

ANNOTATED MINUTES

Thursday, October 26, 1995 - 9:30 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

REGULAR MEETING

Chair Beverly Stein convened the meeting at 9:30 a.m., with Vice-Chair Sharron Kelley, Commissioners Tanya Collier and Dan Saltzman present, and Commissioner Gary Hansen arriving at 9:31 a.m.

CONSENT CALENDAR

***UPON MOTION OF COMMISSIONER KELLEY,
SECONDED BY COMMISSIONER COLLIER, THE
CONSENT CALENDAR (ITEMS C-1 THROUGH C-6)
WAS UNANIMOUSLY APPROVED.***

NON-DEPARTMENTAL

- C-1 Appointment of Sherron A. Bilyeu to the SHERIFF'S OFFICE CITIZEN BUDGET ADVISORY COMMITTEE
- C-2 1996 BOARD OF EQUALIZATION Appointments of Basil Panaretos, Chair; Sarah Mahler, Judy Boyer, Paul Bonar, Cora Smith and Bob Correll to the County Governing Body Pool; and Toni Sunseri, Paul Mackey, Ray Steed, Sharon Cowley, Esther Lewis, Joan Lamirande, Doug Cowley and Joan Larsell to the Members at Large Pool

DEPARTMENT OF ENVIRONMENTAL SERVICES

- C-3 ORDER Authorizing Execution of Correction Deed D930766 Conveying Tax Acquired Property to Mildred W. Gilbert

ORDER 95-225.

- C-4 ORDER Authorizing Execution of Deed D961237 Upon Completion of Contract to Purchasers Annie Zelle Alcorn, Tonya I. Newton and Leslie R. Newton

ORDER 95-226.

DEPARTMENT OF JUVENILE JUSTICE SERVICES

- C-5 Revenue Agreement 700176 with Portland School District No. 1 Funding a Juvenile Court Counselor Position to Work On-Site at the District's Counteract Alternative Program Campus

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES

- C-6 ORDER Authorizing Designees of the Mental Health Program Director to Direct a Peace Officer to Take an Allegedly Mentally Ill Person into Custody with Probable Cause

ORDER 95-227.

Commissioner Gary Hansen arrived at 9:31 a.m.

REGULAR AGENDA

PUBLIC COMMENT

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

NO ONE WISHED TO COMMENT.

NON-DEPARTMENTAL

- R-2 Presentation in the Matter of Employee Service Awards Honoring 53 Multnomah County Employees with 5 to 25 Years of Service

WITH THE ASSISTANCE OF CURTIS SMITH AND GAIL FOSTER, THE BOARD GREETED, ACKNOWLEDGED AND PRESENTED 5 YEAR AWARDS TO KATHERINE GILLETTE AND JEREMY RAUSCHERT OF ASD; DENNIS ADAMS, REYNALDO CANTU, PATRICIA MOLETT AND RUTH ANN STONER OF DCFS; CATHERINE CALDWELL, TICHENOR MCBRIDE, PETER STURDEVANT AND MARY SYVERSON OF DCC; BRENT BJORK, MICHAEL CUNNINGHAM,

HENRY KRAMER, GWENDOLYN MAXWELL, BONNIE SCHEELAND AND DENNIS WARDWELL OF DES; JANICE BISHOP, KELVIN HALL, DONALD RAY LINCOLN, WILLIAM MCDOWELL, CANH NGUYEN, JERI PARHAM, VICTORIA SPULNIAK AND DELAINA SWOVERLAND OF JJD; JEFFREY BAER, MICHAEL DUBESA, CHING HAY, BRIAN LEWIS AND ALICE STREET OF NOND; 10 YEAR AWARDS TO ELAINE PETERSEN OF DCFS; GAIL LAMBERT OF DA; SUSAN TAYLOR OF DCC; DELBERTA BECK, GREGORY KIRBY, SUZANNE ROBERTS, JONATHAN SCHROTZBERGER AND LENNIE SOBO OF DES; WILLIE BROWN OF JJD; CARRIE PARKERSON AND ROBERT PHILLIPS OF NOND; 15 YEAR AWARDS TO MARILYN ANDERSON OF ASD; IRENE CHAMPION AND ALLAN RATH OF DCC; WAYNE GEORGE, CRAIG LYTS AND BETSY WILLIAMS OF DES; ROBERT LUSTER OF JJD; 20 YEAR AWARDS TO SHARILEEN REED OF DA; CHRISTINE CAMERON, MARJORIE OLSON AND KENNETH UPTON OF NOND; AND 25 YEAR AWARDS TO DUANE BROWN OF DCFS; CHARLEAH COUCKUYT AND WAYNE SALVO OF DCC; AND WILLIAM BODINE OF JJD.

LIBRARY DIRECTOR GINNIE COOPER INTRODUCED ELLEN FADER, NEW YOUTH SERVICES COORDINATOR.

DEPARTMENT OF COMMUNITY CORRECTIONS

R-3 Recommendation to Arm a Unit Supervising Offenders with a High Potential for Violence

COMMISSIONER KELLEY MOVED AND COMMISSIONER SALTZMAN SECONDED, APPROVAL OF R-3. TAMARA HOLDEN EXPLANATION AND RESPONSE TO BOARD QUESTIONS. COMMISSIONER COLLIER REQUESTED THAT THE BOARD'S DECISION ON THE RECOMMENDATION BE DELAYED UNTIL SHE HAS A CHANCE TO HAVE AN ADDITIONAL

BRIEFING WITH STAFF. FOLLOWING DISCUSSION, COMMISSIONERS KELLEY AND SALTZMAN WITHDREW THEIR PREVIOUS MOTION, AND UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER SALTZMAN, R-3 WAS UNANIMOUSLY CONTINUED TO THURSDAY, NOVEMBER 2, 1995.

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-4 Board Decision in Case CU 5-95/HV 11-95 Regarding Appeal of Hearings Officer Decision APPROVING a Request for Conditional Use Permit and Variance to Develop a New Single Family Dwelling in the CFU (Commercial Forest Use) Zoning District on Property Located at 23755 NW SKYLINE BLVD. (Continued Following October 10, 1995 De Novo Hearing)

COMMISSIONER SALTZMAN MOVED AND COMMISSIONER KELLEY SECONDED, TO AFFIRM THE HEARINGS OFFICER DECISION. COMMISSIONER COLLIER ADVISED SHE WOULD ABSTAIN FROM VOTING AS SHE DID NOT PARTICIPATE IN THE HEARING. COUNTY COUNSEL JOHN DUBAY EXPLAINED THE DECISION WAS CONTINUED FROM OCTOBER 10, 1995 TO ALLOW THE PARTIES TO REBUT NEW EVIDENCE SUBMITTED AT THAT HEARING, AND ADVISED THE PARTIES HAVE NEW EVIDENCE THEY WANT TO SUBMIT TODAY. PAUL NORR, ATTORNEY FOR APPELLANT CAROLE A. WINNER, PRESENTED WRITTEN AND ORAL TESTIMONY AND EXPRESSED CONCERN REGARDING COMPLIANCE WITH FIRE STANDARDS EVEN THOUGH APPLICANT HAS PROPOSED GREATER SETBACKS. TIM RAMIS, ATTORNEY FOR APPLICANT JOHN AND RACHEL BURGER, PRESENTED WRITTEN AND ORAL TESTIMONY ADVISING THERE IS AN ADEQUATE WATER SUPPLY ON THE BURGER'S PROPERTY AND THAT IT WILL NOT INTERFERE WITH NEIGHBORING WELLS, AND THAT PLACEMENT OF THE PROPOSED DWELLING WILL ENSURE THEY WILL BE IN COMPLIANCE WITH FIRE

SAFETY ZONES. MR. DUBAY RESPONSE TO BOARD QUESTIONS AND SUGGESTION FOR MODIFICATION OF CONDITIONS OF APPROVAL BASED ON NEW FINDINGS SUBMITTED BY MR. RAMIS. FOLLOWING DISCUSSION, AND UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER SALTZMAN, IT WAS APPROVED THAT THE CONDITIONS OF APPROVAL BE MODIFIED BY REQUIRING THAT THE PROPOSED DWELLING BE LOCATED AND SETBACKS MAINTAINED TO ENSURE COMPLIANCE WITH FIRE SAFETY ZONES; THAT THE VARIANCE REQUEST BE MODIFIED BY GRANTING A SIDE YARD VARIANCE SETBACK OF 130 FEET BETWEEN THE SOUTH SIDE PROPERTY LINE, THEREBY GRANTING A MAJOR VARIANCE OF 70 FEET FROM THE REQUIRED 200 FOOT SETBACK TO MEET FIRE SAFETY ZONE STANDARDS; AND THAT FINDINGS BE ADDED TO THE HEARINGS OFFICER DECISION STATING APPLICANTS' EVIDENCE DEMONSTRATED IT WOULD BE FEASIBLE TO PROVIDE AN ON-SITE WATER SOURCE THAT COMPLIES WITH CODE; AND A FINDING THAT THE PROPOSED DWELLING WILL BE LOCATED SUCH THAT IT COMPLIES AS CLOSELY AS POSSIBLE WITH CODE, WITH COMMISSIONERS KELLEY, HANSEN, SALTZMAN AND STEIN VOTING AYE, AND COMMISSIONER COLLIER ABSTAINING. THE HEARINGS OFFICER DECISION WAS AFFIRMED, SUBJECT TO BOARD MODIFICATIONS, WITH COMMISSIONERS KELLEY, HANSEN, SALTZMAN AND STEIN VOTING AYE, AND COMMISSIONER COLLIER ABSTAINING. (FINAL ORDER 95-247.)

R-5 ORDER Directing Cancellation of Uncollectible Personal Property Taxes for Tax Years 1981/82 through 1994/95

COMMISSIONER COLLIER MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-5. JANICE DRUIAN EXPLANATION AND RESPONSE TO BOARD

**QUESTIONS. ORDER 95-228 UNANIMOUSLY
APPROVED.**

- R-6 ORDER Authorizing Sale of Tax Foreclosed Property to the City of Portland, Portland Development Commission and Authorizing Chair to Execute Deed D961262 (4316 NE Garfield Avenue)

COMMISSIONER HANSEN MOVED AND COMMISSIONER SALTZMAN SECONDED, APPROVAL OF R-6. JANICE DRUIAN AND COUNTY COUNSEL MATTHEW RYAN EXPLANATION AND RESPONSE TO BOARD QUESTIONS. COMMISSIONER HANSEN SUGGESTED THE ITEM BE CONTINUED IN ORDER TO HAVE STAFF FROM PORTLAND DEVELOPMENT COMMISSION RESPOND TO BOARD QUESTIONS REGARDING PROPOSED USE OF THE TAX FORECLOSED PROPERTY. MS. DRUIAN WAS DIRECTED TO HAVE PDC STAFF COME TO NEXT BOARD MEETING. UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER SALTZMAN, THE ORDER WAS UNANIMOUSLY CONTINUED TO THURSDAY, NOVEMBER 2, 1995.

DEPARTMENT OF HEALTH

- R-7 Second Reading and Adoption of an ORDINANCE Amending MCC 6.33, Adding Members to the Contract Compliance and Rate Regulation Committee

ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER COLLIER MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF SECOND READING AND ADOPTION. GARY OXMAN EXPLANATION. NO ONE WISHED TO TESTIFY. ORDINANCE 836 UNANIMOUSLY APPROVED.

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES

- R-8 Budget Modification DCFS 3 Authorizing Adjustments Between Expense Line Items and Increasing City of Portland Revenue to Reflect Actual Contract Amount, within the Adult Mental Health Program Budget

**COMMISSIONER SALTZMAN MOVED AND
COMMISSIONER KELLEY SECONDED,
APPROVAL OF R-8. SUSAN CLARK
EXPLANATION. BUDGET MODIFICATION
UNANIMOUSLY APPROVED.**

NON-DEPARTMENTAL

- R-9 Budget Modification NOND 6 Authorizing Transfer of Cost Savings in Personal Services to Materials and Services, within the Emergency Management Division Budget

**COMMISSIONER COLLIER MOVED AND
COMMISSIONER KELLEY SECONDED,
APPROVAL OF R-9. MICHAEL GILSDORF
EXPLANATION AND RESPONSE TO BOARD
QUESTIONS. COMMISSIONER SALTZMAN
REQUESTED THAT STAFF PROVIDE MORE
INFORMATION PRIOR TO APPROVAL.
FOLLOWING DISCUSSION AND UPON MOTION
OF COMMISSIONER SALTZMAN, SECONDED BY
COMMISSIONER KELLEY, THE BUDGET
MODIFICATION WAS UNANIMOUSLY
CONTINUED TO THURSDAY, NOVEMBER 9, 1995.
COMMISSIONER COLLIER THANKED MR.
GILSDORF FOR HIS EFFORTS TOWARDS
PROGRESS OF THE EMERGENCY MANAGEMENT
CONSOLIDATION.**

- R-10 Second Reading and Adoption of an ORDINANCE Amending MCC Chapter 3.10.010(P), 3.10.015(B)(3), and 3.10.270(A) Relating to the Merit System for County Employees and Repealing and Replacing Sections of Ordinance No. 448 and Ordinance No. 461

**ORDINANCE READ BY TITLE ONLY. COPIES
AVAILABLE. COMMISSIONER KELLEY MOVED
AND COMMISSIONER SALTZMAN SECONDED,
APPROVAL OF SECOND READING AND**

**ADOPTION. NO ONE WISHED TO TESTIFY.
ORDINANCE 837 UNANIMOUSLY APPROVED.**

- R-11 First Reading and Adoption of an ORDINANCE Consenting to a Change in Control of the Hayden Island Cable Franchise of Columbia Cable of Washington with Conditions; and Declaring an Emergency

ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER KELLEY MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF FIRST READING AND ADOPTION. DAVID OLSON AND ERNIE BONNER EXPLANATION. NO ONE WISHED TO TESTIFY. ORDINANCE 838 UNANIMOUSLY APPROVED.

CHAIR STEIN ADVISED THIS AFTERNOON'S EXECUTIVE SESSION HAS BEEN CANCELLED.

There being no further business, the regular meeting was adjourned at 10:30 a.m. and the briefing was convened at 10:35 a.m.

Thursday, October 26, 1995 - 10:30 AM
(OR IMMEDIATELY FOLLOWING REGULAR MEETING)
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

BOARD BRIEFING

- B-1 Overview of the Strategic Plan for Information Technology (S.P.I.T.).
Presented by Betsy Williams and S.P.I.T. Members.

BETSY WILLIAMS, JIM MUNZ AND KERI HARDWICK, PRESENTATION AND RESPONSE TO BOARD QUESTIONS, DISCUSSION AND DIRECTION.

There being no further business, the meeting was adjourned at 12:00 p.m.

Thursday, October 26, 1995 - 2:00 PM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

EXECUTIVE SESSION

E-1 The Multnomah County Board of Commissioners Will Meet in Executive Session Pursuant to ORS 192.660(1)(d) for Labor Negotiator Consultation Concerning Possible Labor Negotiations with Deputy Sheriffs Association.

CANCELLED.

Friday, October 27, 1995 - 8:45 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

ELECTED OFFICIALS RETREAT

Chair Beverly Stein convened the meeting at 8:55 a.m., with Vice-Chair Sharron Kelley, Commissioners Gary Hansen, Tanya Collier and Dan Saltzman, and Sheriff Dan Noelle present.

WS-1 Multnomah County Elected Officials and Invited Department Directors Will Meet for Follow up Discussions from their September 29, 1995 Retreat. Topics are Progress Report on Public Safety Plan; Key Process Issues; and Process for Developing Plan.

BOARD DISCUSSION WITH DAN NOELLE, BILL WOOD, LARRY AAB, PETER OZANNE, TAMARA HOLDEN AND DAVE WARREN.

Commissioner Saltzman was excused at 10:08 a.m.

There being no further business, the meeting was adjourned at 11:30 a.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 SW FIFTH AVENUE
PORTLAND, OREGON 97204
CLERK'S OFFICE • 248-3277 • 248-5222
FAX • (530) 248-5262

BOARD OF COUNTY COMMISSIONERS		
BEVERLY STEIN •	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

AGENDA

MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS

FOR THE WEEK OF

OCTOBER 23, 1995 - OCTOBER 27, 1995

Thursday, October 26, 1995 - 9:30 AM - Regular Meeting.....Page 2

Thursday, October 26, 1995 - 10:30 AM - Board Briefing.....Page 4

Thursday, October 26, 1995 - 2:00 PM -Executive Session.....Page 4

Friday, October 27, 1995 - 8:45 AM - Electeds Retreat.....Page 5

*Thursday Meetings of the Multnomah County Board of Commissioners are *cablecast* live and taped and can be seen by Cable subscribers in Multnomah County at the following times:*

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

Friday, 10:00 PM, Channel 30

Sunday, 1:00 PM, Channel 30

Produced through Multnomah Community Television

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.

AN EQUAL OPPORTUNITY EMPLOYER

REGULAR MEETING

CONSENT CALENDAR

NON-DEPARTMENTAL

- C-1 *Appointment of Sherron A. Bilyeu to the SHERIFF'S OFFICE CITIZEN BUDGET ADVISORY COMMITTEE*
- C-2 *1996 BOARD OF EQUALIZATION Appointments of Basil Panaretos, Chair; Sarah Mahler, Judy Boyer, Paul Bonar, Cora Smith and Bob Correll to the County Governing Body Pool; and Toni Sunseri, Paul Mackey, Ray Steed, Sharon Cowley, Esther Lewis, Joan Lamirande, Doug Cowley and Joan Larsell to the Members at Large Pool*

DEPARTMENT OF ENVIRONMENTAL SERVICES

- C-3 *ORDER Authorizing Execution of Correction Deed D930766 Conveying Tax Acquired Property to Mildred W. Gilbert*
- C-4 *ORDER Authorizing Execution of Deed D961237 Upon Completion of Contract to Purchasers Annie Zelle Alcorn, Tonya I. Newton and Leslie R. Newton*

DEPARTMENT OF JUVENILE JUSTICE SERVICES

- C-5 *Revenue Agreement 700176 with Portland School District No. 1 Funding a Juvenile Court Counselor Position to Work On-Site at the District's Counteract Alternative Program Campus*

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES

- C-6 *ORDER Authorizing Designees of the Mental Health Program Director to Direct a Peace Officer to Take an Allegedly Mentally Ill Person into Custody with Probable Cause*

REGULAR AGENDA

PUBLIC COMMENT

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

NON-DEPARTMENTAL

- R-2 *Presentation in the Matter of Employee Service Awards Honoring 53 Multnomah County Employees with 5 to 25 Years of Service*

DEPARTMENT OF COMMUNITY CORRECTIONS

- R-3 *Recommendation to Arm a Unit Supervising Offenders with a High Potential for Violence*

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-4 *Board Decision in Case CU 5-95/HV 11-95 Regarding Appeal of Hearings Officer Decision APPROVING a Request for Conditional Use Permit and Variance to Develop a New Single Family Dwelling in the CFU (Commercial Forest Use) Zoning District on Property Located at 23755 NW SKYLINE BLVD. (Continued Following October 10, 1995 De Novo Hearing)*

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DEPARTMENT OF HEALTH

- R-7 *Second Reading and Adoption of an ORDINANCE Amending MCC 6.33, Adding Members to the Contract Compliance and Rate Regulation Committee*

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES

- R-8 *Budget Modification DCFS 3 Authorizing Adjustments Between Expense Line Items and Increasing City of Portland Revenue to Reflect Actual Contract Amount, within the Adult Mental Health Program Budget*

NON-DEPARTMENTAL

- R-9 *Budget Modification NOND 6 Authorizing Transfer of Cost Savings in Personal Services to Materials and Services, within the Emergency Management Division Budget*
- R-10 *Second Reading and Adoption of an ORDINANCE Amending MCC Chapter 3.10.010(P), 3.10.015(B)(3), and 3.10.270(A) Relating to the Merit System for County Employees and Repealing and Replacing Sections of Ordinance No. 448 and Ordinance No. 461*
- R-11 *First Reading and Adoption of an ORDINANCE Consenting to a Change in Control of the Hayden Island Cable Franchise of Columbia Cable of Washington with Conditions; and Declaring an Emergency*
-

Thursday, October 26, 1995 - 10:30 AM
(OR IMMEDIATELY FOLLOWING REGULAR MEETING)

*Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland*

BOARD BRIEFING

- B-1 *Overview of the Strategic Plan for Information Technology (S.P.I.T.). Presented by Betsy Williams and S.P.I.T. Members. 2 HOURS REQUESTED.*
-

Thursday, October 26, 1995 - 2:00 PM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

EXECUTIVE SESSION

- E-1 *The Multnomah County Board of Commissioners Will Meet in Executive Session Pursuant to ORS 192.660(1)(d) for Labor Negotiator Consultation Concerning Possible Labor Negotiations with Deputy Sheriffs Association. 1 HOUR REQUESTED.*
-

*Friday, October 27, 1995 - 8:45 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland*

ELECTED OFFICIALS RETREAT

WS-1

*Multnomah County Elected Officials and Invited Department Directors
Will Meet for Follow up Discussions from their September 29, 1995
Retreat. Topics are Progress Report on Public Safety Plan; Key Process
Issues; and Process for Developing Plan. 2.5 HOURS REQUESTED.*

Meeting Date: OCT 26 1995
Agenda No. : C-1

(Above Space for Board Clerk's Use **ONLY**)

AGENDA PLACEMENT FORM

SUBJECT: Appointment to Citizen Advisory Boards & Commissions

BOARD BRIEFING: Date Requested:
Amount of Time Needed:

REGULAR MEETING: Date Requested: 10/26/95
Amount of Time Needed: Consent Agenda

DEPARTMENT: Nondepartmental

DIVISION: County Chair's Office

CONTACT: Delma Farrell

TELEPHONE: X-3953

BLDG/ROOM: 106/1515

PERSON(S) MAKING PRESENTATION:

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

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

Appointment of Sherron A. Bilyeu to Position 6 on the Sheriff's Office Citizen Budget Advisory Committee for a term ending 9/30/96.

SIGNATURES REQUIRED:

ELECTED OFFICIAL: Beverly Stein

OR

MANAGER: _____

Any Questions? Call the Office of the Board Clerk at 248-3277 or 248-5222.
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BOARD OF
COUNTY COMMISSIONERS
1995 OCT 18 AM 11:38
MULTIOMAH COUNTY
OREGON

Sherron CBAC

MULTNOMAH COUNTY CITIZEN INVOLVEMENT COMMITTEE
CBAC INTEREST FORM

NAME SHERRON A. BILYEU

HOME ADDRESS 215 N. MOBILE AVE PDX ZIP 97217 PHONE 285-9652

EMPLOYER _____

OCCUPATION _____

OPTIONAL: Age _____ Sex F
African American _____ Native American _____ Hispanic _____
Asian/Pacific _____ White X Other _____

ARE YOU A RESIDENT OF MULTNOMAH COUNTY? YES X NO _____

AREAS OF INTEREST:

Human Services X Youth X
Justice Services X Aging _____
Environmental Services _____ Health _____
Facilities, transportation _____ General government X
Other _____

VOLUNTEER/BOARD/COMMITTEE EXPERIENCE VOLUNTEER COORDINATOR - BETWEEN THE RIVERS

COMM. POLICING CONTACT OFFICE, PAST CHAIR ARBOR LODGE NEIGHBORHOOD ASSOC., OFFICE CLERK FOR
NO. PORTLAND NEIGHBORHOOD OFFICE & CRIME PREVENTION OFFICE, BUCK WATCH CAPTAIN N.E.T.

