt of a copy of the Phase I Environmental Site Assessment dated March 6, 1998 prepared by Braun Intertec for Seller, regarding the Property. Buyer is purchasing the Property based upon its own investigation and inquiry and has not received, and is not relying on, any representation or warranty of Seller as to the Property and is agreeing to accept and purchase the Property "as is, with all faults"; provided, however, that Seller represents that, to Seller's knowledge, there is no litigation, arbitration or administrative hearing pending before any court or any governmental authority that concerns or affects the Property or any portion of it, and that to Seller's knowledge no such proceeding is threatened. For purposes of this Agreement, "Seller's knowledge" shall mean the actual knowledge of Bruce MacGregor, a vice president of Seller.

9. Casualty; Condemnation. If all or any part of the Property is damaged by fire, casualty, the elements or any other cause, Seller shall immediately give notice to Buyer, and Buyer shall have the right to terminate this Agreement and receive back all Option Fee monies paid to Seller by Buyer by giving notice within thirty (30) days after Seller's notice. If Buyer shall fail to give the notice, then the parties shall proceed to Closing, and Seller shall assign to Buyer all rights to insurance proceeds resulting from such event. If eminent domain proceedings are threatened or commenced against all or any part of the Real Property, Seller shall immediately give notice to Buyer, and Buyer shall have the right to terminate this Agreement and receive back all Option Fee monies paid to Seller by Buyer by giving notice within thirty (30) days after Seller's notice. If Buyer shall fail to give the notice, then the parties shall proceed to Closing, and Seller shall assign to Buyer all rights to appear in and receive any award from such proceedings.

10. Broker's Commission. Seller and Buyer represent to each other that they have dealt with no brokers, finders or the like in connection with this transaction (other than Norris, Beggs & Simpson, whose commission shall be paid by Seller), and agree to indemnify and hold each other harmless from all claims, damages, costs or expenses of or for any other such fees or commissions resulting from their actions or agreements regarding the execution or performance of this Agreement, and will pay all costs of defending any action or lawsuit brought

to recover any such fees or commissions incurred by the other party, including reasonable attorneys' fees.

11. Assignment. Buyer may not assign its rights under this Agreement without the prior written consent of Seller. Any such assignment will not relieve the assigning party of its obligations under this Agreement.

12. Survival. All of the terms of this Agreement shall survive and be enforceable after the Closing.

13. Notices. Any notice required or permitted hereunder shall be given by personal delivery upon an authorized representative of a party hereto; or if mailed in a sealed wrapper by United States registered or certified mail, return receipt requested, postage prepaid; or if transmitted by facsimile copy followed by mailed notice; or if deposited cost paid with a nationally recognized, reputable overnight courier, properly addressed as follows:

If to Seller:

U.S. BANK NATIONAL ASSOCIATION
c/o U.S. Bank Properties Management
2800 East Lake Street, 2nd Floor
Minneapolis, Minnesota 55406
Attn: Bruce MacGregor
Fax #: 612/728-8452

If to Buyer:

MULTNOMAH COUNTY
Property Management
2505 SE 11th Avenue
Portland, Oregon 97202
Attn: Bob Oberst
Fax #: 503/248-5082

Notices shall be deemed effective on the earlier of the date of receipt by or the date of deposit with one of the delivery agents specified in this Section 13, as aforesaid; provided, however, that if notice is given by deposit, the time for response to any notice by the other party shall commence to run one business day after any such deposit. Any party may change its address for the service of notice by giving notice of such change 10 days prior to the effective date of such change.

14. Miscellaneous. The paragraph headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement. This written Agreement constitutes the complete agreement between the parties and supersedes any prior oral or written agreements between the

parties regarding the Property. There are no verbal agreements that change this Agreement, and no waiver of any of its terms will be effective unless in a writing executed by the parties. This Agreement binds and benefits the parties and their successors and assigns. This Agreement has been made under the laws of the State of Oregon, and such laws will control its interpretation.

Seller and Buyer have executed this Agreement as of the date first written above.

SELLER:

Dated: _____, 1998

U.S. BANK NATIONAL ASSOCIATION

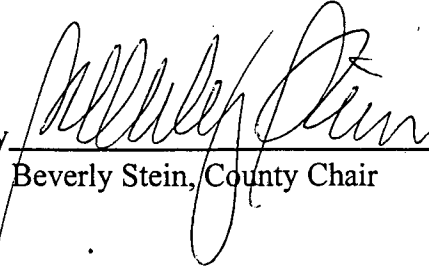
By _____
Its Vice President

BUYER:

Dated: December 17, 1998

MULTNOMAH COUNTY, a political subdivision
of the State of Oregon

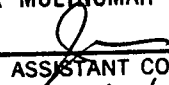
By



Beverly Stein, County Chair

REVIEWED:
THOMAS SPONSER, COUNTY COUNSEL
FOR MULTNOMAH COUNTY

BY



ASSISTANT COUNTY COUNSEL

DATE

12/16/98

EXHIBIT A

Legal Description

Parcel 1:

All of Block 131, HAWTHORNE PARK, in the City of Portland, County of Multnomah and State of Oregon, EXCEPT that part taken for the widening of S.E. Grand Avenue and S.E. Hawthorne Boulevard

Parcel 2:

All of Block 61, STEPHENS ADDITION TO EAST PORTLAND, in the City of Portland, County of Multnomah and State of Oregon, EXCEPT the Northerly 5 feet in S.E. Hawthorne Boulevard, AND FURTHER EXCEPTING any part thereof in S.E. Grand Avenue

EXHIBIT B

Leases

1. US Bancorp Eastside Center Storage Space Rental Agreement dated 8/6/93 between US Bancorp and Interstate Mobilephone Company d/b/a Cellular One
2. License Agreement dated 8/6/93 between US Bancorp and Interstate Mobilephone Company d/b/a Cellular One
3. Air Space Lease dated November 9, 1992 between State of Oregon, as Lessor, and U.S. National Bank of Oregon, as Lessee
4. Lease Agreement dated March 23, 1992 between City of Portland, as Lessor, and United States National Bank of Oregon

EXHIBIT C

Contracts

1. Management Agreement dated December 31, 1997 between U.S. Bancorp, as Owner, and City Center Parking, an Oregon limited partnership, as Operator
2. Installation and Service Agreement dated May 29, 1997 between Honeywell Inc., Home and Building Control, and US Bancorp
3. Complete Maintenance Agreement for Traction Elevators/Hydraulic Elevators between Montgomery Elevator Company and US Bank
4. Janitorial Service Agreement dated October 21, 1991 between Prestige Building Maintenance Company and U.S. Bancorp

EXHIBIT D

Title Commitment



October 29, 1998

Order No. : 839213
Nat'l Acct. No. : 1671
Re : United States National Bank
SUPPLEMENTAL REPORT

Preliminary Title Report

ALTA Owners Stand. Cov.	\$	Premium	\$
ALTA Owners Ext. Cov.	\$OPEN	Premium	\$
ALTA Lenders Stand. Cov.	\$	Premium	\$
ALTA Lenders Ext. Cov.	\$	Premium	\$
Indorsement		Premium	\$
Other		Cost	\$
Govt. Serv. Charge		Cost	\$ 35.00

A consolidated statement of all charges and advances in connection with this order will be provided at closing.

First American Title Ins
333 Seventh Street South
Suite 1150
Minneapolis, MN 55402-2421

Attention: Melissa Holley

We are prepared to issue Title Insurance Policy or Policies in the form and amount shown above, insuring title to the following described land:

For legal description see Exhibit "A" attached hereto;

and as of October 23, 1998 at 8:00 a.m., title vested in:

UNITED STATES NATIONAL BANK OF OREGON;

Subject to the exceptions, exclusions and stipulations which are ordinarily part of such Policy form and the following:

1. Affirmative coverage may be provided by First American Title Insurance Company as to the following exceptions if sufficient documentation is provided. Any matters disclosed by the extended search will be set forth as exceptions to the title:

(a) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.

(b) Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of land or by making inquiry of persons in possession thereof.

(c) Easements, encumbrances, or claims thereof, not shown by the public records, unpatented mining claims, reservations or exceptions in patents or in acts authorizing the issuance thereof, water rights, claims, or title to water.

(d) Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

This report is for the exclusive use of the parties herein shown and is preliminary to the issuance of a title insurance policy and shall become void unless a policy is issued, and the full premium paid.

Page 2
Order No. 839213

(e) Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose.

2. City Liens, if any, of the City of Portland.

Note: There are no liens as of the date of this report.

3. THIS EXCEPTION HAS BEEN ELIMINATED.

4. THIS EXCEPTION HAS BEEN ELIMINATED.

5. THIS EXCEPTION HAS BEEN ELIMINATED.

6. Conditions and Restrictions contained in Land Use Review File No. LUR 93-00338 DZ,
Recorded : July 22, 1993 in Book 2727, page 189

7. Taxes for the year 1998-99:

Tax Amount : \$287,283.99
Unpaid Balance : \$287,283.99, plus interest, if any.
Code No. : 884
Account No. : 36670-0260
(Affects Parcel I)

Taxes for the year 1998-99:

Tax Amount : \$1.69
Unpaid Balance : \$1.69, plus interest, if any.
Code No. : 884
Account No. : 36670-0300
(Affects Air space only - Parcel I)

Taxes for the year 1998-99:

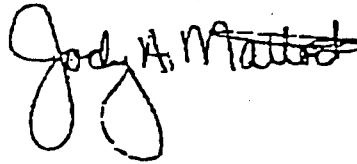
Tax Amount : \$39,184.40
Unpaid Balance : \$39,184.40, plus interest, if any.
Code No. : 884
Account No. : 79400-3820
(Affects Parcel II)

8. Unrecorded leases or periodic tenancies, if any.

Page 3
Order No. 839213

NOTE: This report does not include a search for Financing Statements filed in the office of the Secretary of State, or in a county other than the county wherein the premises are situated, and no liability is assumed if a Financing Statement is filed in the office of the County Clerk (Recorder) covering fixtures on the premises wherein the lands are described other than by metes and bounds or under the rectangular survey system or by recorded lot and block.

FIRST AMERICAN TITLE INSURANCE COMPANY OF OREGON



JODY A. MATLOCK
Commercial Title Department Manager
Vice President
(503) 790-7855

JAM:alr

THANK YOU FOR CHOOSING FIRST AMERICAN TITLE
We look forward to assisting you in all of your title and escrow needs

EXHIBIT "A"

PARCEL I:

All of Block 131, HAWTHORNE PARK, in the City of Portland, County of Multnomah and State of Oregon, EXCEPT that part taken for the widening of S.E. Grand Avenue and S.E. Hawthorne Boulevard.

PARCEL II:

All of Block 61, STEPHENS ADDITION TO EAST PORTLAND, in the City of Portland, County of Multnomah and State of Oregon, EXCEPT the Northerly 5 feet in S.E. Hawthorne Boulevard, AND FURTHER EXCEPTING any part thereof in S.E. Grand Avenue.



First American Title Insurance Company of Oregon

SCHEDULE OF EXCLUSIONS FROM COVERAGE

ALTA LOAN POLICY (10/17/92)

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy); or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
 - (ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
 - (iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (a) to timely record the instrument of transfer; or
 - (b) of such recordation to impart notice to a purchaser for value or a judgement or lien creditor.

ALTA OWNER'S POLICY (10/17/92)

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditor rights laws, that is based on:
 - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
 - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (a) to timely record the instrument of transfer; or
 - (b) of such recordation to impart notice to a purchaser for value or a judgement or lien creditor.

SCHEDULE OF STANDARD EXCEPTIONS

The ALTA standard policy form will contain in Schedule B the following standard exceptions to coverage:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, encumbrances, or claims thereof, not shown by the public records; reservations or exceptions in patents or in acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
5. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose.

THIS MAP IS FURNISHED AS A CONVENIENCE IN LOCATING PROPERTY AND THE COMPANY ASSUMES NO LIABILITY FOR ANY VARIATIONS AS MAY BE DISCLOSED BY ACTUAL SURVEY

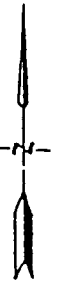


First American Title Insurance Company of Oregon

An assumed business name of TITLE INSURANCE COMPANY OF OREGON

1700 S.W. FOURTH AVENUE, PORTLAND, OR 97201-5512

(503) 222-3651



MAGK01AP
TI001

*** Query Name - Real Property ***

Page:

Acct Nbr: R-36670-0260
Acct Status:Source Name/Address
OWNR1 UNITED STATES NAT'L BK OR
MAIL1 111 SW 5TH AVSitus
501 SE HAWTHORNE BLVD
City: PORTLAND Zip:

Mail:

Seq:

MAIL2 PORTLAND, OREGON 97204

Levy Code: 884 Vchr Action: 203307

Annex: #15894 Division:

Appr St: APPR CODE: K

Msg 1: 60642 \$104,196.90 04/22/92

Msg 2: COM BOE 9106098 C040292

Msg 3:

Book/Page: 2417/1456 Year: 91

Tax Roll Description

Addn: HAWTHORNE PK

Lot

Block

Ratio Code: 371

EXC W 10'

1-5

131

State Ratio Code:

6-8

131

OLD Map: 3131

SID: 1S1E02BC 7200

STATE

----- *** Query Commercial Characteristics *** -----

Ratio Code: 371 Appr Dist: 3 Site Sq Ft: 37,050 PS/IL: P
 St Ratio Code: Neigh Code: 116
 Year Appraised: 95 OLD Map: 3131 State ID: 1S1E02BC 7200
 Use: OFFICE 3+ STORIES Apr Stat: Appr Code: K
 Improvements Characteristics: MAIN ACCT NBR: R366700260
 Impr Nbr: 1 Class: REINFORCED CONCRETE FRAME Yr Built: 1985
 Nbr Units: 0 Area Sq Ft: 191,2

External Wall: CURTAIN WALLS MASONRY PANELS

Nbr Stories: 6.0

----- *** Query Value - Real Property *** -----

Year Cd Date	Description	Land	Imps	Total
95/96 U 09/15/95	REAL MARKET VALUE	509,500	14,725,500	15,235,00
96/97 T 08/21/96	REAL MARKET VALUE	545,200	16,822,700	17,367,90
97/98 T 07/18/97	REAL MARKET VALUE	588,800	17,300,100	17,888,90
	ASSESSED VALUE			13,711,50

----- *** Query Account Balances *** -----

Interest Through: 1/15/98

Year	Amount Due	Desc	Taxes Levied	L/C	Taxable Value	Rat
92/93	0.00	BAL	353,990.65	884	15,250,000	23.212
	0.00	INT	353,990.65	TOTAL	15,250,000	
	0.00	TOTAL				
93/94	0.00	BAL	315,585.05	884	15,250,000	20.694
	0.00	INT	315,585.05	TOTAL	15,250,000	
	0.00	TOTAL				

MAGK01AP
TI001

*** Query Account Balances ***

Page:

Acct Nbr: R-36670-0260

Acct Status:

Source Name/Address

OWNR1 UNITED STATES NAT'L BK OR
MAIL1 111 SW 5TH AV

Situs

501 SE HAWTHORNE BLVD
City: PORTLAND Zip:

Seq:

Interest Through: 1/15/98

Year	Amount Due	Desc	Taxes Levied	L/C	Taxable Value	Rate
94/95	0.00	BAL	280,504.87	884	15,555,000	18.0331
	0.00	INT	280,504.87	TOTAL	15,555,000	
	0.00	TOTAL				
95/96	0.00	BAL	236,733.61	884	15,235,000	15.5388
	0.00	INT	236,733.61	TOTAL	15,235,000	
	0.00	TOTAL				
96/97	0.00	BAL	287,051.43	884	17,367,900	16.5277
	0.00	INT	287,051.43	TOTAL	17,367,900	
	0.00	TOTAL				
97/98	0.00	BAL	271,438.33	884	13,711,500	*****
	0.00	INT	271,438.33	TOTAL	13,711,500	
	0.00	TOTAL				

*** End of Report MAGK122P ***

Acct Nbr: R-36670-0380
Acct Status: OMITTED ASMT1
Source Name/Address
OWNR1 PORTLAND CITY OF(LEASED
OWNR2 U S NAT'L BK>

Situs Mail:
WI/501 SE HAWTHORNE BLVD
City: PORTLAND Zip: Seq:

MAIL1 1120 SW 5TH AVE #802
MAIL2 PORTLAND, OREGON 97204

Levy Code: 884 Vchr Action: 92003
Annex: 158940 Division: 92003
Appr St: APPR CODE: K

Book/Page: 0000/0000 Year: 92

Tax Roll Description

Addn: HAWTHORNE PK

Lot

Msg 1:
Msg 2: TAD DIV DIVISION 07239
Msg 3:

TL 7200

AIR SPACE

Block Ratio Code: 271
131 State Ratio Code:
OLD Map: 3131
SID: 1S1E02BC 7200 A1
STATE

*** Query Commercial Characteristics ***

Ratio Code: 271 Appr Dist: 3 Site Sq Ft: 812 PS/IL:
St Ratio Code: Neigh Code: 116
Year Appraised: 95 OLD Map: 3131 State ID: 1S1E02BC 7200 A1
Use: OFFICE 3+ STORIES Apr Stat: Appr Code: K
Improvements Characteristics: MAIN ACCT NBR: R366700260
Impr Nbr: 1 Class: Yr Built: 0
Nbr Units: 0 Area Sq Ft:

External Wall:

Nbr Stories:

*** Query Value - Real Property ***

Year Cd Date	Description	Land	Imps	Tot
95/96 U 09/18/95	REAL MARKET VALUE	100		
96/97 T 08/21/96	REAL MARKET VALUE	100		
97/98 T 07/18/97	REAL MARKET VALUE	100		
	ASSESSED VALUE			

*** Query Account Balances ***

Interest Through: 1/15/98

Year	Amount Due	Desc	Taxes Levied	L/C	Taxable Value	Re
92/93	0.00	BAL	2.32	884	100	23.2
	0.00	INT	2.32	TOTAL	100	
	0.00	TOTAL				
93/94	0.00	BAL	2.08	884	100	20.6
	0.00	INT	2.08	TOTAL	100	
	0.00	TOTAL				

MAGK01AP
TI001

*** Query Account Balances ***

Page:

Acct Nbr: R-36670-0300
Acct Status: OMITTED ASMT1
Source Name/Address
OWNR1 PORTLAND CITY OF(LEASED
OWNR2 U S NAT'L BK>

Situs
WI/501 SE HAWTHORNE BLVD
City: PORTLAND Zip:

Seq:

Interest Through: 1/15/98

Year	Amount Due	Desc	Taxes Levied	L/C	Taxable Value	Ra
94/95	0.00	BAL	1.81	884	100	18.03
	0.00	INT	1.81	TOTAL	100	
	0.00	TOTAL				
95/96	0.00	BAL	1.56	884	100	15.53
	0.00	INT	1.56	TOTAL	100	
	0.00	TOTAL				
96/97	0.00	BAL	1.65	884	100	16.52
	0.00	INT	1.65	TOTAL	100	
	0.00	TOTAL				
97/98	0.00	BAL	1.74	884	90	*****
	0.00	INT	1.74	TOTAL	90	
	0.00	TOTAL				

*** End of Report MAGK122P ***

MAGK01AP
TI001

*** Query Name - Real Property ***

Page:

Acct Nbr: R-79400-3820

Acct Status:

Source Name/Address

OWNR1 UNITED STATES NAT'L BK OR
MAIL1 111 SW 5TH AV

Situs

WI/501 SE HAWTHORNE BLVD

City: PORTLAND Zip:

Mail:

Seq:

MAIL2 PORTLAND, OREGON 97204

Levy Code: 884 Vchr Action: 922202

Annex: #15894 Division: 922202

Appr St: APPR CODE: K

Msg 1: 61178 \$47,206.56 04/22/92

Msg 2: TAD DIV CONSOLC022393

Msg 3:

Book/Page: 2417/1456 Year: 91

Tax Roll Description

Addn: STEPHENS ADD

Lot

Block

Ratio Code: 371

EXC PT IN STS

1&8

61

State Ratio Code:

EXC PT IN ST

2-4

61

OLD Map: 3231

5-7

61

SID: 1S1E02CB 8900

STATE

*** Query Commercial Characteristics ***

Ratio Code: 371

Appr Dist: 3

Site Sq Ft: 39,000

PS/IL: PS

St Ratio Code:

Neigh Code: 116

Year Appraised: 95

OLD Map:

3231 State ID: 1S1E02CB 8900

Use: OFFICE 3+ STORIES

Apr Stat: Appr Code: K

Improvements Characteristics:

MAIN ACCT NBR: R366700260

Impr Nbr: 1 Class: REINFORCED CONCRETE FRAME

Yr Built: 1986

Nbr Units: 0 Area Sq Ft: 111,15

External Wall: CONCRETE, FORMED

Nbr Stories: 3.0

*** Query Value - Real Property ***

Year Cd Date	Description	Land	Imps	Total
95/96 U 09/15/95	REAL MARKET VALUE	429,000	1,649,000	2,078,000
96/97 T 08/21/96	REAL MARKET VALUE	459,000	1,909,900	2,368,900
97/98 T 07/18/97	REAL MARKET VALUE	495,700	1,944,300	2,440,000
	ASSESSED VALUE			1,870,200

*** Query Account Balances ***

Interest Through: 1/15/98

Year	Amount Due	Desc	Taxes Levied	L/C	Taxable Value	Rate
92/93	0.00	BAL	37,908.33	884	1,633,100	23.2125
	0.00	INT	37,908.33	TOTAL	1,633,100	
	0.00	TOTAL				
93/94	0.00	BAL	42,071.10	884	2,033,000	20.694
	0.00	INT	42,071.10	TOTAL	2,033,000	
	0.00	TOTAL				

MAGK01AP
TI001

*** Query Account Balances ***

Page:

Acct Nbr: R-79400-3820

Acct Status:

Source Name/Address

OWNR1 UNITED STATES NAT'L BK OR
MAIL1 111 SW 5TH AV

Situs

WI/501 SE HAWTHORNE BLVD
City: PORTLAND Zip:

Seq:

Interest Through: 1/15/98

Year	Amount Due	Desc	Taxes Levied	L/C	Taxable Value	Rate
94/95	0.00	BAL	37,395.24	884	2,073,700	18.033
	0.00	INT	37,395.24	TOTAL	2,073,700	
	0.00	TOTAL				
95/96	0.00	BAL	32,289.61	884	2,078,000	15.538
	0.00	INT	32,289.61	TOTAL	2,078,000	
	0.00	TOTAL				
96/97	0.00	BAL	39,152.45	884	2,368,900	16.527
	0.00	INT	39,152.45	TOTAL	2,368,900	
	0.00	TOTAL				
97/98	0.00	BAL	37,023.24	884	1,870,200	*****
	0.00	INT	37,023.24	TOTAL	1,870,200	
	0.00	TOTAL				

*** End of Report MAGK122P ***



CITY OF
PORTLAND, OREGON
BUREAU OF PLANNING

BOOK 2727 PAGE 189

Charles Hales, Commissioner
Robert E. Sweeney, Jr., Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone (503) 823-7700
FAX (503) 823-7800

ADMINISTRATIVE DECISION
FILE NUMBER: LUR 93-00338 DZ
(FISHER FORD/BEN FRANKLIN BUILDING)

General Information

Applicants: US Bancorp
c/o Beth Beskin
111 SW 5th Ave.
Portland, OR 97204

Represented by: ~~Immunus~~ Mobilphone Co.
dtd Cellular One
c/o Spencer E. Vail
4505 NE 24th Ave.
Portland, OR 97211
281-8245

Location: Fisher Ford/Ben Franklin Building
501 SE Hawthorne Blvd. cor Grand Ave.

Legal Description: Lots 1-8, Block 131, Hawthorne Park

Quarter Section: 3131

Neighborhood: Buckman

Zoning/Designations: EXd, Central Employment with a design overlay

Land-Use Review: Design Review (Type II)

I hereby certify this document to be a complete and exact copy of the original as the same appears on file and of record in my office and in my care and custody.

28 day of July 1993

DANADRA CLARK

Auditor of the City of Portland

[Signature]
Deputy

Administrative Decision

Approval of site plan and elevations dated April 9, 1993, with the following condition:

A. Paint antennas to blend into the background

City Government Information TDD (for Hearing & Speech impaired): (503) 823-5858

Return to City Auditor

JUL 22 1993

Administrative Decision
on LUR 93-00538 DZ

Staff Planner: Edgar Wachter, Senior City Planner

Decision rendered by: Edgar Wachter on June 16, 1993

Decision filed June 17, 1993

Decision mailed June 22, 1993

Appealing this decision. This decision may be appealed to the Design Commission, which will hold a public hearing. Appeals must be filed by 4:30 PM on July 6, 1993 at the Permit Center (First Floor, Portland Building) on the forms provided by the Bureau of Planning. An appeal fee of \$50 will be charged. Information and assistance in filing an appeal are available from the Bureau of Planning in the Permit Center or the staff planner on this case. You may review the file on this case at our office on the 10th floor of the Portland Building, 1120 SW Fifth Avenue, Portland, Oregon.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Design Commission is final; any further appeal is to the Oregon Land Use Board of Appeals (LUBA).

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Design Commission an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision. If this decision is not appealed, it will be final on July 7, 1993. It cannot be recorded before that date, but it must be recorded by July 19, 1993, 14 days after it becomes final. If the decision is not recorded, it will be void. The applicant, builder, or a representative can record the decision by going to the City Auditor's office in City Hall, 1220 SW Fifth Avenue, Room 202, Portland, Oregon. The Auditor will charge a fee and will record this decision with the County Recorder. A building or development permit will be issued only after this decision is recorded.

Expiration of this approval. This decision expires three years from the date it is recorded unless:

- A building permit has been issued, or
- The approved activity has begun, or
- In situations involving only the creation of lots, the land division has been recorded.

Applying for your permits. A building permit, occupancy permit, or development permit must be obtained before carrying out this project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed here.
- All applicable development standards, unless specifically exempted as part of this land use review.
- All requirements of the building code.
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the city.

JUL 22 1993

JUL 22 1993

095514

Certified Copy of 608 75-00338 D2
To Be Recorded

STATE OF OREGON
Multnomah County

I, a Deputy for the Recorder of County, in and for
said County, do hereby certify that the within instrument of
writing is a true and correct copy of the original as the same
is on file in the office of said Recorder of County.

JUL 22 1993 - 8 00 AM
MULTNOMAH COUNTY OREGON

In Book BOOK 2727 PAGE 189 On Page

Witness my hand and seal of office this

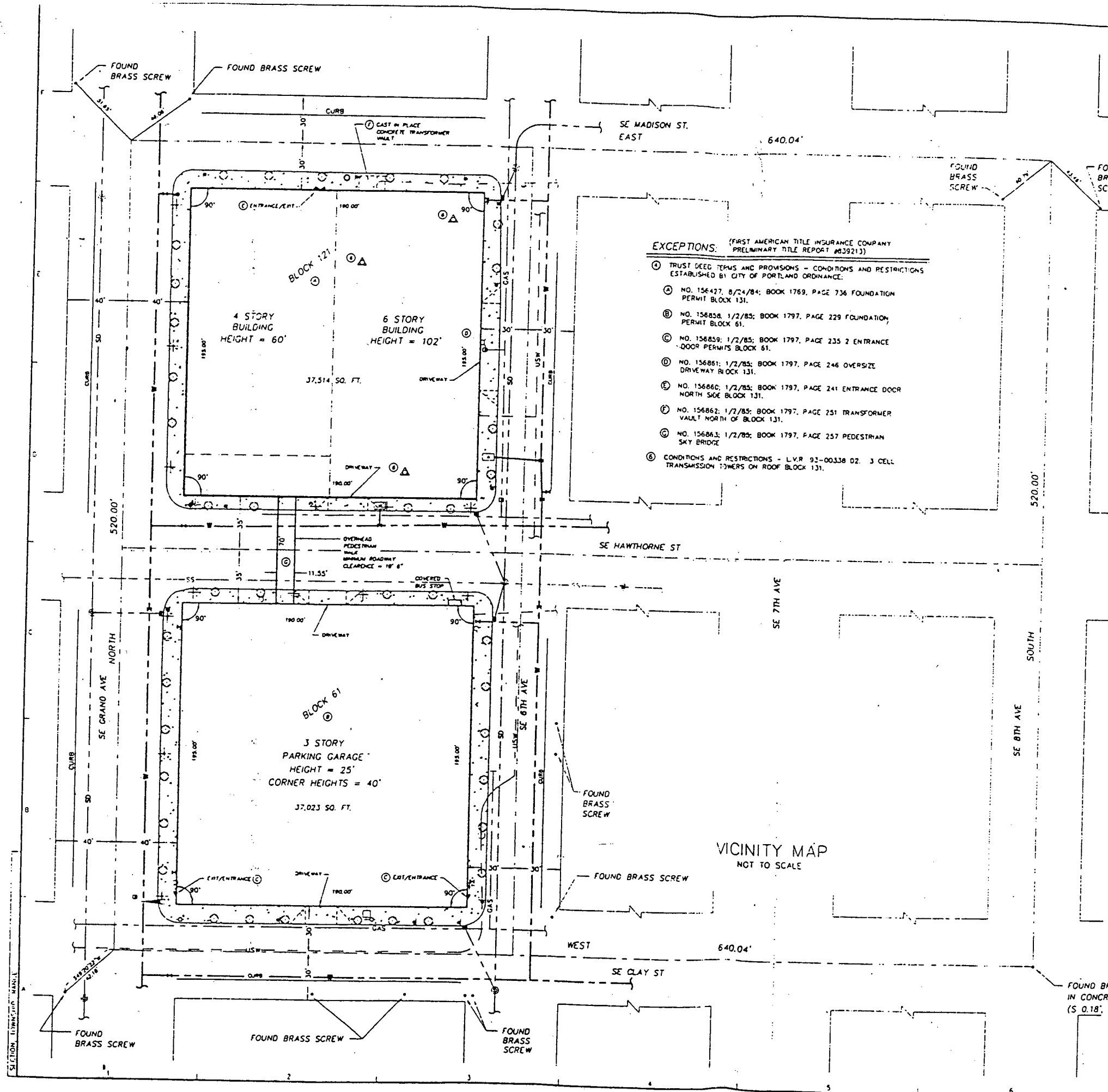
Recorder of County Seal

C. Swick
Deputy

BOOK 2727 PAGE 191

EXHIBIT E

Survey



- EXCEPTIONS:** (FIRST AMERICAN TITLE INSURANCE COMPANY PRELIMINARY TITLE REPORT #039213)
- ① TRUST DEED TERMS AND PROVISIONS - CONDITIONS AND RESTRICTIONS ESTABLISHED BY CITY OF PORTLAND ORDINANCE.
 - ② NO. 156427, 8/24/84; BOOK 1769, PAGE 736 FOUNDATION PERMIT BLOCK 131.
 - ③ NO. 156858, 1/2/85; BOOK 1797, PAGE 229 FOUNDATION PERMIT BLOCK 61.
 - ④ NO. 156859, 1/2/85; BOOK 1797, PAGE 235 2 ENTRANCE DOOR PERMITS BLOCK 61.
 - ⑤ NO. 156861, 1/2/85; BOOK 1797, PAGE 246 OVERSIZE DRIVEWAY BLOCK 131.
 - ⑥ NO. 156860, 1/2/85; BOOK 1797, PAGE 241 ENTRANCE DOOR NORTH SIDE BLOCK 131.
 - ⑦ NO. 156862, 1/2/85; BOOK 1797, PAGE 251 TRANSFORMER VAULT NORTH OF BLOCK 131.
 - ⑧ NO. 156863, 1/2/85; BOOK 1797, PAGE 257 PEDESTRIAN SKY BRIDGE
 - ⑨ CONDITIONS AND RESTRICTIONS - L.V.R. 92-00338 02, 3 CELL TRANSMISSION TOWERS ON ROOF BLOCK 131.

NOTES

1. FLOOD "ZONE C" FIRM COMMUNITY PANEL NO. 410183 0033 C OCTOBER 19, 1982
2. ZONED: EXD - CENTRAL CITY EMPLOYMENT COMMERCIAL WITH A DESIGN OVERLAY
HEIGHT - 200 FT MAX
SET BACKS - 0 FT
DENSITY - N/A FAR = 100%
3. SITE ADDRESS: 501 S.E. HAWTHORNE
4. PARKING (3 STORY PARKING GARAGE)
REGULAR = 218
HANDICAP = 8
COMPACT = 126
TOTAL = 342

UTILITY STATEMENT

THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.

LEGEND

	BUILDING LINE
	CURB LINE
	CENTER LINE OF RIGHT-OF-WAY
	RIGHT-OF-WAY LINE
	WATER LINE
	SANITARY SEWER LINE
	STORM SEWER LINE
	USW TELEPHONE LINE
	GAS LINE
	PGE POWER LINE
	FOUND MONUMENT AS NOTED
	WATER VALVE
	FIRE HYDRANT
	FIRE CONNECTION/WALL HYDRANT
	GAS VALVE
	SIGN
	POWER POLE
	PEDESTRIAN POST W/BUTTON
	TRAFFIC SIGNAL POLE
	TELEPHONE MANHOLE
	LUMINAIRE
	DECIDUOUS TREE
	CATCH BASIN
	WATER VAULT
	STEEL PLATE
	STORM MANHOLE
	SANITARY MANHOLE
	UTILITY MANHOLE
	CELL TOWER/8' HIGH

LEGAL DESCRIPTION

PARCEL 1:
ALL OF BLOCK 131, HAWTHORNE PARK, IN THE CITY OF PORTLAND, COUNTY OF MULTNOMAH AND STATE OF OREGON, EXCEPT THAT PART TAKEN FOR THE WIDENING OF S.E. GRAND AVENUE AND S.E. HAWTHORNE BOULEVARD.

