

MULTNOMAH COUNTY OREGON

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

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

AGENDA OF
MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS
FOR THE WEEK OF
December 11 - 15, 1989

Tuesday, December 12, 1989 - 9:30 AM - Planning Items . . . Page 2
Informal Briefings

Tuesday, December 12, 1989 - 1:30 PM - Formal Meeting
Informal Meeting . . Page 3

Tuesday, December 12, 1989 - 7:00 PM - Joint Meeting with
Troutdale City Council . . . Page 4
104 SE Kibling, Troutdale

Thursday, December 14, 1989 - 9:30 AM - Formal. Page 5

Tuesday, December 12, 1989 - 9:30 AM

Multnomah County Courthouse, Room 602

PLANNING ITEMS

1. Auto Wrecker's License Renewal as submitted by Planning and Development with recommendation that same be approved as follows: Reuben Dirk, dba Reuben's Import Auto Wrecking, 9501 N. Columbia Boulevard
2. **Final Order** In the matter of adopting Findings in support of Multnomah County Board of Commissioner's decision to affirm the Planning Commission's decision of Case LE 10-89, Denying requested Lot of Exception, for property located at 35800 NE Chamberlain Road, Corbett

INFORMAL BRIEFINGS

1. Briefing on the financing options for the payment of construction of the new Donald E. Long facility - David Boyer, Duane Zussy
2. Briefing of the outcome of Donald E. Long Program Review Committee, which was created to review architect plans for new facility and projected programmatic needs/options - Duane Zussy
3. Policy direction from the Board regarding the proposal developed by Juvenile Justice Division for the Emergency Funds Reserve for Gang Involved Youth - Harold Ogburn, Howard Klink

PUBLIC TESTIMONY WILL NOT BE TAKEN AT INFORMAL MEETINGS

Tuesday, December 12, 1989 - 1:30 PM

Multnomah County Courthouse, Room 602

FORMAL MEETING

1. Continued Public Hearing on the boundaries of the proposed Rockwood Water Peoples Utility District

INFORMAL

1. Discussion of Option Memorandum regarding the Governance of the Multnomah County Library
2. Informal Review of Formal Agenda of December 14, 1989

PUBLIC TESTIMONY WILL NOT BE TAKEN AT INFORMAL MEETINGS

Tuesday, December 12, 1989 - 7:00 PM

Joint Board Meeting
Multnomah County Board of Commissioners, Troutdale City Council

Troutdale City Hall
Council Chambers
104 SE Kibling, Troutdale, Oregon

AGENDA

1. Call Meeting to Order
 - A. Introductions
2. East County Roads
3. Edgefield Property
4. Mt. Hood Parkway
5. Columbia Gorge Planning
6. Other
7. Adjournment

Thursday, December 14, 1989, 9:30 AM

Multnomah County Courthouse, Room 602

Formal Agenda

CONSENT CALENDAR

DEPARTMENT OF JUSTICE SERVICES

- C-1 Liquor License applications & renewals submitted by Sheriff's Office with recommendation that same be approved as follows:

Package Store: New Outlet: Texaco Food Mart #022, 3515 SE 122nd. Renewals: Quick Stop Market, 15400 SE Powell; Pleasant Valley Market, 16880 SE Foster Rd; Cracker Barrel Grocery, 15005 NW Sauvie Island Rd; Larson's Marina, 14444 NW Larson Rd

Retail Malt Beverage: 4 Aces, 15826 SE Division; Maxine's, 16900 NW St. Helens Rd

Restaurant: LaCasita Especialle, 12113 SE Foster

REGULAR AGENDA

BOARD OF COUNTY COMMISSIONERS

- R-2 In the Matter of Re-Appointment of Cliff Carlsen, Don Barney, Felicia Trader, and Jolinda Osborne, and Appointment of Bill Failing to the Library Association of Portland Board of Directors, terms expiring September, 1994
- R-3 In the matter of appointments to the Board of Equalization: Board #1 - Jane Rhodes, Chair, Joe Labadie; Board #2 - Chet McRobert, Chair, Caroline Miller; Board #3 - Tom Hatfield, Chair, Robert Hughley. Alternates: Ray Steed, John Nichols, Lianne Thompson. All terms expire December, 1990

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-4 In the matter ratification of an intergovernmental agreement with City of Troutdale for drainage master plan, for period ending June 30, 1990

PUBLIC CONTRACT REVIEW BOARD

(Recess as the Board of County Commissioners and reconvene as the Public Contract Review Board)

- R-5 Order in the Matter of Exempting from Public Bidding of a License with Software A.G. for Super Natural Software through Sole Source Procurement
- R-6 Order in the Matter of Exempting from Public Bidding to Specify the Brand Name Product, Hybritek-Icon II Pregnancy Testing Kit

(Recess as the Public Contract Review Board and reconvene as the Board of County Commissioners)

DEPARTMENT OF HUMAN SERVICES

- R-7 Budget Modification DHS #20 making an appropriation transfer in the amount of \$215,361 from General Fund Contingency to Aging Services, Federal/State Fund, to replace previously anticipated revenue from the City of Portland for the Portland/Multnomah Commission on Aging (Continued from December 5)
- R-8 Notice of Intent to apply for a grant in the amount of \$15,000 from Public/Private Ventures, Inc. to pay for planning of a possible Columbia Conservation Corps

DEPARTMENT OF JUSTICE SERVICES

- R-9 Budget Modification DJS #10 making an appropriation transfer in the amount of \$7,684 within Community Corrections, from Recog/Intake (\$6,000) and Contract Services (\$1,684) to Administration, Equipment for the purchase of a computer printer and office equipment for division programs
- R-10 Budget Modification DJS #11 reflecting additional revenues from the Manufacture & Distribution Drug Probe Grant funded by the Federal Bureau of Justice Assistance to the District Attorney's Office. Grant award provides \$197,252 of new revenue of which \$157,227 will be appropriated in FY 89/90. Adds 1 Deputy DA 3, 1 DA Investigator, and 1 Office Assistant 3

- R-11 In the matter of ratification of an Intergovernmental Agreement between Multnomah County, Multnomah County Sheriff's Office, and Multnomah County District Attorney's Office, for implementation of the 1989 Oregon Legislature statewide criminal forfeiture statute which details the procedures for seizing and forfeiting property used in illicit narcotic transactions