OTHER RELEVANT EXPERIENCE LEADER, GRADUATE OF PORTLAND POLICE BUREAU CITIZEN ACADEMY
NEIGHBORHOOD CONTACT PERSON FOR "PROJECT RELIEF" - NRT PROJECT, TWICE SERVED AS AN INTERVIEWER
FOR CITY OF PORTLAND OFFICE OF NEIGHBORHOODS.

PLEASE LIST NAME, ADDRESS AND TELEPHONE NUMBERS OF TWO REFERENCES:

1. VADA GRIMSRUD - 2410 N. LOMBARD, PORTLAND, OREGON 97217 823-4098
2. TOM GRIFFIN - VALAOC 2410 N. LOMBARD, PORTLAND, OREGON 97217 - 823-4524

WOULD YOU HAVE A POTENTIAL CONFLICT OF INTEREST RELATIVE TO ANY COUNTY- NO
DEPARTMENT? NO

SIGNATURE Sherron A. Bilyeu DATE July 7, 1995

Please return to: Office of Citizen Involvement, 2115 SE Morrison
Portland, Oregon 97214; Phone: 248-3450

Meeting Date: OCT 26 1995
Agenda No. : C-2

(Above Space for Board Clerk's Use **ONLY**)

AGENDA PLACEMENT FORM

SUBJECT: Appointments to Citizen Advisory Boards & Commissions

BOARD BRIEFING: Date Requested:
Amount of Time Needed:

REGULAR MEETING: Date Requested: 10/26/95
Amount of Time Needed: Consent Agenda

DEPARTMENT: Environmental Services DIVISION: Board of Equalization

CONTACT: Sherrill Rudolph TELEPHONE: 248-5241
BLDG/ROOM: 106/1515

PERSON(S) MAKING PRESENTATION:

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

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

Appointments 1996 Board of Equalization:

County Governing Body Pool: Basil Panaretos, Chair; Sarah Mahler; Judy Boyer; Paul Bonar; Cora Smith; Bob Correll

Members at Large Pool: Toni Sunseri; Paul Mackey; Ray Steed; Sharon Cowley; Esther Lewis; Joan Lamirande; Doug Cowley; Joan Larsell

SIGNATURES REQUIRED:

ELECTED OFFICIAL: Beverly Stein

OR

MANAGER: _____

Any Questions? Call the Office of the Board Clerk at 248-3277 or 248-5222.
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10/26/95
OCT 19 PM 3:08
MULTI-STATE COUNTY
OREGON

September 13, 1995

DEPARTMENT OF
REVENUE*Memorandum*

To: All County Governing Bodies
All Board of Equalization Clerks

From: Sandra Sture, Senior Appraiser/Analyst
Assessment & Taxation Standards Section
Property Tax Division
Tele: (503) 945-8319 Fax: (503) 945-8737 TTY: (503) 945-8617

Subject: Board of Equalization and Ratio Review Appointment Procedures

The purpose of this memorandum is to bring you up to date on how House Bill 2891 has affected the manner in which boards of equalization and ratio review are appointed. This bill contained an emergency clause and became effective on May 31 when it was signed by the governor. If your board of equalization members have already been appointed under the old law, we recommend that you revise your orders of appointment for the upcoming session to comply with this bill.

The major thrust of this legislation is to allow for the governing body to appoint various pools of persons from which the county clerk may as needed select the persons necessary to make up the boards. It also eliminates alternates and allows the clerk to select as many boards (of equalization) as are necessary for the efficient conduct of business. There may still only be one board of ratio review in each county. These changes allow for more flexibility in the members' schedules and insure that the required number of members will be available at all times.

On or before October 15, the governing body of your county must appoint the following pools of people who are willing to serve on the board of equalization.

- A pool of members of the county governing body or nonoffice-holding county residents to serve in their place. The chairpersons of the boards will normally be selected from this pool.
- A pool of nonoffice-holding residents of the county who are not employees of the county or of any taxing district within the county.

The appointment must be in writing and designate which pool the member was appointed to and when the list becomes effective. The pools may consist of as many people as is estimated to be necessary to complete the boards' business, and if possible, should include the same people who served on the board of ratio review last July.



The objective is to always have three board members present, if possible, at each meeting of the board of equalization. This may be a problem if there is only one person appointed to the "governing body" pool and two people appointed to the "nonoffice-holding" pool. I suggest that to prevent this you always appoint at least two people to the governing body pool and four people to the nonoffice-holding pool. Then the clerk will always have other persons to select to sit on the board if the usual members are absent. This applies, of course, to those counties who only intend to select one board of equalization.

The member from the governing body pool will serve as chairperson unless the board votes unanimously to elect one of the other nonoffice-holding members present as chairperson of the board. A quorum of the members remains at two for the BOE and three for the BORR. If a member of a pool is absent, their replacement must be selected from the same pool.

Next year, at a time on or before June 15, the county governing body must appoint the following pools from which the board of ratio review will be selected.

- A pool of members of the county governing body or nonoffice-holding county residents to serve in their place. The chairpersons of the boards will normally be selected from this pool.
- A pool of nonoffice-holding residents of the county who are not employees of the county or of any taxing district within the county.
- A pool of members of the governing body of a school district within the county .
- A pool of members of the governing bodies of taxing districts with the county that are not school districts or the county.

The pools appointed on or before June 15 may consist of people who are willing to serve on the board of ratio review, board of equalization, or both. If the governing body wishes they may wait until later to appoint the board of equalization pools, but they must be appointed on or before October 15 of each year. Persons may also be appointed at other times upon the request of the county clerk.

We will address these and other legislative changes again when we present our annual training sessions. Meanwhile, feel free to call me if you would like to discuss these matters further.

MEETING DATE: OCT 26 1995

AGENDA NO: C-3

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Request Approval of Correction Deed to Former Owner

BOARD BRIEFING: Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: _____

Amount of Time Needed: Consent

DEPARTMENT: Environmental Services DIVISION: Assessment & Taxation

CONTACT: Kathy Tuneberg TELEPHONE #: 248-3590

BLDG/ROOM #: 166/300/Tax Title

PERSON(S) MAKING PRESENTATION: Kathy Tuneberg

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

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

Request approval of Correction deed to former owner **MILDRED W. GILBERT.**

Deed D930766 and Board Order attached.

10/27/95 ORIGINAL Deed & COPIES OF ALL to tax title

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: James M. Dr... Betsy Williams

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

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

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
1995 OCT 16 AM 11:34

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

In the Matter of the Execution of
Correction Deed D930766
for Certain Tax Acquired Property to

MILDRED W. GILBERT

)
) ORDER
) 95-225
)

It appearing that heretofore Multnomah County executed a deed conveying the real property account numbers R-99202-2020 & R-99202-1830, hereinafter described to MILDRED W. GILBERT and that a correction in the legal description is needed.


NOW THEREFORE, it is hereby ORDERED that the Chair of the Multnomah County Board of County Commissioners execute a deed conveying to the former owner the following described real property, situated in the County of Multnomah, State of Oregon:

AS DESCRIBED ON ATTACHED EXHIBIT "A", Parcel I & Parcel II in County of Multnomah, State of Oregon.

Dated at Portland, Oregon this 26th day of October, 1995.



BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair

REVIEWED:

Laurence Kressel, County Counsel
for Multnomah County, Oregon

By

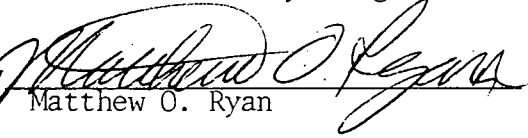

Matthew O. Ryan

EXHIBIT A

PARCEL I

The North 95.5 feet of the South 202.81 feet of the following:

A tract of land in the Northwest One-Quarter of Section 2, Township 1 South, Range 2 East, of the Willamette Meridian, Multnomah County, Oregon, described as follows:

Beginning at the Northeast Corner of that tract of land conveyed to Frank E. Ream by deed recorded on December 23, 1919 in Book 600, page 171, which Northeast Corner bears S.89°02'36"E, a distance of 662.50 feet from the Northwest corner of said Section 2; thence S.0°8'05"W along the East line of the Ream tract a distance of 40 feet to the South line of SE Stark St., and the true point of beginning; thence S.89°02'36"E, along said South line a distance of 165 feet to the West line of the Gruber tract as described in Book 1037 Page 228; thence S.0°58'05"W along said West line a distance of 657.31 feet to the South line of the Northwest 1/4 of the Northwest 1/4 of said Section 2; thence N 89°07'27"W along said South line, a distance of 165 feet to the East line of the Ream tract; thence N 0°58'05"E along said East line a distance of 657.54 feet to the point of beginning.

PARCEL II

A tract of land in the Northwest One-Quarter of Section 2, Township 1 South, Range 2 East, of the Willamette Meridian, Multnomah County, Oregon, described as follows:

Beginning at the Northeast Corner of that tract of land conveyed to Frank E. Ream by deed recorded on December 23, 1919 in Book 600, page 171, which Northeast Corner bears S.89°02'36"E, a distance of 662.50 feet from the Northwest corner of said Section 2; thence S.0°8'05"W along the East line of the Ream tract a distance of 40 feet to the South line of SE Stark St., and the true point of beginning; thence S.89°02'36"E, along said South line a distance of 165 feet to the West line of the Gruber tract as described in Book 1037 Page 228; thence S.0°58'05"W along said West line a distance of 657.31 feet to the South line of the Northwest 1/4 of the Northwest 1/4 of said Section 2; thence N 89°07'27"W along said South line, a distance of 165 feet to the East line of the Ream tract; thence N 0°58'05"E along said East line a distance of 657.54 feet to the point of beginning.

EXCEPTING FROM THE ABOVE DESCRIBED:

The East one-half
The North 134.50 feet
The South 327.81 feet

CORRECTION DEED

THIS DEED IS EXECUTED TO CORRECT THE LEGAL DESCRIPTION ON DEED D930766 RECORDED September 24, 1992 IN BOOK 2591, PAGE 662, MULTNOMAH COUNTY DEED RECORDS.

DEED D930766

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to MILDRED W. GILBERT, Grantee, the following described real property account numbers R-99202-2020 & R-99202-1830, situated in the County of Multnomah, State of Oregon:

AS DESCRIBED ON ATTACHED EXHIBIT "A", Parcel I & Parcel II, in County of Multnomah, State of Oregon.

The true and actual consideration paid for this transfer, stated in terms of dollars is \$15,230.58.

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

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of County Commissioners this 26th day of October, 1995, by authority of an Order of the Board of County Commissioners heretofore entered of record.



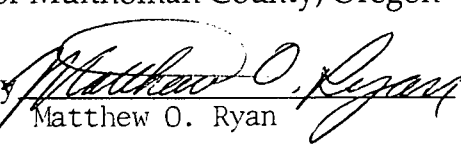
BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair

REVIEWED:

Laurence Kressel, County Counsel
for Multnomah County, Oregon

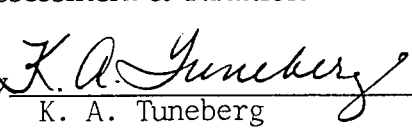
By


Matthew O. Ryan

DEED APPROVED:

Janice Druian, Director
Assessment & Taxation

By


K. A. Tuneberg

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

EXHIBIT A

PARCEL I

The North 95.5 feet of the South 202.81 feet of the following:

A tract of land in the Northwest One-Quarter of Section 2, Township 1 South, Range 2 East, of the Willamette Meridian, Multnomah County, Oregon, described as follows:

Beginning at the Northeast Corner of that tract of land conveyed to Frank E. Ream by deed recorded on December 23, 1919 in Book 600, page 171, which Northeast Corner bears S.89°02'36"E, a distance of 662.50 feet from the Northwest corner of said Section 2; thence S.0°8'05"W along the East line of the Ream tract a distance of 40 feet to the South line of SE Stark St., and the true point of beginning; thence S.89°02'36"E, along said South line a distance of 165 feet to the West line of the Gruber tract as described in Book 1037 Page 228; thence S.0°58'05"W along said West line a distance of 657.31 feet to the South line of the Northwest 1/4 of the Northwest 1/4 of said Section 2; thence N 89°07'27"W along said South line, a distance of 165 feet to the East line of the Ream tract; thence N 0°58'05"E along said East line a distance of 657.54 feet to the point of beginning.

PARCEL II

A tract of land in the Northwest One-Quarter of Section 2, Township 1 South, Range 2 East, of the Willamette Meridian, Multnomah County, Oregon, described as follows:

Beginning at the Northeast Corner of that tract of land conveyed to Frank E. Ream by deed recorded on December 23, 1919 in Book 600, page 171, which Northeast Corner bears S.89°02'36"E, a distance of 662.50 feet from the Northwest corner of said Section 2; thence S.0°8'05"W along the East line of the Ream tract a distance of 40 feet to the South line of SE Stark St., and the true point of beginning; thence S.89°02'36"E, along said South line a distance of 165 feet to the West line of the Gruber tract as described in Book 1037 Page 228; thence S.0°58'05"W along said West line a distance of 657.31 feet to the South line of the Northwest 1/4 of the Northwest 1/4 of said Section 2; thence N 89°07'27"W along said South line, a distance of 165 feet to the East line of the Ream tract; thence N 0°58'05"E along said East line a distance of 657.54 feet to the point of beginning.

EXCEPTING FROM THE ABOVE DESCRIBED:

The East one-half
The North 134.50 feet
The South 327.81 feet

STATE OF OREGON

)

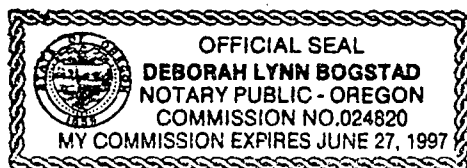
) ss

COUNTY OF MULTNOMAH

)

On this 26th day of October, 1995, before me, a Notary Public in and for the County of Multnomah and State of Oregon, personally appeared Beverly Stein, Chair, Multnomah County Board of Commissioners, to me personally known, who being duly sworn did say that the attached instrument was signed and sealed on behalf of the County by authority of the Multnomah County Board of Commissioners, and that said instrument is the free act and deed of Multnomah County.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first in this, my certificate, written.



Deborah Lynn Bogstad

Notary Public for Oregon

My Commission expires: 6/27/97

MEETING DATE: OCT 26 1995

AGENDA NO: C-4

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Request Approval of Deed to Contract Purchaser for Completion of Contract

BOARD BRIEFING: Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: _____

Amount of Time Needed: 5 minutes

DEPARTMENT: Environmental Services DIVISION: Assessment & Taxation

CONTACT: Kathy Tuneberg TELEPHONE #: 248-3590
BLDG/ROOM #: 166/300/Tax Title

PERSON(S) MAKING PRESENTATION: Kathy Tuneberg

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

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

Request approval of Deed to contract purchaser for completion of Contract #15778
(Property originally purchased by former owners).

Deed D961237 and Board Order attached.

10/27/95 ORIGINAL DEED & COPIES OF ALL TO TAX TITLE

SIGNATURES REQUIRED:

ELECTED
OFFICIAL: _____

OR

DEPARTMENT
MANAGER: *James M. Don* *Betsy Williams*

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

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

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
1995 OCT 16 AM 11:34

Matthew O. Ryan

DEED D961237

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to ANNIE ZELLE ALCORN, Grantee, an undivided one-third interest, TONYA I. NEWTON, Grantee, an undivided one-third interest, and LESLIE R. NEWTON, Grantee, an undivided one-third interest, in the following described real property, situated in the County of Multnomah, State of Oregon:

LOT 15, BLOCK 18, ALBINA HMSTD a recorded subdivision in Multnomah County, State of Oregon.

The true and actual consideration paid for this transfer, stated in terms of dollars is \$9,757.76.

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

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

ANNIE ZELLE ALCORN, TONYA I. NEWTON, & LESLIE R. NEWTON
3966 NE CLEVELAND AVE, PORTLAND OR 97212

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of County Commissioners this 26th day of October, 1995, by authority of an Order of the Board of County Commissioners heretofore entered of record.

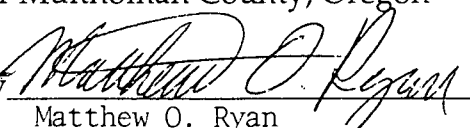


BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair

REVIEWED:

Laurence Kressel, County Counsel
for Multnomah County, Oregon

By 
Matthew O. Ryan

DEED APPROVED:

Janice Druian, Director
Assessment & Taxation

By 
Kathleen A. Tuneberg

After recording, return to Multnomah County Tax Title (166/300)

STATE OF OREGON

)

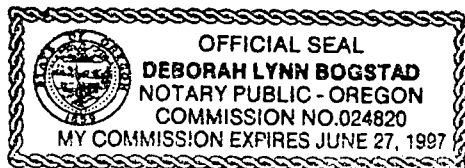
) ss

COUNTY OF MULTNOMAH

)

On this 26th day of October, 1995, before me, a Notary Public in and for the County of Multnomah and State of Oregon, personally appeared Beverly Stein, Chair, Multnomah County Board of Commissioners, to me personally known, who being duly sworn did say that the attached instrument was signed and sealed on behalf of the County by authority of the Multnomah County Board of Commissioners, and that said instrument is the free act and deed of Multnomah County.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first in this, my certificate, written.



Deborah Lynn Bogstad

Notary Public for Oregon

My Commission expires: 6/27/97

MEETING DATE: OCT 26 1995

AGENDA NO: C-5

(Above Space for Board Clerk's Use Only)

AGENDA PLACEMENT FORM

SUBJECT: Intergovernmental Revenue Agreement between Portland School District No.1 and Department of Juvenile Justice Services.

BOARD BRIEFING Date Requested: _____

Amount of Time Needed: 3 minutes

DEPARTMENT: Juvenile Justice Service DIVISION: _____

CONTACT: Alandria Taylor TELEPHONE#: 248-3968

PERSON(S) MAKING PRESENTATION: JoAnne Fuller/Bill Fogarty

ACTION REQUESTED:

☐ INFORMATION ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

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

This Intergovernmental Revenue Agreement with Portland Public Schools will provide funding for a Juvenile Court Counselor position to work on-site at the Counteract alternative program campus. (Part of the grant funding for Counteract APEX is dedicated to the support of this position.) Counteract APEX (Alternative Program Expansion) is a pilot project of PPS which enhances the existing alcohol/drug education prevention program by addressing and dealing directly with the specific and multiple needs of drug-involved students, in grades 6-12. The Juvenile Court Counselor will provide counseling, support, referral, recreational and instructional services to court-involved students involved in drug-related matters.

10/27/95 ORIGINALS to ALANDRIA TAYLOR

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: _____

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

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

PAID OF
COUNTY COMMISSIONERS
1995 OCT 13 PM 2:14
MULTNOMAH COUNTY
OREGON




MULTNOMAH COUNTY OREGON

DEPARTMENT OF JUVENILE JUSTICE SERVICES
1401 N.E. 68TH
PORTLAND, OREGON 97213
(503) 248-3460
TDD 248-3561

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

TO: BOARD OF COUNTY COMMISSIONERS

FROM: Elyse Clawson, Director 
Department of Juvenile Justice Services

DATE: September 22, 1995

RE: Approval of an Intergovernmental Revenue Agreement between the Department of Juvenile Justice Services and Portland Public School District No. 1

I. Recommendation/Action Requested:

The Department of Juvenile Justice Services recommends the Board's approval of an Intergovernmental Revenue Agreement between Portland Public Schools (PPS) and The Department of Juvenile Justice Services (DJJS) to fund a Juvenile Court Counselor position to work on-site at the Counteract alternative program campus assisting court-involved students in the Counteract APEX program. The Agreement is effective upon execution through June 30, 1996.

II. Background/Analysis:

Counteract was established during the 1990-91 school year as part of a comprehensive new district plan strengthening its disciplinary policies and procedures concerning alcohol and other drugs. The DJJS contracted with PPS during this time to provide liaison services via a Juvenile Court Counselor working with Drug and Alcohol Specialists through the Counteract/Project Paradigm Program.

Counteract APEX (Alternative Program Expansion) is a pilot project that evolved from Project Paradigm and was awarded a two year grant by the Department of Education. The grant allows Counteract APEX to enhance Portland Public School's existing comprehensive pre-K through 12 alcohol/drug education and prevention by addressing the specific and multiple needs of drug-involved students, in addition to providing academic services for students in grades 6-12. Students are referred to the program through either the disciplinary system, self-referrals (voluntary participation), or dropouts who wish to return to school but first need to have alcohol and drug issues addressed before re-entry. Part of the funding for this program includes a Juvenile Court Counselor position working on-site to provide a variety of services such as: facilitate referrals to Counteract and other appropriate services; provide counseling/orientation to the Juvenile Court process; provide counseling a support services to parents; provide instruction regarding violence prevention to students; assist with field trips and various educational/cultural/recreational activities; and serve as a liaison between the County and PPS regarding drug-related matters involving the students.

- III. Financial Impact:
\$45,728 will be added to DJJS' budget to offset the cost of the Juvenile Court Counselor's salary, fringe benefits, transportation and supplies. These monies will fund fiscal year 1995/96.
- IV. Legal Issues:
N/A
- V. Controversial Issues:
N/A
- VI. Link to Current County Policies:
This will continue to strengthen DJJS' relationship with Portland Public School working in a collaborative effort with court-involved students in the education about and prevention of drug involvement.
- VII. Citizen Participation:
N/A
- VIII. Other Government Participation:
N/A

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

(See Administrative Procedures CON-1)

Contract # 700176

Amendment # _____

<p style="text-align: center;">CLASS I</p> <p><input type="checkbox"/> Professional Services under \$25,000</p>	<p style="text-align: center;">CLASS II</p> <p><input type="checkbox"/> Professional Services over \$25,000 (RFP, Exemption)</p> <p><input type="checkbox"/> PCRB Contract</p> <p><input type="checkbox"/> Maintenance Agreement</p> <p><input type="checkbox"/> Licensing Agreement</p> <p><input type="checkbox"/> Construction</p> <p><input type="checkbox"/> Grant</p> <p><input type="checkbox"/> Revenue</p>	<p style="text-align: center;">CLASS III</p> <p><input type="checkbox"/> Intergovernmental Agreement</p> <p><input checked="" type="checkbox"/> Intergovernmental Revenue Agreement</p> <p style="text-align: center;">APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</p> <p>AGENDA # <u>C-5</u> DATE <u>10/26/95</u></p> <p style="text-align: center;">DEB BOGSTAD</p> <p style="text-align: center;">BOARD CLERK</p>
--	--	---

Department: Juvenile Justice Services Division: _____ Date: 9/21/95

Contract Originator: Bill Fogarty Phone: 248-3460 Bldg/Room: 311/DJJS

Administrative Contact: Alandria Taylor Phone: 248-3968 Bldg/Room: 311/DJJS

Description of Contract: This revenue agreement continues to provide funding for a Juvenile Court Counselor position to work on-site at the Counteract alternative program campus. The Juvenile Court Counselor will serve as a liaison between DJJS and PPS regarding drug-related matters involving court-involved students. Additionally, the JCC will provide counseling, support, referral, recreational and instructional services to students and counseling/support services to their parents.