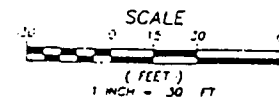
PARCEL 2:
ALL OF BLOCK 61, STEPHENS ADDITION TO EAST PORTLAND, IN THE CITY OF PORTLAND, COUNTY OF MULTNOMAH AND STATE OF OREGON, EXCEPT THE NORTHERLY 5 FEET IN S.E. HAWTHORNE BOULEVARD AND FURTHER EXCEPTING ANY PART THEREOF IN S.E. GRAND AVENUE.

SURVEYOR'S CERTIFICATE

THIS IS TO CERTIFY TO U.S. BANK, A NATIONAL ASSOCIATION, ITS SUCCESSORS AND ASSIGNS THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE (1) IN ACCORDANCE WITH "MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS," JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND ACSM IN 1992, AND INCLUDES ITEMS 1,2,3,4,7(a),7(b),7(c),8,10 and 11 OF TABLE A THEREOF, AND (2) PURSUANT TO THE ACCURACY STANDARDS (AS ADOPTED BY ALTA AND ACSM AND IN EFFECT ON THE DATE OF THIS CERTIFICATION) OF AN "URBAN" SURVEY.

DATE 2-9-98 *Alan D. Abbott*
DATE 2-9-98 *Alan D. Abbott* OREGON P.L.S. #1066

FOUND BRASS
IN CONCRETE
(S 0.18', W 0.11')



U.S. BANK - HAWTHORNE A.L.T.A.
FOR
U.S. BANK CORPORATE PROPERTIES
PORTLAND, OREGON
SCALE: 1" = 30'

DATE 2-9-98
REGISTERED
PROFESSIONAL
LAND SURVEYOR
Alan D. Abbott
SEAL OF THE
STATE OF OREGON
OPAN D. ABBOTT
RENEWAL 7/7-97-98

SURVEYED BY	CHUCK BY
DRAWN BY	REVIEWED BY
DATE	REVISION
2/5/98	REVIEWED
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SHEET 1/1
ONE

8405 SW NIMBUS AVE.
BEAVERTON, OREGON
97008-7120
TEL (503) 628-0456
FAX (503) 628-0775
WWW.WH&PACIFIC.COM

W&H
PACIFIC

EXHIBIT F

Personal Property

1. REQUEST FOR PLACEMENT ON THE AGENDA FOR:

December 17, 1998

(Date)

DEPARTMENT: Non-DepartmentalDIVISION: Commissioner KelleyCONTACT: CHIQUITA ROLLINSPHONE: 248-3691 Ext. 27806

* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD:

CHIQUITA ROLLINSSUGGESTED AGENDA TITLE (to assist in preparing a description for the printed agenda)Budget Modification CFS05 to transfer \$30,000 from General Fund Contingency to the Domestic Violence Coordinator.

2. DESCRIPTION OF MODIFICATION: [Explain the changes being made: What budget does it increase / decrease? What do the changes accomplish? Where does the money come from?

[] PERSONNEL CHANGES ARE SHOWN IN DETAIL ON THE ATTACHED SHEET

Budget Modification CFS05 transfers \$30,000 from the General Fund Contingency to the Domestic Violence Coordinator to complete an in-depth review of high impact/high priority households and the response of community and criminal justice systems.

Budget Modification CFS05 results in the Community and Family Services (CFS) budget being increased by \$30,000 for professional services and \$2,294 for indirect costs.

3. REVENUE IMPACT

(Explain revenues being changed and reason for the change)

Increased Support from General Fund Contingency	\$30,000
Increased Indirect Cost Support from General Fund	\$3,294
Increased Indirect Cost Reimbursement to General Fund	\$3,294
TOTAL	\$36,588

4. CONTINGENCY STATUS [to be completed by Budget & Planning]

General
(Specify Fund)
Fund Contingency BEFORE THIS MODIFICATION (as of December 4, 1998): \$3,261,887AFTER THIS MODIFICATION: \$3,231,887

Originated By:

Date:

12/7/98

Department Director:

Date:

12/07/98

Plan / Budget Analyst:

Date:

12/4/98

Employee Services:

Date:

Board Approval:

Date:

12/17/98

BOARD OF
 COUNTY COMMISSIONERS
 MULTNOMAH COUNTY
 OREGON
 98 DEC - 6 PM 11:04

Robert Lee

Michael D. Gasp

Wendy C. Bogstad

BUDGET MODIFICATION NO. CFS05

EXPENDITURES

TRANS EB GM

TRANS DATE:

ACCTING PERIOD:

Budget Fiscal Year: 98/99

Line No.	Doc No.	Action	Fund	Agency	Org	Activity	Report Categor	Object	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
1													
2			156	010	0135			6110			30,000		Domestic Violence Prof. Srvs.
3			156	010	0135			7100			3,294		Indirect @ 10.98%
4												33,294	Subtotal Agency 010
5													
6			100	075	9110			7700			(30,000)	(30,000)	CGF Contingency Transfer
7													
8			100	010	9130			7608			33,294	33,294	Cash Transfer
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49,588 49,588 GRAND TOTAL

BUDGET MODIFICATION NO. CFS05

REVENUES

TRANS EB GM

TRANS DATE:

ACCTING PERIOD:

Budget Fiscal Year: 98/99

Line No.	Doc No.	Action	Fund	Agenc	Org	Activity	Report Category	Rev Source	Current Amount	Revised Amount	Change Increase (Decrease)	Subtotal	Description
1													
2			156	010	0135			7601			33,294	33,294	CGF Conting. + Indirect Suprt.
3			100	075	7410			6602			3,294	3,294	Indirect Reimbursement
4													
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											30,588	30,588	GRAND TOTAL

SHARRON KELLEY
Multnomah County Commissioner
District 4



Portland Building
1120 S.W. Fifth Avenue, Suite 1500
Portland, Oregon 97204
(503) 248-5213
E-Mail: sharron.e.KELLEY@co.multnomah.or.us

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

TO: Board of County Commissioners
FROM: Commissioner Sharron Kelley
RE: Budget Modification providing \$30,000 to the domestic violence coordinator to complete an in-depth review of high impact/high priority households and the response of community and criminal justice systems.
DATE: December 7, 1998

AGENDA DATE: December 17, 1998

I. Recommendation/Action Requested:

Approval of Budget Modification.

II. Background/Analysis

In its Adopted Budget for FY 1998-1999, the Board of Commissioners identified that contingency funds may be used for domestic violence programs in connection with the LPSCC planning for this issue.

The LPSCC Domestic Violence Work Group has been meeting for several months and is analyzing whether effective intervention in high impact households would substantially reduce domestic violence and the number of repeat 911 calls.

Further analysis cannot be completed with available staff and committee time.

III. Financial Impact

In FY 1998-1999, the costs to the general fund for would be \$30,000. The funding is one-time only.

IV. Legal Issues

None

V. Controversial Issues

None

VI. Link to Current County Policies

Crime reduction is a high priority benchmark for the County. This item was reserved for contingency funding the current budget.

VII. Citizen Participation

Membership on the LPSCC Domestic Violence Work Group includes representatives of the City Club DV Task Force, Programa de Mujeres, YWCA, Multnomah County Legal Aid, and Metropolitan Public Defenders.

VIII. Other Government Participation

Membership on the LPSCC Domestic Violence Work Group includes representatives of Portland Police Bureau, the Multnomah County Circuit Court, and the Gresham Police Department. The City of Portland may appropriate funds for related Work Group projects.

LPSCC DOMESTIC VIOLENCE WORK GROUP FALL, 1998

The LPSCC Domestic Violence Work Group attempted to answer the following two questions:

1. Are high impact and/or high priority cases receiving the most effective intervention at all levels?
2. How can we assure that high impact and/or high priority cases receive effective intervention at all levels?

Assumption: effective intervention in high impact households can substantially reduce domestic violence and the number of repeat 911 calls.

The Work Group defined a "high impact" case as one in which there had been multiple calls to 911 for domestic violence to the same household. The DA and PPB DVRU had developed the following list of high priority indicators: the presence of children or weapons, use of alcohol and drugs at the time of the incident, severity of the assault and prior convictions of the offender. Information about these families or about the response by the criminal justice system and other community organizations is limited, but needed.

The Working Group focused on West and North Precinct cases in attempting to discover the number and police utilization of "high impact" households. During a one month period, July, 1998, 28 households with three or more calls to 911 were identified. Forty-two police reports were found which were generated by these households in this time period.

In addition, the Work Group found that a substantial number of Portland Police reports of domestic violence come from homes with one or more "high priority" indicators. In a total of 7,306 cases in 1997, at least 61% of all cases reported by the police have one high priority indicator, as indicated below:

Children Present:	25.6%
Weapons Involved:	13.7%
Prior Victim:	58.5%
Victim/A&D	10.2%
Prior Suspect	60.8%
Suspect/A&D	25.6%
Arrest	39.3%

The Work Group believes that wrap-around services, including an effective law enforcement and criminal justice system response, and services for victims and children offered through several community organizations, including victim service programs, schools, other social services, are important.

The Work Group believes that further analysis of the households, police and criminal justice system response and of access to other community services is necessary to find the most effective means to address the needs of these households and to reduce domestic violence and 911 calls for service. Based on our discussions and information above, the Work Group makes the following recommendations:

Recommendation 1: Because further analysis could not be completed with available staff and committee time, the LPSCC Domestic Violence Work Group recommends allocation of \$30,000 in 1998-99 to fund a 6-month project to provide an in-depth review of high impact/high priority households and the response of community and criminal justice systems. The Work Group would utilize this review to recommend and assist in the implementation of policies, protocols, and services which would reduce domestic violence in these households and reduce the number of 911 calls for service. The Work Groups primary function in the next 6 months will be oversight and guidance in the the review process and the development and implementation of recommendations to enhance the community's ability to respond and assist these families.

Recommendation 2: The Work Group was particularly concerned about the low rate of conviction following arrest. To address this issue, the Work Group supports the development of a Domestic Violence Multi-Disciplinary Team, being discussed by the Portland Police Bureau, District Attorney's Office, Community Justice Services, MCSO and the Family Violence Intervention Steering Committee to assist in criminal justice intervention after arrest; i.e., prosecution and probation supervision. This recommendation includes support for funding positions needed to support the MDT (Deputy DA, Probation Officer, victim advocates).

Recommendation 3: The Work Group recommends allocation of \$50,000 in 1999-2000 to fund training for Portland Police officers to increase their ability to provide appropriate evidence to assist in prosecution. Training would include elements of evidence gathering and report writing required for "evidence-based prosecution."

Members of the Work Group included:

**Local Public Safety Coordinating Council
Domestic Violence Work Group**

Laurie Abraham
District Attorney's Office

Pauline Anderson
City Club DV Task Force

Carmenza Gonzalez
Programa De Mujeres

Jacki Jamison
Sheriff's Office

Oona Jenkins
YWCA

Robert Kauffman
Commander, Central Precinct

Paula Kurchner
Circuit Court Judge

Lana McKay
Adult Community Justice DV Unit

Gary Oxman
Health Department

Peter Ozanne
Public Safety Coordinating Council

Carla Piluso
Lieutenant, Gresham Police

Malcolm Pullen
BOEC

Commander Rector
Commander, North Precinct

Chiquita Rollins
Domestic Violence Coordinator

Robin Selig
Multnomah County Legal Aid

Kelly Skye
Metropolitan Public Defenders

Brock Sorenson
Portland Police DVRU

Rod Underhil
District Attorney's Office

Ramsay Weit
Mult. Co. Commissioner Linn's Office

DOMESTIC VIOLENCE INTERVENTION AND PREVENTION IN MULTNOMAH COUNTY

A Coordinated, Community Response

Definition of Domestic Violence

“Domestic violence is a pattern of coercive behavior used by one person to control and subordinate another in an intimate relationship. These behaviors include physical, sexual, psychological, and economic abuse. Tactics of coercion, terrorism, degradation, exploitation, and violence are used to engender fear in the victim in order to enforce compliance.”

Oregon Domestic Violence Council, 1995

- Not all domestic violence is criminal behavior, but all are detrimental to women's and children's physical, economic and mental well-being.
- Domestic violence occurs in all populations in Multnomah County, regardless of age, race, economic status, ethnicity, sexual orientation, marital status or neighborhood.
- Men are the primary perpetrators of domestic violence; women are the primary victims. A few men are battered by women partners, and also need services.
- Children who witness domestic violence are adversely effected and some experience long-term problems. Keeping their mothers safe and providing her the ability to maintain a stable environment is the preferred intervention.

GOALS OF INTERVENTION IN DOMESTIC VIOLENCE

- 1. PROVIDE SUPPORT AND SAFETY FOR VICTIMS AND THEIR CHILDREN**
- 2. PROVIDE OFFENDERS WITH THE MESSAGE THAT THEIR BEHAVIOR IS UNACCEPTABLE AND HOLD THEM ACCOUNTABLE FOR THAT BEHAVIOR**

FAMILY VIOLENCE INTERVENTION STEERING COMMITTEE

MISSION

The mission of the Family Violence Intervention Steering Committee (Committee) is to provide an inter-agency forum for developing, implementing, and assessing a coordinated response to domestic violence in Portland and Multnomah County.

OBJECTIVES

- A. To share information about local response to domestic violence in order to decrease its incidence in this community.
- B. To plan, develop, implement and monitor an integrated services model of effective intervention in domestic violence.
- C. To focus public attention on the problem of domestic violence, and to develop community resources to deter it.
- D. To propose and support legislation, ordinances, and other public policy protocols to further the objectives of the Committee.

SUB-COMMITTEES:

- A. Administrative
- B. Civil Court
- C. Public Awareness
- D. Fatality Review (soon to be re-formed)
- E. Health Care Task Force
- F. Ad hoc committees: Alcohol and Drug (joint committee with criminal justice system A&D work group), Criminal Justice System Training

Family Violence Intervention Steering Committee

Adult and Family Services

ASAP Treatment

Bradley-Angle House

Community Advocates

El Programa Hispano

Gresham Police Department

Men's Resource Center/Women's
Agenda

Metropolitan Public Defenders

Multnomah County Department of
Community Justice

Multnomah County Courts

Multnomah County District Attorney's
Office

Multnomah County Family Services
Division

Multnomah County Health
Department

Multnomah County Legal Aid
Services

Multnomah county Sheriff's Office

Office of city of Portland
Commissioner Gretchen Kafoury

Oregon Health Sciences University

Oregon Medical Association

Phoenix Rising, Inc.

Portland Police Bureau

Portland Women's Crisis Line

Salvation Army West Women's and
Children's Shelter

State Office of Services for Children
and Families

Raphael House of Portland

United Way of the Columbia-
Willamette

Volunteers of America Family Center

YWCA Of Greater Portland

Multnomah County Domestic Violence Statistics

Multnomah County Domestic Violence Statistics				
1995-1997				
	1995	1996	1997	
Homicides	6	8	16	
911 Calls	21,175	18,515	16,646	*
Total Police Reports	7,132	6,732	7,373	
Portland Police	6,182	6,186	6,645	
Gresham Police	694	383	593	
Multnomah Co. Sheriff			135	
Total Reported Violent Crime (LEDS)		16,175	15,758	
Total Arrests	3,724	3,495	3,405	
Portland Police	3,238	3,042	2,963	
Gresham Police	383	256	370	
Multnomah Co. Sheriff			72	
Total DV Cases Reviewed	4,822	4,565	4,178	
Total DV Cases Issued	1,642	1,577	1,424	
Felonies Reviewed	404	382	437	
Felonies Issued	332	274	265	
Misdemeanors Reviewed	3,946	3,409	2,807	
Misdemeanors Issued	1,145	994	800	
Violation Of RO's Reviewed	472	774	934	
Violation of RO's Issued	165	309	359	
Restraining Orders Filed	3,718	2,893	3,336	
Victim Services				
Crisis Calls	17,717	19,162	23,064	*
Women & Children Sheltered	1,328	1,272	1,305	*
Total Bednights	17,735	18,482	18,924	*
Women & Children Turned Away	22,141	21,920	18,944	*
Motel Vouchers	135	160	160	
*Incomplete data received, numbers estimated.				

Domestic Violence Intervention System in Multnomah County

What's New Since 1993

Offender Intervention/Criminal Justice System:

Law Enforcement:

Portland Police Bureau

- Plan to re-form the Family Services Division and to move the DVRU to co-locate with the Child Abuse Team and SCF Hotline

Gresham Police Department

- Domestic Violence Unit – founded in 1996 with Federal VAWA funds; 2 officers, 2 Community Safety Specialist, 1 Office Assistant, current budget \$340,000; 1 DVU officer/39,000 residents

Multnomah County Sheriff's Office

- Jail policy to not release domestic violence offenders on census releases and to call victims prior to release

Prosecution:

Multnomah County District Attorney's Office Domestic Violence Unit

- Founded in 1991, 5 Deputy DA's, including one grant funded attorney, 1 intern, office staff and significant time commitment from 5 victims assistants, budget \$607,000
- Developed the Deferred Sentencing Program (DSP) in 1993; refers 3-400 offenders annually DSP, with a 50% completion rate, and low recidivism rate over 12 months.

U.S. Attorney's Office

- Now responsible for prosecution of Violence Against Women Act, including felony possession of firearms if prior misdemeanor conviction for domestic violence and interstate travel to commit domestic violence or to violate an RO

Court:

- Stalking order petitions and citation cases

Adult Community Justice Services Domestic Violence Unit:

- Founded in 1993, with partial funding from Byrne grant; 6 Probation officers, 2 Probation Technicians, office staff, supervisor
- Supervises all domestic violence offenders, including DSP, Violation of Restraining Orders, misdemeanants and felons

Batterers' Intervention

- DSP requires 6 months of weekly intervention program attendance
- In 1997, 152 indigent DSP offenders referred to County contractor annually
- Remaining 200 DSP offenders generally referred to programs

Restraining Orders

- New 5-day contested hearings for custody issues
- New authorization for relief

Victim Advocacy/Support System:

Crisis Lines:

- Linea de Crisis para la Mujer
- Loss of Metro Crisis (replaced by a more narrowly defined Providence Crisis Triage Unit) has forced many mental health crisis callers to use the Portland Women's' Crisis Line

Emergency Shelters:

- YWCA just opened a new shelter in a confidential location (closed downtown women's center shelter)
- Average length of stay at a shelter is 14 days; however, a significant portion of women and children leave the shelter after only a few days and a significant portion stay the entire 30 days or longer
- OHP now provides counseling, but only one domestic violence specialist is contracted, and no requirement for expertise

Transitional Housing:

- Bradley-Angle House opened Andrea Lea, short-term facility
- HUD Horizon grant provides long-term support for women leaving shelter or transitional housing (3 year grant)

Community-based Support Groups and Advocacy:

- 2 Hispanic programs provide case management, support groups, counseling, referrals, job and housing assistance, immigration information and referrals for Spanish-speaking women and children
- Outreach office founded by Volunteers of America; HUD Horizon provides funds for programs to work with homeless family programs on domestic violence intervention

Children's Services:

- State Office for Services to Children and Families (SCF) has one FTE working with the child abuse hotline (CAMI funded), and provides 3 hours of training on domestic violence for new staff .

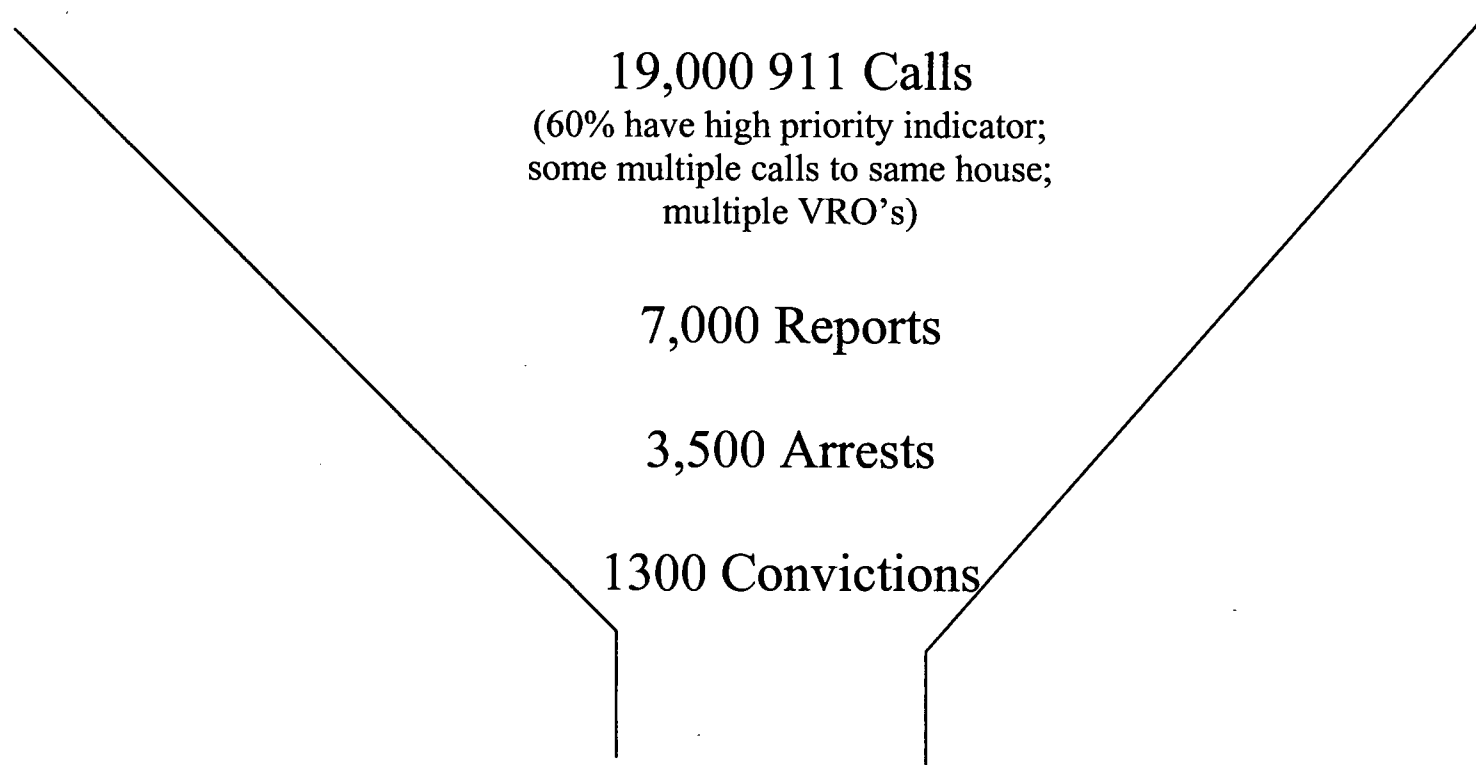
Legal Representation:

- Loss of 2 programs, services assumed by Multnomah County Legal Aid
- New County funding for one Legal Aid attorney
- Ford Foundation grant for development of *pro se* forms and information about using them

Economic and Housing Assistance:

- Adult and Family Services provides exemptions and specialized assistance to victims of domestic violence
- Housing Authority of Portland expedites entry into subsidized housing for victims of domestic violence
- Child Support Enforcement Unit of the DA's office assists custodial parents in obtaining court-ordered child support

ARE WE USING OUR RESOURCES MOST EFFECTIVELY?



ARE HIGH IMPACT/PRIORITY CASES RECEIVING THE MOST EFFECTIVE INTERVENTION AT ALL LEVELS?

HOW CAN WE ASSURE THAT HIGH IMPACT/PRIORITY CASES RECEIVE HIGH PRIORITY AT ALL LEVELS?

Multnomah County

Domestic Violence Intervention Model

Agency	Programs	1993-94 Budget	1998-99 Budget
Victim Advocacy Agencies <ul style="list-style-type: none"> Bradley-Angle House <i>El Programa Hispano</i> <i>Programa De Mujeres</i> Portland Women's Crisis Line Raphael House Volunteers of America West Women's Shelter YWCA/Yolanda House (*Community Advocates and Council for Prostitution Alternatives provide services not included in 1993-94 budget amount)	<ul style="list-style-type: none"> Crisis Lines Information and Referral Transportation Support groups Emergency Shelter Transitional Shelter -- <i>18 new beds</i> Community Education Restraining Order Advocates Advocacy Safehomes <i>Non-shelter services</i> <i>Specialized services for Spanish-speaking victims of domestic violence</i> 	\$2,224,000	\$4,490,000 (*Community Advocates and CPA's budgets total \$551,000)
Legal Advocacy <ul style="list-style-type: none"> Portland Women's Crisis Line Multnomah County Legal Aid Lewis & Clark Legal Clinic (Legal Access Project) (Volunteer Lawyers Project) (Domestic Violence Project) 	<ul style="list-style-type: none"> Free restraining order assistance Free legal representation for divorce, custody, visitation, support Free legal representation at contested restraining order hearings Development of pro se forms for unrepresented parties in divorce, custody, visitation cases 	\$436,000	\$438,000
VICTIM SERVICES TOTAL	<ul style="list-style-type: none"> 89 emergency shelter beds 120 transitional shelter beds 	\$2,660,000	\$4,928,000 (does not include CPA or Community Advocates)
Local Government Funding:		\$450,000	\$1,200,000
State/Federal Grant to Local Government:		\$150,000	\$500,000

Agency	Programs	1993-94 Budget	1998-99 Budget
Portland Police Domestic Violence Reduction Unit	<ul style="list-style-type: none"> Follow-up domestic violence investigation Support/training for street officers Intensive law-enforcement assistance Hispanic advocate 	\$695,000	\$602,000
Gresham Police Domestic Violence Unit	<ul style="list-style-type: none"> <i>Follow-up domestic violence investigation</i> <i>Victim advocates</i> <i>Outreach to Spanish-speaking victims</i> 		\$340,000
District Attorney's Domestic Violence Unit	<ul style="list-style-type: none"> Domestic violence prosecution Misdemeanors and felonies <i>Outreach to underserved populations</i> 	\$475,000	\$607,000
Community Corrections	<ul style="list-style-type: none"> Probation supervision for deferred sentencing offenders <i>Probation supervision for other domestic violence offenders</i> 	\$143,000	\$812,000
Treatment for Batterers <ul style="list-style-type: none"> ASAP Treatment Services Men's Resource Center <i>Transition Projects' Batterers Intervention Program</i> 	<ul style="list-style-type: none"> Education/treatment component of deferred sentencing program for indigent offenders Education/treatment program for batterers (private pay) 	ASAP (for indigent deferred sentencing offenders) \$65,000	ASAP (for indigent deferred sentencing offenders) \$64,000
CRIMINAL JUSTICE SYSTEM TOTAL Local Government Funding: State/Federal Grant:		\$1,378,000 \$1,314,00 \$64,000	\$2,425,000 \$2,375,000 \$50,000
TOTAL FUNDING FOR DOMESTIC VIOLENCE SERVICES		\$4,038,000	\$7,353,000

NEW INITIATIVES

County-Wide Response to Domestic Violence

- Based on work of Department of Community and Family Services and Oregon Health Systems in Collaboration
- Universal screening/assessment of all clients of the County, with intervention
- Support for staff of the County who are victims of domestic violence

- Department of Justice grant to Portland Police Bureau: hire a sergeant and victim advocate for immediate crisis intervention for the victim at 3-5 precincts.
- Consolidation of the Family Law and Juvenile Court cases
- New Legislation:
 - Felony Upgrade
 - VAWA: gun dispossession
 - Immigration law
 - Deferred Sentencing Program standards
 - Fatality Reviews
 - Boldt vs. Boldt
- AFS Welfare Reform, includes domestic violence exemptions and additional funds
- OHSIC project: universal screening and intervention for domestic violence

**Budget Recommendations for Development of a Comprehensive Intervention System
For Domestic Violence -- 1999-2000 and beyond**

Categories	Services	Allocation	Jurisdiction(s)	Portland	County	Gresham
Victim Services						
	MDT Victim Advocates	\$ 100,000	PDX/County Joint	\$ 50,000	\$ 50,000	
	Culturally Specific Services	\$ 270,000	County/Gresham		\$ 250,000	\$ 20,000
	Children's Program/non-shelter	\$ 100,000	County		\$ 100,000	
	A&D/DVShelter Program	\$ 400,000	County		\$ 400,000	
	Expand Courthouse Advocacy	\$ 15,000	County		\$ 15,000	
	Health Care Advocates	\$ 90,000	County		\$ 90,000	
Total		\$ 975,000		\$ 50,000	\$ 905,000	\$ 20,000
District Attorney						
	MDT Deputy DA	\$ 90,000	County		\$ 90,000	
	VRO Deputy DA	\$ 90,000	County		\$ 90,000	
Law Enforcement						
	PPB DVRU 2 officers	\$ 200,000	Portland	\$ 200,000		
	GPD	\$ 186,000	Gresham			\$ 186,000
	Training	\$ 50,000	Portland	\$ 50,000		
Adult Community Justice						
	MDT Officer	\$ 65,000	County		\$ 65,000	
	2 Probation Officers for Unit	\$ 130,000	County		\$ 130,000	
Juvenile Community Justice						
	Adolescent Offender program	\$ 150,000			\$ 150,000	
Total Criminal Justice System		\$ 811,000		\$ 250,000	\$ 375,000	\$ 186,000
School Prevention Programs						
		\$ 50,000	PDX/County Joint	\$ 25,000	\$ 25,000	
LPSCC Study on High Impact Households 98-99						
		\$ 30,000	PDX/County	\$ 15,000	\$ 15,000	
Total		\$ 2,016,000		\$ 340,000	\$ 1,470,000	\$ 206,000

Other Possible Services

	RO Videoconference	\$ 100,000	Grant			
	Victim Notification System	\$ 100,000	Grant			

**Budget Recommendations for Development of a Comprehensive Intervention System
For Domestic Violence -- 1999-2000 High Priorities**

Categories	Services	Allocation	Jurisdiction(s)	Portland	County	Gresham
Victim Services						
	MDT Victim Advocates	\$ 50,000	PDX/County Joint	\$ 25,000	\$ 25,000	
	Culturally Specific Services	\$ 200,000	County		\$ 180,000	\$ 20,000
	Children's Program/non-shelter	\$ 50,000	County		\$ 50,000	
District Attorney						
	MDT Deputy DA	\$ 90,000	County		\$ 90,000	
Law Enforcement						
	PPB DVRU Swing Shift	\$ 100,000	Portland	\$ 100,000		
	GPD	\$ 186,000	Gresham			\$ 186,000
	Training	\$ 50,000	Portland	\$ 50,000		
Probation						
	MDT Officer	\$ 65,000	County		\$ 65,000	
Juvenile Justice						
	Diversion Program	\$ 30,000			\$ 30,000	
School Prevention Programs		\$ 15,000	PDX/County Joint	\$ 7,500	\$ 7,500	
Total		\$ 836,000		\$ 182,500	\$ 447,500	\$ 206,000

lpsccrec.xls

Other Possible Funding -- Victim Services

	RO Teleconference	\$ 100,000	Grant			
--	-------------------	------------	-------	--	--	--

LPSCC DOMESTIC VIOLENCE WORK GROUP FALL, 1998

The LPSCC Domestic Violence Work Group attempted to answer the following two questions:

1. Are high impact and/or high priority cases receiving the most effective intervention at all levels?
2. How can we assure that high impact and/or high priority cases receive effective intervention at all levels?

Assumption: effective intervention in high impact households can substantially reduce domestic violence and the number of repeat 911 calls.

The Work Group defined a "high impact" case as one in which there had been multiple calls to 911 for domestic violence to the same household. The DA and PPB DVRU had developed the following list of high priority indicators: the presence of children or weapons, use of alcohol and drugs at the time of the incident, severity of the assault and prior convictions of the offender. Information about these families or about the response by the criminal justice system and other community organizations is limited, but needed.

The Working Group focused on West and North Precinct cases in attempting to discover the number and police utilization of "high impact" households. During a one month period, July, 1998, 28 households with three or more calls to 911 were identified. Forty-two police reports were found which were generated by these households in this time period.

In addition, the Work Group found that a substantial number of Portland Police reports of domestic violence come from homes with one or more "high priority" indicators. In a total of 7,306 cases in 1997, at least 61% of all cases reported by the police have one high priority indicator, as indicated below:

Children Present:	25.6%
Weapons Involved:	13.7%
Prior Victim:	58.5%
Victim/A&D	10.2%
Prior Suspect	60.8%
Suspect/A&D	25.6%
Arrest	39.3%

The Work Group believes that wrap-around services, including an effective law enforcement and criminal justice system response, and services for victims and children offered through several community organizations, including victim service programs, schools, other social services, are important.

The Work Group believes that further analysis of the households, police and criminal justice system response and of access to other community services is necessary to find the most effective means to address the needs of these households and to reduce domestic violence and 911 calls for service. Based on our discussions and information above, the Work Group makes the following recommendations:

Recommendation 1: Because further analysis could not be completed with available staff and committee time, the LPSCC Domestic Violence Work Group recommends allocation of \$30,000 in 1998-99 to fund a 6-month project to provide an in-depth review of high impact/high priority households and the response of community and criminal justice systems. The Work Group would utilize this review to recommend and assist in the implementation of policies, protocols, and services which would reduce domestic violence in these households and reduce the number of 911 calls for service. The Work Groups primary function in the next 6 months will be oversight and guidance in the the review process and the development and implementation of recommendations to enhance the community's ability to respond and assist these families.

Recommendation 2: The Work Group was particularly concerned about the low rate of conviction following arrest. To address this issue, the Work Group supports the development of a Domestic Violence Multi-Disciplinary Team, being discussed by the Portland Police Bureau, District Attorney's Office, Community Justice Services, MCSO and the Family Violence Intervention Steering Committee to assist in criminal justice intervention after arrest; i.e., prosecution and probation supervision. This recommendation includes support for funding positions needed to support the MDT (Deputy DA, Probation Officer, victim advocates).

Recommendation 3: The Work Group recommends allocation of \$50,000 in 1999-2000 to fund training for Portland Police officers to increase their ability to provide appropriate evidence to assist in prosecution. Training would include elements of evidence gathering and report writing required for "evidence-based prosecution."

