

ANNOTATED MINUTES

Tuesday, July 13, 1993 - 9:30 AM
Multnomah County Courthouse, Room 602

BOARD BRIEFING

- B-1 Update on the 1993 Oregon Legislative Session. Presented by Fred Neal and Howard Klink.

FRED NEAL PRESENTATION AND RESPONSE TO BOARD QUESTIONS.

Tuesday, July 13, 1993 - 1:30 PM
Multnomah County Courthouse, Room 602

PLANNING ITEMS

Acting Chair Henry C. Miggins convened the meeting at 1:33 p.m., with Vice-Chair Gary Hansen, Commissioners Sharron Kelley, Tanya Collier and Dan Saltzman present.

The Following June 21, 1993 Decision of the Planning and Zoning Hearings Officer is Reported to the Board for Review:

- P-1 LE 14-92/LD 49-92 Approve Request of a 9.92 Acre Lot of Exception through a Property Line Adjustment to Transfer .05 Acre Lot of Record to an Adjoining 35.39 Acre Lot of Record, Plus Approval of a Type I Land Division, All for Property Located at 12937 NW NEWBERRY ROAD.

DECISION READ, NO APPEAL FILED, DECISION STANDS.

The Following June 22, 1993 Decision of the Planning and Zoning Hearings Officer is Reported to the Board for Review:

- P-2 CU-18-93/HV 13-93 Approve Conditional Use Request for a Maximum of Five Years for a Temporary Staging Yard During Construction of the Mid-County Sewer; Approve Variance to the 200 Foot Setback Requirement from the North, East and South Property Lines and Elimination of the Two Inch Paving Requirement; Deny Reduction of the 15% Landscaping Requirement, All for Property Located at 4620 SE 174TH AVENUE.

DECISION READ, NO APPEAL FILED, DECISION STANDS.

- P-3 C 9-92a PUBLIC HEARING, ON THE RECORD, 30 MINUTES PER SIDE. Review the May 17, 1993 Planning Commission Decision Recommending Adoption of the Goal 5 Inventory Worksheet for Bridal Veil as a Supplemental Document to the Comprehensive Framework Plan and Support the Task Force Recommendations and Preservation Process, All for Property Located at BRIDAL VEIL ROAD AND CROWN POINT HIGHWAY.

PLANNING DIRECTOR SCOTT PEMBLE EXPLAINED THAT PASSAGE OF SENATE BILL 96 WILL EXCLUDE THE NATIONAL SCENIC AREA FROM COMPLIANCE WITH STATEWIDE PLANNING GOALS, AND REQUIRE COMPLIANCE WITH FEDERAL LAND USE MANDATES. MR. PEMBLE SUGGESTED THAT IN LIGHT OF IMPLICATIONS TO BRIDAL VEIL AND COUNTY'S GOAL 5 PROCESS REGARDING GORGE AREA, THE BOARD COULD EITHER CONDUCT THIS SCHEDULED HEARING, CONTINUE THE HEARING TO A FUTURE DATE, OR TAKE TESTIMONY TODAY, WITH UNDERSTANDING THAT ANY DECISIONS MADE BY COUNTY MAY NOT BE APPLICABLE UPON IMPLEMENTATION OF SB 96. ACTING CHAIR MIGGINS SUBMITTED EX PARTE MATERIALS RECEIVED BUT NOT READ, TO BE PLACED WITH THE RECORD. BOARD DISCUSSION. COUNTY COUNSEL JOHN DuBAY AND MR. PEMBLE RESPONSE TO BOARD QUESTIONS AND DISCUSSION. COMMISSIONER SALTZMAN MOVED AND COMMISSIONER HANSEN SECONDED, TO CONTINUE HEARING PENDING SECRETARY OF AGRICULTURE ACTION ON THE COUNTY'S ORDINANCE. AT BOARD INVITATION, ATTORNEY STEVE ABEL TESTIFIED IN SUPPORT OF A 30 DAY CONTINUANCE. BOARD DISCUSSION. COMMISSIONER SALTZMAN MOVED, SECONDED BY COMMISSIONER HANSEN, THAT THE PREVIOUS MOTION BE AMENDED TO STATE THAT HEARING BE CONTINUED TO AUGUST 10, 1993. BOARD DISCUSSION. MOTION UNANIMOUSLY APPROVED TO CONTINUE HEARING TO 1:30 P.M., TUESDAY, AUGUST 10, 1993. COMMISSIONER KELLEY MOVED AND COMMISSIONER HANSEN SECONDED, TO HEAR TESTIMONY TODAY REGARDING APPEAL ISSUE. BOARD COMMENTS AND DISCUSSION. MOTION UNANIMOUSLY APPROVED. MR. ABEL ADVISED HE WILL RESERVE TESTIMONY FOR AUGUST 10. CATHY GALBRAITH ADVISED SHE WILL RESERVE TESTIMONY FOR AUGUST 10. MS. GALBRAITH EXPLANATION IN RESPONSE TO QUESTION OF COMMISSIONER KELLEY. COMMENTS FROM CHUCK ROLLINS, LAUREL SLATER, MIKE BYRNES, ALFRED STAEHLI AND CHRISTAN STRICKLAND, WITH TESTIMONY TO BE RESERVED FOR AUGUST 10. ACTING CHAIR MIGGINS ADVISED HEARING WILL BE HELD IN BRIDAL VEIL AREA.

P-4

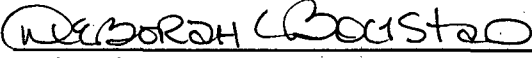
ORDERS in the Matter of Multnomah County Appointing Planning and Zoning Hearings Officers for Fiscal Year 1993/94

COMMISSIONER SALTZMAN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF THE APPOINTMENTS OF PHILLIP GRILLO, LARRY EPSTEIN AND ROBERT

LIBERTY. MR. PEMBLE EXPLANATION IN RESPONSE TO BOARD QUESTIONS. BOARD COMMENTS AND DISCUSSION. STAFF DIRECTED TO LOOK INTO WAYS TO DEVELOP DIVERSITY IN PROCESS. ORDERS 93-249, 93-250 AND 93-251 UNANIMOUSLY APPROVED.

There being no further business, the meeting was adjourned at 2:35 p.m.

**OFFICE OF THE BOARD CLERK
for MULTNOMAH COUNTY, OREGON**


Deborah L. Bogstad

**Wednesday, July 14, 1993 - 8:30 AM - 3:30 PM
Multnomah County Expo Center, VIP Room
2060 North Marine Drive**

BOARD RETREAT

BR-1 Board Discussion of County Functions and Mission.

CANCELLED. TO BE RESCHEDULED IN AUGUST.

**Thursday, July 15, 1993 - 9:30 AM
Multnomah County Courthouse, Room 602**

REGULAR MEETING

Acting Chair Henry C. Miggins convened the meeting at 9:32 a.m., with Vice-Chair Gary Hansen, Commissioners Sharron Kelley, Tanya Collier and Dan Saltzman present.

CONSENT CALENDAR

UPON MOTION OF COMMISSIONER COLLIER, SECONDED BY COMMISSIONER KELLEY, THE CONSENT CALENDAR (ITEMS C-1 THROUGH C-14) WAS UNANIMOUSLY APPROVED.

SHERIFF'S OFFICE

C-1 Application for Business Certificate Renewal [Wrecker's License] Submitted by Sheriff's Office with Recommendation for Approval, for R.S. DAVIS RECYCLING, INC., 28425 SE ORIENT DRIVE, GRESHAM

DEPARTMENT OF HEALTH

C-2 Ratification of Intergovernmental Agreement Contract #200604, Between Multnomah

County Education Service District and Multnomah County, Providing Immunization and Tuberculosis Liaison Services During the 1993/1994 School Year, for the Period November 2, 1993 through May 15, 1994

- C-3 *Ratification of Amendment No. 1 to Intergovernmental Agreement Contract #200284, Between Multnomah County and Oregon Department of Education, Providing Reimbursement for Increased Number of County Inspections Under the USDA Summer Food Service Program, for the Period Upon Execution through June 30, 1994*

DEPARTMENT OF SOCIAL SERVICES

- C-4 *Ratification of Intergovernmental Agreement Contract #102864, Between Multnomah County and Oregon Health Sciences University, Providing Emergency Psychiatric Hold Services to Clients of the Mental Health, Youth, and Family Services Division's Mental and Emotional Disabilities Program Office, for the Period July 1, 1993 through June 30, 1994*
- C-5 *Ratification of Intergovernmental Agreement Contract #102744, Between the Oregon Department of Human Resources and Multnomah County, Providing Funding for the Service Integration Program, a Family Oriented Service Center at Roosevelt High School, for the Period Upon Execution through June 30, 1995*

NON-DEPARTMENTAL

- C-6 *In the Matter of the Appointment of Nancy Conrath to the METROPOLITAN ARTS COMMISSION*
- C-7 *In the Matter of the Appointment of Gail Shibley to the MULTNOMAH COUNTY COMMUNITY ACTION COMMISSION*
- C-8 *Ratification of Intergovernmental Agreement Contract #500034, Between the Oregon Department of Forestry and Multnomah County, Providing County "Shadow Team" Participation and Training in the Regional Incident Command System, for the Period July 1, 1993 through July 1, 1994*

DEPARTMENT OF ENVIRONMENTAL SERVICES

- C-9 *Ratification of Intergovernmental Agreement Contract #300124, Between Multnomah County and the City of Portland, Providing Copier Services for the Period July 1, 1993 through June 30, 1998*
- C-10 *ORDER in the Matter of the Execution of Deed D930893 Upon Complete Performance of a Contract to Larry Burright*

ORDER 93-252.

- C-11 *ORDER in the Matter of the Execution of Deed D930900 Upon Complete Performance of a Contract to Larry Burright*

ORDER 93-253.

- C-12 *ORDER in the Matter of the Execution of Deed D930901 Upon Complete Performance of a Contract to Mary Nolan and Mark S. Gardiner*

ORDER 93-254.

- C-13 *ORDER in the Matter of the Execution of Deed D930903 Upon Complete Performance of a Contract to the Estate of Nova B. Harp, Robert J. Groce, Personal Representative*

ORDER 93-255.

- C-14 *ORDER in the Matter of the Execution of Deed D930904 Upon Complete Performance of a Contract to Rodger Evenson*

ORDER 93-256.

REGULAR AGENDA

- R-1 *Presentation on the Opening of the 1993 MULTNOMAH COUNTY FAIR*

MARIA ROJO de STEFFEY AND RICK SANDERS PRESENTATION. PRESENTATION BY FAIR PARTICIPANTS REBECCA STOUTEN, KATIE PAUL, KELLY NIMER, MEGANNE HOPPER, KAITLIN SANDERS, CASEY FETTERO, DAVID SANDERS, LYNN JOHNSON WILTSHIRE, LUCY FLECK, MORGAN WILLIAMS, SIERRA ROWE AND SHANNON WILCOX. MS. ROJO de STEFFEY AND MR. SANDERS COMMENTS.

- R-2 *ORDER in the Matter of the Grant of a Sewer Easement on County Land at Gilbert Heights Park, SW1/4, S11, T2S, R2E, WM, Multnomah County, Oregon [to City of Portland for Powell Village 341 Sanitary Sewer System Project]*

UPON MOTION OF COMMISSIONER HANSEN, SECONDED BY COMMISSIONER KELLEY, ORDER 93-257 WAS UNANIMOUSLY APPROVED.

- R-3 *ORDER in the Matter of the Quitclaim of Surplus County Land, Tax Lot 247, Section 30, Township 1 North, Range 3 East, W.M., Multnomah County, Oregon [0.17 Acre to Hospitality Investments Limited Partnership]*

UPON MOTION OF COMMISSIONER HANSEN, SECONDED BY COMMISSIONER COLLIER, ORDER 93-258 WAS UNANIMOUSLY APPROVED.

PUBLIC CONTRACT REVIEW BOARD

(Recess as the Board of County Commissioners and convene as the Public Contract

Review Board)

- R-4 *ORDER in the Matter of a Sole Source Exemption to Contract with Portland General Electric for the Purchase of Street Lighting*

UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER SALTZMAN, ORDER 93-259 WAS UNANIMOUSLY APPROVED.

- R-5 *ORDER in the Matter of an Exemption from Public Bidding a Contract with IBM for the Purchase of an IBM RS 6000 Computer*

UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER COLLIER, ORDER 93-260 WAS UNANIMOUSLY APPROVED.

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

NON-DEPARTMENTAL

- R-6 *RESOLUTION in the Matter of Adopting and Defining Various County Funds*

COMMISSIONER HANSEN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-6. JEAN UZELAC TO FURNISH COMMISSIONER KELLEY WITH SPECIFIC INFORMATION. RESOLUTION 93-261 UNANIMOUSLY APPROVED.

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-7 *First Reading of an ORDINANCE Amending MCC 8.10 Relating to Animal Control, Clarifying the Status of an Infraction Based on Non-Payment of the Potentially Dangerous Dog (PDD) Annual License Fee, Raising the Fee and Creating Separate Fees Based on the Level of Classification of the Dog*

PROPOSED ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER HANSEN MOVED, AND COMMISSIONER COLLIER SECONDED, APPROVAL OF FIRST READING. ANIMAL CONTROL MANAGER MIKE OSWALD AND COUNTY COUNSEL MATT RYAN IDENTIFIED TECHNICAL CHANGES TO PAGES 2, 4 AND 5, ADVISING THEY ARE GRAMMATICAL AND NON-SUBSTANTIVE. MR. OSWALD RESPONSE TO BOARD QUESTIONS. HEARING HELD, NO ONE WISHED TO TESTIFY. FIRST READING UNANIMOUSLY APPROVED. SECOND READING SCHEDULED FOR 9:30 AM, THURSDAY, JULY 22, 1993.

UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER COLLIER, CONSIDERATION OF THE

FOLLOWING UNANIMOUS CONSENT ITEM WAS UNANIMOUSLY APPROVED.

SHERIFF'S OFFICE

UC-1 Oregon Liquor Control Commission Class A Dispenser/Retail Malt Beverage/New Outlet License Application Submitted by Sheriff's Office with Recommendation for Approval, for THE BANK, DIVISION BRANCH, 15920 SE DIVISION

UPON MOTION OF COMMISSIONER HANSEN, SECONDED BY COMMISSIONER KELLEY, UC-1 WAS UNANIMOUSLY APPROVED.

DEPARTMENT OF HEALTH

R-8 Second Reading and Possible Adoption of an ORDINANCE to Adopt an Ambulance Service Area (ASA) Plan for Multnomah County

PROPOSED ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER COLLIER DECLARED A POTENTIAL CONFLICT OF INTEREST IN THAT HER HUSBAND'S LAW FIRM REPRESENTS THE FIRE FIGHTERS AND AMALGAMATED TRANSIT UNION. COMMISSIONER COLLIER MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF THE SECOND READING. COMMISSIONERS COLLIER AND SALTZMAN ADVISED THEY HAVE PROPOSED AMENDMENTS. COUNTY COUNSEL JACQUELINE WEBER RESPONSE TO BOARD DISCUSSION, ADVISING MOTIONS SHOULD BE TAKEN SEPARATELY PRIOR TO TESTIMONY. COMMISSIONER COLLIER MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF AMENDMENT TO PAGE 13 (AMENDMENT NO.1). COMMISSIONER COLLIER MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF AMENDMENT TO PAGE 15 (AMENDMENT NO. 2). COMMISSIONER COLLIER MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF AMENDMENT TO PAGE 27 (AMENDMENT NO. 3). COMMISSIONER COLLIER MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF AMENDMENT TO PAGE 29 (AMENDMENT NO. 4). COMMISSIONER KELLEY MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF AMENDMENT TO PAGE 18 (AMENDMENT NO. 5). COMMISSIONER SALTZMAN MOVED AND COMMISSIONER HANSEN SECONDED, AMENDMENT TO ATTACHMENT A WHICH ESTABLISHES TWO PRIVATE TRANSPORT PROVIDERS FOR COUNTY (AMENDMENT NO. 6). COMMISSIONER SALTZMAN MOVED AND COMMISSIONER HANSEN SECONDED, AMENDMENT TO ATTACHMENT A WHICH SETS AN ANNUAL COMPENSATION RATE FOR

FIRE BUREAU TRANSPORT (AMENDMENT NO. 7). BOARD QUESTIONS AND DISCUSSION. BILL COLLINS COMMENTS AND RESPONSE TO BOARD QUESTIONS. COMMISSIONER COLLIER MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF AMENDMENT TO PAGE 8 (AMENDMENT NO. 8). BOARD COMMENTS AND DISCUSSION. MR. COLLINS RESPONSE TO BOARD QUESTIONS. COMMISSIONER COLLIER MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF AMENDMENT TO PAGE 16 (AMENDMENT NO. 9). COMMISSIONER COLLIER MOVED AND COMMISSIONER KELLEY SECONDED, AMENDMENT TO PAGE 28 (AMENDMENT NO. 10).

OPPOSITION TESTIMONY FROM RON McCLURE, JEFF LAWRENCE, JUNITA KAUBLE, WARREN ANDREWS, CHUCK COLEMAN, JAY FUSTON, ERIC PEDERSEN, TERRY MARSH, WALLACE FEIST, JOHN CUTRIGHT, CARL LEMMON, GARETH STORER, BETH MURPHY, RICK CHERRY, MARK WEBSTER, GARY McLEAN, AL BACON, MICHELLE BLANK, SEAN RILEY, MARY ANN MORRISON, RYAN ROY, RON HEINTZMAN AND RICHARD LAZAR. SUPPORT TESTIMONY FROM TRACE SKEEN, ED SNYDER, KEVIN SHANDERS, JOHN HARKNESS AND TOM LINDLEY.

MR. COLLINS AND MS. WEBER RESPONSE TO BOARD QUESTIONS. BOARD COMMENTS AND DISCUSSION.

The Board recessed at 12:45 p.m., and reconvened at 1:29 p.m.

COMMISSIONER COLLIER MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF AMENDMENT TO PAGE 22 (AMENDMENT NO. 11). COMMISSIONER COLLIER MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF AMENDMENT TO PAGE 21 (AMENDMENT NO. 12). COMMISSIONER COLLIER MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF AMENDMENT TO PAGE 13 (AMENDMENT NO. 13). COMMISSIONER COLLIER MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF AMENDMENT TO PAGE 5 (AMENDMENT NO. 14). MR. COLLINS AND DR. GARY OXMAN RESPONSE BOARD QUESTIONS. COMMISSIONER COLLIER MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF AMENDMENT TO PAGE 27 (AMENDMENT NO. 3-1). DR. OXMAN AND MR. COLLINS RESPONSE TO BOARD QUESTIONS. BOARD DISCUSSION AND COMMENTS. COMMISSIONER KELLEY MOVED AND COMMISSIONER SALTZMAN SECONDED, AMENDMENT TO PAGE 11. BOARD COMMENTS AND DISCUSSION. MR. COLLINS COMMENTS.

COMMISSIONERS KELLEY AND SALTZMAN WITHDREW PRIOR AMENDMENT AND COMMISSIONER KELLEY MOVED AND COMMISSIONER SALTZMAN SECONDED, AMENDMENT TO PAGE 28 (AMENDMENT NO. 15). BOARD REQUESTED CHAIR TO DIRECT EMS TO CHANGE ADMINISTRATIVE RULES PERTAINING TO DISPATCH. MR. COLLINS AND DR. OXMAN RESPONSE TO BOARD QUESTIONS, DISCUSSION AND COMMENTS. COMMISSIONER HANSEN MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF AMENDMENT TO PAGE 16 (AMENDMENT NO. 16). BOARD DISCUSSION, COMMENTS AND VOTE ON FOLLOWING AMENDMENTS: AMENDMENT NO. 1 UNANIMOUSLY APPROVED. AMENDMENT NO. 2 UNANIMOUSLY APPROVED. AMENDMENT NO. 3-1 UNANIMOUSLY APPROVED. AMENDMENT NO. 3 UNANIMOUSLY APPROVED. AMENDMENT NO. 4 UNANIMOUSLY APPROVED. AMENDMENT NO. 5 UNANIMOUSLY APPROVED. AMENDMENT NO. 6 FAILED WITH COMMISSIONERS SALTZMAN AND MIGGINS VOTING AYE AND COMMISSIONERS KELLEY, HANSEN AND COLLIER VOTING NO. AMENDMENT NO. 7 APPROVED WITH COMMISSIONERS KELLEY AND SALTZMAN VOTING AYE AND COMMISSIONERS HANSEN, COLLIER AND MIGGINS VOTING NO. AMENDMENT NO. 8 UNANIMOUSLY APPROVED. AMENDMENT NO. 9 UNANIMOUSLY APPROVED. AMENDMENT NO. 16 UNANIMOUSLY APPROVED. UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER SALTZMAN, REVISION TO AMENDMENT NO. 10 (NO. 10-REV) UNANIMOUSLY APPROVED. AMENDMENT NO. 10 AS AMENDED UNANIMOUSLY APPROVED. AMENDMENT NO. 11 UNANIMOUSLY APPROVED. AMENDMENT NO. 12 UNANIMOUSLY APPROVED. AMENDMENT NO. 13 APPROVED WITH COMMISSIONERS KELLEY, HANSEN, COLLIER AND SALTZMAN VOTING AYE AND COMMISSIONER MIGGINS VOTING NO. UPON MOTION OF COMMISSIONER HANSEN, SECONDED BY COMMISSIONER KELLEY, REVISION TO AMENDMENT NO. 14 (NO. 14-REV) WAS UNANIMOUSLY APPROVED. AMENDMENT NO. 14 AS AMENDED UNANIMOUSLY APPROVED. AMENDMENT NO. 15 UNANIMOUSLY APPROVED. COMMISSIONER SALTZMAN MOVED AND AFTER PASSING THE GAVEL TO VICE-CHAIR HANSEN, COMMISSIONER MIGGINS SECONDED, APPROVAL OF SINGLE PROVIDER PROVISION (AMENDMENT NO. 17). BOARD COMMENTS. MOTION FAILED WITH COMMISSIONERS SALTZMAN AND MIGGINS VOTING AYE AND COMMISSIONERS KELLEY, HANSEN AND COLLIER VOTING NO. BOARD COMMENTS. VOTE ON ORDINANCE 772 AS AMENDED APPROVED WITH


**COMMISSIONERS KELLEY, HANSEN, COLLIER AND
MIGGINS VOTING AYE AND COMMISSIONER SALTZMAN
VOTING NO.**

PUBLIC COMMENT

**R-9 Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to
Three Minutes Per Person.**

There being no further business, the meeting was adjourned at 3:30 p.m.

**OFFICE OF THE BOARD CLERK
for MULTNOMAH COUNTY, OREGON**


Deborah L. Bogstad



MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK
SUITE 1510, PORTLAND BUILDING
1120 S.W. FIFTH AVENUE
PORTLAND, OREGON 97204

BOARD OF COUNTY COMMISSIONERS		
GLADYS McCOY •	CHAIR •	248-3308
DAN SALTZMAN •	DISTRICT 1 •	248-5220
GARY HANSEN •	DISTRICT 2 •	248-5219
TANYA COLLIER •	DISTRICT 3 •	248-5217
SHARRON KELLEY •	DISTRICT 4 •	248-5213
CLERK'S OFFICE •	248-3277 •	248-5222

AGENDA

MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS

FOR THE WEEK OF

JULY 12 - 16, 1993

Tuesday, July 13, 1993 - 9:30 AM - Board BriefingPage 2
Tuesday, July 13, 1993 - 1:30 PM - Planning ItemsPage 2
Wednesday, July 14, 1993 - 8:30 - 3:30 - Board Retreat. . . .Page 3
Thursday, July 15, 1993 - 9:30 AM - Regular MeetingPage 3

Thursday Meetings of the Multnomah County Board of Commissioners are taped and can be seen at the following times:

Thursday, 10:00 PM, Channel 11 for East and West side subscribers
Thursday, 10:00 PM, Channel 49 for Columbia Cable (Vancouver) subscribers
Friday, 6:00 PM, Channel 22 for Paragon Cable (Multnomah East) subscribers
Saturday 12:00 PM, Channel 21 for East Portland and East County subscribers

INDIVIDUALS WITH DISABILITIES MAY CALL THE OFFICE OF THE BOARD CLERK AT 248-3277 OR 248-5222 OR MULTNOMAH COUNTY TDD PHONE 248-5040 FOR INFORMATION ON AVAILABLE SERVICES AND ACCESSIBILITY.

Tuesday, July 13, 1993 - 9:30 AM

Multnomah County Courthouse, Room 602

BOARD BRIEFING

- B-1 Update on the 1993 Oregon Legislative Session. Presented by Fred Neal and Howard Klink. 9:30 AM TIME CERTAIN, 30 MINUTES REQUESTED.
-

Tuesday, July 13, 1993 - 1:30 PM

Multnomah County Courthouse, Room 602

PLANNING ITEMS

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LD 49-92 Approve Request of a 9.92 Acre Lot of Exception through a Property Line Adjustment to Transfer .05 Acre Lot of Record to an Adjoining 35.39 Acre Lot of Record, Plus Approval of a Type I Land Division, All for Property Located at 12937 NW NEWBERRY ROAD.

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NON-DEPARTMENTAL

- C-6 In the Matter of the Appointment of Nancy Conrath to the METROPOLITAN ARTS COMMISSION
- C-7 In the Matter of the Appointment of Gail Shibley to the MULTNOMAH COUNTY COMMUNITY ACTION COMMISSION
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REGULAR AGENDA

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-1 Presentation on the Opening of the 1993 MULTNOMAH COUNTY FAIR. 9:30 AM TIME CERTAIN, 15 MINUTES REQUESTED.
- R-2 ORDER in the Matter of the Grant of a Sewer Easement on County Land at Gilbert Heights Park, SW1/4, S11, T2S, R2E, WM, Multnomah County, Oregon [to City of Portland for Powell Village 341 Sanitary Sewer System Project]
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PUBLIC CONTRACT REVIEW BOARD

(Recess as the Board of County Commissioners and convene as

the Public Contract Review Board)

- R-4 ORDER in the Matter of a Sole Source Exemption to Contract with Portland General Electric for the Purchase of Street Lighting
- R-5 ORDER in the Matter of an Exemption from Public Bidding a Contract with IBM for the Purchase of an IBM RS 6000 Computer

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

NON-DEPARTMENTAL
MANAGEMENT SUPPORT

- R-6 RESOLUTION in the Matter of Adopting and Defining Various County Funds

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-7 First Reading of an ORDINANCE Amending MCC 8.10 Relating to Animal Control, Clarifying the Status of an Infraction Based on Non-Payment of the Potentially Dangerous Dog (PDD) Annual License Fee, Raising the Fee and Creating Separate Fees Based on the Level of Classification of the Dog

DEPARTMENT OF HEALTH

- R-8 Second Reading and Possible Adoption of an ORDINANCE to Adopt an Ambulance Service Area (ASA) Plan for Multnomah County

PUBLIC COMMENT

- R-9 Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

MEETING DATE: July 13, 1993

AGENDA NO: P-1

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Review of June 21, 1993 Hearings Officer Decision

BOARD BRIEFING Date Requested:

Amount of Time Needed:

REGULAR MEETING: Date Requested: July 13, 1993

Amount of Time Needed: 2 Minutes

DEPARTMENT: DES

DIVISION: Planning

CONTACT: Sharon Cowley

TELEPHONE #: 2610

BLDG/ROOM #: 412/109

PERSON(S) MAKING PRESENTATION: Planning Staff

ACTION REQUESTED:

[] INFORMATIONAL ONLY [] POLICY DIRECTION [x] APPROVAL [] OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

LE 14-92/LD 49-92 Approve request of a 9.92-acre Lot of Exception through a property line adjustment to transfer .05 acre Lot of Record to an adjoining 35.39-acre Lot of Record, plus approval of a Type I land division, all for property located at 12937 NW Newberry Road

SIGNATURES REQUIRED:

ELECTED OFFICIAL:

OR

DEPARTMENT MANAGER:

PC Betsy Wallia

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

0516C/63

6/93



MULTNOMAH COUNTY OREGON

DIVISION OF PLANNING & DEVELOPMENT / 2115 S.E. MORRISON / PORTLAND, OREGON 97214

DIVISION OF PLANNING AND DEVELOPMENT

Board Planning Packet Check List

File No. HE 14-92 / SD 49-92

☒ Agenda Placement Sheet No. of Pages 1

☐ Case Summary Sheet No. of Pages _____

☐ Previously Distributed _____

☐ Notice of Review No. of Pages _____

*(Maybe distributed at Board Meeting)

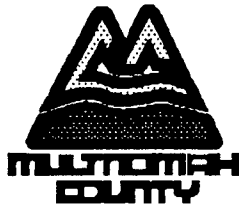
☐ Previously Distributed _____

☒ Decision No. of Pages 38

(Hearings Officer/Planning Commission)

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*Duplicate materials will be provided upon request.
Please call 2610.



**Department of Environmental Services
Division of Planning and Development
2115 S.E. Morrison Street
Portland, Oregon 97214 (503) 248-3043**

Decision

This Decision consists of Conditions, Findings of Fact and Conclusions

June 21, 1993

**LE 14-92, #70
LD 49-92, #70**

**Lot of Exception
Type I Land Division**

Applicants request approval of a 9.92-acre Lot of Exception through a property line adjustment to transfer .05 acre from a 9.97-acre Lot of Record to an adjoining 35.39-acre Lot of Record. From the resulting 35.44-acre tract, applicants request approval of a 3.92-acre Lot of Exception. Due to the request for the 3.92-acre Lot of Exception, applicants also seeks approval of a Type I land division.

Location: 12937 NW Newberry Road

Legal: Tax Lots '13', '15', '33' and '17', Section 33, 2N-1W, Plus
Tax Lot '62', Section 28, 2N-1W, 1992 Assessor's Map

Site Size: 45.36 Acres

Size Requested: 31.52 Acres and 9.92 Acres and 3.92 Acres

Property Owners: D and S Looney, 2525 NE Knott Street, 97212 (Tax Lots '17', '33' & '62')
AJ and PG Wagner, 12941 NW Newberry Road, 97231 (Tax Lot '13')
BW and CA Lightcap, 13342 NW Newberry Road, 97231 (Tax Lot '15')

Applicant: David Looney, 2525 NE Knott Street, 97212

Comprehensive Plan: Multiple Use Forest (At time of application)

Present Zoning: MUF-19, Multiple Use Forest District (At time of application)
Minimum lot size of 19 Acres (At time of application)

Hearings Officer

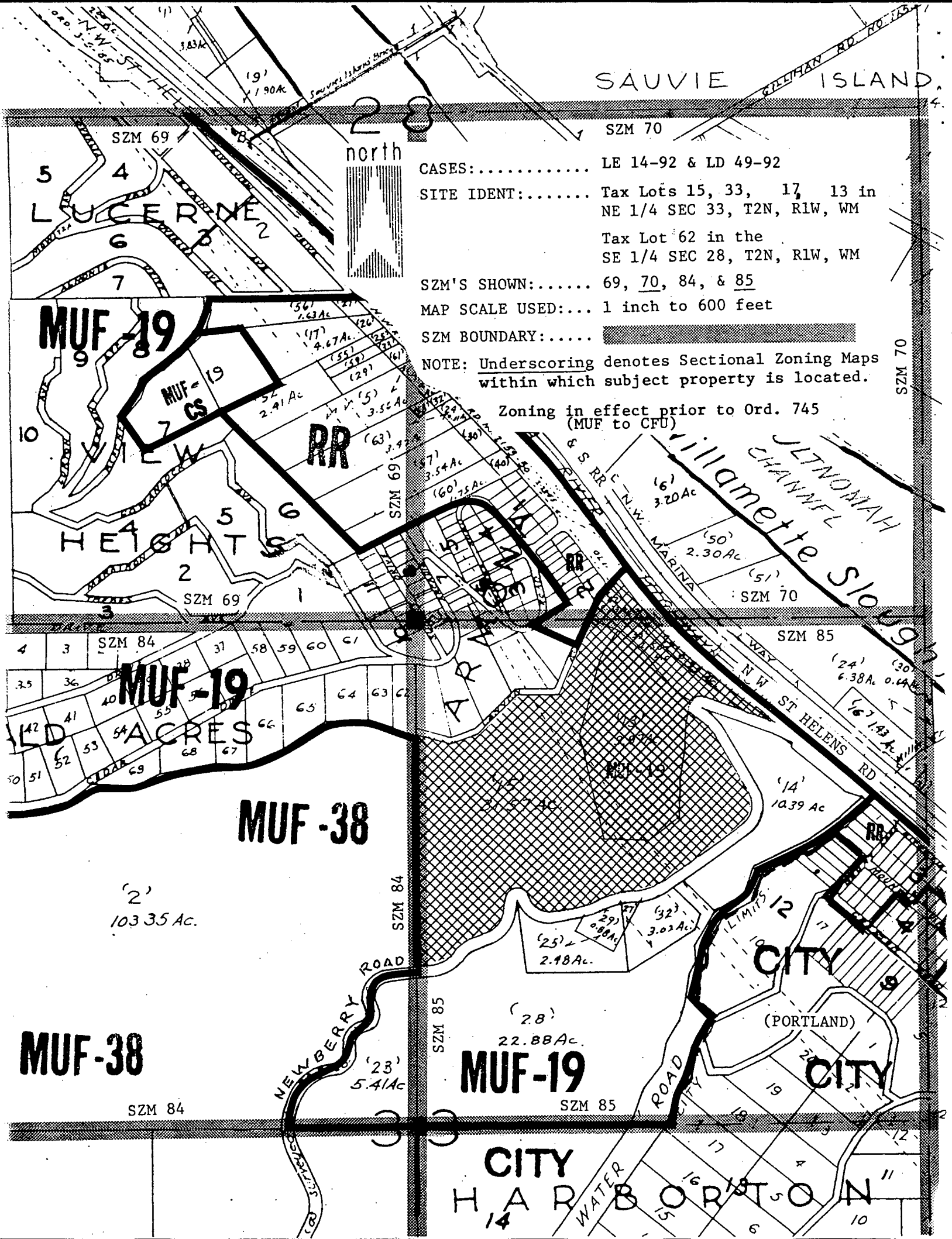
Decision: Approve both applications, subject to:

- (1). findings the new parcels cannot become the site of additional dwellings under existing CFU zoning;
- (2). consolidation of the Looney parcels into a single parcel within 6 months; and
- (3). review of any subsequently proposed replacement dwelling on the Looney parcel for compliance with standards in the CFU district and Plan Policy #14, subject to notice and hearing.

LE 14-92 / LD 49-922

SAUVIE

ISLAND



CASES:..... LE 14-92 & LD 49-92
SITE IDENT:..... Tax Lots 15, 33, 17, 13 in
NE 1/4 SEC 33, T2N, R1W, WM
Tax Lot 62 in the
SE 1/4 SEC 28, T2N, R1W, WM
SZM'S SHOWN:..... 69, 70, 84, & 85
MAP SCALE USED:... 1 inch to 600 feet
SZM BOUNDARY:.....

NOTE: Underscoring denotes Sectional Zoning Maps
within which subject property is located.

Zoning in effect prior to Ord. 745
(MUF to CFU)

MUF-38

MUF-19

CITY

(PORTLAND)

CITY

CITY
HARBOR
BORING

ARMONA

HWY 30
50'

PARCEL 1

(total ac. 3.92)

PARCEL 3

9.92 AC.

WAGNER
PROPERTY
T.L. '13'

PARCEL 2

31.52 AC.

LIGHTCAP
PROPERTY
T.L. '15'

NEVILLE R/W

NEWBERRY RD

N

APPLICANT: DAVID & SHAWN LOONEY

REQUESTED ACTION:

- LAND DIVISION
- LOT OF EXCEPTION

SCALE: 1" = 400 ft.



← area affected by
property line adjustment

LE 14-92 / LD 49-92 Tax Lot & Parcel Area Calculations

Tax Lot / Sec.	1979	1989		1993		
	Tax Lots	Tax Lots	Parcel		Tax Lots	Parcel
	Acres	Acres	No.	Ac.	Acres	No. Ac.
62, Sec 28 2N 1W	0.32	0.32			0.32	
17, Sec 33 2N 1W	0.99	0.99			0.99	
33, Sec 33 2N 1W	-	2.5*			2.6	
	-		1	3.81		1 3.91
15, Sec 33 2N 1W	34.07	31.57*	2	31.57	31.52	2 31.52
Subtotal	35.38			35.38	35.43	35.43
13, Sec 33 2N 1W	9.97	9.97	3		9.92	3 9.92
GRAND TOTAL	45.35	45.35			45.35	45.35

* 1989 partition lapsed.

** References to May 3, 1993 Staff Report.

1 parcel {

I. INTRODUCTORY MATTERS

A. Parties To The Proceeding

1. Applicants

The applicants are:

David R. and Shawn Looney, 2525 NE Knott Street, Portland, Oregon 97212

2. Other Persons Supporting The Application

The persons appearing, through oral or written testimony, in support of the application, are:

Brian and Christine Lightcap, 13342 NW Newberry Road, Portland, Oregon 97231

Arthur and Patricia Wagner, 12941 NW Newberry, Portland, Oregon 97231

3. Opponents

The persons appearing, through oral or written testimony, in opposition to the application, are:

Arnold Rochlin, P.O. Box 83645, Portland, Oregon 97283-0645

Chris Foster, 15400 NW McNamee, Portland, Oregon 97231

4. Party Status And Notice Of This Decision

In the absence of any challenges to their standing, I find the preceding persons to be parties to the appeal, as specified by MCC 11.15.8225. These persons should receive a copy of this decision.

B. Impartiality Of The Hearings Officer

Before and after the hearing I had no *ex parte* contacts with any of the parties concerning the merits of these applications.

I have no financial interest in the outcome of this proceeding and have no family or business relationship with any of the parties.

C. Burden of Proof

The burden of proof is upon the applicant. MCC 11.15.8210(A); .8230(D); 11.45.220(C).

D. Alleged Procedural Errors

In his letter of April 28, 1993, Mr. Rochlin alleged the County erred by omitting MCC 11.15.2180(D) and 11.45.230(H) from the list of applicable criteria on the Notice of the Hearing, mailed April 8, 1993. Failure to list the applicable Code section numbers and Plan Policies is a violation of ORS 197.763(3) and MCC 11.15.8220(5).¹

For the reasons given below, in II.A.8, I find that MCC 11.15.2180(D) is inapplicable to LE 14-92, but as discussed in III.B.1, this criterion is applicable to LD 49-92. With respect to MC 11.45.230(H), I find it applicable to neither application II.B.9, III.A, B.

I find that while a procedural error was committed by the omission of criteria MCC 11.15.2180(D) from the list on the notice, Mr. Rochlin was not prejudiced by the omission, since he was aware of the omission and presented testimony on that criterion.²

E. Summary, Background And Procedural History Of This Matter

1. Summary

This matter is a review of a proposed partitioning and a property line adjustment, both of which are reviewed as a "lot of exception."

The applications concern four parcels owned by three families, Brian and Christine Lightcap, Art and Patricia Wagner and the David and Dawn Looney. One of the parcels was the subject of an attempted sale to two of the families, the Looneys and Lightcaps, as

¹ MCC 11.15.8220(5) requires the notice of the hearing to include "[a] listing of the applicable Zoning Code and comprehensive plan policies." Mr. Rochlin notes this language does not indicate the level of specificity required under this section. Given the legislative history of HB 2288, (codified as ORS 197.763(3)) I believe the County is obliged to list the individual Code sections and Policy numbers, but is not required to quote them.

² While there may have been no prejudice to him, this omission may entitle Mr. Rochlin to raise new arguments on appeal to LUBA, including arguments based on criteria other than those omitted from the notice. ORS 197.835(2); *Wuester v. Clackamas County*, ___ OR LUBA ___ (LUBA No. 93-017) (slip opinion of June 9, 1993 at 2-6.)

though it had been partitioned, which it wasn't. The pseudo-parcels are described in D.2., below.

I am approving both of the proposed lots of exception/partitions, based on (1) my conclusion that the new parcels cannot qualify for either a forest or a nonforest dwelling under the parcel creation qualification dates in the Commercial Forest Use District ("CFU") now in effect, and (2) conditions requiring the consolidation of existing parcels and subsequent review of any replacement dwelling on the Looney parcel.

The length of this decision requires explanation.

While the requested actions are easy to understand, I have identified no less than 55 separate criteria, standards, policies and sub-policies in the Zoning Code and Comprehensive Plan which I had to consider, make findings and in many cases present an explicit interpretation of the ordinance, required by the Court of Appeals. *Weeks v. City of Tillamook*, 117 Or App 449, 454, ___ P2d ___ (1992). My interpretation of one of the applicable MUF standards has required me to speculate about how one of the prospective parcels would be analyzed under new CFU standards. In addition, the applications are being processed under the rarely applied lot of exception provisions in the MUF zone, a zone which has been superseded

The result is a decision of unusual length and complexity which underscores the potential value of the simplification of the Code and reliance on a few clear and objective standards.³

2. Background Information Concerning Land Ownership And Parcelization For The Proposed Looney/Lightcap Lot Of Exception & Type I Land Division; LE 14-92.

In 1985, the Looneys bought from Fred Bernet two small triangles of land fronting on Highway 30 which touch at one corner; the 0.99 acre Tax Lot 17 in Section 33, and the 0.32 acre Tax Lot 62, in Section 28. Although there was some uncertainty regarding these properties, the owners believe the two tax lots represent a single, albeit discontinuous, parcel.

Tax Lot 13 in Section 33 is a 9.97 acre parcel owned by Art and Patricia Wagner.

³ It is ironic that the applicants were concerned to file their application before the effective date of the Commercial Forest Use rezoning of the property. If the applicants had been willing to apply under MCC 11.15.2061 "Lot Line Adjustment" of the Commercial Forest Use District, almost all of the complexity could have been avoided.

The map at page 3, shows two residences on the parcel, including the Wagner's residence. This roughly oval parcel is almost surrounded by the 34.07 acre parcel jointly owned by the Looneys and Lightcaps, described below.

In 1985 Fred Bernet purported to sell off a 2.5 acre part of a 34.07 acre parcel, Tax Lot 15, to the Looneys.⁴ This part of the parcel is shown as Tax Lot 33. He retained a 31.57 acre parcel, (which retained the original Tax Lot number of 15 of the parent parcel). Bernet also sold the Looneys the 1.31 acre parcel made up of Tax Lots 17 and 62. Later, Bernet purported to sell to Brian and Christine Lightcap the 31.57 remnant (the revised Tax Lot 15) as a separate parcel.

At different places in the record of this proceeding, the Looney's ownership has been described as a 3.81 acre parcel.⁵ This is incorrect in two respects. First, there was no prior approval of a land division, so whatever Bernet sold to the Looneys (and Lightcaps) it was not the ownership of separate parcels.⁶ Second, describing the Looneys' ownership as a 3.81 acre parcel fails to recognize that Tax Lots 17 and 62 constitute a separate parcel.

Page 4 of this decision is a listing of the Tax Lots involved in these applications and their evolution.

The sale of the pseudo-parcels precluded the issuance of any permits until the attempted partition was addressed. MCC 11.45.040 provides:

No land may be divided in the unincorporated area of Multnomah County except in accordance with this Chapter.

* * * * *

(B) *No development permit shall be issued for the improvement or use of any land divided in violation of this Chapter, regardless of whether the permit applicant created the violation. A division of land which is contrary to an*

⁴ ORS 92.016(2) prohibits the sale of "parcels" which have not received partitioning approval.

⁵ Some of the maps also show a 3.91 acre parcel, which is the size of the Looneys' ownership if all approvals are given, including the 0.1 acre lot line adjustment with the proposed Lightcap and existing Wagner parcels.

⁶ I suspect the Looneys and Lightcaps may own an unequal, but undivided, interest in the original, 34.07 acre parcel, former Tax Lot 15. As Mr. Foster correctly noted, under ORS 92.018 the co-owners could secure rescission of the sale or damages plus attorney fees for their efforts, instead of seeking redress from the County.

approved subdivision plat or partition map is a violation of this Chapter.

To legalize the sales, in 1989 Bernet sought, and received, approval from the County Planning Commission and County Commission, what the Staff Report describes as "basically the same Lot of Exception and Land Division requests (LE 1-89 and LD 1-89). The approvals expired because the final partition map was not submitted within one year after the County Commission's approval. MCC 11.15.45.420.

This second application to divide the property along the lines of the 1985 attempted sale, was filed by the Looneys on December 22, 1992.

At the time this second application was filed, the property was zoned Multiple Use Forestry, 19-acre minimum parcel size. As a result of the County's implementation of amended statewide planning Goal 4, "Forest Lands" and the associated amended Goal 4 Administrative Rule, OAR 660-06-000 *et seq.* (1991), the property has been rezoned Commercial Forest Use, effective January 6, 1993. The property is now subject to different standards for both land divisions and dwellings. MCC 11.15.2042 to .2074 (1992).

The Looneys' application is subject to the criteria in effect at the time of the Looney's application in December 1992, *i.e.* the standards in the Multiple Use Forestry and land division sections of the Multnomah County Code. ORS 215.428(3).

3. Property Line Adjustment; LD 49-92.

In addition to the partitioning of the Looney/Lightcap parcel, the Looneys seek a "property line adjustment" to add a 0.05 acre wedge of land, taken from the Wagner parcel and a 0.05 acre wedge taken from the Lightcap parcel, to the southwest side of the Looneys' proposed 2.5 acre parcel.⁷ The purpose of this lot line adjustment was described by Mr. Looney as follows:

Essentially, the adjustment would provide me with approximately five to seven feet of space along the access road for maintenance and landscaping. In addition it allows me approximately 10 to 20 more feet at the northernmost part of the property to provide for landscaping and a driveway.

Application Letter from David and Shawn Looney, dated December 2, 1992.

⁷ The maps also show a shaded area of approximately 0.05 acres on Tax Lot 15, the Lightcap pseudo-parcel, as being part of the land to be transferred. Of course, until and unless the land division is approved, there is no such parcel and no adjustment between the Tax Lots 15 and 33 is possible.

The May 3, 1993 Staff Report notes the "property line adjustment request is treated as a Lot of Exception because the size of the Wagner property is less than the minimum lot size allowed under the applicable zoning regulations."

For the reasons explained in III.A., below, this property line adjustment is subject to the same standards as the Looney-Lightcap lot of exception/partition.

II. THE LOONEY LOT OF EXCEPTION/PARTITION; LE 14-92

A. Lot Of Exception Requirements In The MUF-19 District

1. MCC 11.15.2180(A)(1): Substantially Support the Character And Stability Of The Land Use Pattern Of The Area

The "Lots of Exception" provision in the former MUF District contained the following standard requiring the maintenance of the stability of the current land use pattern:

MCC 11.15.2180 Lots of Exception

(A) *The approval authority may grant an exception to permit the creation of a lot of less than the minimum specified in MCC .2178(A), after August 14, 1980, when in compliance with the dimensional requirements of MCC .2178(C) through (E). Any exception shall be based on findings that the proposal will:*

(1) *Substantially maintain or support the character and stability of the overall land use pattern of the area;*

(a) **Interpreting The Test That The Decision Will "Substantially Maintain Or Support The Overall Character And Stability Of The Land Use Pattern Of The Area."**

Land stability tests, like the one applicable here, present inherent difficulties for decision makers. If houses and small parcels already characterize part of the area, then it is easy to conclude that one additional house will not significantly alter this land use pattern; the effect of one more house will be negligible. Yet when there are no houses in the vicinity, it is contended that the introduction of a single house has a negligible effect on the land use pattern, which remains overwhelmingly free from development.

I reject the negligible effect" analysis as reflecting a misinterpretation of the standard. The standard does not authorize small or incremental erosion of the stability of the land use pattern; it requires the decision to affirmatively "maintain and support" the stability and character of the overall land use pattern.

More significantly, the "negligible effect" analysis is inconsistent with the concept behind the standard. The purpose of a land use stability test is to correct the error of analyzing the dwelling in isolation; rather the standard requires the decision maker to think in terms of cumulative effects.

(b) The Character Of The Overall Land Use Pattern Of The Area

The "area" to which I am applying the "character and stability" criteria, is described by a semi-circle with a radius of about 1 mile, centered at the mid-point of the property line fronting on Highway 30, curving around to the southwest.

The terrain in this area takes the form of steep hills rising immediately south of Highway 30, part of the system of high hills bordering the southwest banks of the Willamette and Columbia from southwest Portland to the Coast Range (originally known as the "Tualatin Mountains.") These hills are regularly transected by steep ravines containing perennial and seasonal streams, such as Ennis Creek, which borders the subject property on the northwest.

There is no consistent land use pattern in the area. Like many parts of the region, the area consists of a mix of low and medium density residential uses and larger parcels without houses. Other lots in the area along Newberry Road, range in size from .88 acres to 1003 acres.⁸ Based on my personal observations on May 3, many of the parcels to the north (including the "Armona" and "Emerald Acres" subdivisions) and south of the subject property, are parts of mostly undeveloped subdivisions; the parcelization is not indicative of the level of development.

The subject property, like the parcels nearby, is forested with commercial softwood tree species, including Douglas Fir, Western Red Cedar, Western Hemlock as well as hardwood species, including Big Leaf Maple, Western Cottonwood and different species of alder.

Much, but not all of the smaller-lot residential areas are located on a bench above Highway 30. The bench is the site of most of the houses southeast and northwest of the subject property. The house on the property is sited on this bench.

Moving southwest (uphill and away from the vicinity of Highway 30) the development pattern changes; the parcels are larger and the density of houses drops. At the southwestern boundary of the Looney/Lightcap parcel, the change in use has been dramatically illustrated by a large, recent, clearcut over most of the adjoining 103.35 acre parcel.

⁸ Most of the land in the area, outside the UGB, is now zoned CFU. A small parcel northwest of the subject property is zoned Rural Residential.

According to the Lightcaps' testimony, they are managing their other parcel, across Newberry Road from the subject property, for timber and livestock production. However, they are not relying on industrial style forest management, preferring selective cutting techniques. They also hope to develop a nursery for the production of plants used in wetland mitigation and restoration.

This information shows that the parcel, in itself, reflects the current mix of residential and resource use.

(c) The Stability Of The Overall Land Use Pattern Of The Area

There was no written evidence in the record directly addressing the pace of change in the land use pattern in the area. My site inspection revealed that most of the house in the vicinity had been built more than 20 years ago. There were only a few newer houses, although I did not drive up private drives to inspect homes hidden in the forest.

While the evidence is limited, I conclude that land use pattern of the area has changed only slowly and gradually in the last 20 years.

(d) Applying The Standard To The Facts Found Regarding The Character And Stability Of The Land Use Pattern.

The authorization of new dwellings, especially dwellings beyond the current line of dwellings above Highway 30, would not "substantially maintain" the stability of the character and land use pattern of the area, described above.

In the light of potential spread of development uphill from the band bordering Highway 30, already evident in the sprinkling of house a short distance up Newberry Road, I conclude that if the effect of the land division would be to enable, or potentially enable, the construction of another house on the remainder of the parcel, then this decision would not "substantially maintain or support" the overall character of this particular area. The effect of the decision would be to erode the resource lands component of that character.

But will another house be sought for the proposed Lightcap parcel? In written testimony, the Lightcaps said:

Specifically, we have always managed our lands in accordance with farm/forest guidelines. Our on-going activity is greatly enhancing the woodland and wildlife capacity of this property. We are systematically clearing rampant scotch-broom and restoring neglected pasture in hopes of returning a modest livestock use similar to the sheep/trees relationship we have on our other parcel. In addition, Brian has begun improving wetland areas and developing wetland

nursery stock with the intention of bring it all together as a small business which fills a much needed void in both dry and wet land restoration. We will be building a barn structure to support these activities. We anticipate that a modest caretaker's apartment or small house may also be necessary as the project develops.

During his testimony, I queried Brian Lightcap further about his plans for the separate parcel he and his wife will own if the division was approved. He stated that their primary interest was in using the land to expand their timber, horticultural and agriculture uses. However, he would not rule out seeking permission to build a house on the property.⁹

The Lightcaps' expressed interest in the possibility of another house emphasizes the necessity of determining whether an additional house could be legally permissible under the CFU zoning of the proposed Lightcap parcel.

The Commercial Forest Use zone authorizes two types of dwellings; forest dwellings, authorized by MCC 11.15.2050(A) (subject to the standards in MCC 11.15.2051 and .2074) and nonforest dwellings (identified as "dwellings not related to forest management") authorized by MCC 11.15.2050(B) (subject to the standards in MCC 11.15.2052 and .2074.) Both sets of standards are strict.

- **Potential Qualification For A Nonforest Dwelling**

There are ten standards or conditions for nonforest dwellings under subsection (A) of MCC 11.15.2052, a problematic qualification deadline in subsection (B) and some compatibility standards in MCC 11.15.2053. Based on the record of this case, I can reach conclusions with respect to only five of the objective tests, those in .2052(A)(1), (2), (3) and (D).