RFP/BID #: _____ Date of RFP/BID: _____ Exemption Expiration Date: _____

ORS/AR # _____ Contractor is ☐ MBE ☐ WBE ☐ QRF

<p>Contractor Name: <u>Portland School District No.1</u></p> <p>Mailing Address: <u>531 SE 14th Street</u></p> <p><u>Portland, OR 97214</u></p> <p>Phone: <u>(503) 280-5840 (ext. 278)</u></p> <p>Employer ID# or SS#: <u>93-6000830</u></p> <p>Effective Date: <u>upon execution</u></p> <p>Termination Date: <u>June 30, 1996</u></p> <p>Original Contract Amount: \$ <u>45,728</u></p> <p>Total Amt of Previous Amendments: \$ _____</p> <p>Amount of Amendment: \$ _____</p> <p>Total Amount of Agreement: \$ <u>45,728</u></p>	<p>Remittance Address (if different) _____</p> <p>Payment Schedule _____ Terms _____</p> <p><input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt</p> <p><input type="checkbox"/> Monthly \$ _____ <input type="checkbox"/> Net 30</p> <p><input type="checkbox"/> Other \$ _____ <input type="checkbox"/> Other</p> <p><input type="checkbox"/> Requirements contract - Requisition Required</p> <p>Purchase Order No. _____</p> <p><input type="checkbox"/> Requirements Not to Exceed \$ _____</p> <p>Encumber: Yes <input type="checkbox"/> No <input type="checkbox"/></p>
---	--

REQUIRED SIGNATURES: Department Manager: [Signature] Date: 9-28-95

Purchasing Director: _____ Date: _____
(Class II Contracts Only)

County Counsel: [Signature] Date: 10/10/95

County Chair/Sheriff: [Signature] Date: October 26, 1995

Contract Administration: _____ Date: _____
(Class I, Class II/ Contracts Only)

VENDOR CODE				VENDOR NAME				TOTAL AMOUNT: \$			
LINE NO.	FUND	AGENCY	ORGANIZATION	SUB ORG	ACTIVITY	OBJECT/REV SRC	SUB OBJ	REPT CATEG	LGFS DESCRIP	AMOUNT	INC DEC IND

If additional space is needed, attach separate page. Write contract # on top of page.

DISTRIBUTION: Contracts Administration, Initiator, Finance

G:\DATA\CONTRACT\CAF.DOC

INTERGOVERNMENTAL AGREEMENT

This agreement is between Portland School District No. 1 (District) and Multnomah County Juvenile Justice Division (County). It is for the period beginning upon execution of this contract and ending June 30, 1996. It is established for the following purpose.

PURPOSE

A pilot project will be established to enable County to provide a Juvenile Court Counselor on-site at the District's Counteract alternative program campus to help court-involved students access and succeed in the program.

COUNTY RESPONSIBILITIES

County will assign one Juvenile Court Counselor (Court Counselor) full time to provide the services and coordination described below. The Court Counselor will be assigned to work on-site at the Counteract alternative program campus and will work exclusively to support program goals as described in the Counteract APEX proposal.

1. Court Counselor will facilitate referrals to Counteract and other appropriate services for youth under the court's supervision who have alcohol/drug problems and would benefit from the program.
2. Court Counselor will provide counseling, orientation to the Juvenile Court process, and case management services to court-involved students referred to the Counteract program; will refer students to appropriate services available through the justice system (e.g., probation hearings, required weekly reporting to a court judge, community service, job training, mental health assessments, "Street Law," social skills groups).
3. Court Counselor will provide counseling and support to parents of court-involved Counteract students, including Family Unity meetings, and will assist families in accessing additional appropriate services.
4. Court Counselor will co-facilitate student support groups with other Counteract staff.
5. Court Counselor will provide instruction in violence prevention to Counteract students, in coordination with other Counteract staff.
6. Court Counselor will assist with Counteract field trips and various educational, cultural, recreational, and community service activities designed to improve students' ability and motivation to stay drug-free and in school.
7. Court Counselor will serve as liaison between the County and the District regarding drug-related matters involving District students, and will promote effective communication and coordination between County and District.
8. Court Counselor will maintain confidential files of history of contacts with identified students, plus records of students' formal relationship with court, and will assist in project evaluation efforts.
9. Court Counselor will attend Counteract staff meetings to facilitate effective case management and attend project training events (including Family Unity Model training sessions).
10. Court Counselor will report to the County Juvenile Court supervisor, the District Project director, and the Counteract supervisor.
11. County will provide the Court Counselor's salary, fringe benefits, and transportation and supplies as needed.

DISTRICT RESPONSIBILITIES

1. Pay to the County the total sum of \$45,728 for services described herewithin, which payment shall be based on the following applicable terms:
 - A. Upon receipt of monthly billing invoice from County.
 - B. Prorated to the start date of Court Counselor.
 - C. No more than \$45,728 will be paid for the 9 months (October-June) during County's fiscal year 1995-96.
2. Provide space and communication media for the Court Counselor.
3. Make school records, including progress and behavioral records, available to Court Counselor for those students served by the Court Counselor pursuant to this agreement.

JOINT RESPONSIBILITIES

District and County, their officers and employees, shall hold information received from the other regarding students and youth involved in the Juvenile Court process in the strict confidence required by law applicable to the providing agency including, but not limited to, 42 CFR Chapter 1, subchapter A, Confidentiality of Alcohol and Drug Abuse Patient's Records, and shall not disclose the information for any purpose without written approval of that agency. Confidential information includes, but is not limited to, student names, family names, and all information relative to student and family. The confidential information shall be used for no other than officially serving students and family needs according to the obligations of this agreement. In the event that demand for disclosure of documents is received by subpoena or otherwise, the documents, if any, shall be returned to the agency which generated the original document (Providing Agency) and the person making the demand shall be immediately notified. In the event that a subpoena for testimony is received, the Providing Agency shall immediately be notified of the demand and shall provide instructions and defend against the demand as necessary.

Indemnification

Subject to the limitations and conditions of the Oregon Constitution and statutes, District and County each shall be solely responsible for any loss or injury caused to third parties arising from District's or County's own acts or omissions under the agreement and District or County shall defend, hold harmless and indemnify the other party to this agreement with respect to any claim, litigation or liability arising from District's or County's own acts or omissions under this agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers the date first written above.

PORTLAND SCHOOL DISTRICT NO. 1

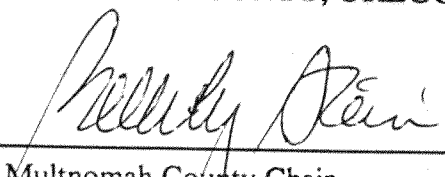
MULTNOMAH COUNTY, OREGON

By: _____
Deputy Clerk

Date: _____

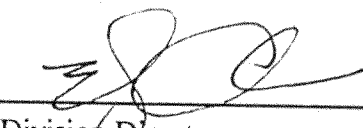
APPROVED AS TO FORM:

Staff Attorney, Portland School District No. 1

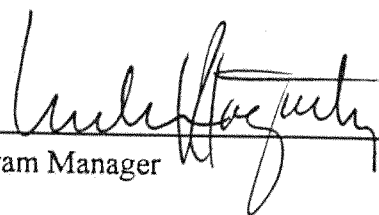
By: 
Multnomah County Chair

Date: October 26, 1995


Contractor's ID Number _____

By: 
Division Director

Date: 9-28-95

By: 
Program Manager

Date: _____

Reviewed By: 
for LAURENCE KRESSEL
County Counsel for
Multnomah County, Oregon

Date: 10/10/95

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-5 DATE 10/26/95
DEB BOGSTAD
BOARD CLERK

MEETING DATE: OCT 26 1995

AGENDA NO: C-6

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

RECEIVED OCT 10 1995

SUBJECT: Director Custody Designees

BOARD BRIEFING Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: _____

Amount of Time Needed: 3 Minutes

DEPARTMENT: Community & Family Services DIVISION: _____

CONTACT: Cathy Horey TELEPHONE #: 248-5464 Ext. 4447
BLDG/ROOM #: 166/6th Floor

PERSON(S) MAKING PRESENTATION: Lorenzo Poe/ Cathy Horey

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

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

Routine Request for Director Custody Designees

No Budget Impact

See Attached Briefing Memo

10/27/95 copies to Cathy Horey

CLERK OF COURT
COUNTY CLERK
RECORDED
OCT 13 PM 2:14

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: Lorenzo Poe

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

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

0516C/63



MULTNOMAH COUNTY OREGON

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES
ADULT MENTAL HEALTH PROGRAM
421 SW SIXTH, SUITE 600
PORTLAND, OREGON 97204
(503) 248-5464 FAX (503) 248-3926
TDD (503) 248-3598

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

TO: BOARD OF COUNTY COMMISSIONERS

FROM: LOLENZO POE, DIRECTOR *Lorenzo Poe mas*
DEPARTMENT OF COMMUNITY AND FAMILY SERVICES

TODAY'S DATE: OCTOBER 9, 1995

REQUESTED PLACEMENT DATE: ASAP

RE: DIRECTOR'S CUSTODY DESIGNATION

I. Recommendation/Action Requested:

Ratification of the changes in the list of designees for Director Custody Holds (mental health holds).

II. Background/Analysis:

In 1987 the Board of County Commissioners ratified the participation of Multnomah County in the authority to place Director Custody Holds. ORS 426.215 enables a designee of the Community Mental Health Program Director to cause police to transport an allegedly mentally ill person dangerous to self or others to local hospitals for investigation prior to a possible court hearing for commitment to the state mental health division.

Director Designee Custodies are placed only after a mental health assessment and less restrictive options are exhausted. A large majority of Director Designee Custodies end up being committed to the state hospital system. This would suggest this type of custody is not used indiscriminately. The Psychiatric Emergency Operations Team, which includes staff from the County, hospitals, law enforcement agencies, and mental health agencies, reviews interorganizational coordination.

III. Financial Impact:

No impact.

IV. Legal Issues:

The rules governing Director Custody Holds are found in ORS 426.233.

V. Controversial Issues:

Process has been in effect since 1987. We see no current political controversy in this matter.

VI. Link to Current County Policies:

This is consistent with current County policies.

VII. Citizen Participation:

We do not anticipate citizen involvement at this meeting.

VIII. Other Government Participation:

There are no other jurisdiction/county departments affected.

BEFORE THE BOARD OF COMMISSIONERS
FOR THE COUNTY OF MULTNOMAH

In the matter of Authorizing Designees)	
of the Mental Health Program Director)	
to Direct a Peace Officer)	Resolution
to Take an Allegedly Mentally Ill Person)	95-227
into Custody)	

WHEREAS, if authorized by a county governing body, a designee of a mental health program director may direct a peace officer to take into custody a person whom the designee has probable cause to believe is dangerous to self or others and whom the designee has probable cause to believe is in need of immediate care, custody, and treatment for mental illness; and

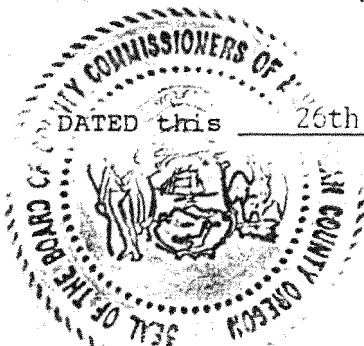
WHEREAS, there is a current need for specified designees of the Multnomah County Mental Health Program Director to have the authority to direct a peace officer to take an allegedly mentally ill person into custody; and

WHEREAS, all the designees listed below have been specifically recommended by the Mental Health Program Director and meet the standards established by the Mental Health Division; it is therefore

ORDERED that the individuals listed below are hereby authorized as designees of the Mental Health Program Director for Multnomah County to direct any peace officer to take into custody a person whom the designee has probable cause to believe is dangerous to self or others and whom the designee has probable cause to believe is in need of immediate care, custody or treatment for mental illness:

Added to the list of designees are:

- Paul Myers (543-94-2799)
- Julie Petersen (543-04-8260)
- Dave Emmons (543-46-3668)
- Neal Rotman (023-48-1833)
- Dave Scott Hansen (540-52-9786)



DATED this 26th of October, 1995

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY,
OREGON

By Beverly Stein
Beverly Stein, Chair,

REVIEWED BY
LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By Katie Gaetjens
Katie Gaetjens, Assistant Counsel

Meeting Date: OCT 26 1995
Agenda Number: R-2

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: 1995 Employee Service Awards - Third Quarter

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

REGULAR MEETING: Date Requested: October 26, 1995
Amount of Time Needed: 20 minutes

DEPARTMENT: Non Dept. DIVISION: Employee Services

CONTACT: Carol Foster TELEPHONE #: 248-5015 x2538
BLDG/ROOM #: 106/1430

PERSON(S) MAKING PRESENTATION: Curtis Smith / Sherry Stamp

ACTION REQUESTED

☒ Informational Only ☐ Policy Direction ☐ Approval ☐ Other

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

Presentation of Employee Service Awards - 53 employees have indicated they plan to attend the meeting to receive their awards.

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: Curtis Smith

1995 OCT 18 AM 9:44
MULTI-JURISDICTIONAL
CLERK

All Accompanying Documents Must Have Required Signatures

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

SERVICE AWARDS - 1995 - THIRD QUARTER (July, August, Sept.) ATTENDEES

ASD - Five Year

Katherine Gillette
Jeremy Rauschert

CFS - Five Year

Dennis Adams
Reynaldo Cantu
Patricia Molett
Ruth Ann Stoner

DCC - Five Year

Catherine Caldwell
Tichenor McBride
Peter Sturdevant
Mary Syverson

DES - Five Year

Brent Bjork
Michael Cunningham
Henry Kramer
Gwendolyn Maxwell
Bonnie Scheeland
Dennis Wardwell

JJD - Five Year

Janice Bishop
Kelvin Hall
Donald Ray Lincoln
William Mc Dowell
Canh Nguyen
Jeri Parham
Victoria Spulniak
Delaina Swoverland

NON-D - Five Year

Jeffrey Baer
Michael Dubesa
Ching Hay
Brian Lewis
Alice Street

CFS - Ten Year

Elaine Petersen

DA'S - Ten Year

Gail Lambert

DCC - Ten Year

Susan Taylor

DES - Ten Year

Delberta Beck
Gregory Kirby
Suzanne Roberts
Jonathan Schrotzberger
Lennie Sobo

JJD - Ten Year

Willie Brown

NON-D - Ten Year

Carrie Parkerson
Robert Phillips

ASD - Fifteen Year

Marilyn Anderson

DCC - Fifteen

Irene Champion
Allan Rath

DES - Fifteen Year

Wayne George
Craig Lyts
Betsy Williams

JJD - Fifteen Year

Robert Luster

DA's - Twenty Year

Sharileen Reed

NON - Twenty Year

Christine Cameron
Marjorie Olson

KEONETH UPTON

CFS - Twenty-Five Year

Duane Brown

DCC- Twenty-Five Year

Charleah Couckuyt
Wayne Salvo

JJD - Twenty-Five Year

William Bodine

N:\DATA\EMP\SER\WPD\DATA\GF95SA.3
QB

MEETING DATE: OCT 26 1995

AGENDA NO: R-3

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: ARMED UNITS IN D C C

BOARD BRIEFING Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: October 26th, 1995

Amount of Time Needed: 20 Minutes

DEPARTMENT: Community Corrections

DIVISION: _____

CONTACT: Cary Harkaway

TELEPHONE #: 248-3039

BLDG/ROOM #: 161/600

PERSON(S) MAKING PRESENTATION: Tamara Holden, Cary Harkaway

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

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

Resolution 94-11 called on DCC to establish a unit to supervise offenders with a high potential for violence and set an October date for a decision to arm that unit. The Department recommends that the unit be armed.

Continued to 11/2/95

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: M. Tamara Holden / civt

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 DEPARTMENT OF
COMMUNITY CORRECTIONS

M E M O R A N D U M

TO: Board of County Commissioners

FROM: Cary Harkaway *CH*
Deputy Director

TODAY'S DATE: September 29, 1995

REQUESTED PLACEMENT DATE: October ²⁶~~19~~, 1995

RE: Recommendation to Arm a Unit Supervising
Offenders with a High Potential for Violence

I. Recommendation

DCC recommends that a unit with responsibility for supervising offenders with a high potential for violence be armed.

II. Background/Analysis

Board Resolution 94-11 directed DCC to develop an implementation plan to include a number of items related to safety generally and to arming specifically. One item asked DCC to develop an assessment tool to determine potential for violence, to establish a unit to supervise offenders with a high potential for violence, and to make a recommendation in October on arming that unit.

III. Financial Impact

The estimated first year cost for arming (including equipment and training) is \$1,900 to \$2,500 per person. Assuming that five to ten persons are armed for the unit under discussion, the estimated total first year cost would be \$9,500 to \$25,000.

The Implementation Plan submitted to the Board on August 1, 1995 included an overall first year cost estimate to arm approximately 45 staff at \$85,000 to \$112,000. Budget modifications, if required, will be prepared at a later date.

IV. Legal Issues

The 1995 Legislative Assembly enacted S.B. 933, which amended ORS 166.210 and 166.260 to allow parole and probation officers to carry a firearm while engaged in official duties if certain conditions related to certification and department approval are met.

V. Controversial Issues

The arming issue is characterized by strongly held and emotionally charged positions. The Implementation Plan presented to the Board on August 1 represents a carefully considered approach to staff safety and Resolution 94-11. The Plan was based on the input and recommendations of the Department's Armed Units Committee. The Department's recommendation to arm a unit supervising offenders with a high potential for violence follows from further consideration of the factors which led the Board to recommend arming a gang supervision unit.

VI. Link to Current County Policies

The Department's recommendation is consistent with the Board's concern for the safety of all County employees. The recommendation is also consistent with Resolution 94-11, which outlined a policy (to be reviewed in January 1997) that provides for arming based on specific circumstances and caseload assignments.

VII. Citizen Participation

Our Community Corrections Advisory Committee and Citizens Budget Advisory Committee recommended further study of arming needs after the DCC Continuum of Safety Task Force completed its work in July 1994.

VIII. Other Government Participation

N/A

Meeting Date: OCT 10 1995 OCT 26 1995

Agenda No: P-3 R-4

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Appeal Hearing of a Hearings Officers decision in the matter of CU 5-95/HV 11-95

BOARD BRIEFING Date Requested:

Amount of Time Needed:

REGULAR MEETING Date Requested: October 10, 1995, 1:30 pm

Amount of Time Needed: 50 minutes

DEPARTMENT: DES

DIVISION: Planning

CONTACT: Barry Manning

TELEPHONE: 248-3043
BLDG /ROOM:412/Plan

PERSON(S) MAKING PRESENTATION: Barry Manning

ACTION REQUESTED

☐ Informational Only ☐ Policy Direction ☐ Approval ☒ Other

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

A De Novo hearing is scheduled for the appeal of the Multnomah County Hearings Officer decision in the matter of CU 5-95 & HV 11-95. The Hearings Officer approved the request of John and Racheal Burger for a Conditional Use permit and variance to develop a new single-family dwelling in the CFU zoning district on property located at 23755 N.W. Skyline Blvd. in unincorporated Multnomah County, Oregon. Each side will be allotted 20 minutes to present their arguments.

Hearings Officer approved both requests.

SIGNATURES REQUIRED:

Elected Official: _____

OR

Department Manager: KB Betsy Williams

BOARD OF
COUNTY COMMISSIONERS
1995 OCT - 6 PM 3:02
MULTNOMAH COUNTY
OREGON



BOARD HEARING OF October 10, 1995

CASE NAME Conditional Use and Variance Request: CU 5-95; HV 11-95
TIME 1:30 am

1. Applicant Name/Address:

John and Rachael Burger
7146 N. Tyler
Portland 97203

2. Action Requested by Applicant:

Conditional Use approval for a single family residence not related to forest management and Major Variance to the side yard setback requirements of the CFU zoning district.

ACTION REQUESTED OF BOARD

- ☐ Affirm Plan.Com./Hear.Of
- ☒ Hearing/Rehearing
 - ☐ Scope of Review
 - ☐ On the record
 - ☒ De Novo
 - ☐ New Information allowed

3. Planning Staff Recommendation:

CU 5-95: Approval, subject to conditions; HV 11-95: Approval, subject to conditions

4. Hearings Officer Decision:

CU 5-95: Approval, subject to conditions; HV 11-95: Approval, subject to conditions

5. If recommendation and decision are different, why?

The Hearings Officer concurred with the staff recommendation.

6. The Following Issues were raised:

Carole Winner is a party to the hearing and spoke in opposition to the applicant's proposal, raising the following issues:

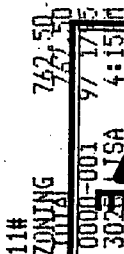
- 1) the County had not adequately addressed ground water quantity and quality issues potentially impacted by the proposed development;
- 2) the policy of allowing "template" dwellings (dwellings on existing parcels that do not meet minimum lot size standards, as conditional uses) in the CFU zone is not appropriate.

The Hearings Officer held the record open for an additional seven days after the hearing, during which time Ms. Winner and others submitted written comments, most of which raise groundwater and template dwelling issues. Other written submittals were received after the seven day period and were not

reviewed by the Hearings Officer. The Hearings Officer's decision was for approval after reviewing this material.

7. Policy implication related to the case:

This decision addresses the administration of Significant Environmental Concern (SEC) overlays to protect Goal 5 resources identified in the West Hills Reconciliation Report. The Hearings Officer determined that, for the wildlife habitat resource identified on this property, the proposal is subject to the protection measures set forth in the Reconciliation Report, and SEC criteria should be used to determine the most appropriate location, size and scope of the proposed development, but not to prohibit development.



NOTICE OF REVIEW

⑩ Self-explanatory.