**Local Public Safety Coordinating Council
Domestic Violence Work Group**

Laurie Abraham
District Attorney's Office

Pauline Anderson
City Club DV Task Force

Carmenza Gonzalez
Programa De Mujeres

Jacki Jamison
Sheriff's Office

Oona Jenkins
YWCA

Robert Kauffman
Commander, Central Precinct

Paula Kurchner
Circuit Court Judge

Lana McKay
Adult Community Justice DV Unit

Gary Oxman
Health Department

Peter Ozanne
Public Safety Coordinating Council

Carla Piluso
Lieutenant, Gresham Police

Malcolm Pullen
BOEC

Commander Rector
Commander, North Precinct

Chiquita Rollins
Domestic Violence Coordinator

Robin Selig
Multnomah County Legal Aid

Kelly Skye
Metropolitan Public Defenders

Brock Sorenson
Portland Police DVRU

Rod Underhil
District Attorney's Office

Ramsay Weit
Mult. Co. Commissioner Linn's Office

MEETING DATE: DEC 17 1998
AGENDA NO: R-4
ESTIMATED START TIME: 9:15

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Resolution Establishing Committee to Recommend an Ordinance for Vehicle Forfeiture of Drunk and Suspended Drivers

BOARD BRIEFING: DATE REQUESTED _____
REQUESTED BY: _____
AMOUNT OF TIME NEEDED: _____

REGULAR MEETING: DATE REQUESTED: 12-17-98
AMOUNT OF TIME NEEDED: 5 Min.

DEPARTMENT: Non-Dept. DIVISION: District 3

CONTACT: Charlotte Comito/ Steve March TELEPHONE #: 248-5217
BLDG/ROOM #: 106/1500

PERSON(S) MAKING PRESENTATION: Charlotte Comito/ Dan Oldham

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

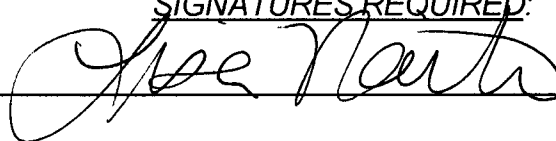
SUGGESTED AGENDA TITLE:

Resolution Establishing a Committee to Recommend a Vehicle Forfeiture Ordinance for Driving Drunk or Suspended.

12/17/98 copies to Steve March

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____
(OR)
DEPARTMENT
MANAGER: _____



BOARD OF
COUNTY COMMISSIONERS
98 DEC - 8 AM 3:25
MULTNOMAH COUNTY
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277



LISA H. NAITO
Multnomah County Commissioner, District 3
1120 SW Fifth Avenue, Suite 1500
Portland, Oregon 97204-1914
Phone (503) 248-5217 Fax (503) 248-5262

MULTNOMAH COUNTY OREGON

SUPPLEMENTAL STAFF REPORT

TO: Board of County Commissioners

FROM: Commissioner Lisa Naito

DATE: December 7, 1998

RE: Resolution Establishing a Committee to Reduce Drunk Driving and Driving While Suspended or Revoked through a Forfeiture

1. Recommendation/Action Requested:

Approval of Resolution Establishing a Committee to Reduce Drunk Driving and Driving While Suspended or Revoked, and Recommending an Ordinance Declaring Their Vehicles a Nuisance and Providing for the Forfeiture of Those Vehicles.

2. Background/Analysis:

Currently the City of Portland provides for forfeiture of vehicles for repeat DUIIs and Driving While Suspended. The rate of recidivism for driving under the influence can be reduced by half when vehicles are seized. Other jurisdictions throughout the County are interested in a similar program to reduce recidivism, which will result in fewer traffic accidents and fatalities.

3. Financial Impact:

If such a Forfeiture Ordinance is adopted there may be some startup capital costs associated with its operation, but the program should be self-sustaining. The committee is directed to make recommendations about the administration of such a

program and based on that plan the Sheriff will present detailed program costs prior to adoption by the Board.

4. Legal Issues:

The resulting ordinance must be consistent with ORS 475A.001 et seq., the forfeiture statute.

5. Controversial Issues:

Some of the vehicles seized are co-owned. Innocent owner's exceptions and hardship exemptions will be discussed.

6. Link to Current County Policies:

This resolution is linked to Multnomah County's long term benchmark, *Reduce Crime*. It is further linked to the Public Safety Urgent Benchmarks, *Reduce Violent Crime, and Reduce Recidivism*.

7. Citizen Participation:

The Committee to be brought together by the Sheriff will include a citizen representative from the DUII Community Advisory Board. Any proposed amendment will be presented to the Board of County Commissioners for citizen input.

8. Other Government Participation:

Representatives from law enforcement from each of the jurisdictions within Multnomah County will participate in the committee. The goal will be to prepare an ordinance that can be adopted by all of the jurisdictions within the county.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Establishing a Committee to Reduce Drunk Driving and Driving While Suspended or Revoked, and Recommending an Ordinance Declaring Their Vehicles a Nuisance and Providing for the Forfeiture of Those Vehicles.

The Multnomah County Board of Commissioners Finds:

- a. Many drivers who are convicted of driving under the influence of drugs or alcohol are not effectively deterred from re-offending.
- b. Repeat offenders continue to drive their vehicles drunk or under the influence of drugs and constitute a serious threat to themselves and the citizens of Multnomah County.
- c. Offenders who have had their vehicles forfeited re-offend at a rate which is half that of offenders who have not had their vehicles seized.
- d. Seizure of vehicles from offenders driving under the influence or while suspended or revoked can reduce re-offenses and protect the public.

The Multnomah County Board of Commissioners Resolves:

1. To authorize the Sheriff to convene a committee, with representatives of the other local jurisdictions in Multnomah County, and others with an interest in promoting the public safety through forfeiture of cars of drivers convicted of driving under the influence, felony driving while suspended, or related crimes, and recommending a Forfeiture Ordinance which would be adopted by all the jurisdictions within the County.

2. The Sheriff and committee are further charged with developing recommendations regarding the administration of such a Forfeiture Ordinance.

Approved this _____ day of _____, 1998.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel
For Multnomah County, Oregon

By



Sandra N. Duffy, Chief Assistant County Counsel

BOGSTAD Deborah L

From: TRACHTENBERG Robert J
Sent: Wednesday, December 16, 1998 9:17 AM
To: STEIN Beverly E; LINN Diane M; HANSEN Gary D; NAITO Lisa H
Cc: OLDHAM Daniel H; DUFFY Sandra N; COMITO Charlotte A; FORD Carol M; BOGSTAD Deborah L; DINGLER Lynn; DELMAN Mike H; WEIT Ramsay; KELLEY Sharron E; MARCH Steve J; SPONSLER Thomas
Subject: Proposed Revisions to R-5 Forfeiture Resolution

Sharron will be offering the following amendment -

add the following:

2. The Sheriff shall include on the committee any nominees forwarded to him by individual members of the Board of Commissioners .
3. Prior to returning to the Board of Commissioners, the Committee shall forward and discuss its recommendations with the DUI Advisory Committee as well as the Alcohol and Criminal Justice Working Group of the Local Public Safety Coordinating Council.

[renumber current number 2 to number 4]

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 98-207

Establishing a Committee to Reduce Drunk Driving and Driving While
Suspended or Revoked, and Recommending an Ordinance Declaring Their Vehicles
a Nuisance and Providing for the Forfeiture of Those Vehicles.

The Multnomah County Board of Commissioners Finds:

- a. Many drivers who are convicted of driving under the influence of drugs or alcohol are not effectively deterred from re-offending.
- b. Repeat offenders continue to drive their vehicles drunk or under the influence of drugs and constitute a serious threat to themselves and the citizens of Multnomah County.
- c. Offenders who have had their vehicles forfeited re-offend at a rate which is half that of offenders who have not had their vehicles seized.
- d. Seizure of vehicles from offenders driving under the influence or while suspended or revoked can reduce re-offenses and protect the public.

The Multnomah County Board of Commissioners Resolves:

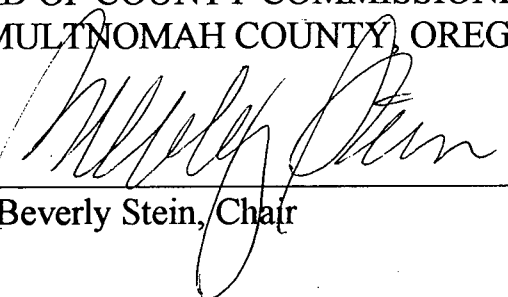
1. To authorize the Sheriff to convene a committee, with representatives of the other local jurisdictions in Multnomah County, and others with an interest in promoting the public safety through forfeiture of cars of drivers convicted of driving under the influence, felony driving while suspended, or related crimes, and recommending a Forfeiture Ordinance which would be adopted by all the jurisdictions within the County.

2. The Sheriff shall include on the committee nominees forwarded to him by individual members of the Board of County Commissioners.
3. Prior to returning to the Board of County Commissioners, the Committee shall forward and discuss its recommendations with the DUII Advisory Committee as well as the Alcohol and Criminal Justice Working Group of the Local Public Safety Coordinating Council.
4. The Sheriff and committee are further charged with developing recommendations regarding the administration of such a Forfeiture Ordinance.

Approved this 17th day of December, 1998.




BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel
For Multnomah County, Oregon

By 
Thomas Sponsler, County Counsel

BUDGET MODIFICATION NO.

DES 99-03

(For Clerk's Use) Meeting Date
Agenda No.

DEC 17 1998

R-5

1. REQUEST FOR PLACEMENT ON THE AGENDA FOR

(Date)

DEPARTMENT DES

DIVISION Land Use Planning

CONTACT Kathy Busse

TELEPHONE 306-5651

* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD

SUGGESTED

AGENDA TITLE (to assist in preparing a description for the printed agenda)

Request for a reclassification of a 0.5 FTE sanitarian to a 0.5 FTE planner and request
an additional 0.5 FTE Planner

(Estimated Time Needed on the Agenda)

2. DESCRIPTION OF MODIFICATION

(Explain the changes this Bud Mod makes. What budget does it increase? What do changes
accomplish? Where does the money come from? What budget is reduced? Attach additional information if you need more space.)

0.5 FTE

Personnel changes are shown in detail on the attached sheet

LUP requests reclassification of one half time sanitarian (vacant) to half time planner in fund 156; the additional funds
\$1,313.00 will be moved within the State/Fed personnel services (5100) to the ins line item (5550);
in addition, we request the creation of a half time planner from salary savings in fund 100.
These changes will allow the Land Use Planning Division to provide better service to the public.

3. REVENUE IMPACT

(Explain revenues being changed and reason for the change)

N/A

BOARD OF
COUNTY COMMISSIONERS
98 DEC - 9 AM 2:14
MULTNOMAH COUNTY
OREGON

4. CONTINGENCY STATUS

(to be completed by Budget & Planning)

Fund Contingency before this modification (as of

Date

\$

After this modification

Originated By

Date

Department Director

Date

Plan/Budget Analyst

Date

Employee Services

Date

Board Approval

Date

Date

Kathy Busse 12/7/98

Donna H. Hensley 12/8/98

5. ANNUALIZED PERSONNEL CHANGES (Compute on a full-year basis even though this action affects only a part of the fiscal year (FY).)

FTE Increase (Decrease)	POSITION TITLE	BASE PAY Increase (Decrease)	ANNUALIZED		
			Increase/(Decrease)		TOTAL Increase (Decrease)
			Fringe	Ins.	
0.50	Planner	18,051	3,160	2,733	23,944
					0
					0
					0
					0
					0
					0
					0
					0
					0
					0
0.50	TOTAL CHANGE (ANNUALIZED)	18,051	3,160	2,733	23,944

6. CURRENT YEAR PERSONNEL DOLLAR CHANGES (Calculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this BudMod.)

CURRENT FY

Permanent Positions, Temporary, Overtime, or Premium	Explanation of Change	BASE PAY Increase (Decrease)	Increase/(Decrease)		TOTAL Increase (Decrease)
			Fringe	Ins.	
(0.50)	Vacant Sanitarian	(19,619)			(19,619)
0.50	New Planner	18,306		1,313	19,619
0.50	New Planner	18,051	3,160	2,733	23,944
					0
					0
					0
					0
					0
					0
					0
					0
					0
TOTAL CURRENT FISCAL YEAR CHANGES		16,738	3,160	4,046	23,944



MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES
LAND USE PLANNING DIVISION
2115 SE MORRISON ST.
PORTLAND, OREGON 97214
(503) 248-3043 (503) 248-3389 FAX
land.use.planning@co.multnomah.or.us

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN - CHAIR OF THE BOARD
DIANE LINN - DISTRICT 1 COMMISSIONER
GARY HANSEN - DISTRICT 2 COMMISSIONER
LISA NAITO - DISTRICT 3 COMMISSIONER
SHARRON KELLEY - DISTRICT 4 COMMISSIONER

MEMORANDUM

TO: Board of County Commissioners
FROM: Kathy Busse
DATE: 12/7/98
RE: Budget Modification DES 99-03

1. **Topic - *What is this about?***

Land Use Planning Division requests the addition of .5 FTE Planner position in the general fund to combine with a vacant .5 FTE position in federal/state funds to create a full time planner position. The funds are identified within the current LUP budget. This will reclassify one half time *sanitarian* to one half time-time *planner*.

The *sanitarian* position had been established two years ago as a job share with Health Sanitation to inspect properties (half time) for land use code violations. The purpose of the shared position was primarily to retain a permanent employee during reductions in staff in '96 and '97 that had related inspection duties for the rural areas of Multnomah County. Since that time, the employee has found other work within the county. The vacancy has afforded LUP the opportunity to create a position more flexible and responsive to the demands of code enforcement and current planning activity.

Department Rank - *What priority does this proposal have compared to other department proposals?*

High.

2. **Introduction - *Why is this important? What do you hope to accomplish?***

We can provide more responsive customer service with one full time permanent position supporting the both code enforcement and current planning. Under the current structure, an inspector is available 2.5 days per week, which creates a standard response time of 3 days. Further, site inspections generate more demand for permitting assistance to correct problems in land disturbing activities, which in turn, affects the response time for current planners to assist all land use applicants. This budget modification will allow for greater utilization of the position.

3. **Background / Alternatives / Analysis**

The Division prepared this proposal after reviewing the work necessary to thoroughly review sites for potential code violations in a timely manner, reviewing permit applications, and working with citizens to correct site problems. The planner position is the most flexible classification for assigning staff to perform this work. A survey questionnaire indicated that there is a high need for more timely and responsive review of development activity. While this proposal will not meet the demand, it will make more efficient use of the resources in the current LUP budget.

4. **Financial Impact** - *What is the budget impact? Are there consequences for future years?*

There will be a small incremental budget increase in future years by converting .5 FTE to 1.0 FTE.

5. **Evaluation** - *How will the effectiveness of this proposal be evaluated if it is approved?*

The half time position currently supports the measurable objective of the code enforcement program for responding to complaints with site review within 3 working days. This increase will allow LUP to meet and exceed that standard and also respond to the increased demand that code enforcement activity will generate in current planning.

6. **Legal Issues** - *What are the legal issues? How do you know?*

This supports the County's mandate for Land Use Application review within 120 days.

7. **Controversial Issues** - *Are there any potentially sensitive or controversial issues?*

This will generate some increase in code enforcement activity, which is a sensitive issue for most property owners.

8. **Link to Current County Policies and Benchmarks** - *Is this consistent or are changes needed?*

This is consistent with County Benchmarks

9. **Citizen Participation** - *What does the CBAC think? What other citizen participation has occurred or should occur before a decision is made.*

The LUP circulated a customer service questionnaire in September, which indicated that timeliness is a priority for improving the land use process.

10. **Partnerships & Collaboration** - *Does this affect another County department, governmental body or service provider? Do they know about it? What have you done to create partnerships and to collaborate?*

The Planning Process Improvement Team includes city building permit staff that work closely with LUP to coordinate these processes. They have been part of the detailed review of the questionnaire and discussion of how to respond to the need to streamline the process. This is consistent with a recommendation in progress that will be forthcoming to the dept and BCC.

MEETING DATE: DEC 17 1998
AGENDA NO: R-6
ESTIMATED START TIME: 9:30

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Results from RESULTS

BOARD BRIEFING:

DATE REQUESTED: 12/17/98

REQUESTED BY: Lorenzo T. Poe Jr.

AMOUNT OF TIME NEEDED: 15 minutes

REGULAR MEETING:

DATE REQUESTED:

AMOUNT OF TIME NEEDED:

DEPARTMENT: Community and Family Services DIVISION: N/A

CONTACT: Sue Larsen

TELEPHONE #: Ext. 24421

BLDG/ROOM #: Bldg 166/700

PERSON(S) MAKING PRESENTATION: Lorenzo T. Poe; Laureen Oskochil; Kathleen Saadat

ACTION REQUESTED:

☒ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☐ APPROVAL ☐ OTHER

SUGGESTED AGENDA TITLE:

Results from RESULTS:

Chemical Dependency Clinical Quality Audit

SIGNATURES REQUIRED:

ELECTED OFFICIAL:

(OR)

DEPARTMENT

MANAGER:

Lorenzo Poe Jr.

BOARD OF
COUNTY COMMISSIONERS
98 DEC - 8 PM 11:34
MULTNOMAH COUNTY
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

Chemical Dependency Treatment Quality Chart Audit Plan

I. Identification of Process-

- A. CareOregon Chemical Dependency Quality Management Committee (CDQM) will review chart audit protocols;
- B. A sub-committee of CDQM, along with Managed Care staff, will finalize process and present process to CDQM for approval;
- C. CDQM members will advocate for participation in the chart audit among provider panel.

II. Identification of which agencies/charts to review-

The first round of quality audits will be performed on agencies who are members of CDQM and who volunteer to participate.

The second round will be on a few agencies who either request participation or who are selected as representative of the diversity of the provider network (ie. 1 large metropolitan agency, a small rural agency, an agency with a residential component, and agency with adjunctive services)

Charts will be selected from among the CareOregon members who were enrolled in treatment for the entire quarter, which falls two quarters before the implementation date. A random sample of charts will be selected for review from that list. In small agencies, the entire population may be reviewed. At large agencies, a proportion of eligible charts (20%) will be reviewed.

The charts will be reviewed at the participating provider, as time and distance allows.

III. Peer reviewers-

Peer reviewers will be recruited from among the provider network's clinical staff.

- A. Identified Peer Reviewers will attend a training on the guidelines and process to be applied.
- B. Peer reviewers will sign confidentiality agreements; and
- C. Peer reviewers will use the quality audit instrument approved by CDQM.

IV. Quality Audit instrument-

The quality audit instrument will be developed by a sub-committee of CDQM.

- A. The instrument's validity will be tested by having two sets of reviewers review the same charts;
- B. A confidence interval will be established using the variance between both sets of reviewers;
- C. Further revision of the instrument after testing may be necessary if the variation between reviewers is too great.

V. Collation of data gathered-

- A.** Laureen will organize results for analysis;
- B.** Preliminary data reports will be generated and distributed to CDQM for review and input;
- C.** Preliminary "results" will be reviewed by CDQM;
- D.** Summary reports will be prepared and distributed to participating agencies;

VI. Evaluation of the process-

- A.** CDQM will review the process and make recommendations for improvement in the process;
- B.** Key findings will be distributed to CareOregon's chemical dependency treatment provider network;
- D.** Input will be solicited from providers before implementing the second phase of quality audits.
- E.** The design will be altered based on the results of the first wave, key findings, and input from providers.

CareOregon's Chemical Dependency Quality Management Indicators

CareOregon's Chemical Dependency Quality			Management Committee Timeline					
Area	Indicator	Activity	Winter 1998 Jan/Feb/March	Spring 1998 April/May/June	Summer 1998 July/Aug/Sept.	Fall 1998 Oct/Nov/Dec	Winter 1999 Jan/Feb/March	Spring 1999 April/May/June
Coordination of Care	Coordination with resources	Site visits will be scheduled	→					
		Charts will be reviewed	→	→				
		Results of chart audit analyzed			→			
		Results of chart audit presented to Committee				→		
		Results distributed to agencies					→	
Access	Composition of members in treatment	Claims data examined	→					
		Claims data examined by Committee						
		Results of analysis distributed to agencies						
Effectiveness	Engagement in Drug Free Treatment	CPMS and Claims data will be secured		→				
		Results presented to Committee			→			
		Results will be distributed to agencies				→		
Client feedback	Client Perceptions and Satisfaction	Client survey will be designed		→				
		Client survey will be distributed		→				
		Client survey will be analyzed			→			
		Results of survey presented to Committee				→	→	→
Quality of Care	Continuity between issues identified during assessment & therapy	Site visits will be scheduled	→					
		Charts will be reviewed	→	→				
		Results of chart audit analyzed			→			
		Results of chart audit presented to Committee				→		
		Results distributed to agencies					→	
Effectiveness	Outcomes	CPMS and Claims data will be secured		→				
		Results presented to Committee			→			
		Results will be distributed to agencies				→		
Coordination of Care	Coordination with Primary Care Provider	Site visits will be scheduled	→					
		Charts will be reviewed	→	→				
		Results of chart audit analyzed			→			
		Results of chart audit presented to Committee				→		
		Results distributed to agencies					→	

Area	Indicator	Protocol	Measurement Method
A. Access	1. Composition of members in treatment	a. Access to treatment will be available to members with respect to racial, ethnic, disability, language characteristics	Claims data
	2. Ease with which referral sources can arrange for access to treatment	a. Key referral sources report ease of arranging access to treatment	Key referral source survey
	3. Ease with which members can access treatment	a. Members report ease of gaining access to treatment	Member survey

Area	Indicator	Protocol	Measurement Method
B. Quality of Care	1. Continuity between issues identified during assessment and the therapeutic process	a. Initial assessment considers all necessary clinical indicators	Chart audit/ Peer Review
		b. Diagnosis is consistent with documented clinical indicators	Chart audit/ Peer Review
		c. Treatment plan reflects clinical indicators identified during assessment	Chart audit/ Peer Review
		d. Clinical progress is measured by reduction in the problems and satisfaction of the needs identified during the assessment.	Chart audit/ Peer Review
		e. Discharge is indicated when the member has demonstrated the ability to maintain the gains made during treatment	Chart audit/ Peer Review

Area	Indicator	Protocol	Measurement Method
C. Effectiveness	1. Engagement in treatment	a. Members who complete detoxification enroll in appropriate treatment	Claims data
		b. Members enrolled in treatment stay beyond the first month	Claims data
	2. Progress	a. Periods of abstinence from primary drug of abuse increase	Chart audit
		b. Members who receive treatment will reduce their use of alcohol and/or other drugs	Chart audit
		c. Member is addressing issues in treatment plan	Chart audit/ Peer Review

Area	Indicator	Protocol	Measurement Method
C. Effectiveness	3. Outcomes	a. Members who receive treatment will reduce their use of alcohol and/or other drugs	OASIS/CPMS
		b. Members who receive treatment will achieve abstinence from their primary drug of abuse	OASIS/CPMS
E. Client Feedback	1. Client Perceptions	a. A survey of clients will be conducted each year for both drug-free and methadone treatment	Completed questionnaires returned to CareOregon
	2. Client Satisfaction	a. Clients will be satisfied with the quality of treatment they receive	Client Survey
		b. Members would recommend treatment if a friend or family member had a problem	Client Survey

Area	Indicator	Protocol	Measurement Method
E. Client Feedback	2. Client Satisfaction	c. Members would return to the same agency if they begin to have problems after they leave treatment	Client Survey
F. Coordination of Care	1. Coordination with referral sources	a. Coordination of care occurs with Primary Care Provider	Chart Audit
		b. Coordination of services occurs with referrent	Chart audit
	2. Referrals to anxillary services occurs	a. Referrals to ancillary services are made to help members benefit from treatment	Chart audit
		b. Coordination occurs with mental health services	Chart audit

MEETING DATE: December 17, 1998
AGENDA #: R-7
ESTIMATED START TIME: 9:45

(Above Space for Board Clerk's use only)

AGENDA PLACEMENT FORM

SUBJECT: Public Affairs Office Briefing

BOARD BRIEFING: DATE REQUESTED: _____
REQUESTED BY: _____
AMOUNT OF TIME NEEDED: _____

REGULAR MEETING: DATE REQUESTED: Thursday, December 17, 1998
AMOUNT OF TIME NEEDED: 45 minutes

DEPARTMENT: Non-Departmental DIVISION: Public Affairs Office

CONTACT: Gina Mattioda TELEPHONE #: 306-5766
BLDG/ROOM #: 166/1045

PERSON(S) MAKING PRESENTATION: Gina Mattioda, Barbara Disciascio, Kevin Kitamura, Susan Lee, Althea Milechman, and Michael Pullen

ACTION REQUESTED:

☒ INFORMATIONAL ONLY ☒ POLICY DIRECTION ☐ APPROVAL ☐ OTHER

SUGGESTED AGENDA TITLE:

Public Affairs Office Briefing and Board Discussion
On County Legislative Agenda

SIGNATURES REQUIRED:

ELECTED OFFICIAL:

Beverly Stein

(OR)

DEPARTMENT
MANAGER:



ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Public Affairs Office – Project Summary
November/ December Summary Report

Projects	Timeline	Tasks	Participants (bold = customers)
1999 Legislative Session	August 1998 – September 1999 Peak Time: January – July 1999	<ul style="list-style-type: none"> □ Develop maps and lists of county facilities/programs/services by House and Senate Districts - in process 	Public Affairs Office GIS
		<ul style="list-style-type: none"> □ Work with Tri-County Group on creation of “Metro-Tri-County Legislative Agenda.” Develop strategies to work and meet with regional legislators throughout 1999 Session – on-going 	Public Affairs Office BCC and Chair’s Office
		<ul style="list-style-type: none"> □ Identify and develop defense and pro-active legislative concepts/strategies for Multnomah County Legislative Agenda and Legislative Liaisons portfolio – completed, 	Public Affairs Office County Departments
		<ul style="list-style-type: none"> □ Identify and develop items and concepts for Multnomah County Legislative Agenda. Items and concepts such issues as tax reform, state funding/budget, school funding, transportation, public safety and others – completed, pending BCC decision 12/17/98 	Public Affairs Office BCC, Chair’s Office MCCF, LPSCC, DA, Sheriff , and County Departments
		<ul style="list-style-type: none"> □ Identify bill reviewers and potential expert witnesses to testify – completed 	Public Affairs Office County Departments
		<ul style="list-style-type: none"> □ Develop public education materials and training options on how to testify – completed □ Conduct training/workshop on 1999 Legislature – December 11 – completed □ Conduct second training/workshop on 1999 Legislature – January 13 – pending 	Public Affairs Office County Departments
Public Engagement Plan on UIAs compliance with the Region’s 2040 Urban Growth Management Plan	August 1998 – May/June 1999 Peak Time: Feb. – April 1999	<ul style="list-style-type: none"> □ Public involvement plan, message development, preliminary fact sheet and draft of first mailing– completed 	Public Affairs Office DES: Land Use Planning City of PDX Planning
		<ul style="list-style-type: none"> □ Identify and outreach to community leaders, key stakeholders, and other interest groups – currently in process 	Public Affairs Office
Health Department Payment Policy	August 98 – January 99	<ul style="list-style-type: none"> □ Develop public education material – flyer and information stand, and facts sheet for clients – 	Public Affairs Office Health Department

		completed, pending HD approval	
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Projects	Timeline	Tasks	Participants <i>(bold = customers)</i>
Siting of secure alcohol and drug treatment facility	Pending BCC decision	<input type="checkbox"/> Develop preliminary fact sheet – completed	Public Affairs Office BCC and Chair's Office DCJ, DES: Facilities
		<input type="checkbox"/> Develop preliminary public involvement/engagement plan – completed	Public Affairs Office
Hawthorne Bridge	March 1998-1999	<input type="checkbox"/> Design and develop fact sheets for media tour for the Hawthorne Bridge – completed	Public Affairs Office DES: Transportation
Hawthorne Bridge Reopening	August 98–March 99 Peak Time: February–March 99	<input type="checkbox"/> Planning stage: begin developing timeline, brainstorm event ideas, sponsorship, outreach, and division of labors – currently in process	Public Affairs Office DES: Transportation
Relocation of West Probation Office	August 98 - March 99	<input type="checkbox"/> Develop and design fact sheet and public involvement timeline – completed	Public Affairs Office DCJ, DES: Facilities
		<input type="checkbox"/> Develop talking points for media interviews - completed	Public Affairs Office DCJ
		<input type="checkbox"/> Identify and outreach to key stakeholders – completed	Public Affairs Office DCJ, BCC, and Chair's Office
		<input type="checkbox"/> Conduct public involvement process – currently in process	Public Affairs Office DCJ, DES: Facilities
County Overview	Oct. – Dec. 1999	<input type="checkbox"/> Develop power point, slide show, and/or overheads with brochure on element of County programs/services – draft script completed; graphics in process	Public Affairs Office DSS: Budget Office BCC and Chair's Office
Health Department Accreditation	December 1998	<input type="checkbox"/> Draft of policy re: patients' rights and media In process	Public Affairs Office Health Department
Health Department Marketing	Dec. – Feb. 1999	<input type="checkbox"/> Develop marketing plan – In process <input type="checkbox"/> Design and develop revised brochure for Dental Access Project – In process <input type="checkbox"/> Re-design and packaging of training materials for Eligibility Screeners - In process <input type="checkbox"/> Consult on open house for Brownsfield Grant office - In process	Public Affairs Office Health Department

Department of Community & Family Services – brochure	Dec. – Jan 1999	□ Develop DCFS brochure - In process	Public Affairs Office DCFS
Projects	Timeline	Tasks	Participants <i>(bold = customers)</i>
Department of Community & Family Services - Marketing	Dec. – Feb. 1999	□ Analysis of need marketing – in process	Public Affairs Office DCFS
US Bank Building Public Involvement	Dec. – Jan 1999	□ Develop fact sheet, identify & contact stakeholders, timeline – in process □ Coordinate and advertise community meeting - in process	Public Affairs Office, DES, DSS, Sheriff, Facilities, BCC, Chair's Office
Aging and Disability Services	Jan 1999	□ Participate in tri-county planning group to develop media plan to launch Carrier Link Project – in process	Public Affairs Office ADS
Graphic Work Community Builders Tabloid	On going Possibly quarterly	□ Create a tabloid of article and information supporting community building, including photos – on-going	Public Affairs Office Chair's Office DCFS
Strategic Plan for Juvenile Justice and Delinquency Prevention	Nov. 1998	□ Design a cover page for Plan – completed	Public Affairs Office Community Justice
		□ Redesign strategic plan document - in process	Public Affairs Office Community Justice
Photo Shoot	Nov. 1998	□ Photo Shoot of the Sheriff to submit to a magazine publication – completed	Public Affairs Office Sheriff's Office
Geographic Information Systems (GIS)	Nov. 1998	□ Create a logo GIS to use in identity on web page and map – in process	Public Affairs Office Information Service: GIS
Peer Support Brochure	Dec. 1998	□ Design all elements of brochure – in process	Public Affairs Office Sheriff's Office
PAO Identity	Nov. 1998	□ Design elements of tool kit: brochure, stationary: business cards, letterhead, envelope, fax sheet – completed	Public Affairs Office
PAO website	Nov. 1998 – Jan. 99	□ Create a MINT site for PAO which links to media release, legislative, community involvement and identity – in process	Public Affairs Office

Projects	Timeline	Tasks	Participants <i>(bold = customers)</i>
Media Work	On-going	<input type="checkbox"/> Responding to media calls relating to: Hawthorne Bridge, landslides, Health Department abortion policy, STD rates- completed	Public Affairs Office County Departments County Counsel
		<input type="checkbox"/> Create and distribute the following press releases:, Hawthorne Bridge Tours, Opening of 207 th Ave., Low Income Energy Assistance Program, West of Sandy Rural Plan Winter issue of MCTrans (transportation & land use newsletter) - completed	Public Affairs Office County Departments
		<input type="checkbox"/> Create plan for emergency media response – in process	Public Affairs Office DES: Transportation
		<input type="checkbox"/> November & December Media Advisories – completed View current month advisory at: http://www.co.multnomah.or.us/cc/bev/advis.html	Public Affairs Office County Departments
		<input type="checkbox"/> Media planning stage: Homeless Youth RFP and Single RFP – in process	Public Affairs Office DCFS



Public Affairs Office

MULTNOMAH COUNTY OREGON

421 SW Sixth Avenue, Suite 1045
Portland, Oregon 97204
(503) 736-6800 phone
(503) 736-6801 fax

Board of County Commissioners
Public Affairs Office Presentation
December 17, 1998
Agenda

1. Public Affairs Office Tool Kit – Information Sharing – Gina Mattioda
2. 1999 Legislative Training Results – Information Sharing – Susan Lee
3. 1999 Multnomah County Legislative Agenda – Approval Requested – Gina Mattioda
4. Supplemental List– Discussion – Susan Lee
5. Presentation of Legislative Agenda to Multnomah County Delegation – Information Only – Gina Mattioda
6. 1999 Legislative Presentations to BCC – Information Only – Gina Mattioda
 - January 28, 1999
 - February 18, 1999
 - March 11, 1999
 - April 1, 1999
 - April 22, 1999
 - May 13, 1999
 - June 3, 1999
 - July 15, 1999
7. Tri-County Agenda Status – Information Only – Susan Lee
8. Association of Oregon Counties (AOC) District 8 Legislative Meeting, January 11, 1999, 6:00 – 9:00 p.m., Sweetbrier Inn, Tualatin – Information Only – Susan Lee

MULTNOMAH COUNTY 1999 LEGISLATIVE AGENDA

Multnomah County's Board of County Commissioners' ability to remain an accountable and productive local government and provide essential community services hinges on the partnership with the State Legislature. These services range from providing alcohol, drug, and mental health treatment to maintaining the Willamette River Bridges, operating a network of health care safety net clinics, and providing resources to reduce juvenile crime. This legislative agenda underscores our mutual commitment to improving the quality of life for all Oregonians.