MCC 11.15.2052(A)(1) requires the lot proposed as the site for a nonforest dwelling to "meet the lot of record standards of MCC .2062(A) and (B) and have been lawfully created prior to January 25, 1990." Since the Lightcap parcel will have been created by this review, the new parcel would be created after the qualification deadline.¹⁰

⁹ Of course the Lightcaps' own plans are not determinative of the future use of the property since they are free to sell it to someone else.

¹⁰ I reject the interpretation that the proposed land division creates only one new parcel leaving an original, presumably larger, "parent" parcel. (Whether one of the new parcels retains the original tax lot number is irrelevant since tax lots are created for the convenience of assessors and have no relationship to land use planning. *1000 Friends of Oregon v. LCDC (Lane Co.)*, 83 Or App 278, 731 P2d 487, (1987) *aff'd* 305 Or App 384, 418 (1988); *Thede*

MCC 11.15.2052(A)(2) requires the lot to be of sufficient size to allow the house to be "at least 60 feet from the centerline of any County Maintained road and 200 feet to all other property lines." A house located off the unpaved road which enters the property about 1/2 mile up Newberry Road from Highway 30, would easily meet these standards.

I find the Lightcap parcel could probably satisfy MCC 11.15.2052(c)(i) and (ii), the strictest parcelization and development tests, which apply to land with a productivity of more than 85 cubic feet/acre/year for Douglas Fir.¹¹

MCC 11.15.2052(A)(3)(c)(i) requires that a 160 acre square "centered on the center of the subject lot" (the proposed Lightcap parcel) with its edges parallel to the section lines, must touch all or parts of 11 other lots, (excluding lots within an Urban Growth boundary (MCC 11.15.2052(3)(d))). A 160 acre square, centered on the Lightcap parcel would cover parts of the Wagner parcel, parts of seven lots in the undeveloped Armona and Emerald Acres subdivisions to the north, the 103.35 acre parcel to the west, and the five ownerships southeast of Newberry Road, made up of Tax Lots 23, 28, 25/29 (one ownership), 27-32 (one ownership) and 14. Whether the Lightcap parcel would actually meet the parcelization test would depend on exactly where the "center" of the irregular parcel is located and the question of whether all or most of the delineated properties in the old subdivisions to qualify as "lots," as defined at MCC 11.15.0010.

MCC 11.15.2052(c)(ii) requires that at least five houses fall within the 160 acre square. Again, the parcel would probably qualify depending on where the 160 acre square was centered. Such a square could cover the three existing houses on the Wagner and (prospective) Looney parcel, plus the Lightcap's residence and the other houses off Newberry Road.

MCC 11.15.2052(B) also revokes the authorization of nonforest dwellings "upon the effective date of a small scale resource land program adopted pursuant to the Requirements of OAR 660 Divisions 6 and 33." The Land Conservation and Development Commission

v. Polk County, 3 OR LUBA 336 (1981). If such an interpretation was accepted, it would be legally permissible to build a house on a lot of record, divide off the portion containing the house, leaving the "original" "parent" lot of record, which would requalify for yet another lot of record house. This result is contrary to the concept of a "lot of record." When the parcel is divided, the old parcel ceases to exist and two new parcels are created.

¹¹ The table of forest soils productivities, relied on by the County in administering the nonforest dwelling provisions, shows that there are no forest soils in the county with a Cubic Foot Site Index of less than 85. Given the vigorous second growth of Douglas Fir, Western Red Cedar, Big Leaf Maple and alders on the property, the cubic foot site index is almost certainly in much in excess of 85 for Douglas Fir.

has adopted such a program, through its December 1992 amendments to Goals 3 and 4, the Administrative Rules interpreting those Goals and the adoption of amendments to Division 33. Based on my familiarity with its administrative history, I interpret LCDC's adoption of the Small-scale Resource Land Goal amendments and rules (especially OAR 660 Division 33) as probably invoking the County's revocation clause.

Based on this review, I conclude that the proposed Lightcap parcel would clearly be disqualified for a nonforest dwelling under either MCC 11.15.2052(A)(1) or .2052(B). But for those two provisions, the parcel might qualify for a dwelling.

• Potential Qualification For A Forest Dwelling

The standards for forest dwellings include a finding that the dwelling is "accessory to and necessary for" forest management. MCC 11.15.2051(B). While the chance this 31.57 acre parcel would qualify under the "accessory" and "necessary" tests may be remote,¹² there is no need to speculate about qualification under these criteria when other, more objective criteria, are decisive.

MCC 11.15.2051 allows a forest management dwelling when:

- (A) *The lot size meets the standards of MCC .2058(A) with a minimum area requirement of 80 acres or meets the lot of record standards of MCC .2062(A) and (B), but shall not be less than 10 acres.*

The proposed Lightcap parcel is less than 80 acres but larger than 10 acres, so in order to qualify for a nonforest dwelling, the prospective parcel must satisfy the "lot of record" standards in MCC 11.15.2062(A) and (B).

MCC 11.15.2062(A) contains three different definitions of a qualifying lot of record.

MCC 11.15.2062(A)(1) defines a lot of record as:

- (1) *A parcel of land:*
 - (a) *For which a deed or other instrument creating the parcel was recorded with the Department of General Services or was in*

¹² Given the definition of "accessory" in MCC 11.15.2045(A) and definition of "necessary" in MCC 11.15.2045(D), it is highly unlikely that an on-site residence would be "incidental and subordinate to" or "necessary for" the management of a 31.57 acre, partially stocked parcel. A parcel of this size, using prevailing management techniques, can easily be managed during the course of several weekends per year.

recordable form prior to August 14, 1980;

- (b) Which satisfied all applicable laws when the parcel was created;
and*
- (c) Which satisfies the minimum lot size requirements of MCC .2058
[80 acres.]*

The proposed parcel could not satisfy the creation deadline in subsection (a) or the minimum lot sizes required by subsection (c) of MCC 11.15.2062(A)(1).

MCC 11.15.2062(A)(2) defines a lot of record as:

- (2) A parcel of land:*
 - (a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services or was in recordable form prior to February 20, 1990;*
 - (b) Which satisfied all applicable laws when the parcel was created;
and*
 - (c) Does not meet the minimum lot size requirements of MCC .2058;
and*
 - (d) Which is not contiguous to another substandard parcel or parcels
under the same ownership; or*

For purposes of this analysis I will assume the Looneys, and possibly Bernet, recorded the sale by some form of deed, in October or November of 1985, and the Lightcaps recorded their purchase of the pseudo-parcel from Bernet sometime before February 20, 1990. Since the sale of these properties were recorded, does this recordation satisfy (2)(a), even if the parcels were illegal?

Subsection (a) refers to the "deed or other instrument creating the parcel." A deed or land sale contract can create a parcel, but only if this transfer occurred prior to the time at which land divisions were regulated by the County's zoning or land division ordinance. ORS 215.010(1)(c). However, land divisions were regulated by the County under both the Zoning and Land Division Ordinances at the time of the 1985 and 1989 sales and thus such sales could not, and did not, create a parcel. In fact, this entire preceding arises out of the County's and parties' recognition that the sales made by Bernet did not create legal lots of record.

Based on this interpretation of the ordinance, I conclude the proposed Lightcap parcel could not satisfy the "lot of record" test in MCC 11.15.2062(2)(a).

The proposed Lightcap parcel would presumably satisfy (2)(b) if this partitioning decision is unchallenged or affirmed. It would clearly satisfy (2)(c).

Given the Lightcaps' ownership of property across Newberry Road, and the definition of contiguous in MCC 11.15.2062(B)(1) ("parcels of land [including] parcels separated only by an alley, street or other right-of-way") the property, as long as it is owned by the Lightcaps, would not qualify under (2)(d). This bar would not apply to another property owner.

MCC 11.15.2062(A)(3) defines a lot of record as:

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

- (a) *For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to February 20, 1990;*
- (b) *Which satisfied all applicable laws when the parcel was created; and*
- (c) *Does not meet the minimum lot size requirements of MCC .2058; and*
- (d) *Which is not contiguous to another substandard parcel or parcels under the same ownership; or*

The proposed Lightcap parcel cannot satisfy (3)(a), and, at least while in the Lightcap's ownership, cannot satisfy (3)(d), for the same reasons which obtain under MCC 11.15.2062(A)(2).

(d) Conclusion Regarding MCC 11.15.2180(A)(1)

I conclude that the proposed land division will "substantially maintain or support the character and stability of the overall land use pattern of the area" based on (1) my conclusion that the creation of the Lightcap parcel in June 1993, bars it from qualification for either a forest or nonforest dwelling under Commercial Forest Use zoning and (2) the conditions I have imposed requiring consolidation of the Looney parcels and review of any proposed replacement dwelling. (See "Conditions of Approval.")

2. MCC 11.15.2180(A)(2): Generally Unsuitable Test

The "generally unsuitable" test is articulated in MCC 11.15.2180(A)(2):

MCC 11.15.2180 Lots of Exception

(A) *The approval authority may grant an exception to permit the creation of a lot of less than the minimum specified in MCC .2178(A), after August 14, 1980, when in compliance with the dimensional requirements of MCC .2178(C) through (E). Any exception shall be based on findings that the proposal will:*

* * * * *

(2) *Be situated upon land generally unsuitable for commercial forest use or the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation and the location or size of the tract.*

(a) **Interpretation: Determining The Proper Area Of Analysis**

The first question is one of interpretation. What is the "land" which must be generally unsuitable; is it the proposed lot of exception or is it the whole parcel?

The Supreme Court and LUBA have granted local governments wide discretion in interpreting their ordinances. The cases in which this discretion has been granted involved the same issue; deciding whether an ordinance required an analysis of the suitability of the "whole parcel" or only the "proposed parcel." *Clark v. Jackson County*, 313 Or 508, 836 P2d 710 (1992); *Wuester v. Clackamas County*, ____ Or LUBA ____ (LUBA No. 93-017) (LUBA slip opinion of June 9, 1993 at pp. 17-19)¹³

As I have stated in other decisions, if local governments' reasonable interpretations of their ordinances are to deserve the respect the Supreme Court has bestowed upon them in the *Clark v. Jackson County* decision, then local governments should be obliged to honor their interpretive precedents.

¹³ Deference to a local interpretation of an "generally unsuitable" test is not appropriate when the test is based on the state's exclusive farm use statute in ORS Chapter 215, in which case the courts owe no deference to local interpretations: The Supreme Court found the unsuitability test for nonfarm parcels and dwellings was applicable to the entire, original, parcel. *Smith v. Clackamas County*, 313 Or 519, 836 P2d 716 (1992).

The staff has discovered two precedents from the MUF District on this point; the prior approval of this same land division, sought by Fred Bernet and approved by the Planning Commission in 1989, LD 1-89/LE 1-89 and LE 10-87 (applicant A. L. Steiner) approved by the Planning Commission on December 14, 1987. In both cases, the suitability analysis was applied only to the proposed lot of exception. I will follow these precedents.

(b) Unsuitability Of The Proposed Parcel

The applicant contends the property¹⁴ is unsuitable for commercial timber or farm production because:

The land subject to this application has not been used for commercial production of crops or raising of livestock for many years. It has been logged and the only remaining marketable trees are a few fir, cedar, oak or walnut trees. I want to save them all. The terrain and size of the lot make the land unsuitable for any future commercial forest or agricultural use.

Application Statement at page 1.

Given the slope on the property, the current dense forest cover and the historic and continued use of nearby properties timber production, I find that the suitability of this property need only be measured against its suitability for timber production, not farming.

The site visit confirms the applicants' statement about the presence of commercial tree species on the property, including Douglas Fir and Western Red Cedar. These commercial species and other species, such as alder and Big Leaf Maple suggest that the soils are suitable for commercial timber production. The question then is whether the proposed parcel is unsuitable based on factors other than inherent low soil productivity.

The proposed lot of exception occupies a steep slope above Highway 30 and is bordered, for most of its prospective southeastern boundary, by the Wagner's parcel. During the site visit I notice a large Douglas Fir tree, about 2 feet in diameter, which had been felled and had rolled down onto, or next to, the access road to the house currently on the Lightcap/Looney parcel. The log was certainly large enough to destroy a vehicle or severely damage a house. Mr. Looney and Mr. Wagner confirmed that the tree had been cut on the Wagner parcel and rolled down the hill onto the adjoining parcel.

The width of the property, measured down the slope, is approximately 400 feet. The

¹⁴ I infer from the Looneys' and Lightcaps' agreement about their proposed uses of their proposed parcels, that Mr. Looney's comments about the property refer only to his proposed lot of exception and not the whole parcel.

adjoining property on the downhill portion of the prospective parcel is a busy state highway. Logging of the property would risk logs sliding onto Highway 30, landing on the current or proposed house on the proposed parcel, falling across the power lines, or falling uphill onto the Wagners' homes or drive.

I find that while tree planting and growth could occur on the proposed lot of exception, harvesting of the mature softwood would be severely constrained by the house, driveway and power lines on the site, the homes uphill, Newberry Road and the adjoining State Highway.

3. MCC 11.15.2180(A)(3): Compatibility With Farm And Forest Practices

MCC 11.15.2180 Lots of Exception

(A) *The approval authority may grant an exception to permit the creation of a lot of less than the minimum specified in MCC .2178(A), after August 14, 1980, when in compliance with the dimensional requirements of MCC .2178(C) through (E). Any exception shall be based on findings that the proposal will:*

(3) *Be compatible with accepted farming or forestry practices on adjacent lands;*

(a) The Relevance Of The Compatibility Analysis

It may appear that a proposed land division does not raise issues of compatibility, particularly when there is already a house on the property; whatever incompatibility which now exists would not be changed. Such an analysis overlooks two important facts.

First, incompatibilities between residential and forest use can be avoided so long as the house is in the same ownership and under the same management as the rest of the parcel, where most, if not all, the farm and forest management will be occurring. Once the property is divided, the owner of the residence cannot control what happens on the adjoining parcel.

Second, the Looneys propose to build a replacement dwelling in a different location on the property, which I understand may be closer to the Wagners' land. This may increase potential conflicts.

For these reasons, an analysis of compatibility between the residential use on the property and current and potential forest uses on adjoining properties is mandated by common sense as well as the Code.

(b) Identification Of Adjacent Properties Which Are And May Be In Farm Or Forest Use.

The applicants and the supporters of the proposed land division have asserted that there would be no incompatibility between the residential use on the Looneys' property and the use of their neighboring properties. This information is inadequate to demonstrate compliance with the standard, for two reasons.

First, no evidence was submitted regarding other properties adjacent to the proposed Looney lot of exception. Secondly, the applicants rely on assurances of compatibility of their residential use with the prospective use (and non-use) planned for the adjoining properties by their current owners. It is inappropriate to make long-term land use decisions based on the particular characteristics of current owners of the property.

While it is not my responsibility to supply the information for the applicant or other parties, MCC 15.8210(A), 11.15.8230(D), 11.45.220(C), I cannot ignore the evidence I received from my site visit and documents in the record. I will address the evidence in the record regarding which adjacent properties are, or could be, used for commercial farm or wood fiber production, the incompatibilities which with residential use on the prospective Looney parcel, and if such incompatibilities exist, whether or not conditions can render these uses compatible.

Bordering the proposed parcel to the northeast is State Highway 30. Across Highway 30 are some large lots in residential use, beyond which lies the Multnomah Channel of the Willamette River. The property across Newberry Road to the southeast is in rural residential use and beyond this property is rural residential development inside the Portland City limits and regional Urban Growth Boundary. The properties to the northwest in the partially developed "Armona Subdivision" are also in large-lot residential use.

I conclude that the only nearby properties which may be in farm or forest use are the Wagner property and the proposed Lightcap parcel.

There are old fruit trees on the Looney/Lightcap parcel and in some of the nearby rural residential areas which may be remnants of orchards. However, there is no commercial scale row crop or orchard farming on the hillsides within 1/2 mile of the property. I further conclude that the only commercial farming with which the Looneys' residential use would interfere, is the livestock production which the Lightcap's contemplate for their prospective parcel. The common boundary between the Lightcap's prospective parcel and that of the Looneys, would be about 200 feet and is located in the steep, heavily wooded area which slopes into the Ennis Creek ravine. A short length of wire fence along the ravine, should be sufficient to keep wandering animals off the Looneys' property.

The more serious issues regarding compatibility concern timber production on the Wagner and proposed Lightcap parcel. These properties are zoned for Commercial Forest Use. The application statement and testimony from the Art Wagner and Brian Lightcap during the hearing, established that both of their properties have been used for commercial timber production in recent years. These assertions were confirmed by my site visit.

The risks of timber felling on the Wagner parcel, uphill from this proposed parcel, have been demonstrated recently, as noted above. While cutting, spraying and slash burning the Wagners' small parcel with its two houses, this close to Highway 30, seem remote they are permitted outright under MCC 11.15.2048(A)(1) and are beyond the County's authority to regulate through its authority over land use. ORS 527.722.

Another serious potential problem is fire, which could start on the Looney parcel and burn uphill into the forest lands on the Wagner and Lightcap properties.

Compatibility of the residential use with timber production depends in large part in this instance on the location of the house, the type and length of the road access and even its design, (for example whether or not the house has a shake roof or spark arresters are installed.) However, the location, access to and design of the Looneys' anticipated replacement dwelling is unknown.

The record is insufficient to demonstrate the compatibility of these forest uses with the current and proposed future residential use on the Looney property. While a subsequent review of the compatibility of the replacement dwelling could address these factors, MCC 11.15.2048(E) treats replacement dwellings built within 200 feet of the current dwelling, as an outright use. MCC 11.15.2074 exempts them from the compatibility and fire safety standards found in that subsection.

Rather than finding that the applicants have not carried their burden of proof, the decision on compliance with this standard is deferred to the time of the Looneys' application for a replacement dwelling, subject to the following conditions: (1) the applicant shall be required to apply for the proposed replacement dwelling; (2) the application shall be accompanied by proof of the recording of a statement of the type specified in MCC 11.15.2053, acknowledging the right of landowners to undertake forest operations on nearby lands; (3) the applicants demonstrate the replacement dwelling proposed for the lot of exception satisfies the compatibility and fire safety standards in MCC 11.15.2074; (4) these discretionary determinations are subject to public notice and the opportunity for a hearing.

4. MCC 11.15.2180(A)(3): Consistency With MUF-Zone Purposes

MCC 11.15.2180 Lots of Exception

- (A) *The approval authority may grant an exception to permit the creation of a lot of less than the minimum specified in MCC .2178(A), after August 14, 1980, when in compliance with the dimensional requirements of MCC .2178(C) through (E). Any exception shall be based on findings that the proposal will:*

- (4) *Be consistent with the purposes described in MCC .2162;*

The purposes of the Multiple Use Forest District are set out in MCC 11.15.2162:

The purposes of the Multiple Use Forest District are to conserve and encourage the use of suitable lands for the growing and harvesting of timber and small wood lot management; to provide for agricultural uses; to conserve and protect watersheds, wildlife habitats and other forest associated uses and scenic values; to provide standards for residential and other uses, including local and tourist commercial services which are compatible with forest and agricultural uses; to assure public and private recreation opportunities and to minimize potential hazards from fire, pollution, erosion and urban development.

Based on my conclusion that the proposed Lightcap parcel cannot qualify for a dwelling and on the conditions imposed below, to require consolidation of the Looneys' parcel and review of any replacement dwelling proposed for the Looney parcel, to assure its compatibility with forest management on nearby property, I conclude that the proposed Lot of Exception is consistent with the purposes described above.

5. MCC 11.15.2180(A)(5) & (6): Public Services

MCC 11.15.2180 Lots of Exception

- (A) *The approval authority may grant an exception to permit the creation of a lot of less than the minimum specified in MCC .2178(A), after August 14, 1980, when in compliance with the dimensional requirements of MCC .2178(C) through (E). 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.*

The land division and the prospective replacement dwelling would not require public service beyond those existing or programmed for the area. I find this standard has been satisfied.

6. MCC 11.15.2180(B): Minimum Area And Limitation On Lots To Be Created

- (B) *Except as provided in MCC .2180(D), no lot of Exception shall be approved unless:*
 - (1) *The Lot of Record to be divided exceeds the area requirements of MCC .2178(A), and*
 - (2) *The division will create no more than one lot which is less than the minimum area required in MCC .2178(A).*

The Looney-Lightcap parcel is 34.07 acres, which is in excess of the 19 acre minimum lot size applicable to this application. The proposed lot of exception will create one lot which is smaller than 19 acres, the prospective 2.5 acre Looney parcel.

7. MCC 11.15.2180(C): Conditions To Assure Consistency And Finding That No More Dwellings Will Be Authorized As A Result Of This Decision.

- (C) *The approval authority may attach conditions to the approval of any Lot of Exception to insure that the use is consistent with the Comprehensive Plan and the purposes described in MCC .2162.*

The purposes of the Multiple Use Forest District (previously quoted) are set out in MCC 11.15.2162:

The purposes of the Multiple Use Forest District are to conserve and encourage the use of suitable lands for the growing and harvesting of timber and small wood lot management; to provide for agricultural uses; to conserve and protect watersheds, wildlife habitats and other forest associated uses and scenic values; to provide standards for residential and other uses, including local and tourist commercial services which are compatible with forest and agricultural uses; to assure public and private recreation

opportunities and to minimize potential hazards from fire, pollution, erosion and urban development.

The conditions I am imposing requiring consolidation of parcels and review of the proposed replacement dwellings will help to conserve forest land and maintain parcels in the larger sizes which are can be more efficiently managed for timber production. They will also help discourage additional parcelization and residential development, changes in the land use pattern which interfere with timber production.

8. MCC 11.15.2180(D): Provision For Lot Of Exception Not Meeting The Standard in Subsection .2180(B).

(D) The Planning Director may grant a Lot of Exception based on a finding that the permitted number of dwellings will not thereby be increased above that otherwise allowed in this district; provided that the decision of the Director may be appealed to the approval authority pursuant to MCC .8290 and .8295.

Reading this subsection in conjunction with subsection .2180(B), I conclude that it was enacted to provide an independent, discretionary, basis for approving a lot of exception which cannot satisfy the lot size tests in MCC 11.15.2180(B). Because the proposed lot of exception means those tests, subsection .2180(B) is inapplicable.

9. MCC 11.15.2188: Access

MCC 11.15.2188 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 passenger and emergency vehicles.

This standard will be addressed as part of the review under MCC 11.15.2073, imposed as a condition of approval for the anticipated replacement dwelling.

B. Land Division Standards In MCC 11.45

The staff did not apply the standards in the Land Division Ordinance, MCC 11.45, to the proposed Looney lot-of-exception but only to the "property line adjustment."¹⁵

¹⁵ In his letter of April 28, Mr. Rochlin notes:

The scope of MCC 11.45, the Land Divisions Chapter, is described as being applicable "to the subdivision and partitioning of all land within the unincorporated area of Multnomah County." MCC 11.45.030. Under the definition of "partition" in MCC 11.45.010(S) & (T) a "partition" is the act of dividing "an area or tract of land into two or three parcel within a calendar year * * * ." The approval of a lot-of-exception is a partitioning and the Land Division Ordinance applies.

The "lot of exception" to separate off the Looney homesite is subject to a public hearing and thus the land division is designated as a "Type I" land division under MCC 11.45.080(D).¹⁶ Type I Land Divisions must satisfy the criteria in MCC 11.45.230.

1. MCC 11.45.230(A)(1): The Tentative (Partitioning) Plan Is In Accordance With Applicable Comprehensive Plan Elements.

MCC 11.45.230 Criteria For Approval, Type I Tentative Plan And Future Street Plan

In granting approval of a Type I tentative plan or future street plan, the approval authority shall find that:

(A) The tentative plan or future street plan is in accordance with:

(1) The applicable elements of the Comprehensive Plan;

Mr. Rochlin argues that both parcels, not just the proposed Looney lot of exception, must comply with the applicable plan policies. I agree. It would be an absurd result to authorize a land division based upon findings which considered only 7.5% of the area which

The applicant has not provided a statement that complies with 11.45.270(E): "Statements of the manner in which the criteria for approval listed in MCC 11.45.230 are satisfied." It is a mandatory requirement. Staff attempts the job for the applicant but does not show compliance.

While this comment was directed toward the "property line adjustment," it applies with greater force here, where the criteria were not addressed at all. It is not the responsibility of the hearings officer to carry the applicants' burden of proof. I address the criteria for land divisions here because the facts presented by the staff to address the property line adjustment are available and relevant to the lot of exception.

¹⁶ However, the action also qualifies as a Type III Land Division under MCC 11.45.100 because it is a "minor partition which will result in one or more parcels with a depth-to-width ratio exceeding 2.5 to 1;"

is the subject of the application (i.e. 2.5 acres out of 34.07) complies with plan policies.

(a) Policy 2: Off-Site Effects

Policy 2 of the Multnomah County Comprehensive Framework Plan provides:

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.*

Multnomah County Comprehensive Framework Plan; Volume 2: Policies (September 1983) at 14.

No new use is being approved through this decision. For the reasons given above, I conclude that no dwelling can be authorized on the prospective parcel 2, the proposed Lightcap parcel. Any potentially deleterious effects from the proposed replacement dwelling should be effectively addressed through the reviews of that dwelling imposed as a condition of approval.

The land division will not change the demand for public services, even if the current dwelling is replaced.

(b) Policy 13: Air, Water and Noise Quality

Policy 13 of the Multnomah County Comprehensive Framework Plan provides, in relevant part:

FURTHERMORE, IT IS THE COUNTY'S POLICY TO REQUIRE, PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASIJUDICIAL 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: (Etc.)

Multnomah County Comprehensive Framework Plan; Volume 2: Policies (September 1983) at 56.

Since the proposed Looney lot of exception does not change the current use of the property, I find there are no "appropriate agencies" which would, or could, provide the required statement. I also find that the proposed use is not a "noise generator" (an undefined term) because in its past practice the County has not included residences within that term.

(c) Policy 14: Development Limitations

Policy 14 of the Multnomah County Comprehensive Framework Plan provides:

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 LIMITATION AREAS ARE THOSE WHICH ANY OF THE FOLLOWING CHARACTERISTICS:

- A. SLOPES EXCEEDING 20%.*
- B. SEVERE SOIL EROSION POTENTIAL;*
- C. LAND WITHIN 100 YEAR FLOOD PLAIN;*
- D. A HIGH SEASONAL WATER TABLE WITHIN 0-24 INCHES OF THE SURFACE FOR 3 OR MORE WEEKS OF THE YEAR;*
- E. A FRAGIPAN LESS THAN 30 INCHES FROM THE SURFACE;*
- F. LAND SUBJECT TO SLUMPING, EARTH SLIDES OR MOVEMENT.*

The area is not within the areas mapped as 100-year flood plains. Therefore Policy 14C is inapplicable.

No developments or landform alterations are being proposed or can be authorized by approval of the Looney lot of exception. As a condition of approval of this application, Plan Policies !A, B, D, E and F, shall be applied to any proposed replacement dwelling.

(d) Policy 16: Natural Resources

Policy 16 of the Multnomah County Comprehensive Framework Plan provides:

THE COUNTY'S POLICY IS TO PROTECT NATURAL RESOURCE AREAS AND TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT THE LONG-RANGE AVAILABILITY AND USE OF THE FOLLOWING WILL NOT BE LIMITED OR IMPAIRED:

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

Multnomah County Comprehensive Framework Plan; Volume 2: Policies (September 1983) at 66.

According to County maps, the site is not within, nor does it contain, any mineral and aggregate resource site, energy resource area, domestic water supply watersheds, wildlife habitat areas or scientifically significant natural areas. Ennis Creek is not a Class I stream according to the Oregon Department of Forestry maps and is thus not anadromous fish habitat.

(e) 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 REQUIRED 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 USE 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.*

I find this policy is satisfied for the reasons given on pages 13 and 14 of the Staff Report, dated May 3, 1993.

(f) **Policy 37: Utilities**

Multnomah County Plan Policy 37, "Utilities" provides:

POLICY 37

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*

ON THE SITE; 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 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.*

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.

Multnomah County Comprehensive Framework Plan; Volume 2: Policies (September 1983) at 167-168.

Based on the terms and context of the Policy, I interpret these elements of Policy 37 as applying to water supplies, sewage disposal and storm water disposal capacity for dwellings and uses other than the type of farm and forest use permitted on the proposed Lightcap parcel.

With respect to the prospective Looney parcel, (called "parcel 1" in the Staff Report) I adopt the analysis set out on page 14 of the Staff Report.

(g) **Policy 38: Facilities**

Multnomah County Plan Policy 38, "Facilities" provides:

POLICY 38

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 [sic] 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.**

Multnomah County Comprehensive Framework Plan; Volume 2: Policies (September 1983) at 169-170.

I find these policies are satisfied with respect to the prospective Looney parcel for the reasons given on page 14 of the Staff Report dated May 3, 1993. I find the policy inapplicable to the permissible farm and forest uses proposed for the proposed Lightcap parcel.

2. **MCC 11.45.230(A)(2): The Tentative Plan Is In Accordance With Applicable Statewide Planning Goals.**

(2) *The applicable Statewide Planning Goals adopted by the Land Conservation and Development Commission, until the*

Comprehensive Plan is acknowledged to be in compliance with said Goals under ORS Chapter 197; and

The County's plan has been acknowledged; the statewide planning Goals do not apply to quasijudicial decisions. ORS 197.175(2)(d).

3. MCC 11.45.230(A)(3): The Tentative Plan Is In Accordance With The Regional Plan.

(3) The applicable elements of the Regional Plan adopted under ORS Chapter 197.

Metro is engaged in the development of a Regional Framework Plan, but that plan is not yet in effect. Furthermore, the Regional Framework Plan is being adopted pursuant to Metro's authority under its 1992 Charter and ORS Chapter 268, not Chapter 197.

4. MCC 11.45.230(B): The Partition Will Permit Development Of, Or Access To, The Remainder Of The Property Under The Same Ownership.

(B) Approval will permit development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances;

For the reasons given above, the partitioning of this land will not permit the development of the new adjoining parcel currently in the same (joint Looney-Lightcap) ownership. However, the existing parcel is already developed and the new parcel, I have concluded, cannot qualify for a house under CFU zoning. I do not find this result inconsistent with MCC 11.45.230(B), because the only development which is to be permitted by the partitioning is that which is "in accordance with this and other applicable ordinances."

5. MCC 11.45.230(C): The Tentative Plan Is In Compliance With The Applicable Provisions, Purposes And Intent Of MCC 11.45.

(C) The tentative plan or future street plan complies with the applicable provisions, including the purposes and intent of this Chapter.

The purpose of the Land Division Ordinance is found at MCC 11.45.015:

This Chapter is adopted for the purposes of protecting property values, furthering the health, safety and general welfare of the people of Multnomah County, implementing the Statewide Planning Goals and the Comprehensive Plan adopted under Oregon Revised Statutes, Chapters 197 and 215, and providing classifications and uniform standards for the division of land and the installation

of related improvements in the unincorporated area of Multnomah County.

I find that if the proposal complies with all of the specific provisions in the Land Development Ordinance, the lot of exception/partition will have satisfied the purpose of that ordinance. As conditioned, it does.

The intent of the Land Division Chapter is found at MCC 11.45.020:

In the regulation of the division of land, it is intended that this Chapter shall minimize street congestion, secure safety from fire, flood, geologic hazards, pollution and other dangers, provide for adequate light and air, prevent the overcrowding of land and facilitate adequate provisions for transportation, water supply, sewage disposal, drainage, education, recreation and other public services and facilities, all in accord with Oregon Revised Statutes, Chapter 92.

I find that if the proposal complies with all of the specific provisions in the Land Development Ordinance, the lot of exception/partition will have satisfied the intent of that ordinance. As conditioned, it does.

6. MCC 11.45.230(D): The Tentative Plan Is In Compliance With The Zoning Ordinance.

(D) The tentative plan or future street plan complies with the Zoning Ordinance or a proposed change thereto associated with the tentative plan proposal;

For the reasons set out in the preceding 30 pages, I find the proposed Looney lot of exception satisfies the other applicable provisions of the County Zoning Code (MCC 11.15) and the County's Land Division Ordinance (MCC 11.45.)

7. MCC 11.45.230(E): Subdivision Name; Inapplicable.

MCC 11.45.230(F) applies to "subdivisions." "A "subdivision" is the creation of four or more lots within a calendar year. MCC 11.45.010(JJ), (KK). Because this application is not for a subdivision, the subsection is inapplicable.

8. MCC 11.45.230(F), (G): Street Design; Inapplicable.

MCC 11.45.230(F) and (G) concern public or private streets. The existing residence is served by a long, unpaved driveway. There is an unpaved road into the middle of the proposed Lightcap parcel. Because no streets are proposed, this section is inapplicable.

9. MCC 11.45.230(H): Flood Hazard; Inapplicable.

The site is not within any of the mapped flood hazard areas. I find this criterion inapplicable.

C. Conclusions And Conditions For LE 14-92.

1. Conclusion

Based on the conclusion that the new Lightcap parcel cannot qualify for a dwelling in the CFU District because of the date of its creation (the date of this approval) and subject to the following conditions regarding configuration of the parcels and the review of any proposed replacement dwelling, the proposed Looney lot of exception meets the applicable standards in the Comprehensive Plan, Zoning Ordinance and Land Division Ordinance.

2. Conditions Of Approval.

(a) Boundary Between The Looney And Lightcap Parcels.

The boundary between the Looney and Lightcap parcels shall be drawn along the line shown for the proposed property line adjustment in LD 49-92, obviating the need to create another 0.05 acre parcel along the boundary of the properties.

(b) Consolidation Of Looney Parcels.

The purposes of both the MUF and CFU Districts are furthered by the consolidation of parcels and frustrated by the creation of new parcels, which inevitably create the perception of entitlement to a residence. In order to further those objectives, the lot of exception is approved subject to the condition that the Looney's apply for and receive approval for a lot line adjustment under MCC 11.15.2061 to consolidate Tax Lots 62 (in Section 28) 17, 33 (and the 0.05 acre parcel split off from the Wagner parcel) no later than the end of this calendar year or the date at which they receive approval for a replacement dwelling, whichever comes first. Failure to consolidate the parcels by the deadline will render this approval void.

(c) Standards For Review Of A Replacement Dwelling

(1) Rather than being entitled to a replacement dwelling "outright" (i.e. subject only to MCC 11.15.2048(E)) the Looneys or their successors shall be required to apply for any dwelling to replace the dwelling on the property at the time of this decision; and

(2) The application shall be accompanied by proof of the recording of a statement acknowledging the right to undertake forest operations on nearby lands, of the type specified in MCC 11.15.2053;

(3) The applicants demonstrate that the replacement dwelling proposed for the lot of exception satisfies the compatibility and fire safety standards in MCC 11.15.2074; and

(4) The applicants demonstrate that the replacement dwelling proposed for the lot of exception satisfies Comprehensive Plan sub-policies 14A., B., D., E., F.

IV. THE LOT-OF-EXCEPTION/PROPERTY LINE ADJUSTMENT; LD 49-92

A. Introduction: Applicable Standards And Incorporation Of Prior Findings

Neither the MUF District nor the Land Division Ordinance make provision for lot line adjustments, although the CFU District does. See MCC 11.14.2061. As a consequence, what is proposed in order to adjust the property lines between the Wagner and Looney parcels by 0.05 acres, is another lot of exception and partition.¹⁷ In other words, all of the standards applicable to LE 14-92 also apply to LD 49-92.

However, because the lot of exception/property line adjustment concern the same immediate vicinity, for the Looney-Wagner lot of exception/property line adjustment, I rely on and incorporate by reference, the findings for the Looney lot of exception adopted in LE 14-92, except when the difference in circumstances require separate findings. These separate findings are presented below.

B. Separate Findings For the Looney/Wagner Lot of Exception/Property Line Adjustment.

1. MCC 11.15.2180(A)(1): Substantially Support the Character And Stability Of The Land Use Pattern Of The Area

As discussed in II.A.1, satisfaction of the land use stability standard depends on whether the new parcels would allow for the construction of new dwellings.

I find that the property line adjustment parcel and the reconfigured Wagner parcel, are disqualified from a forest dwelling under MCC 11.15.2062(A)(2)(a), the creation deadline.

¹⁷ See footnote 1.

In addition, the property line adjustment parcel is 0.05 acres, less than the 10 acre minimum established by MCC 11.15.2051(A). Similarly, the reconfigured Wagner parcel (9.92 acres) is also less than the 10 acre minimum.

2. MCC 11.15.2180(B): Minimum Area and Limitation On Lots To Be Created

(B) *Except as provided in MCC .2180(D), no lot of Exception shall be approved unless:*

(1) *The Lot of Record to be divided exceeds the area requirements of MCC .2178(A), and*

(2) *The division will create no more than one lot which is less than the minimum area required in MCC .2178(A).*

The Looney/Wagner property line adjustment lot of exception cannot satisfy the 19 acre minimum area requirement referenced by MCC 11.15.2178(A): It would create two parcels which are smaller than the 19 acre parcel minimum lot size, (9.92 and 0.05 acres) in violation of subsection .2180(B)(2).

Therefore, the proposed parcel can only qualify, if at all, under MCC 11.15.2180(D).

3. MCC 11.15.2180(D): No New Dwellings Authorized.

(D) *The Planning Director may grant a Lot of Exception based on a finding that the permitted number of dwellings will not thereby be increased above that otherwise allowed in this district; provided that the decision of the Director may be appealed to the approval authority pursuant to MCC .8290 and .8295.*

For the reasons set out in the findings under MCC 11.15.2180(A)(1) above and the findings under MCC 11.15.2180(A)(1) for LE 14-92, I find this standard is satisfied for both of the parcels.

C. Conclusion And Condition For LD 49-92.

1. Conclusion

Based on (1) the conclusion that the new 0.05 parcel created to adjust the boundary between the Wagner and Looney parcels, and the reconfigured Wagner parcel, cannot qualify for a dwelling in the CFU District; (2) subject to the following condition requiring consolidation of the Looneys' parcels; and (3) the review of any proposed replacement dwelling, the proposed lot of exception/property line adjustment, meets the applicable

standards in the Comprehensive Plan, Zoning Ordinance and Land Division Ordinance.

2. Condition

The lot of exception/property line adjustment between the Wagner and Looney parcels is approved subject to the condition that the Looney's receive approval for a lot line adjustment under MCC 11.15.2061, to consolidate Tax Lots 62 (in Section 28) 17, 33 (and the 0.05 acre parcel split off from the Wagner parcel) no later than the end of this calendar year or the date at which they receive approval for a replacement dwelling, whichever comes first. Failure to consolidate the parcels by the deadline will render this approval void.

21 June 1993


Robert Liberty, Hearing Officer

APPEAL TO THE BOARD OF COUNTY COMMISSIONERS

Decisions of the Hearings Officer may be appealed to the Board of County Commissioners (Board) by any person or organization who appeared and testified at the hearing, or by those who submitted written testimony to the record. Appeals must be filed within ten days after the Hearings Officer decision is submitted to the Clerk of the Board [ref. MCC 11.15.8260(A)(1)]. The appeal fee is \$300.00 plus a \$3.50-per-minute charge for a transcript of the initial hearing(s) [ref. MCC 11.15.9020(B)]. "Notice of Review" forms and instructions are available at the Planning and Development Office at 2115 SE Morrison Street (in Portland).

Failure to raise an issue by the close of the record at or following the final hearing, (in person or by letter), precludes appeal to the Land Use Board of Appeals (LUBA) on that issue. Failure to provide specificity on an issue sufficient for the Board to respond, precludes appeal to LUBA on that issue.

The Hearings Officer Decision on this item is scheduled for the Board of County Commissioners review at 1:30 p.m. on Tuesday, July 13, 1993 in Room 602 of the Multnomah County Courthouse. To appeal the Hearings Officer decision, a "Notice of Review" form and fee must be submitted to the County Planning Director on or before 4:30 pm. on Monday, July 12, 1993. For further information call the Multnomah County Planning and Development Division at 248-3043.

Filed With the Clerk of the Board on June 25, 1993

Hearings Officer Decision
June 21, 1993

38

LE 14-92/LD 49-92
End

MEETING DATE: July 13, 1993

AGENDA NO: P-2

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Review of June 22, 1993 Hearings Officer Decision

BOARD BRIEFING Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: July 13, 1993

Amount of Time Needed: 2 Minutes

DEPARTMENT: DES DIVISION: Planning

CONTACT: Sharon Cowley TELEPHONE #: 2610

BLDG/ROOM #: 412/109

PERSON(S) MAKING PRESENTATION: Planning Staff

ACTION REQUESTED:

[] INFORMATIONAL ONLY [] POLICY DIRECTION ☒ ^x DENIAL APPROVAL [] OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

CU 18-93/HV 13-93 Approve conditional use request for a maximum of five years for a temporary staging yard during construction of the Mid-County sewer;
Approve variance to the 200-foot setback requirement from the north, east and south property lines and elimination of the two-inch paving requirement;
Deny reduction of the 15% landscaping requirement all for property located at 4620 SE 174th Avenue

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: Betsy Willis

CLERK OF
COUNTY COMMISSIONERS
1993 JUL - 1 AM 11:52
MULTNOMAH COUNTY
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

0516C/63

6/93



MULTNOMAH COUNTY OREGON

DIVISION OF PLANNING & DEVELOPMENT/2115 S.E. MORRISON/PORTLAND, OREGON 97214

DIVISION OF PLANNING AND DEVELOPMENT

Board Planning Packet Check List

File No. C4 18-93

☒ Agenda Placement Sheet No. of Pages 1

☐ Case Summary Sheet No. of Pages _____

☐ Previously Distributed _____

☐ Notice of Review No. of Pages _____

*(Maybe distributed at Board Meeting)

☐ Previously Distributed _____

☒ Decision No. of Pages 14

(Hearings Officer/Planning Commission)

☐ Previously Distributed _____

*Duplicate materials will be provided upon request.
Please call 2610.



Department of Environmental Services
Division of Planning and Development
2115 S.E. Morrison Street
Portland, Oregon 97214 (503) 248-3043

Hearings Officer Decision

This Decision consists of Conditions of Approval, Findings of Fact, and Conclusions

June 22, 1993

CU 18-93,
HV 13-93,

Conditional Use Request
Variance Requests

Sectional Map # 523

(Temporary Staging Yard plus Setback, Paving & Landscaping Variances)

Applicant requests Conditional Use approval to allow a temporary staging yard during construction of the Mid-County sewer (3 to 5 years). Applicant further requests a variance from the 200 foot setback requirement for aggregate processing equipment, and elimination of the two inch paving requirement and 15% landscaping requirement.

Location: 4620 SE 174th Avenue
Legal: Tax Lot '4', Section 18, 1S-3E, 1991 Assessor's Map
Site Size: 10.58 acres
Size Requested: 4.11 acres
Property Owner: Tom Moyer Theaters
709 SW Broadway Street, #606, Vancouver, WA 98660-3307
Applicant: Larson, Inc.
P.O. Box 12426, Salem, OR 97309
Comprehensive Plan: Light Manufacturing
Present Zoning: LM

HEARINGS OFFICER

DECISION #1: APPROVE Conditional Use request for a maximum of five years for a temporary staging yard during construction of the Mid-County sewer.

DECISION #2: APPROVE variance to the 200 foot setback requirement from the north, east and south property lines and elimination of the two inch paving requirement, but DENY reduction of the 15% landscaping requirement, all subject to conditions, and based on the following Findings and Conclusions.

Conditions:

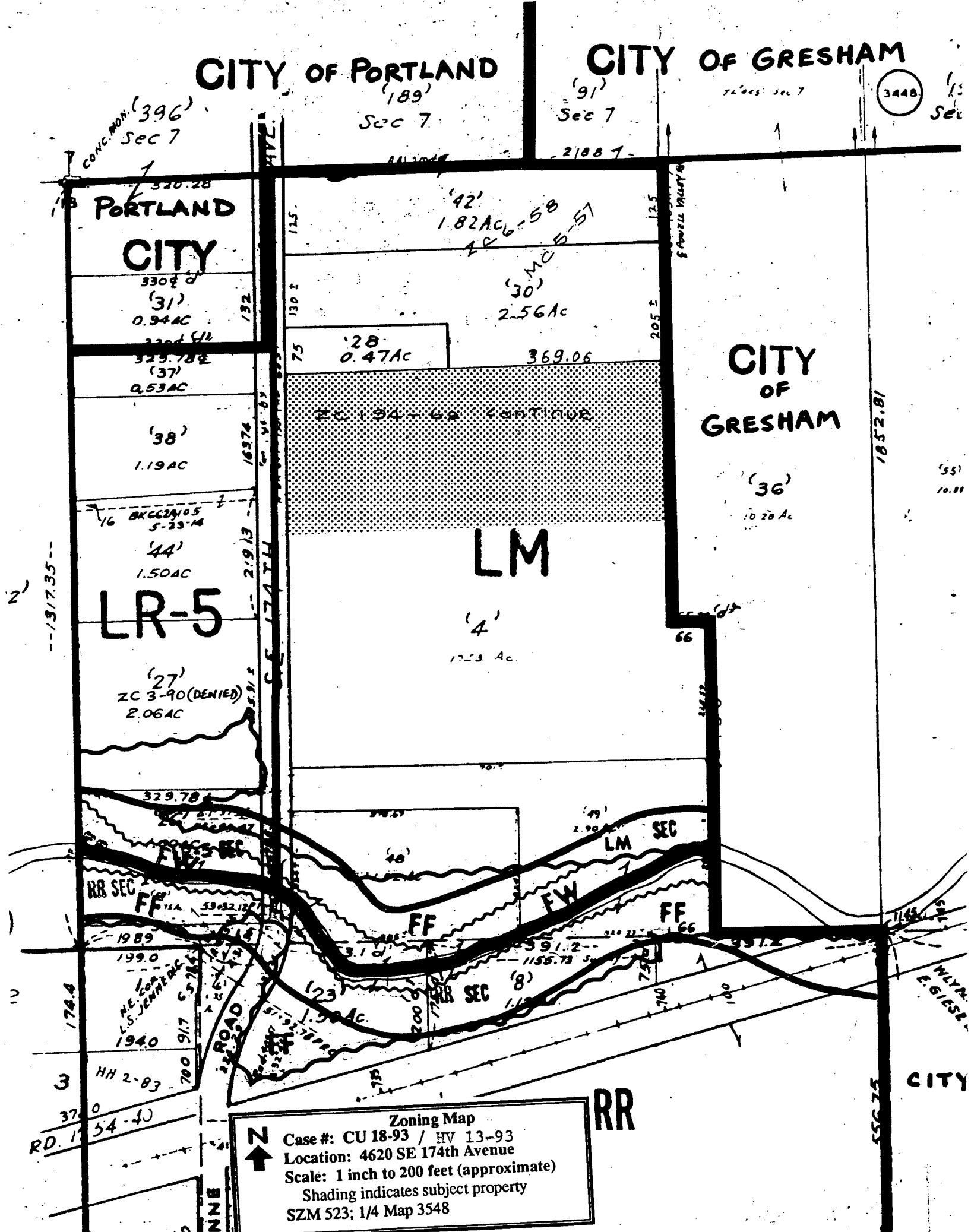
Prior to issuance of any development permits for this use, the applicant shall:

1. Satisfy all requirements of Engineering Services regarding dedication, improvement and maintenance of SE 174th Avenue.
2. Obtain Design Review approval.

CU 18-93/HV 13-93

CITY OF PORTLAND

CITY OF GRESHAM



Zoning Map
 Case #: CU 18-93 / HV 13-93
 Location: 4620 SE 174th Avenue
 Scale: 1 inch to 200 feet (approximate)
 Shading indicates subject property
 SZM 523; 1/4 Map 3548

DAN OBRIST

DAN OBRIST

TL 28

10 FT CLR EXISTING FENCE

280

24' GATE AND
PAVED ACCESS

FEEDER
STOCKPILE

FEEDER

EQUIPMENT
PARKING

BACKFILL
STOCKPILE

JAW

PAV
GATE

CONSTRUCTION
MATERIALS STOR.

SCREEN

ROCK
STOCKPILE

CRUSHER

EXISTING BRUSH

50 FT

PROPOSED FENCE

EXISTING BRUSH
PROPOSED FENCE 10 FT CLR

TOPSOIL AND STRIPPINGS
FILL

270

260

TL 4

TOM MOYER THEATERS
703 BROADWAY ST. STE 605
VANCOUVER, W.N. 98660-3307

MAP NO 3548
ACCT NO. R7931B0040

EXISTING CONTOUR
PROPOSED CONTOUR

SCALE 1" = 100'

CHARLES SORENSON

TL 49

SITE PLAN
GRADING PLAN

LARSON INC
PH 585-7233

CU 18-93/HV 13-93

TL 48

CHARLES SORENSON

S.E. 174 TH AVE.

3. The applicant shall install and maintain a vegetative buffer of at least the quantity of plant material as shown on the applicant's revised plan, attached, which was submitted by the applicant at the request of the Hearings Officer on June 8, 1993. The Planning Director shall review the type of plant materials used, as part of Design Review, and shall specify appropriate plant materials that will provide an effective buffer, especially for the residence occupied by Mr. Lenkins.
4. The applicant shall maintain no less than a 60' setback from the northern property line, at least a 30' setback from the east property line, and a minimum 50 foot setback from the proposed fence that will bisect Tax Lot 4.
5. All truck traffic associated with the proposed use shall enter and exit the site from the north, on S.E. 174th Avenue. The truck routes shall be identified and the County Engineer shall certify that the roads which the applicant proposes to use are adequate to safely accommodate the added truck traffic, or, if the roads are inadequate, the applicant shall be required to finance the installation of all necessary improvements under the provisions of 02.200(a) or (b), of the Multnomah County Rules for Street Standards. This review by the County Engineer shall take place in conjunction with Design Review, so that in the event that additional conditions need to be imposed concerning off-site street improvements, such conditions may be imposed through design review.
6. The applicant shall monitor its activities and shall submit a report to the county on an annual basis which includes the following information:
 - a. Any complaints, citations, or warnings received and their ultimate disposition.
 - b. The expected duration of the mid county project and the applicant's related contractual obligations.
 - c. The applicant's anticipated date for completion of all reclamation activities.
7. All state and federal regulatory requirements shall be met and maintained.
8. The hours of operation shall be from 7am to 6pm, Monday through Saturday. No work shall occur on legal holidays.
9. The applicant shall submit a reclamation plan and schedule prior to conducting any activity on site.
10. The applicant shall obtain all other required permits from the county prior to conducting any activities on site, including grading or the removal of any vegetation associated with this project.

FINDINGS OF FACT:

I. Applicant's Proposal:

Applicant requests Conditional Use approval to allow a temporary staging yard during construction of the Mid-County sewer (3 to 5 years). Applicant further requests a variance from the 200 foot setback requirement for aggregate processing equipment, and elimination of the two inch paving requirement and 15% landscaping requirement.

II. Ordinance Considerations:

Conditional Use Criteria:

In order to approve a Conditional Use request for off-site stockpiling and processing of aggregate material, the approval authority shall find that the proposal:

- (A) Is consistent with the character of the area;
- (B) Will not adversely affect natural resources;
- (C) Will not conflict with farm or forest uses in the area;
- (D) Will not require public services other than those existing or programmed for the area;
- (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;
- (F) Will not create hazardous conditions; and
- (G) Will satisfy the applicable policies of the Comprehensive Plan.
- (H) The site is designated "2A", "3A", or "3C" through an ESEE analysis.
- (I) There is a proposed reclamation plan which will allow the property to be utilized as envisioned by the Comprehensive Plan and the underlying district.
- (J) The following general operation requirements and standards have been, or will be met:
 - (1) Access and traffic.
 - (a) Prior to any surface mining activity, all on-site roads used in the mining operation and all roads from the site to a public right-of-way shall be designed and constructed to accommodate the vehicles and equipment which will use them.
 - (b) All on-site and private access roads shall be paved or adequately maintained to minimize dust and mud generation within 100 feet of a public right-of-way or 250 feet of a dust sensitive land use.
 - (c) No material which creates a safety or maintenance problem shall be tracked or discharged in any manner onto any public right-of-way.
 - (d) The applicant shall identify the most commonly used routes of travel from the site and the County Engineer shall certify that those roads:
 - (i) Are adequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity, or
 - (ii) Are inadequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity, but the applicant has committed to finance installation of the necessary improvements under the provisions of 02.200(a) or (b) of the *Multnomah County Rules for Street Standards*.
 - (2) Screening, landscaping and visual appearance.
 - (a) All existing vegetation and topographic features which would provide screening and which are within 50 feet of the boundary of the proposed area of extraction shall be preserved.