ORDINANCES - DEPARTMENT OF JUSTICE SERVICES

- R-12 First Reading - An ordinance amending MCC 7.85 to conform to the requirements of Oregon Laws Chapter 791 (1989) and which provides for civil forfeiture of real, personal and intangible property and specifically declaring certain conveyances and real property to be nuisances subject to civil forfeiture, and declaring an emergency

ORDINANCES - NONDEPARTMENTAL

- R-13 First Reading - An Ordinance establishing a Campaign Management Council, standards and guidelines for conducting charitable fundraising campaigns on County premises and authorizing the use of the employee payroll deduction system for donations to charities
- R-14 First Reading - An Ordinance to amend Ordinance 614, relating to Polystyrene foam, and changing the effective date of certain provisions therein

Thursday Meetings of the Multnomah County Board of Commissioners are recorded and can be seen at the following times:
Thursday, 10:00 PM, Channel 11 for East and West side subscribers
Friday, 6:00 PM, Channel 27 for Paragon Cable (Multnomah East) subscribers
Saturday 12:00 PM, Channel 21 for East Portland and East County subscribers

0501C.68-74

12/12

714
3-9

The Board of Commissioners of Multnomah County met at the
Courthouse at 1:30 P.M. this date.

Present: Commissioner Gladys McCoy, Chair, Commissioners
Pauline Anderson, Gretchen Kafoury and Sharron Kelley.

Excused: Commissioner Rick Bauman.

The following proceedings were had:

Continued Public Hearing on the boundaries of)
the proposed Rockwood Water Peoples Utility)
District)

Larry Kressel, County Counsel, reviewed the parameters of
this hearing as required under State Statutes. As indicated in his
memo of December 11, the Board would have to act at today's hearing
if it wanted to place the matter on the March 27 ballot. The
petitioners have requested the Board act today so that it could be
on the March 27 ballot. However, it can also be placed on the May

ballot. On the assumption the Board wanted to act today, he has prepared ^{two} 2 resolutions for the Board's consideration. Resolution #1 approves the boundaries as proposed by the petitioners, and calls the election for March 27. Resolution #2 is an alternative resolution, and endorses a different boundary than proposed, and in essence accepts the suggestions of the municipalities that urged the Board to delete from the boundaries those lands that are to be served by the cities. He pointed out that there are no maps to delineate the land which would be excluded, ^{as none have been} and the reason is that ~~there have been none prepared to date.~~ For that reason alone, the Board could continue the hearing in order that the proper legal description and maps could be prepared. ^{by and checked by} ~~The Board could tentatively approve the boundaries as it did with the Pioneer PUD request several years ago, and then come back at a later date after the County Assessment & Taxation has prepared and checked the legal descriptions and maps.~~ Mr. Kressel then explained the options for continuing the hearing, and advised the Board that three votes are needed to pass any resolution, as a tie vote would continue the matter to the next meeting.

^{had} Commissioner Kafoury said that at the November 21 hearing, she asked what the impact would be on the proposed district if the Portland area was withdrawn, and she had also asked what the impact would be if the Gresham area was withdrawn.

Herb Brown, 1546 SE 138th Avenue, one of the Chief Petitioners for the Rockwood Water People's Utility District, requested that the Board pass Resolution 1 today which would incorporate all of the boundaries in the petition. Mr. Brown discussed the state law regarding the formation of special districts, and the exclusion of territory by the Board would be a violation of the initiative petition law. He urged the matter be placed on the March 27 ballot, so that if the measure is approved, there would be more time to transition the assets of the District to the PUD by June 30. He explained that signatures of residents ^{representing} in all areas of the proposed district was obtained, and the law also allows PUD's to serve areas presently within an incorporated area. If the City of Portland had great objections, they should have presented their objections at the Department of Energy hearing, but neither the City of Portland or Gresham did that.

Frank Josselson, attorney for the proposed Rockwood Water PUD, explained the process of how votes are counted in each of the four sub-areas, i.e., 1) area annexed to the City of Portland; 2) area within City of Portland urban services boundary but currently unincorporated Multnomah County; 3) City of Gresham; and 4) City of Fairview. He explained that if the measure passes in only 3 areas, the PUD ^{or} could be formed for those three areas only, and the ~~4th~~ area ^{in which the measure did not pass} would not be included in the PUD. He has previously argued that the state statute does not provide legal authority for the Board to exclude territory. Mr. Josselson explained that the City of Gresham

attempted to withdraw territory from the Rockwood Water District,
but the Multnomah Circuit Court held the attempt to be invalid
because the City had not followed certain procedural rules, ^{which} it had
nothing to do with the merits of the withdrawal request. He also
explained that if only the smallest area(s) approved the request to
form a PUD, if it was found not to be economically feasible to serve
such a small area, the PUD would not be formed. He discussed that
the rationale for forming the PUD is that the petitioners feel a PUD
can provide water service more efficiently and less expensively than
a City could. Almost all the water providers in the Portland area
uses water from the Bull Run Watershed, and should the City of
Portland add on additional charges as it has threatened to do in a
memo from Ed Tinney, Administrator of the Portland Water Bureau, the
PUD ^{costs} would be higher. Absent any manipulation of the water rates by
the City of Portland, the PUD rates would be lower. ^{RWD have served} Citizens ^{continue to} have
ⁱⁿ ~~been serving~~ this ^{at} area ^{for} 65 years, and it would be politically
accountable to its clients.

Commissioner McCoy said that the Department of Energy's
report says this is unusual, in that it says it is not primarily
involved. Whether a PUD ^C should provide cheaper rates than the
utility presently providing service, what is really involved in this
proceeding is the question of annexation by local governments.

Mr. Josselson said that is basically true. Evidence the petitioners presented shows that the current district and the PUD would be a efficient and better way to provide water service. He explained that Gresham uses very expensive facilities to accomplish the same purpose ^{at a higher cost, than} ~~as the Rockwood Water District, at a much lower cost.~~ The same applies to Portland.

Commissioner McCoy asked if there was anyone present from Gresham. No one stood or identified themselves.

Commissioner Kafoury said that Mr. Carl Goebel made a report at the November 21 hearing, and she had asked the question that should the Gresham area be withdrawn, would the resulting remaining area be economically feasible.

Mr. Josselson said that if Portland was removed, and Gresham removed, there would ^{be} ~~be not~~ ^{enough} ~~enough~~ ^{left} ~~left~~ to make the PUD economically feasible. He said that should the Board want to withdraw an area, that would not be devastating to the PUD project as a whole, it would be the portion that Portland has already annexed.