Maintain Public Safety. Multnomah County is dedicated to the protection of our community by holding offenders accountable for their actions and by providing them with the necessary skills to become successful citizens. The County has developed several initiatives that promote public safety, reduce juvenile crime, and hold youth and families accountable.

The County endorses the Governor's Juvenile Crime Prevention Strategy and other measures that prevent and reduce juvenile crime. The County favors legislation supporting year-round school in county juvenile detention facilities. The County also requests legislative change to clarify the statutes defining the duties of Probation and Parole Officers. The County asks the Legislature to provide appropriate community corrections and 1145 local control funding that reflects the costs of supervision and community-based programs in the County.

Continue Oregon Health Plan. The Oregon Health Plan is designed to ensure that all people, regardless of ability to pay, have access to quality and affordable health care. The County supports the original intent of the Oregon Health Plan, which strives for universal health care access and controls costs by prioritizing health care services rather than placing limits on eligibility. The County opposes measures that attempt to erode the Plan. The County encourages the Legislature to sustain its level of funding, continue integration of mental health services, and support initiatives that reduce the fragmentation of the alcohol and drug system.

Enhance Funding for Safety Net Clinics. The County has a long history of responding to community health needs by operating a network of primary health care clinics. These clinics provide primary health care to low income residents, the uninsured, and under-insured. Multnomah County applauds the leadership of the 1997 Legislature that allocated resources for the first time to these clinics and calls for the 1999 Legislature to appropriate additional resources to meet the growing need.

Provide a Dedicated Funding Source for the Willamette River Bridges. The County requests that the Legislature provides a funding source for the six Willamette River Bridges owned, maintained and operated by the County. Without funding from the Legislature, federal funding could be in jeopardy. The majority of these bridges are over 70 years old and in need of major capital improvements to extend the bridge service life. The cost to maintain these bridges is high; painting and rehabilitation of the Hawthorne Bridge alone exceeded \$21.8 million. The County has identified a \$225 million capital shortfall over the next 20 years.

Secure Funding for Senior and Disabled Transit. Multnomah County's aging and disabled populations need improved access to public transportation options to seek and maintain employment, receive vital medical care, and obtain nutrition services at congregated meal sites. The County advocates for a long-term state policy on transportation services for mobility-impaired older and disabled citizens.

Increase School Funding. Multnomah County has recognized the critical nature of our schools in meeting our community vision of providing an opportunity for all children to succeed. The County urges the Legislature to embrace this vision by adequately funding school districts at a level that allows them to deliver education services equal or better than in previous years.

Enable Counties to Address Substantial Increase of PERS Liability. Wage growth, high PERS earnings and the passage of the 1995 HB 3349, increased the counties' unfunded PERS liability by \$30 million and increased employers' annual contribution rates. HB 3349 also allowed the State to collect income taxes on PERS benefits. The County requests the Legislature to consider sharing the increased income tax revenues to offset the impact of HB 3349 on local government. In addition, the County supports the proposal by the Municipal Debt Advisory Commission for a statutory change that would increase the current \$5,000 debt limitation, providing the County additional options for managing unfunded liabilities.

Preserve Columbia River Gorge. The County favors increased funding of the Columbia River Gorge Commission and supports a review of the Columbia River Gorge Management Plan to ensure the Commission is performing its functions effectively and efficiently.

Support Living Wages. Multnomah County urges the Legislature to acknowledge the critical work of social service providers by increasing their wages and benefits. The County has taken steps to increase benefits and wages for employees of security and janitorial contracts, but has been unable to take similar steps for employees of social service provider contracts. The County's ability to affect wages of employees of social service provider contracts is limited because the Legislature controls the funding. Adequate funding for these employees would reduce turnover, which is currently over 50%, ensure access to quality services, and prevent early entry into institutions of seniors and persons with disabilities.

Explore Tax Reform Initiatives. The County asks the Legislature to recognize that granting of property tax exemptions directly reduces local government revenue and services. To curtail the impacts of such exemptions, the County seeks support for the recommendations of the Association of Oregon Counties' Tax Reform Task Force, which are:

- Increase shared revenue to more appropriately balance funding and services between state and local governments.
- Provide payment in lieu of exemptions for any new property tax exemptions granted by the Legislature.
- Share the benefits of state-created property tax exemptions by rebating 50% of increased state income tax receipts from such projects.

Working in Partnership with the Association of Oregon Counties.

Multnomah County together with AOC seeks support for the following issues:

- Establish stable funding for **Assessment and Taxation**, which collects the largest source of funding for county government property taxes
- Secure state funding for **District Attorneys and Court Facilities**
- Increase funding for the maintenance and capital needs of the state's **Transportation** system
- Seek resources for **Economic Development** including urban renewal
- Support the Governor's **Juvenile Crime Prevention Strategy**

Additional Multnomah County Issues for 1999 Legislature

Working document intended for discussion only, not for publication or distribution

- **State Funding/Budgets.**
 - Monitor Governor's proposed budget and Senate Republicans budget. Advocate for adequate/secure or at minimum, current service level funding of County programs/services.
- **Preserving and Increasing Revenue.**
 - Support County ability to access Pavement Utility Fees to recover damages to road system.
- **Library Funding.**
 - Monitor READY TO READ grants and other potential resources. Roughly \$130,000 funds to Multnomah County administered by State Library.
- **Tax Supervision and Conservation Commission (TSCC).**
 - Support legislation that maintains roles and responsibilities of TSCC.
- **Public Safety.**
 - Modify parental accountability measures
 - Support transitional housing and services for offenders returning to the community.
 - Support treatment based alternatives for **sexual predators**.
 - Support resources in State Judicial Department for **Drug Court**.
 - Monitor bills and advocate for appropriate treatment of the mentally ill.
 - **Commitment.** Work with the Association of Community Mental Health Programs (AOCMHP) and other to provide easier access to state hospital commitment for seriously mentally ill persons.
 - Work with AOCMHP on increased funding for non-Medicaid clients.
 - Monitor Oregon Youth Authority budget. Critical funding areas: gang related services, prevention measures, at-risk services, and Governor's Juvenile Crime Prevention Strategy.
 - Monitor Department of Corrections budget. Critical funding areas: community correction resources; 1145 / local control and correctional health; OHP eligibility and re-enrollment.
 - Support measures that provide for immediate re-enrollment in the OHP for inmates upon release.
- **Human Resources.**
 - Monitor DHR: Health Division budget. Critical funding areas: public health funding partnerships.
 - Monitor DHR: Mental Health and Developmental Disability Services Division budget. Critical funding areas: non-Medicaid mental health funds, food stamps, general assistance.
 - Monitor DHR: Senior and Disabled Services Division budget. Critical funding areas: general assistance, SSI, Oregon Project Independence, and licensing fees.
 - Monitor DHR: Office of Medical Assistance Program (OMAP) budget. Critical funding areas: Oregon Health Plan.
- **Health.**
 - Follow legislation on home visits.
 - Maintain and preserve tobacco tax revenues.
 - Support extension of ten cents tobacco tax and advocate for permanent status.
 - Oppose preemption clauses. Ensure local control option for smoking related issues.
- **Children and Families.**
 - Support and advocate for increase in administrative funding (current rate 2%).
 - Continued/increased funding for early childhood education, parenting classes in the schools and childcare funding.
 - Funding for Head Start and Healthy Start.
 - Seek operational funding for **Receiving Centers** for child abuse victims.
 - Continue funding of DD Long-Range Plan

Additional Multnomah County Issues for 1999 Legislature – page 2

- **Behavioral Health.** (additional measures under public safety)
 - Preserve OHP mental health integration.
 - Support measures (either legislative measures or administrative rules) that address fragmented alcohol and drug treatment system.
 - Work with AOCMHP on parity issue. Goal is to establish same reimbursement (rates and principles) for mental health that currently exist for physical health.
- **Long Term Care.**
 - Retain Multnomah County's adult care homes role and responsibility.
 - Support increase wages for client employed providers; package should include training and benefits.
- **Affordable Housing.**
 - Continue to allow tax foreclosed property transfer for development of affordable housing.
 - Support additional funding to Housing Trust Fund.
 - Work with Oregon Housing Lobby Coalition and Coalition to Fund Affordable Housing on measures which could address the housing needs of Multnomah County. Measure may include homeless assistance, emergency housing, and food/nutrition.
- **Animal Control.**
 - **Dogs chasing livestock.** Preserve local option on death penalty on a case by case review.
 - **Exotic Pets.** Keep local option to protect community.
 - **Animal Control Officers.** Establish statewide training standards for certification.
 - **Pet Store Licensing.** Retain local option for establishing pet store licensing program
- **Land Use.**
 - **Rural Preservation.** Maintain local ability to be more restrictive than state standards
 - **Retain Land Conservation and Development Commission** and maintain their current level of authority.
 - Monitor Joint Interim Task Force Legislation on **Landslides and Public Safety.**
 - **AOC Public Lands Issues.** AOC has developed a variety of recommendations from their public lands and natural resources committee, which are a part of the priority packet but not a part of the priorities.
- **Energy Deregulation.**
 - Support legislation that increases funding for low-income weatherization.
 - Work with CADO on energy deregulation measures.
 - Preserve property tax revenues received on Utility Intangibles.
- **Other Transportation Measures.**
 - Watch for tolling legislation to ensure County ability to collect tolls on facilities.
 - Make sure that any changes in the weight/mile tax are revenue neutral.
 - Advocate increase in county share of state/county/city split of new revenues.
 - Avoid burdensome reporting requirements for local government to address accountability in use of new funding.
 - Watch for legislation that imposes new accounting processes, procedures, standards on local governments for spending dedicated funds as a result of recent Secretary of State audit.
- **Assessment & Taxation.**
 - Keep the ability to assess and collect back property taxes resulting from correction of dated assessments.
 - Support proposal of House Interim Revenue Committee on property tax administration funding

- **Additional Tax Reform Measures.**

- Amend Local Budget Law to allow budget appropriation of past due accounts and inter-fund transfers and loans.
- Amend Statute to allow Counties to pledge full-faith-in-credit on bonds.
- Support measures that would provide **Individual Development Accounts** for college education.
- Reform that improves the ability to deliver workforce training opportunities.
- Support measures that establish a “rainy day” fund for times of economic decline.
- Support tax reform that provides incentives for environmental protection.

- **Issues within Department of Support Service.**

- Support the **Oregon Comprehensive Emergency Act** to establish a fund to provide match to FEMA funding for natural disasters and mitigation.

Draft: Updated December 7, 1998



MULTNOMAH COUNTY OREGON

Public Affairs Office

A guide to our services



Your **Public Affairs Office**

*A guide
to services
offered
by the
Multnomah
County
Public
Affairs
Office*

Our Goals

The Multnomah County Public Affairs Office (PAO) was created to support the public affairs needs of citizens, County departments, County Commissioners, and the Chair's Office. The Public Affairs Office will help its customers communicate their key messages in a proactive way. Our goals are to:

- **Help create coordinated and consistent communications.**
- **Assist all County entities to build lasting relationships with community organizations and stakeholders.**
- **Coordinate County stakeholders to ensure a strong united legislative agenda.**

Why a Public Affairs Office?

For democracy to work, citizens need to believe that public institutions listen to their concerns and are accountable. The Public Affairs Office helps facilitate effective communication between County entities, citizens and other County partners. Clear consistent communications and meaningful public involvement activities can connect citizens to their government, improve government decision-making, and help restore public faith in good government.

Summary of Services

Services offered by the Public Affairs Office (PAO) include:

Government Relations:

- Developing legislative issues and agenda
- Tracking legislation of interest to the County
- Educating legislators on County issues
- Developing fact sheets on issues
- Liaison with other governments and special interest groups
- Recruiting expert witnesses to testify

Media Relations:

- Assistance with media strategies
- Preparing news releases, advisories, letters to the editor, opinion columns, fact sheets and other media pieces
- Building proactive relationships with the media
- Responding to media inquiries
- Planning news events

Community Involvement:

- Coordination of public involvement processes
- Assistance with siting issues and good neighbor agreements
- Developing public education projects

Public Relations:

- Graphic design and writing services for brochures, reports, advertisements, and other publication needs
- Special event planning
- Scripts for videos and public service announcements
- Graphic support of websites
- Communication planning

ur Services

Media Interviews: Is the news media calling to ask about your program or for a comment on a news event? Public Affairs can provide interview coaching or a media response. Future media trainings will be announced on the intranet (MINT).

Events: Is your department planning a grand opening, introducing a new program or service, or announcing a major grant? Examples could include the Hawthorne Bridge reopening or the public engagement process for the Juvenile Justice Strategic Plan. Public Affairs can help with event planning. You can also request our **Event Planning Checklist** to get started.

Siting Issues: Is your department planning to relocate or build a new facility? Siting new facilities usually requires a public involvement process. Public Affairs can assist with implementing strategies and principles described in the County's **Public Involvement Manual**, including good neighbor agreements. The manual can be obtained by calling the Department of Environmental Services at 248-5384 (Ext. 85384).

You can request assistance from the Public Affairs Office for County projects in the following ways:

Give us a Call:

Contact our office at 736-6800 when you have a public affairs question or need.

Complete a Project Worksheet:

This one-page form briefly describes your project, its goal, audience and budget. A signature is required from a department director or designee. To request a form call 736-6800. The form will be available on the intranet (MINT).

Create a News Release: Need a news release to announce a new program, special event or study results? The Public Affairs Office can create and deliver a news release to appropriate media outlets. The first step is to fill out a **News Release Form**. Our office will gather additional information, write a draft news release for your review and distribute the finished version. PAO prefers at least one week's notice before the proposed release date.

How to contact us

These are just a few of our services.
If you have a public affairs question or request,
please contact our staff:

Gina Mattioda

Director
306-5766

Barbara Disciascio

Staff Assistant
736-6800

Kevin Kitamura

Graphic Designer
736-6803

Susan Lee

Public Affairs Coordinator
736-6045

Althea Millechman

Public Affairs Coordinator
736-6805

Michael Pullen

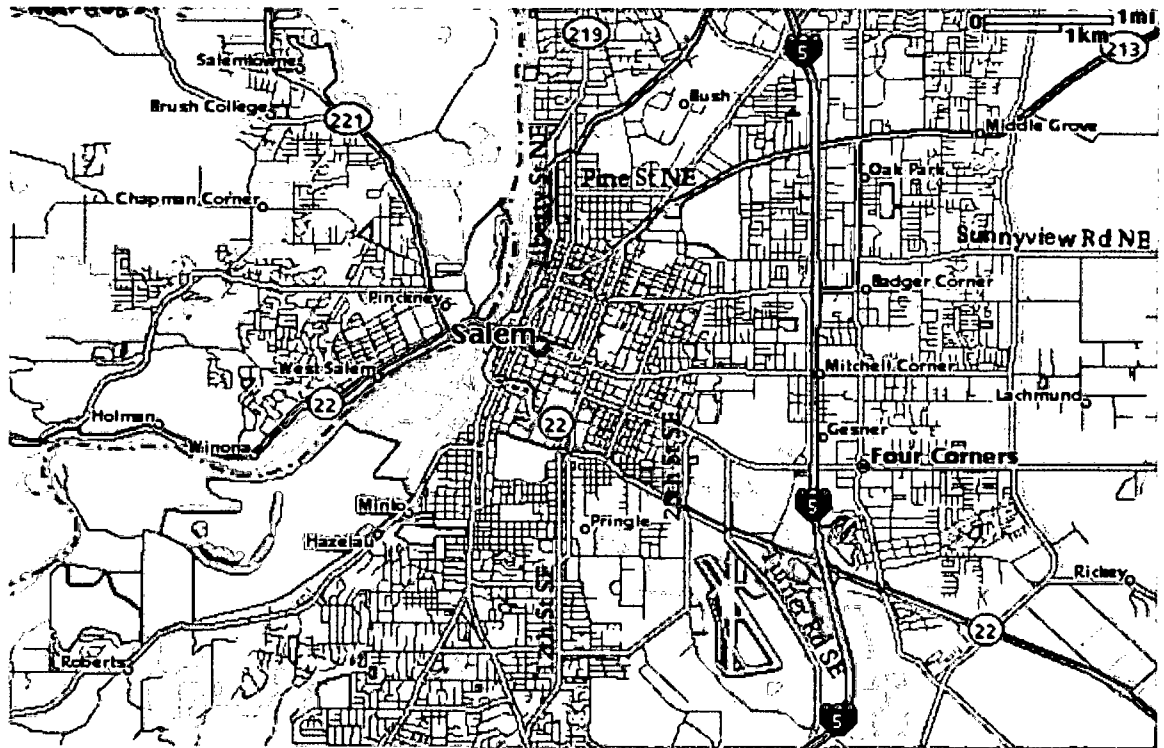
Public Affairs Coordinator
736-6804

Public Affairs Office
421 SW Sixth Ave., Suite 1045
Portland, OR 97204
(Inter-Office Mail: 166/1045)

736-6800 phone
736-6801 fax

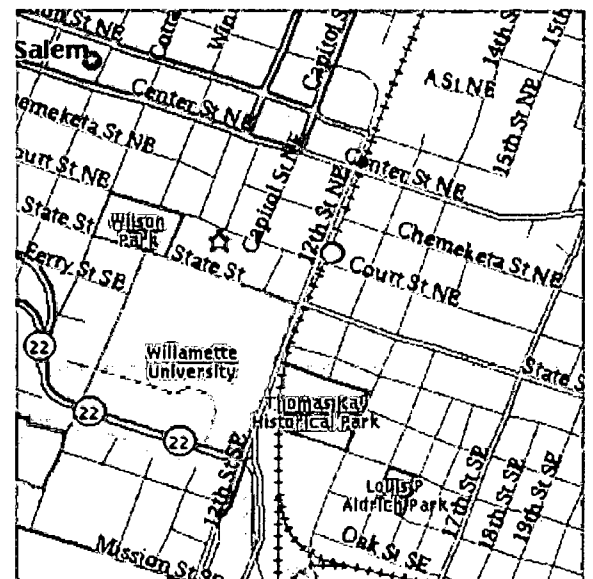


Map of Salem



Direction to the Capital Building

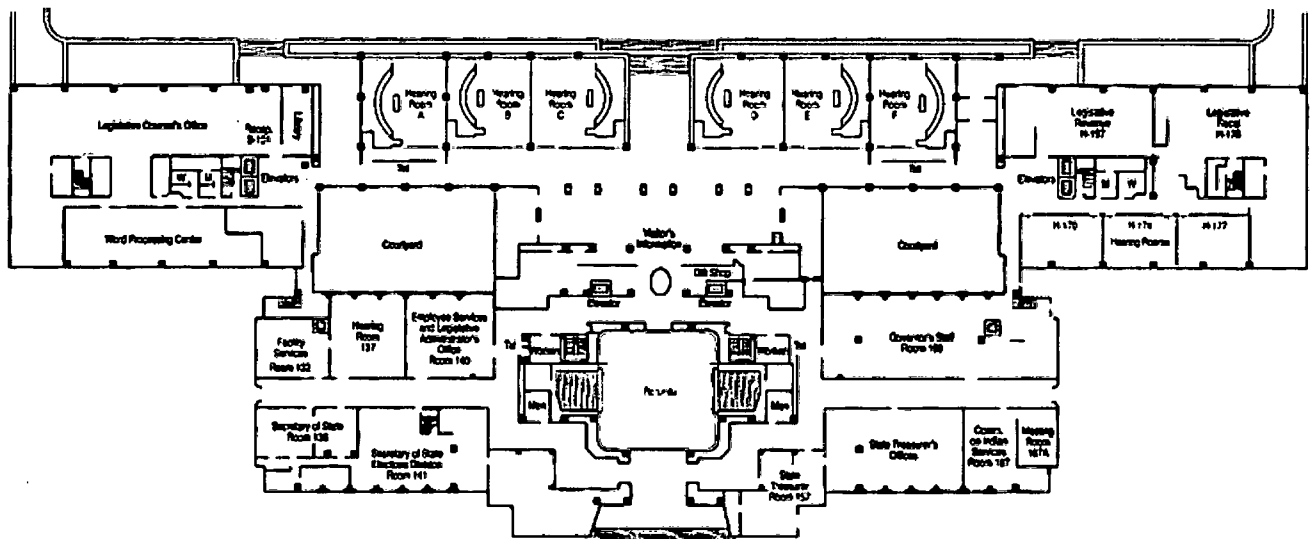
- I-5 South.
- Take the MARKET ST. exit.
- Keep RIGHT at the fork in the ramp.
- Turn RIGHT onto MARKET ST NE.
- Turn LEFT onto 17th ST NE.
- Turn RIGHT onto CENTER ST NE.
- Turn RIGHT onto 13th ST NE.
- Turn LEFT onto MARION ST NE.
- Turn LEFT onto 12th ST NE.
- Turn Right onto COURT ST NE.



☆= Capitol

○= Parking at Association of Oregon Counties
(Local Government Center Building)

Capitol Floor Plans



First Floor Plan



Lobby - meet Public Affairs Office here



Some testifying areas

Name _____

Title _____

Dept./Div. _____

Phone _____

Please list your membership in any professional associations or other affiliates which may have an interest in the 1999 Legislature:

Listed below is the legislative roster for the 1999 session. Please take a moment to rate your personal relationships with each legislator. Feel free to make additional comments that you think may be useful when linking delegates with county representatives. This information will not be distributed outside the Public Affairs Office.

1. I have an excellent relationship
2. I would be comfortable contacting this person to discuss issues.
3. Our relationship has been less than positive in the past.
4. Do not know the person

Name	Dist #	Rating	Comments
Sen. Brady Adams	25		
Sen. Lee Beyer	21		
Sen. Kate Brown	7		
Sen. Neil Bryant	27		
Sen. Ginny Burdick	6		
Sen. Susan Castillo	20		
Sen. Tony Corcoran	22		
Sen. Peter Courtney	17		
Sen. Gene Derfler	16		
Sen. Joan Dukes	1		
Sen. Verne Duncan	12		
Sen. Ted Ferrioli	28		
Sen. Bill Fisher	23		
Sen. Gary George	2		
Sen. Avel Gordly	10		
Sen. Lenn Hannon	26		
Sen. Tom Hartung	3		
Sen. John Lim	11		
Sen. Rick Metsger	14		
Sen. Randy Miller	13		
Sen. David Nelson	29		

Sen. Eileen Qutub	4		
Sen. Marylin Shannon	15		
Sen. Charles Starr	5		
Sen. Veral Tarno	24		
Sen. Gene Timms	30		
Sen. Cliff Trow	18		
Sen. Thomas Wilde	8		
Sen. Mae Yih	19		
Rep. Jason Atkinson	51		
Rep. Vic Backlund	33		
Rep. Chris Beck	12		
Rep. Roger Beyer	28		
Rep. Jo Ann Bowman	19		
Rep. R. Tom Butler	60		
Rep. Betsy L. Close	36		
Rep. Ryan Deckert	8		
Rep. Richard Devlin	24		
Rep. Randall Edwards	15		
Rep. Dan Gardner	13		
Rep. Juley Gianella	38		
Rep. Gary D. Hansen	17		
Rep. Steve Harper	53		
Rep. Jim Hill	5		
Rep. Elaine Hopson	2		
Rep. Bob Jenson	57		
Rep. Deborah Kafoury	18		
Rep. Al King	44		
Rep. Tim Knopp	54		
Rep. Jeff Kropf	37		
Rep. Jerry Krummel	27		
Rep. Jeff Kruse	45		
Rep. Mike Leman	47		
Rep. Randy Leonard	21		
Rep. Leslie Lewis	29		
Rep. Jane Lokan	25		
Rep. Kathy Lowe	26		
Rep. Lynn Lundquist	59		
Rep. Kevin L. Mannix	32		
Rep. Jeff Merkley	16		
Rep. Ken Messerle	48		
Rep. Karen Minnis	20		
Rep. Bob Montgomery	56		
Rep. Susan Morgan	46		
Rep. William Morrisette	42		
Rep. Rob Patridge	50		

Rep. Kitty Piercy	39		
Rep. Floyd Prozanski	40		
Rep. Anitra Rasmussen	11		
Rep. Diane Rosenbaum	14		
Rep. Barbara Ross	35		
Rep. Kurt Schrader	23		
Rep. Lane Shetterly	34		
Rep. Mark Simmons	58		
Rep. Lynn Snodgrass	10		
Rep. Bruce Starr	3		
Rep. Ken Strobeck	6		
Rep. Ron Sunseri	22		
Rep. Jackie Taylor	1		
Rep. Terry Thompson	4		
Rep. Judy Uherbelau	52		
Rep. Vicki L. Walker	41		
Rep. Larry Wells	30		
Rep. Jim Welsh	43		
Rep. Ben Westlund	55		
Rep. Max Williams	9		
Rep. Carl Wilson	49		
Rep. Jackie Winters	31		
Rep. Bill Witt	7		

Please return to Barb Disciascio

Public Affairs Office

736-6800

Inner-office address: 166/1045



1999 Legislative Session Training Workshop

Presented by
**Multnomah County
Public Affairs Office**

Friday, December 11, 1998
10:00 a.m. - noon

Board Hearing Room, Courthouse, 6th Floor

Agenda

Agenda

1. Introduction and Purpose of Training - Gina Mattioda
2. Multnomah County's Roles in the Legislative Process - Susan Lee
3. How to Locate and Review a Bill Online - Barb Disciascio
4. Makeup of the 1999 Legislature - Gina Mattioda
5. How to Provide Expert Testimony - Gina Mattioda
6. Wrap up and Evaluation - Susan Lee

Checklist for Working with the Legislature

General:

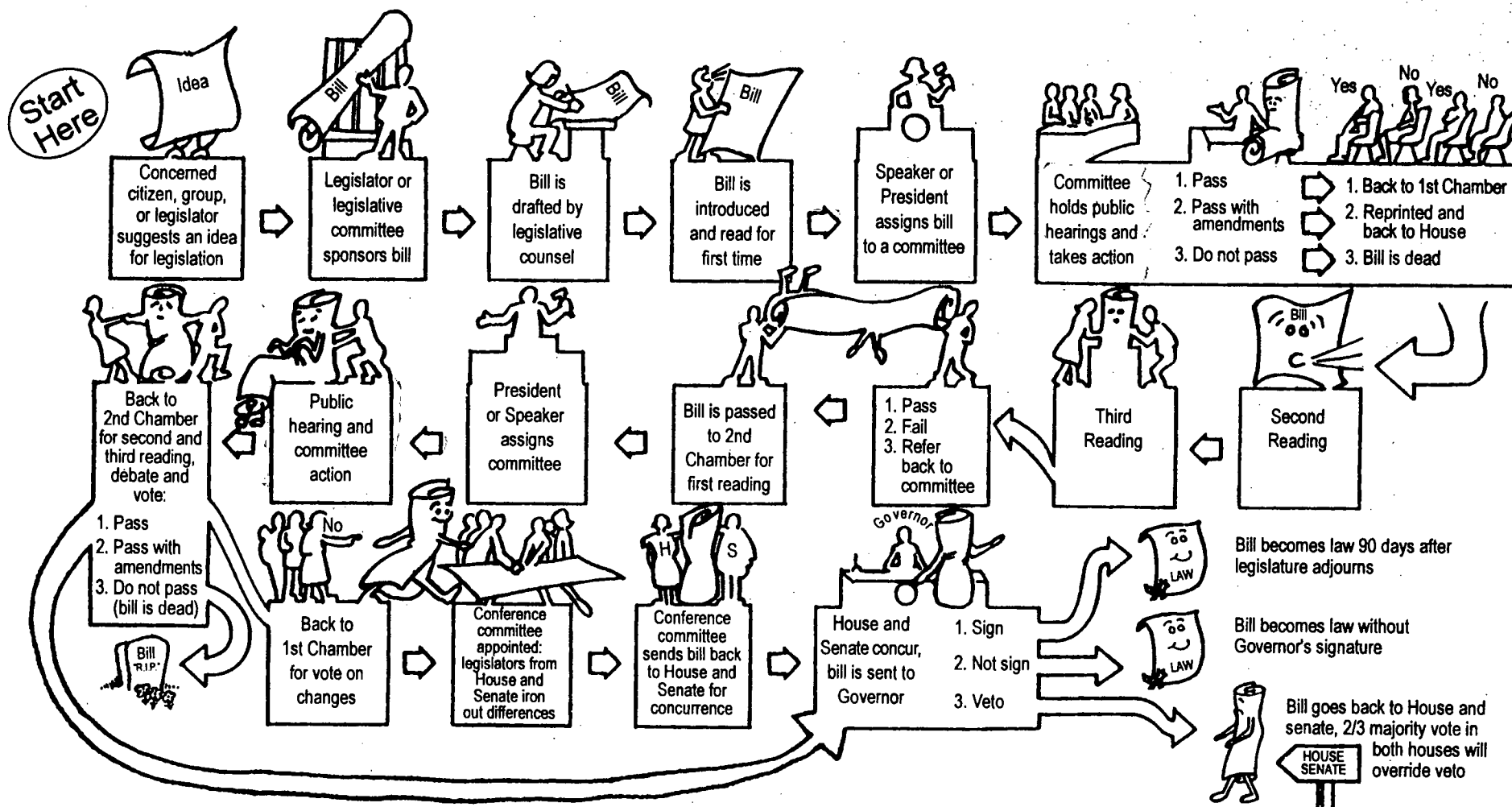
- ☐ Share information about pending legislation with the Public Affairs Office so that they may include it in their tracking
- ☐ Respond quickly to request to review legislation
<http://www.leg.state.or.us/>
- ☐ Share information about professional association legislative activity with Public Affairs Office staff

Testifying:

- ☐ Notify Public Affairs Office you will be testifying
- ☐ Confirm committee hearing time and location
- ☐ Obtain parking permit from Public Affairs Office, or bring quarters to pay for parking in Salem
- ☐ Use map to locate Capitol, parking facilities, and hearing rooms
- ☐ Drive safely
- ☐ Give yourself extra travel time for unexpected delays on I-5
- ☐ Prepare written testimony and make 15 copies
- ☐ Practice oral testimony, including a one to three-minute version
- ☐ Review **Suggested Guidelines for Working with the Legislature**
- ☐ Follow committee protocol
- ☐ Follow up on any committee requests
- ☐ Relax and Enjoy

How An Idea Becomes LAW

A Simple View of the Oregon Legislative Process



THE OREGON LEGISLATIVE ASSEMBLY

The Oregon Legislative Assembly is state government's "board of directors." It is responsible for making laws dealing with Oregon's well-being, adopting the state's budget, and for setting public policy. The Legislative Assembly is made up of two bodies: the Senate and the House of Representatives. The Senate consists of 30 members elected for four-year terms. The House consists of 60 representatives elected for two-year terms. Each member of the legislature represents a district (an area determined by population). Every Oregonian is represented by one state senator and one state representative. Over 2,500 bills are considered each session. Relying largely upon work done in committees, the legislature enacts about one-third of the bills into Law. The Legislature convenes on the second Monday in January of every odd numbered year for approximately six months.

1999 Oregon State Legislature

Bold indicates local legislator (All or part of district is within Multnomah County.)