(14) MCC 11.15.6426 + p.VI - 25 of Reconciliation Report - will negatively impact area wildlife

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

- (15) MCC 11.15.2074 (5)(B)(iii) - insufficient secondary safety zone, (16) Does not meet 80-acre zoning requirements (CFU)
- (1) p.VI - 25 of Reconciliation Report (7) - will impact seasonal creek
(2) " " (6) - will require excavation
(3) MCC 11.15.2052 (A)(4) - will impede forestry/farming practices
(4) MCC 11.15.2052 (A)(5) - is in aquifer habitat for deer, elk, eagles
(5) MCC. 2074 (A)(1) - does not meet set back requirements
(6) MCC. 2074 (A)(5)(K) - slope near proposed site exceeds 40%
(7) MCC. 2074 (C) - Insufficient well water supply

9. Scope of Review (Check One): (8) Policy 11.F.1. - Because of slope, difficult to protect watershed

- (a) ☐ On the Record (9) Policy 13 - Add'l wells cannot improve water quality
(b) ☐ On the Record plus Additional Testimony and Evidence (10) Policy 14 - D. - Avg. rainfall 62 inches
(11) Policy 14 - F. - site is 1.5 miles from still-moving earthquake
(c) ☒ De Novo (i.e., Full Rehearing) (12) Policy 37-C. - No adequate water system
(13) Policy 38-B - No adequate water pressure

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.

- (1) Self-explanatory - A creek runs from the ravine on the Burger parcel onto my land - then onto adjoining parcels
(2) Self-explanatory
(3) Further depleting water supply will negatively impact present/future practices
(4) (14) - Add'l structures w/concomitant noise, resources depletion will be disturbing to area wild life, which includes elk, deer, American golden eagles, beaver (at least 2 of which left the area in June due to their pond drying up), etc.
(5) Self-explanatory - I now have statements from 5 neighbors in addition to myself protesting variance allowance
(6) (8) I will measure slope if Burgers are not willing to do so, provided such measurements are with their permission

Signed: Carole A. Wiemer, Ph.D. Date: 9-1-95 @

- (7) (9) (10) (13) - Since Ms. Chambers refused my request to conduct a water survey, I

For Staff Use Only

Fee:

\$500.00

Notice of Review = ~~\$300.00~~

Transcription Fee:

Length of Hearing 75 min x \$3.50/minute = \$ 262.50

Total Fee = \$ 262.50

Received by: _____

Date: _____

Case No. _____

- (10) - Data available from WHI from landfill fight
(11) - I have at least a dozen sources & will secure statements on movement of earthquake in 1980's that reached Rocky Point Road

will secure info on area wells, possibly testing my well + Tom Fijak's.



MULTNOMAH COUNTY OREGON

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

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARF HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

Multnomah County Hearings Officer Decision

Attached please find a copy of the Hearings Officer's decision in the matter of CU 5-95/HV 11-95. A copy of the Hearings Officer's decision is being mailed to those persons entitled to be mailed notice under MCC 11.15.8220(C) and to other persons who have requested the same.

The Hearings Officer Decision may be appealed to the Board of County Commissioners (Board) by any person or organization who appears and testifies at the hearing or by those who submit written testimony into the record. An appeal must be filed with the County Planning Division within ten days after the Hearings Officer decision is submitted to the Clerk of the Board. An appeal requires a completed "Notice of Review" form and a fee of \$500.00 plus a \$3.50 per minute charge not to exceed \$500.00 for a transcript of the initial hearings(s) [ref MCC 11.15.8260(A)(1) and MCC 11.15.9020(B)]. Instructions and forms are available at the County Planning and Development Office located at 2115 SE Morrison Street, Portland, Oregon.

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.

To appeal the Hearings Officer decision, a "Notice of Review" form and fee must be submitted to the County Planning Director. For further information call the Multnomah County Planning and Development Division at (503) 248-3043.

Signed by the Hearings Officer	August 14, 1995
Decision mailed to Parties	August 22, 1995
Decision submitted to Board Clerk	August 22, 1995
Last day to appeal decision	4:30 pm, September 1, 1995
Reported to the Board of County Commissioners:	9:30 am, September 7, 1995

RECEIVED
AUG 16 1995

HEARINGS OFFICER DECISION

Multnomah County
Zoning Division

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

August 14, 1995

CU 5-95; HV 11-95 CONDITIONAL USE REQUEST FOR SINGLE FAMILY DWELLING
NOT RELATED TO FOREST MANAGEMENT

VARIANCE TO A SIDE YARD SETBACK DIMENSIONAL REQUIREMENT

Applicant requests Conditional Use approval for a single family residence not related to forest management and Variance to the side yard setback requirements of the CFU zoning district. The requested side yard setback is approximately 100 feet; the required setback is 200 feet.

LOCATION: 23755 NW Skyline Blvd.

MAP DESCRIPTION: Tax Lot 14, Section 34, T3N, R2W

SITE SIZE: 4.66 acres

PROPERTY OWNERS
AND APPLICANTS: John and Rachael Burger
 7146 N. Tyler
 Portland, Oregon 97203

PLAN DESIGNATION: Commercial Forest Land

ZONING DISTRICT: CFU (Commercial Forest Use District)

HEARINGS OFFICER DECISION:

CONDITIONAL USE
(CU 5-95):

Approve, subject to conditions, Development of this property with a single family dwelling not related to forest management, based on the findings and conclusions, contained herein.

VARIANCE

(HV 11-95): Approve, subject to conditions, a side yard setback of 100 feet between the proposed dwelling and the side property line, Thereby granting a

major variance of 100 feet from the required 200 feet setback, based on the findings and conclusions contained herein.

CONDITIONS OF CONDITIONAL USE APPROVAL

1. Approval of this conditional use shall expire two years from the date of this order unless substantial construction has taken place in accordance with MCC 11.15.7110(C).
2. Applicant must provide evidence that a stocking survey report has been submitted to the County Tax Assessor in accordance with OAR 660-06-029(5)(C). The Assessor will then determine whether the property can receive tax deferral status.
3. Prior to the issuance of a building permit for the dwelling, applicant will submit a copy of a well report demonstrating that a domestic water supply is available on the property, that complies with the provisions of MCC 11.15.2074(C).
4. Prior to the issuance of a building permit, applicant shall establish primary and secondary fire safety zones around the proposed site of the structure. As long as the property is under forest resource zoning, applicant will maintain primary and secondary fire safety zones around all structures in accordance with MCC 11.15.2074(A)(5)(b), and as required by the Forest Practice Rules under the Department of Forestry, Forest Management Plan.
5. The dwelling shall have a fire retardant roof and all chimneys shall be equipped with spark arrestors in accordance with the requirements of OAR 660-06-035(4) and (6).
6. To prevent creation of a wildlife barrier, no fences shall be erected within 60 feet of the center line of a roadway. Any fences erected shall be erected in accordance with the standards of MCC 11.15.6426(B)(3).
7. Residential landscaping areas (also known as the "cultivated area") shall not exceed one acre in size and shall be contiguous to the proposed dwelling. Any future additional development of the property shall comply with the code provisions in effect at the time the development occurs.
8. No species of an invasive vegetation (English Ivy, Vinca, etc.) shall be introduced in the "cultivated" area contiguous to the proposed dwelling. The remaining portion of the parcel shall be left in native vegetation unless altered in conjunction with an approved forest management plan, or to comply with primary and secondary fire safety zone requirements.

9. Prior to issuance of final occupancy approvals, applicant shall provide to the Multnomah County Planning Division evidence that the areas referred to as the "cat trail" and ravine have been revegetated with native vegetation as mitigation for impacts to the wildlife habitat area related to the on-site location of the dwelling.
10. Prior to issuance of the building permit, applicant shall demonstrate compliance with MCC 11.15.6700-.6735 and/or obtain approval of the hillside development and erosion control permit.

CONDITIONS OF APPROVAL FOR VARIANCE REQUEST

1. The dwelling location is restricted to the area indicated on the submitted site plan.
2. Approval of this variance shall become void 18 months from the date of this order unless substantial construction has taken place in accordance with MCC 11.15.8505(3).

PARTY STATUS

PARTIES AGENTS AND WITNESSES TO THE PROCEEDING.

1. Parties:

The persons, agencies and organizations who submitted written or oral testimony in this proceeding on their own behalf are parties to the proceeding. MCC 11.15.8225(A)(1). These persons were:

A. Applicants and Owners, Rachael Burger and John Burger, 7146 North Tyler, Portland, Oregon 97203.

B. Other persons supporting the application:

(1) Sheryl Oldham (Appeared in person).

(2) Norman Burger (Appeared in person).

C. Persons opposed to the application:

(1) Carol Winner (appeared in person and by writing).

(2) Tomasz Fijak, 2274 NW Rocky Point Road, Scappoose, Oregon 97056.

D. Determination of Party Status:

(1) John and Rachael Burger are the applicants and property owners and have party status.

- (2) Carol Winner made appearance of record pursuant to MCC 11.15.8225(B) (2), and had party status pursuant to MCC 11.15.8225(A) (1) as a person entitled to notice under MCC 11.15.8220(C).
- (3) Sheryl Oldham, Norman Burger, and Tomasz Fijak are entitled to party status pursuant to MCC 11.15.8225(A) (2) and made an appearance of record either personally or in writing in accordance with MCC 11.15.8225(B).
- (4) Leroy Stanton, 8615 N. Endicott, Portland, Oregon 97217, wrote a letter which was contained with materials submitted by Carol Winner. He did not state a position in support of or in opposition to this application. He did, however, request to be put on a "mailing list". Notice of this decision should be mailed to him.

PROCEDURAL ISSUES

1. Impartiality of the Hearings Officer.

- A. No ex parte contacts. I did not have any ex parte contacts prior to the initial hearing of this matter or during the seven day period of time while the record was being held open. After the record was closed, I did receive on August 7, 1995, a letter from Juliann Gagnon. The written submittal from Ms. Gagnon has been returned unread to the county and will not be considered or reviewed by me in this decision.
- B. No conflicting personal or financial or family interest. I have no financial interest in the outcome of this procedure. I have no family or financial relationship with any of the parties.

2. Procedural Issues.

At the hearing, I asked the participants to indicate if they had any objections to jurisdiction. The participants did not allege any jurisdictional or procedural violations regarding the conduct of the hearing.

BURDEN OF PROOF

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

FACTS

1. Applicants' Proposal. Applicants request a conditional use approval to develop a 4.66 acre lot with a single family dwelling not related to forest management. Applicants also request approval of a variance to the required side yard setback allowing for a south side yard of 100 feet from the proposed dwelling to the south property line. The requested variance is a major variance of 100 feet from the required side yard setback of 200 feet.
2. Site and Vicinity Information.
 - A. The subject parcel is located on the southwest corner at the intersection of Skyline Boulevard and Rocky Point Road. The shortest north-south dimension of the parcel is the 524 feet of frontage on Skyline Boulevard. The north side of the property fronts Rocky Point Road, measuring 300 feet. The western property line dimension is 500 feet and the south line measures 634 feet. The property slopes sharply down toward the interior of the lot at roughly 30% to 40% slope along most of the road frontage. However, the topography undulates somewhat, sloping up again in interior portions of the site. The proposed building site is relatively level in comparison to the remainder of the lot, with an estimated slope of 15% to 20%. The location of the proposed dwelling is indicated on the site plan.
 - B. Existing vegetation on site includes a mix of both deciduous and evergreen trees, as well as shrubbery. The location proposed for the dwelling is in the south-central portion of the site. This area, an estimated 6,000 square feet, has been cleared of trees. A cleared "cat trail" leads from Skyline Boulevard to the cleared area.
 - C. The property is surrounded by other properties located in the CFU Zone. Parcels in the immediate vicinity vary in size, ranging from 1.13 acres to over 20 acres. Five parcels within the 160 acre "template area" surrounding the subject site have dwellings located on them. North and east of the site, less parcelization has occurred. Parcels ranging from 80 to 240 acres can be found (see vicinity map). On-site soils are classified as 17D and 17E (Goble Silt Loam). Soils types in the surrounding area are 17D, 17E (Global Silt Loam) and 56E (Wauld Very Gravelly Loam). There are no water features on site or in the immediate vicinity of the site.
3. Testimony and Evidence Presented.
 - A. During the course of the hearing on July 19, 1995, and during the seven day period of time thereafter, when the

record remained open, the following exhibits were received by the Hearings Officer.

- (1) Property Owner consent to variance request.
- (2) Evidence of recorded forest form practices acknowledgment.
- (3) ODFW Wildlife Habitat Statement.
- (4) Information from Gary Clifford regarding: Wildwood.
- (5) Information from Barry Manning regarding: Big Game Winter Habitat Area.
- (6) Statement from the applicants.
- (7) Slides of the site.
- (8) Memorandum from Neil Galasch.
- (9) Letter from Tomasz Fijak.
- (10) Materials submitted by Carol Winner on July 26 at approximately 4:35 P.M., including:
 - (a) Letter from Leroy Stanton;
 - (b) Memorandum from Carol Winner, dated July 24 and July 25; and
 - (c) Materials related to siting of Wildwood Landfill.

Exhibits 9 and 10 were submitted after the close of the County Planning Department business day on the day the record be closed. Since I did not specify a definitive time of day on which the record would close, I will receive these exhibits.

- B. Barry Manning testified for the county, summarized the history of the application and his staff report and identified the slides of the site and surrounding property are listed as Exhibit (7) herein. In addition, he stated factual evidence indicating that the lot in question was a lot of record that existed prior to January 25, 1990. The lot is on land that has a soils type which is capable of producing 85 cubic feet of Douglas Fir timber per acre per year. Accordingly, the standards of MCC 11.2052(3)(C) would be applicable in determining whether a dwelling not related to forest management may be allowed on the subject lot. The lot, in fact, was created in 1945 in accordance with standards applicable at that time. The facts stated in the

Staff Report are hereby incorporated by this reference herein.

- C. Rachael Burger, applicant and property owner, testified that the application complied with all relevant Multnomah County conditions, and that the requested variance would further the purposes of the ordinance and minimize the impact of the development. Mrs. Burger also indicated that a majority of the neighbors supported the application.
- D. John Burger, applicant and property owner, reviewed the West Hills Reconciliation Report and the discussion of cluster zones contained therein and indicated that the proposed siting of the house stayed within the criteria of being 200 feet from other houses. The proposed house site also provided for the most feasible siting of a septic system with the least impact on the environment. The file also contains other written materials and maps that were submitted in support of this application.
- E. Sheryl Oldham testified that the proposed use was a proper use for the land.
- F. Norman Burger testified that the proposal was designed to create the least impact on the environment and minimize the amount of cultivated and/or cleared area.
- G. Carol Winner contended that there was not sufficient water available in the area for the Burgers to be able to put in a well. She also requested that the applicants be required to provide a water statement.
- H. Ms. Winner also contended that no residences should be allowed on lots of less than 80 acres.
- I. When asked whether the proposed building site would have a greater impact than an alternative site on the lot, Ms. Winner indicated that it would make no difference where the dwelling is sited.
- J. Ms. Winner also contended that the area was on an earth fault and discussed her opposition to the previously proposed Wildwood Landfill.
- K. Ms. Burger provided rebuttal testimony indicating that a water statement is not required as a condition of approval for siting a dwelling not related to forest management in a Commercial Forest Use Zone. She also indicated that a neighbor utilizes a well with a holding tank and various methods could be found to address water issues, if necessary. She indicated that the application had been designed to keep conflicts to a minimum. She also provided testimony that septic systems are designed not to leach and

that there would be no impact on the water quality in the area from the septic system.

- L. Gary Clifford, Planner, provided information regarding the location of the previously proposed Wildwood Sanitary Landfill. Subsequently, in a memorandum dated July 25, 1995, Mr. Clifford provided additional information that more specifically delineated the location of the Wildwood site. The location of the previously proposed Wildwood Landfill was at a site just under one mile from the subject application site. The additional material that Mr. Clifford presented indicated that the geologic formation under the lot, which is the site of the subject application, is completely different than that found at the previously proposed Wildwood site. The geologic information provided clearly indicates that the underlying geologic formation below the subject lot is Columbia River Basalt with Loess overburden. The Wildwood site is entirely within the Scappoose formation. While the Scappoose formation may be of a landslide complex, the Columbia River Basalt formation is a very hard rock formation, and not of a landslide complex. The information also indicates Skyline Boulevard generally follows the crest of the ridge of the Tualatin Mountains. Elevation falls to the east and west side of the road. Tax Lot 14 is on the west side of Skyline. The Wildwood site is almost a mile to the east of Skyline. Thus, if any slides were to occur at the Wildwood site, they would go in a direction away from the subject site. The evidence clearly demonstrates that the geologic and landslide characteristics for Tax Lot 14 and the Wildwood Landfill site are not comparable.
- M. Tomasz Fijak submitted a letter expressing concerns that the well proposed for this application would affect his well. He also expressed a concern that the septic system would adversely affect water quality.

STANDARDS AND CRITERIA ANALYSIS AND FINDINGS OF FACT

1. Conditional Use Approval Criteria for a Dwelling Not Related to Forest Management in the Commercial Forest Use Zone.

The lot in question is located within the Commercial Forest Use Zone. A dwelling not related to forest management is permitted as a conditional use pursuant to 11.15.2050(B) pursuant to the provisions of MCC .2052 and .2074.

2. MCC 11.15.2052(A): A dwelling not related to forest management may be allowed subject to the following:

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

Analysis: The applicants have submitted evidence indicating that the lot was created in 1945. The lot is shown on the 1962 Multnomah County Zoning Map, where it appears in the F-2 (Agricultural/Timber Growing District - Two Acre Minimum Lot Size) District. County records, therefore, indicated that the lot existed prior to 1962. From 1958 to 1962 this parcel was also zoned F-2. From 1955 to 1958, the minimum lot size in Multnomah County was 7,000 square feet. Prior to 1955, the County had not adopted zoning for the subject site. Therefore, this parcel met the zoning in effect prior to 1962. The parcel is not contiguous to another substandard parcel or parcels under the same ownership. OAR 660-06-027(5)(A) further expands on the definition of contiguous ownership. That section provides "tract" means one or more contiguous lots or parcels in the same ownership. The tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway. There are no other dwellings on the parcel. An Assessor's printout is part of the record, as well as a map depicting adjacent ownership since 1980. There have not been any adjacent common ownerships since 1980. Therefore, the lot does qualify as a lot of record pursuant to the standards of MCC 11.15.2062 and the relevant provisions of OAR 660-06. I find that this standard has been met.

- (2) The lot shall be of sufficient size to accommodate siting the dwelling in accordance with MCC .2074 with minimum yards of 60 feet to the centerline of any adjacent County Maintained road and 200 feet to all other property lines. Variances to this standard shall be pursuant to MCC .8505 through .8525, as applicable.

Analysis: The lot is of sufficient size and the dimensions are adequate to accommodate the proposed dwelling and meet the setbacks of CFU Zone. However, the lot is irregular in shape with maximum north-south dimension of 500 feet. This dimension occurs on the western edge of the property and is not adjacent to a road. Due to this dimensional constraint and severe topography at the portion of the lot where a dwelling could be sited in full compliance with the setback requirements, a variance to the setback has been requested by applicants and will be discussed in the portion of the opinion dealing with the variance application.

- (3) The lot shall meet the following standards: . . .

(c) The lot shall be composed primarily of soils which are capable of producing above 85 cf/ac/yr of Douglas Fir timber; and

(i) The lot and at least all or part of 11 other lots [that existed on January 1, 1993, OAR 660-06-027(1) (d) (C) (i)] exist within a 160-acre square when centered on the center of the subject lot parallel and perpendicular to section lines; and

(ii) Five dwellings [that existed on January 1, 1993, OAR 660-06-027(1) (d) (C) (ii)] exist within the 160-acre square.

Analysis: The subject property is comprised primarily of soils which are capable of producing 85 cf/ac/yr of Douglas Fir timber. Those soils are Goble Silt Loam (17D and 17E). The highest potential yield is 145 cf/ac/yr. The applicant has provided information based on maps and assessor's information indicating that 16 lots and 5 dwellings which existed on January 1, 1993, fall within that 160 acre square. The staff has, in fact, confirmed the existence of the requisite number of lots and dwellings. Therefore, the application in question meets the standards for parcelization within the applicable timber productivity range. Based on the evidence and the record I find that the parcel soils exceed 85 cf/ac/yr, and that the parcel also satisfies the test of MCC 11.15.2052(C).

(d) Lots and dwellings within urban growth boundaries shall not be counted to satisfy (c) above.

Analysis: The lots and dwellings counted and referenced above are not located within an urban growth boundary. Accordingly, I find that this standard has been met.

(e) The lot is not capable of producing 5,000 cubic feet of wood fiber per year from commercial tree species recognized by the Forest Practices Rules.

Analysis: Based on the type of soils, Goble Silt Loam, the highest potential yield is 145 cubic feet per acre. Multiplication of the potential yield by the number of acres demonstrates that the site is capable of producing, at most, 676 cubic feet of commercial timber per year. Therefore, I find that the lot is not capable of producing 5,000 cubic feet of wood fiber per year.

(4) The dwelling will not force a significant change in, significantly increase the costs of, or impede accepted

forestry or farming practices on surrounding forest or agricultural lands.

Analysis: The evidence in the file demonstrates that no significant forestry is practiced on the parcels adjacent to the subject site. Most of those sites are, in fact, occupied by dwellings and some of them have been cleared. The proposed location of the dwelling is as far from any potential large scale forestry operations as is possible on the site. The applicants have submitted a recorded agreement of conditions and restrictions acknowledging that their property is situated in or adjacent to an agricultural forest zone in Multnomah County and may be subjected to common and accepted farming or forest practices, such as pesticide and herbicide spraying, weed cutting, slash burning, irrigating, field plowing, harvesting, and any other accepted farming or forest practice. The applicants have accepted those normal and necessary farming or forest practices as part of the risk of purchasing or building a residential dwelling in a farm or forest area. Based on the evidence in the record, and the analysis provided on Page 9 and 10 of the Staff Report, I find that the dwelling will not force a significant change in, significantly increase the costs of, or impede accepted farming or forest practices on surrounding forests or agricultural lands.

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

Analysis: Exhibit 5 indicates that, although the subject property is close to a big game habitat area, it is, in fact, located outside the big game habitat area. Exhibit 3 is an exhibit submitted by applicants consisting of a statement from the Oregon Department of Fish and Wildlife, which indicates that the Department does not oppose the project based on impacts to wildlife. Accordingly, I find that applicant has demonstrated that they have met the standard of MCC 11.15.2052(A) (5).

- (6) The proposed dwelling will be located on a lot within a rural fire protection district, or the proposed resident has contracted for residential fire protection.

Analysis: The proposed dwelling is located within the boundaries of Multnomah County RFPD 20. The fire district has submitted a response form for the record indicating that there is adequate water pressure and flow for fire fighting purposes to serve the proposed residence. I find this standard has been met.