Commissioner Kafoury asked if the petitioners had agreed to that. She said the City of Portland's request was to withdraw not only the area currently annexed, but also that area that is within Portland's Urban Services Boundary. She said she did not understand

why the City of Gresham had not requested an exclusion.

Mr. Josselson said the petitioners would object to excluding the unincorporated area as it ~~wuld~~ be disastrous to the PUD effort as a whole. He felt he could speak for the petitioners that they would not object as much to excluding the area presently annexed to Portland.

Ed Tinney, Administrator of the Portland Water Bureau, in response to Commissioner Kafoury's question, stated the City's request is to exclude the area within the City's Urban Growth Boundary as well. The city have been actively working ^{on annexation} within the unincorporated area now, and they expect annexations to be completed within that area by 1992.

In response to questions by Commissioner Anderson, Mr. Kressel explained that if the County had proposed the formation of a PUD, the statutes say that the County may submit the question to the voters. On the other hand, it says that if the matter arises on receipt of an elector's petition, then the County Commission shall at the earliest practical date submit the question of district formation to the voters within the affected territory. He then read the State Statutes, ^{and} ~~but~~ it seems there is a distinction between a PUD proposed by the County via resolution, and a PUD proposed by the citizens.

Bill Stallings, one of the chief petitioners, said that as a show of good faith, when the petition was circulated, signatures were collected from all of the affected area, not from just one affected area because it would be easier to collect signatures in a particular area, and then only in those area that were included in the proposed PUD. The only way to detract from the proposal is if the people vote no at the election. The Gresham City Council took the distinct effort of not taking a position on the formation of this PUD.

Commissioner Anderson asked why Gresham was constrained from withdrawing from the Rockwood Water District.

~~Mr. Josselson said that if PUD was not formed, the City of Gresham could attempt to withdraw territory again.~~ He explained that cities are required to adopt the withdrawal order by March 1 to have it effective July 1. In the case of Gresham's withdrawal order, they approved it March 19, 1989, and the Court held the City's order to be invalid. *approved in a* *as not being timely manner* The soonest the area could be withdrawn is July 1, 1990. However, if the PUD is not formed, Gresham is at liberty to withdraw their territory and begin serving it.

Commissioner Kelley moved to adopt Resolution 1.

Commissioner McCoy passed the gavel to Vice Chair Anderson, and seconded the motion.

Commissioner Kelley said that as she reads the statutes,

her interpretation is the Board has minimal discretion and can only correct deficiencies in boundary descriptions. She cannot support major reductions, because in addition to the legal aspects, she does not feel it is the public interest to send to them a proposal that due to the reductions lacked economic feasibility. She supports this resolution because the Board should give the voters the right to choose who should best provide them water service.

Commissioner McCoy said that the petitioners believe that the annexed territory would not have an adverse impact on their petition, and she asked Commissioner Kelley if she would entertain an amendment that would allow the ^{city of Portland} annexed territory to be withdrawn.

Following discussion by Commissioners Kelley and McCoy, Commissioner Kelley indicated she might be willing to change her motion.

Dale Juttlea, Portland Water Bureau, stated they did not have ~~maps or~~^a metes and bounds descriptions of the areas annexed to the City. He said there is a small portion of the annexed area that the City is presently serving. The balance of the annexed area has been withdrawn by City Council's action, but the transfer of assets have not yet taken place. It is the City's feeling that the statutes are clear that whatever assets are not necessary to serve the remainder of the district, would be transferred to the City after the area has been withdrawn.

Commissioner Kelley said she would change her motion, and also make one change in the Whereas.

Mr. Kressel said that there is no legal description, so if this got three votes, as revised, the Board would have to come back next week to endorse the technically correct legal description.

Mr. Josselson said the statute provides that the name of any municipality shall be a sufficient description ~~of its~~^{to describe} boundaries, so that it would be satisfactory from the point of view, of Commissioner Kelley's motion to say the area described in the petition, ~~less or~~ except the area within the City of Portland. That would describe the territory referred to in the compromise.

Commissioner Kafoury asked if the motion before the Board is just to vote on the amendment, to exclude the area of Portland

that has been annexed.

Commissioner Kelley stated she had changed her motion to exclude the area that has been annexed to the City of Portland. That would be the main motion.

Mr. Kressel said he understands that the motion has been revised to approve Resolution 1 except the boundary would not include the land inside the City of Portland city limits.

Commissioner McCoy said that is the intent of her second as well.

Commissioner Kafoury asked if she could ask a question of counsel from the City of Portland. It is her understanding that the City's request was to exclude all of the area within the Urban Services Boundary.

Ruth Spetter, City of Portland, Deputy City Attorney, said their request is for all of the City of Portland territory, and that also includes the area within the Urban Services Agreement that has existed since 1984.

Commissioner Anderson asked Mr. Josselson if the city of Portland's request to withdraw the area within their urban services boundary, would it still make sense to form a PUD for the areas in

the Cities of Gresham and Fairview.

Mr. Josselson said it would.

Commissioner Anderson said she believes it is significant that Gresham is not here to ask for its area to be excluded from the PUD.

Mr. Josselson pointed out that the statute entitles PUD petitioners to include land within cities in a PUD petition. Cities do not have exclusive proprietary interest. When the City talks about the Urban Services agreement that it had with the County, he would point out that neither the County nor the City under that agreement, furnished water to any of these areas. Rockwood Water District has served these areas for 65 years. When the City talks about the Urban Services Agreement ~~in that~~ the County agreed to transfer provision of services to the City in 1984, that did not include water, because water was not one of the services the County was providing.

and PUD petitioners can serve in the incor cities

Commissioner Anderson said there are municipalities providing water, so that argument does not hold water.

Mr. Josselson said the City's argument is that it violates the Urban Services Agreement. He is saying that it doesn't violate that agreement because that was not a service the County was providing that it could transfer to the City.

Commissioner Anderson said that is true, but it still true that a municipality is there to provide the water. What she was trying to say is that it would appear that Gresham, not being here, not saying they want to withdraw and take over the water service for that area, that the PUD should be in that area. She personally feels that it is not in the public interest to have a PUD in this

area. There are municipalities that are ready, waiting and willing and able to take over this service, and as Mr. Brown said, reaching into the city within this PUD. She sees this as not being in the best public interest, for all of Multnomah County, and all of Multnomah County is what the Commissioners are responsible for.

Mr. Josselson said that under Commissioner Kelley's motion, he feels this proposal is not reaching into the City at all. The amended motion does not reach into Portland at all.