<http://www.leg.state.or.us/>

Title	Name	Dist #	Party	Interim Address	Interim Phone
Senator	Brady Adams	25	R	S-203 State Capitol Salem, OR 97310	541-986-1600
Senator-elect	Lee Beyer	21	D	1439 Lawnridge Avenue Springfield, OR 97477	541-726-2533
Senator	Kate Brown	7	D	PO Box 82699 Portland, OR 97282	503-777-6274
Senator	Neil Bryant	27	R	PO Box 1151 Bend, OR 97709	541-382-4331
Senator	Ginny Burdick	6	D	4641 SW Dosch Rd. Portland, OR 97201	503-244-1444
Senator	Susan Castillo	20	D	PO Box 5309 Eugene, OR 97405	541-343-1581
Senator-elect	Tony Corcoran	22	D	34475 Kizer Creek Road Cottage Grove, OR 97424	541-942-1213
Senator-elect	Peter Courtney	17	D	2925 Island View Drive N Salem, OR 97303	603-585-7449
Senator	Gene Derfler	16	R	S-223 State Capitol Salem, OR 97310	503-986-1950
Senator	Joan Dukes	1	D	Route 2, Box 503 Astoria, OR 97103	503-458-6746
Senator	Verne Duncan	12	R	16911 SE River Road Milwaukie, OR 97267	503-652-2126
Senator	Ted Ferrioli	28	R	750 W Main John Day, OR 97470	541-672-1908
Senator	Bill Fisher	23	R	268 Akin Lane Roseburg, OR 97470	541-672-1908

Senator	Gary George	2	R	15195 NE Ribbon Ridge Road Newberg, OR 97132	503-538-4122
Senator	Avel Gordly	10	D	2009-B NE 16 th Avenue Portland, OR 97212	503-288-0837
Senator	Lenn Hannon	26	R	240 Scenic Drive Ashland, OR 97520	541-482-5210
Senator	Tom Hartung	3	R	13975 NW Burton Street Portland, OR 97229	503-629-8985
Senator	John Lim	11	R	3630 SE Division Street Portland, OR 97202	503-239-5200
Senator-elect	Rick Metsger	14	D	PO Box 287 Welches, OR 97067-0287	503-522-0127
Senator	Randy Miller	13	R	PO Box 1795 Lake Oswego, OR 97035	503-638-2622
Senator	David Nelson	29	R	1407 NW Horn Pendleton, OR 97801	541-278-2332
Senator	Eileen Qutub	4	R	11135 SW Partridge Loop Beaverton, OR 97007	503-579-3165
Senator	Marylin Shannon	15	R	7955 Portland Road NE Brooks, OR 97305	503-463-8012
Senator-elect	Charles Starr	5	R	8330 SW River Road Hillsboro, OR 97123	503-642-2024
Senator	Veral Tarno	24	R	310 E. First Street Coquille, OR 97423	541-396-6965
Senator	Gene Timms	30	R	1049 N. Court Burns, OR 97720	541-573-2744
Senator	Cliff Trow	18	D	S-323 State Capitol Salem, OR 97310	503-986-1700
Senator	Thomas Wilde	8	D	3826 N Longview Avenue Portland, OR 97227	503-284-9954
Senator	Mae Yih	19	D	34465 Yih Lane NE Albany, OR 97321	541-327-2666

Representative-elect	Jason Atkinson	51	R	PO Box 1931 Jacksonville, OR 97530	541-899-5918
Representative-elect	Vic Backlund	33	R	1339 Mistwood Drive NE Keizer, OR 97303	503-393-5927
Representative	Chris Beck	12	D	1207 SW Sixth Avenue Portland, OR 97204	503-279-6240
Representative	Roger Beyer	28	R	39486 S. Cooper Road Molalla, OR 97038	503-829-6910
Representative	Jo Ann Bowman	19	D	3145 NE 15th Ave. Portland, OR 97212	503-281-1256
Representative-elect	R. Tom Butler	60	R	PO Box E Ontario, OR 97914-0106	541-889-7654
Representative-elect	Betsy L. Close	36	R	5220 NW Winn Drive Albany, OR 97321	541-926-5418
Representative	Ryan Deckert	8	D	PO Box 2247 Beaverton, OR 97075	503-626-1609
Representative	Richard Devlin	24	D	10290 SW Anderson Court Tualatin, OR 97062	503-691-2026
Representative	Randall Edwards	15	D	6666 SE Yamhill Street Portland, OR 97215	503-257-6592
Representative	Dan Gardner	13	D	PO Box 82342 Portland, OR 97282-0342	503-238-6533
Representative-elect	Juley Gianella	38	R	20342 Olmstead Road NE Aurora, OR 97002	503-678-5845
Representative-elect	Gary D. Hansen	17	D	6971 N Vincent Portland, OR 97217	503-289-3995
Representative	Steve Harper	53	R	7121 Sierra Place Klamath Falls, OR 97603	541-850-9587
Representative	Jim Hill	5	R	191 NE 33 rd Court Hillsboro, OR 97124	503-693-8915
Representative-elect	Elaine M. Hopson	2	D	PO Box 656 Tillamook, OR 97141	503-842-5656

Representative	Bob Jenson	57	I	2126 NW 21 st Street Pendleton, OR 97801	541-276-5821
Representative-elect	Deborah Kafoury	18	D	4550 NE 23rd Portland, OR 97211	503-281-3960
Representative-elect	Al King	44	D	36890 Edgehill Road Springfield, OR 97478	541-685-2015
Representative-elect	Tim Knopp	54	R	PO Box 6145 Bend, OR 97708	541-389-7008
Representative-elect	Jeff Kropf	37	R	PO Box 430 Halsey, OR 97348	541-369-3555
Representative-elect	Jerry Krummel	27	R	30945 SW Boones Ferry Wilsonville, OR 97070	503-570-8723
Representative	Jeff Kruse	45	R	174 Burkart Rapids Lane Roseburg, OR 97470	541-673-7201
Representative	Mike Lehman	47	D	PO Box 1476 Coos Bay, OR 97420	541-269-5950
Representative-elect	Randy Leonard	21	D	4530 SE 67th Avenue Portland, OR 97206	503-760-9688
Representative	Leslie Lewis	29	R	PO Box 418 Newberg, OR 97132	503-537-0879
Representative	Jane Lokan	25	R	5317 SE El Centro Way Milwaukie, OR 97267	503-654-9691
Representative-elect	Kathy Lowe	26	D	PO Box 68256 Milwaukie, OR 97268	503-653-9681
Representative	Lynn Lundquist	59	R	PO Box 8 Powell Butte, OR 97753	503-986-1200
Representative-elect	Kevin L. Mannix	32	R	2003 State Street Salem, OR 97301	503-364-1913
Representative-elect	Jeff Merkley	16	D	1351 SE 114th Ave. Portland, OR 97216-3533	503-261-7826
Representative	Ken Messerle	48	R	1740 Coos City-Sumner Coos Bay, OR 97420	541-269-2510

Representative-elect	Karen Minnis	20	R	23765 NE Holladay Wood village, OR 97060	603-666-7186
Representative	Bob Montgomery	56	R	PO Box 65 Cascade Locks, OR 97014	541-374-8690
Representative-elect	Susan Morgan	46	R	PO Box 2223 Myrtle Creek, OR 97457	541-863-6212
Representative-elect	William Morrisette	42	D	348 G Street Springfield, OR 97477	541-746-1378
Representative-elect	Rob Patridge	50	R	105 S. Grape Street, Suite 405 Medford, OR 975501	541-779-8807
Representative	Kitty Piercy	39	D	1371 West 4th Avenue Eugene, OR 97402	503-986-1900
Representative	Floyd Prozanski	40	D	PO Box 11511 Eugene, OR 97440	541-342-2447
Representative	Anitra Rasmussen	11	D	3844 SW Jerald Way Portland, OR 97221	503-721-0399
Representative-elect	Diane Rosenbaum	14	D	2327 SE 41st Avenue Portland, OR 97214	503-238-6298
Representative	Barbara Ross	35	D	4175 NE Morning Street Corvallis, OR 97330	541-752-3605
Representative	Kurt Schrader	23	D	2525 N Baker Drive Canby, OR 97013	503-266-2432
Representative	Lane Shetterly	34	R	PO Box 1025 Dallas, OR 97338	503-623-0324
Representative	Mark Simmons	58	R	PO Box 572 Elgin, OR 97827	541-437-9060
Speaker-elect	Lynn Snodgrass	10	R	12995 SE Hacienda Drive Boring, OR 97009	503-658-4223
Representative-elect	Bruce Starr	3	R	PO Box 5875 Aloha, OR 97006	503-640-3780
Representative	Ken Strobeck	6	R	PO Box 6690 Beaverton, OR 97007	503-617-1521 vm

Representative	Ron Sunseri	22	R	4100 SE 26th Place Gresham, OR 97080	503-663-3800
Representative	Jackie Taylor	1	D	1324 Miller Lane Astoria, OR 97103	503-325-1267
Representative	Terry Thompson	4	D	215 E Olive Street, Suite 2 Newport, OR 97365	541-265-6810
Representative	Judy Uherbelau	52	D	PO Box 3189 Ashland, OR 97520	541-488-5008
Representative-elect	Vicki L. Walker	41	D	1425 Ranchwood Drive Eugene, OR 97401	541-344-4545
Representative	Larry Wells	30	R	2080 Jefferson-Scio Drive SE Jefferson, OR 97352-9424	541-327-2469
Representative	Jim Welsh	43	R	PO Box 580 Elmira, OR 97437-0580	541-935-6503
Representative	Ben Westlund	55	R	20590 Arrowhead Drive Bend, OR 97701	541-383-4444
Representative-elect	Max Williams	9	R	12103 SW 135 th Avenue Tigard, OR 97223	503-524-4275
Representative	Carl Wilson	49	R	560 NE F Street, suite A-502 Grants Pass, OR 97526	541-472-8960
Representative-elect	Jackie Winters	31	R	PO Box 126 Salem, OR 97302	
Representative-elect	Bill Witt	7	R	13197 NW Helen Lane Portland, OR 97229	503-681-8557 ext. 121



BRADY ADAMS

President of the Senate

FOR IMMEDIATE RELEASE
November 9, 1998

Contact: Annette Price
Telephone: 503-986-1600

Statement by Senate President Brady Adams

"The Legislature faces many important issues. In order for us to be prepared to address these issues, I am announcing the chairmen of the Senate Committees for next session. They are as follows:

Agriculture and Natural Resources.....	Gary George
Business and Consumer Affairs.....	Dave Nelson
Education.....	Tom Hartung
General Government.....	Verne Duncan
Health and Human Services.....	Bill Fisher
Information, Management and Technology.....	Verne Duncan
Judiciary.....	Neil Bryant
Revenue.....	Randy Miller
Rules and Elections.....	Charles Starr
Transportation.....	Marilyn Shannon
Trade and Economic Development.....	John Lim
Water and Land Use.....	Veral Tarno
Ways and Means Co-Chairman.....	Gene Timms
• Subcommittee on Human Resources.....	Eileen Qutub
• Subcommittee on Transportation/Economic Development.....	Lenn Hannon
• Subcommittee on Natural Resources.....	Ted Ferrioli

"I look forward to working with the Governor and all my colleagues in both the Senate and the House."

- end -



1999 Legislative Session Training Workshop

Presented by
Multnomah County
Public Affairs Office

Testifying before a Legislative Committee

There are times when staff will be expected to perform non-lobbying functions during the session. The Public Affairs Office will assist you with these activities. You may be called to provide factual, expert testimony before a legislative committee. The legislative committee process is designed to give legislators an opportunity to examine a specific legislative measure. Committees may hear from many people who support or oppose the measure. Your presentation may influence committee action. It also becomes part of the permanent record and may be used in future research. Your presentation should articulate either the benefits, concerns or the impact of the legislation on Multnomah County.

If a professional association requests your testimony, please contact the Public Affairs Office to make sure your professional association's position is not counter to Multnomah County's Legislative Agenda or the Board of County Commissioners' position. Notifying the Public Affairs Office will also alert the staff to track the legislation and coordinate efforts in Salem.

Know Your Audience

Listed below are suggestions to help make your presentation successful.

The members of the committee are "citizen legislators." When presenting, remember the following:

- Be respectful, clear and honest in all communications
 - Present all information fairly and completely
 - Respond to inquiries without delay
 - Do not accuse committee members of causing your particular problem
 - Do not scold, put down, or insult the decision-makers or other witnesses.
- This tactic will likely alienate them from your cause

Know the Issue

Support your presentation with as many facts as possible. Be knowledgeable of the "other side of the story." You may be asked to discuss the differences.

Draw from your own knowledge and experience.

- Be familiar with the committee process – the Public Affairs Office can assist you with this process
- Know the location of the committee hearing and the time of the hearing. Parking is available at a number of locations in Salem. Contact the Public Affairs Office for directions and further information about logistics
- Agendas will be posted outside the meeting room. Check to make sure the measure you are interested in has not been removed from the agenda. The measures may not be heard in the printed order
- When you arrive at the meeting, sign the witness registration sheet. Witnesses are not necessarily called in chronological order

Presenting Your Written Testimony

There is established protocol for presenting testimony:

The Public Affairs Office can assist you in developing your written testimony

- When you are called to testify, give copies to committee staff before you begin your presentation.
 - The number of copies requested is printed on the bottom of the committee meeting agenda - typically 15 copies
 - Keep written testimony to one to two pages with standard font (12 point) and margins (at least 1" on all sides)
 - Use bullet points and bold fonts to highlight key messages
 - Keep in mind you may have a ten-minute version of your testimony—be prepared to summarize it in one to three minutes as that may be all the time you are allowed
 - Supply the Public Affairs Office a copy of all written testimony
- Begin your presentation by addressing the chairperson first, then members of the committee.
 - **"Chair___, members of the committee, ..."**
 - State your name, work address, contact # and the County entity or professional group you represent in case the committee needs to contact you
 - Briefly explain what the measure would do. State the impact on clients, fiscal implications, and other impacts of this legislative measure. Do not read your testimony to the committee word for word. Prepare an outline
 - The following example articulates the measure's negative impact
 - Example: Impact Statement**
 - Header/Title:** Impact of Oregon Youth Authority Budget in Multnomah County
 - Text:** The proposed Oregon Youth Authority budget provides cuts to the system of services that jeopardizes public safety within local communities.
 - ITEM:** Reduce Youth Gang Services by \$237,606.00
 - Services are provided to over 500 gang-involved youth annually on probation and parole caseloads
 - 80% of caseloads hold felony and misdemeanor person-to-person offenders
 - Services would be reduced to over 150 gang-involved youth served in community-based residential programs such as the Portland House of Umoja, and drug and alcohol programs such as DePaul Treatment Center
- The following articulates the measure's positive impact
 - Example: Statement of Need:**
 - Header/Title:** Preserving Safety Net Services
 - Text:** With recent passage of property tax reduction measures, safety net providers are in danger. In Multnomah County two health clinics in Gresham and North Portland are scheduled to close in September unless a funding strategy is achieved.

- The following populations are among those served by safety net providers:
 - State types of clients
 - State number of clients

An allocation of \$5 to \$7 million to continue these safety net services is critical. Without this funding strategy clients may lack the medical care they need, remain without treatment and find themselves receiving care in expensive emergency rooms.

- Thank the committee members and offer to answer any questions.
"Thank you for the opportunity to testify before you today. I would be happy to answer any questions."
- Responding to questions
 - Do not speak unless recognized by the Committee Chair
 - Respond to questions through the Committee Chair
"Chair____, Senator/Representative (state name), the answer to your question is..."
 - Answer questions briefly, simply using yes or no when practical
 - Learn to recognize rhetorical questions and do not try to answer them
 - If you are unsure of the answer, do not guess. State you will be pleased to get the answer to him or her promptly. This gives you a future opportunity to interface with the committee or the individual legislator

Group Testimony

Select several people to cover different topics so the testimony is not repetitive. Address the problem, possible solutions, and your group's best solution.

Suggested Guidelines for Success During the 1999 Legislative Session

- Do not be in the Capitol except when you need to be there
- Avoid discussing sensitive positions or County positions on a legislative issue in public settings
- Be flexible and patient
- Always acknowledge legislators by their formal title
- Remember you are representing Multnomah County
- Never interrupt a legislator's conversation
- Report to the Public Affairs Office any conflicts or unusual events involving legislators or their staff
- Do not enter the Senate or House member lounges
- Always abide by the Senate and House rules
- Do not communicate by signal, note or any method from the balcony of a legislative chamber
- Do not use main floor side aisles of either legislative chamber if the main doors are closed
- Stay out of the halls behind the chambers during sessions, unless a member asks you to be there
- Report any request to meet, testify, or provide material to a legislator to the Public Affairs Office
- Turn pagers and cell phones off when in hearing rooms



PAO Legislative Training Evaluation

Public Affairs Office

MULTNOMAH COUNTY OREGON

421 SW Sixth Avenue, Suite 1045
Portland, Oregon 97204
Inter-office mail 166/1045
736-6800
736-6801 fax

We would appreciate it very much if you would take a minute to fill out this form and give us your opinion of the PAO Legislative Training. Please return completed survey to Gina Mattioda, Public Affairs Office, building code 166/1045.

(please fill out information below)

Please circle the number which best describes your experience.

	Very Satisfied	Somewhat Satisfied	Neutral	Somewhat Dissatisfied	Very Dissatisfied
Organization flow of the training	1	2	3	4	5
How do you rate the handouts provided?	1	2	3	4	5
How do you rate the subject matter?	1	2	3	4	5
Please indicate your overall rating of the training	1	2	3	4	5

Please rate each section:

-County Roles	1	2	3	4	5
-How an Idea Becomes a Law	1	2	3	4	5
-Locating & Reviewing a Bill	1	2	3	4	5
-1999 Legislative Makeup	1	2	3	4	5
-Expert Testimony	1	2	3	4	5

What did you like best about the training?

What would you change about the training?

Your Name (optional):

Summary of Services

Services offered by the Public Affairs Office (PAO) include:

Government Relations:

- Developing legislative issues and agenda
- Tracking legislation of interest to the County
- Educating legislators on County issues
- Developing fact sheets on issues
- Liaison with other governments and special interest groups
- Recruiting expert witnesses to testify

Media Relations:

- Assistance with media strategies
- Preparing news releases, advisories, letters to the editor, opinion columns, fact sheets and other media pieces
- Building proactive relationships with the media
- Responding to media inquiries
- Planning news events

Community Involvement:

- Coordination of public involvement processes
- Assistance with siting issues and good neighbor agreements
- Developing public education projects

Public Relations:

- Graphic design and writing services for brochures, reports, advertisements, and other publication needs
- Special event planning
- Scripts for videos and public service announcements
- Graphic support of websites
- Communication planning

How to contact us

These are just a few of our services.
If you have a public affairs question or request,
please contact our staff:

Gina Mattioda

Director

306-5766

Barbara Disciascio

Staff Assistant

736-6800

Kevin Kitamura

Graphic Designer

736-6803

Susan Lee

Public Affairs Coordinator

736-6045

Althea Milechman

Public Affairs Coordinator

736-6805

Michael Pullen

Public Affairs Coordinator

736-6804

Public Affairs Office
421 SW Sixth Ave., Suite 1045
Portland, OR 97204
(Inter-Office Mail: 166/1045)

736-6800 phone
736-6801 fax



Your **Public** **Affairs** **Office**

*A guide
to services
offered
by the
Multnomah
County
Public
Affairs
Office*

Our Goals

The Multnomah County Public Affairs Office (PAO) was created to support the public affairs needs of citizens, County departments, County Commissioners, and the Chair's Office. The Public Affairs Office will help its customers communicate their key messages in a proactive way. Our goals are to:

- **Help create coordinated and consistent communications.**
- **Assist all County entities to build lasting relationships with community organizations and stakeholders.**
- **Coordinate County stakeholders to ensure a strong united legislative agenda.**

Why a Public Affairs Office?

For democracy to work, citizens need to believe that public institutions listen to their concerns and are accountable. The Public Affairs Office helps facilitate effective communication between County entities, citizens and other County partners. Clear consistent communications and meaningful public involvement activities can connect citizens to their government, improve government decision-making, and help restore public faith in good government.

How to Use Our Services

You can request assistance from the Public Affairs Office for County projects in the following ways:

Give us a Call:

Contact our office at 736-6800 when you have a public affairs question or need.

Complete a Project Worksheet:

This one-page form briefly describes your project, its goal, audience and budget. A signature is required from a department director or designee. To request a form call 736-6800. The form will be available on the intranet (MINT).

Create a News Release: Need a news release to announce a new program, special event or study results? The Public Affairs Office can create and deliver a news release to appropriate media outlets. The first step is to fill out a **News Release Form**. Our office will gather additional information, write a draft news release for your review and distribute the finished version. PAO prefers at least one week's notice before the proposed release date.

Media Interviews: Is the news media calling to ask about your program or for a comment on a news event? Public Affairs can provide interview coaching or a media response. Future media trainings will be announced on the intranet (MINT).

Events: Is your department planning a grand opening, introducing a new program or service, or announcing a major grant? Examples could include the Hawthorne Bridge reopening or the public engagement process for the Juvenile Justice Strategic Plan. Public Affairs can help with event planning. You can also request our **Event Planning Checklist** to get started.

Siting Issues: Is your department planning to relocate or build a new facility? Siting new facilities usually requires a public involvement process. Public Affairs can assist with implementing strategies and principles described in the County's **Public Involvement Manual**, including good neighbor agreements. The manual can be obtained by calling the Department of Environmental Services at 248-5384 (Ext. 85384).



The Public Affairs Office Staff

Public Affairs Office
MULTNOMAH COUNTY OREGON

421 SW Sixth Avenue, Suite 1045
Portland, Oregon 97204
Inter-office mail 166/1045
736-6800
736-6801 fax

To serve the Public Affairs needs of Multnomah County, the following team has been assembled. Please feel free to call upon our staff to assist you in meeting your public affairs needs and share this information with your team. The Public Affairs Office can be reached by phone (503) 736-6800, or by fax (503) 736-6801. Our inter-office mail address is 166/1045.

Gina Mattioda, Director

306-5766

Gina has worked for Multnomah County since 1994 as the Public Affairs Coordinator for the Departments of Aging and Disability Services, Community and Family Services, Community Justice, and Health. She comes to this position with over 11 years of Oregon legislative experience including two years of work with former House Speaker Vera Katz and as a lobbyist for the Oregon Medical Association. Gina holds a Bachelor of Arts in Political Science and Journalism from Pacific University.

Barbara Disciascio, Public Affairs Assistant

736-6800

Barb comes to the Public Affairs Office after successfully establishing the Multnomah County Public Safety Coordinating Council office in 1996. Prior to working for the County, Barb was with Portland Public Schools for over 13 years. Barb will maintain media and constituent databases and track legislative issues of interest to the County.

Kevin Kitamura, Graphic Designer

736-6803

Kevin has six years of graphic and web design experience in both the private and public sectors. His public sector experience was gained at Oregon Health Sciences University and the Portland Development Commission where he developed design projects from concept to press. He will use his creative energies to develop communications tools such as brochures, reports, newsletters, fact sheets, and electronic media with all County stakeholders. Kevin holds a Bachelor of Fine Arts Degree from Pacific Northwest College of Art.

Susan Lee, Public Affairs Coordinator

736-6045

Susan came to Multnomah County in 1995 performing program implementation, public affairs functions, and identifying funding sources for the Transportation and Land Use Planning Division. She spent the previous five years working with the Metro Council coordinating public involvement opportunities and assisting in policy development. Susan holds a BA in Human Resource Management from George Fox College, a Master of Public Administration with an emphasis in Labor Relations from Portland State University, and is currently pursuing a Ph.D. in Public Administration and Policy at PSU, where she is also an adjunct faculty member.

Althea Milechman, Public Affairs Coordinator

736-6805

Since 1991, Althea has served Multnomah County as the Media Outreach Coordinator for Oregon SafeNet, a program of the County's Health Department. While there she developed proactive public education and information strategies and mass media campaigns. She has over 15 years experience in Public Relations, Marketing and Advertising. Althea has worked as a retail advertising executive and has completed coursework in fundraising and marketing for non-profits. She holds a Bachelor of Arts in Writing from the University of Pittsburgh.

Michael Pullen, Public Affairs Coordinator

736-6804

Mike comes to the County from the Urban League of Portland where he was Director of Marketing for seven years. While there he substantially increased the organization's fund raising and communications capacities. He has written for a number of publications and has worked on policy issues related to the environment and land use. He is also an experienced event organizer. Mike holds a Bachelor of Arts in History from the University of California at Santa Barbara.



Project Worksheet

Public Affairs Office

MULTNOMAH COUNTY OREGON

421 SW Sixth Avenue, Suite 1045
Portland, Oregon 97204
Inter-office mail 166/1045
736-6800
736-6801 fax

Office Use Only

Job: _____
Date submitted: _____
Date needed: _____

Request (please fill in as much information as you can.)

Submitted by:

Name	Title	Department
Phone	email	

Brief Description of Project

Project:

Objectives / Goals of Project:

Target Audience(s):

Event Date or Project Deadline:

Budget:

Project Contacts, Work Team:

Name	Dept.	Title	Phone	email
------	-------	-------	-------	-------

Tools Needed (Note: Public Affairs Office can assist you with this section)

- | | | |
|---------------------------------------|--|---|
| <input type="checkbox"/> Flyer | <input type="checkbox"/> Media Advisory | <input type="checkbox"/> Display Ads / other adv. |
| <input type="checkbox"/> Brochure | <input type="checkbox"/> PSA (radio or TV) | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Fact Sheet | <input type="checkbox"/> Event Worksheet | _____ |
| <input type="checkbox"/> News Release | <input type="checkbox"/> Reports | _____ |

Signatures required *prior* to start of project:

Department director or designee: _____

Public Affairs director: _____

date

date



News Release Worksheet

Public Affairs Office

MULTNOMAH COUNTY OREGON

421 SW Sixth Avenue, Suite 1045
Portland, Oregon 97204
Inter-office mail 166/1045
736-6800
736-6801 fax

Office Use Only

Job: _____

Date submitted: _____

Date needed: _____

Request *(please fill in as much information as you can.)*

Submitted by:

Name

Title

Department

Phone

email

Topic Summary

Main Point:

Who: Full and correct name of the organization

What: Meeting, special event, story idea, new program, service or policy

When: Date and hour

Where: Name of place and address

Why: Purpose of activity

Interviewees: (include "experts" and clients and how to reach them)

How does this affect the community (negatively or positively)?

How is this issue timely, unusual? (News angle)

Potential for controversy? Opposing views?

Memorable quotes:

Release date:

Media Outlets: (Radio, TV and print? Specific media?)

Attach background materials, fact sheets, chronological history, copies of other articles on the subject.

Project Contacts, Work Team:

Name

Dept.

Title

Phone

email

Signatures required *prior* to start of project:

Department director or designee: _____

date

Public Affairs director: _____

date



Event Check List

Public Affairs Office

MULTNOMAH COUNTY OREGON

421 SW Sixth Avenue, Suite 1045
Portland, Oregon 97204
Inter-office mail 166/1045
736-6800
736-6801 fax

Fundamental Tasks (your first steps)

- ☐ Establish goal of event
- ☐ Identify key audiences to notify or involve
- ☐ Recruit event committee
- ☐ Assign tasks, set timelines

Financial Tasks (early and ongoing steps)

- ☐ Establish event budget
- ☐ Monitor expenses and negotiate contracts
- ☐ Solicit sponsorships if appropriate

Program Planning (one to two months before event*)

- ☐ Identify and recruit keynote speaker
- ☐ Identify and recruit other speakers. (Also confirm prior to event.)
- ☐ Arrange entertainment, if needed
- ☐ Set program agenda, with speaker times
- ☐ Create printed program
- ☐ Involve Board of County Commissioners

Informing Your Audience (one to two months before event)

- ☐ Create invitation, flyer, and other publications
- ☐ Create invitation letter for speakers and special guests
- ☐ Acquire mailing lists and create labels
- ☐ Prepare first class or bulk mailing
- ☐ Maintain RSVP list for attendees
- ☐ Follow-up phone calls to recruit attendees if needed

Location Logistics (two weeks to two months before event)

- ☐ Reserve event location
- ☐ Order audio/visual equipment
- ☐ Order catering/refreshments
- ☐ Negotiate and prepare contracts and insurance coverage
- ☐ Make needed security, traffic and parking arrangements
- ☐ Ensure site safety and accessibility
- ☐ Arrange for electrical hookups if needed
- ☐ Order booths, special furnishings
- ☐ Prepare signage, banners, decorations
- ☐ Prepare information handouts, press kits
- ☐ Set up registration
- ☐ Assign seating if needed

Media Campaign (two to four weeks before event)

- ☐ Create news release, calendar announcement, radio/TV public service announcement
- ☐ Contact targeted media individually about story
- ☐ Send out media advisory to press/TV/radio within 48 hours before event
- ☐ Create and place advertisements (if budgeted)
- ☐ Publicize event in internal communications (department newsletters, e-mail, MINT, etc.)
- ☐ Publicize event in other external communications, such as newsletters for neighborhood associations and agencies, and community newspapers

Wrap Up Tasks (after event)

- ☐ Hold debrief meeting with Event Committee to evaluate event and identify areas that can be improved
- ☐ Send thank you notes to speakers, sponsors

*Timelines are general and may vary depending on size of project. Major events will require longer lead times.



Design Work Order

Public Affairs Office

MULTNOMAH COUNTY OREGON

421 SW Sixth Avenue, Suite 1045
Portland, Oregon 97204
Inter-office mail 166/1045
736-6803
736-6801 fax

job: _____

Date submitted: _____

Date needed: _____

Request (please fill out all applicable information below.)

Division/Dept: _____

Authorized by: _____

Name of Job: _____

Charge code (if needed): _____

Project type (brochure, flyer, form, logo, graphics): _____

Contact Person(s): _____

email: _____

Phone: _____

Design Description

Target audience(s): _____

Usage: _____

Budget consideration: _____

Size of publication: _____

Colors (spot / process): _____

Objective/goals: _____

Signatures required *prior* to start of project

Department director or designee: _____

date

Public Affairs director: _____

date



Customer Satisfaction Survey

Public Affairs Office

MULTNOMAH COUNTY OREGON

421 SW Sixth Avenue, Suite 1045
Portland, Oregon 97204
Inter-office mail 166/1045
736-6800
736-6801 fax

We would appreciate it very much if you would take a minute to fill out this form and give us your opinion of the service you receive from the **Public Affairs Office**. Please return completed survey to Gina Mattioda, Public Affairs Office, building code 166/1045.

(please fill out information below.)

Type of Project (ie: brochure, event, etc.):

Please circle the number which best describes your experience.

	Very Dissatisfied	Somewhat Dissatisfied	Neutral	Somewhat Satisfied	Very Satisfied
Timeliness	1	2	3	4	5
Easy to Work with	1	2	3	4	5
Communication	1	2	3	4	5
Staying on Budget	1	2	3	4	5
Meeting Your Needs	1	2	3	4	5

How Can We Improve?

Other Comments:

Your Name (optional):

SPEAKER SIGN UP CARDS

DATE

198

NAME

ADDRESS

PHONE

SPEAKING ON AGENDA ITEM NUMBER OR
TOPIC

GIVE TO BOARD CLERK

#2

SPEAKER SIGN UP CARDS

DATE 12/17/98

NAME

Debbie Lymold/TZ

ADDRESS

3163 NE Regente Dr
Portland

PHONE

288 6980

SPEAKING ON AGENDA ITEM NUMBER OR
TOPIC

GIVE TO BOARD CLERK

#3

SPEAKER SIGN UP CARDS

DATE 12/17/98

NAME Rick Thayer

ADDRESS ATT / Denver

PHONE _____

SPEAKING ON AGENDA ITEM NUMBER OR
TOPIC R-8

GIVE TO BOARD CLERK

#4

SPEAKER SIGN UP CARDS

DATE 12/17/98

NAME Stephen Kafoury

ADDRESS 1207 SW 6th

PDx 97204

PHONE 223-2330

SPEAKING ON AGENDA ITEM NUMBER OR
TOPIC CABLE Access

GIVE TO BOARD CLERK

#5

SPEAKER SIGN UP CARDS

DATE Dec 17 1998

NAME

Lisa Rackner

ADDRESS

1300 SW 5th

Port OR 97201

PHONE

226-7677

SPEAKING ON AGENDA ITEM NUMBER OR
TOPIC R-8

GIVE TO BOARD CLERK

#6

SPEAKER SIGN UP CARDS

DATE 12/17/98

NAME RICHARD J. Horswell Horswell

ADDRESS 320 SW Stark St. 211

Portland OR 97204

PHONE 503.222.9508

SPEAKING ON AGENDA ITEM NUMBER OR
TOPIC TCI / ATT Merger w/

GIVE TO BOARD CLERK Stephen
LAFORRY

#7

SPEAKER SIGN UP CARDS

DATE 12-17-98

NAME ERIC STACHON

ADDRESS 2345 SE Clinton

PHONE _____

SPEAKING ON AGENDA ITEM NUMBER OR
TOPIC R-8

GIVE TO BOARD CLERK

#8

SPEAKER SIGN UP CARDS

DATE

12/17/98

NAME

Duane Bosworth

ADDRESS

1300 SW FIELD

PHONE

241 2300

SPEAKING ON AGENDA ITEM NUMBER OR
TOPIC

GIVE TO BOARD CLERK

MEETING DATE: DEC 17 1998
AGENDA NO: R-8
ESTIMATED START TIME: 10:30

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Resolution consenting with conditions to a change in control of the TCI Cable Franchises (West Multnomah County, Hayden Island)

BOARD BRIEFING: DATE REQUESTED: _____
REQUESTED BY: _____
AMOUNT OF TIME NEEDED: _____

REGULAR MEETING: DATE REQUESTED: December 17, 1998
10:45 am time certain
AMOUNT OF TIME NEEDED: 45 minutes

DEPARTMENT: Nondepartmental DIVISION: Commissioner Sharron Kelley

CONTACT: David Olson TELEPHONE #: 823-5385
BLDG/ROOM #: xxx/1160

PERSON(S) MAKING PRESENTATION: Royal Harshman, David Olson, Ben Walters

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

SUGGESTED AGENDA TITLE:

Resolution Consenting With Conditions to a Change in Control of the TCI Cable Franchises (West Multnomah County, Hayden Island) with Conditions

12/17/98 Copies to David Olson & Co Kelley &
SIGNATURES REQUIRED: Tom Spangler

ELECTED OFFICIAL: Sharron Kelley
(OR)
DEPARTMENT
MANAGER: _____

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

10:45 AM
COUNTY COMMISSIONERS
98 DEC - 8 PM 10:20
MULTNOMAH COUNTY
OREGON

SHARRON KELLEY
Multnomah County Commissioner
District 4



Portland Building
1120 S.W. Fifth Avenue, Suite 1500
Portland, Oregon 97204
(503) 248-5213
E-Mail: sharron.e.KELLEY@co.multnomah.or.us

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

TO: Board of County Commissioners
FROM: Commissioner Sharron Kelley
RE: Resolution consenting with conditions to Change in Control of TCI cable
franchises to AT&T
DATE: December 9, 1998

AGENDA DATE: December 17, 1998

I. Recommendation/Action Requested:

Approval of Resolution.

II. Background/Analysis

This Resolution consents with conditions to a change in control of TCI cable franchises to AT&T. The Mt. Hood Cable Regulatory Commission (MHCRC) took action on this matter on November 16, 1998, and will consider this matter again on December 14, 1998. The MHCRC, by intergovernmental agreement among the County and five other jurisdictions, acts as a *recommending body* on cable franchise transfers of ownership. In the case of the AT&T/TCI transfer, a formal FCC filing triggered the MHCRC review process on September 2, 1998. After exchanges of correspondence and a televised public hearing (October 19, 1998), the MHCRC on November 16, 1998 recommended the transfer be approved with conditions addressed to the issues developed in the MHCRC process. Subsequently, on December 2, 1998, MHCRC staff and legal counsel met with AT&T and TCI and reviewed in detail the forms of ordinance (Exhibits A and B) originally attached to Resolution No. 98-12. In addition to correcting certain technical matters, AT&T and TCI requested certain specific changes in the ordinance, particularly with respect to the ordinance provisions concerning nondiscriminatory access to AT&T and TCI's cable modem platform. After discussion, MHCRC staff and legal counsel circulated ordinance provision reflecting compromises in this area and correcting technical defects in the original ordinance. The Resolution attached does not include the compromise language on the cable modem access issue which will be considered by MHCRC on December 14, but that language is included in the staff report and attachments.

III. Financial Impact

David Olson has estimated that litigation of this matter might cost up to \$100,000.