- (b) If existing natural vegetation and topography is found to be insufficient to obscure views of the site, the site shall be screened with landscape berms, hedges, trees, walls, fences or similar features. Required screening shall be in place prior to commencement of the extraction activities.
- (c) The Approval Authority shall grant exceptions to the screening requirements only upon finding that:
 - (i) The proposed extraction area is not visible from any dwelling, school, public park, church, hospital, public library, or publicly maintained road, or
 - (ii) Screening will be ineffective because of the topographic location of the site with respect to surrounding properties, or
 - (iii) The area is part of the completed portion of a reclamation plan.

(3) Signing.

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

(4) Hours and days of operation.

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

- (a) The Approval Authority may allow alternative hours on sites for which the ESEE analysis has identified other potential operating time periods;
- (b) Short-term exceptions to the hours and days of operation may be approved pursuant to the provisions of MCC .8705.

(5) Air, water, and noise quality.

- (a) The discharge of airborne contaminants and dust created by the extraction operation shall comply with the air quality standards established by the Department of Environmental Quality.
- (b) Sedimentation and erosion resulting from the extraction operation shall comply with the standards established by the Department of Environmental Quality.
- (c) Sound generated by an operation shall comply with the noise standards of the Department of Environmental Quality. Methods to control and minimize the effects of sound generated by the operation on off-site locations may include, but not be limited to, the installation of earth berms, equipment location, limitations on the hours of operation, and relocation of access roads.

(6) Fish and wildlife protection.

- (a) Fish and wildlife habitat identified by the Comprehensive Plan, or recognized as significant by an ESEE analysis, or found to be significant during project review shall

be protected to the maximum possible. Where appropriate, such habitat may be mitigated by such enhancement measures as the provision of additional feed and cover for wildlife or fish stream habitat.

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

(c) Streamside riparian vegetation shall be retained for all streams not a part of direct extraction activities.

(7) Setbacks.

(a) For mineral and aggregate processing activities:

(i) 200 feet to a property line, or

(ii) 400 feet to a noise sensitive land use existing on February 20, 1990;

(b) For access roads and residences located on the same parcel as the mining or processing activity, setbacks shall be as required by the underlying district; and

(c) For mineral extraction and all other activities:

(i) 50 feet to a property line, or

(ii) 250 feet to a noise sensitive land use existing on February 20, 1990.

(8) Reclaimed Topography.

All final reclaimed surfaces shall be stabilized by sloping, benching, or other ground control methods. Reclaimed surfaces shall blend into the natural landforms of the immediately surrounding terrain.

(9) Blasting shall be restricted to the hours of 9:00 am to 5:00 pm, Monday through Saturday.

(10) Safety and security.

Safety and security measures, including fencing, gates, signing, lighting, or similar measures, shall be provided to prevent public trespass to identified hazardous areas such as steep slopes, water impoundments, or other similar hazard where it is found that such trespass is probable and not otherwise preventable.

(11) Phasing program.

All phases of an extraction operation shall be reclaimed before beginning the next, except where the Approval Authority finds that the different phases cannot be operated and reclaimed separately.

(12) Reclamation Schedule.

The reclamation plan shall include a timetable for continually reclaiming the land. The timetable shall provide for beginning reclamation within twelve (12) months after extraction

activity ceases on any segment of the mined area and for completing reclamation within three (3) years after all mining ceases.

- (D) The proposed operations will not result in the creation of a geologic hazard to surrounding properties, such as through slumping, sliding, or drainage modifications, and have been certified by a registered soils or mining engineer, or engineering geologist as meeting this requirement.
- (E) Proposed blasting activities will not adversely affect the quality or quantity of groundwater within wells in the vicinity of the operation.
- (F) Conditional or preliminary approval for all phases of the proposed operation, including reclamation, has been received from all governmental agencies having jurisdiction over mineral extraction, and the applicable requirements in ORS 517 and ORS 522 have been complied with.
- (G) The Approval Authority may establish a program for periodic monitoring and reporting.

Variance Criteria: The variances requested qualify as Major Variances. A Major Variance may be approved upon demonstration that:

- (A) A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or district. The circumstance or condition may relate to the size, shape, natural features and topography of the property or the location or size of physical improvements on the site or the nature of the use compared to surrounding uses.
- (B) The zoning requirement would restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or district.
- (C) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or adversely affects the appropriate development of adjoining properties.
- (D) 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.

3. Site and Vicinity Characteristics:

The subject property is located on the east side of SE 174th Avenue approximately 1,300 feet south of Powell Blvd. The area proposed for use is cleared but undeveloped and essentially level. Johnson Creek is located approximately 700 feet south of the site, but the property is not within the floodplain of that creek since it is at an elevation twenty feet above the mean high water. Soils of the site are Multnomah silt loam which has no major limitations for development. The property is not within a designated big game winter habitat area.

Properties immediately to the north are used for truck storage, auto repair and other light industrial uses. The property immediately to the east is undeveloped, while the next property east is developed with medium density residential units. To the south is undeveloped property, and further south is a nursery and single family residence before Johnson Creek. To the west along 174th are four single family residences and the driveway to a gun club. Mr. Jenkins, who testified at the hearing, resides at 4801 S.E. 174th, (Tax Lot 44).

SE 174th is improved with one lane in each direction. It is designated a Major Collector, but not yet developed to collector standards.

4. Compliance With Applicable Criteria:

Findings:

A. IS THIS PROPOSAL CONSISTENT WITH THE CHARACTER OF THE AREA.

To the north of the property, the owner is performing a somewhat similar operation although not specifically related to the Mid-County Sewer project. Concrete rubble and clean fill materials are stockpiled and a portable crushing unit is brought in to process these materials which are then hauled out eventually to a construction project. The residence to the north of this property also stores and parks construction equipment related to a paving companies operation. This is similar to the equipment that would be parked in the staging yard.

Property across 174th to the west is residential in character and will need to be buffered so as not to be out of character with this existing residential area. A gun club also exists farther west. To the south is additional property owned by Tom Moyer Theaters, and others, which is also industrially zoned and will likely not be put to incompatible uses in the near future. To the east is property inside the City of Gresham city boundary which is zoned for residential use. Property farther east is developed with medium density residential units.

Overall, so long as the use of this site is temporary and is buffered from surrounding residential uses as much as possible, the proposal will be reasonably consistent with the character of the surrounding area. This particular area is one of mixed uses. Other relatively high impact uses already exist, such as the gun club and another construction materials site, west and north of the proposed staging facility.

The hearings officer is concerned that the residences located east and west of the proposed rock crusher should be as protected as possible from this portion of the operation in particular. Vegetation will be used along the west side to accomplish this purpose. Along the east side, near the multi-family residences inside the City of Gresham, the applicant shall construct a berm with adequate vegetation so that the rock crusher will be completely screened from view of these multifamily residences. The berm will also help reduce noise impacts from the crusher operation. The berm and vegetation will be reviewed during design review and shall be in place prior to commencement of rock crushing activities on site. It should be noted that a berm will be created as a result of moving the topsoil, as shown in the applicant's proposed site plan. Therefore, the berm is a reasonable mitigation requirement in this case, and should be used to effectively screen the nearby residential uses as much as possible. With the conditions mentioned above, this criteria will be satisfied.

B. WILL THIS PROPOSAL ADVERSELY AFFECT NATURAL RESOURCES

The natural gravel resources will not be consumed from this site. No other resources at the site will be affected. As a result of this operation by recycling the excavated materials from the sewer trench excavation of the Mid-County Sewer Project natural resources from outside sources are not consumed, thus not contributing to the depletion of those resources. It also does not fill up other expensive landfill sites with broken chunks of asphalt and concrete rubble that typically have to be wasted. There is a positive impact on natural resources as a result of this use. This criteria is satisfied.

C. WILL THIS PROPOSAL CONFLICT WITH FARM OR FOREST USES IN THE AREA.

There are no farm or forest uses in the area. This criteria is satisfied.

D. WILL NOT REQUIRE PUBLIC SERVICES OTHER THAN EXISTING OR PROGRAMMED FOR THE AREA.

The area is served by water, electric and telephone. No new services will need to be brought in to accommodate the proposed activities. This criteria is satisfied.

E. WILL BE LOCATED OUTSIDE A BIG GAME WINTER HABITAT AREA AS DEFINED BY THE OREGON DEPARTMENT OF FISH AND WILDLIFE OF THAT AGENCY HAS CERTIFIED THAT THE IMPACTS WILL BE ACCEPTABLE.

This project will not be located in a big game winter habitat area. This criteria is met

F. WILL NOT CREATE HAZARDOUS CONDITIONS.

Evidence in the record indicates that all processing equipment on site must be installed and operated in accordance with the Mine Safety and Health Administration (MSHA) and the equipment will be regulated by a permit from the Oregon Department of Environmental Quality (DEQ) regarding noise and air contaminant discharge. All equipment and operations will be sufficiently far away from the residential area that it will not create noise levels beyond those limits established by MSHA and DEQ. Dust is controlled by spray bars on the processing equipment, and water truck spraying of the storage yard, access roadway, and streets. Erosion control is contained within the property. No discharges are allowed to leave the site. Mud on the local street is controlled by placing rock on the road and yard areas to prevent any problem as well as washing of the streets when necessary. So long as these regulatory requirements are met, the activity should not create any hazardous activities.

The Hearings Officer notes that this particular applicant has been running a similar operation inside the City of Portland, and before that, in Multnomah County, before the site was annexed by the city. The Hearings Officer disclosed his knowledge of the applicant's Portland operation at the outset of the hearing. The applicant is proposing to move his operation from its Portland site to this site, in part because of the objections from the city and surrounding neighbors who have objected to the impacts created over time by the applicant's operation.

Accordingly, the Hearings Officer finds that this particular use inherently involves dangerous and highly disruptive activities, which cannot be tolerated for long period of time in portions of the urban area where people live or where they operate non industrial businesses. Therefore, the Hearings Officer wishes to make it clear that in order to find that this use does not create hazardous conditions, the Hearings Officer is expressly relying on the assumption that all other regulatory standards will be complied with and enforced. In addition, the Hearings Officer assumes that this permit will not be issued for any longer than five years. The applicant should not expect to renew the permit for any longer than the five year period as set forth. The Hearings Officer cannot prevent the applicant from reapplying in the future, but the applicant should be on notice that this operation is inherently disruptive and must be approved, if at all, on a temporary and very limited basis so that other uses in the area are not disrupted for long and/or uncertain periods of time.

G. APPLICABLE POLICIES OF THE COMPREHENSIVE PLAN

POLICY 5: ECONOMIC DEVELOPMENT

The proposal to allow for storage, staging and processing of materials for the construction of the local sewerage project over the next five years will provide employment for three to four persons on site to manage the yard storage, equipment maintenance and materials processing and distribution as well as a support base for the sewer construction, including private trucking firms hauling materials to and from the site. During the time of operation the site would also be available to local small firms that need to dispose of inert materials (rock, dirt, asphalt and concrete rubble) such as plumbers installing house hookups, developers, builders, and landscapers.

POLICY 13: AIR, WATER AND NOISE QUALITY

1. **AIR QUALITY** is maintained by controlling dust at the site in various ways. First of all, unpaved roadways and storage yards can be "rocked" with crushed rock to reduce the loose dry dirt from being picked up by vehicle traffic. Also these areas will be watered down by a water truck as needed to prevent excessive dust from being generated from the site. Stock piles tend to dry out in the summer months and can be subject to wind in the east county. These can be either sprinkled or covered if they are not being used. The equipment is provided with spray bars to reduce point sources of dust. This equipment is regulated by permit through the DEQ. The area around the equipment is sprayed with a water truck or sprinkled as needed to prevent a dust problem. With adequate monitoring, this policy will be met.

2. **WATER QUALITY** should not be affected by the operation. All runoff from the site will be contained by the approved erosion control devices (Straw bales and silt fences) After the settling of silts the water must pass across the native pasture grass areas which provides absorption into the ground, evaporation and consumption by the plants. This policy will be met.

3. **NOISE QUALITY.** DEQ and MSHA regulate noise impacts from this operation. There is evidence in the record that the applicant's present operations have been monitored and found to be in compliance. The applicant will be required to buffer his operation from surrounding residential uses through the use of berms and vegetative buffers. In addition, the applicant will be required to submit a plan for monitoring noise from the site on a regular basis. With these conditions, this policy can be met.

POLICY 14: DEVELOPMENTAL LIMITATIONS

The site does not have any particular developmental limitations for the proposed activities related to the staging and processing. In the future the owner will be applying for filling portions of the property because of present sewer access limitations. This policy can be met.

POLICY 16: NATURAL RESOURCES

16B: MINERAL AND AGGREGATE RESOURCES

The county's policy is to protect mineral and aggregate sources from inappropriate land use which could limit their future use. The proposal under consideration is not to perform mining at this site but to allow similar activities ("processing and distribution") that will cause a depletion of aggregate resources at other locations to satisfy the needs of the sewer project if this proposed use is not allowed. This proposed use is a conservation of natural resources by using the products excavated from the sewer trenches by recycling the asphalt and concrete rubble and processing the cobbles and sorting the dirt and small sand and gravel into usable construction materials. This policy is met.

POLICY 20: ARRANGEMENT OF LAND USES

It is county policy to support high densities and mixed land uses with the goal of a complimentary blend of uses, reinforcing community pride, a sense of belonging and long term stability. The proposed use will not be in conflict with the area and nearby uses so long as all conditions of approval are strictly complied with, and so long as the use is temporary in nature.

POLICY 32: CAPITAL IMPROVEMENTS

This proposal does not require sewer or water improvements to serve the property. No permanent improvements to the property are included with this proposal for storage, staging, and material processing and distribution. All facilities installed to accommodate the operation will be removed when the permit expires in five years, or at the conclusion of the mid count sewer project, whichever is less. It is possible that the applicant will be required to make necessary capital improvements to the street system that it will be using. This will depend upon subsequent review by the County Engineer, as noted in the conditions of approval and as required by the code.

POLICY 36: TRANSPORTATION SYSTEM DEVELOPMENT REQUIREMENTS

Engineering Services indicates that improvements of SE 174th Avenue may be needed. Other improvements may be necessary as noted above and as set forth in the conditions of approval.

H. ESEE ANALYSIS

The site is not designated "2A", "3A", or "3C" through an ESEE analysis.

I. RECLAMATION PLAN

The applicant has not submitted a reclamation plan which indicates that the site will be reclaimed to allow the property to be utilized as envisioned by the Comprehensive Plan for the underlying district. The Hearings Officer understands that the applicant intends to replace the top soil and regrade the site. This intention is some evidence that reclamation can and will be achieved. However, this criteria requires more. The applicant shall submit the required reclamation plan for review and approval as part of design review. This criteria will be met under such circumstances.

J. OPERATIONAL REQUIREMENTS AND STANDARDS

1. Access and Traffic

- a. All on-site roads for vehicles and equipment will be constructed to accommodate such activity. This criteria will be met as shown on the site plan.
- b. All on-site roads and access points to public right of ways will be constructed and maintained to control dust and mud on the public right of way. Access drives on to the public roads will be paved in the public right of way and on-site roads will be surfaced with crushed gravel. A water tanker truck will be on-site and be used to maintain dust control and clean-up as needed for public roads. This criteria will be met.
- c. A wheel-wash system will be installed if the on-site conditions become such that the control of mud is unsuitable for the public roads.
- d. The most common route for access to the site will be reviewed and approved by the County

2. Screening, landscaping and visual appearance.

a. All existing vegetation and topographic features within 50 feet of the boundary of the property will be preserved. The applicant will be required to maintain and or replace vegetation along the eastern property line, where a 30 foot setback is being requested. This criteria will therefore be met.

b. The applicant is requesting that landscaping be waived from these proposed activities until future development of the site is requested. The variance has been denied and additional landscaping will be required as indicated in the conditions of approval.

3. Signing. No signing is need on behalf of the proposed operations.

4. Hours and days of operation. Operating hours will be from 7:00 am to 6:00 pm on Monday through Saturday. No work would be allowed on Sundays, New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, or Christmas Day.

a. ESEE analysis is not applicable to this application.

b. There are occasions on which project requirements for construction may require a variation or exception to the hours and days of operation. Any short-term exception shall be requested according to the provisions of MCC .8705.

5. Air, water, and noise quality.

a. The processing equipment is now under permit and subject to staate air quality regulations administered by DEQ . This standard will be met.

b. Sedimentation and eroision conctrl will be reviewed by DEQ . On this site there would be no flow of waters or sedimentation from the site. All sedimentation and erosion is contained within the site and there are no streams crossing this portion of the property.

c. The Mining Health and Safety Administration regulates the processing equipment . Evidence in the record indicates that this agency has recently taken sound readings and found all equipment proposed to be placed on this site to comply with their regulations. Monitoring will be required.

6. Fish and wildlife. This criteria does not apply as noted above, because the habiata is not significant.

7. Setbacks.

a. The applicant has requested a variance from the required 200 foot setback requirement. There is no present use or activity on the immediatly adjoining property to the east where the processing equipment will be closest to. This standard is not met, but a variance has been requested and has been granted, subject to conditions.

8. Reclaimed Topography. All final reclaimed surfaces shall be blended into the natural landforms of immediately surrounding terrain. The applicant's reclamation plan will address this standard. This criteria will be met.

9. Blasting No blasting will take place on the site. This criteria will be met.

10. Safety and security.

The property will be fenced with a chain-linked security fence with locked gates to prevent unauthorized entrance during non-working hours. Also the area around the processing equipment will be lighted for security. This criteria will be met.

11. Phasing. Phasing of extraction is not applicable to this use.

12. Reclamation schedule. The applicant indicates that reclamation by removal of the equipment will be dependent on the schedule of the Mid-County Sewer Project. Presently it appears the project will be completed in approximately five years. As noted above, and as required as a condition of approval here, the applicant shall be on notice that one of the essential reasons that the Hearings Officer is able to make findings that this use can be approved is because it is assumed to be temporary and that its duration will not exceed five years at this site. The applicant shall prepare a reclamation schedule as part of its reclamation plan that assumes reclamation will take place within the five year life of this permit.

D. Geologic Hazards. The proposed activities will not create a geologic hazard. No excavation or extraction of materials will take place on this site.

E. Blasting No blasting will be taking place on this site.

F. Mineral extraction . Not applicable..

G. The Approval Authority may establish a program for periodic monitoring and reporting.

The applicant shall provide a monitoring report to the county on an annual basis which consists of the following:

1. Any complaints, citations or warnings received and their ultimate disposition.
2. The expected duration of the Mid County sewer project and the applicant's related contractual obligations.
3. The applicant's anticipated date for completion of all reclamation activities.

Variance Criteria

Findings:

- (A) A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or district. The circumstance or condition may relate to the size, shape, natural features and topography of the property or the location or size of physical improvements on the site or the nature of the use compared to surrounding uses.

With regard to the paving variance, it should be noted that this use is temporary. Paving of the site will likely not comport with future permanent development of the site. Engineering Services indicates that gravel is actually a better material for control of mud tracking on the street. Therefore, paving the site is not compatible with the intended industrial use of the property.

With regard to the setback variances requested, so long as the site is bermed and a vegetative buffer is used, the site will have better buffering than other sites in the same vicinity.

With regard to the landscaping requirement, the Hearings Officer finds that more, rather than less landscaping is needed, particularly trees, to help buffer the use from surrounding uses.

(B) The zoning requirement would restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or district.

With regard to the paving variance, staff notes that the site to the north which is used for a comparable activity does not satisfy the paving requirements of the Zoning Code.

With regard to the setback requirements, placing the crusher in the northeast section of the property will help reduce the noise impact on surrounding development. The proposed location achieves that goal better than setting it back in the center of the site as would otherwise be required.

With regard to the landscape variance, there is no evidence in the record indicating that the landscape requirement would restrict this property more than any other in the vicinity.

(C) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or adversely affects the appropriate development of adjoining properties.

The discussion under the Conditional Use approval criteria has demonstrated that this standard is satisfied with regard to the paving and setback variances, and likewise indicates that more landscaping, not less, is required.

(D) 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.

The relevant policies of the comprehensive plan have been addressed above relative to this application as a whole. The requested variances will not establish a use that is not permitted in the zone. This type of use is permitted as a conditional use.

CONCLUSIONS:

1. The applicant has carried the burden of proof necessary for obtaining Conditional Use approval to allow a temporary staging yard during construction of the Mid-County sewer (3 to 5 years). The Applicant has also carried the burden necessary for obtaining a variance from the 200 foot setback requirement for aggregate processing equipment, and the elimination of the two inch paving requirement. The Applicant has not met its burden of proof with regard to the variance from the 15% landscape requirement.
2. Conditions are necessary to insure compliance with all applicable regulations.

Signed June 22, 1993



By Phillip E. Grillo, Hearings Officer

Decision Filed With the Clerk of the Board on June 24, 1993

APPEAL TO THE BOARD OF COUNTY COMMISSIONERS

Decisions of the Hearings Officer may be appealed to the Board of County Commissioners by any person or organization who appears and testifies at the hearing, or by those who submit written testimony to the Record. Appeals must be filed within ten days after the Hearings Officer Decision is submitted to the Clerk of the Board [ref. MCC 11.15.8260(A)(1)]. The appeal fee is \$300.00 plus a \$3.50 per minute charge for a transcript of the initial hearing(s) [ref. MCC 11.15.9020(B)]. "Notice of Review" forms and instructions are available at the Planning and Development Office at 2115 SE Morrison Street, Portland.

Failure to raise an issue by the close of the Record at or following the final hearing, (in person or by letter), precludes appeal to the Land Use Board of Appeals (LUBA) on that issue. Failure to provide specificity on an issue sufficient for the Board to respond, precludes appeal to LUBA on that issue.

The Hearings Officer Decision on this item is tentatively scheduled for the Board of County Commissioners review at 1:30 p.m. on Tuesday, July 13, 1993 in Room 602 of the Multnomah County Courthouse. To appeal, a "Notice of Review" form and fee must be submitted to the County Planning Director on or before 4:30 p.m., Monday, July 12, 1993. For further information, call the Multnomah County Planning and Development Division at 248-3043.

Hearings Officer Decisions are typically reported to the Board for review on the first Tuesday following the ten day appeal period. The Board meets at 1:30 p.m. in room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Division of Planning and Development at 248-3043.

#1

PLEASE PRINT LEGIBLY!

MEETING DATE

7/13/93

NAME

Cathy Salbrieth

ADDRESS

2128 SE 35th Pl.

STREET

CITY

Portland, OR

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

3

SUPPORT

OPPOSE

X TPL

SUBMIT TO BOARD CLERK

Appeal

#2

PLEASE PRINT LEGIBLY!

MEETING DATE

7/13/93

NAME

Chuck Rollins

ADDRESS

40310

STREET

2nd ST LATIMER FALLS CRC

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

P-3

SUPPORT

OPPOSE

SUBMIT TO BOARD CLERK

#3

PLEASE PRINT LEGIBLY!

MEETING DATE

7/13/93

NAME

Laurel Slater

ADDRESS

Box 87

STREET

Bndal Veil OR 97010

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

P-3

SUPPORT

✓

OPPOSE

SUBMIT TO BOARD CLERK

PLEASE PRINT LEGIBLY!

MEETING DATE 7/13/93

NAME Mike Byrnes

ADDRESS 5430 SW Ames Wy
STREET

Portland OR
CITY

97225
ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # P-3

SUPPORT _____ **OPPOSE** TPL Appeal
SUBMIT TO BOARD CLERK

#5

PLEASE PRINT LEGIBLY!

MEETING DATE

13.7.93

NAME

ALFRED M. STAELLI, FAIA

ADDRESS

317 SE 62nd Ave.

STREET

PORTLAND, OR.

CITY

97215

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

P-3

SUPPORT

X

OPPOSE

X TPLANNED

SUBMIT TO BOARD CLERK

#6

PLEASE PRINT LEGIBLY!

MEETING DATE

7-13-93

NAME

Christan Strickland

ADDRESS

38530 SE Howard

STREET

Corbett

97019

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

P-3

SUPPORT

OPPOSE

SUBMIT TO BOARD CLERK

MEETING DATE: July 13, 1993

AGENDA NO: P-3

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Public Hearing - C 9-92a

BOARD BRIEFING Date Requested:

Amount of Time Needed:

REGULAR MEETING: Date Requested: July 13, 1993

Amount of Time Needed: 1 hour

DEPARTMENT: DES

DIVISION: Planning

CONTACT: Sharon Cowley

TELEPHONE #: 2610

BLDG/ROOM #: 412/109

PERSON(S) MAKING PRESENTATION: Sandy Mathewson

ACTION REQUESTED:

[] INFORMATIONAL ONLY [] POLICY DIRECTION [] APPROVAL [] OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

C 9-92a Public Hearing - On The Record

Review the Planning Commission Decision of May 17, 1993, recommending adoption of the Goal 5 Inventory Worksheet for Bridal Veil as a supplemental document to the Comprehensive Framework Plan and support the Task Force recommendations and preservation process, all for property located at Bridal Veil Road and Crown Point Highway

SIGNATURES REQUIRED:

ELECTED OFFICIAL:

OR

DEPARTMENT MANAGER:

Betsy H. Wallia

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

0516C/63

6/93

B-Engrossed
Senate Bill 96

JUN 25 1993

Ordered by the House June 22
Including Senate Amendments dated April 9 and House Amendments
dated June 22

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Columbia River Gorge Commission)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Reconciles Columbia River Gorge National Scenic Area management plan requirements with state and local government land use planning requirements.

Declares emergency, effective on passage.

1 Relating to reconciliation of Columbia River Gorge planning with other land use planning; creating
2 new provisions; amending ORS 196.105 and 196.115; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 196.105 is amended to read:

5 196.105. As used in ORS [196.110 and 196.115,] 196.105 to 196.125:

6 (1) "Commission" means the Columbia River Gorge Commission established under section 5 of
7 the Columbia River Gorge National Scenic Area Act, P.L. 99-663.

8 (2) "General management area" means the area within the scenic area that is not an
9 urban area or special management area.

10 (3) "Management plan" means the management plan for the Columbia River Gorge Na-
11 tional Scenic Area adopted by the commission.

12 (4) "Special management area" means any area identified as such in the Columbia River
13 Gorge National Scenic Area Act.

14 (5) "Urban area" means the 13 towns or cities as identified in the Columbia River Gorge
15 National Scenic Area Act.

16 **SECTION 2.** Sections 3 and 4 of this Act are added to and made a part of ORS 196.105 to
17 196.125.

18 **SECTION 3.** (1) The Legislative Assembly, considering the recommendations of the Land
19 Conservation and Development Commission, finds that the management plan adopted pur-
20 suant to the Columbia River Gorge National Scenic Area Act achieves on balance the pur-
21 poses of the statewide planning goals adopted pursuant to ORS 197.230.

22 (2) Land use decisions subject to review under ORS 197.835 for compliance with the goals
23 for those portions of Multnomah, Hood River and Wasco Counties within the Columbia River
24 Gorge National Scenic Area, except land within urban area boundaries, are exempt from the
25 requirements of ORS 197.610 to 197.625. This exemption becomes effective in a county when
26 that county or the Columbia River Gorge Commission adopts and implements ordinances
27 that are approved pursuant to sections 7(b) and 8(h) to 8(k) of the Columbia River Gorge

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted.
New sections are in boldfaced type.

1 National Scenic Area Act, P.L. 99-663.

2 (3) The Director of the Department of Land Conservation and Development may petition
3 the Land Conservation and Development Commission to decertify the management plan at
4 any time. If the Land Conservation and Development Commission receives a petition from
5 the director, the Land Conservation and Development Commission shall decertify the man-
6 agement plan within 120 days, if it determines that any part of the management plan does
7 not achieve on balance the purposes of the statewide planning goals adopted pursuant to ORS
8 197.230.

9 SECTION 4. If the urban area boundaries of the Columbia River Gorge National Scenic
10 Area are revised to include land that was once within the general management area or the
11 special management area, the management plan no longer applies to that land and the ap-
12 plicable provisions of ORS chapters 92, 197, 215 and 227 and the rules, plans and ordinances
13 adopted thereunder apply.

14 SECTION 5. ORS 196.115 is amended to read:

15 196.115. (1) For purposes of judicial review, [*the Columbia River Gorge Commission shall be*
16 *considered a state agency, and*] decisions of the commission shall be subject to review solely as pro-
17 vided in this section, except as otherwise provided by the Columbia River Gorge National Scenic
18 Area Act, P.L. 99-663.

19 (2)(a) [*A final order by the commission in a review or appeal of any action of a county pursuant*
20 *to section 10(c) or 15(a)(2) of the Columbia River Gorge National Scenic Area Act, P.L. 99-663, shall]*
21 A final action or order by the commission in a review or appeal of any action of the com-
22 mission pursuant to section 10(c) or 15(b)(4) of the Columbia River Gorge National Scenic
23 Area Act, or a final action or order by the commission in a review or appeal of any action
24 of a county pursuant to section 15(a)(2) or 15(b)(4) of the Columbia River Gorge National
25 Scenic Area Act, shall be reviewed by the Court of Appeals on a petition for judicial review filed
26 and served as provided in subsections (3) and (4) of this section and ORS 183.482.

27 (b) On a petition for judicial review under paragraph (a) of this subsection the Court of Appeals
28 also shall review the action of the county that is the subject of the commission's order, if requested
29 in the petition.

30 (c) The Court of Appeals shall issue a final order on review under this subsection within the
31 time limits provided by ORS 197.855.

32 (d) In lieu of judicial review under paragraphs (a) and (b) of this subsection, a county action
33 may be appealed to the Land Use Board of Appeals under ORS 197.805 to 197.855. A notice of intent
34 to appeal the county's action shall be filed not later than 21 days after the commission's order on
35 the county action becomes final.

36 (e) Notwithstanding ORS 197.835, the scope of review in an appeal pursuant to paragraph (d)
37 of this subsection shall not include any issue relating to interpretation or implementation of the
38 Columbia River Gorge National Scenic Area Act, P.L. 99-663, and any issue related to such inter-
39 pretation or implementation shall be waived by the filing of an appeal under paragraph (d) of this
40 subsection.

41 (f) After county land use ordinances are approved pursuant to sections 7(b) and 8(h) to
42 (k) of the Columbia River Gorge National Scenic Area Act, P.L. 99-663, the Land Use Board
43 of Appeals shall not review land use decisions within the general management area or special
44 management area for compliance with the statewide planning goals. The limitation of this
45 paragraph shall not apply if the Land Conservation and Development Commission decertifies

1 the management plan pursuant to section 3 of this 1993 Act.

2 (3)(a) If a petition for judicial review of a commission order is filed pursuant to subsection (2)(a)
3 of this section, the procedures to be followed by the parties, the commission and the court, and the
4 court's review, shall be in accordance with ORS 183.480, 183.482 (1) to (7), 183.485, 183.486, 183.490
5 and 183.497, except as this section or the Columbia River Gorge National Scenic Area Act, P.L.
6 99-663, otherwise provides.

7 (b) Notwithstanding any provision of ORS 183.482:

8 (A) The commission shall transmit the original record or the certified copy of the entire record
9 within 21 days after service of a petition for judicial review is served on the commission; and

10 (B) The parties shall file briefs with the court within the times allowed by rules of the court.

11 (c) The court may affirm, reverse or remand the order. If the court finds that the agency has
12 erroneously interpreted a provision of law and that a correct interpretation compels a particular
13 action, the court shall:

14 (A) Set aside or modify the order; or

15 (B) Remand the case to the agency for further action under a correct interpretation of the pro-
16 vision of law.

17 (d) The court shall remand the order to the agency if the court finds the agency's exercise of
18 discretion to be:

19 (A) Outside the range of discretion delegated to the agency by law;

20 (B) Inconsistent with an agency rule, an officially stated agency position or a prior agency
21 practice, unless the inconsistency is explained by the agency; or

22 (C) Otherwise in violation of a constitutional or statutory provision.

23 (e) The court shall set aside or remand the order if the court finds that the order is not sup-
24 ported by substantial evidence in the whole record.

25 (f) Notwithstanding any other provision of this section, in any case where review of a county
26 action as well as a commission order is sought pursuant to subsection (2)(a) and (b) of this section,
27 the court shall accept any findings of fact by the commission which the court finds to be supported
28 by substantial evidence in the whole record, and such findings by the commission shall prevail over
29 any findings by the county concerning the same or substantially the same facts.

30 (4)(a) Except as otherwise provided by this section or the Columbia River Gorge National Sce-
31 nic Area Act, P.L. 99-663, if review of a county action is sought pursuant to subsection (2)(b) of this
32 section, the procedures to be followed by the parties, the county and the court, and the court's re-
33 view, shall be in accordance with those provisions governing review of county land use decisions
34 by the Land Use Board of Appeals set forth in ORS 197.830 (2) to (7), (9), (15) and (16) and 197.835
35 (2) to (8), (10) and (11). As used in this section, "board" as used in the enumerated provisions shall
36 mean "court" and the term "notice of intent to appeal" in ORS 197.830 (9) shall refer to the petition
37 described in subsection (2) of this section.

38 (b) In addition to the other requirements of service under this section, the petitioner shall serve
39 the petition upon the persons and bodies described in ORS 197.830 (8), as a prerequisite to judicial
40 review of the county action.

41 (c) In accordance with subsection (3)(b)(B) of this section, a party to a review of both a com-
42 mission order and a county action shall file only one brief with the court, which shall address both
43 the commission order and the county action.

44 (d) Review of a decision under ORS 197.830 to 197.845 shall be confined to the record. Subject
45 to subsection (3)(f) of this section, the court shall be bound by any finding of fact of the county for

1 which there is substantial evidence in the whole record. The court may appoint a master and follow
2 the procedures of ORS 183.482 (7) in connection with matters that the board may take evidence for
3 under ORS 197.830 (13).

4 (5) Approval of county land use ordinances by the commission pursuant to section 7 of the
5 Columbia River Gorge National Scenic Area Act, P.L. 99-663, may be reviewed by the Court of Ap-
6 peals as provided in ORS 183.482.

7 (6) Notwithstanding ORS 183.484, any proceeding filed in circuit court by or against the com-
8 mission shall be filed with the circuit court for the county in which the commission has a principal
9 business office or in which the land involved in the proceeding is located.

10 **SECTION 6.** This Act being necessary for the immediate preservation of the public peace,
11 health and safety, an emergency is declared to exist, and this Act takes effect on its passage.
12



MULTNOMAH COUNTY OREGON

DIVISION OF PLANNING & DEVELOPMENT/2115 S.E. MORRISON/PORTLAND, OREGON 97214

DIVISION OF PLANNING AND DEVELOPMENT

Board Planning Packet Check List

File No. C-9-92a

☒ Agenda Placement Sheet No. of Pages 1

☒ Case Summary Sheet No. of Pages 1
☒ Previously Distributed _____

☐ Notice of Review No. of Pages _____
*(Maybe distributed at Board Meeting)
☒ Previously Distributed _____

☐ Decision No. of Pages _____
(Hearings Officer/Planning Commission)
☒ Previously Distributed _____

*Duplicate materials will be provided upon request.
Please call 2610.



MULTNOMAH COUNTY OREGON

DIVISION OF PLANNING & DEVELOPMENT / 2115 SE MORRISON / PORTLAND, OREGON 97213

DIVISION OF PLANNING AND DEVELOPMENT

Board Planning Packet Check List

File No. C 9-92a

I. Materials Distributed to the Board

- ☒ Agenda Placement Sheet (/ Pages)
- ☒ Case Summary Sheet (/ Pages)
- ☐ Notice of Review Application (Pages)
- ☐ Decision (Pages)
(Hearings Officer/Planning Commission)

II. Materials Available Upon Request

- ☒ Minutes (12 Pages)
- ☒ Transcript (80 Pages)
- ☐ Applicant's Application (Pages)
and Submittals
- ☐ Case Correspondence (Letters)
- ☐ Slides (Slides)
- ☐ Exhibits/Maps (Exhibits)
(Maps)
- ☐ Other Materials ()



BOARD HEARING OF JULY 13, 1993

CASE NAME: BRIDAL VEIL
GOAL 5 ESEE ANALYSIS AND PROGRAM

TIME 1:30 pm

NUMBER C9-92a

1. Appellant Name/Address:

The Trust for Public Land
1211 SW Sixth Ave.
Portland, OR 97204

2. Action Requested by appellant:

Reverse the Planning Commission decision regarding protection for the buildings at Bridal Veil and documentation requirements for buildings to be demolished.

3. Planning Staff Recommendation:

Adopt the Goal 5 Inventory for Bridal Veil as a supplemental document to the Comprehensive Plan, designate the site "3-C", and adopt the Task Force Recommendations and Preservation Program based on the Findings and Conclusions in the Planning Commission Decision.

4. Planning Commission Decision:

Same as Staff Recommendation.

ACTION REQUESTED OF BOARD	
<input type="checkbox"/>	Affirm Plan.Com./Hearings Officer
<input checked="" type="checkbox"/>	Hearing/Rehearing
<input type="checkbox"/>	Scope of Review
<input checked="" type="checkbox"/>	On the record
<input type="checkbox"/>	De Novo
<input type="checkbox"/>	New Information allowed

ISSUES

(who raised them?)

Bridal Veil was designated a significant historic resource pursuant to Statewide Planning Goal 5 in December, 1992. Goal 5 requires the county to complete an analysis of the economic, social, environmental and energy (ESEE) consequences of preserving the resource versus allowing other uses of the site, in order to determine an appropriate level of protection.

A Task Force made up of representatives from interested state and federal agencies, historic experts, private interest groups and the property owner, was formed to assist in determining the appropriate level of protection. Their findings and recommendations were reported to the Planning Commission, who voted to adopt those recommendations and complete the Goal 5 requirements by designating the site 3-C, which would allow some other uses while still protecting portions of the site.

The property owner has continually argued that the buildings at Bridal Veil are not historically significant and should be removed to facilitate sale of the property to a public agency for development into a park/natural area. The primary policy issue is whether state and county requirements to protect historic resources, which is a public benefit, should supercede the desires of a property owner.



Notice of Public Hearing Board of County Commissioners

Multnomah County
Board of County Commissioners

1021 SW 4th Avenue
Portland, Oregon 97204

The Board of County Commissioners will hear the following item on the date and at the time and place indicated below. The exact time may be later depending on the agenda schedule. The hearing will be conducted pursuant to the Board of Commissioners' *Rules of Procedure* (enclosed). Interested parties will have opportunity to appear and testify at the hearing. Failure to raise an issue in person, or by letter, or failure to provide sufficient specificity to allow the Board an opportunity to respond to the issue precludes appeal to LUBA on that issue. The Board of Commissioner's Decision on the item may be announced at the hearing, or upon continuance to a time certain.

All materials submitted in the record are available for inspection and review prior to the hearing, and copies may be purchased at reasonable cost. For further information, call the Clerk of the Board at 248-3277 or the Planning Division at 248-3043.

Board of County Commissioners Members:
Hank Miggins, Acting Chair - Tanya Collier - Gary Hansen - Sharron Kelly - Dan Salzman

Date: 07/13/93 Time: 1:30 p.m. Place: Room 602, Multnomah County Courthouse

C 9-92a

Public Hearing - On The Record

Review the Planning Commission Decision of May 17, 1993, recommending adoption of the 'Goal 5 Inventory Worksheet' for Bridal Veil as a supplement document to the Comprehensive Framework Plan, and support the Task Force recommendations and preservation process, all for property located at Bridal Veil Road and Crown Point Highway.

This item has been appealed by the applicant.

Scope of Review - On the Record

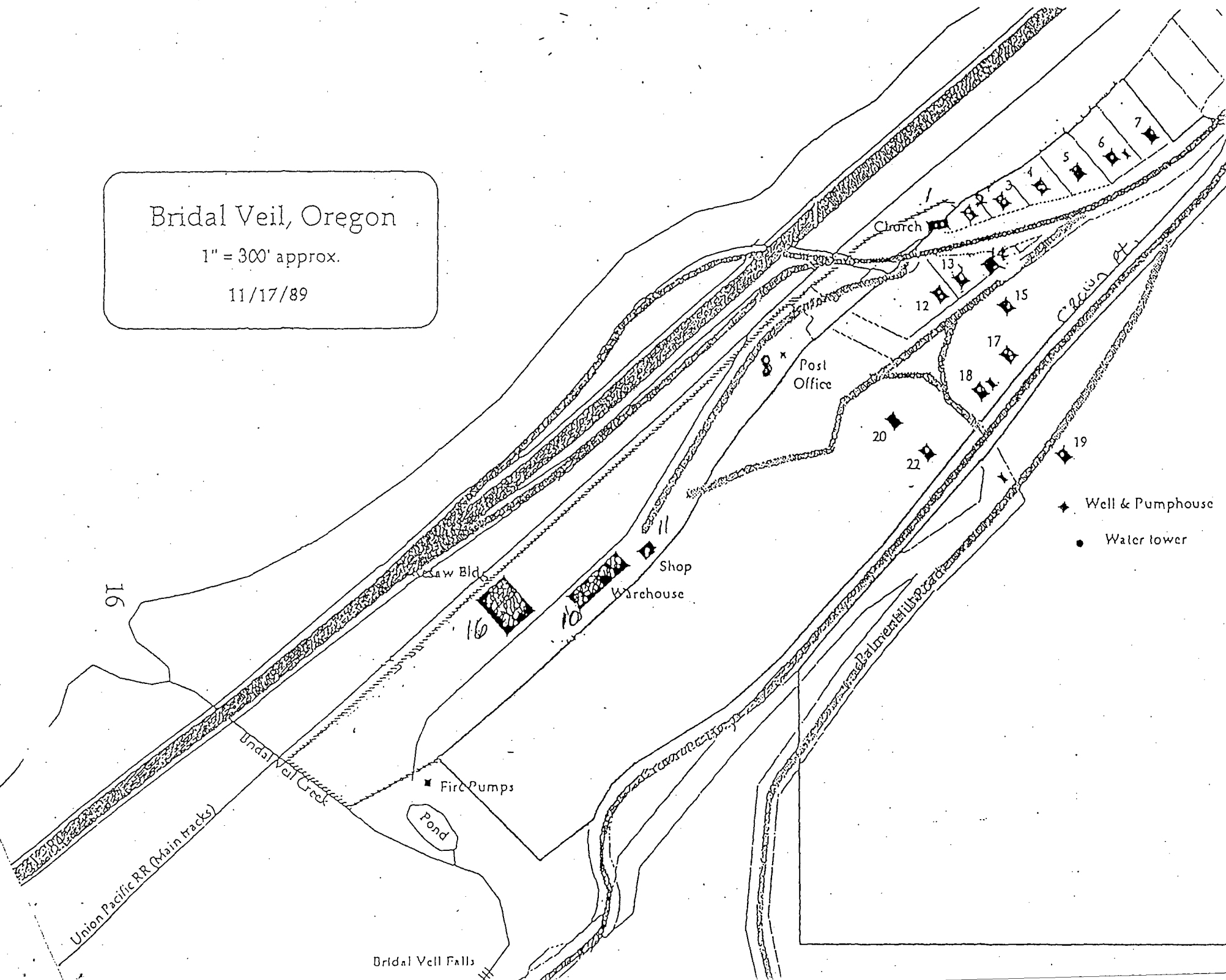
Oral Argument: Each side will have 30 minutes to present oral argument to the Board.

Bridal Veil, Oregon

1" = 300' approx.

11/17/89

16



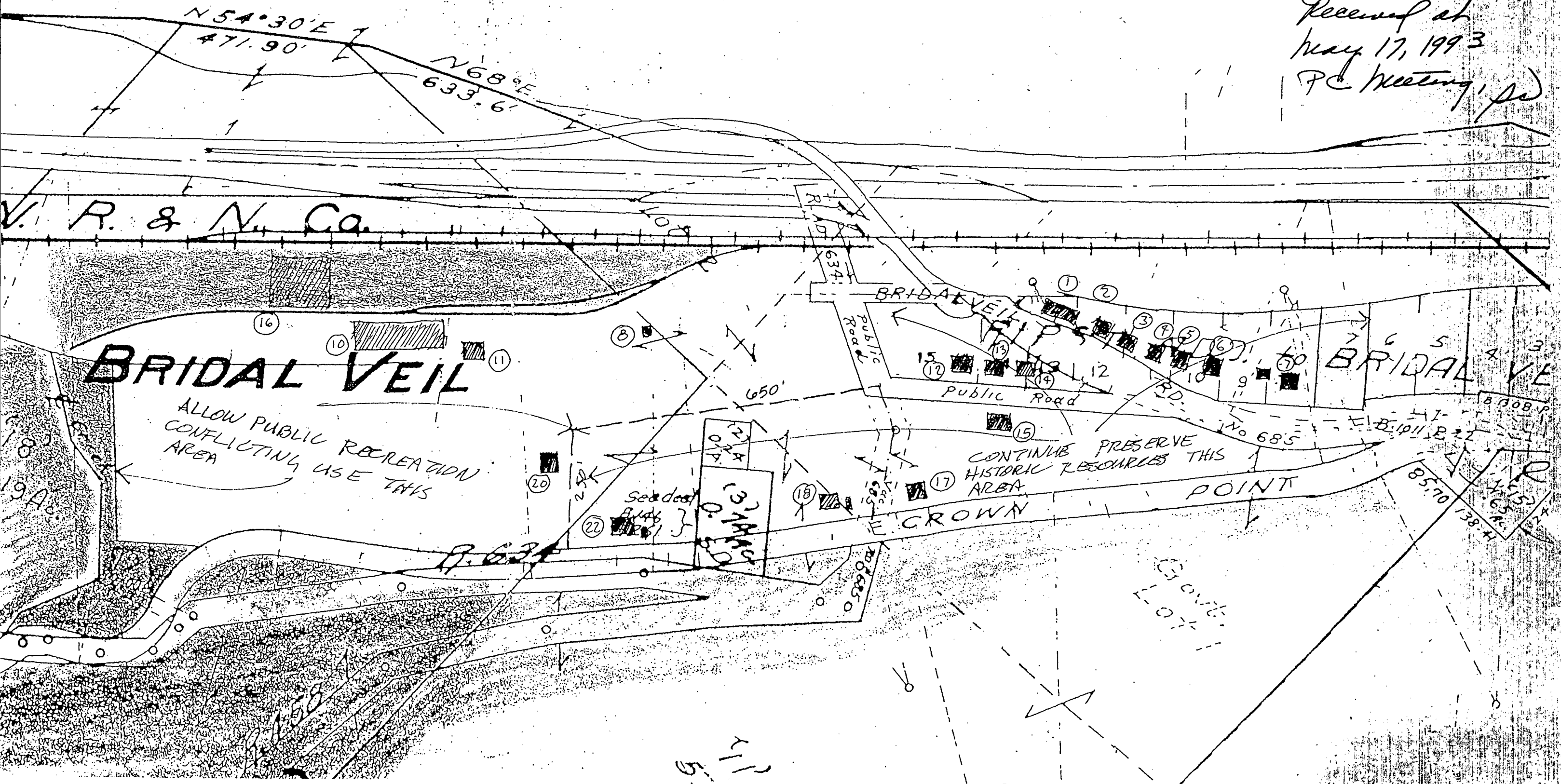
MEETING 5-17-93

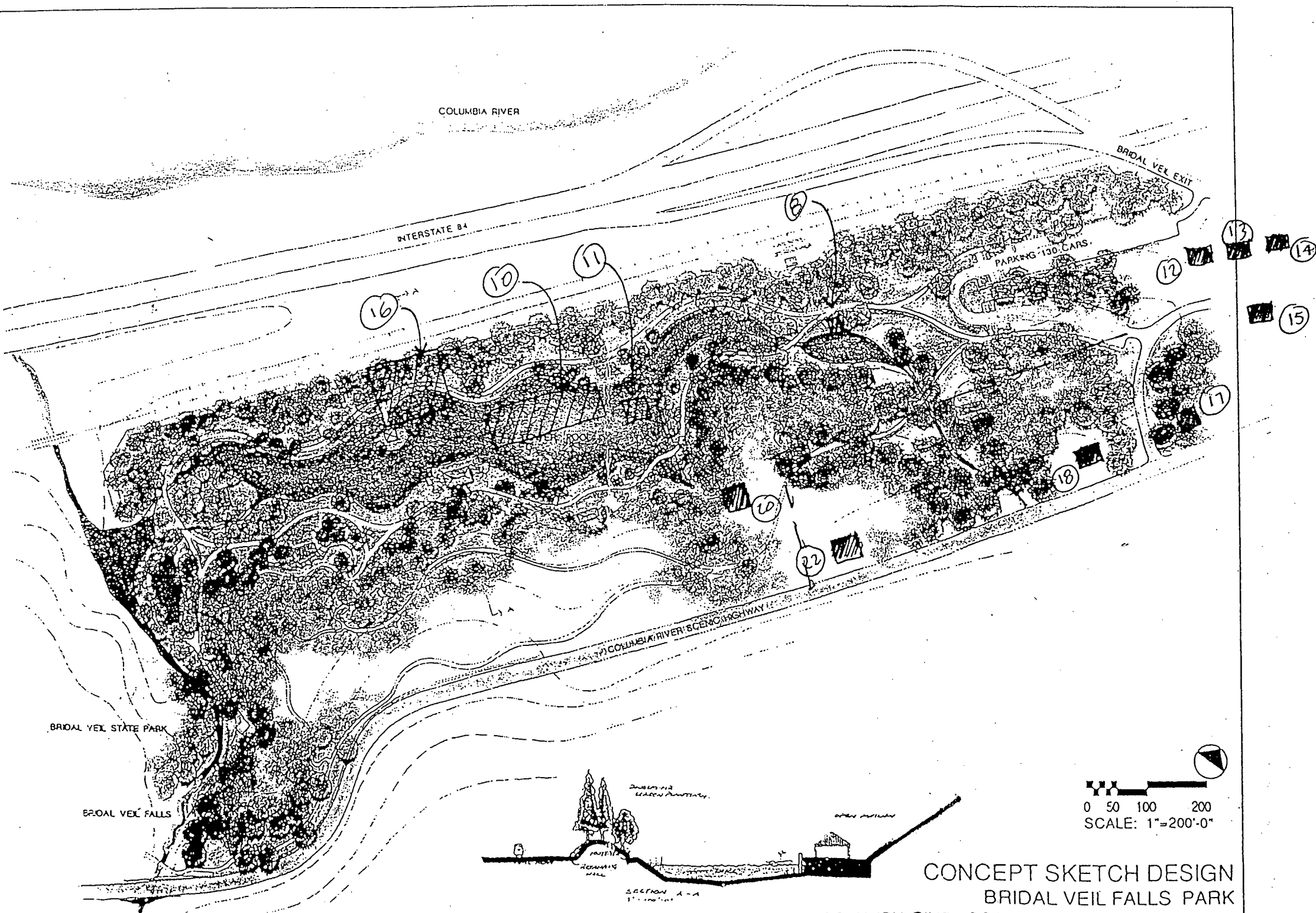
C 9-92a

PETITIONER'S
EXHIBIT

#2

Received at
May 17, 1993
PC Meeting, Jd





CONCEPT SKETCH DESIGN
BRIDAL VEIL FALLS PARK
COLUMBIA RIVER GORGE NATIONAL SCENIC AREA

**A PORTION OF THE PLANNING COMMISSION
MEETING OF MAY 3, 1993
C 9-92a**

Present: Chairman Yoon; Richard Leonard; Peter Fry; Janet Atwill;
John Ingle; William Fritz; George Douglas

Staff Present: Scott Pemble; Sandy Mathewson; Sharon Cowley

YOON: We'll begin each case with presentation of the Staff Report, followed by testimony by the applicant or the applicant's representative, unless they wish to waive their right to testify, then by anyone else in favor of the proposal. Opposing parties will then be given an opportunity to testify. Each side will be allowed a total of 10 minutes to present their evidence unless a written request for additional time is presented to me. That request must describe the evidence and the testimony to be introduced and an explanation why they want the additional time. I'll then ask the Commission if they wish to grant the additional time. In no event will we accept testimony that is repetitious, irrelevant or immaterial. Parties may cross-examine opposing parties and their witnesses if the question is presented to me in writing and I rule it to be relevant. After testimony has been entered I will close the public portion of the hearing for our deliberation. We may ask questions of the Staff but no further public testimony will be allowed. If you presented either written or oral testimony and you disagree with the decision we make, you have the right to appeal our decision to the Board of County Commissioners. Forms and a brochure explaining the appeal process are also available. Staff will be happy to assist if you have any further questions.

We'll begin with item 1, C 9-92a, Adopt as a Supplemental Document to the Comprehensive Framework Plan the ESEE Analysis and Protection Program which is used statewide to achieve planning Goal 5 for Bridal Veil.