Commissioner Anderson said that it does go into Gresham.

Jean Orcutt, from the audience, said there is a representative from ^{the City} Gresham present.

Commissioner McCoy said that apparently he did not want to be recognized.

Mrs. Orcutt said Gresham did take a position, not to oppose the formation of the PUD.

Commissioner Kafoury said she continues to believe that the Board has the authority to allow some discretion in setting the boundaries, and the Board's public policy is clear and has been clear for some years, of being on a course that discouraged formation of small districts. There was agonizing discussions over the formation of a library service district, and decided that it was a county wide service district, and permitted that to proceed, but the Board has a long standing public interest here of discouraging small districts for any public service, especially when there are other municipalities ready, willing and able to provide the service, and for that reason, ~~I am going to~~ ^{she will} vote against the motion.

Mr. Kressel said there is one technical ^{issue.} thing. If Resolution 1 is to be passed, he requested the Board look at it for a second, so it is consistent with the revised motion. There are some "whereas" that are inconsistent with making any exclusions. The next to the last "whereas".

Commissioner Kelley said that is the 7th "whereas", and she has some amended language. ^{to suggest:} "Whereas, although public policy arguments for reducing the boundaries were made by city representatives, the Board believes that the voters can evaluate the merits of these arguments". That would be the replacement language. She then identified the language that would be deleted.

Commissioner Kafoury asked for a point of information. In

the past the Board has gotten itself in trouble on ~~this board~~ when Commissioners have tried to ^{make} ~~do~~ amendments on important issues, right ^{having} ~~here~~ at the time, without ~~seeing the~~ written language. If there are not three votes for this matter, she would request a delay on considering the amendment in order to give County Counsel time to work on the language.

Commissioner Anderson asked Mr. Kressel to comment on the proposed amended "Whereas". The Board intends to vote, but it appears that there are not three votes. ^{to pass the resolution.}

Mr. Kressel said that if there are not three votes, it is a moot point.

The motion was considered and Commissioners McCoy and Kelley voted Aye, and Commissioners Anderson and Kafoury voted No.

Mr. Kressel said the matter is continued to Thursday, pursuant to the Board Rules.

Commissioner Kafoury requested a point of personal privilege in that she will not be here on Thursday, ^{but} Commissioner Bauman will be back. She requested the matter be held over until the following week when she believes all five commissioners will be present. Otherwise on Thursday, the vote could possibly be a 2-2 vote again.

Commissioner Kelley moved, duly seconded by Commissioner Anderson, and it is unanimously

ORDERED that the above-entitled matter be continued to December 19, 1989, at 9:30 AM, and the item being placed as the first item on the agenda.

There being no further business to come before the Board at this time in Formal Session, the meeting was adjourned until 7:00 PM for the joint meeting with the City of Troutdale Commissioners.

JM



MULTNOMAH COUNTY OREGON

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

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

BOARD OF COUNTY COMMISSIONERS

Tuesday, December 12, 1989

9:30 a.m.

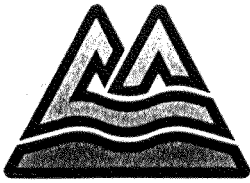
AGENDA

The following item is submitted to the Board with a recommendation that the same be approved:

Auto Wrecker's License - Renewal

Reuben's Import Auto Wrecking
9501 N. Columbia Boulevard
Portland, Oregon 97203

BOARD OF
COUNTY COMMISSIONERS
1989 DEC - 5 AM 10:18
MULTNOMAH COUNTY
OREGON



MULTNOMAH COUNTY OREGON

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

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

December 12, 1989

State of Oregon
Dept. of Motor Vehicles
Salem, OR 97310
Attn: Dealer Section

Rueben Dirk
Rueben's Import Auto Wrecking
9501 N. Columbia Blvd.
Portland, Oregon 97203

Division of Planning & Development
2115 SE Morrison
Portland, OR

Dear Sirs:

Be it remembered, that at a meeting of the Board of County Commissioners held December 12, 1989, the following action was taken:

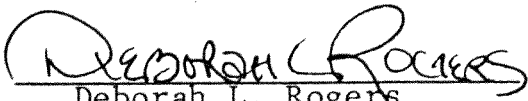
Auto Wrecker's License Renewal as submitted by)
Planning and Development with recommendation)
that same be approved as follows: Reuben Dirk,)
dba Reuben's Import Auto Wrecking, 9501 N.)
Columbia Boulevard)

Upon motion of Commissioner Kafoury, duly seconded by Commissioner Anderson, it is unanimously

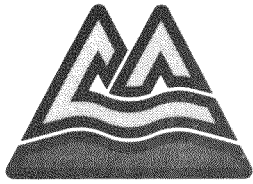
ORDERED that the recommendation be adopted as the Order of the Board.

Very truly yours,

BOARD OF COUNTY COMMISSIONERS

By 
Deborah L. Rogers
Asst. Clerk of the Board

dlr



MULTNOMAH COUNTY OREGON

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

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

December 12, 1989

Honorable Board of County Commissioners
Room 605, Multnomah County Courthouse
1021 SW Fourth Avenue
Portland, Oregon 97204

RE: **Auto Wrecker's License -Renewal**

Reuben Dirk
Reuben's Import Auto Wrecking
9501 N. Columbia Boulevard
Portland, Oregon 97203


Recommend: Approval of Business Location

Dear Commissioners;

The staff of the Division of Planning and Development respectfully recommends that the above license be approved, based upon findings that they satisfy the location requirements for same as contained in ORS 822.10 and .135.

Sincerely,

MULTNOMAH COUNTY DIVISION OF PLANNING AND DEVELOPMENT


Robert N. Hall, Senior Planner

RNH:sec

Enclosure - Wrecker's Application

1989 DEC 15 AM 10:19
MULTNOMAH COUNTY
OREGON



Multnomah County Sheriff's Office

ROBERT G. SKIPPER
SHERIFF

12240 N.E. GLISAN ST., PORTLAND, OREGON 97230

(503) 255-3600

MEMORANDUM

To: Sharon Cowley, Administrative Assistant

From: Sgt. E.T. Hausafus
Intelligence Unit

A handwritten signature in dark ink, appearing to read "E. Hausafus", written over the typed name.

Date: November 29, 1989

Subject: Wrecker's License Renewal

Attached is an application for a business certificate as a wrecker of motor vehicles at 9501 N. Columbia, Ruben's Import Auto Wrecking. The Sheriff's Office would recommend that the license be granted providing appropriate zoning requirements are satisfied.