IV. Legal Issues

Under applicable federal law, the County has 120 days to issue a decision on a cable ownership transfer, or else it is deemed approved without conditions. The original filing by AT&T and TCI requesting approval of this transfer was received September 2, 1998, so the County must act by December 31, 1998 or else the transfer is deemed approved unconditionally.

V. Controversial Issues

AT&T objects to the following cable modem access provision (the language adopted by MHCRC on November 16):

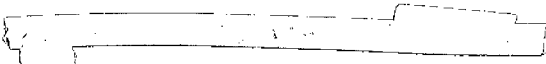
Non-discriminatory access to cable modem platform.

Transferee shall provide, and cause TCI to provide, nondiscriminatory access to TCI's cable modem platform for providers of internet and on-line services, whether or not such providers are affiliated with Transferee or TCI, unless otherwise required by applicable law. So long as cable modem services are deemed by law to be "cable services", as provided under Title VI of the Communications Act of 1934, as amended, Transferee and TCI agree to comply with all lawful requirements regarding such services, including, but not limited to, the inclusion of revenues from cable modem services and access within the gross revenues of TCI's cable franchises, and commercial leased access requirements.

Cable staff and attorneys met with AT&T and circulated the following compromise language for review:

Access to cable modem platform. Transferee shall comply, and cause the Franchisees to comply with all federal, state and local legal requirements with respect to nondiscriminatory access to the Franchisees cable modem platform for providers of Internet and on-line services, whether or not such providers are affiliated with Transferee or the Franchisees. So long as cable modem services are deemed to be *cable services*, as provided under Title VI of the Communications Act of 1934, as amended, Transferee and the Franchisees shall comply with all requirements regarding such services, including but not limited to, the inclusion of revenues from cable modem services and access within the gross revenues of the Franchisees* cable franchises, and commercial leased access requirements.*

Arguments in favor of the compromise are: (1) up to this point, AT&T/TCI have been not been willing to entertain any language on this issue anywhere in the country; (2) the language regarding nondiscriminatory and 3rd party access remains unimpaired, and the commercial cable leased access language of the compromise remains broad and unqualified; (3) the City of Portland (only 25,000 TCI subscribers) and Multnomah County (only 1,000 TCI



subscribers) might otherwise be pushed into six-figure litigation over an issue that all of us agree will probably be decided eventually by the FCC and Congress, anyway; (4) a key to the compromise is a separate action ensuring that the Mt. Hood Commission simultaneously files with the FCC urging the FCC to require an open cable modem platform as a condition of approving the AT&T/TCI merger; and (5) the compromise language remains 'pioneering' in its inclusion in a local ordinance and TCI/AT&T's willingness to agree to it. If more jurisdictions pursue this issue, then it assists in facilitating a wiser outcome at the FCC.

The Internet Service Providers objected to the compromise language on the basis that (1) it only obligates AT&T to comply with federal law; (2) it would allow AT&T to unfairly capture market share for @home.com in an anti-competitive environment during the time period prior to FCC action; and (3) the litigation costs can be shared would fall only on the city and county.

VI. Link to Current County Policies

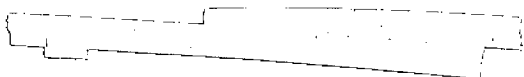
County policies support the Intergovernmental Agreement which created the Mt. Hood Cable Regulatory Commission (MHCRC), and the County's continued participation on the MHCRC. The County also annually reviews, and contributes, to the operating budget of the MHCRC. The County is also a strong supporter of consumer choice, open access, and open competition.

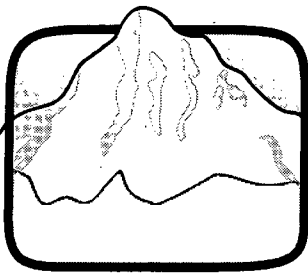
VII. Citizen Participation

The MHCRC has conducted an extensive public process in connection with the proposed transfer. The MHCRC held a televised public hearing (with call-in comments) on October 19, 1998 which was cablecast throughout the franchise area. The MHCRC took further comment from the interested parties on November 16, 1998 before voting to send its recommendation forward. The MHCRC plans to review the proposed compromise on December 14, 1998 before the Board's scheduled vote of December 17, 1998.

VIII. Other Government Participation

The City of Portland also is responsible for two TCI cable franchises within the city limits of Portland, and will also consider next week the MHCRC's recommendation on the transfer of the Portland TCI franchises to AT&T on either December 16 or December 17.





MT. HOOD CABLE REGULATORY COMMISSION


1211 SW Fifth Avenue, Room 1160 • Portland, OR 97204-3711

Phone: (503) 823- 5385 • Fax: (503) 823-5370

Serving Multnomah County and the Cities of Fairview, Gresham, Portland, Troutdale and Wood Village

December 8, 1998

TO: Multnomah County Board of Commissioners

FROM: David C. Olson, Director 

SUBJ: County action on proposed merger of AT&T and TCI

Summary

The Board of County Commissioners will consider the proposed merger of TCI and AT&T on **December 17, 1998 at 10:45 a.m. time certain**. The Mt. Hood Cable Regulatory Commission (MHCRC) has recommended the merger be approved with conditions. Federal cable law requires the County make a final decision on the transfer by the end of the year. If not, the transfer will be "deemed approved" without conditions.

Background

TCI is one of the largest Cable TV companies in the U.S., with access directly and through subsidiaries to nearly a third of all U.S. homes. AT&T is one of the largest diversified communications companies in the world, and is the world leader in residential long distance and business telephone services. In June, 1998 AT&T and TCI jointly announced that the companies would merge, and eventually do business under AT&T's name.

Mt. Hood Cable Regulatory Commission (MHCRC) consideration

The MHCRC, by intergovernmental agreement among the County and five other jurisdictions acts as a *recommending body* on cable franchise transfers of ownership. In the case of the AT&T/TCI transfer, a formal FCC filing triggered the MHCRC review process on September 2, 1998. After exchanges of correspondence and a televised public hearing (October 19, 1998), the MHCRC on November 16, 1998 recommended the transfer be approved with conditions addressed to the issues developed in the MHCRC process. Subsequently, on December 2, 1998, MHCRC staff and legal counsel met with AT&T and TCI and reviewed in detail the forms of ordinance (Exhibits A and B) originally attached to Resolution No. 98-12. In addition to correcting certain technical matters, AT&T and TCI requested certain specific changes in the ordinance, particularly with respect to the ordinance provisions concerning nondiscriminatory access to AT&T and TCI's cable modem platform. After discussion, MHCRC staff and legal counsel agreed to revise the ordinance provision to reflect compromises in this area, to correct technical defects in the original ordinance, and to respond to other concerns raised. *The compromise version of the ordinance agreed on by*

MHCRC staff and AT&T/TCI representatives on December 2, 1998 ^{may be offered} ~~is the version that has been~~ (RT)
~~filed~~ for consideration by the Board of County Commissioners on December 17, 1998. The original, unrevised MHCRC version is attached to this memorandum.

Condition requiring nondiscriminatory access to AT&T/TCI cable modem platform

The MHCRC recommended that a number of conditions be imposed in conjunction with County and City of Portland approval of the proposed change in control. The most controversial condition has been a condition requiring AT&T and TCI to commit to nondiscriminatory treatment of other providers in connection with TCI's proposed internet cable modem platform and services, and compliance with applicable cable commercial leased access requirements.

The original modem condition recommended by the MHCRC November 16, 1998 is as follows:

Non-discriminatory access to cable modem platform. Transferee shall provide, and cause TCI to provide, nondiscriminatory access to TCI's cable modem platform for providers of internet and on-line services, whether or not such providers are affiliated with Transferee or TCI, unless otherwise required by applicable law. So long as cable modem services are deemed by law to be "cable services", as provided under Title VI of the Communications Act of 1934, as amended, Transferee and TCI agree to comply with all lawful requirements regarding such services, including, but not limited to, the inclusion of revenues from cable modem services and access within the gross revenues of TCI's cable franchises, and commercial leased access requirements.

The revised modem condition agreed to by MHCRC staff and AT&T/TCI representatives on December 2, 1998 is as follows:

Access to cable modem platform. Transferee shall comply, and cause the Franchisees to comply with all federal, state and local legal requirements with respect to nondiscriminatory access to the Franchisees' cable modem platform for providers of Internet and on-line services, whether or not such providers are affiliated with Transferee or the Franchisees. So long as cable modem services are deemed to be "cable services", as provided under Title VI of the Communications Act of 1934, as amended, Transferee and the Franchisees shall comply with all requirements regarding such services, including but not limited to, the inclusion of revenues from cable modem services and access within the gross revenues of the Franchisees' cable franchises, and commercial leased access requirements

Rationale for compromise on cable modem access language

A number of parties, especially Internet Service Providers ("ISP's") have expressed concern regarding the staff/AT&T compromise language. Staff is supporting the language because: (1) up to this point, AT&T/TCI have been not been willing to entertain ANY language on this issue anywhere in the country and inclusion of such language here is a major step to further develop the open access policy issue in other jurisdictions and at the FCC; (2) the language regarding nondiscriminatory and third party access to the cable modem platform remains substantially unimpaired, and the commercial cable leased access language of the compromise remains broad

and unqualified; (3) the City of Portland (only 25,000 TCI subscribers) and Multnomah County (only 1,000 TCI subscribers) might otherwise be pushed into litigation (estimated to cost at least \$100,000 or more to obtain a decision from the first trier) over an issue that all agree must eventually be decided by the FCC and Congress; (4) a key to the compromise is separate action ensuring that the Mt. Hood Cable Regulatory Commission simultaneously files with the FCC urging the FCC to require an open cable modem platform as a condition of approving the AT&T/TCI merger; and (5) the compromise language in substance remains 'pioneering' in its inclusion in a local ordinance, TCI/AT&T's willingness to agree to it, and its merit in promoting open competition in the marketplace for internet access on cable systems.

Other modifications to the MHCRC-recommended ordinance

Other modifications to the original MHCRC-recommended ordinance include the following:

- ▶ Technical language adjustments to several of the recitals;
- ▶ Re-location of the compromise language of the conditions of approval from the ordinance itself to the acceptance signed by AT&T and TCI;
- ▶ Agreement on reimbursement of costs, such that all MHCRC and jurisdictional direct costs of processing the transfer will be reimbursed by agreement through a side letter, rather than included in the language of the ordinance itself;
- ▶ Inclusion of a necessary section (not included in the original MHCRC version) providing for denial of the transfer application in the event AT&T refuses to accept the conditions of the ordinance; and
- ▶ Compromise on adjustments to various references and terminology used in the ordinance and acceptance.

Conclusion

The MHCRC will consider the proposed compromise ordinance on Monday, December 14th. The original MHCRC-recommended ordinance, along with MHCRC Resolution No. 98-12, as passed November 16, 1998, is attached to this memorandum. MHCRC staff believes that the compromise conditions agreed to by the parties on December 2, 1998 are appropriate and lawful exercises of the County's authority to review the proposed cable transfer and develop conditions addressed to the legal, financial, and technical matters that should be included in connection with a change of control that is of national significance.

Please contact me if you have any questions. My direct line is 823-5290.

Attachments

- (1) MHCRC Res. 98-12 with original version of recommended County ordinance;
- (2) Chronological process summary of MHCRC/Jurisdictional transfer process to date, highlighting the exchanges among the parties on the cable modem access issue

cc: Thomas Sponsler, Multnomah County Counsel
Ben Walters, MHCRC legal counsel

**Before the
Mt. Hood Cable Regulatory Commission
1211 SW Fifth #1160
Portland, OR 97204**

Recommend City of Portland and)	
Multnomah County approve proposed)	Resolution No. 98-12
change of control of TCI cable franchises)	Adopted by the Commission
(Portland, Multnomah, and Hayden)	November 16, 1998
Island) to AT&T, with conditions)	

Section 1. Findings.

- 1.1 Authority. The Mt. Hood Cable Regulatory Commission ("MHCRC" or "Commission") was created by Intergovernmental Agreement (dated December 24, 1992) ("IGA") to carry out cable regulation and administration on behalf of Multnomah County and the cities of Portland, Gresham, Troutdale, Fairview, and Wood Village ("the Jurisdictions"). Among other things, the Commission acts in an advisory capacity to the Jurisdictions in connection with potential or proposed transfers or changes in ownership or control of any cable franchisee of the Jurisdictions. As set forth in the IGA, changes in ownership or control of a cable communications system or a Grantee is an area where the Jurisdictions have reserved full authority to act on their own behalf, but each Jurisdiction has agreed to take no action in these areas until the Commission has had a prior opportunity to consider the matter.
- 1.2 Proposed TCI merger with AT&T. On September 2, 1998, MHCRC staff received formal notification of the proposed merger of TCI with AT&T. The proposed merger would affect the ultimate control and ownership of the TCI cable franchises of the City of Portland ("Portland franchise"), Multnomah County ("Multnomah franchise"), and Hayden Island ("Hayden Island franchise", issued originally by Multnomah County but substantially transferred to the City of Portland through annexation). The notification was accompanied by a version of FCC Form 394 "Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise" containing four separate cover sheets (one for each FCC Community Unit Identification Number associated with the Portland, Multnomah, and Hayden Island franchises), but otherwise identical exhibits and attachments. The notification and FCC filing requested the consent of Multnomah County and the City of Portland ("Approval Jurisdictions") for the change in control of the Portland, Multnomah, and Hayden Island franchises (as applicable) in connection with the merger of TCI and AT&T.
- 1.3. Applicable franchise and legal provisions. The Portland, Multnomah, and Hayden Island franchises prohibit any transfer of control without the prior consent of the applicable Approval Jurisdiction. The Approval Jurisdiction may generally require further information regarding the proposed change of control, and condition its approval upon such conditions as are appropriate. Under FCC rules, 47 C.F.R. Sec. 76.502, the Approval Jurisdictions have 120 days from the date of submission of a completed FCC Form 394, together with all exhibits, and any additional information required, to act upon an application to sell, assign, or otherwise transfer controlling ownership of a cable system.
- 1.4 MHCRC staff and Commission review. On September 21, 1998, the MHCRC passed Resolution

No. 98-9, providing for review of the proposed transfer by MHCRC staff and legal and financial counsel and a schedule for a public hearing and further Commission action. The MHCRC also designated several MHCRC members as an ad hoc liaison group to monitor issues and information to be developed in the review process. Pursuant to Resolution 98-9, MHCRC staff on September 30, 1998 sent a letter to AT&T and TCI requesting further information. AT&T submitted a partial reply in a letter to MHCRC staff dated October 12, 1998. The Commission held a public hearing on October 19, 1998, and the Commission discussed the issues, appropriate conditions, and further information that should be requested in connection with the transfer request. MHCRC staff on October 30, 1998 sent a follow-up letter to AT&T and TCI requesting further information. AT&T and TCI replied to the staff letter on November 9, 1998.

- 1.5 Issues considered. Issues developed by MHCRC staff, and considered and discussed by the MHCRC, include the following, among others: (a) compliance with existing TCI franchise requirements; (b) documentation of AT&T and TCI corporate organization and financial projections; (c) completion of current TCI/Portland upgrade and commencement of Multnomah upgrade; (d) construction and completion of Portland institutional network commitments; (e) possible franchise fee arrearages that may have arisen through exclusion of certain advertising revenue or programmer payments; (f) treatment of other providers in connection with TCI's proposed internet cable modem platform and services, and potential application of commercial leased access requirements; (g) reimbursement of all MHCRC and Approval Jurisdictions direct costs incurred in analyzing and acting upon change of control request; (h) status of AT&T's affiliate TCG in connection with any unauthorized use of City of Portland rights of way by TCG; and (i) compliance with other applicable legal requirements, including carriage of broadcast digital and high definition television signals, and interconnection of cable system with potential competitors for purposes of sharing cable PEG channels, to the extent required by the applicable franchise agreement(s).
- 1.6 The MHCRC took further public input and conducted a work session before taking action on this matter on November 16, 1998 recommending that the Portland City Council and the Multnomah County Commission approve the proposed change in control, with conditions.

Now, therefore, the Commission resolves:

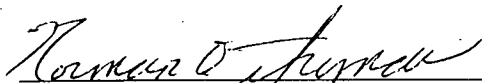
Section 2.

- 2.1 The Commission recommends that Multnomah County and the City of Portland consent to the proposed change in control of the Portland, Multnomah, and Hayden Island TCI cable franchises in connection with the merger of TCI and AT&T, subject to the inclusion of certain conditions addressed to the issues developed by the MHCRC in the review process, or otherwise customarily recommended for inclusion in the approval of any change in control of a cable franchise.
- 2.2 To address the issues identified by the Commission in its investigation and deliberations on this request for transfer approval, the MHCRC recommends the following conditions, among others, be included in the ordinance(s) (see Exhibits A & B attached hereto) to be considered by the Approval Jurisdictions:
 - (a) a commitment to unconditional compliance with existing TCI franchise requirements;
 - (b) timely submittal of updated AT&T and TCI corporate organization charts and proxy statements issued in connection with the merger when completed and publicly available;

- (c) an unqualified commitment to timely completion of the current TCI/Portland upgrade and a timetable for commencement of a comparable upgrade in the Multnomah County franchise area;
- (d) an unqualified commitment to timely construction and completion of TCI/Portland cable institutional network as specified in TCI/Portland franchise modifications (July, 1998);
- (e) cooperation in concluding a franchise fee compliance inquiry in connection with possible TCI franchise fee and Public, Educational, and Governmental ("PEG") access fee arrearages that may have arisen through exclusion of certain advertising revenue or programmer payments, and an express reservation of the legal rights of the City of Portland and Multnomah County in that regard;
- (f) nondiscriminatory treatment of other providers in connection with TCI's proposed internet cable modem platform and services, and compliance with applicable cable commercial leased access requirements;
- (g) reimbursement of all direct, out-of-pocket costs of MHCRC and Approval Jurisdictions incurred in analyzing and acting upon change of control request;
- (h) an express nonwaiver and reservation of the City of Portland's rights to fully exercise all applicable legal rights and authority, including levying fines or instituting litigation for trespass and ejectment, against AT&T's affiliate TCG in connection with any unauthorized use of City of Portland rights of way by TCG; and an express nonwaiver and reservation of the City of Portland's rights and authority against TCI for any material franchise violations that may exist in connection with any unauthorized use of TCI facilities by TCG;
- (i) compliance with all other applicable legal requirements, including carriage of broadcast digital and high definition television signals, and interconnection of cable system with potential competitors for purposes of sharing cable PEG channels, to the extent required by the applicable franchise agreement(s); and
- (j) unqualified acceptance by TCI and AT&T of the ordinances and conditions imposed by the City of Portland and Multnomah County, in a form acceptable to the Portland City Attorney and the Multnomah County Counsel.

- 2.3 In furtherance of these recommendations, the Commission recommends that the City of Portland approve an ordinance substantially similar in form to the one attached hereto as Exhibit A.
- 2.4 In furtherance of these recommendations, the Commission recommends that Multnomah County approve an ordinance substantially similar in form to the one attached hereto as Exhibit B.

ADOPTED BY THE COMMISSION on November 16, 1998


Norman D. Thomas, Chair

Reviewed by:


Ben Walters, Legal Counsel

Attachments:

Exhibit A: Recommended City of Portland consent ordinance; with conditions

Exhibit B: Recommended Multnomah County consent ordinance; with conditions

EXHIBIT B TO RESOLUTION 98-12
MULTNOMAH COUNTY/TCI/AT&T
CONSENT ORDINANCE (WITH CONDITIONS)
TCI MERGER WITH AT&T
MULTNOMAH COUNTY, HAYDEN ISLAND TCI CABLE FRANCHISES

Adopted by the Mt. Hood Cable Regulatory Commission on November 16, 1998

An ordinance consenting to a change in control of the TCI cable franchises (West Multnomah County, Hayden Island) to AT&T with conditions; and declaring an emergency.

Multnomah County ordains as follows:

Section I. Findings.

- A. AT&T ("Transferee ") has agreed to acquire Tele-Communications, Inc. ("TCI") pursuant to an Agreement and Plan of Merger, dated June 24, 1998.
- B. TCI presently owns and controls cable franchises originally issued by Multnomah County ("County") to TCI Cablevision of Oregon, Inc. as authorized by Resolution No. 97-124, passed by the Board June 26, 1997 ("TCI/Multnomah franchise"), or transferred to TCI with the County's consent under Ord. No. 838, passed by the Board October 26, 1995, consenting to a change in control of the Hayden Island cable franchise to TCI of Southern Washington ("TCI/Hayden Island franchise").
- C. Section 14.1 and 14.2 of the TCI/Multnomah franchise, and Section 3.5 and 3.6 of the TCI/Hayden Island cable franchise, prohibit a franchise transfer or change in control unless and until the County has given prior consent by ordinance or resolution, and further provides that the County may condition a transfer upon such terms and conditions related to the technical, legal, and financial qualifications of the prospective transferee to perform according to the terms of the Franchise as the County deems appropriate, including those conditions deemed necessary by the County to ensure the strict performance of the requirements of the franchise.
- D. The proposed transfer of ownership of the TCI cable franchises is subject to the requirements of the Cable Communications Policy Act of 1992 ("1992 Cable Act"), and applicable implementing regulations of the Federal Communications Commission ("FCC"). TCI and Transferee filed FCC Form 394 pursuant to the 1992 Cable Act and FCC regulations, which was received by the Mt. Hood Cable Regulatory Commission on September 2, 1998. In conjunction with such filing, TCI and AT&T have stated that the filing involves only a change in control at the parent level of TCI, that the current TCI cable franchisees will continue to hold the franchises, that local management and

employees of TCI will remain in place, and that all commitments, obligations, and liabilities will remain in place, whether or not such commitments, obligations, or liabilities pre-dated the consummation of the proposed change in control.

- E. The Mt. Hood Cable Regulatory Commission (MHCRC) generally represents Multnomah County in cable regulatory matters. The MHCRC was created by an Intergovernmental Agreement ("IGA") dated December 24, 1992 between and among Multnomah County and the Cities of Fairview, Gresham, Portland, Troutdale, and Wood Village ("Jurisdictions"). As set forth in the IGA (Section 4.B.2.): "(a)ny decision concerning a change of ownership or control of a cable communications system or a Grantee" is an area where the Jurisdictions have reserved full authority to act on their own behalf. However, each Jurisdiction has agreed "to take no action in these areas until the Commission has had a prior opportunity to consider the matter." (IGA §4.B.) Thus, the Commission acts in an advisory capacity to the County in connection with TCI and Transferee's proposed merger and transfer of system ownership and control.
- F. MHCRC staff with the assistance of financial consultant KFA Services and Commission legal counsel has studied the qualifications of Transferee to assume ultimate ownership, and TCI to operate under Transferee's control, the TCI/Multnomah, and TCI/Hayden Island franchises. MHCRC staff has concluded that the qualifications of Transferee are adequate to ensure the strict performance of such franchises, subject to certain conditions. MHCRC staff has recommended such conditions to the MHCRC.
- G. The MHCRC on behalf of the County received an initial FCC Form 394 filing with exhibits from Transferee and TCI on September 2, 1998. The MHCRC established a process for considering the proposed merger (MHCRC Res. No. 98-9, passed September 21, 1998), and requested additional information (MHCRC staff letter to Transferee and TCI dated September 30, 1998). The MHCRC received a partial reply to the information request from Transferee (October 12, 1998), and conducted a public hearing on October 19, 1998. The MHCRC requested certain additional information and responses (MHCRC staff letter to Transferee and TCI dated October 30, 1998), and received a further reply from Transferee (November 9, 1998). Among other things, the information provided by Transferee and AT&T showed that certain franchise fee arrearages may exist. The MHCRC held a work session on November 16, 1998 to review this material and make a recommendation to the County.
- H. The MHCRC on November 16, 1998 (MHCRC Res. No. 98-12) recommended that the County approve the transfer of control subject to certain conditions, including: (a) assurances regarding Transferee's unqualified acceptance of all existing TCI franchise requirements; (b) documentation of Transferee and TCI corporate organization and proxy statements issued in connection with the merger; (c) assurances regarding a timetable for commencement and completion of TCI/Multnomah upgrade; (d) cooperation in concluding a franchise fee compliance inquiry in connection with possible franchise fee arrearages that may have arisen, among other things, through exclusion of certain advertising revenue or programmer payments and an express reservation of the legal

rights of the County in that regard; (e) commitments to nondiscriminatory treatment of other providers in connection with TCI's proposed internet cable modem platform and services, and compliance with applicable cable commercial leased access requirements; (f) reimbursement of all direct, out-of-pocket costs of the MHCRC and the County incurred in analyzing and acting upon change of control request; and (g) compliance with all other applicable legal requirements, including carriage of broadcast digital and high definition television signals, and interconnection of cable system with potential competitors for purposes of sharing cable PEG channels, to the extent required by the TCI/Multnomah and TCI/Hayden Island franchise agreements.

- I. The County should approve the transfer of control of the TCI/ Multnomah and TCI/ Hayden Island franchises to Transferee subject to the formal acceptance by Transferee of the conditions set forth in this ordinance.

Section II. Approval.

Multnomah County hereby approves the transfer of control of the cable franchise of TCI Cablevision of Oregon, Inc. as authorized by Resolution No. 97-124, passed by the Board June 26, 1997, and the cable franchise of TCI of Southern Washington (Hayden Island) as originally entered into by Multnomah County on October 6, 1986 with American Earthstations, Inc., as subsequently transferred to Columbia Cable of Washington with the approval of Multnomah County on December 18, 1986, and as ultimately transferred to TCI with the County's consent (Ord. No. 838, passed by the Board October 26, 1995, consenting to a change in control of the Hayden Island cable franchise to TCI of Southern Washington) (hereafter collectively "TCI/Multnomah franchises") to Transferee subject to the following conditions:

- A. Compliance with franchises. Transferee shall comply, and shall cause TCI to comply, with the lawful requirements of the TCI/Multnomah franchises, including all applicable ordinances, orders, contracts, agreements, commitments, side letters, and regulatory actions taken pursuant thereto, including but not limited to applicable system upgrade requirements and support for Public, Educational, and Governmental (PEG) cable access in all respects and without exception.
- B. Schedule for Upgrade or Rebuild of Multnomah cable system. In accordance with the TCI Multnomah franchise, Section 5.2, Transferee shall provide or shall cause TCI to provide to the MHCRC by July 1, 1999 a schedule for the Upgrade or Rebuild of its Multnomah Cable system to the same or greater levels and types of services and capacity as will be provided under TCI's upgraded contiguous cable system serving the City of Portland.
- C. Organization and proxy statements. Within 30 days of the earlier of closure of the merger transaction or public release of the requested information, Transferee shall submit (a) updated Transferee and TCI corporate organization charts identifying the roles, specifically, of AT&T Consumer Services and AT&T Business or Network Services; and (b) all publicly available proxy statements issued in connection with the merger.

- D. Cooperation in franchise fee review. Transferee shall cooperate, and cause TCI to cooperate, with MHCRC staff, and adhere to such deadlines as may be established by the MHCRC, for the submittal of information to enable the MHCRC to conclude a franchise compliance inquiry in connection with possible TCI franchise fee arrearages that may have arisen, among other things, through exclusion of certain advertising revenue or programmer payments. By consenting to this Transfer, the County does not waive and expressly reserves the right to enforce full compliance with applicable franchise fee requirements, whether or not any noncompliance that may be determined arose before or after the consummation of the Transferee/TCI merger.
- E. Non-discriminatory access to cable modem platform. Transferee shall provide, and cause TCI to provide, nondiscriminatory access to TCI's cable modem platform for providers of internet and on-line services, whether or not such providers are affiliated with Transferee or TCI, unless otherwise required by applicable law. So long as cable modem services are deemed by law to be "cable services", as provided under Title VI of the Communications Act of 1934, as amended, Transferee and TCI agree to comply with all lawful requirements regarding such services, including, but not limited to, the inclusion of revenues from cable modem services and access within the gross revenues of TCI's cable franchises, and commercial leased access requirements.
- F. Reimbursement of costs. Upon invoice by the County or the MHCRC acting for the County, Transferee shall within 30 days of the invoice reimburse all direct, out-of-pocket costs of the MHCRC and the County incurred in analyzing and acting upon Transferee's change of control request. Payment of such reimbursement shall accompany the form of written acceptance, as provided in subsection I., below.
- G. Compliance with all other applicable legal requirements. Transferee shall comply, and shall cause TCI to comply, with all other applicable legal requirements that are now or may hereafter apply to TCI/Multnomah's cable operations, including, but not limited to, carriage of broadcast digital and high definition television signals, interconnection of cable system with potential franchised cable competitors for purposes of sharing cable PEG channels, adherence to applicable federal and state emergency notification provisions.
- H. Transferee responsible for any non-compliance by franchisee. Transferee acknowledges that the legislative history of the 1992 Cable Act contemplates that the County should address any deficiencies in service, including non-compliance, at the time of transfer. Transferee agrees to assume responsibility for any and all non-compliance under the TCI/Multnomah franchises that may now exist or may later be discovered to have existed during the term of the franchise(s), even if prior to the closing of this transaction.
- I. Written acceptance. (1) This ordinance shall not be effective until accepted in writing by Transferee. The acceptance, which shall be contingent upon final closing of the transaction shall be substantially similar in form to that attached hereto as Exhibit I.

(2) Within thirty days after passage of this ordinance by the Board, Transferee shall file in the Office of the Board Clerk such written acceptance of this ordinance meeting the approval of the County Counsel..

(3) A failure on the part of Transferee to file such written acceptance within such time shall be deemed an abandonment and rejection of the rights and privileges conferred hereby and this ordinance shall thereupon be null and void. Such acceptance shall be unqualified and shall be construed to be an acceptance of all the terms, conditions and restrictions contained in this ordinance.

- J. Automatic nullification in event of failure to close or closure on materially different terms. In the event the transaction which is the subject of this ordinance is not consummated or does not reach final closure for any reason, or in the event such closure is reached on terms substantially and materially different to the terms described in the FCC Form 394 and subsequent information provided by the Transferee and relied upon by the MHCRC, then this ordinance, together with the written acceptance provided hereunder, shall be null and void.

Section III. This Ordinance, being necessary for the health, safety and welfare of the people of Multnomah County, an emergency is declared; and the ordinance shall take effect upon its execution by the County Chair, pursuant to Section 5.50 of the Charter of Multnomah County.

ADOPTED this _____ day of _____, 1998 being the date of its
_____ reading before the Board of County Commissioners of Multnomah County, Oregon.

Beverly Stein, Chair
Multnomah County, Oregon

THOMAS SPONSLER, COUNTY COUNSEL
MULTNOMAH COUNTY, OREGON

Assistant County Counsel

EXHIBIT I
ACCEPTANCE

Board of Commissioners
Multnomah County
15th Floor, The Portland Building

1120 SW Fifth Avenue
Portland, OR 97204

This is to advise the Multnomah County, Oregon that AT&T hereby hereby accepts the terms and provisions Ordinance No. _____, passed by the Board of Commissioners on December ____, 1998, consenting to a change in control of the TCI cable franchises (west Multnomah County, Hayden Island) to AT&T, with conditions. AT&T specifically acknowledges the nonwaiver and reservation of rights by the County in Section II.D. of such ordinance. AT&T agrees to abide by, and to cause TCI and its subsidiaries and affiliates to abide by, each and every provision of the franchise agreements, including all applicable ordinances, orders, contracts, agreements, side letters, commitments, and regulatory actions taken pursuant thereto, as applicable, and without exception.

AT&T

BY _____
TITLE _____
DATE _____

State of _____)
) ss.
County of _____)

This Acceptance was acknowledged before me on the _____ day of _____, 199____, by _____ as _____, a duly authorized officer of AT&T.

Notary Public for _____
My Commission Expires _____

Approved as to form:

County Counsel.

PROCESS CHRONOLOGY - (HIGHLIGHTING CABLE MODEM ISSUE)

MT. HOOD CABLE REGULATORY COMMISSION/AT&T/TCI

- September 2, 1998 FCC filing received. Formal FCC filing received by MHCRC/Cable Office staff requesting approval of the transfer by City of Portland and Multnomah County (Note: 120 day time limit: City and County must act to approve or deny in 120 days or by December 31, 1998 or the transfer is deemed approved without conditions)
- September 21, 1998 MHCRC establishes transfer consideration process. MHCRC at regular monthly meeting passes resolution establishing process and timelines for hearing and recommendations on proposed transfer.
- September 30, 1998 First staff letter to AT&T. Request for information (RFI) sent to AT&T/TCI by staff. RFI asks the following question (among others): *Does the company plan to introduce cable modem internet services utilizing a proprietary platform? To what extent, if any, will TCI afford access to cable modem services to other Internet Service Providers on nondiscriminatory terms and conditions?*
- October 12, 1998 First AT&T reply. AT&T/TCI submit partial reply to staff letter (not all questions were answered). With respect to the modem question, AT&T reply states: "...*We plan to deploy @Home, a proprietary cable service.... We consider @Home to be a proprietary product. TCI intends to provide @Home as a cable service over its cable system and therefore is not subject to common carrier obligations.*"
- October 19, 1998 MHCRC public hearing. MHCRC conducts televised, live public hearing on proposed transfer. The most significant issue raised at the hearing was nondiscriminatory access to TCI's cable modem platform. Written testimony on this issue was received (via email) in advance of the hearing, and Richard Horswell, President of Oregon Internet Service Providers Association (ORISPA) testified in person, along with James Deibele, CEO of Teleport. After the hearing, in open discussion (attended by TCI representatives) **MHCRC members agree that the cable modem access is significant, and the staff is directed by the MHCRC to pursue the issue.**
- October 30, 1998 Second staff letter to AT&T. Followup request for information (RFI) sent to AT&T/TCI by staff. Among other things, the staff letter states: *You may be aware that a number of local Internet Service Providers (ISPs) have provided testimony on this issue, and requested access by ISPs to the cable modem platform under nondiscriminatory terms and conditions.* The staff letter goes on to ask for responses to two legal questions to

determine AT&T's view of the status of cable modems as 'cable services', and one business question as to whether AT&T intends to offer its own "AT&T WorldNet" internet access service using TCI cables.