I'd like to mention a couple of things before the Staff Report. The Commission has received into the record five, six documents; one dated May 3rd from the Oregon Parks and Recreation Department, and another one dated April 29th from the Forest Service; one dated March 24th from the Department of Transportation; one dated April 20th from Union Pacific; one dated May 5th from the Friends of the Columbia Gorge; and one dated April 19th from Steven and Pat Kenney. If anybody needs to see that or doesn't have it before you, see Staff.

The second thing I'd like to mention is that if we don't resolve this by 9 o'clock, we're going to continue it until the next session. It gets a little counterproductive after about three hours of working on something.

Go ahead Sandy.

MATHEWSON: I'm Sandy Mathewson, with the County Planning Division. As you said, the proposal tonight is to adopt a supplementary document to the Comprehensive Plan which would include the ESEE Analysis and a protection program in order to complete the Goal 5 process for Bridal Veil.

Just to recap, for the record, the description of the Bridal Veil includes, the eastern boundary is the Bridal Veil Cemetery, the western boundary is Bridal Veil Creek, the northern boundary is the Union Pacific Railroad, and the southern boundary is the Crown Point Highway, or the Historic Columbia River, whichever name you prefer.

The criteria to use in the Goal 5 process are found in the Oregon Administrative Rules, Chapter 660, Division 16. These procedures are listed for you on pages 2 and 3 of the Staff Report, which you all have and we've sent to many of the parties who were interested in the first hearing, and there are extra copies available on the back table if anyone needs them.

Just to review the Goal 5 process, the first step involves the determining significance of the site. If the information indicates that the resource is not significant, its designated 1.A. If there's not enough information to determine this significance, its designated 1.B. If the information indicates that the site is historically significant, then its designated 1.C and the Goal 5 process continues.

As you'll recall, Bridal Veil was designated 1.C. This was done after your recommendation, and the Board of Commissioners did agree with you. Consequently, we don't need to revisit that issue tonight, and hopefully no testimony will focus on the significance issue; that's already been decided.

The second step of the Goal 5 process involves "conflicting uses". A conflicting use is identified as any possible use that would be allowed by the zoning district that would conflict with preserving the historic resource. If there are no conflicting uses for the site, its designated 2.A, and must be fully protected and preserved. In this case, with Bridal Veil, I don't think anyone would disagree that there are other proposed uses that would conflict with preservation. Consequently, it should be designated 2.B.

The Goal 5 process then requires identifying, or specifically listing, what those conflicting uses are. We did examine all of the uses that would be allowed by the zoning for the site. The myriad of uses kind of were categorized into four main areas of conflicting uses, and those are: *No. 1, demolition*. That obviously conflicts with preserving the site. The second one is *incompatible alteration*. That means additions or changes to individual buildings or within the site itself that would change the historic character of the site.

The third conflicting use is identified as *neglect or abandonment, deterioration of the building*.

The fourth conflicting use deals with *scenic issues*. The site is visible from what are called "key viewing areas" in the National Scenic Area of the Columbia River Gorge. This includes from the Bridal Veil State Park Overlook, from the Historic Highway, and from Highway 84. The condition of the buildings and their scenic appearance cause some conflicts there.

Once the conflicts are identified, the economic, social, environmental, and energy consequences must be examined. This is what we refer to as the ESEE Analysis.

Just to briefly go over the consequences which were identified for this site, they are listed in the Staff Report on pages 4, 5, and 6, but under Economic Consequences it was found that there would be substantial cost to restore many of the buildings; particularly the mill buildings, which are in an extremely deteriorated condition.

There would also be economic costs associated with demolition of the buildings, however, there would be other costs associated with development of other uses of the site.

The social consequences identified include the educational and recreational opportunities afforded by preserving the site as it is. Visiting historical and cultural sites has been ranked as one of the leading reasons why the people visit the national scenic area; and the loss of that historic site would be a loss of social values; there's also a symbolic value associated with the site.

The mill buildings however, are a safety hazard and a visual eyesore. That's kind of the opposite side of the coin as far as social impact.

Demolition or alteration of the site would detract from the appearance of the townsite, including the social and economic stratification illustrated by the manager's houses up on the hill versus the worker's houses lower down and of a smaller size.

Creation of an alternate use of the site for public recreation or some other such use, might provide a social and recreational opportunity to Gorge visitors, however.

Economic consequences identified include problems with demolition of the buildings or removal, earth removal, removal of the pavement and other material around the mill site especially, which could cause environmental problems like erosion, stream degradation, and disposal of material. There was also some question that there might be hazardous materials around that area of the site. Removal of these materials however, would be positive, environmentally.

Conversion of the site to a natural area might also be environmentally positive. There might also be environmental consequences dealing with road and parking improvements if the site is converted to another use, and possible need for development of a sewage disposal system, if there's increased visitor use.

Energy consequences identified include restoring, or rehabilitating a structure, which often uses less energy than constructing a new building. However, old buildings are often less energy efficient than new buildings, and there would be some energy impacts related to converting the site to a different use. And some other possible uses might increase traffic to this area.

So, after examining all these ESEE consequences, and based on those consequences, the appropriate level of protection must be determined. If you feel the preservation of all the site features, as they are, is the most important thing for the site, then it should be designated 3.A and the site should be protected fully. If, on the other hand, you feel that other uses for the site are more important than any kind of preservation, then it should be designated 3.B, and no protection at all would be provided. Any thing in between these two extremes should be designated 3.C, and that's our recommendation to you, that you designate it 3.C. This designation allows a balance; you can preserve part of the site, allow some conflicting uses, some other uses on certain portions of the site. For instance, we recommend that the mill buildings, because of their deteriorating condition, the extreme cost of restoring them, we don't feel that's feasible and we recommend that the mill buildings be removed so that portion of the site could be converted to some other use.

The cemetery, however, because of its social value and its use as a burial ground, should be protected fully.

4

The Bridal Veil postmark has been identified as having some significance due to its use for wedding invitations and its identification with the community of Bridal Veil. However, the post office building is not necessarily as important. We're recommending that if the post office could be moved elsewhere on the site and fit in with some other protection plan, that it should be preserved. If that won't work then it can be demolished.

There's one house that was identified; we're calling it house No. 20. I think you have a map on the, on the back of the first page of the Staff Report it has the houses numbered. Number 20 was very modern in appearance; its been totally remodeled; you can't tell that there's any historic features or any correlation with the other buildings on the site, so we're recommending that it be removed as well.

The method to be used to provide protection includes the recently enacted National Scenic Area Ordinance. This does fulfill the Goal 5 requirements as far as providing protection for historic resources. In addition, the Bridal Veil Task Force has worked-out a protection process, and we do have a representative of the Task Force here tonight who's going to discuss that in more detail. I'd just like to stress that the Task Force recommendations and their report, which are included with your Staff Report, were results of extensive time and meetings; we met seven times, generally for at least three hours each meeting. There was considerable discussion involved, and the report which you have was the end consensus of that Task Force, so I think you should give it some serious consideration.

Unless you have any questions of me, I think the Task Force representative, who is Mike Boynton, who has an archaeological background with the Forest Service, will discuss the Task Force and their report and their recommendation.

YOON: Thanks Sandy. Let me just say for the record that Commissioner Fry and Commissioner Douglas have joined us.

Commissioner Fritz.

FRITZ: Sandy, you were present when this Commission took-up this issue initially and made recommendation to the County Commission, weren't you?

MATHEWSON: Could you tell me if you or any other member of Staff, I'm being very blunt with this, whether or not you advised the Task Force as to your or other Staff's reading of what this Commission was inclined to support or not support? Do you know? Do you understand what I'm asking?

MATHEWSON: The Task Force received copies of your Findings and the Board of Commissioner's Findings and Conclusions.

FRITZ: But there was discussion before this Commission voted to recommend to the County Commission the initial designation and to start the whole review process, and I was just wondering if anyone had advised the Task Force of the content of that discussion.

MATHEWSON: Not specifically. No.

FRITZ: Okay. Thank you.

YOON: Commissioner Fry.

FRY: I would respond to the letter from the Oregon Parks and Recreational Department. Are they here tonight? Okay. At some point I'd like to ask them a question. Is this an appropriate time? Okay.

YOON: Why don't we finish with Sandy first and then we'll... Sandy and the Task Force first. Okay.

Commissioner Atwill.

ATWILL: I have a question. I noticed on the Task Force, "Preservation Goals", the first one was preserve on-site on what interpreting history, that's on page 1 of the recommendations of the Task Force, I was wondering how was that reflected in the Goal for the conclusion from the Staff, the County Staff. Was it generally achieved by the three proposals?

MATHEWSON: I would say that preservation goal is met by the proposal to preserve as many buildings as funding can be found to preserve.

ATWILL: Okay. I was remembering some discussion last time of something on-site should preserve buildings which would be kind of an interpretive type of thing.

MATHEWSON: The idea of having signs or other interpretive?

ATWILL: Yes, something like that. Was that considered, or?

MATHEWSON: If you look on the page before that, page 4 of the Goal 5 worksheet, under No. 9, it does say that interpretive signs describing the history should be included in any new use.

ATWILL: Where was that?

VOICE: In the white pages. White.

MATHEWSON: The white section where it says "Goal 5 Inventory", the last page of that. Page 4, number 9.

ATWILL: Okay.

YOON: I just have a question _____. In reading through this whole document, is this what the Task Force recommended or is this what the Staff has recommended based on what the Task Force has come up with?

MATHEWSON: Probably both. It is the Task Force recommendation and the Staff is supporting that and recommending that you adopt it as well.

YOON: So Staff has taken a position on this?

MATHEWSON: Yes.

YOON: Any other questions of Staff?

Commissioner Douglas.

DOUGLAS: Building No. 22 is the only one on the west side of that roadway there. Is it deemed necessary also?

MATHEWSON: No. 22 was included with the rest of the group of buildings that would be preserved based on the amount of funding availability that's found.

DOUGLAS: Seems like its set out away from the others, if I remember right. I can't recall to much about the building itself.

MATHEWSON: Its the furthest west building up on the Historic Highway. Yes.

YOON: Sandy, that's not the building that the Department of Transportation refers to in their letter? Right? They're talking about 16? Which they talk about: "consider removing the unoccupied white house on the north side of the highway just west of the Bridal veil interchange...", about 16.3, site 9, I guess it is.

MATHEWSON: Then I would assume that's the house they're referring to. That's the house that's closest to the park.

LEONARD: I had a question on that also. Is the ODOT person here tonight to clarify what house they were talking about?

VOICE: INAUDIBLE.

YOON: Could you identify yourself please, since we're now asking questions?

I think what we'll do, procedurally, Commissioner Fry, for this is, if anybody has any questions on any of these letters we can ask if their representative is here and go through that.

Go ahead Commissioner Leonard.

LEONARD: Yes, in reading through your letter which is March 24th, you comment on a white house that seems to be blocking the landscape or not desired on the landscape. Do you have recollection of where that is? Or what road its visible from?

KLOOS: My name is Jeanette Kloos, and I'm with the Oregon Department of Transportation. I would be going just from memory but I believe it would be either house 22 or 18. I know which one is immediately adjacent to Crown Point Highway, and I don't have the photographs or additional information in front of me to be able to tell which house is the white house.

LEONARD: Okay.

KLOOS: Probably somebody else from the audience will be able to tell you.

YOON: Commissioner Fry.

FRY: My turn?

YOON: Are you asking the same person?

FRY: No. I wanted to ask someone...

INGLE: Sandy, I was just curious. Who prepared the Goal 5 Inventory? Was that Staff? Staff's writing based on the Task Force's recommendation?

MATHEWSON: Yes.

INGLE: Okay. Because I have a question about the Goal 5 Inventory and I didn't know if it would be more appropriate to ask you or ask a representative of the Task Force. I want to give everyone a fair shot.

Well, the questions that I have, on page 3, for example, these are just for my own clarification and better understanding the process, on point No. 5 it says that: "Demolition should not be allowed unless a good faith effort has been made by the property owners and potential stewards to comply with the preservation process...". I was wondering if you would define for me what is a "good faith effort"?

MATHEWSON: We've had lots of concerns about that wording, or questions about it. I think the intent of that was just so that the property owners couldn't just say no to any proposal that came up in order for them to get demolition permits. We felt they should try to comply with the process, that you have a chart showing, in order to give the preservation site a chance to try to obtain funding and not just circumvent the whole process by saying no right off the bat.

INGLE: So we don't have clearly stated criteria there?

MATHEWSON: No. We don't have clearly stated criteria saying what "good faith effort" is.

INGLE: On page 2 of the Goal 5 Inventory in the Economic subsection, I think this is getting back to Commissioner Atwill's question for you too, is that, I've got to find it, oh I'm on the yellow pages. That's fine. Page 2, Goal 5. My understanding, having read the paragraph, in one section, particularly the second one, it says: "However, preservation and restoration of some of the buildings may be more economically feasible than demolition and building new interpretive facilities". My understanding was the TPL was in favor of demolishing the buildings and creating some kind of interpretive center. Now, the flip side to that would be to preserve some of the buildings, and I thought, incorporating some kind of interpretative center. But as I read that question its not real clear to me that an interpretative facility would even be included. And, was that a recommendation of the Task Force, that an interpretative facility of some sort would be on site?

MATHEWSON: No, I don't believe so. I think its just if whoever the future owner is should decide to build an interpretative facility, it might be more expensive than if some of the buildings that are there already were just restored to be used for that purpose.

INGLE: So at this point its more a sort of self-guided tour through history.
INAUDIBLE.

MATHEWSON: Right. I don't think believe there's any specific proposals for interpretation on the board right now.

INGLE: Okay. One last question. Maybe this was in here and I just didn't pick up on it. On page 7 in the Staff Report, on item No. 5, it makes reference to, let me get my bearings here; it will be the yellow section on 5. About the third line down: "A complete and intensive analysis of individual structures by the...", quote, my quote, future restoration/management group". What exactly is that? Future restoration/management group?

MATHEWSON: That would probably best be defined when you get to the Task Force recommendations. Its part of the whole process that's designed in order to allow a private group to find funding for restoration and management.

INGLE: That was the first time that I really saw that term used. INAUDIBLE.

MATHEWSON: Its defined better through the preservation process recommended by the Task Force.

YOON: Any other questions of Staff before we talk to people about, to different authors of letters.

Thanks. Commissioner Fry, you had a question on a couple of letters.

FRY: Just the Oregon Parks and Recreation Department.

SHALER: My name is Debra Shaler, I'm here representing the Department today.

FRY: In you letter dated May 3rd you say that we do not consider the mill town an historic resource of statewide significance.

SHALER: That's right.

FRY: Okay. I had two questions. The first is, who is "we" exactly?

SHALER: In this letter it means the Department.

FRY: So the Department of Parks and Recreation is the "we"?

SHALER: That's right.

FRY: How did you come to that decision?

SHALER: I apologize that I don't know exactly how the decision was reached; I'm here with some limited information, but my understanding is that the Director and the Region Supervisor and the Planner in charge of this project met over the weekend and came to that decision. As well, in addition of course, with significant background information on this site.

FRY: Okay. Well, I guess he has the right to do that. That's peculiar, but, the second question I had, it says: "State funding for improving or managing the buildings will not be available". Knowing the state as well as I know them, I know that sentence is completely inaccurate if its taken outside of the context that this day and this time, and I was curious as to why that sentence is in the letter because this agency can't speak for other agencies of state. Nor can it speak for future directors.

SHALER: I'm sorry, I'm not understanding exactly what sentence you're referring to.

FRY: It says: "State funding for improving or managing the buildings will not be available". And, that sentence is not accurate.

SHALER: At the bottom of the first page there?

FRY: I'm sorry, its in the same paragraph as my first part of the question is. It says: "State funding for improving or managing the buildings will not be available. That sentence is not accurate.

SHALER: Well, not out of context it wouldn't be accurate but within the context of this letter, yes, it does reflect the departmental stand that it wouldn't be available without being deemed of statewide significance. Does that clarify?

FRY: No. I guess I was getting to the fact that this is only one agency in the state; its not the governor saying....

SHALER: Right. This is only the Parks and Recreation Department.

FRY: Right, and it says state funding leads one to believe he's speaking for other agencies besides his own.

SHALER: Well, that certainly wasn't the intention of the letter.

YOON: I don't think so Peter. I think its in the context of that department.

FRY: Okay. I didn't take it in the context of that department because it wasn't who the department was speaking for.

The last question is, can you give me an example of something that is of statewide significance that we can have more specificity?

SHALER: I'm not a representative of SHPO, which is the State Historic Preservation Office, but some of the things that have come under statewide significance, to the best of my knowledge, would be for example, we do manage the French Glen Hotel in eastern Oregon; the Wolf Creek Tavern; those sites are of statewide significant. Now, you would have to talk to the State Historic Preservation Office and get more information about those conclusions were reached and how this case would be compared to that.

YOON: Commissioner Fritz.

FRITZ: Mr. Chairman, very briefly, and for Commissioner Fry, this is not new to this process, Commissioner, that when this issue first came before us the whole question of Bridal Veil had gone before the State Preservation, had gone through the process, and number one, was not found after it went through the process review...

FRY: Commissioner, I think it would just be better if we did not debate it because...

FRITZ: I'm not debating it, Commissioner Fry, if you'd let me finish.

FRY: Right. But you're.....

MIXED VOICES.

FRITZ: I'm just saying that this process is a part of the record.

YOON: We can move on, we can move on.

INGLE: I've got a question.

YOON: Commissioner Ingle.

INGLE: I was just curious. Your letter was the only letter that made reference to proposed amendments by the Trust for Public Lands. I'm assuming that TPL was going to share that with us, but, did you have an opportunity to look at those amendments?

SHALER: No, I haven't seen them.

INGLE: Okay. So you have no idea how long the State Parks Department has had an opportunity to review that information?

I'm trying to get some idea if the recommendations have been floating around for a week-and-a-half and we haven't had a chance to look at them.

- SHALER: Well, my understanding is it wasn't around for a week-and-a-half, but I couldn't say that for sure. I personally have not had a chance to review those.
- INGLE: Okay. Like I said, I was curious.
- YOON: Are you saying that you'd like to see what the inputs from the Task Force were, from the various groups?
- INGLE: Apparently there must be a minority opinion of what the Task Force had to say. I assume it was offered by the Trust for Public Lands, but I haven't seen anything.
- YOON: Thank you.
- LEONARD: Excuse me. I have a question about the letter, the May 3rd. The paragraph next to the bottom of the first page states: "Our interest to the mill site, as an adjacent landowner to the west, would be to pursue the potential of providing public access to Bridal Veil Falls from below the falls." As I recall from the earlier hearing, that was one of the objectives of the Trust for Public Lands was to provide a public park site below the falls with access more convenient to the scenic highway and a better view of the falls. And then, the next sentence says: "Access through the mill site is too costly because of the needed rehabilitation to eliminate visitor and possible environmental hazards." Are we to take that to mean that the State Parks is not interested in getting involved with the property in question here, as a potential park?
- SHALER: It will, and this is real consistent with what we said during the Task Force meetings as well, given its current state, the property's current condition, and the extreme hazards that do exist at the site, it isn't feasible for us to take on that site with those kinds of hazards intact. In other words, we wouldn't want to manage that site given the safety issues that currently exist.
- LEONARD: If somebody cleaned it up for you, built a park....
- SHALER: That would certainly be a different issue to consider.
- LEONARD: You would consider that as something you'd get involved in then?
- SHALER: Sure.
- LEONARD: That was very important to the consideration of these conflicting uses. It appears from this statement that State Parks is not interested in the property.
- SHALER: As it stands, that is true.
- LEONARD: Okay. Thank you.
- YOON: Any other questions for the representative of the Oregon State Parks and Recreation Department?
- Thank you again.
- SHALER: Thank you.
- YOON: Any other questions of the authors of these six letters?

Why don't we move then, to ask those people who are in support of the adoption of the Goal 5 Inventory _____ for Bridal Veil.

11

Do you have a representative from the Task Force?

MATHEWSON: Mike Boynton, from the Forest Service, was going to present the Task Force recommendations, discuss their report, how they reached their conclusions.

YOON: Thank you.

BOYNTON: Members of the Board, my name is Mike Boynton. I am a representative on the Bridal Veil Task Force, appointed by the National Scenic Area Forest Service. I'd like to make it clear that the presentation this evening is not a representation of the official position of the National Scenic Area Forest but rather as a member of the Task Force.

Excuse me. 3351 D. Street, Hood River, Oregon.

First I'd like to give you a summary of the conclusions of the Task Force, then I would like to take you through a summary of the program of the Task Force finishes deliberations with.

Issues of significance aside, we are presented with the task of attempting to identify in what fashion to deal with the structures remaining at Bridal Veil, against the charge that the Board of Commissioners gave the Task Force in its finding of significance as a general site. The conclusions of the Task Force were these: First, that Bridal Veil, at least the structures at Bridal Veil, some of them, be partially protected by eliminating conflicting uses, which Sandy earlier addressed under the 3.C. designation. And, in addressing this we broke Bridal Veil into three areas, essentially; well, actually four. First was the mill flat itself; the second area, the specific locus, or the specific site of the post office; the third area was the cemetery; the fourth area were the remaining residential structures.

Now, lets start with the cemetery. We concluded the cemetery should be protected because of its potential for interpretation and direct tie to the area, and there was really no debate on the Task Force over their recommendation.

But we had fairly long, spirited discussions on the significance of the post office. And, the area in which we did reach some consensus was at the postal service and the postmark were significant to that area, and that the postal services should be retained somehow, in the town site. Whether at that specific location where it is in use today or in some other area in the immediate vicinity.

There was consensus in that the preservation and renovation of the mill buildings, present down on the lower flat adjacent to the railroad tracks, was not an integral component of the significance at the Bridal Veil site, recognizing their advanced state of deterioration. And the practical difficulties in reconstruction and renovation of those buildings. It was a pragmatic and practical concern there.

Moving to the residential unit was the area that really gave us the most difficulty. We recognized that we were dealing with an area which had been given local historic significance by the county, and so we had a significant site but the question we had great difficulty and no consensus with was how to treat the structures remaining within that site.

We did reach consensus on one item, which is house No. 20 on your map that is in your briefing document. It was found not to have, at least determined by the Task Force in our recommendations, not to have the same or any historic value in comparison to the other houses due to what appears to be recent construction and fairly extensive modification.

The greatest difficulty we had was with the remaining buildings. Lacking in depth research on the buildings in terms of their periods of construction, people they were occupied by, etc., we didn't really have the tools, we felt, to make a building by building evaluation of significance of each individual structure. I just lost my thought.

YOON:

I've been doing that all evening.

BOYNTON:

Its terrible when you lose one of those.

Anyway, we were unable to really grapple with that question but it became apparent that ultimately, whether we were dealing with 1 significant house or 17 significant houses, or 14, whatever the number may be, we would have the major problem would be in financial support and sponsorship of any type of rehabilitation effort. So rather than focus on the exact buildings, we decided rather to look, or to recommend opportunities of funding and sponsorship being explored and then the level of sponsorship would in some way determine the level of interpretation and, in relationship to that, the number and types of buildings to be restored and rehabilitated.

So that essentially brings us to the process that, or the program, as noted on page 3 of the Goal 5 Inventory. I'll read through this briefly: First of all, the recommendation that the mill sites may be removed as may house No. 20. This would allow a major site of the mill site to become available for other uses, such as, well, other uses that may come about.

We did recommend, however, that those buildings be documented, if not to exacting _____ standards one would find in a more complete structure, certainly in medium format photography and some general measurements that would allow some tangible record of those structures to be preserved.

Second of course, was that the cemetery should be protected and opportunities sought in the local community or through local educational institutions to pursue documentation and interpretation of the cemetery itself.

We felt a reasonable amount of consensus in the group that the postal services should be retained in the area; possibly relocated to one of the other houses, should another property be selected and rehabed for future use.

And that the remaining houses and the church and the community hall should be retained, while the process recommended by the Task Force group is pursued. This process is primarily revolves around the finding of, or the search, for sponsors and financial support.

Question was asked earlier about demolition should not be allowed unless good faith efforts were made.

CHANGE OF TAPE.

BOYNTON:

....continue with this process while reasonable remedies were being exhausted.

Mixed voices.

BOYNTON:

Okay, I'm going to give you a different interpretation _____.

We did recommend, as with the mill buildings, that photographic and other documentation be undertaken on those structures in the event they are not selected for renovation or use in some other fashion. That would in essence be the last tangible record we would have of those buildings should they be taken down.

And finally, regardless of what happens, that if, on-site interpretation should occur to inform people as to what was at this significant site, should the buildings themselves be removed. And, if some were not retained in place to be used in interpretative context.

I'd like to lead you the flow chart, if I may. I haven't a page number but its the only flow chart in that package.

Now, this flow chart, in essence, represents the resting place of the Task Force. If its not a process of consensus, its certainly the resting place or the point at which we realized we could not go further with the Task Force.

I'll begin at the upper left. Recognizing that stewardship, or sponsorship, of the buildings at Bridal Veil would be required, the first goal in this flow chart would be to identify potential stewards, or future owners of the property, that would be committed to some type of management of the buildings. And the intent is that by the end of the year, not to extend this to any great period of time, but, to contact all the potential stewards and to find if they have an interest; the goal obviously being that if there is an interest we'll find that now; if there is no interest lets find that also, because the presence of or lack of interest will determine the course in which we'll have to go out there. Should no interested stewards be located and no interest of future sponsorship of retention of any of the structures at Bridal Veil be expressed, then the Task Force recommends that demolition be considered, provided that the documentation of the buildings is effected in order to preserve that information. On the other hand, if, or there's another step here also. This process would be contingent upon TPL's willingness to continue on with this process while stewards are being searched for. And, it was felt, frankly, that if this process were being rejected by management at TPL, then for all practical purposes this is not expedient to continue on and go right into the phase of documentation leading to the eventual removal of the structures.

However, should TPL agree to proceed with this process, we would proceed and with the potential sponsors in hand, we would proceed with documentation on down to identification of the specific partners and funding opportunities, 7/1/94.

It was felt that a year would be more than enough time to get at least a lead on potential funding, recognizing that public agencies cannot, who are working in the present fiscal year, cannot make commitments in this fiscal year when they may not have the funding.

Recognize again, that if no potential partners or funding were to be found we would go into a documentation/demolition phase. And if funding were not available we would wind up at the same spot.

In the best of all possible worlds, if sponsors were found, the present owners were willing, and the money were available we could eventually wind up in a restoration, interpretation, and management partnership. And, that would be culminated by the acquisition of the property by a steward

willing to do this. Recognizing also that if the buildings that the buildings are documented and removed we may eventually wind up in ownership by a party other than the present owners.

I would like to, it was specified in the report, page 3, proceeding flip chart, that the bottom line is that if there's no funding committed for restoration by 7/1/95 the buildings can be demolished.

In talking with members of the Task Force and with Staff, the tie of the demolition to the 7/1/95 date is an apparent but not a real tie. The intention was to have the demolition option floating between 7/1/94 and 7/1/95, in there, it doesn't have to be specifically a tie two years from now. If all other options are exhausted, partners can't be found, and funds can't be found, then recognizing the real world we proceed, we would recommend anyway, to proceed with documentation and removal of the program.

That concludes the remarks I have. Are there any questions?

YOON:

I bet there are a lot.

Commissioner Atwill.

ATWILL:

I just wanted some clarification. You mentioned earlier that there was a goal of these interpretative means, at a minimum, some sort of interpretative thing on the site. And what does the Task Force think about it? What do they envision in terms of being interpreted mean?

BOYNTON:

I'll give you the range. At the low end we considered as an option postems, kiosk or billboards and outlines on the ground as to where structures once existed, in an attempt to explain the relationship of that structure to the history. At the high end we could have a, it was discussed that there could be renovation of two or more of the buildings within the mill site, either down at the worker's row houses or a selection of buildings from both the worker's row houses and the upper level management adjacent to the historic highway, and everything in between.

ATWILL:

Right. Okay. In that case, then, did you have any thoughts on the Staff's recommendation which, in my opinion, doesn't really set forth clearly that interpretation at a minimum should be guaranteed or provided. You know, like the billboards, the low end of things. I didn't really see that in the Staff.

BOYNTON:

We did discuss the specifics of interpretation and frankly decided not to deal with that. We felt that if we were capable of dealing with the specifics of interpretation we should be able to deal with the specifics of building by building significance. We just didn't have that information.

ATWILL:

But you did support those options, it sounds like?

BOYNTON:

We support the options, yes.

YOON:

Commissioner Leonard.

LEONARD:

Yes, Mr. Boynton, you mentioned that you didn't have information on the historic significance or details on the buildings. Did you have the record that was presented to the Commission last Fall available for your Task Force? There was considerable documentation on the buildings and what they've been used for and so on. The county's consultant had assembled a lot of information, the Forest Service had a lot of information, so there was a lot of information available. Was that used by your group?

BOYNTON: We did have the information available to us, these reports for both the Trust and for the Crown Point Historical Society, as well as Bill Carr's report. And we did not discuss those at length. We came time, on more than one occasion, we would approach the buildings specific significance question and immediately start to pull apart. It was a very divisive issue for the Task Force.

LEONARD: I recognize it was a contentious issue.

In the recommendations on the mill buildings that there's a fire pump building that's just kind of down in the bushes at the west end of the site. Was it the intention of the Task Force to include the fire pump building with the other mill buildings, that felt it would be best to have that building removed also?

BOYNTON: That's my recollection. Yes.

LEONARD: _____ had a number on it?

BOYNTON: No, it does not and it has some problems, as with the mill buildings themselves and facing liability _____ problems.

LEONARD: Okay. The Task, the report mentions that other uses might be allowed if the buildings were demolished. Was there any discussion of what range of other uses might be considered? That might be appropriate? Other uses such as a public park, an active sports field....

BOYNTON: Yes. The idea was to free-up that lower area for those other uses.

LEONARD: Not for any specific uses?

BOYNTON: No.

LEONARD: Okay, that's all I have at this point.

YOON: George.

DOUGLAS: I have several questions. First of all, on the mill site itself, it appeared to me in looking at the building that it had been moved from a previous location. Is that the case or do you know? In other words, it wasn't originally on this site that its on now. The mill building itself.

BOYNTON: Well, I do not have any information on it myself. Its my recollection that it was built on-site, but it could be an error.

DOUGLAS: It didn't appear to be. I don't remember whether it was but there was something on there that told me it was moved on there. Things didn't jibe; things weren't right; it had extensions on it and such as that.

BOYNTON: I think that's largely a case of structural deterioration of the support of the building.

DOUGLAS: And are you aware of what the post office building was? Prior?

BOYNTON: The best information we have is that it was a first aid station that was relocated up to the present site.

DOUGLAS: The post office employees that I talked to in there heard that it was a tool shed for Union Pacific, and she showed me with a pencil, layed it down,

both from one corner of the office to the other, if that far out, and I was just wondering if you thought that was enough, a good enough building to preserve.

BOYNTON: We did not have a great deal of disagreement over the significance of the post office. We felt that it was interesting, but my recollection and I'm sure I'll be corrected if I'm wrong, but the building did not demand preservation. That a more suitable location for the post office could be found.

DOUGLAS: The houses that Commissioner Leonard and I went through, we didn't go through all of them, but a lot of them, they showed quite a bit of added structure onto them, for one. Number two, I noticed a lot of them with aluminum window cases, such as that, which is not historical when it comes down to it. Number three is that they had a bunch of particle board in there which, at that time, was definitely not part of it. At the time I questioned whether it was really historical or not. I still do. The part that I considered as historical would be the layout of the town itself. Without being able to restructure the whole unit of the houses, it really to me loses all its identity, if you can see what I'm talking about. I'm questioning whether there might be enough funds to restore all that with original conditions, which if it isn't aluminum housing on the historical society, you know, with aluminum windows, its not something historical and should not be in there. I question very definitely whether that should be historical mode. The only other thing I can say is that if it were divided on the roadway, if you'll notice on your map, with only building 22 on the outside of that, if that could be split to where the rest of the,...if you'll notice where house 18 is, if that roadway there, if everything to the west of that could be split off and only that beyond to the east of that be considered as a historical site, and then the rest could be proceeded to whatever use was determined. Has that ever been considered?

BOYNTON: I'll work backward from your most recent question. How big, I don't have the map in front of me. We discussed house 18 and 22 at length during at least one and a half of our meetings and there was quite a bit of debate over the remaining integrity and the potential for reconstruction and interpretation in the future. And it was felt that, the arguments went back and forth but it was felt that either one or the other of the houses could be suitable if they were selected. However, each would require fairly extensive remodeling, construction, and renovation, as with the remaining row houses between the church and the cemetery. We recognized that the physical integrity of these buildings is suspect and that any interpretative effort would not be the preservation of outstanding examples of the mill town building as it survives today but rather they would represent the buildings of a mill town required in their locational context, as you pointed out. And they would require renovation. Double-hungs would have to be put back in, roofs have to be replaced, the repair work would be fairly expensive both on the exterior and the interior. But the point was that if an interpretative effort were attempted out there the buildings would be used to give the feel for the area as opposed a return to whatever period of time in the last 80 to 100 years these buildings were occupied, because they would have changed over time too. And its always a question of what era does one land in.

DOUGLAS: There has been no suggestion then, or there could be no way that area to the west of the roadway there by building 18....

BOYNTON: We discussed that.

DOUGLAS: You discussed it but got no conclusions?

- BOYNTON: No. It would be a toss up as whether the group would go with building 18 or 22. If they had their choice it was recommending that row does represent a logical boundary.
- DOUGLAS: I'm afraid it was my vote that threw this into this process. I'm very concerned that, I was told that in six months it would go one way or the other, now it looks to me like the period of time is not six months but two or three years and six months. I don't like to see that time determination for the whole process. Maybe its needed for the houses themselves, but without the renovation of all the houses to keep it in context, I think it would be worse than ever.
- YOON: I've got a couple of questions George, if you're finished.
- DOUGLAS: Go right ahead.
- YOON: You refer constantly to a possible or potential steward. I notice on the Bridal Veil Task Force there's one federal agency, two state agencies, and three private non-profit _____ Trust for Public Lands. Does any of those indicate that they would be a financial steward?
- BOYNTON: At the time this report was prepared, we did not have an indication from any of those agencies, but as you are aware, since this report has been submitted by the Staff, those opinions have received.
- YOON: Okay. And that's basically these six letters we're talking about? Okay.
- BOYNTON: If nothing else, the process was intended to smoke out potential supporters or definitely those that were not supporters.
- YOON: Second question I have to ask, and maybe you can't answer this, in looking through this flow chart, essentially it says that between and December 1, 1993 a potential steward will be identified. Did the TPL agree to that? Give it a six month period of time that one would be identified agreed upon? I'm just asking, I mean, I'm just kind of reading here.
- BOYNTON: Yes, at the time of our last meeting they said they did not object to those dates.
- YOON: Okay.
- BOYNTON: Excuse me. I would wish to clarify that they had to go back, at least the TPL representative, did have to go back for further direction. And that was the point at which we left our last meeting.
- YOON: A couple of other questions. When it mentions several times about archaeological questions, are we talking about archaeological investigation of anything prior to the site being a mill or just up to the point of it being a mill? No. I'm talking about historical. I mean, is it the intent when that term is used that you're going to go back and see if it was an Indian burial ground or anything was used prior to it or are we only dealing with that period of time that in fact Bridal Veil was a town?
- BOYNTON: What one what would have to consider prehistoric as well as the known historic materials there.
- YOON: Which would then abrogate this whole process about keeping any of the buildings. Right? I mean in my interpretation, my simple interpretation of things....

BOYNTON: I'm sorry, I don't understand the way you use abrogate.

YOON: Well, I was going to say, if you found something of historical significance that was of Native American significance or even of an earlier period of time, then you need to get rid of the buildings because you're building it on something of archaeological or historical significance. I'm just trying to get an interpretation of what the Task Force decided archaeological meant. From time period, because I think its kind of important to know that.

BOYNTON: No, we didn't deal with that directly.

YOON: Okay. Well, then, in point 4, you're talking about the remaining houses and church/community hall. Just to jog my memory, which of those are occupied anymore?

BOYNTON: None of the lower houses to the north between the road and the freeway are occupied.

YOON: Okay.

BOYNTON: The, excuse me, if my memory serves correctly, 12, 13, 15 and 17 are occupied. My memory is 75% accurate.

YOON: Okay. And then the others are abandoned or not being use or...?

BOYNTON: Or vacant.

YOON: Or vacant.

Just one last question, and Staff can even answer this too, when we talk about the economic consequences of this process do we take into consideration the present land owners economic impact also? Can anybody answer that question for me?

MATHEWSON: I'm fairly certain in all the research I've done it says no, the economic impacts to the landowner should not be a consideration in whether it should be preserved or not.

YOON: Okay. Thanks.

Commissioner Fritz.

FRITZ: I don't have any particular questions of the representatives of the Task Force but I do want you here and I just want to make sure before it gets lost later, I along with Commissioner Douglas was one of the people who changed his votes in order to move this process along, and I just want to express my appreciation to Mr. Boynton and to the Task Force. I do understand and I understand the number of meetings, the amount of time, the amount of effort that goes into this process in order to try to reach consensus. Quite a few of the members of the Task Force had, well lets say they had passion, there was some passion involved, and I appreciate all the members of the Task Force and the process. That's all the comments I had to make.

BOYNTON: Thank you.

YOON: Commissioner Ingle.

INGLE: I don't really have questions necessarily, but I kind of wanted your feedback, comments, that as a representative of the Task Force, I don't

know if you're aware of it or not but we have several letters in front of us, in particular one from the Parks and Recreation Department and the other from the Oregon State Highway Department, National Forest Service, both of which suggest that funding may not be available for the preservation program that you've outlined in your flow sheet. Now, on your flow sheet, I know just as an example, you've listed four. Well, two of those are the ones we got letters from indicating that there was no funding available. I'm wondering, it seems like that creates a rather difficult situation for whoever, to identify you've already eliminated two of the four that you thought were the most possible candidates. What's your feeling on that? Do you think that perhaps funding might become available at a later date from these two agencies, or are we going to have to do some more creative financing, or property tax?

MIXED VOICES INAUDIBLE.

BOYNTON:

The objective of identifying potential stewards was to frankly, to get them to take a position, and to get on with this process, recognizing the frustration of a drawn-out process. We had on here a deadline of the end of the year to complete this. If it can be accomplished prior to that, so much the better, one way or the other. The idea was to get on. I can't speak for the state. Speaking for the Forest Service, you're aware of the difficulty we've had in obtaining funding for the interpretative center _____ as with others, and we don't have anything in the works for fiscal '95 and fiscal '96 budget is already in Congress, so the outlook in the next few years is not good. And it was stated early, I think in my recollection prior to the Task Force process, early on, that the Forest Service was not interested in acquiring property with buildings on it. However, it was just necessary to make sure we reiterated that position.

INGLE:

You know, the difficulty is everybody wants to preserve it but nobody wants to fund to preserve.

I guess the other thing, the other question I had was one of the central features of the community is the mill, and the recommendation is to demolish it. I'm wondering if we lose any significant funding advantages by eliminating the mill. I mean, we still have a logging community, a mill community, without the mill. Its like a fort without a fort. I'm just wondering if that creates any additional problems in terms of fund raising. How significant is the mill to attracting potential funding for the project? I mean, basically what you're asking for now is funding for restoration of home sites, which were at one time an integral part of the community but the central feature is no longer there.

BOYNTON:

I believe the generic idea was to renovate one, three, or more of the houses to interpret the history of the Bridal Veil mill site and the area in general as opposed to specific operations of the mill, recognizing the mill that the mill is gone and it wasn't possible to replicate it. We were looking at the limited or the renovation of a number of the houses, whatever the number may be, to talk about the general history of the area. That's about as direct an answer

INGLE:

It wasn't really a direct question. I guess I'm a little troubled about this whole funding issue because its becoming more and more apparent that perhaps the funding is not there and that we're really beating a dead horse, and that maybe its already been pre-determined, the decision for the site, I don't know; I'm just throwing this out.

BOYNTON:

That's a question that must be addressed.

INGLE: Yes, because I'm pretty much coming full-circle in my original thought

YOON: Commissioner Fry.

FRY: Just to get through this. Essentially the Board of County Commissioners said there was history there, and that you as a Task Force went out to look at the artifacts that were left to determine if they were worthy of saving in terms of the history that's there. And, as I understand your report, I just need to get a reality check to see if I understand what you've said. You said that the warehouses in the mill buildings as artifacts are worthless because they do not in any way say anything about the history there, therefore they should be removed. That's what you said in here. Right?

BOYNTON: No. We took the position that the integrity of the building was so compromised that it would be impracticable to repair them to the point to which they began. It was a pragmatic consideration.

FRY: Okay, good. That is different and better. Okay.

Second is on the post office, what you said was that the post stamp is of cultural significance but the post office is not historical and that the building should be demolished or relocated, but the cultural significance of the post mark should be retained. Is that basically what you said on that?

BOYNTON: Yes. One minor correction. We felt that the postmark was a socially significant...

FRY: Socially.

BOYNTON: As opposed to a specific culture.

FRY: Okay, moving on to a

BOYNTON: But, that also the building itself, we would prefer that, it would be nice if it could be used in its present location but did not preclude relocation if necessary.

FRY: Okay. I've just got two more.

So the cemetery, you determined, is of historic significance and should be retained?

BOYNTON: Yes.

FRY: That's simple. INAUDIBLE.

Now, as far as houses, what you're saying is that it would take a billion, one \$1 million to \$1.4 million to restore all the houses or just some of the houses?

BOYNTON: Excuse me, _____ that figure.

FRY: This is page 4 of the Staff Report.

BOYNTON: I see. To bring all, it states that to bring all 14 houses to code it ranges from \$510,000 to \$800,000, which is a range of 36.5, excuse me, \$36,400 per building to \$57,000-plus per building. That's to bring it to code. Complete restoration estimates range from \$1 million to 1.4, which would be \$71,000 to \$100,000 per property, and this would be restoration to period. Which, whatever period that is, 1900, 1910, 1920, 1930.

- FRY: Okay. And then the 14 houses, the houses that are not included in this 14, you determined, are not worth dealing with at all. Because there's, and that's a little confusing, because there's 22 structures and 14 houses. I'm assuming some of the structures, I'm assuming 8 of the structures, you mentioned 2 of them, are not really there or something?
- BOYNTON: I'm a little confused.
- FRY: Okay. I don't want to get side-tracked. Its not that important I don't think. Its just, I'm trying to get a handle on what's really there.
- BOYNTON: I'm going to take a chance here and state that those are houses 2 through 22, excluding 19 and 20.
- FRY: Okay. And you said 2 should come down because the white house is not significant and the other one was a blight or something.
- BOYNTON: Excuse me,
- MIXED VOICES, INAUDIBLE.
- FRY: Twenty is blight.
- BOYNTON: Twenty we felt was the house that's relatively recent construction.
- FRY: Okay. And then just the last two, just to help me understand it, is there any other structures that you found when you were doing your work that we have not included in this summary?
- BOYNTON: I don't, no, the consensus is, no. I didn't see any nodding, just all shaking their heads.
- FRY: Just to understand this stewardship thing, the way I understand it is, you're saying we don't have a \$1.4 million and no one is coming forward with \$1.4 million, and so your solution is to essentially get commitments from people to essentially protect certain structures, starting with the structure of the highest priority first, because people would want to protect that one, going down to the lowest priority structure. In a sense of fund raising, especially trying to raise \$1.4 million, but your stewardship is a way to get at that?
- BOYNTON: We did not get that specific. We were looking primarily for potential owners and then for funding sources. We did not get to that level of specificity.
- FRY: It just seems to me a logical thing, you can raise a million four so your going out and trying to raise pieces of this by getting stewardship of the most valuable buildings first and then have the others buildings fall off because no one has found to _____ them.
- BOYNTON: In a sense. Recognizing that is we could only come up, if only \$200,000 were found, one option would be to go for low-ball cost estimate and try to bring three or four buildings up to code.
- FRY: Okay.
- BOYNTON: Or beyond.
- FRY: I see, but you'd make that choice in the future?

- BOYNTON: It could be made.
- FRY: Okay. The last thing, and this is what frustrated me all along, counting some background and some archeology, its just a very little but some of the great sites on this planet were discovered by satellites looking at trails crossing on the desert, no evidence at all, and when they start to study those sites they find incredible wealth and riches left buried under the site; and I kept asking where's the flume, you know, where's, in your research did you find any like iceburgs pointing to little metal _____ at the dirt, or, seriously, did you see anything there that looked worth excavating or exploring further or were there any research done as to what might still be on the site that might be buried?
- BOYNTON: We don't have any specific research on potential archaeological clause; its on the site; there are some interesting areas of historic material out through the weeds but its pretty well obscured by vegetation. There's no indication of anything in terms of prehistoric cultural resources within the mill flat itself.
- FRY: I'm speaking historic period only.
- BOYNTON: Well I understand that there are remains of the flume, built over by the mill itself, but that remains to be discovered in a removal process, and it should be anticipated in case they are encountered.
- FRY: Yes, because we saw some pretty incredible pictures, up front of what it looked then and its kind of hard to, yes. Can you imagine....
- YOON: Commissioner Atwill. Your chance.
- ATWILL: I just wanted to clarify that it doesn't seem to me that this preservation process necessarily will go on for years. Right? If no stewards are identified by the end of this year, then, is it true that demolition could proceed pretty quickly after that? Based on this chart?
- BOYNTON: Lacking stewards, from the outset, yes. And that was the intent, to lock into a process that all parties could follow rather than just continuing to wrestle around this creature.
- ATWILL: Right. Could demolition even happen a few months into '94? I mean, if stewards aren't forthcoming?
- BOYNTON: If, its an option. Its a real option.
- ATWILL: INAUDIBLE.
- BOYNTON: One of the other members of the Task Force may wish to speak to that but the way this process is defined if no stewards are identified and none are likely to be forthcoming, then it doesn't make any sense to wait for another six months.
- ATWILL: Right.
- YOON: What does that mean, "no steward is identified"? Its a real innocuous term to me. Do you have to identify somebody or do they come forward or...?
- BOYNTON: If we haven't been able to find anyone and no one has come forward.

- YOON: I mean, anybody could come forward. A private citizen could come forward and say they were stewards.
- BOYNTON: By steward we are looking at potential future owners of the property. Someone willing to accept and manage that property.
- YOON: So, when, would that mean that they would put up a bond or put a down payment down, or a letter of intent. I mean, I don't quite understand where anybody is at risk other than TPL, I guess, by, you know, by that.
- BOYNTON: We did not discuss bonding per se but we recognized that a public expression of intent by an agency would be a fairly significant commitment.
- YOON: Okay. Commissioner Atwill, do you have other questions?
- ATWILL: I guess one follow-up. Is it possible that TPL, as the agency that's checking into these organizations whether they will be interested in being stewards that they could make their good-faith effort sooner, you know, complete their good-faith effort before the end of the year. Is that possible?
- BOYNTON: I don't understand what you mean, by their "good-faith effort".
- ATWILL: To try and identify stewards.
- BOYNTON: Okay. The understanding of the Task Force is that TPL would not take the lead in looking for potential stewards to manage the historic, a site of historic context. It was understood that that was to be left to other advocacy groups than TPL, though it's not their specific interest.
- ATWILL: Who else is a better group that are doing this? Identifying?
- BOYNTON: I don't represent the other groups. Crown Point Historical Society could be one group; others could be identified through their outreach process.
- ATWILL: Thank you.
- YOON: Commissioner Douglas.
- DOUGLAS: And through this report I was reading it referred to private funding at all times. Most of the times that I read in there. Now, when you talk about state agencies you're talking about them taking over but not funding this. Correct?
- BOYNTON: One option would be for a public agency to acquire the property with the understanding that private funding and partnership would come along to do the rehabilitation and interpreting of the site.
- DOUGLAS: The reason I say that is private funding, to me, is the only way to go, and the reason for that is that they're cutting down our schools and I think our future. Is their's more consideration? Not that history shouldn't be kept; it should be preserved. But I still believe in the children's future. I think that's the way it should be.
- YOON: Any other questions of the Task Force? Commissioner.
- LEONARD: Mr. Chairman, I have a couple specific technical questions. On the flow chart on the next to the last page, when you go down the left side of the arrows, boxes, you get to after, or just before the 7/1/94, there's a 106 documentation (HABS, evaluation). That's a documentation, fairly technical process of taking pictures and measuring drawing. Over on the

right hand side where you go down to "demolition considered", there's a phrase "documentation required" but its not spelled out that it would be a 106 HABS documentation. Shouldn't we assume that that same documentation process would be done, whichever path if followed?

BOYNTON: Yes. We did have 106 over on the right hand side, it was deleted and it should have just as easily been deleted from the left hand side. It was an oversight.

LEONARD: Was it intended to not require the 106 documentation?

BOYNTON: At a level commensurate with the structures out there, recognizing we're dealing with Queen Anne buildings, or rather mill buildings that were of considerably less sophistication and may not require the level of Historic America Building Survey documentation that other structures may require.

I didn't answer that directly.

LEONARD: No, you didn't.

Do we want to get a good documentation or not?

BOYNTON: We discussed the documentation to be pursued and I believe that we discussed medium to large format photography and some measurements taken of the interior and exterior of the buildings for the record. But not full-line architectural drawings, no.

LEONARD: Okay.

BOYNTON: Like you would expect for the Pittock Mansion, for example.

LEONARD: In the existing use of the buildings, the church, as I understand it or recall from the earlier hearings, the church is leased to the church congregation that's using that building now, and they presumably take care of the routine maintenance. Are they not considered a steward for that building?

BOYNTON: They could be, but, I'd think that a continuance, at least, would be based on the willingness of the present owner to continue into the future.

LEONARD: Did the Task Force review that? Prospect of...was it an all or nothing situation that the whole property should be pursued by a stewardship group or was there a consideration of dividing the property; the historic house section taken by a steward and then the rest of it turned over for other uses; or the church taken under stewardship by the congregation and the rest of it demolished? Were those considered?

BOYNTON: We do not separate the church CHANGE OF TAPE.

...which included the church, was attempted.

LEONARD: Okay.

Was there any consideration, any other alternatives other than demolishing the buildings or turning them over to a steward for preservation and restoration? Other alternatives being boarding them up, fencing them off, and letting them fall into the ground, or burning them and letting the remainder be overgrown with brush for future archaeological investigation, or other approached to preserving the record?

- BOYNTON: No, we decided the buildings were to be removed. Either used for some further purpose, those which may be selected ____ all, or removed.
- LEONARD: And if the buildings are removed, then the site could be altered and disturbed and the building areas regraded for other purposes?
- BOYNTON: That's an option. Yes.
- Recognizing that at the low end of the building sites themselves, if there were interpreted effort mounted without structures, the low side, or the exact site of the other buildings could be interpreted blank spot and landscape. But, no, we recognized that if the buildings were not to be kept in place, not renovated and used, they should be taken down and removed.
- LEONARD: But the option of leaving the building footprint somehow as a historic record was an option considered?
- BOYNTON: That was an option considered. Yes.
- LEONARD: And was that a recommended option?
- BOYNTON: No.
- LEONARD: Okay. The Task Force does not recommend those alternatives.
- YOON: We have no other questions of the Task Force. Thank you for your work.
- BOYNTON: Thank you.
- YOON: We'll now hear testimony from those people who are in favor of adopting the Goal 5 Inventory worksheet for Bridal Veil as a supplement document. Are there anybody who would like to testify in favor of Staff recommendation?
- Assuming that most people were represented, were groups represented on this Task Force, we don't plan expanding the time frame more than the 10 minutes on both sides.
- GALBRAITH: My name is Kathy Galbraith, my address is 2128 SE 35th Place, Portland, 97214. Some of us filled out the testimony cards and assumed, I guess, that you would call on us in some order.
- YOON: I don't have them.
- GALBRAITH: I was a representative of the Bridal Veil Task Force and I suspect one of the reasons I was asked to serve on the Task Force was because I was a planning director and director of planning, building, and engineering in Oregon City for eight years and then went on to be director of an organization in Seattle called Historic Seattle, where we acquired, on three separate occasions, eight very deteriorated endangered properties, and secured \$5,000,000 funding to fully rehab those buildings for long-term future life.
- With all due respect, I think the questions that have been raised, I'd like to the Planning Commission to understand that, like all of you who were appointed by the Board of County Commissioners to serve a public function and all of you volunteered your time, uncompensated, members of the Task Force were asked to do the same for a variety of various areas of expertise that we all represented.

We followed the Board of County Commissioners findings that Bridal Veil was historically significant and we were formed to determine a level of historic protection that would be most appropriate in light of significance of the individual elements. And, therefore, we prepared the report and the recommendation that we were asked to, which offers a plan for a level of protection determined to be the most appropriate. And we did that. As the Staff, Sandy Mathewson, outlined, we had a total of seven, very contentious and long meetings; we did a site visit, and we wrestled with many of the issues that you've raised today.