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

Analysis: Since the lot which is the subject of this application has direct access to Skyline Boulevard, no road use permit would be required and I find this standard is inapplicable.

- (8) The parcel on which the dwelling will be located has been disqualified from receiving a farm or forest tax deferral.

Analysis: The Multnomah County Code requires that a parcel on which a dwelling not related to forest management is sited, must be disqualified from receiving a farm or forest tax deferral. The subject parcel does not receive a farm or forest deferral at this time. However, OAR 660-06-029(5) provides that a dwelling in a forest zone may still receive a tax referral if they meet the Department of Forestry stocking requirements and submit a stocking survey report to the County Assessor. Therefore, the applicant should submit a stocking report pursuant to OAR 660-06-029(5). I find that the provisions of OAR 660-06-029(5) do, however, prohibit the county from requiring that the lot be permanently disqualified from receiving a forest tax deferral.

- (9) The dwelling meets the applicable development standards of MCC .2074; (as follows:)

MCC .2074 Development Standards for Dwellings and Structures.

Except as provided for the replacement or restoration of dwellings under MCC .2048 (E) and .2049 (B), all dwellings and structures located in the CFU district after January 7, 1993, shall comply with the following:

- (A) The dwelling or structure shall be located such that:

- (1) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the minimum yard and setback requirements of .2058 (C) through (G);

- (2) Forest operations and accepted farming practices will not be curtailed or impeded.

- (3) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;
 - (4) Any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant due to physical limitations unique to the property and is the minimum length required; and
 - (5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:
 - (a) Access for pumping fire truck to within 15 feet of any perennial water source on the lot. The access shall meet the driveway standards of MCC .2047(D) with permanent signs posted along the access route to indicate the location of the emergency water source;
 - (b) Maintenance of a primary and a secondary fire safety zone.
 - (c) The building site must have a slope less than 40 percent.
- (B) The dwelling shall:
- (1) Comply with the standards of the Uniform Building Code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;
 - (2) Be attached to a foundation for which a building permit has been obtained; and
 - (3) Have a minimum floor area of 600 square feet.
- (C) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class II stream as defined in the Forest Practices Rules. If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.

(D) A private road (including approved easements) accessing two or more dwellings, or a driveway accessing a single dwelling, shall be designed, built, and maintained to:

- (1) Support a minimum gross vehicle weight (GVW) of 52,000 lbs.. Written verification of compliance with the 52,000 lb. GVW standard from an Oregon Professional Engineer shall be provided for all bridges or culverts.
- (2) Provide an all-weather surface of at least 20 feet in width for a private road and 12 feet in width for a driveway.
- (3) Provide a minimum curve radii of 48 feet or greater.
- (4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches.
- (5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments, except as provided below:
 - (a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades exceeding 6 percent.
 - (b) The maximum grade may be exceeded upon written approval from the fire protection service provider having responsibility.
- (6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length.
- (7) Provide for the safe and convenient passage of vehicles by the placement of:
 - (a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or
 - (b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length at a maximum spacing of 1/2 the driveway length or 400 feet whichever is less.

Analysis: The standards set forth in MCC .2074 are discussed below.

- (10) A statement has been recorded with the Division of Records that the owner and successors in interest acknowledge the rights of owners of nearby property to conduct forest

operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices.

Analysis: Exhibit 2 is a copy of the recorded document of applicant's statement acknowledging said rights. The document indicates the volume, page and recording date. Accordingly, I find that the applicants have, in fact, met this standard.

3. MCC 11.15.2052 (B): Dwellings not related to forest management shall not be allowed upon the effective date of a small scale resource land program adopted pursuant to the requirements of OAR 660, Division 6 and 33.

Analysis: There is no small scale resource land program adopted pursuant to the requirements of OAR 660, Division 6 and 33, in effect at this time. Accordingly, I find this section is not applicable to the decision in question.

4. MCC .2074 Development Standards for Dwellings and Structures.

Except as provided for the replacement or restoration of dwellings under MCC .2048(E) and .2049(B), all dwellings and structures located in the CFU district after January 7, 1993, shall comply with the following:

(A) The dwelling or structure shall be located such that:

- (1) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the minimum yard and setback requirements of .2058(C) through (G).

Analysis. No significant forestry is practiced on the parcels adjacent to the subject site. The proposed location of the dwelling is as far from any potential large scale forestry operations as is possible on the site. Applicants have recorded a statement recognizing and accepting forest practices on other parcels in the area. The applicants have testified that the proposed dwelling will be located so as to have the least impact on adjoining lands.

The applicants have requested a variance from the minimum side yard setback. The variance requirements will be cited in the subsequent portion of this opinion. However, the location where applicant proposes to site the structure is in a cleared area. The portion of the site which would meet the setback requirements for siting purposes is currently still forested. Thus, in order to site the dwelling on the portion of the site that meets the setback requirements, currently forested land would need to be cleared. Accordingly, it appears that siting the

dwelling on the proposed site would have the least impact on the forest lands at the site. I find that the applicants have met this standard.

- (2) **Forest operations and accepted farming practices will not be curtailed or impeded. The siting insures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized (11.15.2074(A) (2) as mandatorily modified by OAR 660-06-029 (1) (b) ..**

Analysis. The proposed site for the location of the dwelling on the subject tract is an area that has already been cleared of trees. Because the area in question has been cleared, siting the dwelling there will result in little or no removal of additional trees, thereby allowing the balance of the forested portion of the tract to be utilized for forest practices. A condition that the cultivated area be limited to an area not exceeding one acre in size contiguous to the proposed dwelling will further minimize adverse impacts on forest operations and accepted forest practices. I find that the applicants have met this standard.

- (3) **The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized.**

Analysis. The applicants are proposing to site the dwelling on a portion of the parcel that totals approximately 6,100 square feet. This represents approximately three percent of the total land area that would be used for the house and driveway. The site where the dwelling is to be built has already been cleared. Siting the dwelling there will allow the balance of the parcel which is forested to remain undisturbed. The applicant also proposes to put a daylight basement under the house to utilize space most efficiently and to further minimize the amount of forest land used to site the dwelling. I find that the applicant has demonstrated that the amount of forest land used to site the proposed dwelling is minimized.

- (4) **Any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and**

Analysis. The driveway length is at least 60 feet less than the maximum 500 feet in length. Therefore, I find this criteria does not apply.

- (5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

- (a) Access for a pumping fire truck to within 15 feet of any perennial water source on the lot. The access shall meet the driveway standards of MCC .2074(D) with permanent signs posted along the access route to indicate the location of the emergency water source;

Analysis. There is no perennial water source on site. Accordingly, the standard dealing with access for a pumping truck to water source is not applicable.

- (b) Maintenance of a primary and secondary fire safety zone.

- (i) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure.

. . . .

- (ii) On lands with 10 percent or greater slope the primary fire safety zone shall be extended down the slope from a dwelling or structure as follows:

<u>Percent Slope</u>	<u>Distance in Feet</u>
Less than 10	Not Required
Less than 20	50
Less than 30	75
Less than 40	100

- (iii) A secondary fire safety zone is a fire break extending a minimum of 100 in all directions around the primary safety zone. . . .

- (iv) No requirement in (i), (ii) or (iii) above may restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules; and

Analysis. The applicant has designated a primary and secondary fire safety zone on the site plan. The primary fire safety zone is designated as being 30 feet from the dwelling, and the secondary fire safety zone extends an additional 100 feet. Both proposed safety zones comply with MCC 11.15.2074(5)(B)(i) and (iii). However, on lands with ten percent or greater slope, the primary fire safety zone shall be extended down the slope from the dwelling fifty feet if the slope is

between ten and twenty percent. No additional fire safety zone is required if the slope at the site is less than ten percent. The Staff Report, on Page 28 and materials submitted by applicants indicate that the slope at the area of the proposed dwelling is approximately fifteen percent. Thus, the slope is between 10 and 20, and the primary fire safety zone needs to be extended downslope. Accordingly, I find that the risks associated with wild fire are, and can be, minimized at the site. However, I will add a condition that the applicants be required to maintain primary and secondary fire safety zones around all structures in accordance with MCC 11.15.2074 (A) (5) (b).

- (c) The building site must have a slope less than 40 percent.

Analysis. The evidence in the record indicates that the slope at the proposed location of the dwelling is relatively flat. The slope is approximately 15 percent. Accordingly, I find that this standard has been met.

(B) The dwelling shall:

- (1) Comply with the standards of the Uniform Building Code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;
- (2) Be attached to a foundation for which a building permit has been obtained; and
- (3) Have a minimum floor area of 600 square feet.
- (4) OAR 660-06-035(5) The dwelling shall have a fire retardant roof.
- (5) OAR 660-60-035(6) If the dwelling has a chimney, or chimneys, each chimney shall have a spark arrestor.

Analysis. The applicants have indicated that the dwelling which will be placed on the property will meet all building code requirements. The proposed dwelling will be attached to a foundation and have the appropriate building permit. The floor area will exceed 600 square feet. The building will have a fire retardant roof and the chimney will have a spark arrestor. These requirements of the Oregon Administrative Rules will be listed as conditions of approval. Accordingly, I find that the applicants have met the requirements for this standard.

- (C) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class II stream as defined in the Forest Practices Rules. If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.

Analysis. This standard prohibits taking water from a Class II stream. The applicant proposes to drill a well on the property for the domestic water supply. That source of water would comply with this standard. Prior to the issuance of a building permit, applicants will be required to provide proof of an adequate domestic water supply from a well. This determination can be made administratively. As an administrative decision requiring the exercise of discretion, notice of that decision must be given and an opportunity for a hearing on appeal must be provided. ORS 197.763(2) 215.416.

Carol Winner, who spoke in opposition to this application, testified that she did not think there was sufficient water in the aquifer for the applicants to be able to put in a well. She also indicated that she thought that the well would impact farming practices in the area. Ms. Winner was also concerned that Mr. and Mrs. Burger would have "baby burgers" and that their children would use water, which Ms. Winner contended would further deplete her water source. Ms. Winner presented no evidence, other than her testimony, that the aquifer which supplies her well has any connection to potential aquifers on the Burger property. Ms. Winner also wanted the county to require the applicants to prepare a water study regarding the availability of water in the general area.

Ms. Winner did not think the conditional use should be granted because the Burgers would be utilizing water which "might" impact other wells in the area. Mr. Fijak was also concerned about potential impact on his well. However, the Multnomah County Code does allow a number of uses within the commercial forest use zone as outright uses that could place a more intense demand on water sources in the area than would a single-family home. In response to a question, staff indicated that a truck farm or other types of agricultural uses which would be heavily dependent on irrigation water from a well would be allowed as an outright use in that zone.

There is no requirement in the ordinance that a water study or water statement be prepared by the applicants. The code simply requires that the applicant provide evidence that they have a domestic water supply authorized in accordance with Department of Water Resources Oregon Administrative Rules and not from a Class II stream as defined in the forest practices rules. That will be a condition of their approval of this application. I find that the applicants can meet this standard by the imposition of a condition in this order, that they submit a well report demonstrating that a domestic water supply is available to their property.

- (D) A driveway accessing a dwelling shall be designed, built and maintained in accordance with the standards set forth in MCC 11.15.2074 (D).

Analysis. The application materials indicate that the proposed driveway will be designed, built and maintained to support 52,000 GVW. The width of the proposed driveway will be at least 12 feet wide and will provide a minimum curve radii of greater than 48 feet. The base rock will consist of six inches of three inch minus and the top gravel will be four inches of three-quarter inch minus. The driveway will be maintained to have an unobstructed clearance of 13 feet and 6 inches to provide for safe passage of vehicles. A turnaround has been indicated on the site plan. The driveway plan has been approved by the proper authority at the fire protection district and a permit is included in the record. I find that the evidence in the record and the site plan submitted demonstrates that the applicants have met the design standards for a driveway set forth in this section.

5. Variance Approval Criteria. MCC 11.15.8505 (A)

MCC 11.15.8505 (A). The approval Authority may permit and authorize a variance from the requirements of this Chapter only when there are practical difficulties in the application of the Chapter. A Major Variance shall be granted only when all of the following criteria are met.

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

Analysis. The applicants have requested a variance from the side yard setback requirement of 200 feet. The requested variance is in the amount of 100 feet. A major variance is one that is excess of 25% of an applicable dimensional

requirement. MCC 11.15.8515(A). Since the requested variance is 50% of the applicable dimensional requirement, the applicants must meet all four standards of MCC .8505(A).

The subject property is irregular in shape, with relatively short property line dimensions of approximately 300 to 600 feet in length. Areas along the street side frontages are typified by severe slopes in excess of 30%. Due to the large 200 foot side and rear yard setback requirements of the CFU zone, and the 60 foot minimum front yard setback requirement, the area for siting a dwelling that complies with the setback is severely constrained. Sites that would meet the setback standards are located in areas with slopes estimated at 30% to 40%. These sites would require excessive amounts of grading and filling. Siting a dwelling at the portion of the tract that would comply with the setback requirements there would also make it very difficult to meet the requirements for driveway construction.

Because of the topography of the tract, and the fact that the proposed site for the dwelling has a slope of only 15% indicates that there are circumstances applying to the site which do not apply generally to other property in the same vicinity or district. In addition, many of the surrounding properties are developed with dwellings and/or structures which would not meet the current 200 foot setback requirements. Accordingly, I do find that circumstances and conditions apply to this tract that do not apply generally to other property in the same vicinity or district.

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

Analysis. The subject tract totals approximately 4.66 acres. Thus, the tract is significantly smaller than the 80 acres required of new parcels in the CFU Zone. Yet, this lot is a lot of record. The lot is smaller than the existing lots that adjoin it. Lot dimensions on the subject site are therefore proportionately smaller. The setback requirements of the CFU Zone restrict this property to a greater degree than others in the zone by severely constraining potential building sites. Most of the adjoining parcels have structures on the tracts which are not built to the 200 foot setback standards. Accordingly, I find that the standard for the side yard setback would impose a greater restriction on the applicants' property than other properties of similar size in the vicinity or district.

- (3) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is

located, or adversely affect the appropriate development of adjoining properties.

Analysis. MCC 11.15.8515(A) (1) (a) has a provision that provides that major variances can be granted without hearing where the owners of record of property within 100 feet of the subject property grant their consent to the variance. The applicants herein contacted the owners of property adjacent to the subject tract. One or more of the owners of each of the adjacent lots, Tax Lot 11, Tax Lot 13, Tax Lot 15 and Tax Lot 25 signed a consent to variance form. The only property owner who refused to sign was Carol Winner, the owner of Tax Lot 10. Ms. Winner opposes this application.

At the hearing Ms. Winner was asked whether the proposed location of the building site on the tract would have a greater impact on her and adjacent property owners than an alternative site on the property. Ms. Winner indicated that it made no difference where the dwelling was sited, it should not be allowed at all.

Since other adjacent property owners have indicated they have no objection to the variance, I find that the authorization of the variance will not be materially detrimental to the public welfare or injurious to Lots 11, 13, 15 or 25 or adversely affect the appropriate development of those properties.

I will look at the issue of whether or not this variance proposal will have an adverse impact on the Winner property separately from the adjacent properties. The primary point of emphasis for Ms. Winner, when she testified at the hearing on July 19, 1995, appeared to be her concern with her supply of water.

Ms. Winner also stated a concern about wildlife issues. However, those wildlife issues do not directly relate to the granting of the variance and possible effects on her property. Accordingly, those will be discussed in a subsequent portion of the opinion dealing with the Comprehensive Plan Criteria.

There is no evidence in the record from any water authority or engineer regarding the extent of an underground aquifer. However, the evidence in the file demonstrates that the proposed site for the dwelling is located on a portion of the lot which is farther removed from Ms. Winner's well site than the portion of the lot on which the applicants would be required to build if they were required to strictly adhere to the setback requirements. Accordingly, if anything, it appears that authorization of the variance would result in a building site which is potentially less injurious to the

Winner property than requiring the applicants to strictly adhere to the setback requirements. Accordingly, I find that the authorization of the proposed setback variance will not be materially detrimental to the public welfare or injurious to any property in the vicinity or district, including the Winner property, or adversely affect the appropriate development of adjoining properties.

- (4) The granting of the variance will not adversely affect the realization of the Comprehensive Plan nor will it establish a use which is not listed in the underlying zone.

Analysis. Dwellings are allowed as conditional uses in the underlying Commercial Forest Use Zone. The granting of the variance will not adversely affect the realization of the Comprehensive Plan. The issues relative to the Comprehensive Plan are discussed in more detail in a subsequent section of this opinion. I find that this subsection of the variance standards is satisfied.

6. Multnomah County Comprehensive Plan Policies

- A. Policies in the Comprehensive Plan which are applicable to these Quasi-judicial Decisions are discussed as follows:

- (1) POLICY NO. 13, AIR, WATER AND NOISE QUALITY. MULTNOMAH COUNTY, . . . SUPPORTS EFFORTS TO IMPROVE AIR AND WATER QUALITY AND TO REDUCE NOISE LEVELS. . . . FURTHERMORE, IT IS THE COUNTY'S POLICY TO REQUIRE, PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION, A STATEMENT FROM THE APPROPRIATE AGENCY THAT ALL STANDARDS CAN BE MET WITH RESPECT TO AIR QUALITY, WATER QUALITY AND NOISE LEVELS..

Analysis. A single family home is not a "noise generator". The County has not indicated that there are any state air quality standards applicable to the proposed residential use. Accordingly, I find that the noise and air quality elements of this policy are inapplicable to a single family residence. The county sanitarian has found that the subject site can be served by an on-site septic system. Such a certification indicates that the septic system can be installed without any degradation of water quality. The applicant is also being required to submit confirmation that they have a domestic water supply which does not come from a Class II stream, and which is from a source authorized by the Water Resources Department ground water rules. Accordingly, I find that the applicants have demonstrated that the applicable agencies have issued statements that all relevant standards can be met with respect to air

quality, water quality and noise levels consistent with Policy 13 of the Comprehensive Plan.

(2) **POLICY NO. 14, DEVELOPMENTAL LIMITATIONS.** THE COUNTY'S POLICY IS TO DIRECT DEVELOPMENT AND LAND FORM ALTERATIONS AWAY FROM AREAS WITH DEVELOPMENT LIMITATIONS EXCEPT UPON A SHOWING THAT DESIGN AND CONSTRUCTION TECHNIQUES CAN MITIGATE ANY PUBLIC HARM OR ASSOCIATED PUBLIC COST, AND MITIGATE ANY ADVERSE EFFECTS TO SURROUNDING PERSONS OR PROPERTIES. DEVELOPMENT LIMITATIONS ARE THOSE WHICH HAVE ANY OF THE FOLLOWING CHARACTERISTICS:

- A. Slopes exceeding 20%;
- B. Severe soil erosion potential;
- C. Land within the 100 year flood plain;
- D. A high seasonal water table within 0-24 inches of the surface for 3 or more weeks of the year;
- E. A fragipan less than 30 inches from the surface; and
- F. Land subject to slumping, earth slides or movement.

Analysis. The applicant has indicated that the property is not located in a slope hazard area and that fact has been confirmed by County staff. The property is not located in a flood plain, nor does it have high water tables. Exhibit 4 demonstrates that the soils under the subject tract are Columbia River Basalt with Loess overburden, a stable land form. The subject property is almost a mile removed from the former proposed site of a Wildwood Landfill, a site composed of land in the Scappoose formation which is of a landslide complex. The portion of the subject tract where the proposed site development will occur is the most level portion of the parcel. Accordingly, granting a variance to the side yard setback requirements to allow the applicants to build the proposed dwelling at the portion of the tract where the slopes approximate 15% furthers the Comprehensive Plan Policy. There does not appear to be any severe soil erosion potential on the site. However, if the dwelling will require the movement of over 50 cubic yards of soil, a grading and erosion control permit will be required to control erosion potential, prior to issuance of a building permits. Accordingly, I find

that the applicants have carried their burden of proof to show compliance with Comprehensive Plan Policy No. 14.

- (3) **POLICY NO 22, ENERGY CONSERVATION. THE COUNTY'S POLICY IS TO PROMOTE THE CONSERVATION OF ENERGY AND TO USE ENERGY RESOURCES IN A MORE EFFICIENT MANNER. . . . THE COUNTY SHALL REQUIRE A FINDING PRIOR TO THE APPROVAL OF LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT THE FOLLOWING FACTORS HAVE BEEN CONSIDERED:**
- A. THE DEVELOPMENT OF ENERGY-EFFICIENT LAND USES AND PRACTICES;**
 - 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 CLIMATIC CONDITIONS TO ADVANTAGE.**
 - E. FINALLY, THE COUNTY WILL ALLOW GREATER FLEXIBILITY IN THE DEVELOPMENT AND USE OF RENEWABLE ENERGY RESOURCES.**

Analysis. In discussing this Comprehensive Plan Policy, the applicants have indicated that no new streets, power lines, or energy consumption development requirements are proposed or needed for this application. Staff has indicated that outside the urban area, energy efficient transportation lotting pattern issues are not applicable. The general policies stated in Policy No. 22 relating to energy conservation do relate primarily to urban scale development. The plan is a general statement of policy goals and requires that the county require a finding prior to the approval of a quasi-judicial action that factors A - E have been considered. Those statements in the policy, however, are not specific approval criteria. Accordingly, I do find that the factors A through E have been given the consideration appropriate for this application.

- (4) POLICY NO. 37, UTILITIES. THE COUNTY'S POLICY IS TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

WATER DISPOSAL SYSTEM

- A. THE PROPOSED USE CAN BE CONNECTED TO A PUBLIC SEWER AND WATER SYSTEM, BOTH OF WHICH HAVE ADEQUATE CAPACITY; OR
- B. THE PROPOSED USE CAN BE CONNECTED TO A PUBLIC WATER SYSTEM, AND THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) WILL APPROVE A SUBSURFACE SEWAGE DISPOSAL SYSTEM ON THE SITE; OR
- C. THERE IS AN ADEQUATE PRIVATE WATER SYSTEM, AND THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) WILL APPROVE A SUBSURFACE SEWAGE DISPOSAL SYSTEM; OR
- D. THERE IS AN ADEQUATE PRIVATE WATER SYSTEM, AND A PUBLIC SEWER WITH ADEQUATE CAPACITY.

DRAINAGE

- E. THERE IS ADEQUATE CAPACITY IN THE STORM WATER SYSTEM TO HANDLE THE 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.

Analysis. There are no public water or sewer systems in the area. The applicants have indicated that they intend to drill a well and obtain their water from such a source. The applicants will, in fact, be required to submit a well report as a condition of this approval. The applicants propose to install a septic system to meet the disposal considerations. Carol Winner expressed a concern that the septic system would contaminate wells on adjacent properties. Similarly,

Tomasz Fijak has submitted a letter expressing a concern that if the applicants "put a septic system in, it will seep into the creek on or near their land". However, the evidence in the record indicates that there is no water source or creek on the applicants' property. Ms. Fijak is not one of the adjacent property owners. The possibility of the contamination of his water source appears extremely remote.