- November 10, 1998 Second AT&T reply. AT&T's second reply letter was faxed to staff the evening of Monday, November 9, and reviewed by staff and legal counsel on Tuesday, November 10. Among other things, AT&T re-asserts that @Home is planned "*as a cable service under current law*" and notes that the applicable cable law prohibits local governments from regulating "telecommunications services" but not cable services. AT&T also asserts a novel legal position that cable leased access rules can't apply because cable modem services are not "video programming."
- November 12, 1998 Proposed MHCRC action and ordinances distributed to AT&T/TCI. Proposed MHCRC resolution #98-12 in draft form, with attached proposed draft ordinances for consideration by Portland and Multnomah County, sent to AT&T/TCI by the end of the day via email and fax, with originals to follow via courier and overnight mail. Among other things, the proposed MHCRC resolution recommends "*nondiscriminatory treatment of other providers in connection with TCI's proposed internet cable modem platform and services, and compliance with applicable cable commercial leased access requirements*", and includes necessary implementing language in the attached Portland/Multnomah ordinances.
- November 16, 1998 MHCRC adopts resolution and ordinances. At a crowded meeting at Mt. Hood Community College, the MHCRC takes testimony from AT&T and TCI representatives, and further testimony from interested parties including three local internet service providers ("ISP's"), US West, and members of the public. AT&T and TCI request more time to review the proposed resolution and ordinances, but also indicate that they would not be willing to entertain any provision requiring access by third parties to their cable modem platform. After discussion, the MHCRC votes 5-2 to send the resolution and ordinances, as drafted, to the Portland City Council and Multnomah County Commission. The two MHCRC dissenters stated that they felt more time should be allowed in response to AT&T/TCI's request, but the MHCRC majority concluded (in staff's view) that additional time would not be fruitful because AT&T/TCI had indicated no room for compromise on the cable modem issue, and because there was an imminent deadline (December 31st) for action by the Portland Council and Multnomah County Commission.
- December 2, 1998 AT&T/Staff meeting, compromise proposed. AT&T/TCI representatives meet with MHCRC staff and legal counsel and (for the first time) propose substantial compromise language on the internet modem issue. After

proposal, and counter-proposal by staff, final language is tentatively agreed on for both the cable modem issue as well as several other issues of concern in the original MHCRC version of the ordinance.

December 14, 1998 Mt. Hood Cable Regulatory Commission scheduled to meet to review proposed compromise language (and make its final recommendation) and to review a resolution authorizing an ex parte filing on this matter with the FCC.

December 17, 1998 Scheduled consideration of the AT&T/TCI transfer by the Multnomah County Commission (10:45 a.m.), and the Portland City Council (2:00 p.m.)

Chronology prepared by David Olson
Updated December 8, 1998

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

A RESOLUTION CONSENTING TO A CHANGE IN CONTROL OF THE TCI
CABLE FRANCHISES (WEST MULTNOMAH COUNTY, HAYDEN
ISLAND) TO AT&T WITH CONDITIONS

The Multnomah County Board of Commissioners Finds:

- A. AT&T Corporation ("AT&T") has agreed to acquire Tele-Communications, Inc. ("TCI") pursuant to an Agreement and Plan of Merger, dated June 24, 1998.
- B. TCI presently owns and controls cable franchises originally issued by Multnomah County ("County") to TCI Cablevision of Oregon, Inc. as authorized by Resolution No. 97-124, passed by the Board June 26, 1997 ("TCI/Multnomah franchise"), or transferred to TCI with the County's consent under Ord. No. 838, passed by the Board October 26, 1995, consenting to a change in control of the Hayden Island cable franchise to TCI of Southern Washington ("TCI/Hayden Island franchise").
- C. Section 14.1 and 14.2 of the TCI/Multnomah franchise, and Section 3.5 and 3.6 of the TCI/Hayden Island cable franchise, prohibit a franchise transfer or change in control unless and until the County has given prior consent by ordinance or resolution, and further provides that the County may condition a transfer upon such terms and conditions related to the technical, legal, and financial qualifications of the prospective transferee to perform according to the terms of the franchise as the County deems appropriate, including those conditions deemed necessary by the County to ensure the strict performance of the requirements of the franchise.
- D. Transfers of cable franchises are subject to the requirements of the Cable Communications Policy Act of 1992, and regulations promulgated by the Federal Communications Commission ("FCC"). AT&T and TCI filed an FCC Form 394, which was received by the Mt. Hood Cable Regulatory Commission, ("MHCRC") on September 2, 1998.
- E. The MHCRC generally represents Multnomah County in cable regulatory matters. The MHCRC was created by an Intergovernmental Agreement ("IGA") dated December 24, 1992 between and among Multnomah County and the Cities of Fairview, Gresham, Portland, Troutdale, and Wood Village ("Jurisdictions"). The IGA states that "(a)ny decision concerning a change of ownership or control of a cable communications system or a Grantee" is an area where the Jurisdictions have reserved full authority to act on their

own behalf. *IGA*, § 4.B.2. However, each Jurisdiction has agreed "to take no action in these areas until the Commission has had a prior opportunity to consider the matter." *IGA*, § 4.B. Thus, the Commission acts in an advisory capacity to the County in connection with TCI and AT&T's proposed merger and transfer of system.

- F. After receiving the initial FCC Form 394 filing with exhibits on September 2, 1998, the MHCRC established a process for considering the proposed merger. *MHCRC Res. No. 98-9* (Passed September 21, 1998). MHCRC staff, with the assistance of financial consultant KFA Services and the Commission's legal counsel, requested additional information from AT&T and TCI. *MHCRC staff letter to AT&T and TCI* (September 30, 1998). AT&T submitted a partial reply to this request on October 12, 1998. The MHCRC conducted a public hearing on the transfer application on October 19, 1998. Following the hearing, the MHCRC sought certain additional information and responses. *MHCRC staff letter to AT&T and TCI* (October 30, 1998). The MHCRC received a further reply from AT&T on November 9, 1998. Among other things, the information provided by AT&T and TCI showed that certain franchise fee arrearages may exist. The MHCRC held a work session on November 16, 1998 to review this material and make a recommendation to the County.
- G. The MHCRC identified specific concerns regarding AT&T's application for the change in control of the TCI franchises, including: (a) acceptance of all existing TCI franchise requirements; (b) AT&T's and TCI's corporate reorganization and financial conditions after the merger is completed; (c) completion of TCI/Multnomah upgrade; (d) construction and completion of TCI's institutional network commitments; (e) possible franchise and PEG fee arrearages arising from the exclusion of certain advertising revenue or programmer payments; (f) TCI's proposed cable modem Internet platform and services, and compliance with applicable cable commercial requirements; and (g) compliance with all other applicable legal requirements, including carriage of broadcast digital and high definition television signals, and interconnection of cable system with potential competitors for purposes of sharing cable PEG channels, to the extent required by the TCI/Multnomah and TCI/Hayden Island franchise agreements. The MHCRC's recommendation to the County contained conditions intended to address these concerns.
- H. AT&T's application for the transfer of control of the TCI/ Multnomah and TCI/ Hayden Island franchises to AT&T should be approved with conditions. If AT&T does not accept these conditions, the application should be denied.

The Multnomah County Board of Commissioners Resolves:

1. Subject to the conditions set out in the acceptance form attached as Exhibit A to this resolution, Multnomah County approves AT&T's request for a change in control of the following cable franchises:
 - TCI Cablevision of Oregon, Inc. as authorized by Resolution No. 97-124, passed by the Board June 26, 1997; and
 - TCI of Southern Washington (Hayden Island) as originally entered into by Multnomah County on October 6, 1986 with American Earthstations, Inc., as subsequently transferred to Columbia Cable of Washington with the approval of Multnomah County on December 18, 1986, and as ultimately transferred to TCI with the County's consent (Ord. No. 838, passed by the Board October 26, 1995, consenting to a change in control of the Hayden Island cable franchise to TCI of Southern Washington) ("TCI/Multnomah franchises")
2. Written acceptance.
 - (a) Within fifteen days after passage of this resolution by the Board, AT&T shall file its written acceptance of this resolution meeting the approval of the County Counsel. The acceptance shall be in the form attached as Exhibit A. AT&T shall file such written acceptance in the Office of the County Counsel.
 - (b) AT&T's acceptance shall be contingent upon final closing of the merger transaction, as provided in Section 4 below. Such acceptance shall be otherwise be unqualified and shall be construed to be an acceptance of all the terms, conditions and restrictions contained in this resolution.
 - (c) AT&T's failure, refusal or neglect to file such written acceptance within such time shall constitute an abandonment and rejection of the rights and privileges conferred.
3. Denial of transfer application. If for any reason AT&T fails, refuses or neglects to file the written acceptance as provided in Section 2, Multnomah County denies AT&T's request for a change in control of the TCI/Multnomah franchises.
4. Automatic nullification in event of failure to close or closure on materially different terms. In the event the transaction which is the subject of this resolution is not consummated or does not reach final closure for any reason, or in the event such closure is reached on terms substantially and materially different to the terms described in the FCC Form 394 and subsequent information provided by the AT&T and relied upon by the MHCRC, then this resolution, together with the

written acceptance provided, shall be null and void. If the closure is upon terms which are substantially and materially different, AT&T shall resubmit its request for a change in control in order to be in compliance with the TCI/Multnomah franchises.

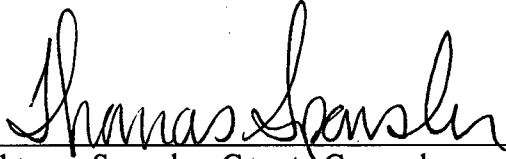
Adopted this _____ day of _____, 1998.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Beverly Stein, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON



Thomas Sponsler, County Counsel

EXHIBIT A
ACCEPTANCE

Board of Commissioners
Multnomah County
15th Floor, The Portland Building
1120 SW Fifth Avenue
Portland, OR 97204

This is to advise the Multnomah County, Oregon that AT&T Corporation ("Transferee") unqualifiedly accepts Resolution No. 98-_____, passed by the Board of Commissioners on December 17, 1998, regarding the change in control to the Transferee of the following cable franchises under the following terms and conditions:

- TCI Cablevision of Oregon, Inc. ("Franchisee") (Resolution No. 97-124, passed by the Board June 26, 1997); and
- TCI of Southern Washington, Inc. ("Franchisee") (Hayden Island) as originally entered into by Multnomah County on October 6, 1986 with American Earthstations, Inc., as subsequently transferred to Columbia Cable of Washington with the approval of Multnomah County on December 18, 1986, and as ultimately transferred to TCI with the County's consent (Ord. No. 838, passed by the Board October 26, 1995, consenting to a change in control of the Hayden Island cable franchise to TCI of Southern Washington)

(hereafter collectively "TCI/Multnomah franchises")

1. Compliance with franchise. In all respects and without exception, Transferee shall cause the Franchisees to comply, and the Franchisees shall comply, with the requirements of the TCI/Multnomah franchises, including all applicable ordinances, resolutions, orders, contracts, agreements, commitments, side letters, and regulatory actions taken pursuant thereto, including but not limited to system upgrade commitments, support for Public, Educational, and Governmental ("PEG") cable access, and institutional network construction and extension requirements.
2. Schedule for Upgrade or Rebuild of Multnomah cable system. In accordance with the TCI Multnomah franchise, Section 5.2, AT&T shall provide or shall cause TCI to provide to the MHCRC by July 1, 1999 a schedule for the Upgrade or Rebuild of its Multnomah Cable system to the same or greater levels and types of services and capacity as will be provided under TCI's upgraded contiguous cable system serving the City of Portland.
3. Organization and proxy statements. Transferee shall submit to the County (a) updated Transferee and TCI corporate organization charts identifying the roles, specifically, of AT&T Consumer Services and AT&T Business or Network Services; and (b) all publicly available proxy statements issued in connection with

the merger. This information shall be submitted to the County within thirty (30) days of the earlier of either the closure of the merger transaction or the public release of this information.

4. Non-discriminatory access to cable modem platform. Transferee shall provide, and cause TCI to provide, nondiscriminatory access to TCI's cable modem platform for providers of internet and on-line services, whether or not such providers are affiliated with Transferee or TCI, unless otherwise required by applicable law. So long as cable modem services are deemed by law to be "cable services", as provided under Title VI of the Communications Act of 1934, as amended, Transferee and TCI agree to comply with all lawful requirements regarding such services, including, but not limited to, the inclusion of revenues from cable modem services and access within the gross revenues of TCI's cable franchises, and commercial leased access requirements.
5. Compliance with legal requirements.
 - (a) Transferee shall cause the Franchisees to comply, and the Franchisees shall comply, with each and every provision of the franchise agreements, including all applicable ordinances, resolutions, orders, contracts, agreements, side letters, commitments, and regulatory actions taken pursuant thereto, as applicable, and without exception.
 - (b) Transferee shall cause the Franchisees to comply, and the Franchisees shall comply, with all other applicable requirements that are now or may later apply to the TCI/Multnomah franchise operations, including, but not limited to, carriage of broadcast digital and high definition television signals, interconnection of cable system with potential franchised cable competitors for purposes of sharing cable PEG channels, and adherence to applicable federal and state emergency notification provisions.
6. Transferee responsible for any non-compliance by franchisee. The Cable Communications Policy Act of 1992 contemplates that deficiencies in cable service, including non-compliance, should be addressed at the time of a franchise transfer. In its application and supplementary materials, Transferee has assured the County that the merger involved only a change in control at the parent level of TCI. Accordingly, Transferee agrees that the County does not waive and expressly reserves all legal rights and authority in regard to any and all non-compliance under the TCI/Multnomah franchises that may now exist or may later be discovered to have existed during the term of the franchise(s), even if prior to the closing of this transaction. Such non-compliance may include, but is not limited to, the following:
 - (a) Cooperation in franchise fee review. Transferee shall cause the Franchisees to cooperate, and the Franchisees shall cooperate, with MHCRC staff, and the Franchisees will adhere to such deadlines as may be established by the MHCRC,

for the submittal of information to enable the MHCRC to conclude a franchise compliance inquiry in connection with possible TCI franchise fee arrearages that may have arisen through exclusion of certain advertising revenue or programmer payments. Transferee agrees that by consenting to the change in control, the County does not waive and expressly reserves the right to enforce full compliance with applicable franchise fee requirements, whether or not any noncompliance that may be determined arose before or after the consummation of the Transferee/TCI merger.

- (b) Transferee and the Franchisees specifically accept the County's reservation of rights as set forth above.

7. In the event the merger between Transferee and TCI which is the subject of this Acceptance is not consummated or does not reach final closure for any reason, or in the event such closure is reached on terms substantially and materially different to the terms described in the FCC Form 394 and subsequent information provided by the Transferee and relied upon by the MHCRC, then Transferee acknowledges that the County's resolution, together with the written acceptance provided, shall be automatically null and void without further action by either party. If the closure is upon terms which are substantially and materially different, Transferee shall resubmit its request for a change in control in order to be in compliance with the TCI/Multnomah franchises.

AT&T Corporation

BY _____
NAME _____
TITLE _____

State of _____)
County of _____) ss.

This Acceptance was acknowledged before me on the _____ day of _____, 199____,
by _____ as _____, a duly authorized
officer of AT&T Corporation.

Notary Public for _____
My Commission Expires _____

TCI Cablevision of Oregon, Inc.

BY _____
NAME _____
TITLE _____

State of _____)
) ss.
County of _____)

This Acceptance was acknowledged before me on the _____ day of _____,
199____, by _____ as _____, a
duly authorized officer of TCI Cablevision of Oregon, Inc.

Notary Public for _____
My Commission Expires _____

TCI of Southern Washington, Inc.

BY _____
NAME _____
TITLE _____

State of _____)
) ss.
County of _____)

This Acceptance was acknowledged before me on the _____ day of _____,
199____, by _____ as _____, a
duly authorized officer of TCI of Southern Washington, Inc.

Notary Public for _____
My Commission Expires _____

Approved as to form:

Thomas Sponsler, County Counsel
For Multnomah County, Oregon

Thomas Sponsler, County Counsel

Oregon Consumer League

2181 NW Glisan, #502
Portland, OR 97210

December 16, 1998

Dear Multnomah County Commissioners:

The Oregon Consumer League strongly supports the principal of open access for all providers to high-speed cable Internet platforms and urges you to vote in favor of placing such a condition on your approval of the proposed ATT/TCI merger. Without such a condition, the potential merger poses a threat to Internet access to consumers – especially to those least able to afford it.

The reasons that ATT would wish to restrict other providers from a cable Internet network are understandable: it would insulate them from competition in both their Internet and long distance telephone businesses. But that would come at a terrible cost to consumers. Lack of open access would mean that local Internet Service Providers would be placed at a tremendous competitive disadvantage. The likely result would be a restriction of choice and higher prices for the public. Beyond that are the troubling issues of the most powerful emerging communications medium being effectively in the hands of a small handful of global corporations. Without an open access requirement, this merger would allow corporations unaccountable to the public to become Internet “gatekeepers” with respect to *both* price and content.

These effects would be most keenly felt by those with the least ability to pay – precisely those for whom Internet access holds the most potential. It would also impact the non-profit sector. At the Consumer League, we depend on low-cost, high quality Internet access to alert the press, government agencies and the public to consumer information and threats. If costs rise dramatically due to a near monopoly on high-speed Internet access, it will damage our ability – and the ability of countless other non-profit organizations – to be effective.

Guarding against such serious threats to the public interest is precisely why a merger of this magnitude requires the approval of jurisdictions such as ours. Placing a strong open access condition on your approval of this merger will send an important signal to the FCC, and be in the best tradition of Portland and Multnomah County taking the lead in safeguarding open and fair competition - the ultimate protection for consumers and the freedom of access to information.

Sincerely,



Jason Reynolds
Executive Director

98 DEC 16 PM 3:16
MULTNOMAH COUNTY
OREGON
CLERK OF
COUNTY COMMISSIONERS

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

AMENDMENTS TO DEC. 17, 1998 AGENDA ITEM NO. R-8
Resolution Consenting To A Change In Control Of The TCI Cable Franchises (West Multnomah
County, Hayden Island)

(deletions are ~~stricken~~; additions are double-underlined)

Amendment 1: Paragraph 2 of the Resolution Consenting To A Change In Control Of The TCI Cable Franchises (West Multnomah County, Hayden Island) To AT&T With Conditions (Page 3 of 8 - TCI/AT&T Resolution), is amended as follows:

2. Written acceptance.

(a) Within ~~fifteen~~ twelve days after passage of this resolution by the Board, AT&T shall file its written acceptance of this resolution meeting the approval of the County Counsel. The acceptance shall be in the form attached as Exhibit A. AT&T shall file such written acceptance in the Office of the County Counsel.

(b) AT&T's acceptance shall be contingent upon final closing of the merger transaction, as provided in Section 4 below. Such acceptance shall be otherwise be unqualified and shall be construed to be an acceptance of all the terms, conditions and restrictions contained in this resolution.

(c) AT&T's failure, refusal or neglect to file such written acceptance within such time shall constitute an abandonment and rejection of the rights and privileges conferred.

Amendment 2: Paragraph 4 of the Acceptance attached as Exhibit A to the resolution (Page 6 of 8 - RESOLUTION TCI/AT&T - Exhibit A - ACCEPTANCE) is amended as follows:

4. Non-discriminatory access to cable modem platform. Transferee shall provide, and cause ~~TCI Franchisees~~ to provide, nondiscriminatory access to ~~TCI's Franchisees'~~ cable modem platform for providers of internet and on-line services, whether or not such providers are affiliated with Transferee or ~~TCI Franchisees~~, unless otherwise required by applicable law. So long as cable modem services are deemed by law to be "cable services", as provided under Title VI of the Communications Act of 1934, as amended, Transferee and ~~TCI Franchisees~~ agree to shall comply with all ~~lawful~~ requirements regarding such services, including, but not limited to, the inclusion of revenues from cable modem services and access within the gross revenues of ~~TCI's Franchisees'~~ cable franchises, and commercial leased access requirements.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 98-208

A RESOLUTION CONSENTING TO A CHANGE IN CONTROL OF THE TCI CABLE FRANCHISES (WEST MULTNOMAH COUNTY, HAYDEN ISLAND) TO AT&T WITH CONDITIONS

The Multnomah County Board of Commissioners Finds:

- A. AT&T Corporation ("AT&T") has agreed to acquire Tele-Communications, Inc. ("TCI") pursuant to an Agreement and Plan of Merger, dated June 24, 1998.
- B. TCI presently owns and controls cable franchises originally issued by Multnomah County ("County") to TCI Cablevision of Oregon, Inc. as authorized by Resolution No. 97-124, passed by the Board June 26, 1997 ("TCI/Multnomah franchise"), or transferred to TCI with the County's consent under Ord. No. 838, passed by the Board October 26, 1995, consenting to a change in control of the Hayden Island cable franchise to TCI of Southern Washington ("TCI/Hayden Island franchise").
- C. Section 14.1 and 14.2 of the TCI/Multnomah franchise, and Section 3.5 and 3.6 of the TCI/Hayden Island cable franchise, prohibit a franchise transfer or change in control unless and until the County has given prior consent by ordinance or resolution, and further provides that the County may condition a transfer upon such terms and conditions related to the technical, legal, and financial qualifications of the prospective transferee to perform according to the terms of the franchise as the County deems appropriate, including those conditions deemed necessary by the County to ensure the strict performance of the requirements of the franchise.
- D. Transfers of cable franchises are subject to the requirements of the Cable Communications Policy Act of 1992, and regulations promulgated by the Federal Communications Commission ("FCC"). AT&T and TCI filed an FCC Form 394, which was received by the Mt. Hood Cable Regulatory Commission, ("MHCRC") on September 2, 1998.
- E. The MHCRC generally represents Multnomah County in cable regulatory matters. The MHCRC was created by an Intergovernmental Agreement ("IGA") dated December 24, 1992 between and among Multnomah County and the Cities of Fairview, Gresham, Portland, Troutdale, and Wood Village ("Jurisdictions"). The IGA states that "(a)ny decision concerning a change of ownership or control of a cable communications system or a Grantee" is an area where the Jurisdictions have reserved full authority to act on their

own behalf. IGA, § 4.B.2. However, each Jurisdiction has agreed "to take no action in these areas until the Commission has had a prior opportunity to consider the matter." IGA, § 4.B. Thus, the Commission acts in an advisory capacity to the County in connection with TCI and AT&T's proposed merger and transfer of system.

- F. After receiving the initial FCC Form 394 filing with exhibits on September 2, 1998, the MHCRC established a process for considering the proposed merger. *MHCRC Res. No. 98-9* (Passed September 21, 1998). MHCRC staff, with the assistance of financial consultant KFA Services and the Commission's legal counsel, requested additional information from AT&T and TCI. *MHCRC staff letter to AT&T and TCI* (September 30, 1998). AT&T submitted a partial reply to this request on October 12, 1998. The MHCRC conducted a public hearing on the transfer application on October 19, 1998. Following the hearing, the MHCRC sought certain additional information and responses. *MHCRC staff letter to AT&T and TCI* (October 30, 1998). The MHCRC received a further reply from AT&T on November 9, 1998. Among other things, the information provided by AT&T and TCI showed that certain franchise fee arrearages may exist. The MHCRC held a work session on November 16, 1998 to review this material and make a recommendation to the County.
- G. The MHCRC identified specific concerns regarding AT&T's application for the change in control of the TCI franchises, including: (a) acceptance of all existing TCI franchise requirements; (b) AT&T's and TCI's corporate reorganization and financial conditions after the merger is completed; (c) completion of TCI/Multnomah upgrade; (d) construction and completion of TCI's institutional network commitments; (e) possible franchise and PEG fee arrearages arising from the exclusion of certain advertising revenue or programmer payments; (f) TCI's proposed cable modem Internet platform and services, and compliance with applicable cable commercial requirements; and (g) compliance with all other applicable legal requirements, including carriage of broadcast digital and high definition television signals, and interconnection of cable system with potential competitors for purposes of sharing cable PEG channels, to the extent required by the TCI/Multnomah and TCI/Hayden Island franchise agreements. The MHCRC's recommendation to the County contained conditions intended to address these concerns.
- H. AT&T's application for the transfer of control of the TCI/ Multnomah and TCI/ Hayden Island franchises to AT&T should be approved with conditions. If AT&T does not accept these conditions, the application should be denied.

The Multnomah County Board of Commissioners Resolves:

1. Subject to the conditions set out in the acceptance form attached as Exhibit A to this resolution, Multnomah County approves AT&T's request for a change in control of the following cable franchises:

- TCI Cablevision of Oregon, Inc. as authorized by Resolution No. 97-124, passed by the Board June 26, 1997; and
- TCI of Southern Washington (Hayden Island) as originally entered into by Multnomah County on October 6, 1986 with American Earthstations, Inc., as subsequently transferred to Columbia Cable of Washington with the approval of Multnomah County on December 18, 1986, and as ultimately transferred to TCI with the County's consent (Ord. No. 838, passed by the Board October 26, 1995, consenting to a change in control of the Hayden Island cable franchise to TCI of Southern Washington) ("TCI/Multnomah franchises")

2. Written acceptance.

(a) Within twelve days after passage of this resolution by the Board, AT&T shall file its written acceptance of this resolution meeting the approval of the County Counsel. The acceptance shall be in the form attached as Exhibit A. AT&T shall file such written acceptance in the Office of the County Counsel.

(b) AT&T's acceptance shall be contingent upon final closing of the merger transaction, as provided in Section 4 below. Such acceptance shall be otherwise be unqualified and shall be construed to be an acceptance of all the terms, conditions and restrictions contained in this resolution.

(c) AT&T's failure, refusal or neglect to file such written acceptance within such time shall constitute an abandonment and rejection of the rights and privileges conferred.

3. Denial of transfer application. If for any reason AT&T fails, refuses or neglects to file the written acceptance as provided in Section 2, Multnomah County denies AT&T's request for a change in control of the TCI/Multnomah franchises.

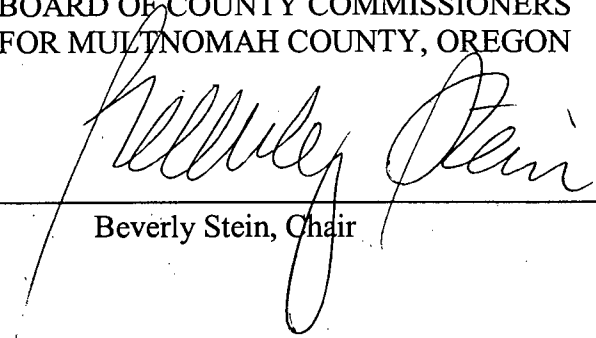
4. Automatic nullification in event of failure to close or closure on materially different terms. In the event the transaction which is the subject of this resolution is not consummated or does not reach final closure for any reason, or in the event such closure is reached on terms substantially and materially different to the terms described in the FCC Form 394 and subsequent information provided by the AT&T and relied upon by the MHCRC, then this resolution, together with the

written acceptance provided, shall be null and void. If the closure is upon terms which are substantially and materially different, AT&T shall resubmit its request for a change in control in order to be in compliance with the TCI/Multnomah franchises.

Adopted this 17th day of December, 1998.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

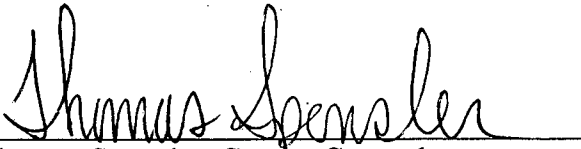

Thomas Sponsler, County Counsel

EXHIBIT A
ACCEPTANCE

Board of Commissioners
Multnomah County
15th Floor, The Portland Building
1120 SW Fifth Avenue
Portland, OR 97204

This is to advise the Multnomah County, Oregon that AT&T Corporation ("Transferee") unqualifiedly accepts Resolution No. 98-_____, passed by the Board of Commissioners on December 17, 1998, regarding the change in control to the Transferee of the following cable franchises under the following terms and conditions:

- TCI Cablevision of Oregon, Inc. ("Franchisee") (Resolution No. 97-124, passed by the Board June 26, 1997); and
- TCI of Southern Washington, Inc. ("Franchisee") (Hayden Island) as originally entered into by Multnomah County on October 6, 1986 with American Earthstations, Inc., as subsequently transferred to Columbia Cable of Washington with the approval of Multnomah County on December 18, 1986, and as ultimately transferred to TCI with the County's consent (Ord. No. 838, passed by the Board October 26, 1995, consenting to a change in control of the Hayden Island cable franchise to TCI of Southern Washington)

(hereafter collectively "TCI/Multnomah franchises")

1. Compliance with franchise. In all respects and without exception, Transferee shall cause the Franchisees to comply, and the Franchisees shall comply, with the requirements of the TCI/Multnomah franchises, including all applicable ordinances, resolutions, orders, contracts, agreements, commitments, side letters, and regulatory actions taken pursuant thereto, including but not limited to system upgrade commitments, support for Public, Educational, and Governmental ("PEG") cable access, and institutional network construction and extension requirements.
2. Schedule for Upgrade or Rebuild of Multnomah cable system. In accordance with the TCI Multnomah franchise, Section 5.2, AT&T shall provide or shall cause TCI to provide to the MHCRC by July 1, 1999 a schedule for the Upgrade or Rebuild of its Multnomah Cable system to the same or greater levels and types of services and capacity as will be provided under TCI's upgraded contiguous cable system serving the City of Portland.
3. Organization and proxy statements. Transferee shall submit to the County (a) updated Transferee and TCI corporate organization charts identifying the roles, specifically, of AT&T Consumer Services and AT&T Business or Network Services; and (b) all publicly available proxy statements issued in connection with

the merger. This information shall be submitted to the County within thirty (30) days of the earlier of either the closure of the merger transaction or the public release of this information.

4. Non-discriminatory access to cable modem platform. Transferee shall provide, and cause Franchisees to provide, nondiscriminatory access to Franchisees' cable modem platform for providers of internet and on-line services, whether or not such providers are affiliated with Transferee or Franchisees, unless otherwise required by applicable law. So long as cable modem services are deemed by law to be "cable services", as provided under Title VI of the Communications Act of 1934, as amended, Transferee and Franchisees shall comply with all requirements regarding such services, including, but not limited to, the inclusion of revenues from cable modem services and access within the gross revenues of Franchisees' cable franchises, and commercial leased access requirements.
5. Compliance with legal requirements.
 - (a) Transferee shall cause the Franchisees to comply, and the Franchisees shall comply, with each and every provision of the franchise agreements, including all applicable ordinances, resolutions, orders, contracts, agreements, side letters, commitments, and regulatory actions taken pursuant thereto, as applicable, and without exception.
 - (b) Transferee shall cause the Franchisees to comply, and the Franchisees shall comply, with all other applicable requirements that are now or may later apply to the TCI/Multnomah franchise operations, including, but not limited to, carriage of broadcast digital and high definition television signals, interconnection of cable system with potential franchised cable competitors for purposes of sharing cable PEG channels, and adherence to applicable federal and state emergency notification provisions.
6. Transferee responsible for any non-compliance by franchisee. The Cable Communications Policy Act of 1992 contemplates that deficiencies in cable service, including non-compliance, should be addressed at the time of a franchise transfer. In its application and supplementary materials, Transferee has assured the County that the merger involved only a change in control at the parent level of TCI. Accordingly, Transferee agrees that the County does not waive and expressly reserves all legal rights and authority in regard to any and all non-compliance under the TCI/Multnomah franchises that may now exist or may later be discovered to have existed during the term of the franchise(s), even if prior to the closing of this transaction. Such non-compliance may include, but is not limited to, the following:
 - (a) Cooperation in franchise fee review. Transferee shall cause the Franchisees to cooperate, and the Franchisees shall cooperate, with MHCRC staff, and the Franchisees will adhere to such deadlines as may be established by the MHCRC,

for the submittal of information to enable the MHCRC to conclude a franchise compliance inquiry in connection with possible TCI franchise fee arrearages that may have arisen through exclusion of certain advertising revenue or programmer payments. Transferee agrees that by consenting to the change in control, the County does not waive and expressly reserves the right to enforce full compliance with applicable franchise fee requirements, whether or not any noncompliance that may be determined arose before or after the consummation of the Transferee/TCI merger.

- (b) Transferee and the Franchisees specifically accept the County's reservation of rights as set forth above.
7. In the event the merger between Transferee and TCI which is the subject of this Acceptance is not consummated or does not reach final closure for any reason, or in the event such closure is reached on terms substantially and materially different to the terms described in the FCC Form 394 and subsequent information provided by the Transferee and relied upon by the MHCRC, then Transferee acknowledges that the County's resolution, together with the written acceptance provided, shall be automatically null and void without further action by either party. If the closure is upon terms which are substantially and materially different, Transferee shall resubmit its request for a change in control in order to be in compliance with the TCI/Multnomah franchises.

AT&T Corporation

BY _____
NAME _____
TITLE _____

State of _____)
County of _____) ss.

This Acceptance was acknowledged before me on the _____ day of _____, 199____,
by _____ as _____, a duly authorized
officer of AT&T Corporation.

Notary Public for _____
My Commission Expires _____

BY _____
NAME _____
TITLE _____

Notary Public for _____
My Commission Expires _____

BY _____
NAME _____
TITLE _____

Notary Public for _____
My Commission Expires _____

Thomas Sponsler, County Counsel



TCI NORTHWEST, INC.
22025 30th Ave SE
Bothell, WA 980921-4444

Facsimile Cover Sheet

Date: 1/29/99

Number of pages including cover sheet: 3

TO: Deborah Bagstad
Multnomah County
Bd of Commissioners

FROM: Debbie Luppald

Phone Number:

Phone Number: (425) 398-6141

Fax number: (503) 248-3013

Fax Number: (425) 398-6232

Message:

If you have received this communication in error, please notify sender at the phone number provided above. Thank you.