I think its been made pretty clear in the Board of County Commissioners' findings that Bridal Veil was the oldest mill town in the state still in existence. And, we tried to approach the issue with a great deal of creativity, which was necessary. You also need to understand that a Trust for Public Lands representative participated in the Task Force, so I think some of our fights might have been a little different without TPL's participation, but what we tried to do was understand their objective of establishing a natural area recreational source and tried to combine that goal with the preservation component that the majority of the Task Force members felt was important and appropriate.

The Task Force, and I as a representative of that, believe that Bridal Veil deserves the opportunity to have the interested parties that may be willing to come forward to make every effort to achieve the preservation goals and objectives. And, we recognize that the Trust for Public Lands is an interim land owner and a lease holder and it was made pretty clear to us that they really have no interest in building management and maintenance. They made that pretty clear that they are a natural area protection, non-profit organization.

Therefore, we defined a process where a public agency might potentially be identified as the owner of the site, with potential building and site management by another entity like a non-profit organization or concessionaire like the entities that manage the French Glen Hotel and the Wolf Creek Tavern for the State Parks Division. They, the State Parks doesn't operate those facilities; they own them and they're in fact, operated and managed by other concessionaires.

In terms of some of the amendments issues that were raise, I think a number of us were surprised to see the letter from State Parks. The Task Force concurred on the report that you received and what we determined at our last meeting was that if any Task Force representative wished to propose what would be considered substantive changes to the report, that the entire Task Force would be called back together to consider those. And, I do assume that the Trust for Public Lands has differing opinions from the majority of the Task Force report and I suspect I'll hear what those opinions are this evening.

The Task Force didn't and doesn't anticipate that the county, that Multnomah County, that State Parks or that any federal agency would or will take on a substantial preservation agenda with its own funding in and of itself. And, just like TPL needs to seek a federal appropriation to have that land acquired for public use, any preservation component might need to have, if there's going to be federal money involved, that same sort of effort made. And members of the Task Force, myself included, are willing to pursue those strategies that we identified.

We all know that there needs to be commitments of funding from other sources, which is why we went on to one step further and we identified a

substantial number of potential funding source, which were not _____ as far as the report.

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We do all recognize, I think, that the buildings have not necessarily been treated kindly over time; they have some incompatible changes done to them over time, and we also recognize that buildings are almost always altered over any substantial course of time.

We feel that the Goal 5 ESEE Analysis and protection program warrants your recommendation and forwarding to the Board of County Commissioners. We hope that you won't make the mistake of determining that flats and signing is an adequate preservation option for a very significant resource in the Columbia Gorge.

We proposed a good-faith effort on the part of all the parties; we did not want to second guess what the Trust for Public Lands actions might be in response to this report. We recognize there is a public process which is any property owner's pervue certainly to make application for demolition. What we tried to do working sometimes in a divisive environment, we tried to identify a series of steps that should be taken, given the significance of the resource out there, to give that property, Bridal Veil community, an opportunity to remain as a historic site to be interpreted.

We were unable to make determinations and recommendations such as in response to some of your questions that you raised in your to Mike Boynton, that, what about identifying this resource to be undertaken and preserved by this group versus this group of buildings to be undertaken and preserved by that group. Because Trust for Public Lands made it clear they were not interested in staying as a long-standing land owner, leasing the buildings to anyone. And that was made pretty clear to us, and if anything, what it did was, I think, temper some of our recommendations with what I might propose as kind of in a sort of sense of reality about what we're dealing with here, which is an interim property owner that's long-term interest is in turning the property over to someone else, and like we understand the natural recreation area would be turned over to a public steward. We believe it makes sense based on TPL's stand on the issue that the portion of the site that has buildings remaining on it _____ be turned over to a public steward.

YOON:

Ms. Galbraith, you've used-up five minutes of the ten minutes allowed in support. I mean, if you have concurrence of everyone else that's going to speak in support, that's fine. I just thought I'd remind you.

GALBRAITH:

Okay. I guess in conclusion I'd just like to say the good-faith effort on the part of all the properties, both the interim and the current owners, Task Force representatives and the public agencies that have some potential involvement here, is an expectation that all of us have that it will work. Thank you.

YOON:

Thank you. Does anybody have any questions of Ms. Galbraith?

DOUGLAS:

I have one. The \$5,000,000 that was obtained for these houses up in Washington. Were those public donations; were they tax _____ or what?

GALBRAITH:

They were a package of funding sources. The three projects that I worked on were housing projects that used housing levy funds by the city equity investments, by limited partners, and a formation of an ownership under a limited partnership-kind of structure, and grant funds. I mean, fund raising is as creative as you want to get, and all of us recognize that there's going to be a great deal of creativity that's necessary because we all know there's no

single public entity with a wealth of financial resources out there and there hasn't been for a long time.

DOUGLAS: What portion of that would you say was government funding? What portion was private funding out of that \$5,000,000?

GALBRAITH: I'd say on each of the three projects the public's funding was less than 30 percent, on each of the projects. One project was \$2.4 million, one was \$1.4, and the other one was \$1.2.

DOUGLAS: So out of the \$5,000,000 then probably only \$1,000,000 come, or \$2,000,000 at most

GALBRAITH: Just a little over \$1,000,000 of the total of the three projects.

YOON: Other questions of Ms. Galbraith?

Thank you.

Further testimony in support of the Goal 5.

ROLLINS: Good evening, my name is Chuck Rollins. I live at 43010 Second Street, Latourell Falls, Oregon. I'm Vice-President of the Crown Point County Historical Society and I was also a member of the Task Force. And, I'd just like to spend a couple minutes answering a few of the questions that were brought up in a little more detail.

Our Society is willing to take on part of the stewardship for overseeing what happens to Bridal Veil. We don't have 1.4 million dollars but we have a lot of people who are willing to work on the project for free. And to give an example, at Vista House, Crown Point, that's mostly run by volunteers. You see the same thing happening at Bridal Veil.

As far as funding goes, our intention was never to go to a state or federal or local agency because we all know what the problem is getting money through the government right now. They don't have it. But, as a community and a historical agency, we're asking for a little bit of time to see if we can make this fly. And if we can't make it fly we can always tear the buildings down. But all we're asking for is a little bit of time.

During the Task Force, it was brought to our attention to the Trust of Public Lands if worse came to worse they would put a fence around the property and sit on it for 20 years. Well, nobody is asking that. All we're asking for is a little bit of time to see if we can raise the funds to find stewardship. And if not, then we can go on and take the buildings down. And, as a private citizen, I really don't see a problem with that. And I speak for the majority of the people in east Multnomah County, because, believe me, I've talked to each and every one of them and they stand strongly behind this project. And everyone is saying "Let's give it a chance". If we can't find the funding or the backers we can always tear the buildings down. But, we're asking for a chance. And that's all. Thank you.

YOON: Thank you, Mr. Rollins.

Are there others who would like to speak in support of the Goal 5?

Thanks.

BYRNES:

My name is Mike Byrnes. I live at 5430 SW Ames Way, Portland. I'm the president of the Historic Preservation League of Oregon and Al Staehli was our representative on the Task Force.

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Its unfortunate Al's not here tonight so he could answer some of your questions. So, on behalf of the Board of HPLO, I'd like to express our support for the Task Force recommendations. The Task Force represented a full range of professionals in the field of preservation as well as other interested parties. The preservation plan was well thought out and is fair and reasonable.

We recognize that the property owner is not in full support of this plan but since the property will eventually be placed into public ownership we feel that all reasonable efforts should be made to insure that the historic as well as the recreational values of the property are restored and preserved.

The HPLO also recognizes that for this project to be successful that a broad representation of organizations and citizens must join forces. The HPLO is willing to assist the preservation effort in any way we can.

Thank you.

YOON:

Its still open for anyone else who would like to speak in support of the Goal 5 process.

If not, we'll go to the other side of the _____ and hear testimony from those people who are in opposition to the recommendation by Planning Staff.

BECK:

Good evening. My name is Chris Beck, I work for the Trust for Public Land. Its 1211 SW 6th, 97204.

I have testimony here that is prepared rather carefully. I've cut it down to maybe 15 minutes. This is our effort to propose some amendments to what we are not we do not believe is the consensus that has been described on the Task Force Report. We actually feel that what we are presenting represents closer to a majority opinion on this report. I'd like to go over that with you....

YOON:

One minute, Mr. Beck. The people who spoke in support used up eleven-and-a-half minutes.

BECK:

I'd would like at least use some of the equivalent time that Mr. Boynton used to talk about the Staff's draft.

LEONARD:

If we need a motion, I move that we give Mr. Beck 15 minutes if he feels he needs it.

YOON:

I would just love to do that. All in favor.

BECK:

Okay. I'll try to speak quickly.

Tonight we come before you with the hope that your recommendation to the Board will provide the certainty we've all been looking for during the past two years.

I also hope that after hearing our testimony you will have a clear sense of the Trust for Public Land's objectives, or bottom line if you will, for the Bridal Veil property.

In addition to a few background comments I will be presenting some amendments to Staff's draft of the Task Force Report and Goal 5 Inventory, amendments which we think is a compromise, but which I believe more adequately records the position of a majority of organizations represented on the Task Force.

In a nutshell, we have four primary concerns with the Staff Report and Staff's draft of the Task Force Report. First, the cost of preserving any of the buildings; second, the identification of a capable public steward; third, for providing some certainty now as for which if any specific buildings, preservation efforts would be attempted; and fourth, the time allotted to resolve these issues. It is our belief that neither the Staff Report nor the Staff's draft of the Task Force Report adequately addresses these concerns.

Before I go into the specific concerns of the Task Force document, I want to briefly review how we got here. Our position has always been that the buildings at Bridal Veil are not historical. We acquired this property only after thorough review of all the available information on historic resources in the Gorge, including a 1981 parks survey; 1987 State Parks/ODOT survey; Multnomah County's existing Goal 5 inventory, including its 1988 update; the 1989 US Forest Service _____. With the exception of the National Parks Service survey, and in that case only one structure was mentioned in a cursory fashion, none of these public documents and their public processes identified Bridal Veil or its buildings as being significant. We acted in good faith in developing a plan for removing the houses, restoring the property to a more natural condition, and providing improved public access to Bridal Veil Falls, the national forest, as well as enhancing the natural environs along the Columbia River Scenic Highway.

We acquired the property, after presenting our open space plan to a private donor and securing a \$400,000 gift to assist with the acquisition. After our acquisition, and with the cooperation of the HPLO, we volunteered to conduct a historic resources survey of the property after local opponents of our park plans raised some questions about the historic potential of the buildings.

Our study confirmed the results of previous studies and indicated the buildings were not significant and did not merit restoration. All the buildings had significant modern alterations internally and many had hideous external changes. Many are quite dilapidated and according to both Selwyn Bingham and the county's building inspectors, it would probably make as much sense to tear down and build from scratch, given their current condition.

Finally, SHPO, the State Historic Preservation Office, validated many of the conclusions of the various studies by its indication that the Bridal Veil buildings would not meet National Register criteria.

After the county applied for Goal 5 listing last summer, we found ourselves enmeshed in the largely controversial process that this has become.

As you may recall, you wrestled strenuously with the whole issue of whether Bridal Veil should be placed on the county's historic resources inventory. You weighed the merits of our report and the Prohaska report which, if you remember, presented only a general history of the area, but did not occur on the actual buildings at Bridal Veil.

At the time it was questionable whether you had the necessary five votes to list the site. After prolonged deliberations, Commissioner Douglas and others, I believe, were persuaded to support the designation, provided that

the landowner would not be held up indefinitely with its plans. Furthermore, my recollection is that members of the Commission were quite interested in determining the costs associated with preserving the buildings, and, identifying a source of preservation funds. Finally, we came away from the hearing feeling that the Commission was hoping that the ESEE Analysis and task force process would be a mechanism to get the interested parties to sit down and work out some sort of compromise.

After your recommendation was delivered to the Board of Commissioners, I instigated an effort, in part from what I perceived as your wishes, that we try to work out a compromise, and work in good faith with representatives of the local building preservation effort. Our hope was to narrow the scope of the ESEE Analysis to study the six workers' houses between the church and the cemetery and the most easterly of the so called managers houses, excuse me, westerly managers houses along the scenic highway. This compromise was TPL's good faith effort to provide a substantive and focused discussion at the task force level, and to work on issues which we could seriously consider.

The HPLO which had encouraged and supported our compromise proposal, at the last minute opposed the compromise I had reached with the Crown Point Country Historical Society. I had a letter with letterheads of TPL, the Crown Point Country Historical Society on the same piece of paper, going to the Board. The Board rejected the compromise and directed the ESEE analysis to include all of the buildings on the Bridal Veil site.

Consequently, the discussions we had at the task force meetings were not terribly focused or organized. While we had hoped the discussions would have focused on the cost and future management issues for a select few buildings, we had broad ranging discussions on historical context and lofty preservation schemes, most of which led to irresolve.

TPL's position has been all along that we want to remove all of the buildings. However, the Task Force discussions have brought us to a point where we were willing to support the preservation of a few structures under certain specific conditions, as a gesture of good faith, though we still have received no credible evidence that any of these buildings are historically significant.

As hard as we tried to find some middle ground during the meetings, this effort was thwarted by a few members of the Task Force who felt that all of the residential buildings at Bridal veil deserve an opportunity for preservation. No compelling rationale has been articulated. Just a feeling and a desire on the part of a few for TPL to take even more time, that we all take the time, and make the effort. We do not feel this sentiment reflects the majority of the Task Force, and it disregards the efforts to reach some sort of middle ground.

While we are on the subject of the Task Force, let me make a few observations about the process. As I had indicated, we had hoped that the ESEE analysis and task force process would adequately identify the costs associated with preserving the buildings. it was my impression from your previous discussions that one key piece of information you desired from the task force process was an accurate sense of cost. A review of the minutes of your November 16, 1992 meeting indicates that a number of you have a keen interest in determining the costs to restore the buildings. To one of Commissioner Douglas' questions as you were strenuously persuading him, Mr. Chairman Leonard, you responded, and I quote, "If the cost of preserving anything are found to be burdensome, too heavy, then they could get on with doing something else."

I had assumed that the county would make a greater effort to ascertain more refined cost information. I requested that Staff try to identify some funds to hire an objective specialist who could provide this information.

In the end, all we have are the figures from Selwyn Bingham, who we had asked to go out to the site in the Fall, and the county building inspectors. Mr. Bingham estimates anywhere from \$500k - \$1 million and the county estimates anywhere from \$800k to \$1.4 million, depending on the intended use and level of historic protection. These figures are extremely rough estimates and do not factor in such costs as asbestos removal, handicapped access, or such improvements as the restoration of the outdated utility (water and sewer) system.

In any event these rough estimates are significant, regardless of whatever use might be prescribed for the building. No matter how you look at it, these costs are unduly burdensome.

Moving on, I would like to present some proposed amendments to the Task Force document which Staff has drafted. We feel that the current document does not necessarily reflect a majority of the represented membership. This document and conclusions were never voted on, and rather reflects a number of issues that were discussed but not finally resolved.

In a nutshell, this is what we will support: Preservation of three of the row houses between the church and the cemetery, if 1) a capable public steward expresses a willingness to manage the preserved structures, and 2) funds for restoration and long-term management are secured by January of 1994. We feel this is a reasonable position and reflects a compromise position, not our first preference, not our second preference. It is something we have thoroughly considered and grappled with internally, and it was essentially what we proposed before the Task Force in various discussion, but again, never really resolved. We hope the Planning Commission will adopt this position tonight. If you are unable to, we must, after two long years, reluctantly, proceed on our own by going forward with our demolition permit, and if unsuccessful there, wait until the community or political bodies adopt a more reasonable approach.

Accordingly, TPL is submitting amendments to the Task Force report to more accurately acknowledge financial and management realities, and a time frame more in spirit with those realities. Again, these reflect our good faith effort to compromise. They also reflect the limit to which we are able to compromise, but they would also provide adequate clarity for our plans at Bridal Veil. These amendments have been reviewed by the US Forest Service, the Oregon Department of Parks and Recreation, the Oregon Department of Fish and Wildlife, and the Friends of the Columbia Gorge. I believe these amendments are acceptable to all of these Task Force members, and thus reflects a majority sentiment of the Task Force. I can hand these out now for you to go over if you'd like, or, I can, I've got a few other comments if I may. Its up to you.

YOON:

Keep on talking.

BECK:

Keep going.

There are four main provisions these amendments affect: again, timing, management, cost and funding, and certainty as to the number of structures acceptable for preservation.

The current document outlines a process and timeline by which a permanent management entity would be secured and during which funds for restoration and management would be secured. The current document calls for a two year time frame. This is totally unacceptable, particularly given the time that has passed since we acquired the property two years ago, and the lack of any restoration funding or management interest to date. Accordingly, we will allow until January 1, 1994 for a public steward to be identified and for restoration and management funds to be secured, again to preserve three of the row house structures.

The current document provides for a potential public agency to lease management responsibilities out to a private vendor. While we discussed this issue at one meeting, no resolution was reached. Under no circumstances could TPL support this sort of proposal. If these buildings are truly historic, then an agency should step forward, not some perhaps unknown non-profit with uncertain training, resources, and commitment.

The current set of recommendations are far too vague regarding the number of buildings to be protected. We do not think an adequate case has been made to preserve any of the buildings. Nevertheless, we are willing to allow three of the buildings east of the access road to be preserved if funding and stewardship issues are resolved in a timely manner. The so-called row houses, if preserved and used in the manner prescribed in the Task Force Report, would least impact our open space goals for the remainder of the property west of the access road and along the Scenic Highway.

Some members of the Task Force feel that there should be some flexibility as to the number of buildings which are allowed for preservation. However, we need more certainty than this and feel that a justification should be made to preserve a certain number of buildings. No such justification exists or has even been able to be articulated. No one has tried to nominate any of these buildings to the National Register and State Historical Preservation Office has expressed that the buildings would not qualify for the National Register. And the costs to restore any of the buildings would be too high to justify their preservation. It should be no surprise that no one has been able to come forward with a specific proposal, including costs, funding mechanisms, for preserving specific buildings.

Oregon Administrative Rules 660-16-010 says that to designate a resource 3-C, which Staff has recommended, "the jurisdiction must designate with certainty what uses and activities are allowed fully, what uses and activities are not allowed at all and which uses are allowed conditionally, and what specific standards of limitations are placed on the permitted and conditional uses and activities for each resource site."

To the contrary, Staff's recommendation to retain an "undetermined number of the houses (1, 10, 15?) places further uncertainty as to what we will be able to do with our property.

I will make one brief comment regarding Staff's recommendation. But due to limited time, I will not discuss the bulk of the Staff Report and Recommendations, but offer written comments to the record.

We are willing to support the Staff recommendation of a 3-C designation--again, as part of our good faith effort to resolve a contentious issue. We would prefer a 2-C designation and feel the record, or lack of justification for preservation, supports such a designation. Furthermore, if a 2-C designation could be made contingent on the temporary protection of three row houses, we believe that the 2-C designation is still appropriate.

However, if in order to accommodate our compromise proposal, a 3-C designation is necessary, we can accept that within the framework of our proposed amendments to the ESEE analysis documents from the Task Force.

In conclusion, that's what we are willing to support. An opportunity for the community to identify an appropriate public agency interested in managing the property, three of the road houses and a time to raise funds sufficient for restoration and management of the buildings. This should all be accomplished by the first of next year.

One final comment. TPL acquired this property only after reviewing all the documentation available, and then developing a concept for a natural park at the site and presenting that concept to two generous Oregonians who eventually donated \$400,000 in their son's honor to enable our acquisition to take place and our plans for a new public natural park to proceed, \$400,000!! For a public interest project. This entire process has done nothing but jeopardize future philanthropic gifts of this nature to public benefit projects. At a time when public money is scarce and acts of private philanthropy are so critical to the betterment of society, whether is the arts, human and social services, or the environment, we hope you will reassure future philanthropists in this community that gifts of this nature will not be made in vain.

We ask you to follow the guidance of the State Historical Preservation Office, the previous studies, and the concerns of the various Task Force members, and the realities of our objectives. We urge that you adopt the amendments to the Task Force report and revise the Staff findings and recommendations as appropriate.

Thank you.

I have copies of the amendments, but what I've done is sort of like a legislative document; I've deleted, crossed-out so you can read what the original was. I would love to have rewritten the whole thing but it was in, couldn't _____ done. But, I've tried to make this as simple as possible, similar to reviewing a bill at the Legislature. So, I have copies.

YOON: Before everybody else jumps in I'd just like to make a couple comments. You constantly talk about a majority of the Task Force. I've heard testimony from four members of the Task Force in support of this document and since there's only eight people on it I don't quite understand how we get the majority.

BECK: Well, I have a, I'm not saying that a majority are necessarily, we have not voted on any of these documents. The process for some reason was never set up to vote on things.

YOON: I hear your point, but I've heard four members of the Task Force out a number of four out of eight say they support the document.

BECK: Which document?

YOON: This here. I've hear Ms. Galbraith, I've heard a member of the Historic Preservation League, I've heard from the Crown Point Historical Society, and I've heard Mr. Boynton. That takes care of half the group.

BECK: Well, there were nine members on the Task Force, I believe. Was there eight?

- YOON: There was eight.
- BECK: Mr. Boynton is correct. Mr. Boynton does not speak for the Forest Service, first of all.
- YOON: Well I understand that but he speaks as a member of the Task Force.
- BECK: But the Task Force was composed of people who were intended to represent their organization's view point.
- YOON: That's okay. The other thing that I find, after going through this process for four months, is that TPL is still concentrating on whether the buildings are worth anything and without ever talking about the essentially historic value of the site itself. So, I'm kind of disappointed on no plan being put forth by TPL and any aggressive mode basically to be sensitive to that. Anyway....
- BECK: Well, we have a plan for the site.
- YOON: Commissioner Fry.
- FRY: Mr. Beck, as I know you, I know you understand process, and I'm wondering did you expect us to have a continuance tonight? Because Staff has not seen this; we haven't seen it. All you would have had to do was provide it to us ten days ago and it would have been mailed to us; and you've got to understand it is very difficult for us to take amendments from the, I mean the thing looks pretty weird, and so I was wondering, did you forget to get it to us in time or did you anticipate us having a continuance?
- BECK: I would not object to a continuance. Would
- FRY: When was this done?
- BECK: This was done in the past week. After receiving the final draft of what Sandy Mathewson had sent out, I called Sandy several days later. I had actually requested at the last Task Force meeting that we schedule a meeting. No one else was inclined to do that; they wanted to kind of go with this, and there was not any point in me trying to argue all of our concerns there until I had a chance to think through them with my organization. I hope the other members of the Task Force would have done the same. And, that we would have been able to come back to the Task Force for a final meeting and really hammer out good language. By the time I had called Sandy it was too late for that final meeting to be met by everybody. So, I went forward and started working on amendments. I think these are dated April 29th. When was that? Thursday I guess they were finished. And we spent a lot of time working on this.
- FRY: You have a right to an explanation; I know its sometimes difficult I just....
- BECK: Sure. I apologize for that. I wish the process had been better facilitated to really get at a more consensus sort of document. I mean, the document you have, the original document, its not well written. This is a legal document; its a very serious document, and its just there, you all indicated some concerns at the beginning of the hearing. There's a lot of vague language in here. I couldn't even begin to attempt to start....
- FRY: I've got three other quick questions.
- BECK: Okay.

- FRY: The first is a really quick answer, hopefully; when you say public steward I assume you mean public agency. Not a non-profit organization.
- BECK: That is correct.
- FRY: And, so, why, just a follow question, why aren't you, being a non-profit agency yourself then I guess your agency did Walden Pond, I think I read something about restoring someone's cabin; I mean, why do you not, why are you saying public agency?
- BECK: Well, the Trust for Public Land helps public agencies acquire open space, and historic properties I might add, which is Walden Pond and others. We help acquire properties and we convey it into public ownership; we are not long-term stewards of important public resources.
- FRY: Right. So why are you saying only a public steward? I'm trying to understand that.
- BECK: Well, we don't know of any non-profit organizations that are capable of taking on the management of this property. We feel in this case that a public agency is the most logical management entity.
- FRY: So its based on your knowledge of the market, not some other issue? I mean, its based on the fact that you're not aware of any other non-profit _____ that's capable of taking on the restoration of historic site and management of that site?
- BECK: There probably are some. I don't know if there are any that have expressed an interest or acted in the Gorge, or are actually doing this in Oregon.
- FRY: I just wanted to get it clear; there was not some thing underneath that; it was just that you don't think there's anyone out there.
- Okay. The second question I have is, this is supposed to be not a political process of compromise. Its my understanding its like an environmental assessment process to look at what is the value of this site; what artifacts truly represent the value, if any at all; and then, finally, what conflicting uses, since this the site has been determined as valuable in history, not in its artifacts but in its history. And, so in your familiarity with this what conflicting uses do you see? Specifically. Try to be very specific. I guess scenic would be one; just...
- BECK: Yes, that's a big one. Conflicting uses
- FRY: I just want a list, not priorities.
- BECK: That conflict, what sorts of uses would we propose?
- FRY: What uses conflict with the historic value of this site? If scenic is one of them...
- BECK: Scenic, natural, I've got a letter that was sent to me by the Department of Fish and Wildlife and comments to the amendments that we drafted; excuse me; Department of Fish and Wildlife state that their comments on these amendments; they think the amendments would go some way to minimize any impacts on fish and wildlife concerns.
- FRY: I was just trying to get at what

BECK: Views, natural vistas from the Columbia River Scenic Highway, views across to Cape Horn, water quality could potentially be improved by our a thorough restoration of the site, we've envisioned conceptually trying to get salmon spawning up the stream, Bridal Veil Creek.

FRY: Okay. I'm just trying to get a list of, because it, basically, I'm trying to take a step away from the political stuff too, what I think the state law is saying for us to do. And, the 3-C definition basically states that the site should be partially protected by conditions which minimize impact to conflicting uses.

To give you an example, we would consider a violation of scenic integrity, right, and so a way you would mitigate that impact, for example, would be to remove it or restore it. I'm just showing you how I see this thing, really playing it out. Because I too am frustrated by the politics of this which, I guess made a last question.

Because its really obvious you're not a willing owner. I mean its pretty obvious to me that you're not a willing owner of this property, you're not willing yourself through this process; you're dragging yourself through this process.

BECK: Sure.

FRY: We're dragging you through the process.

And, so I was curious because I'm actually fairly familiar with Trust for Public Lands and their mission and I just don't understand you, frankly, in the sense that one of the goals is to divert impact on Multnomah Falls, and another goal is to give this site the great character of the Gorge, I mean, there's millions of beautiful meadows. We have meadows on our property that are beautiful, with flowers and everything. I'm just trying to get an understanding of where Trust for Public Lands is coming from and not, I mean, in my own way of thinking, I think you would be champions of this process, not detracting it the whole way.

BECK: I'm not criticizing, I don't think we're necessarily criticizing the land use process. I mean, I think there may have been some abuses or some fumbings here, but the process CHANGE OF TAPE

...that the buildings have kind of drawn out the steam to try to raise buildings that we just don't think are historic. And no one else seems to really, no official body has come forward and said these are historic. The National Trust hasn't said they were historic; SHPO hasn't said they're historic. The county has said the site is historic but no one's really been able to articulate whether the buildings are.

FRY: So you don't disagree with the public's view that there is history there?

BECK: There was history. There's history at Bridal Veil; an interesting story. And we would, in comment to Chairman Yoon's, we're right. We did not really get into the historic preservation aspect, and I think that is a valid criticism; I think we probably should have articulated some of those on-going concerns. We're not averse to seeing historic interpretations of the Bridal Veil site; our amendments reflect that I think. How you do that, affordably, in a timely manner, versus doing some whimsical, quixotic scheme for a couple of years, you know, we can differ on how to pursue it and how to resolve it.

FRY: Okay. I won't ask any questions; I just personally believe this won't be resolved until the fear is taken out of it and I think people fear that the Trust

for Public Land intends to wipe this history off the face of the earth. And you clearly said that's not true but I think as long as that fear exists you have, you're stained; we're all stained; _____ time and energy.

YOON: I'm going to let Commissioner Leonard make one statement as far as historic preservation and then we're going to take five minutes so we can read this document, and, a five minute recess after that. Go ahead, Commissioner Leonard.

LEONARD: Mr. Beck, you mentioned a couple of things that would be helpful if you could share some information with us. You said that TPL has a plan for the site, to develop the site as a natural park. Frankly, when we turned this over to the Task Force I was expecting to see some kind of visual document, a plan, a site plan come back to us that would show where the park would be, if it was going to be the whole site or the east end with a park in one area and preserved houses in another area. We could see something and react to it; we haven't seen anything like that. If you have a plan you could share with us I would certainly appreciate it; if you could make it part of the record.

BECK: This was part of our...; I did distribute this at the Task Force meeting, one of them, I don't remember which one. This is something that was prepared two years ago actually. It was in the newspaper.

LEONARD: Are you willing to share that and make it part of the public record?

BECK: Sure.

LEONARD: Thank you.

YOON: Do you have one other comment, Commissioner Leonard?

LEONARD: One other question, you mentioned that you proposed three houses between the church and the cemetery. Do you have three specific houses that you feel would be the best three to preserve?

BECK: I do.

LEONARD: Would you share that with us.

BECK: Well, they're mine; I can't speak for the organization, but, so I'd probably best not be commenting on it but...I believe, I think my boss, and some others think differently, but I'd prefer to see the three buildings closest to the cemetery. If you could preserve three of them I think those are the one where the outside, the external features, are not as compromised.

LEONARD: On the site plan here, if I'm understanding it, that's 5, 6, and 7? And the church is identified as building No. 1 and then there's a house, 2, 3, 4?

BECK: Yes.

LEONARD: So your recommendation would be to eliminate the church and house 2, 3 and 4, and preserve the last three down towards the cemetery?

BECK: That's correct. And there are uses outlined in our amendments and better, comparable to what the Task Force had written; they're a little more concise, but....the uses are laid out. I'd be happy to walk through that document with you gentlemen.

LEONARD:

One other comment to get back to this question of historic significance, you repeated several times that the use of this property does not qualify for National Register or statewide significance, but, at this point in the process, one thing that is very clear is the county is determined that this site does have county significance, so for better or worse we're stuck with that determination now, and the ESEE process is to figure out where to go from there.

BECK:

Sure.

YOON:

We're going to take a five minute recess so everyone can read this document that you've submitted to us, so we can continue to ask questions.

RECESS

YOON:

Thank you for your patience. Given the fact of the new evidence that was submitted tonight by the Trust for Public Land, we'll continue to take oral testimony tonight until approximately 9:00 o'clock. At that point we will close oral testimony and the record will remain open until 4:30 p.m. May 10th for any new evidence rebutting the TPL information that was submitted tonight.

We'll accept written, new evidence for four days after that, closing up 4:30 p.m. May 14th in rebuttal of that evidence; and then the record will be closed. We will convene again on May 17th at 6:00 p.m. for deliberation and decision at which no testimony will be taken at that point.

So, we will continue to query Mr. Beck at this point.

Commissioner Ingle.

INGLE:

First of all Chris, I want to commend you on your presentation because I too was a little disappointed, too, with the results of the Task Force. There were some things I had hoped would be addressed but, maybe to due to time and constraints of other nature, it just didn't happen.

I guess my initial question is, the preservation of the three houses that you recommended, based on your site plan, they wouldn't even be incorporated into the site plan, one. Two, what is the real justification for three homes? Is it more of a management efficiency issue?

BECK:

Well, first of all, the site plan is very conceptual. It was something that was put together two years ago, but as we still envision our goals for the property would not be impacted by preserving a number of structures on the other side of the access road. In terms of those three structures, because they are separated from the bulk of the property, we think that they would be less conflicting to our objectives. The fact that they are close to the cemetery, I think provides better interpretive opportunities; there is a slight small access road off the access ramp-road that goes down to the cemetery, so that there's an existing roadway there. I can't give you any historic justification for it; and, again, this is just an attempt on our part to try to provide something, but I think there are good justifications more physical than otherwise. Although, those three buildings when you look at them with an objective eye, they look older. They don't have the crappy 1960 siding on them; I don't think they've been improved inside as much as some of the others; they're, they might have foundation problems, I don't know. No one has really gone down and explored all that. They still may have to be torn down to ever be rebuilt. But, I think there's a good case to be made for those three. Someone else could say, well, really we ought to preserve the ones closest to the church because the church might be there longer, it

might make more sense to have a group of buildings; I don't know. I disagree, I think closest to the cemetery makes the most sense.

The slope of the hill also, as well, there's quite a steep slope off of the access road that could be a problem for public access, and its a little more gentle as you go farther to the east on those houses.

So, we, I mean, we've thought this through, its not arbitrary.

INGLE: I know, I wasn't suggesting...

BECK: No, no, I know, but there's inclinations otherwise.

YOON: Commissioner Douglas.

DOUGLAS: I noticed in your clock here, the concept sketch design, that you have nothing showing beyond the Bridal Veil exit. Why is that?

BECK: Again, this very, very conceptual. It was a scheme, a conceptual scheme that was put together two some odd years ago, I'm not sure all the issues were thought through, at the time but, I guess I can't really answer your question. I don't know, I wasn't with TPL at the time. I didn't talk to the artist or _____ of the artist.

DOUGLAS: My question is this, do you now how I feel as far as design? I don't think the houses are historical either. The set of the design of the houses as they are set in this hillside are really the only thing that makes it a mill site, you might say, or housing site for the mills. But just three houses there to me it just doesn't make sense. If you're going to do all of your work to the west of that exit, what is wrong with putting it right there and leaving the others for the historical people that wish to do something with it? Providing they do. And I agree with you on the time frame, except for one thing. You say they must have the funds in hand; I don't think they need that. I think they would need a commitment of some people to do the work but not necessarily have the funds in hand. Do you follow me?

BECK: I understand. The answer to your first question, I think, if I'm understanding what you're asking, is why we wouldn't be willing to preserve buildings in the heart of the property. Is that correct?

DOUGLAS: Its on the east end.

BECK: On the east?

DOUGLAS: East of the Bridal Veil exit.

BECK: Why we wouldn't be?

DOUGLAS: Because your design here shows only that from the Bridal Veil exit to the west.

BECK: Right.

DOUGLAS: You have nothing showing to the east of the exit.

BECK: That's correct, and the only think I can say is that I think one of the reasons to remove those buildings was because they're eyesores now. If someone could protect a small number of them we would be willing to do that. There's no historical justification for it and no open space justification.

- DOUGLAS: There again I disagree with you on that score. In other words, as I say, the buildings themselves, to me, are so cut up and everything that that doesn't do it. But, the historical part of it is the siting of the town itself, or the village, or whatever you want to call it. But, again, if you restore those houses from the scenic highway, that's what you want to look at; something that's history.
- BECK: From the scenic highway or the exit?
- DOUGLAS: From the scenic highway. Now, you're going down right in front of those houses.
- BECK: The three larger homes. Correct? Along the scenic highway.
- DOUGLAS: The scenic highway is the one that cuts down ...Columbia River....
- BECK: Give me some numbers so we know we're talking about the same thing, please.
- DOUGLAS: Okay. If I can find these. The scenic highway is the one you were saying that actually would show the bad thing. Well, there's 18, 17, 18, 15 right there but you can see these others approximately too from the scenic highway; the one that has the road that connects with I-84. It goes right by it.
- BECK: Which buildings are you referring to?
- DOUGLAS: I'm referring to all those from 2-7, right by the cemetery.
- BECK: Those are not on the concept plan.
- DOUGLAS: No, they're not on that at all. That's why I'm asking you why that couldn't be reserved for the historical society or whoever would want it. In the time frame that you suggest.
- BECK: Well, we're suggesting that three of those buildings would be acceptable.
- DOUGLAS: Yea, well why wouldn't the rest?
- BECK: The other three?
- DOUGLAS: Well not only the other three but there's ,lets see, there's 7, three more there, there would be 13 and 14.
- BECK: You mean all the buildings?
- DOUGLAS: All the rest of the buildings with the exception of 20 and 22, which are on the west side of....
- BECK: Right, right. I understand. I understand I think. The reason we don't feel the buildings in the heart of the property should be preserved, 1), we don't feel a justification has been made for their significance. Historic significance. And we have other objectives for the property. Our goal is to see a park there, providing access from the mill site through the property, across the scenic highway to the national forest. We feel these buildings along the scenic highway conflict with views, vistas, people driving along the scenic highway. We think these are, part of our objective in acquiring the property was to remove these buildings that were in the way of the visitors to the Gorge. They were not sightly; and even if they were restored we don't think they belong there. So, there, they conflict with, really, with

the open space and natural goals that we pursued when we acquired the property.

DOUGLAS: Well, when you're talking about that, you're talking about a scenic highway which, if those buildings were restored, would add to the scenery. If, I'm saying if.

BECK: I think reasonable people would disagree on that.

DOUGLAS: Well, I consider myself reasonable people.

BECK: Well, while you and I might disagree, I'm, you and I would disagree.

DOUGLAS: Yes. But, on the second issue here you're talking about saving part of the property and yet it looks to me like this is probably less than five acres in that entirety east of the highway that comes off and this highway that goes up by 18, this roadway.

BECK: There's not actually a road there. There's a creek that runs there.

DOUGLAS: Yes, I'm aware of it. I was up there. You know.

BECK: Right. If you look at the slopes, the topography of the site as you go, if you take house, actually house 22, if you look at house 22, the topography west of there is very steep. Probably to steep for a trail to be built from the mill site up over the basalt cliffs, cross the scenic highway and then up another slope there onto the national forest, where there will be trails someday. The natural slope of the property is through where the homes are. Right now. Houses 17, 18, basically between 22, 18, there is a natural place where a trail would probably be along that creek that runs west of house 18. We would envision a stream there. And, again, any kind of improvement, modern improvement, we think conflicts with our goals for the property.

DOUGLAS: You're saying 17 and 18 would conflict as well then?

BECK: Yes.

DOUGLAS: I had hopes you would cut off that corner and just let that develop this other and leave that for

BECK: Up _____ along the....

DOUGLAS: Again, providing that this could be ...

BECK: ...done in time.

DOUGLAS: To be done in your time frame, with that one exception that I mentioned.

BECK: Well, we talked about it. A lot. We, its not, again, we're not doing this whimsically. We thought a lot about and we just do not feel we're in a position, we do not believe these buildings are important enough to be preserved along the scenic highway. No case has been made.

DOUGLAS: You and I may differ on that.

BECK: We may differ. Sure.

DOUGLAS: Not that I agree that the buildings are good. Its the layout.

YOON: Commissioner Leonard.

LEONARD: Mr. Beck. I'd like to remind you again, that while you continue to tell us that you don't feel the point has been made that any of these buildings are historically significant. The County Commission, on the recommendation of the County Planning Commission, has already determined by an amendment to the Comprehensive Plan that this site and the buildings are historically significant to the county; so we're really not here to debate that issue, but rather to debate what's to become of those buildings.

BECK: But we will disagree on-going.

LEONARD: It is now a fact of the County Comprehensive Plan that these buildings are historic. The site is historic.

BECK: Is the site historic or are the buildings historic? I don't know, you tell me. Where's your legal counsel?

LEONARD: Sandy, could you clarify that?

YOON: I believe this has been the genesis of the discussion since we started.

MATHEWSON: I believe the decision was that the entire site was significant and which specific elements or features of that site needed to be preserved would be decided now. Through this process.

LEONARDÚ Okay. That rings a bell.

YOON: I would agree with that. I was on the losing side on that.

Commissioner Ingle.

INGLE: Sandy, I've got a question for you. I could ask TPL but I think its more appropriate for you.

Assuming that TPL goes ahead with their demolition permit, my understanding is that they've already applied for a permit?

MATHEWSON Correct.

INGLE: Under that demolition permit, are they going to have to go through photographing and documentation of buildings, archaeological investigation, the salvage of the historic material, things that they're disagreeing with, the Task Force recommendation? Do they have to go through that?

MATHEWSON: If the Planning Commission and the Board of Commissioners decide that that's important and include it in the findings as something that should be done, it would be a requirement; a condition placed on any approvals or demolition.

INGLE: Okay, but to date, the permit doesn't require them to do that?

YOON: They're going to have to go through a 106 process.

MATHEWSON: There's no requirement for that, but the county can impose that but the county can impose that as a condition if we feel its important.

YOON: And they've already applied for a demolition permit?

- MATHEWSON: Correct.
- INGLE: Would the Planning Commission have input on that?
- MATHEWSON: No, that would go to the Hearings Officer.
- YOON: That would go to the Hearings Officer.
Commissioner Fritz.
- FRITZ: Just rather quickly, because I don't have my Code here, could Mr. Beck, excuse me, recommend a change in point No. 8 in the program, a change in the code citation from 11.15.3818 -.3820, and that's the substitute; I don't have my code in front of me. What's the substance of that change?
- MATHEWSON: Well, that's the NSA Ordinance, .3820 apprised to sites within a special management area but its only for federally funded projects on federal land. It deals with the cultural resource review process, which requires that any....
- FRITZ: What's the difference in the review process under .3818 or .3820; is there a difference?
- MATHEWSON: There is some difference under .3818, which would apply to any non-federally funded project, whether its SMA or GMA; its a step-by-step process that requires analysis of significance and a determination of no adverse affects on the resource. As far as the process in .3820, I'm not sure off-hand. I believe it just requires forest service review.
- FRITZ: Okay. I'll look at the code; I don't need a full, I just thought right off the top of your head if you could give me a thumb-nail...
- INGLE: I might just clarify the intent of that, was simply when I looked at the code, and not being an expert on the county code, I, .3820 said "Special Management Area", which I knew this property was, so, it was more of a typo, I thought, but there maybe, it was not an issue that was ever really discussed in terms of the code, very thoroughly, and if at all, in your recollection maybe it was, but I don't recall it.
- FRITZ: Mr. Chairman.
- YOON: Yes. Question, Mr. Beck.
- FRITZ: In your proposed amendments to the recommendations to the Task Force, particularly on page 3, which is the half page, in the, it looks like it is what was the second paragraph, you added some new language to the end, and I had a question here, again you talked about if full funding can't be secured by January 1 or if it can be then restoration to the appropriate buildings in compliance with the land owner's restrictions could take place, what are?
- BECK: These are restrictions that I think are identified in the Task Force, the elements of cultural heritage, and back on page 6, my 6, I've kind of scrawled my own numbers up on the right,
- FRITZ: Okay. Those four?
- BECK: Yes. Those articulate the sorts of uses that we as a group, I narrowed them down; they had eight; I narrowed MIXED VOICES, INAUDIBLE.

- FRITZ: Are those the landowner's restrictions?
- BECK: He's referring to the three homes.
- FRITZ: Well, no, I'm just trying to find out what....
- BECK: Its probably in-artful wording, and we're amenable to working through some language and, again, I wish county had some legal counsel here to review this document initially and prepare _____.
- FRITZ: So, you can't tell me what your intention was there with, I think those five words, "in compliance with landowner's restrictions"?
- BECK: Well, we may get some other ideas, but my understanding is that it is to really be clear to comply with the restrictions that we came, we identified a number things that we wouldn't accept on the property, such as housing, we didn't want the property to go back to any housing, but that's not reflected as a potential use; we would place restrictions on the property regarding the use for rental housing.
- FRITZ: Could I ask, because if other interested are going to be able to respond to your proposed amendments, they're going to need to know what you mean by "landowner's restrictions", and I will, could you provide the Planning Director with a list of those, in short order?
- BECK: Sure. They may all be here and we just identify; maybe that's an inappropriate term or phrase there, but, in part, our restrictions are the time line that we've articulated, ..
- FRITZ: But that's already in there.
- BECK: But that may be what we were referring to.
- FRITZ: Okay. I would just ask that in very short order you provide a list, and a complete list, of any landowner's restrictions to the Planning Director so they can be made available to other interested parties.
- BECK: And, those restrictions, ideally should be articulated in this document.
- FRITZ: That's what I'm suggesting; its your document because you're proposing the amendments. I need you to spell them out.
- BECK: Okay. Fair enough.
- YOON: Commissioner Leonard. Commissioner Fry, one point.
- FRY: Yes, its getting close to 9:00. Okay. What I'm trying to get a handle on is that the owner of the property, were you the owner between the private owner; the private owner sold it to you; there's no interim owner in here?
- BECK: That's correct. We're a private owner.
- FRY: I'm trying to get at the nexus of why you're not a happy camper and say I want to be on the public process, because to me, it really gets to the root of all that's going on because we've had a lot of conflict. You say the conflicts started with the Task Force; conflicts started a long time before that, and these perceptions of a natural park, I want you to tell us in _____, maybe the Friends of the Gorge can, because they said it too. I'm having a real hard time understanding how since there's historic value there and the county said its historic,

BECK: the place..

FRY: ...how a natural, as the Friends of the Columbia Gorge put it, a natural park; I'm not understanding how they're inconsistent.

BECK: I haven't seen their letter so I don't know.

FRY: Well, I'm trying, can you give us a feeling....because if you're just simply asking for time for every one to get tired and go away, and I'm not saying this is what you want to do, because clearly its not, but you're a railroad company, and all you want to do is everyone to go away and then you want to blast through this stuff and, you know, why claim the history of this area, which is clearly not intent, because you've made that very clear. I'm trying to get, what is the nexus of your problem? Is the problem that you are seeing this goal in an uncertain way for another two ways? Is it costing you money to go this way? Are you concerned that that as an owner you are going to be ...

YOON: Peter, you've asked him so many questions, how can he answer them all?

FRY: Give me the answer _____

BECK: Well, part of it is just frustration; part of its the investment of on-going staff time; part of it is the threat of appeals to this board and that board and to LUBA and back to the county, a new County Commission, a new Planning Commission; you've got to go through the whole thing with a whole bunch of new people and on and on. Part of that is our timing concerns. Part of it is CHANGE OF TAPE

BECK: I guess we've been unclear in our previous testimony. I think it should be clear from the public record that we are an organization committed to preserving cultural and historic resources. We have a record of doing that all around the country. I think we listed a number of sites; we handed out information about various historic preservation projects, at the previous hearings. That we, if you're looking for a plan of kiosks or signs that we would envision seeing placed on the property and the specific location of those signs, is that what you're getting at? I mean, we've articulated over and over again our desire to see adequate interpretation at the property; these amendments reflect that. But where exactly where that interpretation ought to take place, we're not experts at, we would see that as something that proceeds with an open space plan, around picnic tables or around a parking lot or a drinking fountain, or, I don't know. Am I missing something?

Okay. I'm sorry. I'm stupid.

FRY: Can I try, just rather quickly?

You developed a plan believing there's no history on the site. You've stated that over and over again.

BECK: Two years ago.

FRY: Right. Now, the public has told you you're wrong. The public has said "there is history here". Now as the property owner you have really two choices: one saying that stream doesn't really go on my property; I'm not going to protect it. Or, that stream is there because the public says that's a protected stream, and I'm going to develop a plan to protect it. Which is, basically, a nexus of an _____ zone or some other type of land use process.

So, its frustrating to me that there isn't really an owner coming forth telling me, with a change of mind, because the public told you you were wrong, what to do with the new information the public has given you.

BLAIR: I may be the only one confused on this. My name is Bowen Blair, I'm the Director of the Oregon field office for the Trust. My understanding of the Planning Commission's decision and the subsequent decision by the county Commission, was that the site was historic. There's no question about that. We've testified before that this site is historic. The question I understood you asked the Task Force to resolve, one of the questions is: "Are the buildings themselves historic or can the buildings be condemned". Am I missing something here? And I think that's what our testimony is getting to.

FRY: No, my understanding of the Task Force process is a public process. The county has said this is a historic site. And its really a public process. You go and determine what is historic about the site; what is the value; you determine what does this conflict with; what is of value on the site; you determine if those uses are more important than the resource uses or less important and you develop a program, a plan, to mitigate any conflict between those competing public uses, which is what the 3-C says.

The 3-C says that you _____ and so what we have here is part of a plan on on how to mitigate your conflicting use, but my frustration is that you're not all working together to do our _____ for us, you're kind of...

YOON: And still make the same decision.

FRY: Right. And, so the sight's getting lost in people and business and I'm trying to clarify that because I don't think we will get anywhere unless we get that to _____, which is what _____

BLAIR: Is it your understanding that the Planning Commission has actually said that the buildings on the site are historic? Each and every one, and should be preserved?

FRY: My understanding is that the Board of County Commissioners said this is a historic site; there are historic artifacts on the site; and that we need to go through a public process to determine what those artifacts are, what the conflicting uses are, and how do we mitigate those impacts. That's my understanding.

BLAIR: That's right, and I think what you're looking for, if I'm not mistaken, is some sort of decision whether each building on a building-by-building basis is historic or is not historic.

FRY: Well, I understand we have a program to resolve these conflicting uses because we'll never know if the door knob on one house is historic or not. You know, we can get to that level of detail, and you made it very clear you are not willing to spend the money to get that level of detail. Nor has anyone ever come forward, so we, it seems our mission is more to develop a program that does it in a broader sense than a board-by-board sense. Because we don't have the resources and you aren't offering us the resources to determine every piece of artifact and what the value is; it can be restored.

BLAIR: That's an impossibility.

- FRY: I _____ as the loss of the flume. I mean, to me, that's the most historic part of the site, and, anyway.
- YOON: Commissioner Fritz.
- FRITZ: I, we have had science for us. We did in November; we had conflicting science and we made a political decision, as did the Board of County Commissioners. It was based on good faith and available science, and where there was doubt we gave this process a try. I don't think its necessary for TPL to say "Uncle" or to give, well no, but to reverse their position. You know, their official position. What they have done is provide us with some proposals that we need to take a hard look at and compare it with the recommendations of the Task Force and with the information that was available to us beginning last October/November and make some recommendations here that's going to serve the public interest all around.
- And, I just think that's where we're at.
- YOON: Well said.
- FRITZ: Whether they ever change their official _____ position and forego any possible challenge for the future, that's entirely up to them. We have enough to work with here.
- YOON: One final statement from Commissioner Leonard.
- LEONARD: Its really not a statement; its a question for either Mr. Blair or Mr. Beck. I asked Mr. Boynton earlier this evening if there was consideration given for partitioning the property, and the reason for that question was that it is my understanding, based on the testimony we've heard, that TPL is very anxious to get on with any funding to develop this open space park. And somewhat along the concept of what you've submitted here. There's been consensus, and I don't think anyone has disagreed with the notion that the cemetery ought to stay there, preserved by somebody other than TPL, and whether we say anything that or not I don't think anybody could go around digging up a cemetery because of other regulations.
- You've proposed the three houses down at the end of the line might be turned over to the appropriate steward. The Task Force recommendation seems to be that the group of residential buildings as a group should be preserved if somebody can come up with enough money. Is it plausible in your plans to get on with this plan to partition the building portion off, separate parcel, eventually transferred to the appropriate steward, and get on with developing the park with federal funding or whoever else is funding on the rest of the property?
- BLAIR: I think the building portions, particularly those portions west of the interchange, are so integral of the concept of the park that we could not entertain that sort of partition. We could, as you correctly pointed out, partition off three houses to the east of the interchange. The cemetery, one of the few bright spots is that we don't own the cemetery.
- YOON: They do not own it.
- BLAIR: We do not own it. But to answer your question, we would be willing to consider a partition but if your question was are we willing to partition all the developed portions of the property from the park, that is going to be the major part of the park, no.

LEONARD: Maybe I'm missing something on the exhibits, but this drawing that you handed out representing, albeit two years old, its a concept sketch, but lining this up with everything else we've received, this doesn't appear to conflict with preserving any of the houses other than number 20, which is maybe down near one of your lake areas.

BECK: Commissioner Leonard, if you look down the, I'm not sure this is really a relevant discussion because the plan was developed in a totally different situation; its very conceptual; I have no idea _____.

LEONARD: Well, for the sake of, conceptual or not, its the only one we've got.

BECK: Since you have it, there's a stream coming off the scenic highway. You see that stream? About two inches from the right side of the page. House 18 is directly east of that stream.

LEONARD: Okay.

BECK: House 17 is slightly more east, still would be on this map.

LEONARD: Okay.

BECK: House 22 would be west of that stream off over along the scenic highway.

LEONARD: Okay.

BECK: So, I would argue that, and the other homes on the site, not the row houses next to the church but the other homes, they're down below the scenic highway, houses 15, 14, 13, 12 could be, according to this plan, in the way, of this plan.

LEONARD: I guess I don't see it.

BECK: Well, spatially, I mean it looks like you're....

MIXED VOICES

LEONARD: So the answer to my question is that you would not be willing to partition the property to separate the residential portion from the natural park area?

BECK: That's correct.

LEONARD: Okay.

YOON: Okay. Public testimony is closed. I've reminded everybody of the dates, as far as submitting rebuttals and _____ of the written testimony. It will all be in writing.