The County Sanitarian has conducted a site evaluation of the Burger tract and has approved that for installation of a septic system. That approval process mandates that the system be designed and engineered in the fashion so that there will be no contamination of surrounding water sources. Accordingly, I find that the property can be served by an adequate private water system consisting of a well and that the Oregon Department of Environment Quality will approve a subsurface sewage disposal system on the site.

The applicants have indicated that water run-off will be handled on site and staff has concurred. Accordingly, I find that the water run-off can be handled on site and the run-off from the site will not adversely affect the water quality in adjacent streams, ponds, lakes relative to drainage on adjoining lands.

The applicants have indicated that the property is served by PGE and GTE. Accordingly, I find that there is adequate energy supply to handle the needs of the proposal and that communications facilities are available on site, meeting the requirements of factors H and I of this Plan Policy.

Accordingly, I do hereby make the findings that the water and disposal system, drainage system, and energy and communications systems are adequate for the proposed development.

- (5) **POLICY NO. 38, FACILITIES. THE COUNTY'S POLICY IS TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:**

SCHOOL

- A. THE APPROPRIATE SCHOOL DISTRICT HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENT ON THE PROPOSAL.**

FIRE PROTECTION

- B. THERE IS ADEQUATE WATER PRESSURE AND FLOW FOR FIRE FIGHTING PURPOSES; AND**

- C. THE APPROPRIATE FIRE DISTRICT HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENT 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.

Analysis. The applicant has submitted signed forms from the Scappoose School District, Multnomah County RFPD No. 20 for fire protection, and Multnomah County Sheriff's Office indicating that adequate service levels can be provided to the proposed dwelling. Accordingly, I find that the applicant has met the Comprehensive Plan Policy No. 38 criteria relating to facilities.

- (6) POLICY NO. 40, DEVELOPMENT REQUIREMENTS. THE COUNTY'S POLICY IS TO ENCOURAGE A CONNECTED PARK AND RECREATION SYSTEM AND TO PROVIDE FOR SMALL PRIVATE RECREATION AREAS BY REQUIRING A FINDING PRIOR TO APPROVAL OF LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

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

Analysis. This Policy requires consideration of three factors where appropriate. The obvious emphasis in this policy is related to multiple family, commercial and industrial developments and urban area development. This policy is not applicable to a single family residential development in the Commercial Forest Use Zone. Accordingly, I find that this Plan Policy has been given the appropriate level of consideration.

7. Applicability of West Hills Reconciliation Report

- A. In September of 1994, Multnomah County adopted the "West Hills Reconciliation Report" which is considered an amendment to the Multnomah County Comprehensive Framework

Plan. The Reconciliation Report consists of both findings and policy recommendations. The policy recommendations have not yet been separately incorporated into the Comprehensive Framework Plan. The report has not yet been acknowledged by LCDC. However, pursuant to ORS 197.625(3)(a), this unacknowledged but adopted Comprehensive Plan provision is effective for purposes of this application, because no stay has been granted under ORS 197.845. Accordingly, the West Hills Reconciliation Report will be applied to this application.

The subject tract is part of the West Hills area of Multnomah County that has been designated a significant Goal 5 wildlife habitat area in the reconciliation report. The report contains a Goal 5 ESEE Analysis that discusses the various conflicting uses relative to the wildlife habitat. Ultimately, the plan adopts a balanced approach which limits, but does not prohibit, conflicting uses in order to protect wildlife habitat. Accordingly, under the provisions of the plan, residential use is a "conflicting use" which is allowed in the areas where significant wildlife habitat exists. The approach of the report is to protect the resources by imposing conditions which minimize impact upon the wildlife resources.

The West Hills Reconciliation Report indicates that conflicting uses such as residential uses should be limited in order to protect significant wildlife habitat. The plan proposes that residential uses would be allowed conditionally, and that standards for protection of wildlife habitat should consider various measures to insure the maintenance and enhancement of the designated primary habitat areas as homes for various species of wildlife. The report also indicates that different standards are necessary for protection of primary, secondary and impacted wildlife habitat areas.

The specific protection measures set forth in the West Hills Reconciliation Report for primary wildlife habitat areas include the following:

1. Where a parcel to be developed contains both primary and secondary, or primary and impacted wildlife habitat areas, development activities should be limited to the secondary or impacted areas to the maximum extent feasible.
2. Fencing should be prohibited along roadways, thus reducing barriers to wildlife movement. Design standards for fences outside of the "cultivated" area discussed below should be adopted which ensure that fences do not block passage for a wide range of wildlife species.

3. The "cultivated" area (i.e., lawns and gardens) of residential lots in the primary habitat areas should be limited to one acre (consistent with fire safety standards), leaving the remaining land in the parcel in native vegetation, to be altered only in conjunction with approved forest management practices. This cultivated area should be designed to minimize the edge effect along roads.
4. Similarly, the cleared area for community service and conditional uses should be limited to the minimum size necessary for the use, and should under no circumstances exceed two acres (consistent with fire safety standards).
5. Certain introduced vegetation should be prohibited (e.g., English Ivy, Vinca, and other invasive species), even in cultivated areas.
6. Erosion control standards should be adopted where there will be prolonged exposure of soils, or excavation, associated with residential development.
7. Development along significant streams should be regulated as proposed in the discussion of streams.

Analysis. The first protective measure listed above is inapplicable since the subject tract is entirely within an area designated as primary wildlife habitat. Accordingly, it is not possible to limit the proposed development of a single family resident to an area on the tract that is a secondary or impacted area, since the entire site consists of primary wildlife habitat area.

The applicants have not proposed to construct any fences. However, a condition should be imposed that would limit future construction of fences. Accordingly, as a condition of approval, fencing will be prohibited within 60 feet from the centerline of the county maintained roadway to prevent developing a barrier to wildlife movement.

To implement the third protective measure, a condition will be imposed limiting the cultivated area adjacent to the proposed dwelling to an area no greater than one acre. The remaining land on the parcel will be left in native vegetation unless altered in conjunction with an approved forest management plan or to be consistent with fire safety standards, or the requirements of the Multnomah County zoning ordinance relating to primary and secondary fire safety zones.

Although the proposed dwelling would be a conditional use in this zone, the third protective measure listed above relating to limiting the developed and cultivated area to one acre is a more stringent standard and will be the condition imposed herein.

The introduction of invasive vegetation such as English Ivy, Vinca and other invasive species shall be prohibited on the tract, even in cultivated areas.

The sixth protective measure listed above provides that an erosion control standard should be adopted where there will be prolonged exposure of soils or excavation associated with the residential development. Although grading, cutting or filling is not a proposal under this application, the county zoning ordinance does have requirements for a hillside development and erosion control permit. Accordingly, if any grading, cutting, or filling which would come under the terms of MCC 11.15.6700-.6735 occurs, the applicants herein would be required to obtain a hillside development and erosion control permit.

There are no streams on the subject tract. Accordingly, the last protective measure listed above is inapplicable.

8. 11.15.6428 SEC Provisions Relating to Wildlife Habitat.

The designated level of protection for the significant wildlife habitat in the West Hills Area is 3.C., Page VI-23, West Hills Reconciliation Report. The plan provides that "implementation of these standards as regards residential and community service/conditional uses should be accomplished through use of a significant environmental concern (SEC) overlay zone for wildlife habitat protection." Page VI-24, West Hills Reconciliation Report.

An SEC overlay zone designation has not been made applicable to the subject tract that is the subject of this application. However, MCC 11.15.6409 provides: "For Goal 5 resources designated "3C", the approval criteria shall be used to determine the most appropriate location, size and scope of the proposed development, in order to make the development compatible with the purposes of this section, but shall not be used to prohibit a use or be used to require removal or relocation of existing physical improvements to the property."

Accordingly, the "criteria" in Section 11.15.6426 shall be reviewed in order to determine the most appropriate location for the proposed development, but shall not be utilized to prohibit that development.

- (A) A development application should include an area map showing properties which are adjacent to the proposed development with the following information:

1. Location of. . . wildlife habitat areas. . .
2. Location of all existing forested areas. . . and non-forested "cleared" areas.
3. Location of existing structures.
4. Location of. . . roads. . . driveways. . . on the subject parcel and within 200 feet. . .
5. Proposed type and location of all fencing on the subject property.

Analysis. The applicants have submitted maps depicting all of these features. The applicants, however, do not propose to locate any fencing on the subject property.

- (B) The following standards shall be reviewed to determine the most appropriate location, size and scope of the proposed development.

1. Limitation of development activities to less valuable wildlife habitat areas where a parcel contains a combination of primary, secondary, and impacted wildlife habitat.

Analysis. The parcel lies wholly within the primary wildlife habitat area. Accordingly, as specified earlier in regards to the first protective measure listed in the West Hills Reconciliation Report for the Comprehensive Plan, this provision would not be applicable.

2. Development should be located so as to maintain existing forested areas which are broadly contiguous with forested areas or areas being reforested on adjacent property.

Analysis. The house is proposed to be sited on the only unforested area of the land. The rest of the land is completely forested. There are currently no adjoining parcels being reforested although there are adjoining and surrounding parcels that are either partially or completely cleared with no plans to reforest according to the property owners.

The applicants proposal sites the dwelling on a cleared portion of the site that will leave over four acres of wooded vegetated area remaining on site. This remaining wooded forested area is broadly contiguous to other forested wooded areas on adjoining parcels. I

find that the proposed site for the dwelling is the location that is most likely to maintain existing forested areas.

3. Wildlife Conservation Plan.

Analysis. The applicants have prepared a statement indicating how they propose to mitigate any adverse impacts of wildlife habitat on the subject tract. The applicants have indicated that siting the dwelling in the cleared area will minimize the amount of excavation and/or ground disturbing activity that would need to occur on the subject site. Such earth movement could have the affect of disturbing the wildlife.

Similarly, siting the dwelling on the portion of the site that is already cleared would minimize and avoid the impact to wildlife that a clear cut on another portion of the subject parcel would cause. The West Hills Reconciliation Report indicates that recent clear cuts have relatively low wildlife habitat value. Page V-15. The report also indicates in a footnote that forest wildlife often will skirt recently cleared areas. V-16, Note 2.

The proposed dwelling site is the least densely vegetated and would require the least excavation. In exchange for the small amount of clearing that the applicants propose, they plan to enhance the rest of the property by planting more trees and shrubs native to the area in the forested remainder of the property. The applicants proposal involves only utilization of 3% of the property for the house. The applicants propose no fencing or elaborate landscaping that does not utilize native vegetation.

A review of factors listed in the SEC portion of the zoning ordinance at 11.15.6426, indicate that the applicants have taken appropriate measures to consider and mitigate the potential impact of their development on wildlife habitat. The measures and actions of mitigation are appropriate and are consistent with the stated policy in the West Hills Reconciliation Report which balances the conflicting interests by protecting resources while allowing residential development which minimizes impact on those resources.

I find that a review of the application materials as they relate to the SEC Wildlife Standards indicate that the proposed location, size and scope of the dwelling have been appropriately located so as to make the proposed development compatible with the purposes of the SEC section to protect, conserve, enhance, restore

and maintain significant wildlife habitat.

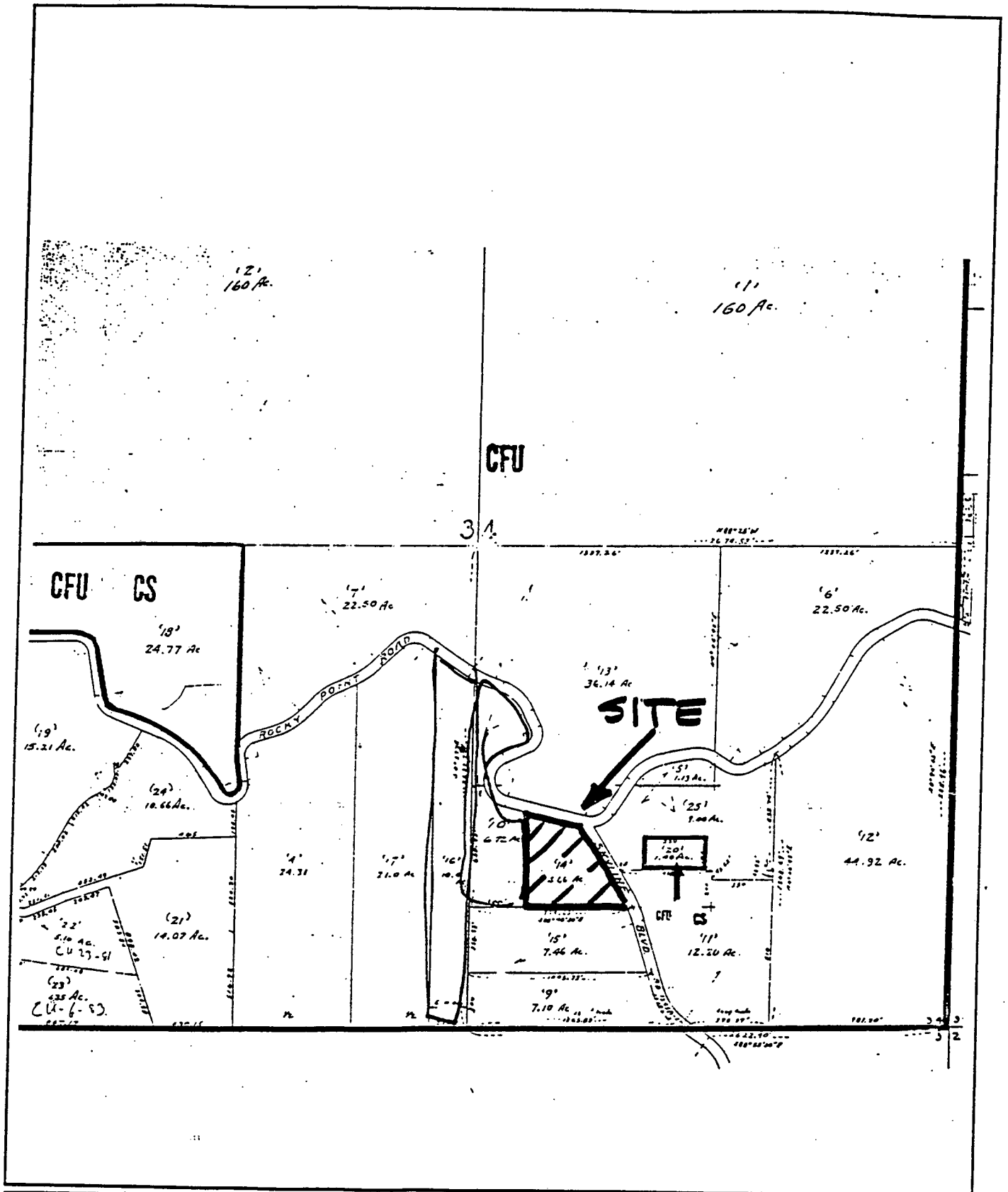
CONCLUSION

Based on the findings and the substantial evidence cited or referenced herein, I conclude that the application for the conditional use and the application for the variance satisfies all applicable approval criteria, provided that the conditions of approval are complied with. Accordingly, the applicants request for conditional use approval and for a variance is approved subject to the conditions of approval contained herein.

IT IS SO ORDERED this 14th day of August, 1995.

A handwritten signature in dark ink, appearing to read 'Joan M. Chambers', is written over a horizontal line.

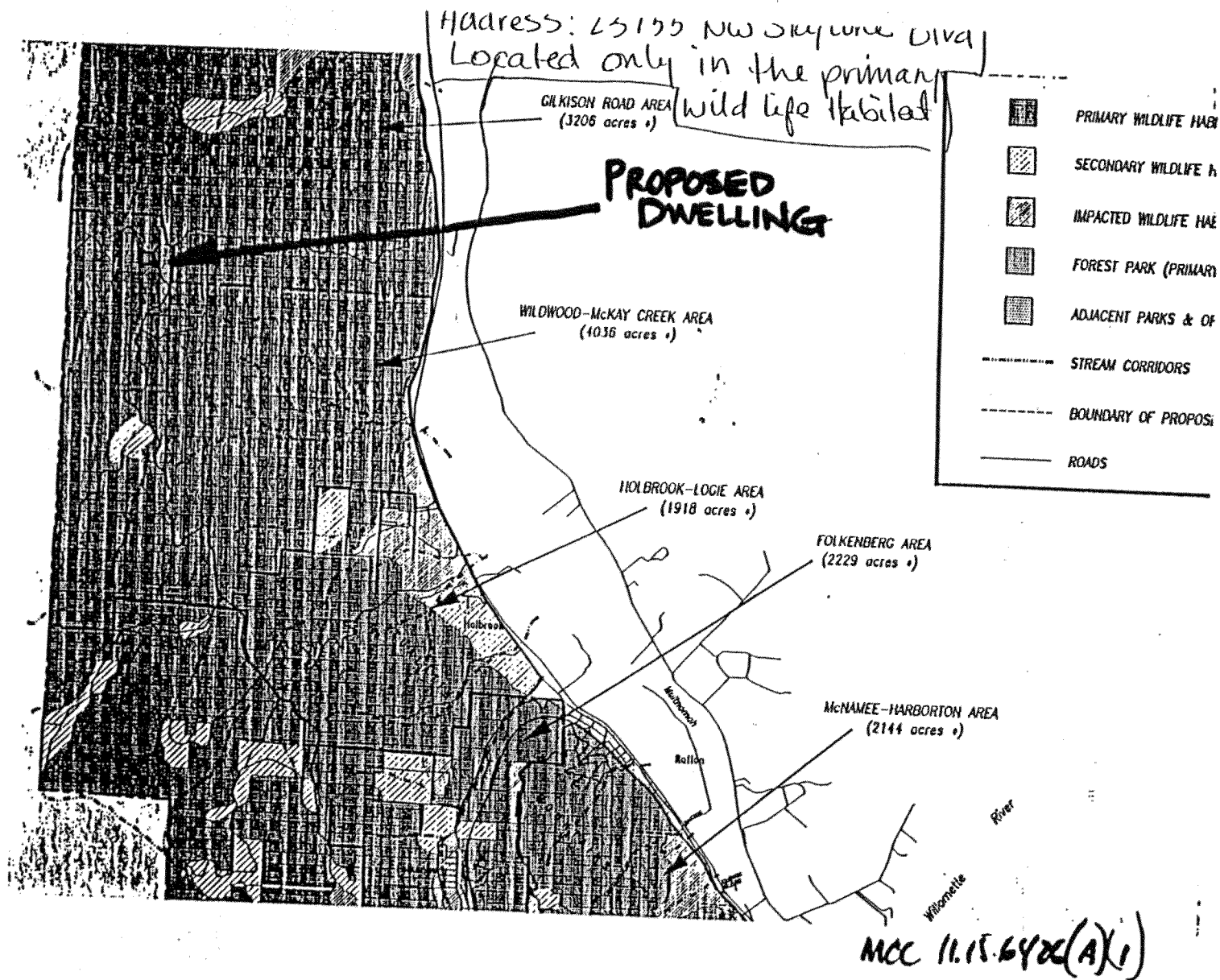
JOAN M. CHAMBERS
Hearings Officer



ZONING MAP CU 5-95/HV11-95

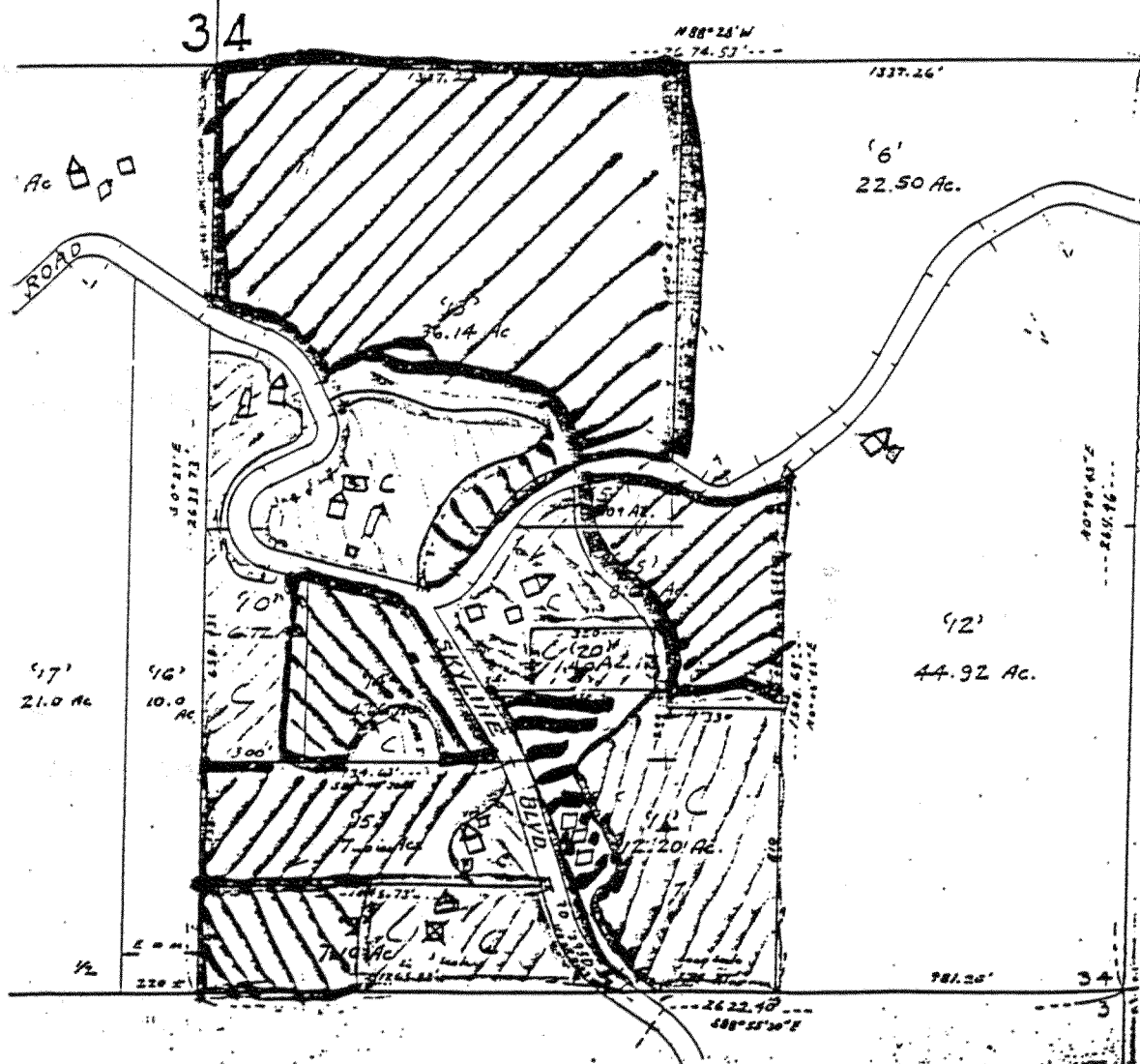


SEC-H MAP 1



Forested
forestland
Cleared
forestland
all existing
structures

☐ OUTBUILDINGS.
☐ DWELLINGS



SEC-H MAP 2

MCC 11.15.642C(4)

160 Ac.

width
12 ft.