January 29, 1999

VIA FACSIMILE (503) 248-3013 and U.S. MAIL

Multnomah County Board of Commissioners
Attn: Deborah Bogstad, Board Clerk
1120 SW Fifth Ave., Room 515
Portland, OR 97204

Re: Public Records Request

Dear Ms. Bogstad:

Pursuant to Oregon Revised Statutes 192.410 through 192.505, I hereby request to inspect and copy the following public records:

1. The audiotape of the December 17, 1998, Multnomah County Board of Commissioners meeting; ✓
2. Minutes of the December 17, 1998, Multnomah County Board of Commissioners meeting; and ✓
3. All "public records", as that term is defined in Oregon Revised Statutes 192.410(3), considered by or submitted to or by any Multnomah County Commissioner or any staff of any Commissioner relating to the topic of open access to the cable modem platform and/or to the proposed merger of AT&T and TCI. As a courtesy, a copy of Oregon Revised Statutes 192.410(3) is attached. ✓

Please contact me as soon as possible so that we may discuss a timeline of when these public records will be provided. My direct telephone number is (425) 398-6140.

Phoned 1/29/99

Very truly yours,

Debbie Luppold
Debbie Luppold
TCI Northwest, Inc.

*SPEAKER BOARD Taped tapes, minutes
CAROL'S PACKET on 2/1/99.*

Attachment

cc: Thomas Sponslor, County Attorney

TCI Northwest, Inc.

22025 30th Ave. SE
Bothell, WA 98021-4444
(425) 398-6000

An Equal Opportunity Employer

RECORDS, REPORTS AND MEETINGS**192.430****(Distribution)**

192.270 Definitions for ORS 192.270 and 192.275. As used in ORS 192.270 and 192.275:

(1) "Public" does not include any state officer or board, commission, committee, department, institution, branch or agency of state government to which a report is specifically required by law to be submitted but does include any such to which a copy is sent for general informational purposes or as a courtesy.

(2) "Report" means informational matter published as a report or other document by a state agency but does not include an order as defined in ORS 183.310.

(3) "State agency" means any state officer or board, commission, department, institution or agency of the executive, administrative or legislative branches of state government. (1993 c.181 §1)

Note: 192.270 and 192.275 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 192 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

192.275 Notice when report required; content; effect. Notwithstanding ORS 192.230 to 192.245, if any state or federal law requires a state agency to send, mail or submit a report to the public, the state agency may meet this requirement by mailing notice of the report to the public. The notice shall state that if the recipient returns an attached or enclosed postcard to the state agency, the state agency will supply a copy of the report. The postcard may contain a checkoff to indicate whether the person wants to continue receiving a copy of complete reports. (1993 c.181 §2)

Note: See note under 192.270.

RECORDS AND REPORTS

192.310 Records and reports required by law to be in English. (1) With the exception of physicians' prescriptions, all records, reports and proceedings required to be kept by law shall be in the English language or in a machine language capable of being converted to the English language by a data processing device or computer.

(2) Violation of this section is a Class C misdemeanor. (1971 c.743 §294)

INSPECTION OF PUBLIC RECORDS

192.410 Definitions for ORS 192.410 to 192.505. As used in ORS 192.410 to 192.505:

(1) "Custodian" means:

(a) The person described in ORS 7.110 for purposes of court records; or

(b) A public body mandated, directly or indirectly, to create, maintain, care for or control a public record. "Custodian" does not include a public body that has custody of a public record as an agent of another public body that is the custodian unless the public record is not otherwise available.

(2) "Person" includes any natural person, corporation, partnership, firm or association.

(3) "Public body" includes every state officer, agency, department, division, bureau, board and commission; every county and city governing body, school district, special district, municipal corporation, and any board, department, commission, council, or agency thereof; and any other public agency of this state.

(4) "Public record" includes any writing containing information relating to the conduct of the public's business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics.

(5) "State agency" means any state officer, department, board, commission or court created by the Constitution or statutes of this state but does not include the Legislative Assembly or its members, committees, officers or employees insofar as they are exempt under section 9, Article IV of the Oregon Constitution.

(6) "Writing" means handwriting, type-writing, printing, photographing and every means of recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, files, facsimiles or electronic recordings. (1973 c.794 §2; 1989 c.377 §1; 1993 c.787 §4)

192.420 Right to inspect public records. Every person has a right to inspect any public record of a public body in this state, except as otherwise expressly provided by ORS 192.501 to 192.505. (1979 c.794 §3)

192.430 Functions of custodian of public records. (1) The custodian of any public records, including public records maintained in machine readable or electronic form, unless otherwise expressly provided by statute, shall furnish proper and reasonable opportunities for inspection and examination of the records in the office of the custodian and reasonable facilities for making memoranda or abstracts therefrom, during the usual business hours, to all persons having occasion to make examination of them. If the public record is maintained in machine readable or electronic form, the custodian shall furnish proper and reasonable opportunity to assure access.

(2) The custodian of the records may adopt reasonable rules necessary for the pro-



January 29, 1999

VIA FACSIMILE (503) 248-3013 and U.S. MAIL

Multnomah County Board of Commissioners
Attn: Deborah Bogstad, Board Clerk
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Please contact me as soon as possible so that we may discuss a timeline of when these public records will be provided. My direct telephone number is (425) 398-6140.

Very truly yours,

Debbie Luppold

Debbie Luppold
TCI Northwest, Inc.

Attachment

cc: Thomas Sponslor, County Attorney

BOARD OF
COUNTY COMMISSIONERS
99 FEB -2 AM 8:46
MULTNOMAH COUNTY
OREGON

TCI Northwest, Inc.

22025 30th Ave. SE
Bothell, WA 98021-4444
(425) 398-6000

An Equal Opportunity Employer

(Distribution)

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Note: 192.270 and 192.275 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 192 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

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Note: See note under 192.270.

RECORDS AND REPORTS

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(a) The person described in ORS 7.110 for purposes of court records; or

(b) A public body mandated, directly or indirectly, to create, maintain, care for or control a public record. "Custodian" does not include a public body that has custody of a public record as an agent of another public body that is the custodian unless the public record is not otherwise available.

(2) "Person" includes any natural person, corporation, partnership, firm or association.

(3) "Public body" includes every state officer, agency, department, division, bureau, board and commission; every county and city governing body, school district, special district, municipal corporation, and any board, department, commission, council, or agency thereof; and any other public agency of this state.

(4) "Public record" includes any writing containing information relating to the conduct of the public's business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics.

(5) "State agency" means any state officer, department, board, commission or court created by the Constitution or statutes of this state but does not include the Legislative Assembly or its members, committees, officers or employees insofar as they are exempt under section 9, Article IV of the Oregon Constitution.

(6) "Writing" means handwriting, type-writing, printing, photographing and every means of recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, files, facsimiles or electronic recordings. [1973 c.794 §2; 1989 c.377 §1; 1993 c.787 §4]

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192.430 Functions of custodian of public records. (1) The custodian of any public records, including public records maintained in machine readable or electronic form, unless otherwise expressly provided by statute, shall furnish proper and reasonable opportunities for inspection and examination of the records in the office of the custodian and reasonable facilities for making memoranda or abstracts therefrom, during the usual business hours, to all persons having occasion to make examination of them. If the public record is maintained in machine readable or electronic form, the custodian shall furnish proper and reasonable opportunity to assure access.

(2) The custodian of the records may adopt reasonable rules necessary for the pro-

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY OREGON

PROCLAMATION
No. 98-209

The Multnomah County Board of Commissioners Finds That:

- a. Commissioner Gary Hansen has served the people of Multnomah County with distinction for eight years; and
- b. Gary will be greatly missed; and
- c. He has brightened the lives of his colleagues and co-workers with many fascinating and detailed stories, and jokes that can't always be repeated; and
- d. He has enlightened all listeners and innocent bystanders regarding the many similarities between plumbing and politics; and
- e. He frequently wielded his golden wrench to keep the County flowing smoothly; and
- f. His exceptional and peculiar taste in haberdashery and particularly his predilection for rosy hosiery has done more to advance the interest of red socks than Ted Williams, Cy Young and Carl Yastremski put together;

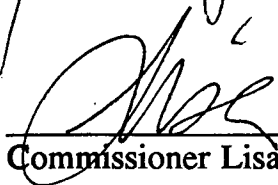
The Multnomah County Board of Commissioners Proclaims *December 17, 1998* is officially recognized as *Gary Hansen Red Sock Day in Multnomah County*.

Adopted this 17th Day of December 1998.

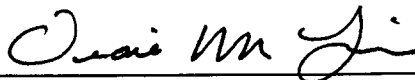
BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY OREGON



Beverly Stein, Chair



Commissioner Lisa Naito, Dist. 3



Commissioner Diane Linn, Dist. 1



Commissioner Sharron Kelley, Dist. 4

MEETING DATE: DEC 17 1998
AGENDA #: R-10
ESTIMATED START TIME: 9:00

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Resolution Authorizing the Quasi Competitive Advance Refunding Sale of all or a portion of the 1994, 1994B and 1996A Library General Obligation Bond issues and the 1996B Public Safety General Obligation Bond issue

BOARD BRIEFING: DATE REQUESTED: _____
REQUESTED BY: _____
AMOUNT OF TIME NEEDED: _____

REGULAR MEETING: DATE REQUESTED: December 17, 1998
AMOUNT OF TIME NEEDED: 5 to 10 Minutes

DEPARTMENT: DSS DIVISION: Finance

CONTACT: Dave Boyer TELEPHONE #: 248-3903
BLDG/ROOM #: 106/1430

PERSON(S) MAKING PRESENTATION: Dave Boyer

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

SUGGESTED AGENDA TITLE:

Resolution Authorizing the quasi competitive sale of all or a portion of the 1994, 1994B and 1996A Library General Obligation Bond issues and 1996B Public Safety General Obligation Bond issue

12/17/98 copies to Dave Boyer

SIGNATURES REQUIRED:

ELECTED
OFFICIAL: _____
(OR)
DEPARTMENT
MANAGER: _____

Dickie L. Jones

BOARD OF
COUNTY COMMISSIONERS
98 DEC 10 PM 3:39
MULTNOMAH COUNTY
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277



MULTNOMAH COUNTY, OREGON

DEPARTMENT OF SUPPORT SERVICES

FINANCE DIVISION

COUNTY COMMISSIONERS

BEVERLY STEIN, CHAIR
DIANE LINN, DISTRICT #1
GARY HANSEN, DISTRICT #2
LISA NAITO, DISTRICT #3
SHARRON KELLEY, DISTRICT #4

DIRECTORS OFFICE
ACCOUNTS PAYABLE
GENERAL LEDGER
PAYROLL
TREASURY
LAN ADMINISTRATION

PORTLAND BUILDING
1120 SW FIFTH AVENUE, SUITE 1430
PO BOX 14700
PORTLAND, OR 97293-0700
PHONE (503) 248-3312
FAX (503) 248-3292

CONTRACTS
MATERIEL MANAGEMENT
PURCHASING

FORD BUILDING
2505 SE 11TH 1ST FLOOR
PORTLAND, OR 97202
PHONE (503) 248-5111
FAX (503) 248-3252
TDD (503) 248-5170

MEMORANDUM

TO: Board of County Commissioners

FROM: David Boyer, Finance Director *DB*

DATE: December 7, 1998

REQUESTED PLACEMENT DATE; December 17, 1998

SUBJECT: Advance Refunding of General Obligation (G.O.) Bonds (Refinancing)

I. Recommendation / Action:

Approve resolution authorizing the quasi competitive sale of the 1999 Advance Refunding Bonds

II. Background / Analysis:

On March 10, 1994, the County issued \$22,000,000 in Library G.O. Bonds, on October 13, 1994, the County issued \$9,000,000 in Library G.O. Bonds, on October 1, 1996, the County issued \$29,000,000 in Library G.O. Bonds and on October 1, 1996, the County issued \$79,700,000 in Public Safety G.O. Bonds. All of these bonds were approved by the voters of Multnomah County. The current outstanding balances on these issues are \$17,610,000, \$7,875,000, \$22,355,000 and \$72,395,000 respectively. The interest rates on the outstanding issues range between 4% to 6%. The current long term interest rates are about 4.50%.

State law requires that before a local governmental can advance refund (refinance) bonds, the advance refunding shall produce a present value savings of 3%. Because interest rates have declined during the last few years, the entire callable portion of the 1994B issue can be refunded to achieve a present value savings of 3%. Several of the callable maturities of the other issues also meet the 3% savings test. We are leaving the amount open because until we receive bids on the advance refunding we don't know what the total dollar amount of the issue will be.

This financing will be issued using a quasi competitive method. Under this method the interest rates on the bonds will be done competitively and the final details of the issue will be negotiated. The negotiated details include obtaining bond insurance if needed, closing date and other technical details.

This financing is authorized by Internal Revenue Codes, State Statutes and the County Financial and Budget Policy. The County will retain Ater Wynne, Bond Counsel, to ensure that the County's legal requirements are met and retain Regional Financial Advisor as our expert financial advisor. State law requires that we retain these professional firms. Once approved the Finance Division will ensure that all publication and legal requirements are met.

III. Financial Impact:

There is no financial Impact to the General Fund but property tax bills will be decreased to property owners as a result of this refinancing. Currently we are estimating that the net present value savings is \$250,000. This amount will vary and depends on interest rates at time of sale.

IV. Legal Issues:

The Resolution contains all legal requirements and was reviewed by all parties. Ater Wynne Hewitt Dodson & Skerritt is Bond Counsel to the County.

V. Controversial Issues:

None

VI. Link to Current County Policy:

Is consistent with the Financial and Budget Policy adopted by the Board.

VII. Citizen Participation:

None required

VIII. Other Government Participation:

None.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON
RESOLUTION NO. 98-206**

Authorizing Issuance of Advance Refunding Bonds, Series 1999.

The Board of County Commissioners finds:

- a. The County previously issued on March 10, 1994 its General Obligation Library Bonds, Series 1994 (the "Series 1994 Bonds") in the aggregate principal amount of \$22,000,000, for the purpose of providing a portion of the funds to finance the renovation of the Central Library and reconstruction and remodeling of the Midland Branch Library, to acquire additional land for the Midland Branch Library and to pay the cost of issuance of the Series 1994 Bonds (the "1994 Project"); and
- b. On October 13, 1994 the County issued its General Obligation Library Bonds, Series 1994B (the "Series 1994B Bonds") in the aggregate principal amount of \$9,000,000 for the purpose of providing the remaining portion of funds to complete the 1994 Project and to pay the cost of issuance of the Series 1994B Bonds. The Series 1994 Bonds and Series 1994B Bonds were authorized by approving vote at the May 18, 1993 election; and
- c. On October 1, 1996, the County issued its General Obligation Library Bonds, Series 1996A (the "Series 1996A Bonds") in the aggregate principal amount of \$29,000,000 for the purpose of providing funds for computer equipment, library resources and technology infrastructure for the Library system and to acquire land and modifying, reconstructing, constructing or making improvements to several branch library facilities and to pay the cost of issuance of the Series 1996A Bonds. The Series 1996A Bonds were authorized by approving vote at the May 21, 1996 election; and
- d. On October 1, 1996, the County issued its General Obligation Public Safety Bonds, Series 1996B (the "Series 1996B Bonds") in the aggregate principal amount of \$79,700,000 for the purpose of providing funds for constructing and equipping a 210 bed jail facility and acquiring land; expanding the Inverness Jail by 120 beds and equipping the expansion; constructing or acquiring and equipping two 75 bed alcohol and drug treatment centers and acquiring land; modifying the Courthouse Jail, Multnomah County Detention Center and Inverness Jail Release Center; providing for computer equipment and technology infrastructure for criminal records processing and tracking; providing permanent financing for the 64 bed expansion of the existing Juvenile Justice Complex; constructing or acquiring and equipping facilities to assist abused children; and to pay the cost of issuance of the 1996B Bonds. The Series 1996B Bonds were authorized by approving vote at the May 21, 1996 election; and
- e. The County is authorized pursuant to the Oregon Constitution and Oregon Revised Statutes Sections 288.605 through 288.695 (the "Act") to issue advance refunding bonds for the refunding of all or any portion of its outstanding bonds; and
- f. The County has directed Regional Financial Advisors, Inc. to prepare an advance refunding plan for all or a portion of the County's outstanding Series 1994 Bonds, Series 1994B Bonds, Series 1996A Bonds and Series 1996B Bonds (collectively referred to herein as the "Refundable Bonds"); and

g. Advance refunding all or a portion of the Refundable Bonds will provide significant debt service savings to the County as required by law; and

h. The County adopts this resolution to provide the terms under which advance refunding general obligation bonds may be issued, subject to acquiring the required present value savings to the County, and the required approval of the Oregon State Treasurer.

The Board Resolves:

1. Plan Submission. Regional Financial Advisors, Inc. is hereby authorized, on behalf of the County, to submit an advance refunding plan for all or a portion of the Refundable Bonds to the Oregon State Treasurer for review and approval.

2. Issue. Upon approval by the State Treasurer of the issuance of advance refunding general obligation bonds in accordance with the advance refunding plan proposed by Regional Financial Advisors, Inc. and for the above purposes, the County hereby authorizes the issuance of Advance Refunding General Obligation Bonds, Series 1999 (the "Refunding Bonds") in a principal amount sufficient to pay the cost of refunding all or a portion of the Refundable Bonds and the costs incident to the authorization, sale, issuance and delivery of the Refunding Bonds. The Refunding Bonds shall be issued upon such financial terms and covenants as may be approved by the Chair, the Director, Finance Division, Treasury Manager or their designee (the "Authorized Representative"). The terms of the Refunding Bonds shall be established as provided in Section 10 hereof.

3. Security. The Refunding Bonds shall be general obligations of the County. The full faith and credit of the County are pledged to the successive owners of each of the Refunding Bonds for the punctual payment of such obligations, when due. The County covenants with the Bondowners to levy annually a direct ad valorem tax upon all of the taxable property within the County in an amount without limitation as to rate or amount, and outside of the limitations of sections 11 or 11b, Article XI of the Oregon Constitution, after taking into consideration discounts taken and delinquencies that may occur in the payment of such taxes, to pay interest accruing and the principal maturing on the Refunding Bonds promptly when and as they become due.

4. Form and Execution of Refunding Bonds. The Refunding Bonds shall be substantially in the form approved by the County and Bond Counsel. The Refunding Bonds may be issued in one or more series, may be printed or typewritten, and may be issued as one or more temporary Refunding Bonds, which shall be exchangeable for definitive Refunding Bonds when definitive Bonds are available.

The Refunding Bonds shall be executed by facsimile signature of the Chair and attested to by the facsimile signature of the County Clerk. Additionally, the Refunding Bonds shall be authenticated by the manual signature of the authorized officer of the Registrar, as defined below.

5. Book-Entry System. The Refunding Bonds shall be initially issued as a book-entry only security issue with no Refunding Bonds being made available to the Owners pursuant to the terms of a Blanket Issuer Letter of Representations (the "Letter of Representations") executed and delivered by the County to The Depository Trust Company ("DTC"), New York, New York, as the securities depository of the Refunding Bonds.

Ownership of the Refunding Bonds shall be recorded through entries on the books of banks and broker-dealer participants and correspondents that are related to entries on DTC's book-entry only system. The Refunding Bonds shall be initially issued in the form of separate single fully registered typewritten Bonds for each maturity of the Refunding Bonds (the "Global Bonds") in substantially the form approved by the Authorized Representative.

Each Global Bond shall be registered in the name of CEDE & CO. as nominee (the "Nominee") of DTC (DTC and any other qualified securities depository designated by the County as a successor to DTC, collectively the "Depository") as the "Registered Owner," and such Global Bonds shall be lodged with the Depository until early redemption or maturity of the Bond issue. The Registrar shall remit payment for the maturing principal and interest on the Refunding Bonds to the Owner for distribution by the Nominee for the benefit of the Owners (the "Beneficial Owner" or "Record Owner") by recorded entry on the books of the Depository participants and correspondents. While the Refunding Bonds are in book-entry-only form, the Refunding Bonds will be available in denominations of \$5,000 or any integral multiple thereof.

In the event:

- a. the Depository determines not to continue to act as securities depository for the Refunding Bonds, or
- b. the County determines that the Depository shall no longer so act, then the County will discontinue the book-entry only system with the Depository. If the County fails to designate another qualified securities depository to replace the Depository or elects to discontinue use of a book-entry-only system, the Refunding Bonds shall no longer be a book-entry-only issue but shall be registered in the registration books maintained by the Registrar in the name of the Owner as appearing on the Bond register and thereafter in the name or names of the Owners of the Refunding Bonds transferring or exchanging Refunding Bonds.

With respect to Refunding Bonds registered in the registration books maintained by the Registrar in the name of the Nominee of the Depository, the County and the Registrar shall have no responsibility or obligation to any participant or correspondent of the Depository or to any Registered Owner on behalf of which such participants or correspondents act as agent for the Owner with respect to:

- a. the accuracy of the records of the Depository, the Nominee or any participant or correspondent with respect to any ownership interest in the Refunding Bonds;
- b. the delivery to any participant or correspondent or any other person, other than a Owner as shown in the registration books maintained by the Registrar, of any notice with respect to the Refunding Bonds, including any notice of prepayment;
- c. the selection by the Depository of the beneficial interest in Refunding Bonds to be redeemed prior to maturity; or
- d. the payment to any participant, correspondent, or any other person other than the Owner of the Refunding Bonds as shown in the registration books maintained by the Registrar, of any amount with respect to principal of or interest on the Refunding Bonds.

Notwithstanding the book-entry only system, the County may treat and consider the Beneficial Owner in whose name each Bond is registered in the registration books maintained by the Registrar as the Owner and absolute Owner of such Bond for the purpose of payment of principal and interest with respect to such Bond, or for the purpose of giving notices of redemption and other matters with respect to such Bond, or for the purpose of registering transfers with respect to such Bond, or for all other purposes whatsoever. The County shall pay or cause to be paid all principal and interest on the Refunding Bonds only to or upon the order of the Registered Owner, as shown in the registration books maintained by the Registrar, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the County's obligation with respect to payment thereof to the extent of the sum or sums so paid.

Upon delivery by the Depository to the County and to the Owner of written notice to the effect that the Depository has determined to substitute a new nominee in place of the Nominee, then the word "Nominee" in this Resolution shall refer to such new nominee of the Depository, and upon receipt of such notice, the County shall promptly deliver a copy thereof to the Registrar. The Depository shall tender the Refunding Bonds it holds to the Registrar for reregistration.

6. Appointment of Registrar. The County authorizes the Authorized Representative to designate a Bond Registrar and Paying Agent for the Bonds (the "Registrar"). A successor Registrar may be appointed for the Bonds by the Authorized Representative. The Registrar shall provide notice to Bondowners of any change in the Registrar not later than the next Bond payment date following the change in Registrar.

7. Authentication, Registration, Exchange and Transfer.

- a. No Refunding Bond shall be entitled to any right or benefit under this Resolution unless it shall have been authenticated by an authorized officer of the Registrar. The Registrar shall authenticate all Refunding Bonds to be delivered at closing, and shall additionally authenticate all Refunding Bonds properly surrendered for exchange or transfer pursuant to this Resolution.
- b. All Refunding Bonds shall be in registered form. The Authorized Representative shall appoint a Registrar for the Refunding Bonds. A successor Registrar may be appointed for any Series or all of the Refunding Bonds by resolution of the County. The Registrar shall provide notice to Owners of any change in the Registrar not later than the Bond payment date following the change in Registrar.
- c. The ownership of all Refunding Bonds shall be entered in the Refunding Bond register maintained by the Registrar, and the County and Registrar may treat the person listed as Owner in the Refunding Bond register as the Owner of the Refunding Bond for all purposes.
- d. The Registrar shall mail or cause to be delivered each interest payment on the Interest Payment Date (or the next Business Day if the Interest Payment Date is not a Business Day) to the name and address of the Owner, as that name and address appear on the Refunding Bond register as of the Record Date. If payment is so mailed or delivered, neither the County nor the Registrar shall have any further liability to any party for such payment.

- e. In the event the Refunding Bonds cease to be book-entry only bonds, the Refunding Bonds may be exchanged for an equal principal amount of Refunding Bonds of the same maturity which are in different authorized denominations, and Refunding Bonds may be transferred to other Owners if the Owner submits the following to the Registrar:
 - A. written instructions for exchange or transfer satisfactory to the Registrar, signed by the Owner or his attorney in fact and guaranteed or witnessed in a manner satisfactory to the Registrar; and
 - B. the Refunding Bonds to be exchanged or transferred.
- f. The Registrar shall not be required to exchange or transfer any Refunding Bonds submitted to it during any period beginning with a Record Date and ending on the next following payment date; however, such Refunding Bonds shall be exchanged or transferred promptly following the payment date.
- g. The Registrar shall not be required to exchange or transfer any Refunding Bonds which have been designated for redemption if such Refunding Bonds are submitted to it during the fifteen-day period preceding the designated redemption date.
- h. For purposes of this Section, Refunding Bonds shall be considered submitted to the Registrar on the date the Registrar actually receives the materials described in Section 7e.
- i. The County may alter these provisions regarding registration and transfer by mailing notification of the altered provisions to all Owners. The altered provisions shall take effect on the date stated in the notice, which shall not be earlier than 45 days after notice is mailed.
- 8. Notice of Redemption.
 - a. (Depository). So long as the book-entry only system remains in effect with respect to the Refunding Bonds, the County shall notify the Registrar of any early redemption not less than 40 days prior to the date fixed for redemption. The Registrar shall notify the Depository of any early redemption not less than 30 but no more than 60 days prior to the date fixed for redemption, and shall provide such information in connection therewith as required by the Letter of Representations submitted to DTC in connection with the issuance of Bonds.
 - b. (No Depository). During any period in which the book-entry only system is not in effect with respect to the Refunding Bonds, unless waived by any Owner of the Refunding Bonds to be redeemed, official notice of any redemption of Refunding Bonds shall be given by the Registrar on behalf of the County by mailing a copy of an official redemption notice by first class mail postage prepaid at least 30 days and not more than 60 days prior to the date fixed for redemption to the Owner of the Refunding Bond or Bonds to be redeemed at the address shown on the Refunding Bond register or at such other address as is furnished in writing by such Owner to the Registrar. The County shall notify the Registrar of any intended redemption not less than 45 days prior to the redemption date. All such official notices of redemption shall be dated and shall state:

- (i) the redemption date,
 - (ii) the redemption price,
 - (iii) if less than all Outstanding Refunding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Refunding Bonds to be redeemed,
 - (iv) that on the redemption date the redemption price will become due and payable upon each such Refunding Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date,
 - (v) the place where such Refunding Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the principal office of the Registrar, and
 - (vi) the assigned CUSIP numbers.
- c. Deposit of Funds. The County shall deposit with the Registrar, on or before the redemption date, an amount of money sufficient to pay the redemption price of all the Refunding Bonds or portions of Refunding Bonds which are to be redeemed on that date.
- d. Effect of Redemption. Official notice of redemption having been given as aforesaid, the Refunding Bonds or portions of Refunding Bonds to be redeemed shall, on the redemption date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the County shall default in the payment of the redemption price) such Refunding Bonds or portions of Refunding Bonds shall cease to bear interest. Upon surrender of such Refunding Bonds for redemption in accordance with said notice, such Refunding Bonds shall be paid by the Registrar at the Redemption Price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Refunding Bond, there shall be prepared for the registered owner a new Refunding Bond or Bonds of the same maturity in the amount of the unpaid principal. All Refunding Bonds which have been redeemed shall be canceled and destroyed by the Registrar and shall not be reissued. Notwithstanding that any Refunding Bonds called for redemption shall not have been surrendered, no further interest shall accrue on any such Refunding Bonds. From and after such notice having been given and such deposit having been made, the Refunding Bonds to be redeemed shall not be deemed to be Outstanding hereunder, and the County shall be under no further liability in respect thereof.

9. Tax-Exempt Status. The County covenants to use the proceeds of the Refunding Bonds, and the facilities financed with the Refundable Bonds, and to otherwise comply with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), so that the interest on the Refunding Bonds will not be includable in gross income of the Owners for federal income tax purposes. The County specifically covenants:

- a. to comply with the "arbitrage" provisions of Section 148 of the Code, and to pay any rebates to the United States on the gross proceeds of the Refunding Bonds;
- b. to yield restrict and pay any rebates due to the United States on any unexpended proceeds of the Refundable Bonds; and
- c. to operate the facilities financed with the proceeds of the Refundable Bonds, and any facilities that are financed with the unexpended proceeds of the Refundable Bonds so that the Refunding Bonds are not "private activity bonds" under Section 141 of the Code.

The Authorized Representative may enter into covenants on behalf of the County to protect the tax-exempt status of the Refunding Bonds.

10. Establishment of Responsibilities and Terms of Refunding Bonds.

The Authorized Representative is hereby authorized pursuant to ORS 288.520(4) to:

- a. select all or any portion of the maturities of the Refundable Bonds to be refunded and cause notice of call and redemption/defeasance to be given as required by law or the terms of the Refundable Bonds;
- b. establish the dated date, the principal amounts, interest rates, payment dates, redemption terms, establish the final maturity date and other terms for the Refunding Bonds;
- c. negotiate the terms under which the Refunding Bonds shall be sold, enter into a Bond Purchase Agreement for sale of the Refunding Bonds in one or more series, and execute and deliver Bond Purchase Agreements;
- d. appoint an "expert advisor" for purpose of evaluating the terms of the negotiated sale, prior to the sale of the Refunding Bonds;
- e. appoint a certified public accounting firm to act as verification agent to produce a report demonstrating the ability of the escrow account to meet all future debt service and related costs relative to the Refundable Bonds;
- f. take such actions as are necessary to qualify the Refunding Bonds for the book-entry only system of The Depository Trust Company if required;
- g. approve of and authorize the distribution of preliminary and final official statements for the Refunding Bonds;
- h. obtain ratings on the Refunding Bonds;
- i. determine the need for municipal bond insurance for the Refunding Bonds, and if purchased, direct expenditure of Refunding Bond proceeds to pay any bond insurance premium and execute and deliver any agreements necessary to obtain such insurance for the Refunding Bonds; and

- j. execute and deliver a certificate specifying the action taken by the Authorized Representative pursuant to this Section 10, and to execute and deliver any other certificates, documents or agreements that are reasonably required to issue, sell and deliver the Refunding Bonds in accordance with this Resolution.

11. Continuing Disclosure. The County shall undertake in a Continuing Disclosure Certificate for the benefit of registered Bondowners to provide to each Nationally Recognized Municipal Securities Information Repository ("NRMSIRs"), and if and when one is established, the State Information Depository ("SID"), on an annual basis on or before 270 days after the end of each fiscal year, commencing with the fiscal year ending June 30, 1999, the information required pursuant to paragraph (b)(5)(i)(A)(B) and (D) of the Securities and Exchange Commission Rule 15c2-12 (17 C.F.R. § 240.15c2-12 (the "Rule")). In addition, the County will undertake for the benefit of the registered Bondowners to provide in a timely manner to the NRMSIRs or to the Municipal Securities Rulemaking Board ("MSRB") notices of certain material events required to be delivered pursuant to paragraph (b)(5)(i)(C) of the Rule.

12. Defeasance. The County may defease the Refunding Bonds by setting aside, with a duly appointed escrow agent, in a special escrow account irrevocably pledged to the payment of the Refunding Bonds to be defeased, cash or direct obligations of the United States in an amount which, in the opinion of an independent certified public accountant, is sufficient without reinvestment to pay all principal and interest on the defeased Refunding Bonds until their maturity date or any earlier redemption date. Refunding Bonds which have been defeased pursuant to this Section shall be deemed paid and no longer outstanding, and shall cease to be entitled to any lien, benefit or security under this Resolution except the right to receive payment from such special escrow account.

13. Refunding Escrow. The net proceeds of the Refunding Bonds shall be placed in an irrevocable refunding escrow. The County authorizes the Authorized Representative to appoint an escrow agent (the "Escrow Agent"), and the Authorized Representative and the Escrow Agent shall execute and deliver an escrow deposit agreement in substantially the form as approved by the Authorized Representative and the Escrow Agent. The Escrow Agent and the Authorized Representative are hereby authorized to subscribe for and purchase the non-callable direct and general obligations of the United States of America to be placed in the escrow, on behalf of the County, which, together with interest earnings thereon, will be sufficient to pay all installments of principal, interest and redemption premiums, if any, on the Refundable Bonds.

14. Redemption of the Refundable Bonds. Issuance of the Refunding Bonds is contingent upon the County's receiving actual cumulative debt service savings of not less than required by Oregon law. Contingent solely on the issuance of the Refunding Bonds and the deposit of the net proceeds with the Escrow Agent, the County hereby irrevocably calls for redemption the County's outstanding Refundable Bonds which are to be refunded with the proceeds of the Refunding Bonds on the earliest dates they are subject to redemption.

15. Designation of Bond Counsel. The law office of Ater Wynne LLP, is designated as bond counsel for the Refunding Bonds.

16. Resolution to Constitute Contract. In consideration of the purchase and acceptance of any or all of the Refunding Bonds by those who shall own the Refunding Bonds from time to time (the "Owners"), the provisions of this Resolution shall be part of the contract of the County with the Owners and shall be deemed to be and shall constitute a contract between the County and the Owners. The

covenants, pledges, representations and warranties contained in this Resolution or in the closing documents executed in connection with the Refunding Bonds, including without limitation the County's covenants and pledges contained in Section 3 hereof, and the other covenants and agreements herein set forth to be performed by or on behalf of the County shall be contracts for the equal benefit, protection and security of the Owners, all of which shall be of equal rank without preference, priority or distinction of any of such Refunding Bonds over any other thereof, except as expressly provided in or pursuant to this Resolution.

ADOPTED this 17th day of December, 1998.



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

By: _____

Beverly Stein, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By: _____

Thomas Sponsler, County Counsel