APPLICATION FOR BUSINESS CERTIFICATE

AS A WRECKER OF MOTOR VEHICLES OR SALVAGE POOL OPERATOR

☐ ORIGINAL *Dec.*
☒ RENEWAL

NOTES: FAILURE TO ACCURATELY COMPLETE THIS FORM WILL CAUSE UNAVOIDABLE DELAY.

PLEASE TYPE OR PRINT LEGIBLY WITH INK.

DO NOT SUBMIT THIS APPLICATION WITHOUT YOUR SURETY BOND AND THE REQUIRED FEE.

CERTIFICATE NO: NR2738

| | | | | |
|---|---|----------------------|--------------------------|---------------------------------------|
| 1 | NAME (CORPORATION AND/OR ASSUMED BUSINESS NAME) <u>RUEBEN'S IMPORT AUTO WRECKING</u> | | | BUSINESS TELEPHONE <u>286-8340</u> |
| 2 | MAIN BUSINESS LOCATION (STREET AND NUMBER) <u>9501 N. COLUMBIA BLVD.</u> | CITY <u>PORT.</u> | ZIP CODE <u>97203</u> | COUNTY <u>MULT.</u> |
| 3 | MAILING ADDRESS | CITY | STATE | ZIP CODE |

LIST THE ADDRESSES OF ALL ADDITIONAL BUSINESS LOCATIONS. A SEPARATE APPLICATION FORM MUST BE COMPLETED FOR ANY ADDITIONAL LOCATIONS IN A DIFFERENT CITY.

| | | | | | |
|--|--|-----------------------|--|--|-----------|
| 4 | STREET ADDRESS | CITY | ZIP CODE | COUNTY | TELEPHONE |
| 5 | STREET ADDRESS | CITY | ZIP CODE | COUNTY | TELEPHONE |
| 6 | CHECK ORGANIZATION TYPE: <input checked="" type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> CORPORATION | | IF CORPORATION, LIST THE STATE UNDER WHOSE LAW BUSINESS IS INCORPORATED: | | |
| LIST NAME AND RESIDENCE ADDRESS OF ALL INDIVIDUAL OWNERS, PARTNERS OR PRINCIPAL CORPORATE OFFICERS | | | | | |
| 7 | NAME <u>RUEBEN DIRK</u> | TITLE <u>OWNER</u> | DATE OF BIRTH <u>12/15/35</u> | RESIDENCE TELEPHONE <u>(206) 695-1014</u> | |
| 8 | RESIDENCE ADDRESS <u>1317 SE. 82ND CT.</u> | CITY <u>VAN.</u> | STATE <u>WASH.</u> | ZIP CODE <u>98664</u> | |
| 9 | NAME | TITLE | DATE OF BIRTH | RESIDENCE TELEPHONE () | |
| 10 | RESIDENCE ADDRESS | CITY | STATE | ZIP CODE | |
| 11 | NAME | TITLE | DATE OF BIRTH | RESIDENCE TELEPHONE () | |
| 12 | RESIDENCE ADDRESS | CITY | STATE | ZIP CODE | |

| | | | | | |
|--|---|-----------------------|--|-------------------------|--|
| 13 | THE DIMENSIONS OF THE PROPERTY ON WHICH THE BUSINESS IS LOCATED ARE _____ ft. X _____ ft. | | | | |
| I CERTIFY THAT I AM THE APPLICANT OR AN AUTHORIZED REPRESENTATIVE AND THAT ALL INFORMATION ON THIS APPLICATION IS ACCURATE AND TRUE. I ALSO CERTIFY THAT THE RIGHT OF WAY OF ANY HIGHWAY ADJACENT TO THE LOCATION(S) LISTED ABOVE IS USED FOR ACCESS TO THE PREMISES AND PUBLIC PARKING. | | | | | |
| 14 | NAME <u>RUEBEN DIRK</u> | TITLE <u>OWNER</u> | RESIDENCE TELEPHONE <u>(206) 695-1014</u> | | |
| 15 | ADDRESS, CITY, STATE, ZIP CODE <u>1317 SE. 82ND CT. VAN. WASH. 98664</u> | | SIGNATURE <u>Rueben Dirk</u> | DATE <u>11/20/89</u> | |

| | | | | | |
|----|---|--|--|--|--|
| 16 | APPROVAL: I CERTIFY THAT THE GOVERNING BODY OF THE <input type="checkbox"/> CITY <input checked="" type="checkbox"/> COUNTY OF <u>Multnomah</u> HAS: A) APPROVED THE APPLICANT AS BEING SUITABLE TO ESTABLISH, MAINTAIN OR OPERATE A WRECKING YARD OR BUSINESS (ORIGINAL APPLICATIONS ONLY). B) <u>DETERMINED</u> 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

| | | |
|----|---------------------------------------|-----------------------------------|
| 17 | NAME <u>DEBORAH L. ROGERS</u> | TITLE <u>ASST. CLERK/BOARD</u> |
| 18 | SIGNATURE <u>Deborah L. Rogers</u> | DATE <u>DECEMBER 12, 1989</u> |

FEE: \$54.00

**SUBMIT APPLICATION AND SURETY BOND, WITH ALL REQUIRED FEES AND SIGNATURES TO:
BUSINESS LICENSING UNIT
1905 LANA AVE. NE
SALEM, OR 97314-2350**

SURETY BOND

FAILURE TO ACCURATELY COMPLETE THIS FORM WILL CAUSE UNAVOIDABLE DELAY.

BOND NO.: 28200 (renewal)

KNOW ALL MEN BY THESE PRESENTS:

THAT Rueben D. Dirk

(INDIVIDUAL, PARTNERS, CORPORATION NAME)

DOING BUSINESS AS Rueben's Import Auto Wrecking

(ASSUMED BUSINESS NAME, IF ANY)

HAVING PRINCIPAL PLACE OF BUSINESS AT 9501 N. Columbia Blvd., Portland, Oregon 97213

(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 American Bonding Company

(SURETY NAME)

0123 S.W. Hamilton, Portland, Oregon 97232

(ADDRESS, CITY, STATE, ZIP CODE)

(503) 226-6444

TELEPHONE NUMBER

A CORPORATION ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF Nebraska, 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 \$2,000.00 FOR THE PAYMENT OF WHICH WE HEREBY BIND OURSELVES, OUR RESPECTIVE SUCCESSORS AND ASSIGNS, JOINTLY AND SEVERALLY, FIRMLY BY THESE PRESENTS.