Proposed Driveways

width
12 ft.

Driveways-existing

width
40 ft.

Public Roads-existing

width
10 ft.

Private Access Roads-existing

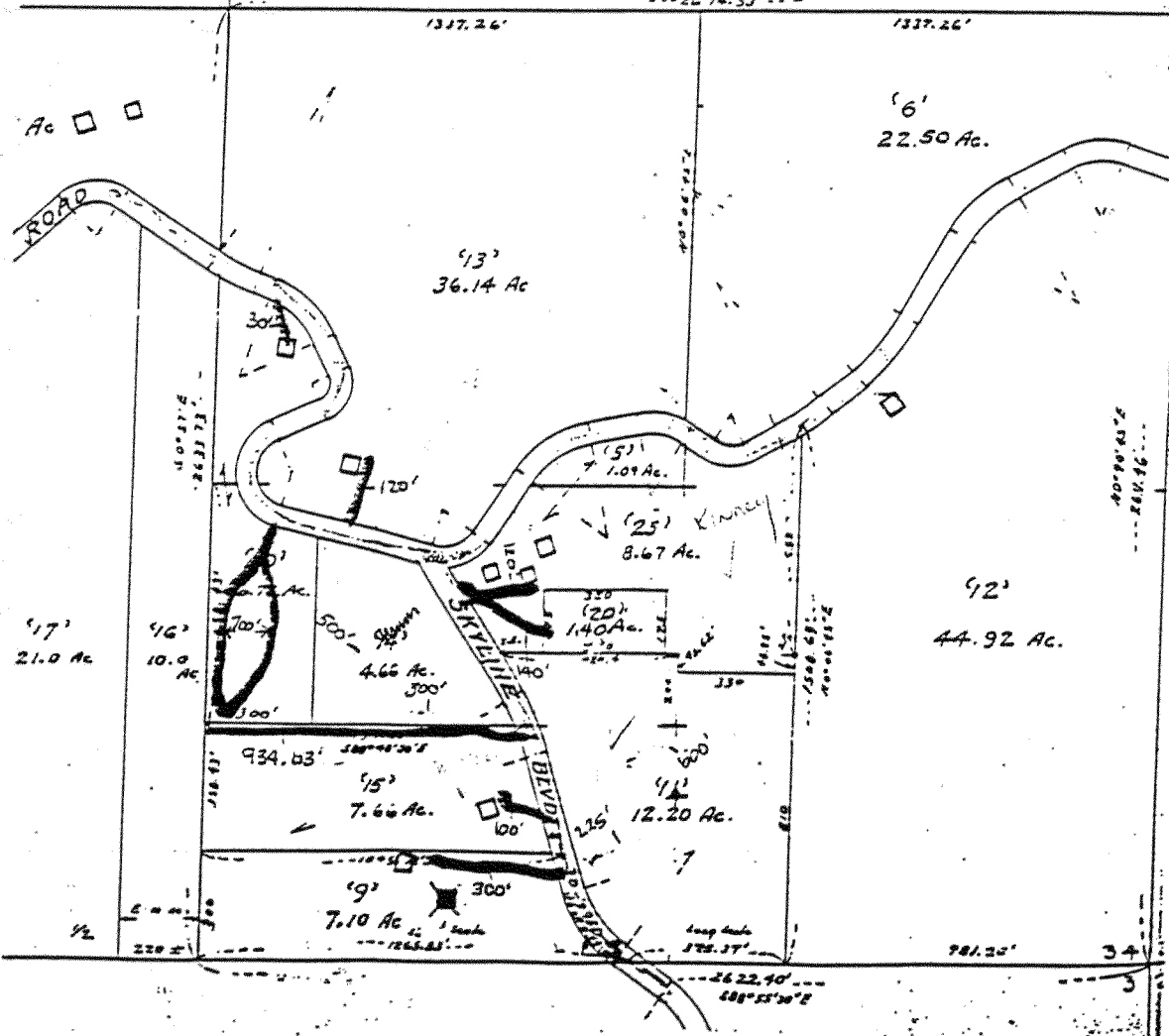
width
10 ft.

Service corridors-existing

34

N 88° 28' W

--- 26 74.53' ---



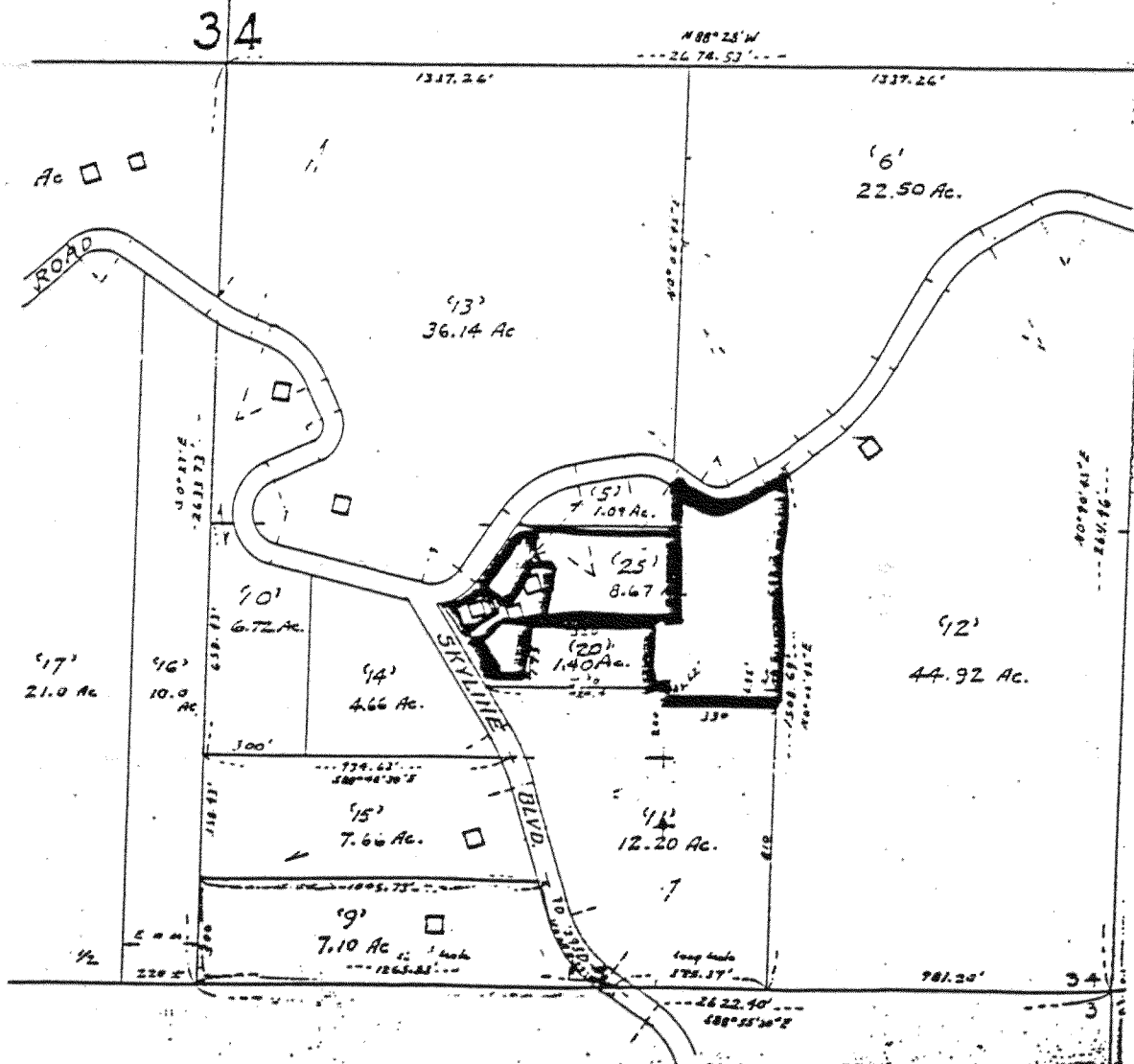
SEC-H MAP 3

160 Ac.

11.15.6926(A)(5)

- Existing Barbed + Electric Fencing
- ▣ Existing wood fence
- ▤ Existing cased + Barbed wire Fencing

note: NO proposed or existing fencing
on subject parcel (Lot 14)





DEPARTMENT OF ENVIRONMENTAL SERVICES
Division of Planning and Development
2115 S.E. Morrison Street
Portland, Oregon 97214 (503) 248-3043

Staff Report

This Staff Report consists of Conditions, Findings of Fact, and Conclusions.
Prepared for a Public Hearing to be held on July 19, 1995.

CU 5-95; HV 11-95

Conditional Use Request for a Single Family Dwelling Not Related to Forest Management Variance to a Side Yard Setback Dimensional Requirement

Applicant requests **Conditional Use** approval for a single family residence not related to forest management and **Variance** to the side yard setback requirements of the CFU zoning district. The requested side yard setback is approximately 100 feet; the required setback is 200 feet.

Location: 23755 NW Skyline Blvd.

Legal: Tax lot '14', Section 34, T3N, R2W

Site Size: 4.66 acres

**Property Owner(s)
and Applicant(s):** John and Rachael Burger
7146 N. Tyler
Portland, OR 97203

Comprehensive Plan: Commercial Forest

Zoning: CFU, Commercial Forest Use

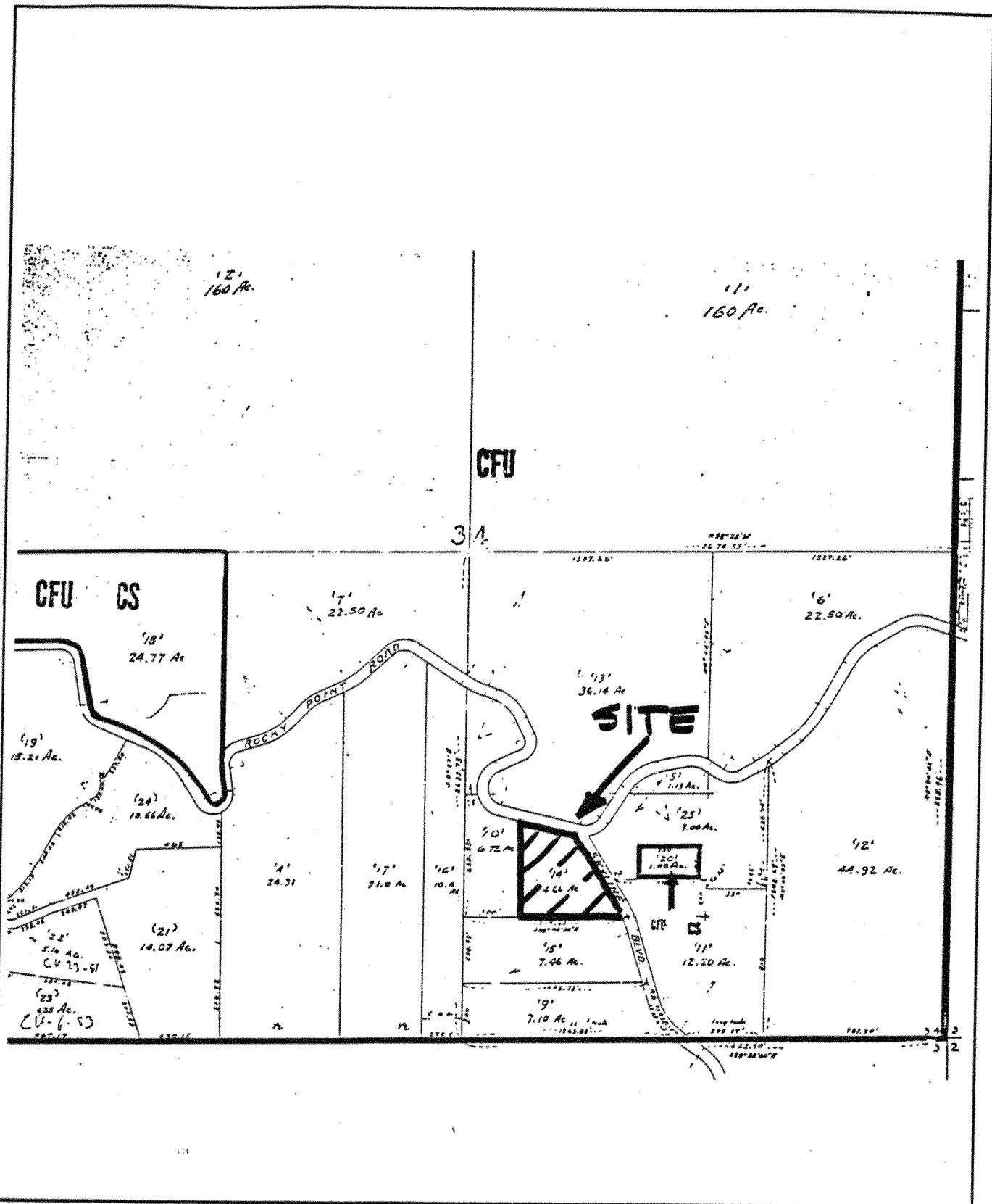
Recommended Hearings Officer Decisions:

**Conditional Use
(CU 5-95):** Approve, subject to conditions, development of this property with a single family dwelling not related to forest management, based on the following Findings and Conclusions.

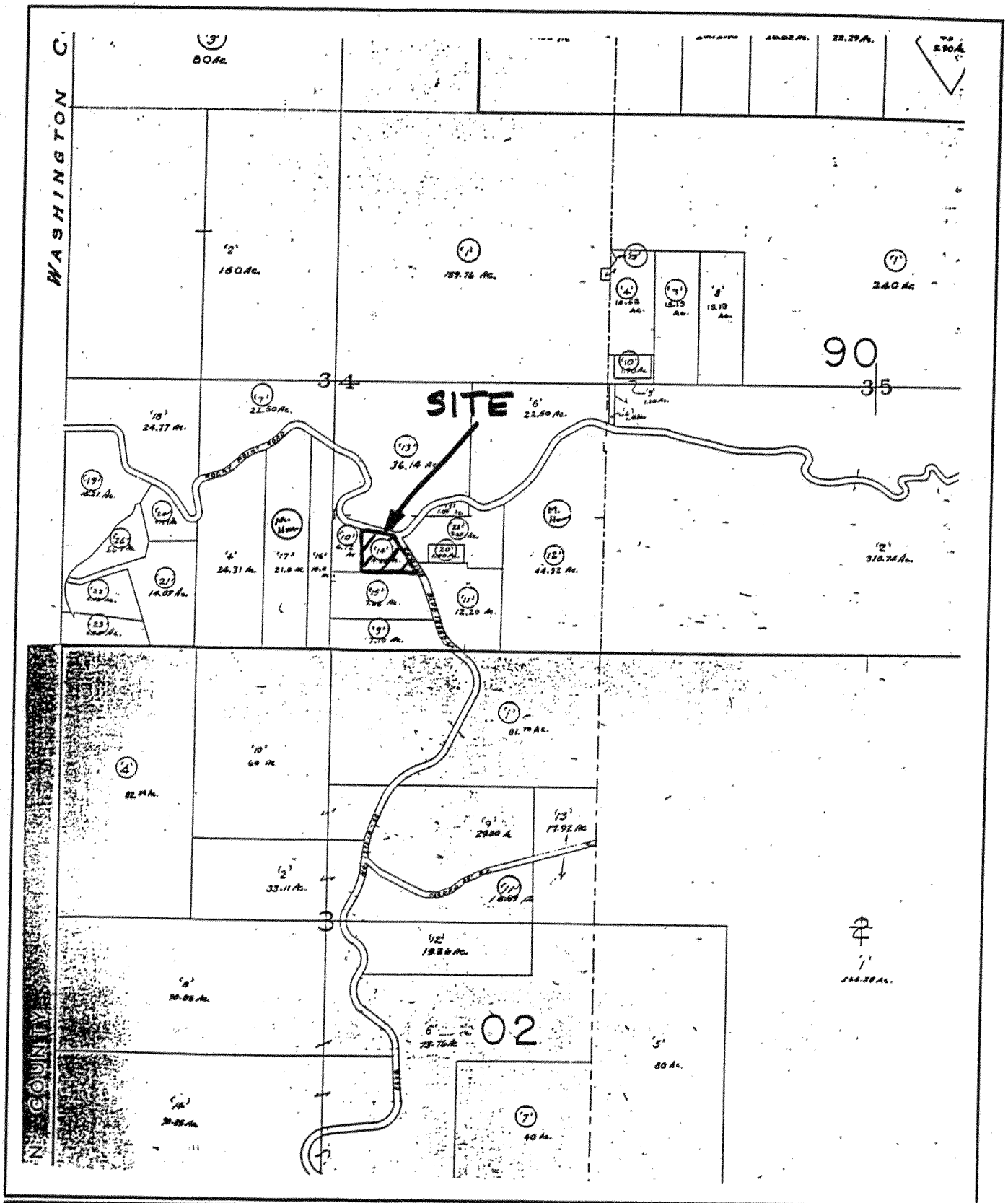
**Variance
(HV 11-95):** Approve, subject to conditions, a side yard setback of 100 feet between the proposed dwelling and the side property line; which is a major variance of 100 feet from the required 200 feet, based on the following Findings and Conclusions.

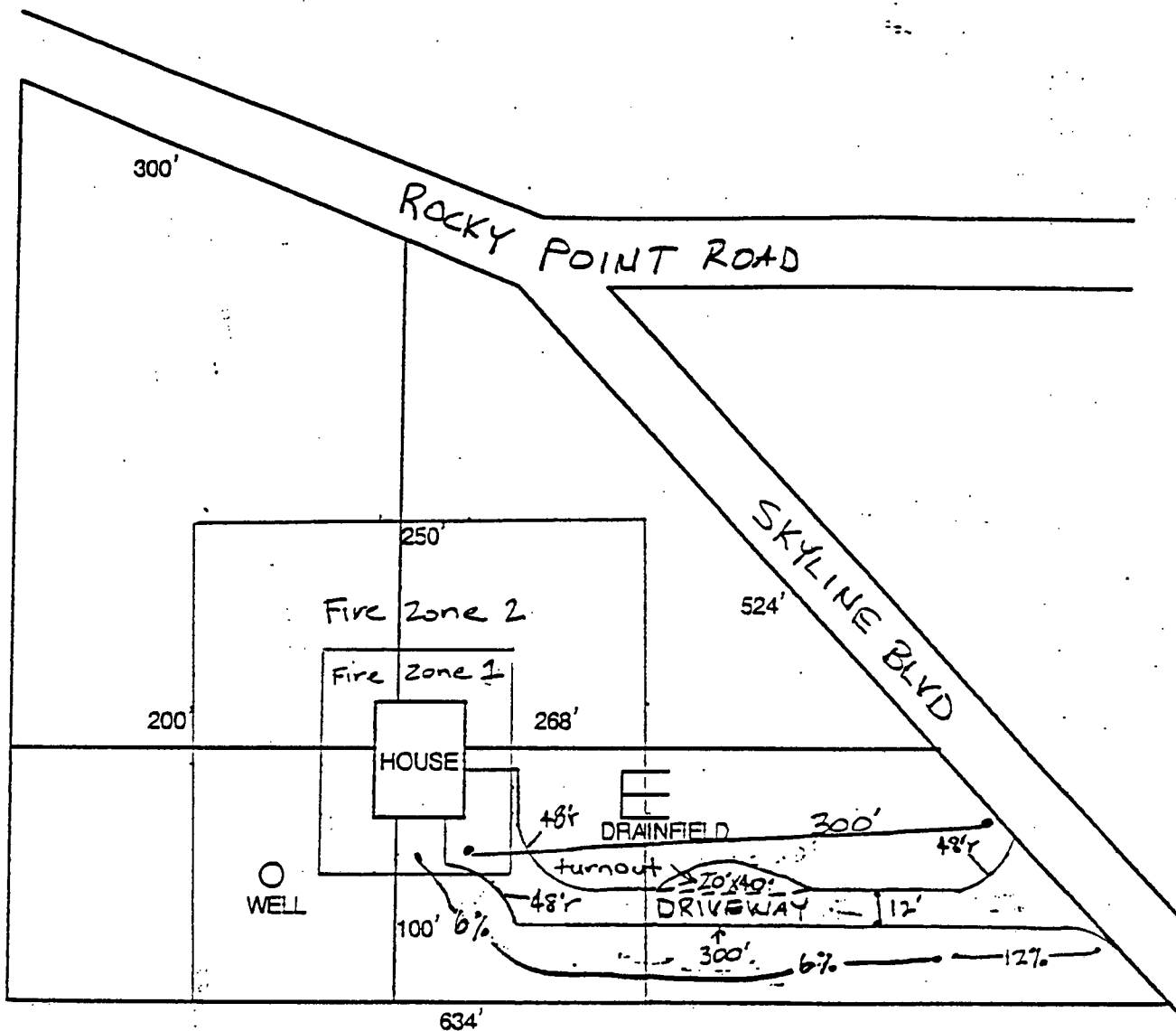
Staff Contact: Barry Manning

CU 5-95; HV 11-95



ZONING MAP CU 5-95/HV11-95





SITE PLAN CU 5-95/HV11-95

CONDITIONS OF APPROVAL:

1. Approval of this Conditional Use shall expire two years from the date of the Board Order unless substantial construction has taken place in accordance with MCC 11.15.7110 (C).
2. The dwelling location is restricted to the area indicated on the submitted site plan.
3. Prior to approval of building permits, provide evidence that a stocking survey report has been submitted to the county tax assessor in accordance with OAR 660-06-029(5)(c). At that time the assessor, as outlined in the OAR, will follow up on whether the property can retain the deferral status.
4. Prior to the issuance of a building permit, the property owner shall provide to the Division of Planning and Development a copy of the recorded restrictions acknowledging the rights of nearby properties to conduct farm and forest practices. A prepared form is available at the Planning Offices.
5. Prior to the issuance of a building permit for the dwelling, submit a copy of the well report. At that time, persons entitled to notice will again be notified that the water service part of the approval criteria is being reviewed and there is the opportunity for comment and appeal of this finding (refer to MCC 11.15.2074(C) in the staff report).
6. Prior to the issuance of a building permit and as long as the property is under forest resource zoning, maintain primary and secondary fire safety zones around all structures, in accordance with MCC 11.15.2074(A)(5) and as required by State Forest Practice Rules under a Department of Forestry forest management plan.
7. The dwelling shall have a fire retardant roof and all chimneys shall be equipped with spark arrestors as per the requirements of OAR 660-06-035(4) and (6).
8. To prevent creation of a wildlife barrier, no fences shall be erected within 60 feet of the centerline of a roadway as per Conditional Use finding 3F. All fences shall be erected in accordance with MCC 11.15.6426(B)(3).
9. Prior to issuance of a building permit, provide evidence that a deed restriction has been recorded with the county Recorder as per Finding C(9)(2), limiting the development of this property to the dwelling and areas described in Conditional Use finding 3F for as long as the property is zoned for resource land uses as primary uses. As per Conditional Use finding 3F, residential landscaping areas (also known as the "cultivated" area) shall not exceed one acre in size, and shall be contiguous to the proposed dwelling.
10. No species of invasive vegetation (English Ivy, Vinca, etc.) shall be introduced in the cultivated area as per Conditional Use finding 3F. The remaining area shall be left in native vegetation unless altered in conjunction with an approved forest management plan as per Conditional Use finding 3F.