We will re-convene for deliberation and decision on two weeks from tonight.

END OF THIS ITEM.

**A TRANSCRIPT OF A PORTION OF THE PLANNING COMMISSION
MEETING OF MAY 17, 1993**

PRESENT: Chairman Yoon, Richard Leonard, Peter Fry, Janet Atwill,
John Ingle, William Fritz, and George Douglas

STAFF PRESENT: Sandy Mathewson, Sharon Cowley, Scott Pemble

YOON: Good evening, we're going to call to order the meeting of the Multnomah County Planning Commission, a continuation of a meeting that deals with C 9-92a, Bridal Veil.

Roll Call.

As a reminder to everybody, we closed the public testimony at our previous meeting. I've given a couple of days as far as rebuttal and response to rebuttal; we have received all the written documentation.

Commissioner Ingle, could you just go through everything we have received.

INGLE: We have a memorandum dated May 15th, to the Planning Commission from the Department of Environmental Services; we have a memo from Cathy Galbraith; we have a letter dated May 7, 1993 from Sharr Prohaska; we have a letter dated May 5, 1993 to the attention of Sandy Mathewson and Planning Commission members from Alfred Staehli, architect; we have a letter dated 5/10/93 from the Historic Preservation League of Oregon; we have a memo dated May 10, 1993 from the Crown Point Country Historical Society; we have a letter dated May 10, 1993 from the Bridal Veil Bed and Breakfast; we have a letter dated 5/3/93 from E. Callison Petillo, I'm not certain where this came from.

YOON: I'm not either.

INGLE: We also have a, I think it must have been an attachment to one of the letters, Bridal Veil Restoration Master Plan and Explanation; David Ausherman, landscape architect; we have a letter dated May 14th of 1992 from the Trust For Public Lands; we have another letter May 6, 1993 from the Trust for Public Lands. I believe that's it.

YOON: To be fair and, is there any document we haven't called that you think we should have in our hands? I want to make sure we have everything we need.

FRITZ: Did we cite the memo from the Division of Planning and Development?

INGLE: No. Department of Environmental Services.

FRITZ: We don't have an author?

INGLE: No.

YOON: Okay. So, those are read into the record, we'll now go into discussion.

LEONARD: Just to clarify the extent of the record, I think the discussion we've had on this ESEE Analysis are inextricably tied in with the previous hearings on the historical status of Bridal Veil last Fall; I think for all practical purposes, and actually the record of that hearing and proceeding, should be considered as part of this proceeding.

YOON: Okay. I guess what we're down to here is we have a Goal 5 review we're looking at, and we have a certain amount of conflict. Goal versus open spaces versus those feel that there is a historic significance to this area.

I would entertain discussion, motion, etc.

FRY: I personally would find useful if Staff could spend about two minutes and summarize what we are deciding tonight.

YOON: I think that would be a good idea.

MATHEWSON: I'm Sandy Mathewson from the Planning Staff. Where we're at prior to the first hearing on May 3rd, we sent you three documents: the first of those was the Goal 5 Inventory; the second would be the Staff Report; and the third the Bridal Veil Task Force Recommendation.

The first document, the Goal 5 Inventory, was the document that we recommended you adopt in order to complete the Goal 5 planning process for Bridal Veil.

Next came the discussion of the conflicting uses, the ESEE Analysis, and the program that provided protection for the site.

FRY: That was the white sheet. Is that correct?

MATHEWSON: It says Multnomah County Goal 5 Inventory.

The second document, the Staff Report, became the Findings, which at least support or justify the conclusions made in the Goal 5 Inventory. These Findings of course can be modified if you change the Goal 5 Inventory document. But the end result is the Findings are going to have to justify the decision made tonight.

The third document, the Task Force Recommendations, is a document that was completed by the Task Force. It contains Goal _____ preservation; it recommends elements of the site be preserved; it suggests historic themes that could be interpreted through those _____; and it recommends a process by which restoration and management might be achieved.

I should mention that the Task Force Recommendations are a complete document and they were decided upon by a consensus of the staff of the Task Force. Of the suggestions that they were discussing at the last meeting that the Task Force Recommendations be amended. I don't think its appropriate for anyone other than the Task Force to amend their recommendations. You can't amend it, I can't amend it, anyone else can't amend it. Only the complete Task Force could amend their recommendations.

On the other hand, you might choose not to accept all or part of those recommendations. That's up to you to decide tonight.

Its been stated that the May 3rd public hearing did receive oral and separate testimony and then we received that additional written testimony that you recited earlier. These have all been entered into the record and you were sent copies.

The decision you make tonight should be whether, based on the ESEE Analysis, you feel that Bridal Veil should be designated 3-A, 3-B, or 3-C. Just to go over that, 3-A sees that the site should be fully protected; that none of the conflicting uses that might occur are more important than preservation. 3-B is just the opposite of that. It means that all of the conflicting uses or some of the conflicting uses might be more important than preserving any of the buildings, and nothing should be preserved on the site. The 3-C designation means that some balance should be met; that there should be some form of protection that some form of other uses could be allowed at the site as well.

Whatever you decide, findings must be adopted to support that decision and then a program to ease that level of protection has to be adopted as well.

And our recommendation remains as it was last week, that you adopt the Goal 5 Inventory based on the findings and conclusions that are in the Staff Report.

FRY: So, in summary, we can adopt the Staff Report and the Goal 5 Inventory without amendment and that would essentially be a 3-A, or 3-C, excuse me, 3-C. Or we can adopt part of it and send the Task Force out to do more work. Is that an option?

MATHEWSON: You could request the Task Force meet again. I'm not sure all the Task Force members would be able or willing to do that.

FRY: And then third, we can have no advise to the Board of County Commissioners?

MATHEWSON: Correct.

FRY: And fourth, we could come up with our own ideas, which would then require findings developed for that?

MATHEWSON: Correct.

FRY: Is everybody clear?

LEONARD: Peter, as far as whose ideas they are, I think once the Planning Commission adopts them they become the Planning Commission's idea whether the Staff drafted the report or the Task Force or whatever, or TPL. So, we don't have the luxury of passing it off to somebody else's ideas. Whatever we adopt has to become our idea.

FRY: I guess what I meant, specifically, is I'm not really, if there's a new idea different than the Staff's recommendation, I don't personally feel like I want to _____ findings tonight to support that different idea. That's what I meant, we would we would have to come back to Staff or we could stay here tonight and INAUDIBLE.

INAUDIBLE.

FRY: I do, I have lots of company.

YOON: Any other questions of Sandy? For clarification.

LEONARD: Yes. Sandy, this has been a long and sometimes contentious case, and to refresh my own information on what we were up to, I went back and read the State Administrative Rules on Goal 5 procedures and they seem to ask for a clear statement of what uses are allowed under the existing zoning that creates the conflict; and in reading the Staff Report the suggested inventory, part D under "Describe existing or potential conflicting uses", that seems to focus on the buildings: don't demolish, alter, abandon, so on, without saying what the zoning allows, what the zoning designation is. Could you describe what the zoning designation is and how specific it is in terms of what it allows for the site?

MATHEWSON: The zoning designation right now is Public Recreation, Special Management Area of the Columbia Gorge National Scenic Area. It would allow various agriculture uses, forestry uses, and public recreation uses. It would allow single family dwellings in some instances; it would allow fairly extensive recreational uses; its a Type Class 3 recreational site, which is the next above intensive, so it could allow recreational vehicle park; it could allow utilization of the buildings for rental units for recreational purposes; it would allow any kind of public park facility.

LEONARD: As I recall from the Gorge Scenic Area Plan, the Class 3 allows, or talks about a caring capacity of up to 250 people at one time and parking for 50 cars.

MATHEWSON: I think that's 75 cars, I could check, but...

LEONARD: Well, GMA I think goes up to 75 and the SMA up to 50, with a provision for up to 75 under some type of additional procedure. So, that, do you have any sites that would give a suggestion of comparable intensity of use?

MATHEWSON: I'm not familiar enough with that. Perhaps Sharon Timko, who is the County liaison to the Gorge Commission would have more intimate knowledge of that than I would.

LEONARD: Okay. Maybe we could get some additional comment there.

MIXED VOICES, INAUDIBLE.

TIMKO: I'm Sharon Timko, Columbia Gorge Coordinator. I'm trying to refresh my memory on exactly which ones have an RIC-3 that already exist. I know that part of the boat landing has _____ but that has not yet been developed in that capacity.

LEONARD: How about the existing Bridal Veil State Park? Would that be Class 3?

TIMKO: Either a 3 or 4. INAUDIBLE.

LEONARD: Okay. That gives some sense of the general size of the recreation area. Rooster Rock State Park would be considerably larger. Thank you.

YOON: Any other questions? Thank you.

Okay. Peter, I want to respond to one of your _____. I'm definitely not in favor of going back to the Task Force and asking them to do anymore because I don't think we _____. The Task Force has proved one thing to us: that they don't agree with each other and so I think the penalty then is not an option. But I'll entertain anything else. So, does someone want to slip and flip into the cool water?

Mr. Chairman, just under discussion, I don't even know what the proper motion is. I guess we received the recommendations of the Task Force. I'm not prepared to support adoption of those recommendations; I'm not prepared to adopt the program found in its entirety as its printed found in the Goal 5 Inventory Analysis, and therefore I'm not prepared to adopt the recommended appropriate level of protections found in the Staff Report. And I think those are what we talk about; what does make sense, what's not only practical but will preserve enough.

I don't know if the findings, actually in reading them for the fifth time today, really need to be changed that much. I am prepared to recommend, obviously, a 3-C designation. There needs to be something preserved. At what level is what I want to talk about, because I don't have a firm position at all on this. I'm no more firm today than I was last October on this whole process.

I do want to, I'll just start talking about some things I do want allow, sometime, a period of time, for interested parties to secure funding or a reliable steward with adequate funding. I'm not necessarily prepared to draw an arbitrary line and say it should be three buildings, six buildings, all buildings but the old mill site; I think that type of declaration is arbitrary.

If the money isn't there, the money isn't there. If the money is there to preserve three or six plus the church and several more, then we may be a whole different ball game.

There are a number of areas in here where nobody has had any disagreement. The old mill properties are going to be razed; the extent, be demolished, the old building, well, they're not that old, they're the more modern buildings where the mill site was.

What hasn't been determined is the extent of, I guess, documentation for historical archives, photographs, measurements, and that's something, if I can refer back to the unsigned memo from Staff, that might be left to the Hearings Officer or this body when in fact demolition, or requested demolition, is made.

I'll probably have a dozen more things but I just wanted to start throwing some things out here.

LEONARD:

I'll make a couple of observations; I've gone back through and read much of the testimony from last fall, looked very carefully and I've listened very carefully to TPL's expressed concerns and some of the other concerns of who are opposed to continuing this debate. Lack of certainty and open-ended time frame seem to be very high on TPL's issue list and its not, at least there's some potential ambiguity about what the conclusion of the Task Force was as far as waiting until a certain time before anything happened; if they're wanting to hold up everything while this search for a steward went on or whether there was consensus that the mill buildings could proceed with documentation and demolition.

It appears nobody is really pushing to preserve the mill buildings, and I would think the Planning Commission agrees that we should make it clear that we don't want to put any additional time constraints to stop TPL from moving ahead with documentation and demolition on the mill buildings.

I think to help clarify that I would even be prepared to draw a line on the map and say over here we're not concerned about the historic preservation of the buildings over here, and get on with whatever you want to do. To help clarify where that might be, I took all the maps that have been provided

and went back to the site a week-end ago, with a measuring wheel, to try and figure out where these buildings are and which maps, if any, bear some reasonable approximation of the building locations. I noted the buildings on the tax map as part of our record.

The numbers of the buildings are based on TPL's inventory, so we can refer to the various building numbers. And, the discussion at the meeting two weeks ago there seemed to be consensus that buildings 8, which is the post office; 11, the old repair shop; 10, was the warehouse; and 16 the planing mill; were all to new or to altered or to falling apart to be worthy of attempts to restore or preserve. And house number 20, which is kind of off in the trees.

I then overlaid these locations on the site plan for the nature park that TPL provided; these maps have been adjusted to the same scale, so we can see where the buildings are. And the plan for the nature park that TPL provided shows development of the pond/parking area. That's the second sheet that I passed around here.

Buildings 8, 10, 11, 16, really fall right in the area they propose for some park development. Twenty is on the edge of it. Twenty-two is the old house, one of the old houses adjacent to the Columbia River Highway, Scenic Highway, 17 and 18 are also along the highway; and houses 12 and 13, 14 and 15, which are also on the inventory, are also out of the area of the parking lots, pond, and so on.

INAUDIBLE.

LEONARD:

Twelve, 13, 14 and 15. In any case, looking also at the tax map, you can see there is existing public right of way that cuts off the lots with houses 12, 13, and 14. And it appears that all of the rest of the properties that are located west of the Bridal Veil interchange connecting road are all on the same tax lot.

The, our scenic area ordinance regulations generally don't allow land divisions but there is a provision that would allow partitioning of land to facilitate the acquisition of property by the Forest Service for the scenic area, so if the old house area were separated either by a Goal 5 designation line or by an actual partitioning, it appears there is a provision for that in the Act and there would also be a provision, potential, for a lot line adjustment of Tax Lot '2' or '3' to expand that to include the rest of the site or possibly both houses. In any case there are ways to adjust the property lines and allow TPL to proceed without any further delay but getting on with the mill buildings. Assuming the Planning Commission wants to provide for a period for a search for an appropriate steward for restoration of the houses.

YOON:

So, essentially, you're suggesting that we accept some type of 3-C designation?

LEONARD:

Yes.

YOON:

You state the possibility of a partition, as you've laid out here on these two maps that would allow TPL to essentially develop everything west of 12 and 17 into their proposed park.

FRITZ:

Mr. Chairman. I want to make sure we're real clear, TPL's not going to develop. They want to sell the property.

MIXED VOICE.

- FRITZ: The most potential buyers of the property did not want to buy with structures on it. So that's really where we're at.
- If I understand, Commissioner Leonard, what you're saying is you believe this Commission and the County Commission has the authority to partition?
- LEONARD: No. No. What I'm suggesting is that we could designate a more specific line on our historic inventory map, giving, our 3-C inventory map, giving more clarity to all the people involved on which areas we think are right for demolition, documentation and demolition now, and which areas should be held for further looking for an appropriate steward.
- FRITZ: Okay. But we would be recommending to the County Commission that they reconsider their action, which was our recommendation from last Fall, wherein they said the whole thing was historical significance.
- LEONARD: No, what I'm suggesting is, under the ESEE Analysis, where we look at conflicting uses, the conflicting use that is proposed and allowed here is Public Recreation, Class 3. Which is, with a smaller parking lot, is consistent with the site plan that TPL submitted.
- FRITZ: All right.
- LEONARD: The types of public recreations that can go on there. But rather than hold up their pursuit of finding an appropriate buyer, demolishing, cleaning-up, whatever they have to do so they can sell that part of the site. And, they may not chose to sell only part of it.
- FRITZ: You mean, they, I just want to get this clarified. Part of this could be sold?
- LEONARD: Yes.
- FRITZ: And the other held until....
- LEONARD: The ESEE Analysis can find that, based on consideration of the historic resources and conflicting uses we find, that with documentation it would be okay to remove those remnants of the historic uses in part of the site and let them get on with it if they chose to do that. While we want to pursue, or allow somebody to pursue preservation on the rest of the site.
- YOON: Which would be consistent with where we were in October and with the fact that we weren't sure exactly what was historic and what wasn't historic. And that was why we were going to this Task Force process.
- So, let me just ask one question and I'm going to turn it over to Commissioner Fry, would we then be able to move all of this area on the left into 3-A? I mean 3-B. The whole area west of section 12 and 17 _____?
- LEONARD: No, I would suggest that 22 and 18 also be held.
- ATWILL: On that point I just wondered if it would be consistent if we kept it 3-C and then saying they could develop. I mean, I don't, the findings would really be screwed up on that.
- YOON: Unless we said that based upon the findings of what we received from Staff Report was we made the determination that the specific areas of concern were these particular areas _____.
- LEONARD: Where's our 3-A, 3-B list here?

- FRITZ: Well, 3-A is fully protected; 3-B not protected at all.
- LEONARD: 3-C partially protected. So it would be a 3-C, protect the area to the east, with the houses, document, and get on with the conflicting use on the area to the west.
- YOON: Commissioner Fry.
- FRY: Just to go further back, just to continue this line of reasoning, once we know that this is a historic site, that's the decision that's been made. The entire site...
- YOON: It is an historic site _____
- FRY: Right. But the land is historic. History is there. As I read the conflicting analysis, the issue is basically two: the blighted condition of historic buildings and things that are not truly historic there on the site. And, so it seems to me that is where the conflicting uses lie, if the site was perfectly preserved in its entirety, then I don't think the issues of scenic views would be valid; I don't think the issue of public safety would be valid; and I don't think the issue of economics is valid. So I would argue that the reason there is conflicting uses here is due to the blighted condition of the site. And, the fact that some of the sites has things on it that are not truly historic.
- So, in summary, I think it makes a lot of sense to recognize that the entire site is historic and second to recognize that there are conflicting uses on the entire site, which moves us to the 3-C category.
- Then the question is, what plan do you use to balance the conflicting uses. And I think that Commissioner Leonard has come up with a reasonable plan to daunt the conflicting uses in that. It takes part of the site that the Task Force and all have agreed is hopeless, essentially, and moved that into essentially a process of restoring it to the most non-conflicting thing, with signs or whatever type of public information necessary to say that "yes, the history is there", and my only part about say part A is the restoration of the flume, where it leaves some identification of the flume. Because I'm not quite sure which side of the line the flume ends up on. That would be my only caveat.
- And, take Site D, which there's a lot of controversy over what is there and what is not. And allow more time to sort through that; through a, finding a more willing owner who will do what's necessary to restore the site..
- Because I personally believe that if there was a magic wand and everybody completely restored the site exactly as it existed historically, in my opinion there are no conflicting uses on the site. I feel that the conflicting uses come in, in my own opinion, due to the blighting nature of the site. Not to inherent qualities of the site. Now if this was an operating mill site; if it was actually operating as a historic site then maybe there would other conflicting, but I'm saying under _____ standards.
- In summary, I think its appropriate to recognize the entire site as historic. Second, to recognize that there are conflicting uses, because a case has been made that the sight is blighted, its ugly and the gorge doesn't like ugly things; I mean that's the point of the National Scenic Area. And, so, we need to kind of wrap a rope around what is the most logical and _____ to restore and give the community, I'm not talking about the community there, I'm talking about the community in the larger sense, our national

community, an opportunity to restore what is valued on the INAUDIBLE.
So that's why I would support Commissioner Leonard's INAUDIBLE.

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YOON: Well, the question to ask is "are we allowed to do that?"

FRITZ: I have a question beyond that. Even if we're allowed to do that, it seems the only thing the property owner could do would then make application to demolish the old mill buildings; and I guess the old building No. 20, which is the one that's in the, and go through that process. That's about all they could do because this is all one piece of property, isn't it? That if in fact TPL wants to sell it to the Forest Service the Forest Service isn't going to buy it until everything is resolved.

LEONARD: That's what the Forest Service has indicated. Yes.

FRY: Lets not assume its a historic site; lets assume its a wetland.

INGLE: But it is historic.

FRY: I know, let me describe. Lets assume that a person owns a piece of property that has a large wetland on it and you're discussing what part of the wetland to be restored and what part of the wetland to be filled in, and essentially wiped away. And it seems to me that its really, that's what we're talking about, is we're looking at a large site that has part of the wetland barely intact versus part of it not intact at all. You don't like that allegory.

FRITZ: No, because, my point is, this piece of property cannot be transferred for money, for barter, for anything else. I mean it could be, but the most likely buyer for this property has already indicated that he doesn't want to be responsible for maintaining any structures. That's what got us here. So, if we partition and say that the west end should be a 3-B, these then a 3-C and then come up with a program with time lines for the west end, what in the interim can actually be done on these then? I understand the distinction but I don't know how that benefits us.

LEONARD: Well the distinction is we wouldn't partition as an action of this Planning Commission. The property owner would petition for a partition, and do that through their own action. And that could be done, if they chose to do that.

What I'm suggesting is that we accurately draw a line so they can understand, we can understand, what it is we're saying. We want to give further preservation concerns to this area and not this other area.

If the, some of the information we have received is accurate, then the Forest Service would, assuming these are historic sites, the Forest Service would be bound by the Section 106 documentation anyway, if they were choosing to acquire this. That may dissuade the Forest Service from wanting to buy it.

YOON: So their thing is to keep it all together as one piece; keep it under a 3-C and identify those areas that people can go forth on, and work on, because its, you know, they can sell the whole package and that there's a time frame for the areas that have been identified, point 2 as well as 18 as well as areas to the east, that people have to raise money or find sponsors for or whatever and at the end of that period of time if nothing happens, then the whole thing, basically, goes to essentially 3-B.

MIXED VOICES.

- YOON: No, we still give it historic but they're no longer under any obligation to preserve any of those structures.
- LEONARD: Well, I think they are. Under both Goal 5 and
- YOON: That's what I want to get to.
- LEONARD: But the mechanics that are hanging them up so they can't move ahead with the demolition permit request or anything else is they're stuck in the middle of this ESEE Analysis and
- YOON: Because we have said its historic and we're not going to change that.
- ATWILL: I agree with the proposal that's being discussed, but our purpose is to allow them to be free of the situation so they can sell. Designating the whole thing 3-C might created some problems on that because 3-C, trying to sell it to someone INAUDIBLE.
- YOON: Well, that's the point I was making is if we kept it at 3-C but based upon what Commissioner Leonard has recommended we identify those particular areas that are no longer in conflict; its been resolved.
- LEONARD: No, the conflict remains but we give them a path to resolve the conflict, or mitigate if you will that they document and then tear them down and allow the conflicting use: the nature park, the spawning beds, or parking lot shelters, or whatever they've

MIXED VOICES.

- ATWILL: If the site is still designated historic there are other issues that might arise in a few years; potential _____ or whatever _____ are concerned about if we're designating the area 3-C.
- FRY: Again, the site is historic. That decision has been made. I think we all agree that its not a site that we have to preserve at all costs; its not a 3-A, and so I think we're agreeing that a 3-C is appropriate. There are conflicting uses here that need to be balanced through a plan, and so I think what we're debating now and discussing is a form of that plan. And the plan that we're recommending to the Board of County Commissioners is that the western part of the site, we've been convinced, and the best plan is to tear the buildings down and put little memory, plaques, other types of things to educate the public as to what was there. And that the eastern end of the site, at least in my personal opinion, I'm not convinced that there isn't a potential to restore what is there to present to the public actual buildings instead of just plaques.

And the property owner has not disagreed with that. They testified to us that at the minimum they intend to educate the public that this site is historic and that it was there.

I think the question there is to move it to the level of retaining and restoring some of the physical structures. And that's why I think Commissioner Leonard' plan is a good plan. We are focusing the public's interest and emphasis on the portion of the site that in our judgement seems most realistic in a plan to protect, and I don't see us putting any encumbrances on the developer or owner because they can essentially go forward with a historic site, with a plan that recognizes that parts of the site are historic and that other parts of the site should be restored if the public will can be found to do that.

And if the public will cannot be found to do that, They've even suggested that their minimum they're willing to restore three buildings, so, it seems to me that we can continue with a 3-C for the entire site, a plan that gives them a plan that is prudent and reasonable. Which is what Commissioner Leonard....

LEONARD: Peter, just to clarify, my recollection of the TPL proposal is not that they would restore three houses but that they allow preservation of three houses.

FRY: Okay.

LEONARD: Still looking for a steward.

YOON: So, in essence, if we take the Goal 5 Inventory, Staff Recommendation, and the Task Force recommendations, we overlay that with the specific action that you have proposed here, on top of that, we could essentially say that we are recommending with specific instructions, or agreeing with that with specific instructions from the recommendation; that basically, I'm oversimplifying right now, but...

LEONARD: Yes. Rather than leaving this ambiguity about which houses, how many houses, how far west you go, and potentially tying up any action anywhere on the property to clarify that, draw the line and say north and west of this line we think the conflicting use should end, that we should allow the nature park of this line, go through the process for a steward as recommended by the Task Force report.

YOON: Yes. And we wouldn't be changing anything so you would like to leave the two year, I'm just taking this step by step, a two year _____ essentially to find funding for a sponsorship of the buildings.

MAN: How about two years?

LEONARD: I think if they're truly going to go out on a fund raising campaign its not reasonable to allow that only go to the end of this year.

YOON: And then the second point on that of course there they are and they can either accept or not accept where we are going. And not do anything then. Right?

LEONARD: Certainly.

As some of the correspondence suggested they could put a fence around it and wait until everything falls down and one forgets about it and then come back.

YOON: Right. Because we're not going to obligate them to go out and do certain things with the buildings either. Right? We can't.

Why don't we ask where Mr. Pemble is on this.

PEMBLE: _____ realize the mike isn't on so I hope they're being picked up.

LEONARD: Are these mikes not on?

YOON: No, ours are on.

PEMBLE: Point of clarification: County Code requires that this is classified as a quasi-judicial comp plan amendment; quasi-judicial INAUDIBLE

CHANGE OF TAPE

INAUDIBLE

...and designate it as one of the 3-A, 3-B, or 3-C. I think Commissioner Leonard and Commissioner Fry have explained the issue that will precede INAUDIBLE. Its your job to explain in terms of a program how those components out there INAUDIBLE.

The Staff expected you should consider the site in its entirety as either 3-A, 3-B, or 3-C. If you _____ motion about the site, you talked about a 3-C, you need to talk about what uses would be allowed and what would not and specifically INAUDIBLE

YOON: No, I have a question. I don't really have a problem with that. Lets ask some questions though just to take....What if we designated this thing all of it 3-A with specific recommendations of how one goes around protecting that?

PEMBLE: INAUDIBLE

YOON: No, not that's answering the question. Can we do that? Can we do 3-A?

PEMBLE: _____ I think we're plowing new fields and I quite frankly don't recommend _____ and I think if you really stick with a 3-A and we protect the site.....

YOON: Well, that was the point we were making.

PEMBLE: INAUDIBLE. 3-C is going to potentially protect some; how ever you do that. INAUDIBLE.

LEONARD: Well, Scott, I'll throw my thoughts on what a 3-A would imply into the discussion for what its worth. Were we to choose a 3-A designation, it appears that any kind of a public recreation park, public access to Bridal Veil, virtually anything that is shown on the TPL site plan would not be allowed. You would essentially say don't change anything, don't allow anything, and we wouldn't have the power to go out and tell them to repair it, rebuild it or anything else but with a 3-A we would preclude any other use. I think that there are certainly good arguments made to develop some kind of a public recreation site here and a sink-area plan, a nature plan, calls for public recreation on this site; and it appears that the 3-C or the 3-B would be the only designations that would allow that public recreation use.

PEMBLE: I think that's fair; I think that's accurate. INAUDIBLE, SPEAKING AWAY FROM A MICROPHONE.

FRY: I'd just like to add a comment. I agree, personally, that's a 3-C. I personally do not believe that public recreation is a conflicting use; I personally believe that the blighted condition of the site is the conflicting use of the site. I've seen, in my own experience, historic sites that have full opportunity for public recreation and are educational in recreating to the public. I just want to make it, it seems to me that the conflicting uses are the the fact that the site is blighted and dangerous for children to play in the old mill building. I guess that's my own point of view as far as what are the conflicting uses. I guess it just, I didn't want to get in that discussion because it seemed we were all agreeing, but, I don't see recreation as a conflicting use.

YOON: I personally think we could go with a 3-A but I'm willing to go along with a 3-C.

ATWILL: Are you going to make a motion?

YOON: So, what I would suggest is maybe Commissioner Leonard might want to make a motion.

LEONARD: Okay. I would move that we adopt a 3-C designation for the entire Bridal Veil area as described in the Staff Report and further designate the western portion of the property as shown on the annotated tax map to allow the conflicting use of public recreation nature park and designate the eastern portion of the property as designated on the tax map for a continued preservation under the plan outlined in the Task Force Recommendations.

YOON: Yes, I would suggest that you use the particular drawing that you have as the one that we'll give them, for _____ that way we'll give them for

FRY: I'll second that motion.

YOON: Wait. Don't we also want to accept the Goal 5 Inventory as well as the Bridal Veil Task Force Recommendation? Or do you want to do that as a similar motion? Because they deal with time lines and everything else.

LEONARD: To make this more convoluted, I think that, I would suggest that our Goal 5 Inventory should more specifically describe the Class 3 recreation uses that are allowed in our zoning code for the area.

ATWILL: INAUDIBLE.

YOON: Why don't we just do that and that way we can pass this motion.

LEONARD: Yes, why don't we get this motion on the floor and

YOON: Do I have a second?

FRY: I second it.

YOON: Commissioner Fry seconds.

FRY: Now in the areas of discussion, just,

YOON: Discussion, Commissioner Fry.

FRY: It appears, I'm sorry for making, one thing that is of personal interest to me is the flume, because I think the flume is very historically relevant to why the site is historical. And, I'm looking at this map and it appears to me that the flume is on the western side, or the eastern side? Okay, which side are we.....?

MIXED VOICES.

FRY: Okay, so the flume is on the eastern side of this motion. Okay.

And the second thing, a point of clarification, you're saying that the western side will, in your view, are we talking about a plan yet, in this motion?

LEONARD: Well, we have the proposed nature park plan that TPL submitted as a concept or a vision as how they see the site being developed and used. They emphasize that it is preliminary and certainly subject to final design,

and I would agree with that. I think it is also something that should be considered in our decision.

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FRY: The point I'm getting at is, I don't know if this is appropriate part of this motion or we need to make another motion or amend this, but I really feel it is important that there is appropriate signage on the western side of the site to describe the way it worked; the way the mill worked, the way the pond worked, the way the _____ with the water, transportation worked. I think, personally, that that needs to be also on the western side of the site so that its part of the public recreation; people can be educated as to what they are recreating on. Was that in your motion?

LEONARD: No. I certainly think its a good idea, and if the requirements for 106 documentation come to pass on this site I think that would be a good idea for a requirement.

YOON: If we follow the recommendation of the Task Force that would pretty well _____.

Any other, Commissioner Fritz.

FRITZ: I have to speak in opposition to the motion. I, but only in part. I do agree that, I mean I will support a designation 3-C, that should be very obvious. I don't believe any line needs to be drawn. I think in terms of the program that we recommend to the County Commission to partially protect this area, we can designate which particular buildings are recommended to be eliminated immediately, under certain conditions.

With the other remaining, and that's obviously the mill area and building number 20, I'm not in support of retaining the post office, I mean the building itself is not historical. I understand, or I think I understand, where did you draw a line, is there some new line?

LEONARD: To clarify for Commissioner Fritz, the line I'm suggesting would extend from the edge of the scenic highway west of house 22, 250 feet down the hill to a point and then approximately 650 feet east to the corner of the public right-of-way.

FRITZ: Right.

LEONARD: The post office would not be included in that preservation area.

FRITZ: Right.

LEONARD: The houses, remaining houses and foundation remnants in the bushes of the old school, hospital, and other buildings, would be included in that area.

FRITZ: Well, let me make sure I understand here; you're saying this portion but then all this too?

LEONARD: Right. Everything east of the cemetery.

FRITZ: Right.

LEONARD: North to the railroad tracks from the public right-of-way, and at the existing public right-of-way extend west far enough to pick up the remaining houses, 17, 18, and 22.

FRITZ: Well, let me go beyond this, because I have another major objection. I'm not prepared to support tying up this property for the length of time

suggested in the recommendations of the Task Force. I'm not however, willing to just cut it short to the end of this calendar year either. I think that is unrealistic, but I think there is some merit to picking a time in between those two points to allow advocates to make a very reasonable effort to find financing and stewards.

YOON: You don't like 6 and you don't like 24.

FRITZ: Well, its slightly more than 6. Its just to much to be tied up that long. But I would like, I like the concept of saying this area, which also contains these buildings, you can go ahead and demolish under a procedure, hold on to the others, but set a time limit that I think is more realistic.

YOON: Its not that we necessarily need _____, but what would you like to change to the original motion that would bring you along with the rest of us?

FRITZ: To bring it along? Let me hear the original motion again then, because I don't understand why these lines are necessary if we can just, I still don't, Commissioner Leonard, why we need to draw those lines; we can say which buildings can go away under certain conditions. Immediately.

YOON: INAUDIBLE.

FRITZ: Well, let me ask Commissioner Leonard.

LEONARD: Okay. The reason for the lines relates to a number of things. One, TPL has requested certainty and clarity in getting on with things. I think drawing lines on maps helps that. If that's what we want to represent. The reason that I drew the lines the way I did is to allow all of their proposed recreation uses to fall outside of our preserved or to look, or preserve it long enough to look for another steward. That they would, if the choose, and we can't force them to proceed with the partition if they don't want to, but it would give them the opportunity to proceed immediately with documenting and pursuing the demolition permits so they can get on with whatever they want to do. If they want to develop a park there.

FRITZ: But TPL has made it very clear they are not going to develop. They are going to sell the property....

LEONARD: Excuse me, if they want to pursue selling it to the Forest Service so the Forest Service can develop the park.

FRITZ: Well, but the Forest Service has already said....I mean, I take people at their word; it said that they don't want the property if there is buildings on it. Now,

YOON: Well, do you think everybody is playing hardball with us?

FRITZ: We can't partition.

LEONARD: Right. It would take a willing act by TPL to partition the site to sell the portion where the park if proposed to the Forest Service so the Forest Service could develop the park.

ATWILL After demolition.

LEONARD: After demolition, assuming the Forest Service didn't want to buy it with buildings still standing on it.

YOON: Well, let me do a follow-up on Commissioner Fritz.

What if you designated the specific buildings that you were going to exclude from demolishing? Wouldn't that serve the same purpose? If you said buildings 1 through 7 and buildings 9 through 15, I mean 9 through, number 9 and then buildings 12 through 15? I mean, I'm just following this through, I mean, which is basically the question he's asking here is why can't we just talk about specific buildings.

MIXED VOICES:

FRITZ: He just gave a very specific....

YOON: So would you be satisfied with that? Commissioner Fritz? We'll get onto your second concern in a minute.

FRITZ: I still don't know what that's going to do. I mean....

YOON: We're not partitioning. We can't partition.

FRITZ: We can't partition. We would just say basically what a lot of the program here already says, is that the mill buildings and the building 20 can go away and...

MIXED

LEONARD: What I found that was not clear in the Task Force report was the notion that documentation and demolition could proceed immediately on one portion while people are looking for stewards on another portion. And I think TPL and the Forest Service in its correspondence had argued to provide certainty and let them get on with developing a park; and we have a, at least a vision for a park on a portion of the site that I think is a valid conflicting use and it would be reasonable for us to find that it would be a conflicting use we should allow to occur there, and consequently we need to allow documentation and demolition of the buildings for it to occur.

FRITZ: I understand.

LEONARD: Further clarification on why not just designating the buildings: the record through last Fall and through the site visits show that there were buildings on adjacent to the ones that are still standing....

FRITZ: Some old foundations.

LEONARD: And there are old foundations, archaeological remains, whatever might be there that's not well documented, and following the guidelines for historic preservation under the National Historic Preservation Act, it would probably be reasonable to try and preserve that whole village area. The flat area down by the mill buildings had been highly altered over time. There have been mill buildings that have been built, torn down, changed, moved, and....

YOON: That wasn't the siding mill anyway. The siding mill was above it.

LEONARD: Right.

FRITZ: Let me take this one step further, because I understand now. I'm much, much more clear in my own mind.

Lets assume, I'm going to assume maybe the impossible, that in fact there would be a partition that the owners, that TPL, would petition for partition, it would be granted and the west end is sold to the Forest Service for development..

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MIXED VOICES.

FRITZ: ...or whomever, hopefully to develop an area where you could observe Bridal Veil's falls from the bottom. Then we, the rest of the land is tied up for whatever period of time while somebody seeks funding and stewards for restoration and maintenance of all or part of the buildings and all or part of the property. Once its partitioned wouldn't it become much more difficult for TPL to sell all this east end? I mean, what if, the Forest Service gains what they wanted, which was public access, there would be a parking lot, trails to Bridal Veil Falls from down below, what's the advantage of buying the eastern part of this land?

YOON: Kind of like cutting up _____

FRITZ: Well, if it be, doesn't it lose value?

MIXED AND INAUDIBLE.

LEONARD: Well, obviously that's a good question and one that TPL will have to wrestle with if there's not an appropriate steward that can afford to pay what TPL wants for that eastern portion. And, the Forest Service were to acquire the western portion and proceed with a park, then at some point in the future the Planning Commission and the county may be faced with a further proposal of another conflicting use which would extend the park into the area where the houses are and.....

MIXED VOICES.

YOON: I don't think you should assume that one part will be sold and the other part not be sold. You know.

LEONARD: The case has certainly been made that a nice public recreation facility with historic buildings preserved and interpreted might be done on the site, given adequate funding. TPL has also made very clear that they don't share that vision and they don't want to do anything to further that vision and they're reluctant to wait past the end of this year to give somebody else time to pursue that _____, but...

YOON: Let's go on to your second question, which was the 24 months, that you had a problem with.

FRITZ: Oh, I do. I do. I think that's far to long. I mean, its a burden; its an unnecessary burden.

YOON: Can you think of a reasonable time?

FRITZ: I can be as arbitrary as anyone else and pick a time.

YOON: Well, you're allowed to.

FRITZ: Well, I'd throw out April 1, 1994 as a date, I mean, its a, its ten-and-a-half months. What's the difference between that and seven months? I think that if there isn't some firm indication that there are reasonable stewards out there who had the money, not only to restore but to maintain, by April 1 of

'94, it could go back to you know, making a record of what's there, demolishing it and putting up some interpretative plaques.

YOON: According to the time chart, it was by December 31st of the year when stewards would be identified. It wouldn't count in '94.

FRITZ: But you need some money.

MIXED VOICES: Right. Right.

FRITZ: Long term money.

YOON: Right. And funding would be by 7/1/94.

FRITZ: Well, they'd have to identify the funding.

YOON: Um hmm.

Well, I actually share your concern about that. I would entertain, I mean we could go back and, you know, a shortening of that period of time. That isn't in the Staff recommendation, is it?

INGLE: It refers to INAUDIBLE. The time line is

LEONARD: The motion was intended to include this time line.

YOON: Okay. So, do you want to modify it, or, if not, then we'll just call for the question and go for the vote on this question.

FRY: Can I just say one thing about that?

YOON: About what?

FRY: I think that this site is 100 years old and its a complicated process, the ESEE Analysis is only two years old, that this proposal takes the pressure off and the underlying problem here has been the pressure to move on; the property owner's pressure; because if any property taxes they must maintenance costs, although they themselves are a non-profit organization that's been around for a while, and hold property from _____ I understand. But at any rate, they have clearly stated they're under pressure and I think what we're doing is we're relieving the pressure and allowing them to move forward. And, I think personally, that two years is not unreasonable given the time line, because we're talking about places within the time line the way things have to be done. This time line is not one that says we will do nothing and then in the end of two years and come back. There are marks along _____ and things have got to be accomplished.

YOON: Well, I think you should call for the question.

FRY: Okay. Call for the question.

DOUGLAS: I have some questions. First of all, you're plan takes in building 22 and 18?

LEONARD: Yes.

DOUGLAS: I have your picture here but it doesn't show that.

LEONARD: Well, I drew a line on one copy.

DOUGLAS: On one copy. Okay.

MIXED.

LEONARD: Pass that down so George can see it.

DOUGLAS: The other thing is, its been expressed that the buildings themselves are not historical. Is that correct? The site is historical.

LEONARD: Well, the area, as I recall our action last Fall under Goal 5 we designated this as a historic resource area.

DOUGLAS: Area. Not buildings.

LEONARD: Well,

YOON: He's right.

LEONARD: That may or may not be the case. I went back to the National Historic Preservation Act definitions of sites, areas, districts, and so on, after TPL raised the question that we only said site and didn't say buildings. That's nonsense. If there are relics on any site they are part of what gets considered. And its part of the information, so the buildings may fall down but they are part of the place now. And, I think that's the whole point of the comments we've received that have been asking for preservation efforts was to preserve and restore the buildings as historic documentation information.

DOUGLAS: I don't know how you can call some of those historical.

LEONARD: Well.

DOUGLAS: They have been so changed.

YOON: But the problem George, is I agree with you but we voted that they were historic.

DOUGLAS: Well, I thought we were voting

MIXED VOICES

YOON: Well I agree with that particular _____ but we've got to move on now.

FRITZ: Well, let me, just and not to belabor this point, but I think its recognized that one or more of these buildings lack historical integrity. That doesn't mean they aren't historic; just that they have gone through such change or such deterioration that they lack historic integrity. And building 20 is one of them.

LEONARD: And building 20 may be recent construction. The information

FRITZ: The mill buildings, the site definitely is and there may be part of those mill buildings that are very historical but the appearance is that they are newer. So, there is some question about historical integrity I think and I agree with the Commissioner about that.

Where I'd like to go is to clarify the motion, because I think there were three or four points in this motion, and some I know I'm going to agree with and others it appears to be a lot of different opinions about.

INAUDIBLE

FRITZ: No, I don't know. Commissioner Leonard made, it was a designation the entire site is 3-C.

LEONARD: Right.

FRITZ: And I can agree with that. An indication of a line, which doesn't do anything except indicate that the Commission, this Commission and the County Commission, should be, if everybody adopts it will be open to possible lot line adjustment. Is this what it is?

LEONARD: No. The note that I put on here says "allow public recreation conflicting use in this area". And that would apply to the western portion.

And then continue efforts to preserve on the east portion to be consistent with the Task Force recommendations.

YOON: And the time lines that are here.

LEONARD: Yes.

FRITZ: Okay. All right, so I understand, I do understand that portion. And what else was part of the motion? Was the adoption of the time line....

LEONARD: Yes. That the Task Force, as recommended by the Task Force.

FRITZ: You're not adopting the whole Staff Report then?

MIXED VOICES:

FRITZ: Or the whole program for protecting...

MIXED VOICES:

FRITZ: Protecting the, the partial protection?

LEONARD: While we're still under discussion here, I move to adopt the whole Staff Report. And I'll further move to add additional language on page 2 of the Goal 5 Inventory, under "D", "Describe Existing or Potential Conflicting Uses", I would add there under 'potential conflicting uses' the public recreation uses suggested or allowed for this site in the Gorge Management Plan and in the county's Zoning Ordinance, the Class 3 Public Recreation Uses. That is at the core of conflicting uses we've been debating here for months. Allow a public park, allow public access to Bridal Veil Falls.

FRY: Inaudible.

FRITZ: Let me, I know, you were the second, but I want to make sure I understand it.

LEONARD: That's a motion to amend the main motion.

INGLE: Well, can anybody else...

YOON: No, anybody can.

FRY: I was going to say I will second it because, actually, a case has been made that I am persuaded that in some cases public recreation would be a conflicting use in that it intends to change the character of the site so dramatically that its not...

I just want to add that INAUDIBLE.

YOON: Commissioner Atwill.

ATWILL: I just wanted to suggest that maybe we could break the motion into independent motions and then we....

LEONARD: This one would be a motion to amend.

ATWILL: Okay, but then we still have another one that we're talking about. At the same time we could proceed in an organized fashion to close one subject and move on to the next.

YOON: Well, what we're going to do is vote on the amendment and then vote on the original motion and then we're going to go back to the _____ with the adoption of the Task Force as well as the Goal 5 Inventory.

FRITZ: Mr. Chairman, under discussion on the motion, I'm not prepared to vote on it until I understand the entire main motion.

YOON: Right.

FRITZ: Now, my understanding, through the Chair to Commissioner Leonard that as part of your motion is the adoption of the Staff Report and the Goal 5 Inventory statement as you have suggested as the one amendment, and that would include the program in the

LEONARD: Yes.

YOON: This is getting a little complicated.

MIXED VOICES.

LEONARD: Okay, right now we have a very comprehensive main motion that does a lot of things: the entire Staff Report plus the drawing a line.

FRITZ: You want to adopt all of this. Your one amendment under "D" and the suggested line on this map, and this...

LEONARD: Well, the motion on the floor now is merely to add an additional conflicting use which would be public recreation.

FRITZ: I understand.

LEONARD: Its a real narrow focus.

FRITZ: Its a real narrow focus. You're right. I'm sorry.

YOON: I call for the vote. All in favor say aye. All opposed. So, one nay, Commissioner Ingle. So, the amendment to change the wording on page 2 of the Goal 5 Inventory to be MIXED.

LEONARD: Well, with the addition of point 5, public recreation.

YOON: Point 5. D.5. Now we're back to the original motion, which has been seconded also and we're still under discussion with that.

- ATWILL: On discussion, I need to disagree with the time line in the Task Force Report. I think six months at the end of the year is too soon for a steward to be identified. I would think that would be tied up with identifying funding, so we should, I would recommend pushing that back a little bit further.
- YOON: I disagree. I just have to disagree, because there are so many people who have been involved in the Task Force, and in these particular hearings and which probably 90 percent of potential stewards have been identified in this process. I think, quite frankly, get off the pot and make a decision in the next six months if there isn't, it doesn't mean they have to come up with the money _____ but they can certainly identify that they're interested.
- FRITZ: Okay. That isn't inconsistent with what I just heard.
- YOON: No, she said they should have more time. I think....
- FRITZ: No. Funding. Funding.
- YOON: No, she said they
- ATWILL: My assumption was that the steward process will be tied up with funding, so, give them short period to INAUDIBLE.
- LEONARD: The motion was to adopt everything here including this page, but you're suggesting the 12/31/93 is not enough time for these potential stewards to express interest.
- YOON: I think that's enough time.
- ATWILL: Right.
- DOUGLAS: That is my thought too. If they express interest in that period of time that's plenty of time but if they were to come up with the money then that's not enough time.
- LEONARD: Well, the funding...
- YOON: The funding does not have to be identified until 7/1/95.
- DOUGLAS: That is actually to far as far as I'm concerned. I think it should be shorter than that.
- LEONARD: That is some concern.
- INGLE: I'd like to express, since I've been quiet here, I think what it really boils down to is getting the full cooperation of TPL; whatever recommended solution we come up with. So, I've been in my mind trying to think how could we balance and present the best solution. I don't know if there is or is not one. I like Commissioner Leonard's concept of at least identifying the number of homes to be saved. Buildings. It provides more clarity and intent for the property owner, but what I think needs a little tightening up is perhaps the length of the stewardship search. I think two years is probably a little too lengthy; I would venture say perhaps a year might be more in line.
- I feel real strong there is a need for storing documentation in the event of demolition. We have a memorandum suggesting that there is a Multnomah County ordinance that would perhaps provide that in for a condition of

approval for a demolition permit and I think we need to go on record as suggesting that that will happen.

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My other concern is with regard to the non-profit, private concessionaires, rental residential or commercial enterprises. I have a real difficult time with that particular element because TPL on one hand is saying 'no, those aren't the type of users we want in those historic homes', while on the other side of the coin, the county and other interested parties are saying, 'look, that's a state of the art funding alternative, if you cut that, basically you've cut the program.' So I think there are some things that need some tightening up, with regard to the Task Force report.

That's pretty much where I stand. Its not that I'm 100 percent for or 100 percent against the motion, I just think there is some tinkering that can be done and hopefully through that process we gain full cooperation with TPL. Whether that's possible, I don't know, but...

YOON: We can't change the Task Force Report.

MIXED VOICES.

YOON: We can adopt MIXED VOICES

FRY: I just wanted to speak to the, I actually agree with the points about time stewardship with the funding and then in 7/1/95 it talks about funding being committed, having being forced to seek financing for all kinds of things but even when funding is committed its sometimes uncertain, so, I personally do agree that it probably would be worth to spend some time on this time line and discuss it. I don't know if we're the appropriate one's to do that, although I'm willing to do that now if we can do it in a procedural way instead of just, in other words, just going down through these elements in a....

YOON: Well, with a motion on the floor, which basically we can fly except for this particular time line, we can't have a vote unless we accept the time lines that are in there.

FRY: We could move to amend.

LEONARD: We have a motion to change.

YOON: We have a motion to change. That's where we are.

FRY: And maybe that would be appropriate; we could have specific ideas of what is wrong with this be brought forth and decide, collectively, what is their feelings.

YOON: Having said before that I think 6 months was long enough for anybody to step forward and make a decision that they would be interested and doing this but also taking in the fact that TPL will have been very specific as who they define as a steward, which kind of creates a problem. I'm also sensitive to the fact that even if the U.S. government agency said they wanted to do it, they really wouldn't be able to get any approval for about 18 months or so because they'd have to get into the damned budget. And their budget is being processed now so they would have to wait two more years for a budget. So that does create somewhat of a problem.

But on the other hand I'm not going to tell TPL how to run this thing. And, they own the thing and they can go along with our recommendations, and if not, it will come back before us and we'll have to do something with it. So,

I guess I would entertain a motion to amend the time line and then move on to a vote, because I'm sensitive to what you're saying Commissioner Ingle but we can't tell TPL what to do. We can only hope they go along with what we recommend.

So, given that, does anybody want to make a motion to amend the time lines?

- ATWILL: Yes. I make a motion to amend the time line set forth in the Task Force Report so that the time line for identifying the steward is the same as the time line for identifying funding.
- YOON: That's an interesting concept.
- FRY: I'll second that motion for discussion.
- YOON: Did you have a particular date in mind?
- ATWILL: As shown.
- YOON: So you're saying 7/1/94 or are you saying that you're moving everything up to 12/1/93?
- ATWILL: The date for identifying funding, the cutoff is
- FRY: 7/1/94.
- ATWILL: 7/1/, that date.
- LEONARD: 7/1/94 or...
- ATWILL: '94.
- YOON: So, you're suggesting that
- LEONARD: That's 14 months from now.
- FRY: Can I second the motion?
- YOON: Sure.
- FRY: I would support this motion and be committed to support another motion to eliminate the 7/1/95 deadline, because personally, I think the key here is to find a willing steward, and if a willing steward is found then it flows beyond that and I think a year....
- YOON: Let's move this along then. So, basically what you're suggesting Peter, is all of the steps that are in this funding process and stewardship process, essentially be 7/1/94, which would be finding a steward, identifying the funding, and getting the funding.
- FRY: No. I'm saying that the, in discussing this motion which says to move the 12/31/93 date to 7/1/94; and then I'm saying I would be committed to making a second motion to eliminate this 7/1/95 date so the pull date on this program would be 7/1/94 and there would not be another year. I mean, 7/1/94
- YOON: I apologize. That's exactly right.
- FRY: Okay.

YOON: Okay.

FRY: There's a second motion; I'm just....

LEONARD: A second motion hasn't been made.

YOON: Hasn't been made. So, would you like to restate your motion? Withdraw your motion and restate it?

ATWILL: INAUDIBLE.

I withdraw MY motion.

YOON: Okay.

CHANGE OF TAPE.

DUPLICATION OF PREVIOUS TAPE.

YOON: Would you like to withdraw your motion and state a motion that basically all of the...

LEONARD: INAUDIBLE

YOON: With a second?

FRY: I would allow that withdrawal.

YOON: Would you like to make a motion that basically identifies a steward for funding and get the funding by 7/1/94?

ATWILL: I will attempt to do so. Okay.

FRY: Can I discuss this for a second?

ATWILL: Uh huh.

FRY: I want to make it very clear, in my opinion there's no way funding can be committed, under any circumstances, by 7/1/94. What I was talking about was by 7/1/94 a stewardship would be identified. I would also be willing to support the idea of a funding identified or a package identified, but to commit the funding by 7/1/94 is absolutely in my experience impossible under any circumstances. Its hard enough to get financing on a house.

YOON: But Peter. But Peter. Just identifying funding, quite frankly, is B.S.

FRY: I'm dealing with an enormous project right now where the council's task is to identify the funding, and once funding is identified, the rest will flow forward, but to commit funding by 7/1/94 is impossible.