THE 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 CANCELLED PURSUANT TO ORS 743.755.

THIS BOND IS EFFECTIVE December 31, 19 89 AND EXPIRES December 31, 19 90

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 14th DAY OF November 19 89.

Rueben Dirk
SIGNATURE OF PRINCIPAL/REPRESENTATIVE

Owner
TITLE

Mary-Anne Skinner
SIGNATURE OF SURETY/REPRESENTATIVE

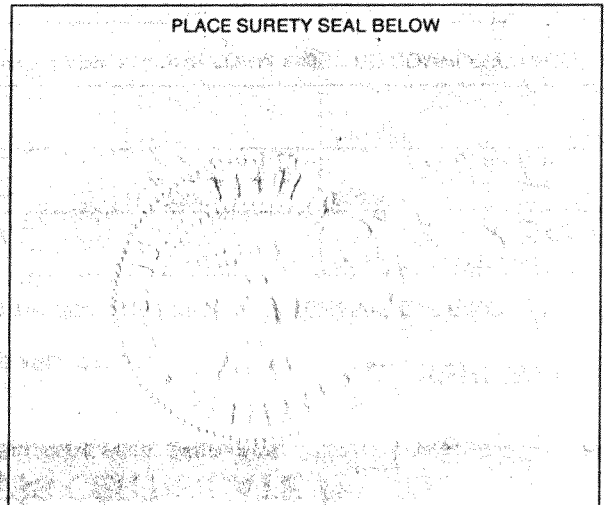
Attorney-in-fact
TITLE

Mary-Anne Skinner
SURETY'S AGENT OR REPRESENTATIVE MUST COMPLETE THIS SECTION.

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

| | |
|--|-----------------|
| NAME | TELEPHONE |
| <u>Skinner Bonding of Oregon, Inc.</u> | <u>226-6444</u> |
| ADDRESS | |
| <u>0123 S.W. Hamilton</u> | |
| CITY, STATE, ZIP CODE | |
| <u>Portland, Oregon 97201</u> | |

PLACE SURETY SEAL BELOW



BCC ✓

Larry Epstein, PC
Attorney At Law

Larry Epstein, member
Oregon State Bar and
American Institute of Certified Planners

1020 SW Taylor Street, Suite 370
Portland, Oregon 97205-2543
(503) 223-4855 • FAX (503) 222-1923

December 1, 1989

Jane McGarvin, Clerk of the Board
Multnomah County Courthouse
1021 SW Fourth Avenue
Portland, OR 97204

SUBJECT: FINAL ORDER IN THE MATTER OF LE 10-89

BOARD OF
COUNTY COMMISSIONERS
1989 DEC - 4 AM 10:58
MULTNOMAH COUNTY
OREGON

Dear Jane:

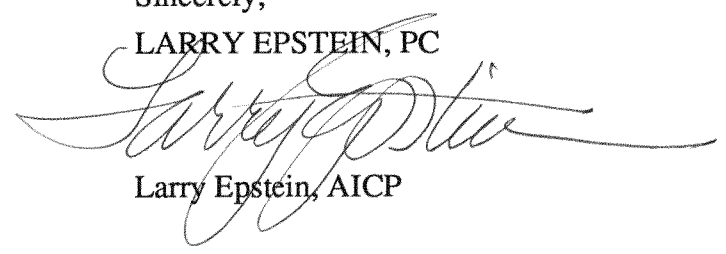
The findings in the matter of LE 10-89 were not available as of this date, so I am unable to review them before Tuesday, December 5, when they are scheduled for consideration by the Board. I will be out of town all next week.

Therefore, I request that the consideration of the final order in the matter of LE 10-89 be postponed until December 12, 1989, so that I have an opportunity to review them and to appear on behalf of my client.

Ed Sullivan, counsel for the opponents in this case, agreed to a continuance to December 12 at 9:30 am. I relayed my request to John DuBay today by telephone. He assured me the matter will be continued. Please alert the Board members to this request so they do not prepare prematurely.

Sincerely,

LARRY EPSTEIN, PC



Larry Epstein, AICP

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON

| | | |
|------------------------------|---|-------------|
| IN THE MATTER OF THE APPEAL |) | |
| FROM THE DECISION OF THE |) | FINAL ORDER |
| PLANNING COMMISSION DENYING |) | |
| APPLICANT'S APPLICATION FOR |) | 89-210 |
| A LOT OF EXCEPTION, PLANNING |) | |
| FILE NO. LE - 10-89 |) | |

This appeal challenges the October 9, 1989 decision of the Planning Commission denying a lot of exception application in a rural residential zone. The Board of County Commissioners held a de novo hearing on November 28, 1989 and affirmed the Planning Commission's denial of the application.

Appellants, David Moir and Christine Moir, are represented by Larry Epstein, 1020 S.W. Taylor Street, Suite 370, Portland, Oregon 97205. Opponents, Sandra J. Mershon and Al Brenaman, are represented by Edward J. Sullivan, Mitchell, Lang & Smith, 101 S.W. Main, Suite 2000, Portland, Oregon 97204. Other neighbors appeared on their own behalf.

APPLICABLE CODE PROVISIONS

The Board decides this case solely on the access issue pursuant to Multnomah County Code ("MCC") 11.15.2228 and applicable access requirements under MCC 11.15.2220 (A) (5) and (6). MCC 11.15.2228 requires that the Board find that the applicants have provided sufficient evidence to demonstrate that the proposed use satisfies the following criterion:

Any lot in this district shall abut a street,
or shall have such other access determined by

///

the Hearings Officer to be safe and convenient for pedestrians and passenger and emergency vehicles.¹

In reaching its decision, the Board has considered the dimensional requirements for accessways and local roads under sections 05.220 (b) and Table 5.3 of MCC 11.60, respectively.

BACKGROUND AND NATURE OF PROCEEDING

The Board finds that:

The applicants, David and Christine Moir and Frank A. Windust, Jr., have applied for approval of a lot of exception under section 11.15.2220 of the Multnomah County Code ("MCC"). The Board notes that the property is located in a rural residential zone with minimum lot sizes of five acres.

The proposed lot of exception would allow the creation of a 2.14-acre flag lot in the rural residential zone. The legal description of the property to be divided is Tax Lot 19, Section 27, 1N-4E, Except that portion lying south of the section line for section 34, 1N-4E, 1989 Tax Assessor's Map.²

After providing public notice as required by law, the Multnomah County Planning Commission held a hearing on the proposal on October 9, 1989. The application was denied by

1. This standard is framed in discretionary terms, allowing the Hearings Officer, and, on appeal, this Board, to make the determination of safety and convenience.