YOON: Well, its not necessarily writing a check, but someone, you know, I mean, you could just name, this is where we think we're going to get the source, the funding. I mean, you need to get somewhat of a two-way

FRY: That's what I'm talking about; a financing concept package

MIXED VOICES

- FRY: I just want to get away from the word "committed" because to commit funding is a very difficult thing.
- YOON: So, when you say identify that means a source, basically, has...
- FRY: INAUDIBLE.....funding package that is legitimate and realistic.
- YOON: And so would either you or Commissioner Atwill like to make this amended motion?
- FRY: Okay, well I would, but if then if that, the only deadline date 7/1/94 is that deadline day a day to identify a steward with a realistic funding package.
- INGLE: I'll second the motion.
- YOON: Commissioner Ingle seconds.
- YOON: Discussion? Call for the question. All in favor.
- LEONARD: I have _____ comments.
- DOUGLAS: I have some comments too.
- LEONARD: I would not support the motion. I think that the preservation process that we have recommended by the Task Force sets for a reasonable and pragmatic sequence of choices and offers TPL four ways, four times to bail out of the process if they feel at 12/31/93 potential stewards haven't expressed interest for a commitment to manage the process, they're out. They can head for the door.
- Again, at 7/1/94 there's a decision point that allows them, well, right after 12/31/93 even there is an expression of interest they can decide they don't like those expressions and bail out. And, so on January 5th, '94, they can head for the right hand side of the page.
- Again, if by July 1st, if there isn't an identified potential, no potential partners for fundings, they're out.
- If there is a reasonable, substantial, entity that comes forward and starts down this process, the times are probably, if anything, optimistic. I point out that if by some partnership or some combination of donations and whatever that State Parks got involved in here, the next biennium budget won't be approved until probably 7/1/95. So, as far as funding identified and committed, it probably, although its a long ways off, its probably not an unreasonable date for that to be in here.
- But, again its not binding TPL to wait until that point before they can get on with something else, if that's the way they're going to go.
- YOON: I find it interesting in this flow chart that under "identified potential stewards" all they have listed, essentially, are government agencies. They haven't listed anything else. So are we to assume then that basically we're dealing with only government agencies, as TPL had also stated?
- FRY: I personally am not assuming that at all because I'm personally aware of private foundations and...
- YOON: I understand that, but...

- LEONARD: If that is in fact what TPL is holding out for, and they've expressed that opinion, then I think that's what it means.
- YOON: Yup.
- LEONARD: And unless one of the private, non-profits can enlist the cooperation of a government agency to be a co-sponsor/co-steward, it may be over right there.
- YOON: Right. Okay. George.
- DOUGLAS: I have a lot of reservations on this. You know, when I voted the opposite way on this it was with the understanding that if in 6 months something didn't happen it was to go back, TPL was to take over and go ahead and destroy these and do whatever they wanted with it. Now we're a long ways on that and you're talking about a couple years besides. To me that doesn't make sense.
- The other thing I want to point out is, I thought I made it pretty clear that if we restored those they should be private enterprise, not government. Government has already tied up all the funds it can do and it got more than it can handle, so to identify a private funding source shouldn't take that time line, number one. Secondly, they should have to where they, lets say, have 50 percent of the funds within 6 months; to make them available. Which I think is quite reasonable. And if they don't do that I'm voting against it; I'll tell you that right now. I just can't see us dragging it out.
- YOON: I think we all know where we are. Why don't we just vote on the time frame amendment first. Amendment to the time frame.
- FRITZ: Could someone restate the time frame amendment then?
- YOON: Why doesn't Commissioner Fry.
- FRITZ: All right.
- FRY: I'll just to try to simplify the process. Essentially what I'm saying is...
- INGLE: This is the Bridal Veil preservation process?
- MIXED VOICES: Right.
- FRY: I'm saying that by 7/1/94, stewards were to be identified and a financing plan to be identified.
- YOON: All in favor of the motion raise your right hand.
- Four was for.
- All opposed. Does this, it passes. So the preservation process has been changed so that all of the items listed under 12/31/93....
- LEONARD: Procedurally don't we need a five votes to even amend?
- YOON: To amend the motion?
- FRITZÚ We need five for final.
- LEONARD: Where's our parliamentarian?

PEMBLE: You're going to drive everybody nuts tonight. The question....

MIXED VOICES.

PEMBLE: Get on with the motion. The final recommendation has to have a five vote
INAUDIBLE.

FRITZ: Right. I....

PEMBLE: The final vote, the final recommendation, you have, what you've just done was voted to amend your base...

YOON: Which has nothing to do with the five vote requirement?

PEMBLE: Right. INAUDIBLE.

YOON: So the amendment to change the preservation ____ process has passed.

LEONARD: Could somebody mark up a copy of what was just passed so we could see what it says?

YOON: Well, basically my interpretation is everything that is listed under 12/31/93 has been moved down to 7/1/94.

FRITZ: What? No.

FRY: Right.

YOON: That's exactly what he stated.

DOUGLAS: Want to change your vote?

FRITZ: I'll move for reconsideration.

DOUGLAS: I'll second that.

INGLE: Okay. Can I introduce a new motion perhaps?

FRY: Only if I second the motion for reconsideration, which I will second.

INGLE: I'd like to entertain a new motion.

MIXED VOICES.

YOON: Okay.

FRITZ: Well, its simply a motion to reconsider the vote and its a straight up and down.

YOON: So, again, all those in favor of changing the Bridal Veil preservation process...

FRITZ: No, it says all those in favor of reconsidering the vote by which we amended the Bridal Veil preservation process.

YOON: All those in favor of reconsidering the vote that we have just passed considering the Bridal Veil preservation process say Aye. All opposed. Passed.

FRITZ: I want to..

MIXED VOICES.

DOUGLAS: Commissioner Fry abstained. You abstain?

FRITZ: That's just on the reconsideration, so the matter is before us; the motion is before us again.

YOON: Right.

FRITZ: Now, my understanding of the motion, you are the maker of the motion Commissioner Fry, is that the Bridal Veil process, as we would adopt it, be cut off? I mean, would stop at 7/1/94? Is that not correct?

INAUDIBLE.

LEONARD: Could you mark up what you think is the motion you made?

FRY: The motion is this simple. It would be to essentially eliminate the "by 12/31" date. That would be what the motion would be. And I want to make it clear that I make this motion simply in the spirit of trying to achieve a compromise and agreement to this process. I personally don't have a problem with the process as you have described it, with the various pull dates on it. But I felt there was some concern about that this could drag on; I don't believe it will drag on, but I made the motion in order to try to respond to that concern. Do you understand what I am saying?

MIXED VOICES: Right.

INGLE: Before we get to the vote, since I seconded your original motion, I wanted to pass something by you and see if you're amenable to this concept, because maybe it does and maybe it does not address some of the issues on either side of me, in that we retain your original 7/1/94 date, identify potential partners and funding and then the next line "funding identified", I would then also recommend by 7/1/95 funding be committed. So you're really breaking that up into two different...

FRY: I'm sorry. I should have made it clear. When I made my motion it was to eliminate the "by 12/31/95 and to eliminate everything after..."

YOON: '93.

FRY:everything after 7/1/94. Okay. You're correct. So I was eliminating the issue of funding identified committed. I was creating 7/1/94 as the...

LEONARD: Peter, could you mark us a copy of what you're proposing exactly as you understand it?

FRITZ: Under debate and before we, the Commissioner has marked it up; let me, just under discussion to this motion, I'm going to oppose the motion but surprisingly, I'm going to come around and end up supporting the original Bridal Veil preservation process. I guess I am now convinced that TPL has the control at the end of this calendar year, to put a stop to the whole thing.

YOON: Would you like to withdraw your motion, Commissioner Fry?

FRITZ: I mean, I....

YOON: It sounds to me like everybody is going to go along with the original time frame.

FRITZ: Well, not everybody.

YOON: Well, a majority of five.

FRY: With that clear understanding of the Commission I will withdraw my motion.

YOON: Withdraw your second?

INGLE: Yes.

FRITZ: Before we, however, move to the adoption of the Staff Report, which is the whole, I mean the Staff Report as,

YOON: Thank you.

FRITZ: The Staff Report and the Goal 5 Inventory has been amended already.

YOON: Right.

FRITZ: And with the additional amendment of the proposed lines on the map, both into the Goal 5 Inventory and obviously in the Staff Report, there is still more specific references to the post office and postal services. Is that consistent with what we?

YOON: Yes, because they said the building was not historic _____ then it could be moved someplace else. I mean, the building...

MIXED VOICES.

FRITZ: No, I understand that. I understand that.

Okay. INAUDIBLE

YOON: I'll entertain a call for the question. And a vote.

FRITZ: I'll call for the question on the main motion.

YOON: Okay. All those in favor please raise your right hand. All opposed. Commissioner Atwill, Commissioner Ingle opposed; Commissioner Douglas, Yoon, Leonard, Fry and Fritz for. Motion Passed with five votes.

MIXED VOICES.

YOON: Now we will, would you also like to make a motion now to accept the Goal 5 Inventory?

MIXED VOICES: That was part of it. That was part of it.

YOON: Do we need to make a motion to accept the Task Force Recommendations?

LEONARD: That was part of the original main motion.

YOON: Okay.

ATWILL: INAUDIBLE.

INGLE: Example: one steward. No money. Is that interest.

ATWILL: I mean, can they write a letter, I mean...

LEONARD: My understanding of the preservation process and TPL's expressed concerns is that only the Forest Service, Oregon State Parks, the county, or the Oregon Department of Fish and Wildlife would be considered appropriate stewards. They would not consider expressions of interest from private non-profit such as National Trust for Historical Preservation, Crown Point Country Historical Society, or others of that type, so the challenge to the preservation interest is quite steep; to find an appropriate partner on the approved list who is willing to express that interest.

FRITZ: Interest, and up-front money, and long-term money; that's the big....

MIXED VOICES.

LEONARD: I think everybody's interest would be the Task Force Recommendation.

YOON: The Planning Commission has written in its approval for a request for adoption of the supplemental document the Goal 5 ESEE Analysis and Protection Plan for Bridal Veil, as well as the Task Force Recommendation.

FRITZ: Yes.

YOON: _____ will be available; reported to the Board of County Commissioners to make available hearings of planning matters. Any appeal of this decision must be filed with the land development office no later than 4:30 p.m. 21 days from this date.

END.



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

NOTICE OF REVIEW

1. Name: Trust for Public Land, _____

2. Address: 1211 S.W. 6th Avenue, Portland, OR 97204

3. Telephone: (503) 228 - 6620

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

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

Adoption of Goal 5 ESEE Analysis & Protection Program for Bridal Veil.

6. The decision was announced by the Planning Commission on May 17, 1993

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

We have testified on this matter previously and are landowners of
most of the subject property. Our interests are adversely affected
by the decision.

Please return this original form

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

The Planning Commission erred in making a 3C decision by

inadequately weighing competing uses and by not allowing

competing uses to the extent they should have.

The Planning Commission was not sufficiently clear in terms of the

particular resources that are to be protected, of the rationale for

protecting those resources, and the level of documentation required

before demolition of certain resources.

9. Scope of Review (Check One):

(a) ☒ On the Record

(b) ☐ On the Record plus Additional Testimony and Evidence

(c) ☐ De Novo (i.e., Full Rehearing)

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

Signed: Christopher L. Beck Date: 6-7-93

5-3-93 = 6:05 - 9:20 145 min		For Staff Use Only	
5-17-93 = 6:05 - 7:50 105 min		(300 minutes x \$3.50 = \$1,050)	
Fee:			
Notice of Review = \$300.00			
Transcription Fee:			
Length of Hearings <u>340 min</u>		x \$3.50/minute = \$ <u>1190</u>	
Total Fee = \$ <u>1490</u>			
Received by: <u>M. Hess</u>		Date: <u>6/7/93</u> Case No. <u>C9-92a</u>	

Multnomah County
Zoning Division

RECEIVED
JUN - 7 1993

Meeting Date: June 8, 1993

Agenda No.: P-2

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM
(For Non-Budgetary Items)

SUBJECT: Planning Commission Decision Review

BCC Informal	<u>(date)</u>	BCC Formal	<u>June 8, 1993</u>
			<u>(date)</u>
DEPARTMENT	<u>DES</u>	DIVISION	<u>Planning</u>
CONTACT	<u>Sharon Cowley</u>	TELEPHONE	<u>2610</u>
PERSON(S) MAKING PRESENTATION	<u>Sandy Mathewson</u>		

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: _____

CHECK IF YOU REQUIRE OFFICIAL WRITTEN NOTICE OF ACTION TAKEN: xx

BRIEF SUMMARY (include statement of rationale for action requested, as well as personnel and fiscal/budgetary impacts, if applicable):

C 9-92a Review the Decision of the Planning Commission of May 17, 1993, in the matter of a Goal 5 ESEE Analysis and Protection Program for Bridal Veil

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL _____

Or

DEPARTMENT MANAGER pc BH Williams

(All accompanying documents must have required signatures)



MULTNOMAH COUNTY OREGON

DIVISION OF PLANNING & DEVELOPMENT / 2115 SE MORRISON, PORTLAND OREGON 97214

DIVISION OF PLANNING AND DEVELOPMENT

Board Planning Packet Check List

File No. C9-92a

☒ Agenda Placement Sheet No. of Pages 1

☒ Case Summary Sheet No. of Pages 1
☐ Previously Distributed _____

☐ Notice of Review No. of Pages _____
*(Maybe distributed at Board Meeting)
☐ Previously Distributed _____

☒ Decision No. of Pages 18
(Hearings Officer/Planning Commission)
☐ Previously Distributed _____

*Duplicate materials will be provided upon request.
Please call 2610.



BOARD HEARING OF JUNE 8, 1993

TIME 9:30 am

NUMBER C9-92a

CASE NAME: BRIDAL VEIL
GOAL 5 ESEE ANALYSIS AND PROGRAM

1. Applicant Name/Address:

Multnomah County

2. Action Requested by applicant:

Adopt the Goal 5 Inventory as a supplemental document to the Comprehensive Plan, designate the site "3-C", and adopt the Task Force Recommendations and Preservation Program for Bridal Veil (significant historic resource #15).

ACTION REQUESTED OF BOARD

- ☒ Affirm Plan.Com./Hearings Officer
- ☐ Hearing/Rehearing
 - ☐ Scope of Review
 - ☐ On the record
 - ☐ De Novo
 - ☐ New Information allowed

3. Planning Staff Recommendation:

Designate Bridal Veil "3-C" and adopt the Goal 5 Inventory, Task Force Recommendations and Preservation Program based on the Findings and Conclusions in the Planning Commission Decision.

4. Planning Commission Decision:

Same.

5. If recommendation and decision are different, why?

ISSUES
(who raised them?)

Do any of these issues have policy implications? Explain.

**DECISION OF THE
MULTNOMAH COUNTY PLANNING COMMISSION**

In the Matter of a Goal 5 ESEE Analysis
and Protection Program for Bridal Veil

)
)

**RESOLUTION
C 9-92a**

On December 29, 1992 the Board of County Commissioners supported a recommendation by the Planning Commission to amend the Comprehensive Framework Plan to add Bridal Veil to the inventory of significant historic resources. The county is required to complete the State Goal 5 planning process by conducting an ESEE analysis and implementing an appropriate level of protection for the site. A Task Force was formed to assist in completing the Goal 5 process and to make a recommendation of the appropriate level of protection for the site after considering the significance of individual site elements.

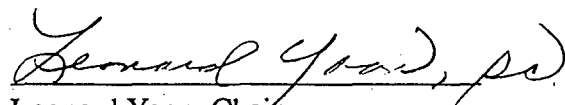
After appropriate notice, the Planning Commission held a public hearing on May 3, 1993 to receive public testimony on the matter. After hearing testimony, the Commission closed the oral portion of the hearing, but kept the record open until May 10, 1993 to allow additional written evidence or rebuttal of evidence submitted during the hearing. The record was held open an additional 4 working days (until May 14, 1993) to allow parties to submit written rebuttal of any new material submitted during the first open record period. Evidence received during both extension periods was distributed to the Commission on May 11 and May 14, 1993.

On May 17, 1993, the Commission met for deliberation. Based upon the record and testimony, the Planning Commission adopts by reference the attached Findings and Conclusions and Task Force Recommendations. The Commission finds that the proposal to designate the site 3-C satisfies the approval criteria pursuant to OAR 660-16-010 (3), and adopts the attached Goal 5 Inventory as a supplemental document to the Comprehensive Plan.

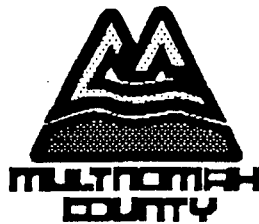
The motion to approve this Resolution received a Planning Commission vote of 5 in favor and 2 opposed.

NOW, THEREFORE BE IT RESOLVED that the Multnomah County Planning Commission hereby recommends that the Board of County Commissioners designate Bridal Veil 3-C and adopt the Goal 5 Inventory and Task Force Recommendations.

Approved this 17th day of May, 1993



Leonard Yoon, Chair
Multnomah County Planning Commission



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

C 9-92A
PLANNING COMMISSION DECISION
May 17, 1993

Adoption of Goal 5 ESEE Analysis and Protection Program
for Bridal Veil

Proposal: Adopt, as a supplemental document to the Comprehensive Framework Plan, the ESEE analysis and protection program which achieves Statewide Planning Goal 5 for Bridal Veil (significant historic resource site #15).

Location: Bridal Veil Road and Crown Point Highway

Legal: Lots 7-15 of the First Addition to Bridal Veil; tax lots '2', '3', '11', '19' and the portion of tax lot '18' lying east of and including Bridal Veil Creek; plus a portion of the railroad right-of-way between the I-84 interchange and Bridal Veil Creek, all in Section 22, TiN, R5E. (see attached Map)

Site Size: approximately 30 acres

Comprehensive Plan Designation: Special Management Area, Public Recreation, Recreation Intensity Class 3, Coniferous Woodland

Zoning: GS-PR, Public Recreation, Gorge Special Management Area

Recommendation: Adopt the 'Goal 5 Inventory Worksheet' for Bridal Veil as a supplemental document to the Comprehensive Framework Plan and support the Task Force Recommendations and Preservation Process based on the following Findings and Conclusions.

I. BACKGROUND:

On December 29, 1992 the Board of County Commissioners acted on a recommendation by the Planning Commission and amended the Comprehensive Framework Plan to add Bridal Veil to the inventory of significant historic resources. As a consequence, the county must complete the Goal 5 planning process for the resource. To assist in this process, a Task Force was formed which included representatives from state and federal agencies, private organizations and experts in historical preservation. The Task Force held a total of seven meetings, including a visit and survey of the site and buildings. Their recommendations and proposed preservation process are attached to this report.

II. CRITERIA:

Chapter 660, Division 16 of the Oregon Administrative Rules (OAR) sets forth the procedures for complying with Statewide Planning Goal 5. Once a site has been included in the comprehensive plan inventory, the county must identify conflicting uses.

OAR 660-16-005: "It is the responsibility of local government to identify conflicts with inventoried Goal 5 resource sites. This is done primarily by examining the uses allowed in broad zoning districts established by the jurisdiction (e.g., forest and agricultural zones). A conflicting use is one which, if allowed, could negatively impact a Goal 5 resource site. Where conflicting uses have been identified, Goal 5 resource sites may impact those uses. These impacts must be considered in analyzing the economic, social, environmental and energy (ESEE) consequences:

"(1) Preserve the Resource Site: If there are no conflicting uses for an identified resource site, the jurisdiction must adopt policies and ordinance provision, as appropriate, which insure preservation of the resource site.

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

OAR 660-16-010: "Based on the determination of the economic, social, environmental and energy consequences, a jurisdiction must 'develop a program to achieve the Goal'. Assuming there is adequate informationon the nature of the conflicting use and ESEE consequences, a jurisdiction is expected to 'resolve' conflicts with specific sites in any of the following three ways listed below. Compliance with Goal 5 shall also be based on the plan's overall ability to protect and conserve each Goal 5 resource....

"(1) Protect the Resource Site: Based on the analysis of the ESEE consequences, a jurisdiction may determine that the resource site is of such importance, relative to the conflicting uses, and the ESEE consequences of allowing conflicting uses are so great that the resource site should be protected and all conflicting uses prohibited on the site...Reasons which support this decision must be presented in the comprehensive plan, and plan and zone designations must be consistent with this decision.

"(2) Allow Conflicting Uses Fully: Based on the analysis of the ESEE consequences and other Statewide Goals, a jurisdiction may determine that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. This approach may be used when the conflicting use for a particular site is of sufficient importance, relative to the resource site. Reasons which support this decision must be presented in the comprehensive plan, and plan and zone designations must be consistent with this decision.

"(3) Limit Conflicting Use: Based on the analysis of the ESEE consequences, a jurisdiction may determine that both the resource site and the conflicting use are important relative to each other, and that the ESEE consequences should be balanced so as to allow the conflicting use but in a limited way so as to protect the resource site to some desired extent. To implement this decision, the jurisdiction must designate with certainty what uses and activities are allowed fully, what uses and activities are not allowed at all and which uses are allowed conditionally, and what specific standards or limitations are placed on the permitted and conditional uses and activities for each resource site. Whatever mechanisms are used, they must be specific enough so that affected property owners are able to determine what uses and activities are allowed, not allowed, or allowed conditionally and under what clear and objective conditions or standards. Reasons which support this decision must be presented in the comprehensive plan, and plan and zone designations must be consistent with this decision."

FINDINGS

III. CONFLICTING USES:

Identification of conflicting uses is done by examining whether the uses allowed by zoning would interfere with preservation of the resource. Bridal Veil is within a Special Management Area of the Columbia River Gorge National Scenic Area, and the zoning designation is Public Recreation (zoning abbreviation GS-PR). All of the uses which are allowed, allowed under prescribed conditions or allowed as a conditional use in the GS-PR zone were examined for possible conflicts with preservation. Possible uses include agriculture and forest uses, recreation and natural resource activities, accessory buildings, and transportation and utility projects. Whether or not these uses would conflict with preservation would depend upon their design. Under certain conditions they could be compatible with or enhance preservation and interpretation of the historic resources at Bridal Veil. They would conflict with preservation if they resulted in any of the following:

1. Demolition. Any use which would result in removal or destruction of some or all of the buildings.
2. Incompatible alteration. Addition of modern elements or changes to individual buildings, allowing new development within the site which is not compatible with the historic period, or removal of some of the buildings without consideration of their spatial relationship to the site would detract from the historic characteristics and aura of the resource.
3. Abandonment and/or neglect, resulting in deterioration and possible destruction of the resource.
4. Recreational Use. Conversion of the site to public recreational or natural area uses which interfere with historic preservation or result in demolition of buildings.

There is an additional area of conflict relating to scenic issues. The NSA Management Plan has identified "key viewing areas" from which the public views Scenic Area landscapes, including

Bridal Veil State Park, the Historic Columbia River Highway and I-84. Due to the deteriorated condition and high visibility of the mill buildings and some of the larger houses from these key viewing areas, there has been pressure to demolish these buildings because they detract from the scenic view.

IV. ESEE CONSEQUENCES:

ECONOMIC:

Impacts of Preserving Site and Buildings:

Funding is the key component in whether the buildings at Bridal Veil will be preserved. Substantial cost would be involved to stabilize the mill buildings, and restoration or rehabilitation is probably unfeasible. The houses are for the most part still in fairly good condition, and stabilization costs might be low. Restoration or rehabilitation costs would be higher, and would depend on the intended use of the buildings. Estimates to bring all 14 houses up to code range from \$510,000 (Bingham Construction, Inc.) to \$800,000 (county Facilities and Property Management). Restoration to original condition increases the estimates to \$1 million and \$1.4 million respectively. Both estimates felt that the mill buildings were beyond repair.

It is doubtful whether the majority of the buildings will ever be used again for residential or industrial purposes, due to incompatible zoning and owner restrictions. So the effectiveness of historic protection may be influenced by whether there is an alternative economic use for the site and buildings. If not economically used, there may be an inability to maintain the buildings, leading to further deterioration.

Impacts of Allowing Conflicting Uses:

There are economic costs associated with demolition of buildings, including labor and material disposal costs.

Ownership of the site as well as its eventual use will effect how the property is taxed. Public ownership, whether by State Parks or the Forest Service, will lead to loss of tax revenue.

Natural resource based uses such as a park or natural area and/or development of wetlands and fish habitat that are similar to what is proposed by the present owners, would have significant costs associated with their development, but would be unlikely to yield any direct economic benefits.

SOCIAL:

Impacts of Preserving Site and Buildings:

Bridal Veil provides a link with the past. It provides an opportunity for learning about an earlier lifestyle as well as having connections to the timber industry which played a major role in the

development of the county. Preserving the site could provide both educational and recreational opportunities. Visiting historic and cultural sites is ranked as the second most desired activity of people visiting the Columbia River Gorge, according to tourism studies. Bridal Veil also has symbolic value to many people. Removal of the buildings and change of use at the site would destroy these social values.

The postal services benefit local residents as well as others who request the Bridal Veil postmark on their wedding invitations. This service, however, is not necessarily linked to the building currently used as the Post Office, and could be moved elsewhere within the historic area.

The mill buildings as is are a safety hazard and visual eyesore from key viewing areas within the NSA.

Impacts of Allowing Conflicting Uses:

Demolition of the mill buildings would cause a social impact from the loss of the physical artifacts of the mill history and loss of the tie to the original purpose of the town. Demolition of other buildings would detract from the appearance of a townsite, including the social and economic stratification illustrated by the manager's and worker's houses. Incompatible development within the site boundaries would also detract from the aura of an historic town. Incompatible exterior alteration of existing buildings could reduce the overall historic character of the site.

Some of the other possible uses of the site have social benefits. Creation of a public recreation area, whether in the form of a natural area park or much more intensively developed facility, would provide social and recreational opportunities to Gorge visitors.

ENVIRONMENTAL:

Impacts of Preserving Site and Buildings:

The environmental consequences which would occur if the Bridal Veil site and buildings are preserved focus on scenic issues and perhaps water quality. Allowing the mill buildings and houses along the Scenic Highway to remain in an unmaintained and deteriorating condition seriously detracts from scenic views. Rehabilitation or restoration of the buildings and cleaning up the site would improve its scenic appearance.

The eventual use of the buildings will effect the degree of environmental consequence. For instance, if the dwellings are to be inhabited a new sewage disposal system may be required to protect water quality. Its development might require substantial earth movement or removal of vegetation.

Air quality, vegetation, noise and other environmental factors would likely remain the same if the resource is preserved.

Impacts of Allowing Conflicting Uses:

Demolition of buildings or removal of pavement and debris surrounding the mill site may cause environmental problems from erosion, stream degradation and disposal of materials. There is a possibility of hazardous materials associated with former milling activities which could be disturbed during activities to convert the site to other uses. Removal of these materials would be environmentally beneficial.

Other possible uses for the site would have varying degrees of environmental consequences. Conversion back to a natural area with a free flowing stream, natural vegetation and wetland areas would be environmentally positive. Removal of buildings and revegetation of the site would have some benefits to scenic appearance.

Conversion to a park with access to Bridal Veil Falls would likely require road and parking improvements and development of a sewage disposal system to protect the site from increased use by people.

ENERGY:

Impacts of Preserving Site and Buildings:

Use of the buildings will effect the amount of energy consumed. Generally, restoring or rehabilitating a structure uses less energy and materials than constructing new buildings. Older buildings, however, are often less energy efficient than new buildings when heating requirements are considered.

Impacts of Allowing Conflicting Uses:

Energy impacts relate to the amount of energy that would be expended to convert the site to a different use. Some possible uses, such as a park or interpretive center, might increase traffic in this part of the NSA.

CONCLUSIONS:

V. APPROPRIATE LEVEL OF PROTECTION

Based on the ESEE analysis described above, Bridal Veil should be partially protected by limiting conflicting uses (designate 3-C). The justification for this designation and the appropriate degree of protection are as follows:

1. The Bridal Veil cemetery should be protected because of its social significance and nature of use as a burial ground. Proposals for new uses on adjacent properties should be examined for any conflicts which would negatively affect the cemetery.

2. The Bridal Veil postmark provides community identity and has social value associated with its use on wedding invitations. Consequently, the postal services should be retained within the townsite, although it could be relocated to one of the houses. There is still some question as to the significance of the post office building and what its original use and location were. Because of this uncertainty, consideration should be given to relocating the building elsewhere on the site. The building should be demolished only if relocation will not fit in with the final plan for preserving other components of the site.

3. Preservation of the mill buildings and mill area is not as important as allowing other uses for that portion of the site. Reasons are the degree of deterioration, concurrent liability and safety issues, visual appearance from the Bridal Veil State Park overlook and I-84, and the prohibitive cost to restore the buildings. However, full documentation of the buildings should be required prior to demolition, any building materials found to be of historic importance should be salvaged and preserved, and archeological research and removal of historic materials found under the substructure of the buildings should occur.

4. House #20 is located at some distance from the main clustering of worker's houses. It is modern in appearance, and there is uncertainty whether it is a remodeled worker's house or of more recent construction. Consequently, it does not have the historic value of the other houses, and could be removed.

5. An undetermined number of the remaining houses and the church should be retained and restored to illustrate, interpret and represent the early mill town. The amount of funding available will affect the ultimate number of buildings to be restored. A complete and intensive analysis of individual structures by the future restoration/management group would allow them to determine which of the buildings are most feasible to preserve in light of their preservation/interpretive goals.

6. The *Preservation Area Map* indicates the portions of the site that may be converted to public recreational use and the area where buildings shall be retained while funding is secured for their restoration and management, in accordance with the *Preservation Process*.

VI. PLAN TO ACHIEVE PROTECTION:

The *Task Force Recommendations and Preservation Process* and Program section of the *Goal 5 Inventory* will govern any planning decisions made concerning Bridal Veil. The *Preservation Process* provides guidelines and time limits to obtain commitments for stewardship, restoration and management. This process was designed to allow a private group a reasonable amount of time to search for and secure funding for restoration and management of the buildings. If funding proves to be unavailable, the process would allow demolition rather than require retention of deteriorating buildings which would detract from NSA qualities. The Program section of the *Goal 5 Inventory* provides both guidelines and the requirements which would be used for any proposed land use action affecting the site. The requirements include documentation prior to demolition, interpretive signs, protection of the cemetery, commitment to the *Preservation Process* and protection of the site from incompatible new uses.

The recently enacted NSA ordinance section of the Multnomah County Code provides protection to cultural and historic resources at a level that fulfills the Goal 5 requirements. This protection is implemented through the site review process whenever an application for a new use is filed (see attached Historic Resources Review Process and MCC 11.15.3818 -.3820). Briefly, if

there is a significant resource on the property, an assessment must be made of the effect the proposed new use will have on the resource. There must be either no effect or no adverse effect to the resource or the new use will not be approved.

MCC .3818 -.3820 complies with OAR 660-16-010 because it places specific limits on permitted and conditional uses, the specific limits being no adverse effects to significant resources. These standards provide clear guidance to the property owner - any use allowed in the GS-PR district would be allowed provided it had no adverse effect on the resource (and met other code requirements).

By _____
Leonard Yoon, Chair
Multnomah County Planning Commission

Filed with Clerk of the Board on May 26, 1993

Appeal to the Board of County Commissioners:

Any person who appears and testifies at the hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or before 4:30 p.m. Monday, June 7, 1993 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

The Decision in this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, June 8, 1993 in Room 602 of the Multnomah County Courthouse. For further information call Multnomah County Planning and Development at 248-3043.

MULTNOMAH COUNTY GOAL 5 INVENTORY

TYPE OF RESOURCE: Historic mill town

LOCATION: Bridal Veil townsite and mill area bounded by Bridal Veil Creek on the west, the Bridal Veil cemetery on the east, the railroad tracks on the north and the Crown Point Highway on the south, including lots 7-15 of the First Addition to Bridal Veil, tax lots '2', '3', '11', '19' and the portion of tax lot '18' lying east of and including Bridal Veil Creek, plus a portion of the railroad right-of-way between the I-84 interchange and Bridal Veil Creek, all in Sec. 22, T1N, R5E.

IMPACT AREA: Same as site, no surrounding property will be affected

DESCRIPTION:

Site #15: Bridal Veil. Company mill town in the Columbia River Gorge, established in the 1880's. Associated with the logging of Larch Mountain, the mill processed timber and wood products for close to 100 years. Contains examples of worker housing, a church/community hall, mill buildings, community cemetery and post office.

A. AVAILABLE INFORMATION INDICATES SITE IS IMPORTANT:

☐ **NO** - Designate **1A**: do not include in plan inventory

☒ **YES** - go to **B**

B. IS AVAILABLE INFORMATION ON LOCATION, QUALITY AND QUANTITY SUFFICIENT TO DETERMINE THE SIGNIFICANCE OF THE SITE ?

☐ **NO** - Designate **1B** : address the site in future when information becomes available

☒ **YES** - Include in plan inventory; go to **C**

C. ZONING: GS-PR, Public Recreation, Gorge Special Management Area

BASED ON ZONING, ARE THERE CONFLICTING USES?

☐ **NO** - Designate **2A** : preserve resource

☒ **YES** - go to **D**

D. DESCRIBE EXISTING OR POTENTIAL CONFLICTING USES:

1. Demolition of buildings.
2. Alteration to individual buildings or changes to the townsite which are incompatible and not in character with the historic appearance and setting.
3. Abandonment or neglect, resulting in deterioration or eventual loss of resource.
4. Scenic appearance of some buildings from key viewing areas in the NSA.
5. Public recreational uses allowed by GS-PR zoning designation which might interfere with preservation of buildings.

E. DESCRIBE CONSEQUENCES OF ALLOWING CONFLICTING USES (ESEE ANALYSIS):

ECONOMIC:

Substantial costs would be involved to restore the buildings, especially the mill buildings which are in extremely poor condition. However, preservation and restoration of some of the buildings may be more economically feasible than demolition and building new interpretive facilities. There is a possible economic impact from liability related to the condition of the buildings. Demolition would have economic impacts related to material salvage and disposal costs. Conversion of the site to a park or natural area would have development costs.

SOCIAL:

Bridal Veil provides educational opportunities related to interpretation of the social and economic life of a timber mill town. Demolition of the mill buildings would destroy the physical aspects of the mill history and industrial purpose of the town. Preserving some of each housing style would illustrate the social stratification shown by the manager's houses being located above the smaller worker's houses. Demolition or incompatible alteration could damage the historic characteristics and aura of the town.

The post office services are recognized as providing an important social benefit to area residents and wedding parties.

Public use of the site could provide additional social and recreational opportunities to NSA visitors.

ENVIRONMENTAL:

There may be hazardous materials in and around the mill buildings which would be disturbed during demolition or conversion of that area to another use. Its removal would be environmen-

tally beneficial. Erosion and water quality problems on some areas of the site might result if buildings are demolished. The scenic appearance of the site would be improved with either demolition or restoration of the buildings. Neglect and continued deterioration detract from the scenic qualities.

ENERGY:

The houses would benefit by upgrading energy efficiency if their future use includes occupancy. Some energy would be involved if the buildings are demolished and the site converted to a different use.

F. THE RESOURCE AT THIS SITE SHOULD:

☐ Be fully protected - designate **3A**

☐ Not be protected due to overriding benefits from allowing conflicting uses - designate **3B**

☒ Be partially protected by conditions which minimize the impact of conflicting uses - designate **3C**

G. PROGRAM:

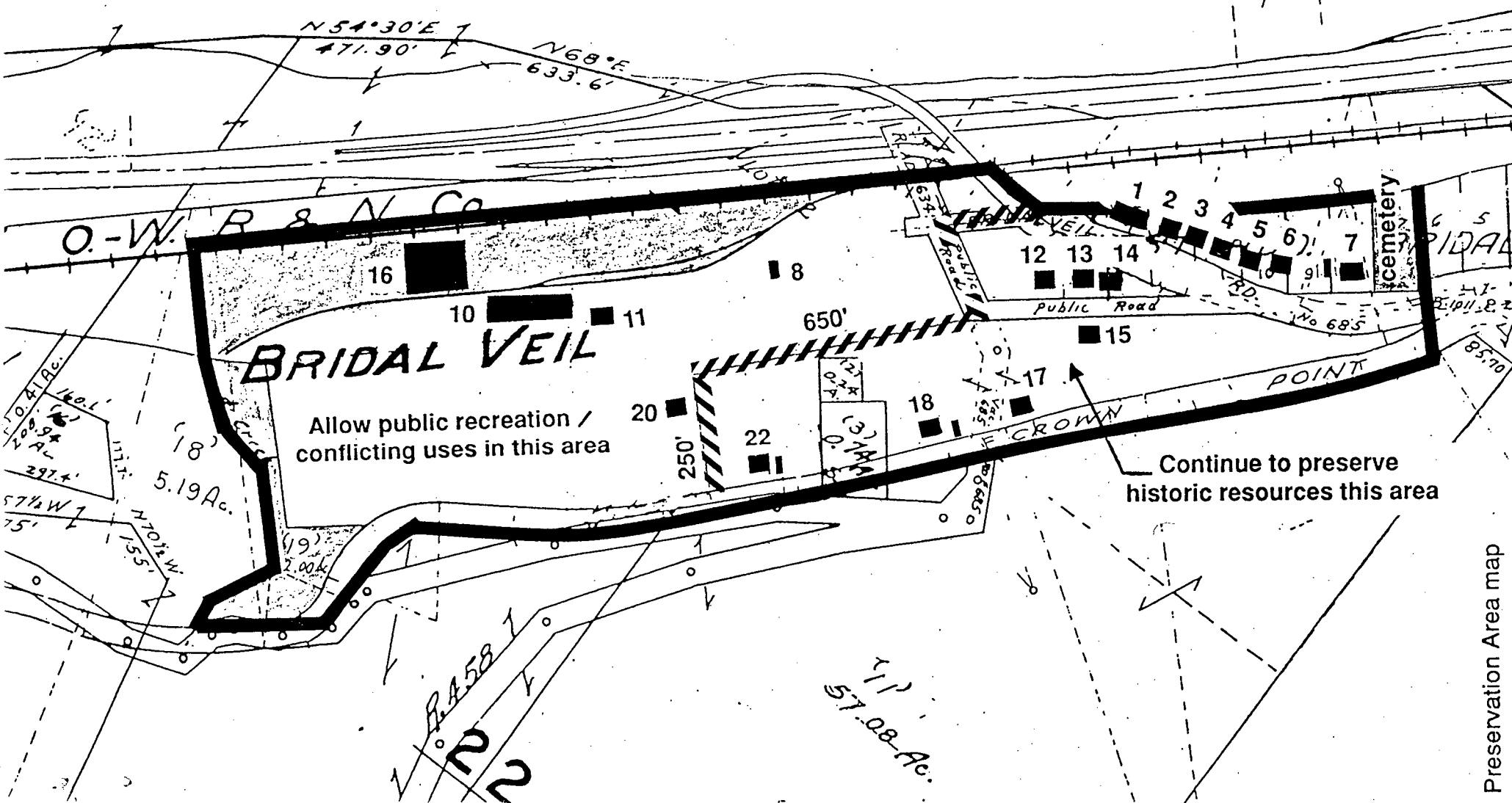
1. The mill buildings may be removed due to poor condition. House #20 may be removed due to lack of historic integrity. This will allow a large portion of the site to be converted to other uses and improve scenic appearance. Photographic documentation of the buildings, salvage of historic materials, and archaeological investigation shall be required prior to demolition.
2. The cemetery shall be protected by not allowing uses on adjacent properties that would have an adverse effect on its preservation. Documentation and interpretation are encouraged.
3. The postal services should be retained due to the history and popularity of the Bridal Veil postmark. This service could be relocated to one of the houses. Consideration should be given to moving the building currently used as the post office to elsewhere on the site if this would fit in with a management program. Demolition would be a last resort.
4. The remaining houses and church / community hall shall be retained while ownership and funding issues are negotiated. A lease arrangement is suggested, between a public agency or steward who would purchase the property, and a private group who would be responsible for obtaining funding for restoring buildings and managing the built area. Funding availability will influence the number of buildings ultimately retained. The *Bridal Veil Preservation Process* provides a guide and reasonable time limits for public / private commitments. If a suitable steward or funding for restoration cannot be found, the buildings will continue to deteriorate. Consequently, demolition will be considered if no funding is available by 7-1-95. The *Preservation Area Map* indicates the site area and buildings that shall be retained and the area that can be converted to other uses.

5. Demolition of the church and houses should not be allowed unless a good faith effort has been made by the property owners and potential stewards to comply with the preservation process. Any proposal must comply with the scenic, natural, cultural, and recreational goals of the NSA to be considered a good faith effort.
6. The buildings should be secured by locking doors and boarding up any broken windows while stewardship and funding are sought. An on-site caretaker is encouraged.
7. Photographic and other documentation as appropriate shall be a requirement prior to any demolition of buildings. Such documentation shall be forwarded to the Oregon Historical Society or other similar repository.
8. The cultural resources review process found in MCC 11.15.3818 - .3820 shall be used to protect the buildings and historic characteristics of the site from incompatible new uses. The review process requires a proposed new use to show it will have no effect or no adverse effect on the resource.
9. Interpretive signs describing the history of the town and mill area shall be included in any new use of the site.
10. The *Bridal Veil Task Force Recommendations* shall be used to guide interpretation, restoration and future development of the site.

BRIDAL VEIL PRESERVATION AREA

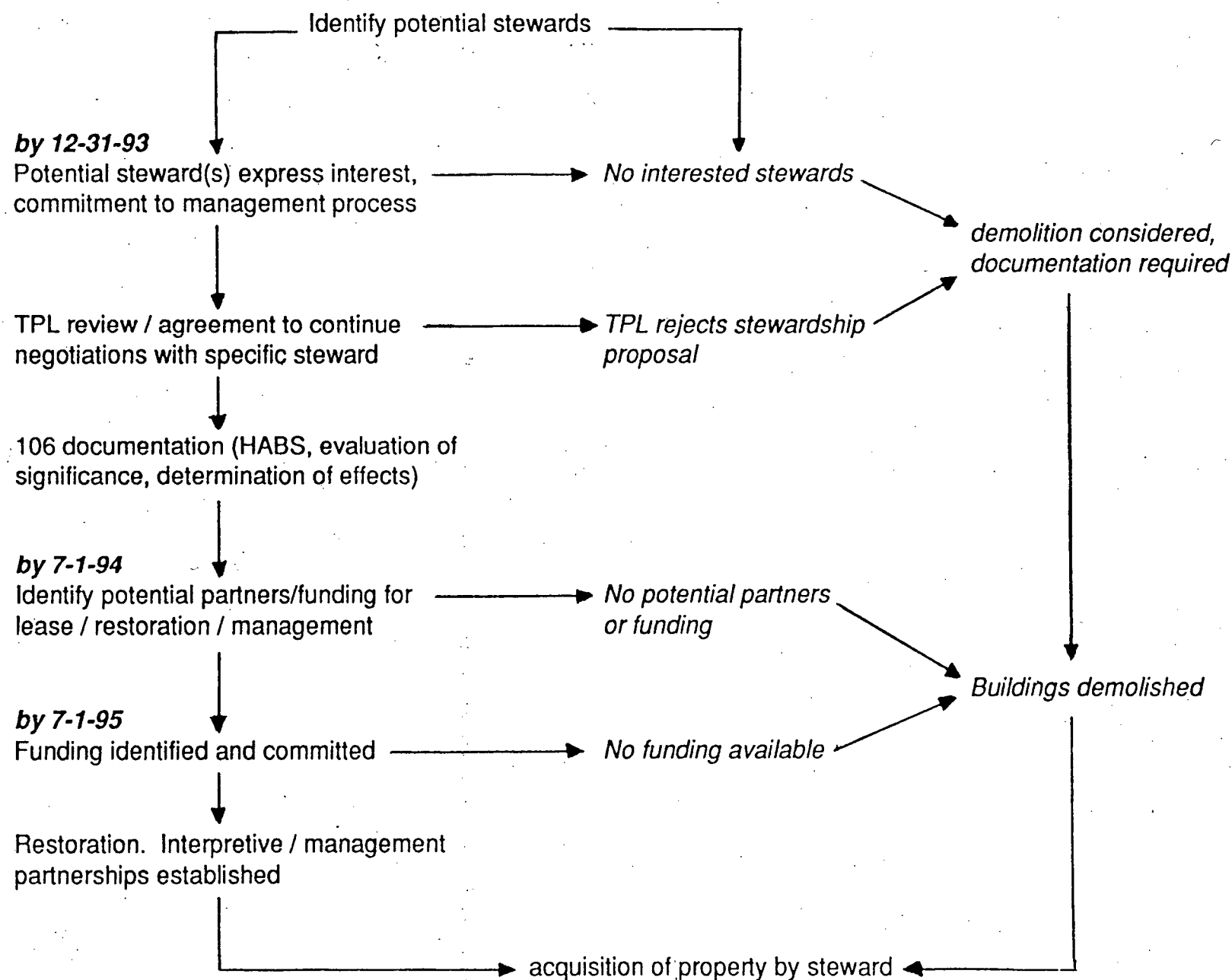
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- historic site boundary
- ▨ boundary between preservation and public recreation areas



Preservation Area map

BRIDAL VEIL PRESERVATION PROCESS



BRIDAL VEIL TASK FORCE RECOMMENDATIONS

To: Planning Commission
Board of Commissioners

From: Bridal Veil Task Force

Re: Report and recommendations for historic interpretation of Bridal Veil

BACKGROUND:

The Bridal Veil Task Force was formed to determine the level of historic protection most appropriate to the site in light of the significance of individual elements. Task Force members included representatives from state and federal agencies, private organizations and individuals with historic expertise (see attached roster). A total of seven meetings were held, including a site visit. Following are the conclusions and recommendations reached by a majority of the Task Force:

PRESERVATION GOALS:

1. Preserve Bridal Veil history and interpret on-site and on-ground in a realistic, valid and interesting atmosphere;
2. Combine / achieve goals of both historic preservation and natural area recreation;
3. Provide another "destination resource" in the Gorge to both relieve and take advantage of visitation to Multnomah Falls;
4. Determine a realistic program / funding to achieve goals; share responsibilities;
5. Continue post office operation;
6. Enhance Columbia Gorge Scenic Highway.

INTERPRETIVE THEMES:

1. Early life in a company town / isolation;
2. Community development of Bridal Veil in the Gorge;

3. Early settlement in Gorge;
4. Bridal Veil Lumber Company / Palmer Company.

ELEMENTS OF CULTURAL HERITAGE / ECOTOURISM / NATURAL AREA RECREATION

Cemetery: Should be fenced, marked and maintained. Document burials, brochure.

Mill buildings: Photograph, HABS documentation prior to demolition. Do archaeological investigation prior to any earth movement. Preserve flume. Consider marking location of mill buildings on site, with pathway through and directional signing.

Post Office and open area: Access from highway, area for parking, interpretative signing, provide directions to both natural area and Bridal Veil Cultural Heritage resources. Whatever restrooms are provided should be available to all visitors to either portion of site.

Other buildings: Retain an undetermined number of houses, the ultimate number to be determined by funding availability. Interpretive and other uses which might occur in some of the houses includes:

1. Interpretation of economic and social hierarchy of mill company town exhibited by housing type and location (manager's houses and worker's cottages);
2. Early life in company town;
3. Postal services. Actively promote wedding invitations, work in concert with weddings in church / community hall;
4. Resident manager / caretaker's home for security;
5. Interpret lumbering on Larch Mountain;
6. Interpret settlement / landscape of Columbia Gorge;
7. Hiker / Visitor Center;
8. Interpret Native American activity in Gorge.

Palmer mill site: Conduct archaeological investigation. Prepare photo / written history / documentation. Provide and mark directions for hiking trip up to site.

PRESERVATION PROCESS:

The Task Force has designed a preservation process to guide potential owners and those seeking to preserve and restore the site. One assumption of the process (based on property

owner restrictions) is that the property will eventually be acquired by a public agency. Representatives of the USFS and State Parks Department have indicated that it is unlikely that those agencies would take responsibility for restoring and managing the buildings, but might agree to a lease arrangement whereby a private organization had responsibility for acquiring funding, restoring and managing the buildings.

The preservation process involves finding a public agency who not only expresses an interest in acquiring the property, but agrees to a process which would allow a private group to search for restoration and management funding. The private group would conceivably enter into a lease agreement allowing them responsibility for the built portion of the site once the public agency became the land owner.

The Task Force recognizes that without an economic investment the buildings will continue to deteriorate. To prevent the possibility of dilapidated buildings remaining as eyesores, time deadlines have been included in the preservation process. The bottom line is that if there is no funding committed for restoration by 7-1-95, the buildings can be demolished. The Task Force feels this is a reasonable timeframe to allow a private group to obtain commitments without being overly burdensome to the current property owner.

BRIDAL VEIL TASK FORCE

Mike Boynton
USFS, Columbia River Gorge Scenic Area

Catherine Galbraith
historic preservationist

Alfred Staehli
Historic Preservation League of Oregon

Chuck Rollins
Crown Point Historical Society

Joe Pesek
Oregon Department of Fish and Wildlife

Chris Beck
Trust for Public Land

Kathy Schutt
State Parks and Recreation Department
and/or
Deborah Schallert
State Parks Region 1 Coordinator

Lennart Swenson
Friends of the Columbia Gorge

Assistance provided by:

Jim Sitzman
Department of Land Conservation and Development

Henry Kunowski
State Historic Preservation Office

Sandy Mathewson
Multnomah County Planning

MEETING DATE: July 13, 1993

AGENDA NO: P-4

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Appointment - Planning and Zoning Hearings Officers

BOARD BRIEFING Date Requested:

Amount of Time Needed:

REGULAR MEETING: Date Requested: July 13, 1993

Amount of Time Needed: 5 Minutes

DEPARTMENT: DES

DIVISION: Planning and Development

CONTACT: R. Scott Pemble

TELEPHONE #: 3182

BLDG/ROOM #: 412/103

PERSON(S) MAKING PRESENTATION: R. Scott Pemble and John DuBay

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

Request Board appointment of Phillip Grillo, Larry Epstein and Robert Liberty as the Planning and Zoning Hearings Officers for the fiscal year 1993/94.

Budget Impact: Three Class I Professional Service Contracts for

"not to exceed \$10,000" each.

7/13/93 copies to Sharon
Cowley & Scott Pemble &
John DuBay

SIGNATURES REQUIRED:

ELECTED OFFICIAL:

OR

DEPARTMENT MANAGER:

pc Betty H Williams

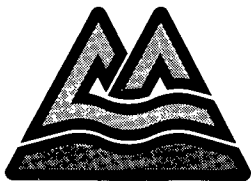
ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

0516C/63

6/93

BOARD OF
COUNTY COMMISSIONERS
1993 JUL - 6 PM 3:13
MULTNOMAH COUNTY
OREGON



MULTNOMAH COUNTY OREGON

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

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TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

July 6, 1993

TO: Hank Miggins, *Acting Chair of the Board*
Dan Saltzman, *District 1 Commissioner*
Gary Hansen, *District 2 Commissioner*
Tanya Collier, *District 3 Commissioner*
Sharron Kelly, *District 4 Commissioner*

FROM: R. Scott Pemble, *Planning Director*

SUBJECT: HEARINGS OFFICER APPOINTMENTS

During the last two fiscal years, the Hearings Officers have heard most of the quasi-judicial cases filed with the county's Planning and Development Division. Last fiscal year (FY 1992/93), the three Hearings Officers deliberated 42 cases and seven (7) of these cases were appealed to the Board. (Two of the seven appealed cases involved one property.) The Board upheld four of the appealed decisions, modified one decision, reversed one decision and one decision is pending.

The Class I Professional Service Contracts for all three Hearings Officers expired June 30, 1993. Quasi judicial land use hearings have been scheduled for July 19, 1993 and new Hearings Officer contracts need to be negotiated prior to that date. Pursuant to MCC § 11.15.8110(A), "Hearings Officers shall be appointed by order of the Board of County Commissioners and shall serve at the pleasure of the Board". In this year's adopted Planning and Development Division budget, money has been programmed for the funding of three Hearings Officers. Consequently, prior to negotiating new contracts, the Board must appoint Hearings Officers.

PROCESS

In an effort to assist the Board in this matter, a process has been initiated to recruit and evaluate potential candidates. The following is a brief description of the process and at the conclusion, a recommendation by the committee.

An advertisement for Multnomah County Land Use Hearings Officer was placed in the Oregonian for two consecutive Sundays, June 6, 1993 and June 13, 1993. Also the same announcement appeared in the Oregon State Journal, June, 1993 newsletter. Thirty two (32) people responded to the advertisements, submitting both resumes and writing samples. Those responding to the ad included the three Hearings Officers who were under contract with the county last fiscal year.

July 6, 1993

Board Hearing Officer Appointment Memo

Page 2

A Hearings Officer Review committee, composed of John Dubay - Assistant County Counsel, myself, and Leonard Yoon - Planning Commission Chairman, met to review and evaluate all candidates. Two primary criteria were used to rate candidates: experience and writing ability. Experience was further delineated into four categories: Hearings Officer experience, LUBA experience, land use hearing experience and other related land use law experiences. Seven (7) candidates had either Hearings Officer or Planning Commission experience, eight (8) candidates had LUBA experience (to include three persons who had Hearing officer experience), and nineteen (19) candidates had land use hearings experience (to include three persons who had Hearing officer experience). Twelve candidates had no related land use experience.

RECOMMENDATION

Based on the above criteria, the three highest ranked candidates are Larry Epstein, Phil Grillo, and Robert Liberty. These three candidates are the only candidates that have experience as hearings officers, been before LUBA and/or the Court of Appeals, and have represented parties in land use proceedings. The next two highest ranked candidates, John T. Gibbon and Peggy Hennessy, have been before LUBA and have represented parties at land use proceedings, however, have no Hearings Officer experience. The committee recommends the Board appoint the top three candidates: Epstein, Grillo, and Liberty. Attached find the resumes of the top five candidates.

encl. Board Orders have been included in the Board's Agenda packet for all of the top five candidates. Only three of the five Board Orders, however, are to be approved by the Board. Also, if Board members are interested in reviewing any of the other resumes, I will forward them upon request. Mr. Yoon, Planning Commission Chairman, has asked that a letter sent to Hank Miggins also be included with this memo.

encl. Board Orders
Resumes (five top Candidates)
Yoon Ltr to Miggins
Candidate List

STERLING WORLD TOURS
1101 N.W. HOYT # 203
PORTLAND, OREGON, U.S.A. 97209
PHONE: (503) 223-6115 FAX: (503) 223-6129

July 2, 1993

Hank Miggins,
Acting County Chair
Multnomah County

Country Chair Miggins:

I. COMMENT ON THE POSITIVE IMPACT OF CONTRACT HEARINGS
OFFICERS IN MULTNOMAH COUNTY.

Since July 1992 the Planning Commission has been relieved of the quasi judicial responsibilities and associated time consuming activities of all but the most controversial and complex hearings. This has been a positive and welcome change. As a result, the Planning Commission has been able to concentrate on its responsibilities as strategic land use advisor to the Board of County Commissioners.

This is not to say that the Planning Commission has abdicated its responsibilities. Rather it has afforded us the opportunity to objectively review those decisions made by the three contracted hearing officers. In my review of decisions made by these three during this last year, I am impressed with three key points:

- A. breadth of work and analysis spent by the hearings officers in making each decision,
- B. the uniformity of the decisions rendering identification of which hearing officer made which decision completely invisible,
- C. attention to professional and legal detail regarding statute, rules and regulations, and procedure. The sparsity of decisions repealed on appeal because of faulty process or subjective interpretation is testimony their competence.

Quite simply, our present hearings officers have conducted their business as the Planning Commission would except more professionally, more objectively and more carefully.

Speaking for the Planning Commission, I fully endorse this past year's mode of operation with only one modification: that the Planning Commission be presented, monthly, with a list of proposed hearings PRIOR to assignment to Hearings

Officers. This would afford the Planning Commission an opportunity to 1). provide to staff input of which any planning commissioner may have special knowledge and information, and 2). decide, at their discretion, those hearings they think require a broader forum or are incumbent upon the Planning Commission to provide prescient advice to the County Board of Commissioners on particular issues.

II. PROCESS IN CONTRACTING HEARINGS OFFICERS.

As you know, Hearings officers are contracted by Personal Services Contracts (\$10,000) and not an employment or Personnel action. Personally, I contacted Metro, City of Portland and Clackamas County to compare the process used by Multnomah County this month to contract these services. The process is consistent with all of those governments. Metro, actually, has a higher limit of \$15,000 for this process. Quite simply, the process is as follows:

A. Detailed description of requirements sent to at least three individuals for solicitation of proposal or, public announcement. Since the fee is already set, no low bid appropriate, and the delivery of services specific, public announcement is the appropriate mode. The public announcement described the function and requested resumes and samples of applicants writing.

B. Evaluation criteria formalized and available. We used a simple scoring system giving zero to three points for demonstrated land use experience and expertise pertaining to providing counsel, hearings participation, LUBA appeal process, writing briefs, and finally, actual land use hearings officer experience.

C. Final score available to the public after decision. This is provided to Board of County Commissioners with recommended names.

My review of each candidate was limited to information submitted. In grading the applicants I did not seek nor share opinions of any candidate with the other evaluators nor did I check public records. I knew only one of the applicants by previous contact or reputation and that applicant did not make my top ten list. In grading the candidates I graded them for all aspects except hearings officer experience. I then took my top eight list and added points for pertinent hearings officer experience of at least one year (two points) and land use hearings officer experience (another one point). My scores were then added to the other two evaluators.

Independent of each evaluator, the top three received uniformly high scores: Epstein, Liberty, Grillo. The fourth and fifth placed applicants lacked hearing officer experience anywhere: Gibbon and Hennessy. The difference between being a judge and a lawyer! No other candidates scored within 20 points of these five.

III. THE ROLE OF MULTNOMAH PLANNING COMMISSION VIS A VIS CITY OF PORTLAND, METRO, ETC.

What I am about to state certainly has nothing to do with job security or political considerations. Heaven knows I don't need to lobby for a non paying time consuming appointed position with little actual power or authority: Chair of the Planning Commission.

Before one entertains ideas of consolidating the Planning Commission function with other jurisdiction commissions or making all of its decisions strictly technical staff certain factors need to be remembered. Most of the county land use planning issues are not in other incorporated areas, are outside the Urban Growth Area, and outside of Metro. The areas reviewed are rural, forest or exurban issues, requiring a quite different viewpoint of the Planning Commission and planning staff than city planning or regional bodies. Issues faced by Multnomah County are actually more consistent with USFS, BLM and Interior issues than Metro or City of Portland issues, yet the metropolitan areas expect us to maintain a forested and agricultural environment to enhance the urban quality of life.

Respectfully,


Leonard L. Yoon,
Chair, Multnomah County Planning Commission

HEARINGS OFFICER CANDIDATES

CANDIDATE

Kenneth W. Baines
Mark Braverman
Mark K. Conley
Judd S. Conway
Keith Davidson
Larry Epstein
Dayna L. Feltman
J. Richard Forester
John T. Gibbon
Robert D. Greaves
Phillip E. Grillo
Peggy Hennessy
Dick Heskiss
Cheryl Lee Ho
Henery Kane
Matthew H. Kehoe
Robert Liberty
Keith Loeffler
Earl S. Mackey
Shawn R. MacPherson
Ted A. Martin
Steven Y. Orcutt
Suzanne C. Pickgrobe
Patrick A. Ribellia
Ray D. Sherwood
Carrie Stilwell
Rodney R. Stubbs
Carolyn E. Wells
John M. Wight
Barbara Wilkins
Ken Wilson
Philip Yates

LARRY EPSTEIN, Esq., AICP

ATTORNEY AT LAW

722 SW Second Avenue, Suite 400 • Portland, Oregon 97204-3131
(503) 223-4855 • FAX (503) 228-7365

APPROACH •

I have worked in land use planning and development regulation for 15 years. As staff to local and state agencies, private planner, attorney to public and private clients for and against development, and hearings official, I have gained a broad, balanced background. I have graphic, written, and oral skills needed to address all phases of the land use process and the necessary discipline, good humor, and sensitivity to work well with the wide variety of participants in that process.

EXPERIENCE •

Attorney-at-law • Larry Epstein, PC, Portland, OR (1983 - current).

I represent public and private clients in the western United States in land use matters. My work consists primarily of conducting legal and other research, drafting legislation and associated documents, permit processing, plan administration, strategic planning, community relations and related real estate matters.

Hearings Officer • Clark County, Wa (1982-current) • La Center, Wa (1988-current) •

Metro Service District (1988-current) • SW Washington Health District (1989-current) • City of Tigard, Or (1990-current) • Washington County, Or (1991-current) • Multnomah County, OR (1992-current). I conduct hearings and write decisions about land use and/or enforcement matters for Clark, Washington and Multnomah Counties, La Center, and Tigard. I conduct hearings and write recommendations about the Urban Growth Boundary and solid waste matters for Metro. I conduct hearings and write recommendations for the Health District about solid waste facility siting.

Environmental Specialist • OR Department of Energy (1982-1983).

While managing staff and more than 40 technical advisors in 14 agencies and 20 jurisdictions around the state, I drafted model local siting laws for small energy facilities. The work received a Governor's Energy Award and the first Award for Innovation in Infrastructure from the American Planning Association.

Manager & Senior Planner • Multnomah County, OR (1978-1982).

I managed a staff of 10 planners and annual budgets of \$1/2 million. I represented the planning agency before county decision-makers and interest groups, and wrote and codified land use laws. I was responsible for managing County staff review of all land development applications in the unincorporated area.

Associate Planner • Benkendorf & Associates, Portland, OR (1978).

I helped write comprehensive plans for Coberg, Jefferson, and Tillamook and prepared site plans for various subdivisions, planned developments, and waterfront projects, including Riverplace in Portland.

Research Assistant • Center for Urban & Regional Studies, Chapel Hill, NC (1977-78).

I helped conduct research about a number of topics including equal opportunity for housing, constitutional issues in land use planning, and public access to beaches.

EDUCATION •

Bachelor of Science with Distinction • Pennsylvania State University, University Park, PA (1974).
Master of Regional Planning • University of North Carolina at Chapel Hill, Chapel Hill, NC (1977).
Juris Doctor • University of North Carolina at Chapel Hill, Chapel Hill, NC (1978).

AFFILIATIONS •

Oregon State Bar Association
Oregon Law Institute

American Planning Association
American Institute of Certified Planners

SELECTED PROJECTS •

Public agencies and institutions

Washington State Energy Office (1993).

I am helping WSEO draft model small scale energy facility siting rules for the region.

Metro, Portland, OR (1989 - current).

I conducted a case assessment for the mediation of a dispute about the Portland-Beaverton USB, obtained permits for a solid waste facilities, wrote a model solid waste facility siting law, and advise the agency regarding local land use and solid waste facility laws.

Albany, OR (1992 - current).

I am helping write a parks and recreation plan.

Lake Oswego, OR (1990 - 1991).

I wrote a commercial zone for the City.

Clark County, WA (1990 - 1991).

I managed a team of consultants who drafted a development manual for the county.

Washington County, OR (1991).

I advised the County about LCDC Goal 12 rule.

Portland, OR (1990 - 1991).

Member, zoning Code Monitoring Task Force.

City of Gresham, OR (1989 - 1990).

I helped draft a development manual that won an APA Professional Achievement Award.

Tri-Met, Portland, OR (1989).

I drafted a final order approving a bus terminal.

Metro Chamber of Commerce (1988-1989).

I represented a wide range of businesses and coordinated their involvement in development of a new zoning code for the City of Portland.

Public Facilities Plan & Community Plan Update, City of Gresham, OR (1987- 88).

I wrote a public facilities plan.

An Ordinance Regulating Off-Premise Signs, Multnomah County, OR (1986).

I wrote a sign ordinance for the County.

Tri-Met, Multnomah County, OR (1986).

I obtained approval of a light rail station.

Plan Assessment, Gresham, OR (1984).

I analyzed city & county laws and wrote a plan enacted to regulate use of annexed land.

SELECTED PROJECTS • Energy

Portland-Vancouver Metropolitan Area Solar Access Project (1986-1989).

I was principal author on a team that drafted a model solar access law that was adopted by 23 jurisdictions and that won a Professional Achievement Award from the APA.

Fraser Estates, Spokane Cty, WA (1986).

I wrote a covenant to protect solar access on 90% of the lots in this 50+ lot subdivision.

Portland Energy Office, Portland (1986).

I wrote and illustrated a guide for citizens to use when trying to obtain solar access rights.

Solar Access Permit, Oregon Dept. of Energy, Salem, OR (1986).

I reviewed solar access permit programs & wrote a model form and instructions.

Solar Projects: Grants Pass and Klamath Falls, OR & Kent, WA (1984-86).

I advised these jurisdictions about solar access and drafted solar energy laws for them.

Rules for Business Energy Tax Credits, Oregon Department of Energy (1986).

I wrote the rules used for tax credits for energy conservation in business facilities.

Regulation of Small Energy Facilities, Oregon Department of Energy (1984, 86).

I wrote a guidebook and model law about energy facility siting that won a Governor's Energy Award and Award for Innovation in Infrastructure from the American Planning Asso.

PUBLICATIONS & LECTURES •

"Chapter 6 - Local Land Use Administration," *LAND USE*, Oregon Bar (1994).

"Chapter 19 - Zoning Administration," *LAND USE*, Oregon Bar (1987).

"Legislative Approaches to Antiquated Subdivisions," *Platted Lands Press*, Lincoln Institute of Land Policy (1985).

"Conditions & the Final Order in Land Use Decisions," *APA Oregon* (1985).

"Local Land Use Decisions: A Practice Manual," *OSB/AOR workshop* (1981).

SELECTED PROJECTS • Private

PGE, Clackamas County, OR (1993).

I represent PGE regarding a proposed substation and transmission lines.

Phil Keene, Gresham, OR (1993).

I am applying for a comprehensive plan amendment for commercial land.

Safeco Properties/Winmar, Portland and Gresham, OR (1990-current).

I obtained local and state permits for a variety of marine and commercial land uses.

Portland Adventist Medical Center, Portland, OR (1984-current).

I obtained city approvals for a variety of land use developments and a master plan.

Quincorp Inc, Portland, OR (1988-1992).

I obtained city, county, ODSL and USCOE permits for golf course & housing uses in Multnomah County, Gresham, & Sherwood.

Newell Ridge, Oregon City, OR (1992).

I obtained approval of a 100-lot PUD and subdivision at the edge of the UGB.

Argent Co, Portland, OR (1989-1992).

I obtained approval for a 30-unit PUD in Multnomah and Washington Counties.

S. & L. Parr, Lake Oswego, OR (1991).

I successfully represented these clients regarding the appeal of a variance.

Homestake, Inc., Portland, OR (1990).

I successfully represented an applicant for a zone change and subdivision in SW Portland.

Rawley Stohr, Portland, OR (1989-1990).

I defeated an industrial use in a residential zone; successfully negotiated a settlement.

Mobil Oil, NY, NY (1988).

I represent Mobil Oil regarding property in Gresham next to the light rail line.

Gene Gambee, Portland, OR (1984-1988).

I defeated conversion of a non-conforming factory (Senn's Dairy) into a permitted use.

Jeff Arndt, Mult. County, OR (1986-87).

I obtained county and ODSL permits for mining in the Columbia Gorge Scenic Area.

SELECTED PROJECTS • Radio & television facilities

Gresham, OR (1992-1993).

I drafted background information and siting standards for RF facilities.

Washington County, OR (1991-1992).

I drafted background information and siting standards for RF facilities.

Member, C95.1-1990 Subcommittee 28, ANSI, Washington, DC (1988 - current).

I am helping review a proposed nationwide standard regarding non-ionizing electromagnetic radiation from radio and TV uses.

Marin County, CA (1986-1987).

I am advising the County about RF facility sites and siting and wrote a background report and recommended siting rules.

City of Seattle, WA (1986-1989).

I was technical manager on a team that advised the city about RF facility siting and recommended siting rules for such facilities.

King County, WA (1985-1988).

I was regulatory specialist on a team that advised the county about RF facility sites and siting and wrote rules for such facilities.

KXL & KPDQ-FM & Greater Portland Broadcasting, Portland, OR (1985-1990).

I represented these clients before local agencies and wrote a special tower farm zone.

KVVQ-AM, San Bernadino, CA (1987).

I gave expert testimony regarding the effects of RF facilities on property value.

Electromagnetic Energy Policy Alliance Workshop, San Diego, CA (1985).

I spoke about trends and prospects in local regulation of RF facilities.

REGULATING RADIO AND TELEVISION TOWERS, PAS Report (1984).

I co-authored a booklet about RF facilities and their regulation by local governments for the American Planning Association.

RF Facility Siting Ordinance, Multnomah County, OR (1982).

I drafted the first comprehensive RF facility siting ordinance adopted by a local government in the US.

June 23, 1993

Mr. Scott Pemble
Planning Director
Multnomah County
Department of Environmental
Services
2115 S. E. Morrison
Portland, Oregon 97214

Re: Hearings Officer RFP

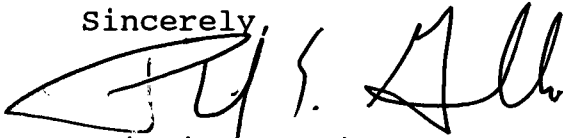
Dear Scott:

Enclosed please find my resume' for consideration with regard to the Land Use Hearings Officer contract. As you know, I have provided services to the county over the past few months as one of the county's Land Use Hearings Officers.

I currently serve as a Land Use Hearings Officer for the cities of Portland and Gresham, and for Clark County, Washington. I am interested in continuing my Hearings Officer duties with Multnomah County. As you know, in addition to my other public work as a hearings officer, I also maintain an extensive private land use and environmental law practice here in Portland, and throughout the state. Given the amount of time that the increasingly complex land use decision-making process sometimes requires, I am interested in participating in a rotation with other hearings officers so that we can reasonably share the hearing duties among ourselves. As you know, this has been the case in the past where Larry Epstein, Robert Liberty, and myself have shared hearing responsibilities.

If during the course of your selection process, you or the Board of Commissioners determine that it is necessary to interview me as a prospective hearings officer, please feel free to contact my secretary to schedule such a meeting with me. I will be out of town from July 3 through July 11. In the meantime, if you have any questions please don't hesitate to contact me.

Sincerely,



Phillip E. Grillo
Attorney At Law

PEG:tc
Enclosure

PHILLIP E. GRILLO, P.C.

Attorney at Law
&
Hearings Officer

319 S.W. Washington Street
Suite 920
Portland, OR 97204

Phone: (503) 224-3609

Facsimile: (503) 228-6032

Cellular: (503) 799-4576

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Multnomah County
Zoning Division

PHILLIP E. GRILLO, P.C.

Attorney at Law
&
Hearings Officer

319 S.W. Washington Street
Suite 920
Portland, OR 97204

Phone: (503) 224-3609

Facsimile: (503) 228-6032

Cellular: (503) 799-4576

AREAS OF PRACTICE: Land Use, Municipal, Environmental
and Administrative Law.

EDUCATION: NORTHWESTERN SCHOOL OF LAW
LEWIS AND CLARK COLLEGE
Portland, Oregon
J.D. 1984
OSB No. 85220

MICHIGAN STATE UNIVERSITY
East Lansing, Michigan
B.A. with honors 1978
Urban Planning and Public Policy

EXPERIENCE:

ATTORNEY AT LAW Phillip E. Grillo, P.C. Portland, Oregon	10/90 - current
LAND USE HEARINGS OFFICER City of Portland, Oregon	9/90 - current
LAND USE HEARINGS OFFICER Clark County, Washington	6/92 - current
LAND USE HEARINGS OFFICER Multnomah County, Oregon	6/92 - current
LAND USE HEARINGS OFFICER City of Gresham, Oregon	3/93 - current
ASSOCIATE O'Donnell, Ramis, Elliott & Crew Portland, Oregon	11/87 - 10/90
TRIAL ATTORNEY	09/84 - 11/87

Metropolitan Public Defender
Services
Portland, Oregon

LAW CLERK TO STEVE HOUZE 09/83 - 09/84
Birkland, Koch & Houze
Portland, Oregon

LAW CLERK TO EDWARD SULLIVAN 05/82 - 07/83
O'Donnell, Sullivan & Ramis
Portland, Oregon

SENIOR PLANNER/ECONOMIST 03/81 - 05/82
City of Gresham
Gresham, Oregon

ASSISTANT DIRECTOR OF FORENSICS 09/80 - 03/81
Lewis and Clark College
Portland, Oregon

PLANNER-IN-CHARGE OF GROWTH 06/79 - 09/80
POLICY
City of Indianapolis
Indianapolis, Indiana

TRANSPORTATION PLANNER 01/79 - 06/79
Calhoun County Planning
Department
Battle Creek, Michigan

DIRECTOR 06/78 - 01/79
Manchester Historic District
Project
Manchester, Michigan

AFFILIATIONS:

Multnomah Bar Association;
Oregon Bar Association;
Oregon Planning Association;
American Planning Association;

PUBLICATIONS:

Local Government Liability for
Superfund Cleanup: Municipal
Defense Strategies

Nov. 1989

Incentive Zoning Revisited

Jan. 1984

1983-89 Capital Improvement
Program

Gresham, Oregon

Sept. 1982

The Mid-County Urban Service
Study

Gresham, Oregon	Sept. 1982
<u>Extraterritorial Sewer Policy</u> Gresham, Oregon	June 1981
<u>1982-83 Capital Improvement</u> <u>Budget</u> Gresham, Oregon	May 1981
<u>Comprehensive Plan, Volume 5:</u> <u>CIP</u> Gresham, Oregon	Apr. 1981
<u>A Growth Policy for Indianapolis</u> Indianapolis, Indiana	Aug. 1980
<u>A Computer-Assisted Land Use</u> <u>Information System</u> Indianapolis, Indiana	June 1980
<u>Long-Range Transportation Plan</u> Indianapolis, Indiana	Apr. 1980
<u>Transportation System Management</u> <u>Process</u> Indianapolis, Indiana	June 1979
<u>Transportation Improvement Program</u> Battle Creek Area Transportation Study	May 1979
<u>Opportunities for Effective</u> <u>Citizen Participation</u> Battle Creek Area Transportation Study	Jan. 1979
<u>Marks of History: Architectural</u> <u>History in the Village of</u> Manchester, Michigan	Oct. 1978
<u>Environmental Impact Statement -</u> <u>Staff Analysis</u> Arlington, Massachusetts	Apr. 1977
<u>A Primer on New Town Planning</u> Stockholm, Sweden	Aug. 1976

ROBERT L. LIBERTY
ATTORNEY AT LAW

522 SW Fifth Avenue • Suite 1330 • Portland, Oregon 97204
Tel: (503) 225-0102 Fax c/o (503) 228-1965

RESUME

PROFESSIONAL EXPERIENCE

Land Use Attorney, Hearings Officer and Growth Management Consultant
January 1991 - Present

Robert Liberty is an attorney in solo practice specializing in Oregon land use law. He represents citizens, citizen groups, special districts and others at all levels of land use decision making, from local governments through the Oregon Supreme Court and before the Land Conservation and Development Commission.

From November 1992 through June 1993 he worked on contract as a land use Hearings Officer for Multnomah County.

Robert Liberty also provides advice on the design, administration, performance evaluation and political dynamics of growth management programs to business associations, governments and nonprofit organizations in the U.S. and abroad. In the last few years he has made presentations on the lessons to be learned from Oregon's planning experience in Australia, Guam, Indonesia, Mexico and New Zealand.

Staff Attorney for 1000 Friends of Oregon
September 1981 - December 1990

1000 Friends of Oregon is a nongovernmental organization working to enforce and enhance Oregon's pioneering growth management program. Liberty's work as staff attorney included: reviewing the comprehensive land use plans and implementing regulations (e.g. zoning ordinances) for many Oregon counties and several cities for compliance with Oregon's land use planning laws and goals, citizen assistance, public education activities, administrative and legislative lobbying and research. He wrote the original grant application project description for what became the Land Use Transportation/Air Quality ("LUTRAQ") study. He represented 1000 Friends in several precedent-setting appeals, including Oregon Supreme Court cases interpreting Oregon's farm and forest land conservation policies, *1000 Friends of Oregon v. LCDC and Lane County*, and aspects of its urban growth containment goal. *1000 Friends of Oregon v. LCDC (Curry County)*.

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Multnomah County
Zoning Division

EDUCATION AND ACADEMIC HONORS

BA (Political Science) University of Oregon Honors College 1975 (Phi Beta Kappa)

MA (Modern History) Magdalen College, Oxford University 1977 (Rhodes Scholar)

JD (Law) Harvard Law School 1981

EDUCATIONAL INSTITUTION AFFILIATIONS

Faculty Associate of the Lincoln Institute of Land Policy, Cambridge, MA

Adjunct Faculty at Lewis & Clark Law School (Fall Term 1993)

PUBLICATIONS

Oregon's Comprehensive Growth Management Program: An Implementation Review and Lessons for Other States published by the Environmental Law Institute's ENVIRONMENTAL LAW REPORTER, June 1992.

Goal 4, Forest Lands, a chapter in the Oregon State Bar's Continuing Legal Education handbook, entitled LAND USE, second edition, 1988

The Oregon Planning Experience: Repeating The Success And Avoiding The Mistakes in UNIVERSITY OF MARYLAND POLICY STUDIES: CHESAPEAKE BAY POLICY, 1988

Forestland Preservation in HARVARD ENVIRONMENTAL LAW REVIEW, April 1981

COMMUNITY INVOLVEMENT AND PUBLIC SERVICE

- Metro Future Vision Commission (Member May 1993 - present)
- Livable Communities Project (Participant in Northwest Portland demonstration project) (1993)
- Sponsor & Instructor "Oregon Land Use Law, Procedures & Advocacy Skills; A Course for Citizens" (Tuition-free nine-class land use training program for citizens, January - March 1993)
- Northwest District (Neighborhood) Association (Board Member 1988 - 1989)
- Portland Police Bureau (Budget) Advisory Committee (Member 1989 - 1991)
- Lewis & Clark Law School Public Interest Law Project (Board Member 1992 - Present)
- Riverfront Advisory Committee, Portland Central City Planning Project (Member 1986)

CHRONOLOGICAL APPELLATE CASE DOCKET OF ROBERT L. LIBERTY

1981 - 1993

Oregon Supreme Court

1. *Yamhill County v. Ludwick*, 294 Or 778, 663 P2d 398 (1983)

I represented Jim Ludwick, the petitioner, who prevailed. The Supreme Court reversed the Court of Appeals and upheld LUBA's determination that Yamhill County's issuance of building permits for residences on lots created without required review, violated its own zoning ordinance.

2. *1000 Friends of Oregon v. LCDC (Curry Co.)*, 301 Or 447, 724 P2d 268 (1986)

I represented 1000 Friends of Oregon, which prevailed on all but a part of one its many assignments of error. The Supreme Court reversed the Court of Appeals in finding that an exception to Goal 14 was required to authorize urban uses in rural areas even if the affected land had been found to be "built" or "committed" pursuant to ORS 197.732(1)(a) and (1)(b). The Court also upheld 1000 Friends' challenge to 64 out of the 75 built and committed exception areas. (The Court of Appeals was reversed on these points.)

3. *1000 Friends of Oregon v. LCDC (Lane County)* 305 Or 384, 752 P2d 271 (1988)

I represented 1000 Friends of Oregon, which prevailed on five of its seven assignments of error. The Supreme Court affirmed the Court of Appeals decision (described below.)

4. *Dodd et al v. Hood River County et al*, Supreme Court No. S39683 (Oral Argument Only) (pending)

I presented oral argument on behalf of amicus 1000 Friends of Oregon in this takings challenge to the denial of a permit for a dwelling on forest land under the amended Goal 4 rule. The case is pending.

Oregon Court of Appeals

1. *Lyford v. Benton County*, 59 Or App 585, 651 P2d 1355 (1982)

I represented Ms. Lyford. The Court of Appeals affirmed the Circuit Court's determination the notice of a hearing provided by Benton County was inadequate and that Lyford's appeal of the decision was filed within the statutory deadline.

2. *Yamhill County v. Ludwick et al*, 57 Or App 764, 646 P2d 1349 (1982)

I represented the respondents. The Court of Appeals reversed LUBA's remand of the County's authorization of houses on subminimum sized lots in its forest zone. (As noted above, the Supreme Court subsequently reversed the Court of Appeals and affirmed LUBA's decision.)

3. *J.R. Golf Services v. Linn County*, 62 Or App 360, 661 P2d 91 (1983)

I represented the petitioners in this partial victory. The Court of Appeals reversed Linn County's approval of a golf course on the ground it violated the provisions of the County's ordinance which implemented the Willamette Greenway Goal. (The Court rejected petitioners' chief argument that the County's decision violated other provisions of the County's plan and zoning ordinance.) The Court's decision reversed LUBA's affirmance of the County's decision.

4. *1000 Friends of Oregon v. LCDC [Jefferson Co.]*, 69 Or App 717, 688 P2d 103 (1984)

I represented petitioner in this successful appeal of LCDC's acknowledgment of several of Jefferson County's developed and committed exceptions to Goal 3, and some of the standards for land divisions in its EFU zone.

5. *Mason v. Mountain Rivers Estates*, 73 Or App 334, 698 P2d 529 (1985)

I represented the cross-petitioner in this appeal from LUBA's decision upholding his arguments against MRE Inc.'s claim of a vested right. The Court of Appeals affirmed LUBA's decision on the merits but ruled in favor of Mason on the cross-petition, remanding the case to LUBA, to explain why it had remanded instead of reversed. On remand, LUBA modified its order to reverse the County's decision, without remand.

6. *1000 Friends of Oregon v. LCDC and Curry County*, 73 Or App 350, 698 P2d 1027 (1985)

I represented the petitioner in this appeal of LCDC's acknowledgment order for Curry County. Petitioner's challenges to the County's exception criteria and the minimum lot size for its EFU zone were sustained but the other four assignments of error relating to the County's exceptions were rejected. (As noted above, the Supreme Court subsequently reversed the this decision with respect to the four assignments of error rejected by the Court of Appeals.)

7. *League of Women Voters of Coos Co. v. Coos Co.*, 76 Or App 705, 712 P2d 111 (1985)

The Court of Appeals held that the League of Women Voters of Coos County and some of its members had standing as an aggrieved party to appeal a decision to LUBA, even though the League and its members have no property or personal interest in the affected property. The Court also held that the League, as a corporation, was not required by ORS 9.320 to be represented by an attorney before the local government and that petitioners' appeal to the governing body had been timely.

8. *1000 Friends of Oregon v. LCDC (Linn Co. I)*, 78 Or App 270, 717 P2d 149 (1986)

I represented 1000 Friends in this mostly successful challenge of LCDC's continuance order for Linn County. The Court rejected LCDC's findings with respect to many, but not all of the County's "built" or "committed" exceptions to Goals 3 and 4 and held that Linn County "was required to comply with Goals 11 and 14 or to take Goal 2 exceptions" to those goals before zoning rural land for urban, commercial, industrial or high intensity residential uses, even if the land was unavailable for or could not practicably be used for farming or forestry. The Court also reversed and remanded 20 developed and committed exception areas and invalidated the county's "vested right" ordinance.

9. *1000 Friends of Oregon v. LCDC (Coos Co.)*, 79 Or App 369, 719 P2d 65 (1986)

I represented the petitioner. The Court of Appeals reversed and remanded LCDC's acknowledgment of 22,000 acres of developed and committed exceptions of Goals 3 and 4. The Court also reversed LCDC's acknowledgment of the county's reliance on the Forest Practices Act as its Goal 5 program to protect wildlife habitat. The latter determination was reversed on appeal to the Supreme Court.

10. *League of Women Voters of Coos Co. v. Coos Co.*, 82 Or App 673, 729 P2d 588 (1986)

The Court of Appeals overturned LUBA's decision that Petitioners' appeal from the County's decision had not been filed within the 21-day appeal period. I represented the Petitioners.

11. *1000 Friends of Oregon v. LCDC (Lane County)*, 83 Or App 278, 731 P2d 457, aff'd on recon 85 Or App 88, 735 P2d 1295 (1987)

This appeal of LCDC's acknowledgment of the Lane County's comprehensive plan made seven assignments of error. The first three were allegations of violations of Goal 4 with respect to the county's provisions for dwellings and land divisions in the F-2 zone. The

Court upheld the challenges to the dwelling standards but not the F-2 minimum lot size. The fourth assignment of error attacked the evidentiary basis for land divisions in the F-1 zone and was sustained by the Court. The remaining assignments of error concerned the minimum lot sizes in the EFU zone (sustained), the County's reliance on the Forest Practices Act (sustained by later overruled in another case) and the county's built and committed exceptions to Goals 3 and 4 (sustained.)

12. *1000 Friends of Oregon v. LCDC (Linn Co. II)*, 85 Or App 18, 735 P2d 645 (1987)

I represented 1000 Friends, which lost all eleven of its own assignments of error but prevailed on the four assignments of error adopted by cross reference from those raised by Robert Mason, concerning the zoning of farm land for freeway-related commercial uses. Mason was separately represented.

13. *1000 Friends of Oregon v. LCDC (Umatilla Co.)*, 85 Or App 88, 735 P2d 1295 (1986)

I represented the petitioner in challenges to several developed and committed exceptions to Goals 3 and 4 acknowledged by LCDC and a reasons exception for industrial uses and the industrial zoning of a non resource area. LCDC's decision was remanded with respect to many, but not all, of the commitment exceptions to Goal 3 and the industrial zoning for the reasons exception.

14. *Mill Creek Sportsmen Assoc., et al v. LCDC*, 85 Or App 205, 735 P2d 1294 (1987)

I represented the Mill Creek Sportsmen's Association, Oregon Trout and the Oregon Flyfishers and Fiction Society, who challenged Umatilla County's reliance on the Forest Practices Act as the county's Goal 5 program for protecting wildlife habitat. LCDC's authorization of the County to rely on the FPA as its Goal 5 program to protect riparian habitat, was struck down, but affirmed by the Supreme Court in another case.

15. *1000 Friends of Oregon v. LCDC (Morrow Co.)*, 88 Or App 517, 746 P2d 238 (1987)

I represented 1000 Friends of Oregon in this appeal of LCDC's acknowledgment of the Morrow County plan with respect to two reasons exceptions for 2,200 acres of agricultural land zoned for industry. (The county's reliance on the FPA as its Goal 5 program to protect riparian habitat, was also struck down, but upheld by the Supreme Court in another case.) LCDC's decision was remanded in part and affirmed in part.

16. *Hopper v. Clackamas Co.*, 87 Or App 167, 741 P2d 921 (1987)

Neil Kagan and I represented the petitioner in this challenge to the county's approval of a "farm help dwelling"; LUBA's decision affirming the county's decision was affirmed.

17. *Clackamas League of Women Voters v. Metro*, 99 Or App 333, 781 P2d 1256 (1989)

Neil Kagan and I represented petitioners in their challenge to Metro's approval of a minor adjustment to the regional UGB. Metro's decision was _____, although petitioners lost on their more important Goal 14 argument.

18. *Newcomer v. Clackamas Co.*, 94 Or App 33, 764 P2d 927 (1988) (on recon. from 92 Or App 174, 758 P2d 369 (1988))

I represented the petitioner in the Petition for Review by the Supreme Court which lead to this decision on reconsideration, remanding the county's approval of a farm dwelling.

19. *Springer v. LCDC and Department of Revenue*, 111 Or App 262, 826 P2d 54 (1992)

I represented Petitioner Sen. Dick Springer in LCDC's approval of a coordination agreement with the Department of Revenue. The Court of Appeals affirmed LCDC's decision, finding that preferential farm and forest use assessments were not "programs affecting land use" subject to state agency coordination.

20. *Citizens for Responsible Growth v. Seaside*, affirmed without opinion 114 Or App 233, 832 P2d 1279, modified and affirmed upon recon., 116 Or App 275, ____ P2d ____ (1992)

I represented Petitioners challenging Seaside's approval of a factory outlet center. The Court of Appeals affirmed Petitioner's partial victory and then modified its opinion to require LUBA of the City to reconsider aspects of two more of Petitioners' assignments of error which LUBA had rejected.

21. *Jackson County et al v. LCDC and Jackson County Citizens League*, CA A

I am representing the Jackson County Citizens League, in an appeal from LCDC's imposition of an enforcement order for Jackson County. The case has not yet been briefed.

22. *McKay Creek Valley Association v. Washington County & Karban, CA A79679*

I represent the Petitioners; The case has been briefed and argued. A decision is pending.

C. Oregon Land Use Board of Appeals

1. *Harrell v. Baker County, 5 Or LUBA 192 (1982)*

Represented Petitioner; county nonfarm dwelling decision remanded.

2. *Lamb v. Lane County, 7 Or LUBA 137 (1983) (Goal 4 precedent)*

Represented Petitioner; county forest ordinances remanded.

3. *J.R. Golf Service v. Linn County, 5 Or LUBA 81 (1982)*

Richard Renn and I represented the Petitioners; LUBA affirmed the County's decision but LUBA's decision was overturned by the Court of Appeals.

4. *Mason v. Linn County and Mountain Rivers Estates, Inc., 13 Or LUBA 1 (1984)*

Stephen Hendricks and I represented the Petitioner; County decision finding a vested right remanded (LUBA subsequently reversed the county's decision after remand from the Court of Appeals)

5. *League of Women Voters of Coos County v. Coos County and Russell Young, 14 Or LUBA 45 (1985)*

Represented Petitioners; county decision denying standing remanded.

6. *Lamb v. Lane County, LUBA 14 Or LUBA 127 (1985)*

Represented Petitioner; the appeal was dismissed on the grounds the County had not made a reviewable decision.

7. *1000 Friends of Oregon v. Jackson County and Sterling Mines*, 15 Or LUBA 306 (1987)
(argument on remand from the Court of Appeals)

Robert E. Stacey and I represented the Petitioner on remand from the Court of Appeals; county decision affirmed.

8. *League of Women Voters of Coos County v. Coos County*, 15 Or LUBA 447 (1987)
Represented Petitioners; County decision remanded.

9. *Doughton v. Douglas Co.*, 15 Or LUBA 576 (1987)

Represented Petitioner on remand of prior LUBA decision from Court of Appeals; County decision remanded.

10. *1000 Friends of Oregon v. Washington Co. & Metro*, 17 Or LUBA 671 (1989) (with Keith Bartholomew and I represented Petitioner; County remanded.

11. *Tuality Lands Coalition v. Washington County*, 22 Or LUBA 319 (1991)
Represented Petitioners; County decision reversed without remand.

12. *1000 Friends of Oregon & DeSylvia v. Troutdale*, ___ Or LUBA ___ (LUBA No. 91-135 to 141, slip opinion of May 4, 1992)

Represented 1000 Friends of Oregon; appeal dismissed on the grounds LCDC had sole jurisdiction.

13. *Citizens for Responsible Growth v. Seaside*, 23 Or LUBA 100 (1992)
Represented Petitioners; city decision Remanded.

14. *Klein v. City of Hubbard*, 23 Or LUBA 367 (1992)
Represented petitioner; city decision remanded.

15. *Carter v. Neahkahnie Water District*, ___ Or LUBA ___ (LUBA No. 92-162 & 92-229; appeal withdrawn April 19, 1993)

Represented the respondent. Appeal dismissed at petitioner's request.

16. *McKay Creek Valley Association v. Washington County*, ___ Or LUBA ___ (LUBA No. 92-238, slip opinion issued April 22, 1993)

Represented petitioners; county decision remanded.

17. *Olson v. Neahkahnie Water District*, ___ Or LUBA ___ (LUBA No. 92-226, 92-236 appeal withdrawn May 21, 1993)

Represented the respondent. Appeal dismissed at petitioner's request.

18. *Wuester v. Clackamas County* ___ Or LUBA ___ (LUBA No. 93-017, slip opinion of June 9, 1993)

Represented petitioner; County decision remanded.

19. *Friends of Bryant Woods Park et al v. Lake Oswego*, ___ Or LUBA ___ (LUBA No. 93-____)

Represent petitioners; appeal filed but not yet briefed or argued.

LAND USE EXPERIENCE
Of
JOHN T. GIBBON

My professional career has provided me with significant experience in the area of land use law to supplement academic instruction I received regarding the subject.

I received a basic exposure to land use law concepts in an undergraduate course on state and local government. A member of the Washington County Board of Commissioners taught the course. I took advanced courses on Land Use Planning Law while attending Lewis and Clark Law School. I have taken postgraduate courses on Urban History at Portland State University.

Each of my professional positions has involved a substantial if not a primary commitment to matters related to land use law.

I worked as a law clerk for a firm with a substantial land use law practice. My work involved the firm's representation of the Metro Home Builders Association in a suit in Circuit Court challenging the City of Beaverton's 1978 building permit moratorium. I conducted research and interviews to document the effects of the moratorium on other metropolitan jurisdictions and on individual builders. I engaged in litigation preparation for the trial of this case and assisted with witnesses during that trial.

When I became an attorney I worked as staff counsel and project manager for the Robert Randall Company, a real estate development and management firm. I subsequently served as corporate counsel and supervisor of the project development department for this company. The company developed numerous multifamily housing projects, single family subdivisions, commercial buildings and light industrial projects throughout the Portland and Seattle Metropolitan areas. I was responsible for obtaining the land use approvals necessary to permit the construction of these projects.

While associated with a Salem law firm I worked on several planning matters including obtaining planning approvals for a major commercial building in the City of Salem. I also represented a landowner in the environmental planning stages of a major highway project in the Salem area.

As a private attorney with a firm in Wilsonville I represented private clients seeking approval of land divisions in the rural areas of Clackamas County. I handled an appeal of one of these approvals to LUBA. I often assisted other members of the firm in providing advice to the Wilsonville Planning Department in our capacity as contract city attorneys.

As a Linn County Civil Deputy District Attorney I have had substantial involvement in planning matters. I was primarily responsible for providing legal advice to the planning and building

department. I reviewed all cases coming before the Planning Commission or Board of Commissioners for hearings. For controversial cases before the Board of Commissioners I attended the hearings, rendering legal advice as needed. For cases involving LUBA appeals I have assisted in the preparation of or have myself prepared the findings connected to the case. I have regularly represented the county in proceedings before the Land Use Board of Appeals. I have appeared in Circuit and District Court in matters involving enforcement of land use laws and handled the appeal of one such case to the Court of Appeals.

I have twice been asked to assist in writing and editing a chapter on Moratoria and Growth Controls in the State Bar's Continuing Legal Education manual on Land Use. I am currently a member of the Real Estate legislative subcommittee of the real Estate and Land Use Section of the Bar.

Resume' of
JOHN T. GIBBON
212 Durham Street, Lake Oswego, Oregon 97034.
Phone No.- Hm.(503)635-3099, Work(503)967-3840, Mess.(206) 834-3787

Professional Objectives

To obtain a challenging executive or professional position that utilizes my broad employment experience and my legal training and expertise.

Employment History

Civil Deputy District Attorney - Linn County, Oregon

September 1986 to Present - Handle civil litigation and provide general legal counsel to Board of Commissioners, elected officials and departments. Trial counsel for land use litigation & drug property forfeitures. Prepare bid and contract documents for construction projects; documents for lease, sale and management of real property for and by the County; legal documents for establishment of county roads. Represent County in property tax valuation cases, land use appeals before LUBA and the Oregon Court of Appeals and drug forfeiture cases in trial and appellate courts.

Associate Attorney - Kohlhoff & Associates, Attorneys

February 1985 - September 1986 - Handled litigation and provided general legal services for firm that served as city attorney and maintained private practice. Advised city public works and planning departments, handled condemnation and wrongful discharge litigation as well as real estate foreclosures. Represented private clients in real estate negotiations and land use hearings and appeals.

Associate Counsel - Eckley & Associates, P.C.

November 1983 - January 1985 - General legal practice in real estate and commercial finance. Handled land use applications for commercial projects and represented private clients in real estate cases and other civil legal matters.

Staff Counsel/Corporate Secretary - The Robert Randall Company

December 1979 - October 1983 - Provided legal advice and service to CEO, managers and staff of vertically integrated real estate company. Supervised project design and development department, law clerk, legal secretary & paralegal. Presented planning applications to local governments, handled condominium conversions, property acquisitions and sales.

Education

J.D., Northwestern School of Law of Lewis & Clark College, 1978

B.A., Pacific University, Legal & Governmental Services, 1975

Professional & Community Activities

Oregon Public Property Managers Association -Vice-Pres. 1990-91, Treasurer 1991-93.

Oregon State Bar - Real Estate Land Use Section Legislative Subcommittee on Real Estate. 1987-93.

Oregon State Bar - Contributing Editor - Chap. 12 "Moratoria and Growth Control", Continuing Legal Education Land Use Manual - 1982 & 1987

Northwest Environmental Defense Center, Board of Directors - 1982-93, Treasurer 1985-87, Vice-Pres. 1987-88, President 1989-90.

Wilsonville Chamber of Commerce - Board of Directors - 1985-86.

I-5 Corridor Association - Interim Director - 1985-86.

Tigard Economic Development Steering Committee - 1982-83.

References are available upon request.

PEGGY HENNESSY

Attorney at Law
610 S.W. Alder Street, #910
Portland, Oregon 97205
Phone: (503) 227-3516
Fax: (503) 227-2503

Education:

Northwestern School of Law, Lewis & Clark College, J.D. - 1987 -
Environmental Law Certificate, Law Review (1986-87)

Oxford University - Summer Session 1986 - Institute of
International and Comparative Law Certificate

Linfield College - B.A. - Liberal Arts - 1984

Experience:

Sole practitioner, Portland, Oregon (7/91 to present) with emphasis
on land use, real property, administrative and environmental law.

Preston, Thorgrimson, Shidler, Gates & Ellis, Portland, Oregon
(6/90 to 7/91). Associate, Environmental/Land Use Department, with
emphasis on land use, real property, environmental, municipal and
administrative law.

Mitchell, Lang & Smith, Portland, Oregon (6/88 to 6/90).
Associate, Land Use Department, with emphasis on land use, real
property, environmental, municipal and administrative law.

1000 Friends of Oregon, Portland, Oregon (3/88 to 6/88). Contract
Attorney, with emphasis on legal research and writing,
community group involvement, and assistance with the Cooperating
Attorneys Program.

Memberships:

Oregon State Bar (1987)
Washington State Bar (1988)

Publications:

The Oregon Forest Practices Act: Unenforced or Unenforceable,
17 Environmental Law 717 (1987)

Case Notes for the Real Estate and Land Use Digest published by the
Real Estate and Land Use Section of the Oregon State Bar (1987-
1993)

Case Note for the Environmental and Natural Resources Section of
the Oregon State Bar (1992)

Activities:

City Club of Portland, Land Use and Transportation Standing Committee (1989-91)

Oregon State Bar, Natural Resources Section Executive Committee (1991-92); Treasurer (1992-93)

Department of Environmental Quality - Enforcement Policy - Citizens Advisory Committee (1991-92)

Northwest Environmental Defense Center - Supervising Attorney - Opposition to 1991 Proposed Revisions to the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1991)

Water Resources Department, Groundwater Advisory Committee (1991-93)

University of New Mexico - Waste Minimization Program - Toxics Use Reduction Panelist - March, 1992

Sierra Club/Northwest Environmental Defense Center - Supervising Attorney - Opposition to Fill of Significant Wetland (1992)

Oregon Environmental Council - Project Volunteer (1989-92)

Personal:

Born in Minneapolis, Minnesota on December 30, 1954.

Interests:

Kayaking, sailing, swimming, skiing, bicycling and hiking.

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

**In the Matter of Multnomah County
Appointing a Planning and Zoning
Hearings Officer**

ORDER

WHEREAS, pursuant to MCC 11.15.8105, a Planning and Zoning Hearings Officer is authorized; and

WHEREAS, pursuant to MCC 11.15.8110, a Planning and Zoning Hearings Officer must be appointed by Order of the Board of County Commissioners and shall serve at the pleasure of the Board; and

WHEREAS, the powers and duties of the Planning and Zoning Hearings Officer are prescribed in MCC 11.15.8115; and

WHEREAS, funds have been budgeted and are available for a Hearings Officer in the adopted FY 1993/94 Multnomah County Budget,


NOW, THEREFORE, The Board orders: Effective July 13, 1993, **John T. Gibbon** is hereby appointed as a Planning and Zoning Hearings Officer, subject to the conditions of the attached Personal Services Contract, Exhibit #1.

ADOPTED this 13th day of July, 1993.

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

By: _____
Hank Miggins, Acting Chair,
Multnomah County, Oregon

REVIEWED:



Laurence Kressel, County Counsel
For Multnomah County, Oregon

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

**In the Matter of Multnomah County
Appointing a Planning and Zoning
Hearings Officer**

ORDER

WHEREAS, pursuant to MCC 11.15.8105, a Planning and Zoning Hearings Officer is authorized; and

WHEREAS, pursuant to MCC 11.15.8110, a Planning and Zoning Hearings Officer must be appointed by Order of the Board of County Commissioners and shall serve at the pleasure of the Board; and

WHEREAS, the powers and duties of the Planning and Zoning Hearings Officer are prescribed in MCC 11.15.8115; and

WHEREAS, funds have been budgeted and are available for a Hearings Officer in the adopted FY 1993/94 Multnomah County Budget,

NOW, THEREFORE, The Board orders: Effective July 13, 1993, **Peggy Hennessy** is hereby appointed as a Planning and Zoning Hearings Officer, subject to the conditions of the attached Personal Services Contract, Exhibit #1.

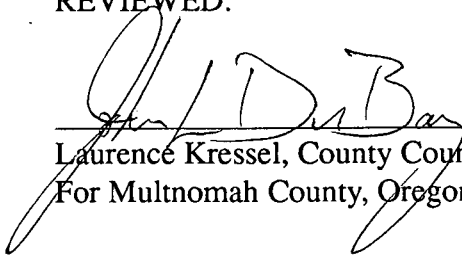
ADOPTED this 13th day of July, 1993.

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

By: _____

Hank Miggins, Acting Chair,
Multnomah County, Oregon

REVIEWED:



Laurence Kressel, County Counsel
For Multnomah County, Oregon

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

**In the Matter of Multnomah County
Appointing a Planning and Zoning
Hearings Officer**

**ORDER
93-249**

WHEREAS, pursuant to MCC 11.15.8105, a Planning and Zoning Hearings Officer is authorized; and

WHEREAS, pursuant to MCC 11.15.8110, a Planning and Zoning Hearings Officer must be appointed by Order of the Board of County Commissioners and shall serve at the pleasure of the Board; and

WHEREAS, the powers and duties of the Planning and Zoning Hearings Officer are prescribed in MCC 11.15.8115; and

WHEREAS, funds have been budgeted and are available for a Hearings Officer in the adopted FY 1993/94 Multnomah County Budget,

NOW, THEREFORE, The Board orders: Effective July 13, 1993, **Phillip Grillo** is hereby appointed as a Planning and Zoning Hearings Officer, subject to the conditions of the attached Personal Services Contract, Exhibit #1.

ADOPTED this 13th day of July, 1993.



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

By: _____

Hank Miggins, Acting Chair,
Multnomah County, Oregon

REVIEWED:

Laurence Kressel, County Counsel
For Multnomah County, Oregon

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

**In the Matter of Multnomah County
Appointing a Planning and Zoning
Hearings Officer**

**ORDER
93-250**

WHEREAS, pursuant to MCC 11.15.8105, a Planning and Zoning Hearings Officer is authorized; and

WHEREAS, pursuant to MCC 11.15.8110, a Planning and Zoning Hearings Officer must be appointed by Order of the Board of County Commissioners and shall serve at the pleasure of the Board; and

WHEREAS, the powers and duties of the Planning and Zoning Hearings Officer are prescribed in MCC 11.15.8115; and

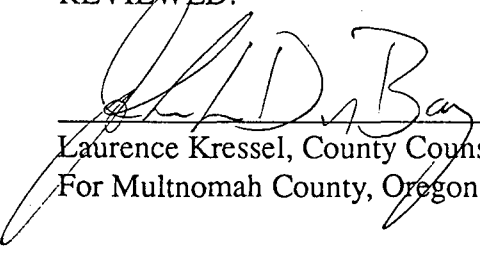
WHEREAS, funds have been budgeted and are available for a Hearings Officer in the adopted FY 1993/94 Multnomah County Budget,

NOW, THEREFORE, The Board orders: Effective July 13, 1993, **Larry Epstein** is hereby appointed as a Planning and Zoning Hearings Officer, subject to the conditions of the attached Personal Services Contract, Exhibit #1.

ADOPTED this 13th day of July, 1993.



REVIEWED:



Laurence Kressel, County Counsel
For Multnomah County, Oregon

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

By: 

Hank Miggins, Acting Chair,
Multnomah County, Oregon

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

**In the Matter of Multnomah County
Appointing a Planning and Zoning
Hearings Officer**

**ORDER
93-251**

WHEREAS, pursuant to MCC 11.15.8105, a Planning and Zoning Hearings Officer is authorized; and

WHEREAS, pursuant to MCC 11.15.8110, a Planning and Zoning Hearings Officer must be appointed by Order of the Board of County Commissioners and shall serve at the pleasure of the Board; and

WHEREAS, the powers and duties of the Planning and Zoning Hearings Officer are prescribed in MCC 11.15.8115; and

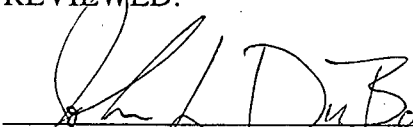
WHEREAS, funds have been budgeted and are available for a Hearings Officer in the adopted FY 1993/94 Multnomah County Budget,

NOW, THEREFORE, The Board orders: Effective July 13, 1993, **Robert Liberty** is hereby appointed as a Planning and Zoning Hearings Officer, subject to the conditions of the attached Personal Services Contract, Exhibit #1.

ADOPTED this 13th day of July, 1993.



REVIEWED:



Laurence Kressel, County Counsel
For Multnomah County, Oregon

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

By: 

Hank Miggins, Acting Chair,
Multnomah County, Oregon