2. The excepted portion of Tax Lot 19 is south of the subject property and is zoned rural center.

order of October 9, 1989, and filed with the clerk of the Board on October 19, 1989. This appeal was timely filed on November 6, 1989. Notice of the appeal hearing has been given, and the appeal hearing conducted, in accordance with law.

STANDING OF THE PARTIES

The applicants have standing by virtue of having been entitled to notice and hearing in these proceedings, having been parties before the Planning Commission, and having an interest in the property which is the subject of these proceedings. Applicants also appeared personally before the Planning Commission and this Board.

Opponents, Sandra J. Mershon and Al Brenaman, reside on property adjacent to the subject property and were entitled to notice of these proceedings. Opponents would be affected by the grant of this lot of exception because of the access impact and land use conflicts created by the proposed use. Opponents appeared personally before the Planning Commission and this Board. The standing of other opponents was not raised.

The Board concludes that both applicants and opponents have standing in these proceedings.

ISSUES NOT REACHED BY THIS BOARD

The Board decides this case solely on the issue of access and specifically reserves decision regarding compliance of the application with other provisions of the Multnomah County Comprehensive Plan or Multnomah County Code.

///

APPLICATION OF THE CRITERIA

The Board concludes that applicants have failed to meet their burden to demonstrate adequate access to the proposed lot of exception. The proposed access has not been shown to be safe and convenient for pedestrians and passenger and emergency vehicles. The Board concludes that MCC 11.15.2228 provisions relating to safe and convenient access are applicable to these proceedings, either directly under MCC 11.15.2220(5) or indirectly through the additional public services provisions of MCC 11.15.2220(6) in that improvement of the unnamed county road providing access to the subject property would be required to be improved beyond the level of existing access or levels of access programmed for the area. The Board finds no such access programmed for this area.

Applicants admit they do not intend to use the 50 foot frontage on Chamberlain Road³ as access to the flag lot, but would create an easement over the one-acre parcel to the south of the subject property, which is still part of tax lot 19. The Board construes MCC 11.15.2228 to presume that access to a public road for 50' of frontage is safe and convenient if such access be used. Where, as in this case, the access be unused, as admitted by the applicant, the remaining provisions of that section must be met.

3. The 50 foot wide strip which constitutes the pole of the flag pole lot ends at Chamberlain Road.

MCC 11.15.2220 (A) sets forth the approval standards for lots of exception. Subsections (5) and (6) of that section include consideration of access:

Any exception shall be based on findings that the proposal will:

(5) Satisfy the applicable standards of water supply, sewage disposal and minimum access; and

(6) Not require public services beyond those existing or programmed for the area.

Applicants' proposed access is via a 12 foot strip (rather than a 28 foot strip as originally claimed in the application) connecting the flag lot to the unnamed, unimproved and publicly unmaintained county road which empties into Crown Point Highway, a relatively heavily travelled road in the Corbett community, directly across from a heavily used high school and community center. See also letter submitted by Corbett School District Superintendent Dale Ness of November 21, 1989, which was submitted by Donna Blanc.

The Board believes the written testimony of Tom Lancaster, PE, a professional transportation engineer, who was present at the hearing, to the effect that the current sight distance to the entrance on Crown Point Highway at the unnamed county road was less than required under AASHTO standards (1984) and that the width of the road was insufficient to permit free passage of opposing vehicles, potentially resulting in congestion at the intersection and along the county road. The Board concludes that the access is not safe and convenient as

required by MCC 11.15.2228, and thereby does not satisfy minimum access standards under MCC 11.15.2220(A)(5).

The county access standards show that driveway widths must range from 12 to 25 feet. Multnomah County Street Standards section 5.220(b). The driveway is to serve at least two residences and is immediately adjacent to opponents' driveway. The Board also finds that the grade of the accessway of up to 17% for their own access and for emergency vehicles and altitude of the immediate area renders the site difficult to access and requires more than the 12 foot minimum access allowable under the aforementioned section 5.220. The Board also believes the testimony of Mr. Meinecke regarding the narrowness of the access, and inability of emergency vehicle access in inclement weather. The Board finds that a 12 foot driveway in this case is not sufficient.

Moreover, the unnamed County road to which the driveway would be connected does not meet the minimum right-of-way and improvement standards for rural roads.⁴ The Board finds that there is no prospect of the unnamed county road voluntarily being brought into compliance with the rural road standards in the near future and that new development would require public services beyond those existing or programmed for the area in

4. Table 5.2, MCC Chapter 11.60, requires that local roads have a 50 foot right of way, 24 foot paved surface, and two travel lanes.

violation of MCC 11.15.2220 (A) (6).

CONCLUSION

Based on the above findings, together with the findings of the Planning Commission's decision, the appeal is denied and the Planning Commission denial is affirmed.

DATED this 12th day of December, 1989.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

By: Gladys McCoy

Gladys McCoy
Multnomah County Chair

(SEAL)

REVIEWED:

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By: John DuBay

John DuBay
Assistant County Counsel

12/12/89

9:30 Planning
#2

207th of
CLINT COUNTY
1989 DEC - 1 PM 4:06
CLINT COUNTY
OREGON

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON

IN THE MATTER OF THE APPEAL)
FROM THE DECISION OF THE) FINAL ORDER
PLANNING COMMISSION DENYING)
APPLICANT'S APPLICATION FOR)
A LOT OF EXCEPTION, PLANNING)
FILE NO. LE - 10-89)

This appeal challenges the October 9, 1989 decision of the Planning Commission denying a lot of exception application in a rural residential zone. The Board of County Commissioners held a de novo hearing on November 28, 1989 and affirmed the Planning Commission's denial of the application.

Appellants, David Moir and Christine Moir, are represented by Larry Epstein, 1020 S.W. Taylor Street, Suite 370, Portland, Oregon 97205. Opponents, Sandra J. Mershon and Al Brenaman, are represented by Edward J. Sullivan, Mitchell, Lang & Smith, 101 S.W. Main, Suite 2000, Portland, Oregon 97204. Other neighbors appeared on their own behalf.

APPLICABLE CODE PROVISIONS

The Board decides this case solely on the access issue pursuant to Multnomah County Code ("MCC") 11.15.2228 and applicable access requirements under MCC 11.15.2220 (A) (5) and (6). MCC 11.15.2228 requires that the Board find that the applicants have provided sufficient evidence to demonstrate that the proposed use satisfies the following criterion:

Any lot in this district shall abut a street,
or shall have such other access determined by

///

the Hearings Officer to be safe and convenient for pedestrians and passenger and emergency vehicles.¹

In reaching its decision, the Board has considered the dimensional requirements for accessways and local roads under sections 05.220 (b) and Table 5.3 of MCC 11.60, respectively.

BACKGROUND AND NATURE OF PROCEEDING

The Board finds that:

The applicants, David and Christine Moir and Frank A. Windust, Jr., have applied for approval of a lot of exception under section 11.15.2220 of the Multnomah County Code ("MCC"). The Board notes that the property is located in a rural residential zone with minimum lot sizes of five acres.

The proposed lot of exception would allow the creation of a 2.14-acre flag lot in the rural residential zone. The legal description of the property to be divided is Tax Lot 19, Section 27, 1N-4E, ^e Except that portion lying south of the section line for section 34, 1N-4E, 1989 Tax Assessor's Map.² ✓

After providing public notice as required by law, the Multnomah County Planning Commission held a hearing on the proposal on October 9, 1989. The application was denied by

1. This standard is framed in discretionary terms, allowing the Hearings Officer, and, on appeal, this Board, to make the determination of safety and convenience.

2. The excepted portion of Tax Lot 19 is south of the subject property and is zoned rural center.

order of October 9, 1989, and filed with the clerk of the Board on October 19, 1989. This appeal was timely filed on November 6, 1989. Notice of the appeal hearing has been given, and the appeal hearing conducted, in accordance with law.

STANDING OF THE PARTIES

The applicants have standing by virtue of having been entitled to notice and hearing in these proceedings, having been parties before the Planning Commission, and having an interest in the property which is the subject of these proceedings. Applicants also appeared personally before the Planning Commission and this Board.

Opponents, Sandra J. Mershon and Al Brenaman, reside on property adjacent to the subject property and were entitled to notice of these proceedings. Opponents would be affected by the grant of this lot of exception because of the access impact and land use conflicts created by the proposed use. Opponents appeared personally before the Planning Commission and this Board. The standing of other opponents was not raised.

The Board concludes that both applicants and opponents have standing in these proceedings.

ISSUES NOT REACHED BY THIS BOARD

The Board decides this case solely on the issue of access and specifically reserves decision regarding compliance of the application with other provisions of the Multnomah County Comprehensive Plan or Multnomah County Code.

///

APPLICATION OF THE CRITERIA

The Board concludes that applicants have failed to meet their burden to demonstrate adequate access to the proposed lot of exception. The proposed access has not been shown to be safe and convenient for pedestrians and passenger and emergency vehicles. The Board concludes that MCC 11.15.2228 provisions relating to safe and convenient access are applicable to these proceedings, either directly under MCC 11.15.2220(5) or indirectly through the additional public services provisions of MCC 11.15.2220(6) in that improvement of the unnamed county road providing access to the subject property would be required to be improved beyond the level of existing access or levels of access programmed for the area. The Board finds no such access programmed for this area.

Applicants admit they do not intend to use the 50 foot frontage on Chamberlain Road³ as access to the flag lot, but would create an easement over the one-acre parcel to the south of the subject property, which is still part of tax lot 19. The Board construes MCC 11.15.2228 to presume that access to a public road for 50' of frontage is safe and convenient if such access be used, where, as in this case, the access be unused, as admitted by the applicant, the remaining provision of that section must be met.

-
3. The 50 foot wide strip which constitutes the pole of the flag pole lot ends at Chamberlain Road.

MCC 11.15.2220 (A) sets forth the approval standards for lots of exception. Subsections (5) and (6) of that section include consideration of access:

Any exception shall be based on findings that the proposal will:

(5) Satisfy the applicable standards of water supply, sewage disposal and minimum access; and

(6) Not require public services beyond those existing or programmed for the area.

Applicants' proposed access is via a 12 foot strip (rather than a 28 foot strip as originally claimed in the application) connecting the flag lot to the unnamed, unimproved and publicly unmaintained county road which empties into Crown Point Highway, a relatively heavily travelled road in the Corbett community, directly across from a heavily used high school and community center. See also letter submitted by Corbett School District Superintendent Dale Ness of November 21, 1989, which was submitted by Donna Blanc. The Board ~~also~~ believes the written testimony of Tom Lancaster, PE, a professional transportation engineer, who was present at the hearing, to the effect that the current sight distance to the entrance on Crown Point Highway at the unnamed county road was less than required under AASHTO standards (1984) and that the width of the road was insufficient to permit free passage of opposing vehicles, potentially resulting in congestion at the intersection and along the county road. The Board concludes that the access is not safe and convenient as required by MCC

11.15.2228, and thereby does not satisfy minimum access standards under MCC 11.15.2220(A)(5).

The county access standards show that driveway widths must range from 12 to 25 feet. Multnomah County Street Standards section 5.220(b). The driveway is to serve at least two residences and is immediately adjacent to opponents' driveway. The Board also finds that the grade of the accessway of up to 17% for their own access and for emergency vehicles and altitude of the immediate area renders the site difficult to access and requires more than the 12 foot minimum access allowable under the aforementioned section 5.220. The Board also believes the testimony of Mr. Meinecke regarding the narrowness of the access, and inability of emergency vehicle access in inclement weather. The Board finds that a 12 foot driveway in this case is not sufficient. The failure to meet section 5.220(b) of the Street Standards is a separate and independent ground for denial of this application.

Moreover, the unnamed County road to which the driveway would be connected does not meet the minimum right-of-way and improvement standards for rural roads.⁴ The Board finds that there is no prospect of the unnamed county road voluntarily being brought into compliance with the rural road standards in

4. Table 5.2, MCC Chapter 11.60, requires that local roads have a 50 foot right of way, 24 foot paved surface, and two travel lanes.

the near future and that new development would require public services beyond those existing or programmed for the area in violation of MCC 11.15.2220 (A) (6).

CONCLUSION

Based on the above findings, together with the findings of the Planning Commission's decision, the appeal is denied and the Planning Commission denial is affirmed.

DATED this ____ day of _____, 1989.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

By: _____
Gladys McCoy
Multnomah County Chair

REVIEWED:

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By: _____
John DuBay
Assistant County Counsel