11. Prior to final occupancy approvals, provide the Multnomah County Planning Division with evidence that the the areas specified in Finding 3F, the "cat trail" and ravine have been revegetated with native vegetation as mitigation for impacts to the wildlife habitat area related to the on-site location of the dwelling.

11. Prior to issuance of a building permit, demonstrate compliance with MCC 11.15.6700-.6735 and/or obtain approval of a Hillside Development and Erosion Control permit.

Staff Report Format

This staff report addresses two requested actions: first, a request for conditional use approval for a dwelling not related to forest management; second, a request for approval of a variance to the side yard setback standard from the dwelling to the south side property line. The Findings of Fact and Conclusions for the conditional use request begin immediately below and Findings of Fact and Conclusions for the variance request follows the conditional use discussion and begins on page 28.

FINDINGS OF FACT:

1. Applicant's Proposal:

The applicant requests Hearings Officer approval to develop the above described 4.66 acre lot with a single family dwelling not related to forest management. Also requested is approval of a variance to the required side yard setback allowing for a south side yard of 100 feet from the proposed dwelling to the south property line.

2. Site and Vicinity Characteristics:

The subject parcel is located on the southwest corner at the intersection of Skyline Boulevard and Rocky Point Road. The shortest north-south dimension of the parcel is the 524 feet of frontage on Skyline Boulevard. The north side of the property fronts Rocky Point Road, measuring 300 feet. The western property line dimension is 500 feet and the south line measures 634 feet. The property slopes sharply down toward the interior of the lot at roughly 30% to 40% along most of the road frontage. However, the topography undulates somewhat, sloping up again in interior portions of the site. The proposed building site is relatively level in comparison to the remainder of the site, with an estimated slope of 15% to 20%. The location of the proposed dwelling is indicated on the site plan.

Existing vegetation on site includes a mix of both deciduous and evergreen trees as well as shrubbery. The location proposed for the dwelling is in the south-central portion of the site. This area, an estimated 6000 square feet, has been cleared of trees. A cleared "cat trail" leads from Skyline Blvd. to the cleared area.

The property is surrounded by other properties located in the CFU zone. Parcels in the

immediate vicinity vary in size, ranging from 1.13 acres to over 20 acres. Five parcels within the 160 acre "template area" surrounding the subject site have dwellings located on them. North and east of the site, less parcelization has occurred. Parcels ranging from 80 to 240 acres can be found (see attached vicinity map). On-site soils are classified as 17D and 17E (Goble Silt Loam). Soils types in the surrounding area are 17D, 17E (Goble Silt Loam) and 56E (Wauld Very Gravelly Loam). There are no water features on site or in the immediate vicinity of the site.

3. CONDITIONAL USE ORDINANCE CONSIDERATIONS AND FINDINGS:

NOTE: THE APPLICANT'S RESPONSE TO AN APPROVAL CRITERIA WILL BE INDICATED BY THE BEGINNING NOTATION "Applicant's Response:". (Additional Planning Staff comments may be added where supplemental information is needed or where staff may not concur with the applicant's statements.)

- A. MCC 11.15.7120 Conditional Use Approval Criteria (General): "(A) A Conditional Use shall be governed by the approval criteria listed in the district under which the conditional use is allowed. If no such criteria are provided, the approval criteria listed in this section shall apply." The approval criteria listed below are listed in the district; therefore, the general criteria in this subsection **do not** apply.
- B. Revisions to Oregon Administrative Rule (OAR) 660-06, adopted on February 18, 1994, have not yet been adopted by the county. Consequently, any requirements of the OAR that are not included in the county code, as well as any OAR requirements that are more restrictive than county code criteria, must also be applied to this proposal. Applicable ordinance criteria are listed below in **bold**. Additional OAR requirements follow in [*bold, italics and bracketed*].
- C. MCC 11.15.2052 (A): A dwelling not related to forest management may be allowed subject to the following:

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

Applicant's Response: The subject lot meets the lot of record standards and was lawfully created prior to January 25, 1990. The lot was created in 1945.

Staff Comment: The parcel is shown on the 1962 Multnomah County zoning map, where it appears in the F-2 (Agriculture/Timber Growing District - 2 acre minimum lot size) district. This parcel, therefore, existed prior to 1962. From 1958 to 1962, this parcel was also zoned F-2. From 1955 to 1958, the minimum lot size in Multnomah County was 7,000 square feet. Prior to 1955, The County had not adopted zoning for the subject site. Therefore, this parcel met the zoning in effect prior to 1962. The parcel is not contiguous to another substandard parcel or parcels under the same ownership.

All currently contiguous ownerships must be considered to be the subject "tract" of this application. ["Tract" means one or more contiguous lots or parcels in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway. OAR 660-06-027(5)(a)]

Under the OAR, an additional dwelling is not allowed if there is an existing dwelling on the "tract". [A proposed dwelling under this rule is not allowed: ... Unless no dwellings are allowed on other lots or parcels that make up the tract ... If the tract on which the dwelling will be sited includes a dwelling. OAR 660-06-027(4)(c)&(d)]

Applicant's Response: There have been no common ownerships to the adjacent properties since 1980.

Staff Comment: Assessor's printout is in the file and is made a part of the record. The applicant has also submitted a map depicting adjacent ownerships since 1980 ("Map C"). There do not appear to have been any adjacent common ownerships since 1980.

- (2) The lot shall be of sufficient size to accommodate siting the dwelling in accordance with MCC .2074 with minimum yards of 60 feet to the centerline of any adjacent County Maintained road and 200 feet to all other property lines. Variances to this standard shall be pursuant to MCC .8505 through .8525, as applicable;

Applicant's Response: The lot is of sufficient size to accommodate the siting of a dwelling in accordance with MCC .2074. A variance has been applied for [for] the 200 foot setback from the side yard.

Staff Comment: The lot is of sufficient size and dimensions are adequate to accommodate the proposed dwelling and meet the setbacks of the CFU zone. However, the lot is irregular in shape with a maximum north-south dimension of 500 feet. This dimension occurs on the western edge of the property and is not adjacent to a road. Due to this dimensional constraint and severe topography a variance to the setbacks may be required for siting of the dwelling.

- (3) The lot shall meet the following standards: ...
(c) The lot shall be composed primarily of soils which are capable of producing above 85 cf/ac/yr of Douglas Fir timber; and

Applicant's Response: The subject property is composed primarily of soils which are capable of producing 85 cf/ac/yr of Douglas Fir timber. [The parcel is comprised of two soils series: the Goble Silt Loam (17D and 17E). The highest potential yield is 145 cf/acre/yr.]

- (i) The lot and at least all or part of 11 other lots [that existed on January 1,

1993, OAR 660-06-027(1)(d)(C)(i)] exist within a 160-acre square when centered on the center of the subject lot parallel and perpendicular to section lines; and

- (ii) Five dwellings [*that existed on January 1, 1993, OAR 660-06-027(1)(d)(C)(ii)*] exist within the 160-acre square.

Applicant's Response: Sixteen parcels are partially or wholly located within the 160-acre grid. At least six dwellings are located within the 160-acre grid.

Staff Comment: Staff confirms that sixteen lots and five dwellings that existed on January 1, 1993 fall within the 160 acre square.

- (d) Lots and dwellings within urban growth boundaries shall not be counted to satisfy (c) above.

Staff Comment: Not applicable.

- (e) The lot is not capable of producing 5,000 cubic feet of wood fiber per year from commercial tree species recognized by the Forest Practices Rules.

Applicant's Response: The parcel is comprised of two soils series: the Goble Silt Loam (17D and 17E). The highest potential yield is 145 cf/acre. If 145 is multiplied by 4.66 acres, it can be seen that this site is capable of producing 676 cubic feet of commercial timber per year. Thereby demonstrating that the lot is not capable of producing 5,000 cubic feet per year.

- (4) The dwelling will not force a significant change in, significantly increase the costs of, or impede accepted forestry or farming practices on surrounding forest or agricultural lands;

Applicant's Response: The parcels surrounding the site already have special tax deferrals. Most of these are occupied by dwelling. All adjacent parcels do have dwellings. It does not appear that these dwellings have imposed on the current and past forest practices. We, the applicant have spoke with a few of the property owners and have found the following:

Lot 15 and 25: Leonard and Julia Kinney stated that their main forest practices are cutting small amounts mainly for firewood. And that with such a small parcel of land they do not intend to do any clear cutting or anything on a large scale.

Lot 13: Paul and Lenore Lampa have the largest parcel in the immediate area, which is occupied by a single family dwelling, and their main forest practices are also on a small scale. They cut for firewood and they do not feel that an additional dwelling among the others that surround us would impede on their forest practices.

Lot 10 and 16: Carol Winner stated that there has not been any large scale forest practices on her properties other than cutting for firewood, and that she does not intend to do any clear cutting or any other large scale forest practices. She expressed no negative concerns for the addition of one more dwelling among the others that already exist on the other adjoining parcels.

Lot 11: Response to our inquiry: Property for sale for development. This property has been cleared for development and has not been reforested.

Lot 17: This property has had some selective cutting but does not appear to have been reforested in the last 2 years. When we spoke with the owner he did not express any negative opinion about our building a house.

Lot 9: There is a dwelling on this parcel and [it] is partially forested. The residents have not expressed any negative opinion about our building a house.

Based on our findings it does not appear that one more dwelling, among the others that exist on surrounding properties, would impede on forest practices. Nobody that we spoke with intend to do any clear cutting, slash burning, aerial spraying, etc.. Also we have recorded a statement with the department of records that we will not interfere with forest practices on surrounding properties. (recorded document attached)

Staff Comment: No significant forestry is practiced on the parcels adjacent to the subject site. The proposed location of the dwelling is as far from any potential large scale forestry operations as is possible on the site.

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

Applicant's Response: The subject property is located outside the big game winter habitat. Letter attached from the proper authority stating so.

Staff Comment: Staff concurs.

- (6) The proposed dwelling will be located on a lot within a rural fire protection district, or the proposed resident has contracted for residential fire protection;

Applicant's Response: The lot and proposed dwelling are located within the rural fire protection district and protection has been approved by the property authority.

Staff Comment: Staff concurs. Evidence of approval from Multnomah County RFPD 20 has been submitted.

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

Applicant's Response: The parcel has direct access to Skyline Boulevard.

- (8) The parcel on which the dwelling will be located has been disqualified from receiving a farm or forest tax deferral;

The following OAR requirement supercedes the above requirement to disqualify the property from farm or forest deferral. If the property is planted to Department of Forestry standards then the property can be retained or added onto tax deferral programs.

[OAR 660-06 029(5): Approval of a dwelling shall be subject to the following requirements:

- (a) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.*
- (b) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved.*
- (c) The property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry Rules. The assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met.*
- (d) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department shall notify the owner and the assessor that the land is not being managed as forest land. The assessor shall then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372.]*

Applicant's Response: The subject property has not and is not receiving any tax deferral.

Staff Comment: As stated above the 1994 OAR revisions supercede the County Code provisions on requiring disqualification of deferral status. A condition of approval is only that the property owner submit a stocking survey report to the county tax assessor. At that time the assessor, as outlined in the OAR, will follow up on whether the property can retain the deferral status.

- (9) The dwelling meets the applicable development standards of MCC .2074; (as

follows:)

MCC .2074 Development Standards for Dwellings and Structures

Except as provided for the replacement or restoration of dwellings under MCC .2048 (E) and .2049 (B), all dwellings and structures located in the CFU district after January 7, 1993 shall comply with the following:

(A) The dwelling or structure shall be located such that:

- (1) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the minimum yard and setback requirements of .2058 (C) through (G);**

Applicant's Response: The necessary documentation has been signed and recorded with the County of Multnomah stating that we will not interfere or impede any forest operations in the area. The proposed dwelling will be located so as to have the least impact on adjoining lands. The area is already occupied by residential dwellings. All of the adjoining parcels have houses. Most of the surrounding parcels are small enough dimension that they would not be practicing large scale forest practices that would be negatively impacted by the addition of this dwelling. We have recorded a statement with the department of records stating that we will not impede on forest practices.

Currently all of the adjoining lands are developed or are being developed. We have spoken with the owners of all adjoining lands and find that there would be no adverse effect on those adjoining lands in relation to where we build the house due to the fact that they are not conducting agricultural or forest operations.

Staff Comment: The minimum side yard setback is the subject of the variance request.

- (2) Forest operations and accepted farming practices will not be curtailed or impeded;**

[OAR 660-06-029(1)(b): *The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;*]

Applicant's Response: We have no other intentions but to build a house on our property and to keep it as natural as possible. Also, siting the house in the proposed area means less removal of trees due to the fact that this area has already been partially cleared. The area is also level enough to site the house which means less excavation and disturbing the earth which will comply with MCC .2074(a)(3). If we do decide to use our property for farming or we decide to clear cut we will comply with all guidelines relating to whatever we do. We do intend to comply with all state and county guidelines for residential living in the CFU zoned area.

Staff Comment: Retaining an unbuildable area by deed restriction and condition of approval will ensure that adverse impacts on forestry practices on the property will be minimized.

- (3) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;**

Applicant's Response: Less than 3% of the land will be used for the house and driveway. The site has already been cleared so this minimizes the amount of forest land used.

The dwelling can meet all of the setback standards except one 200 foot requirement for which a variance has been applied for.

Another factor to consider is the limited amount of space within the property that is suitable for the dwelling. The proposed site is the only site with the least amount of slope that is less than 40% and that will allow us to include the septic and drainfield which must be located at least 120 feet off Skyline Blvd. due to the slope limitations for the drainfield. And due to the natural configuration of the property it would not be a big producer for forest practices or agricultural practices. For example, the soil on this parcel is not capable of producing enough timber, and due to the slope it would be difficult to conduct any agricultural or farming practices. So building a house on the property would not impede those practices on the subject property. Also, the land is not being used for forestry or agricultural production. If in the future the land would be used for forest or agricultural uses, the house is located so that it is not right in the middle of the property where it might be in the way and the same for the drainfield and well.

We intend to minimize the removal of any forest land. The proposed site for the dwelling appears to be the least forested than any other part of the land, aside from being the only level enough space for the plan which means less excavation and disturbing the earth. We also intend to put a daylight basement on the house to utilize the space more efficiently and to accommodate a smaller percentage of ground space used. For example, if we were to build a single level home it would use more ground space to accommodate the square footage that we need.

The access road, which will be around 300 feet in length, is required due to the physical limitations of the land. And is required to allow for all the requirements of a single family dwelling. The driveway will be properly installed and maintained in accordance with the driveway standards. The driveway proposal for the land use permit and driveway permit has also been signed off by the fire protection district chief

- (4) Any access road or service corridor in excess of 500 feet in length is**

demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and

Applicant's Response: The driveway length is at least 60 feet less than the maximum 500 feet in length.

(5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

(a) Access for a pumping fire truck to within 15 feet of any perennial water source on the lot. The access shall meet the driveway standards of MCC .2074(D) with permanent signs posted along the access route to indicate the location of the emergency water source;

Applicant's Response: There is no perennial water source on site.

(b) Maintenance of a primary and a secondary fire safety zone. (b)(i) through (b)(iv) describe in detail the extent of each fire zone in relation to property slope.

Applicant's Response: As for fire safety, the primary and secondary fire safety zones are indicated on the site plan. The primary being 30 feet from the dwelling and the secondary will extend an additional 100 feet. The zones will be maintained by pruning and spacing vegetation so that the fire will not spread between the crowns of trees. And trees and brush will be properly maintained to prevent spreading of fire up to the crowns of trees. All other vegetation will be kept less than 2 feet in height.

(c) The building site must have a slope less than 40 percent.

Applicant's Response: The proposed site is the only site with the least amount of slope that is less than 40% and that will allow us to include the septic and drainfield which must be located at least 120 feet off Skyline Blvd. due to the slope limitations for the drainfield.

Staff Comment: The portion of the site selected for the location of the dwelling is relatively flat, in comparison to the remainder of the parcel, which is typified by slopes in excess of 25%. The staff has confidence that the area of the homesite is less than 20 percent in slope.

(B) The dwelling shall:

- (1) Comply with the standards of the Uniform Building Code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;
- (2) Be attached to a foundation for which a building permit has been obtained; and
- (3) Have a minimum floor area of 600 square feet.

Applicant's Response: The dwelling that will be placed on this property will meet all building code requirements. Any dwelling or structure will be attached to a foundation and have the appropriate building permit. The minimum floor area of any structure to be located on the property will exceed the requirement of 600 square feet.

[OAR 660-06-035(5) *The dwelling shall have a fire retardant roof.*]

[OAR 660-06-035(6) *If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.*]

Applicant's Response: The dwelling will have a fire retardant roof. The chimney will have a spark arrester.

Staff Comment: These requirements are listed as conditions of approval.

- (C) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class II stream as defined in the Forest Practices Rules. If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.

Applicant's Response: We will provide evidence that a domestic water supply is available on the property in the form of a well being drilled.

Staff Comment: As a condition of approval, well reports will be required before the issuance of the building permit for the dwelling.

- (D) A private road (including approved easements) accessing two or more dwellings, or a driveway accessing a single dwelling, shall be designed, built, and maintained to:
- (1) Support a minimum gross vehicle weight (GVW) of 52,000 lbs. Written verification of compliance with the 52,000 lb. GVW standard from an Oregon Professional Engineer shall be provided for all bridges or culverts;
 - (2) Provide an all-weather surface of at least 20 feet in width for a private road and 12 feet in width for a driveway;
 - (3) Provide minimum curve radii of 48 feet or greater;
 - (4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;
 - (5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments, except as provided below:
 - (a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades exceeding 6 percent;

- (b) The maximum grade may be exceeded upon written approval from the fire protection service provider having responsibility;
- (6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;
- (7) Provide for the safe and convenient passage of vehicles by the placement of:
 - (a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or
 - (b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length at a maximum spacing of 1/2 the driveway length or 400 feet whichever is less.

Applicant's Response: The proposed driveway will be designed, built, and maintained to support 52,000 GVW. The width of the proposed driveway will be at least 12 feet wide and will provide a minimum curve radii of greater than 48 feet. The base rock will consist of six inches of 3 inch minus and the top gravel will be 4 inches of 3/4 inch minus. We will properly maintain the driveway to have an unobstructed clearance of 13 feet and six inches and to provide for safe passage of vehicles. We will provide a turnaround as indicated on the site plan. The driveway plan has been signed off by the proper authority at our fire protection district and a permit is attached.

Staff Comment: The above standards are applicable to the proposed driveway.

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

Applicant's Response: A statement has been recorded.

Staff Comment: Evidence of the required deed restrictions has been submitted, however the "Conditions and Restrictions" form lacks the necessary Book and Page numbers as well as the Recorder's seal. Proof of recordation of the deed restriction is a condition of approval.

- D. MCC 11.15.2052 (B): Dwellings not related to forest management shall not be allowed upon the effective date of a small scale resource land program adopted pursuant to the requirements of OAR 660, Division 6 and 33.

No longer applicable. See below.

[OAR 660-06-070, Small-Scale Resource Land, Repealed by LCDC February 18, 1994.]

- E. Applicable Comprehensive Framework Plan Policies (including those Policies requiring a Finding prior to a quasi-judicial decision):

- (1) **POLICY NO. 13, AIR, WATER AND NOISE QUALITY.** MULTNOMAH COUNTY, ... SUPPORTS EFFORTS TO IMPROVE AIR AND WATER QUALITY AND TO REDUCE NOISE LEVELS. ... FURTHERMORE, IT IS THE COUNTY'S POLICY TO REQUIRE, PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION, A STATEMENT FROM THE APPROPRIATE AGENCY THAT ALL STANDARDS CAN BE MET WITH RESPECT TO AIR QUALITY, WATER QUALITY, AND NOISE LEVELS.

Applicant's Response: A single family dwelling is not a high emission source. Water quality will not be degraded by placing a dwelling on the property and there are no streams or creeks on the property. An approved site for the septic drainfield is provided and will not contaminate any streams or groundwater resources in the area.

- (2) **POLICY NO. 14, DEVELOPMENTAL LIMITATIONS.** THE COUNTY'S POLICY IS TO DIRECT DEVELOPMENT AND LAND FORM ALTERATIONS AWAY FROM AREAS WITH DEVELOPMENT LIMITATIONS EXCEPT UPON A SHOWING THAT DESIGN AND CONSTRUCTION TECHNIQUES CAN MITIGATE ANY PUBLIC HARM OR ASSOCIATED PUBLIC COST, AND MITIGATE ANY ADVERSE EFFECTS TO SURROUNDING PERSONS OR PROPERTIES. DEVELOPMENT LIMITATIONS AREAS ARE THOSE WHICH HAVE ANY OF THE FOLLOWING CHARACTERISTICS:

- A. Slopes exceeding 20%;
- B. Severe soil erosion potential;
- C. Land within the 100 year flood plain;
- D. A high seasonal water table within 0-24 inches of the surface for 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.

Applicant's Response: There is no potential for severe soil erosion. The property is not located in a slope hazard area. The property is not located in a flood plain nor does it have high water tables.

Staff Comment: Staff concurs. However, if the proposed dwelling will require the movement of over 50 cubic yards of soil, a Grading and Erosion Control Permit will be required, to control erosion potential, prior to issuance of building permits.

- (3) **POLICY NO. 22, ENERGY CONSERVATION.** THE COUNTY'S POLICY IS TO PROMOTE THE CONSERVATION OF ENERGY AND TO USE ENERGY RESOURCES IN A MORE EFFICIENT MANNER. ... THE COUNTY SHALL REQUIRE A FINDING PRIOR TO THE APPROVAL OF LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT THE FOLLOWING FACTORS HAVE BEEN CONSIDERED:

- A. THE DEVELOPMENT OF ENERGY-EFFICIENT LAND USES AND PRACTICES;
- B. INCREASED DENSITY AND INTENSITY OF DEVELOPMENT IN URBAN

- AREAS, ESPECIALLY IN PROXIMITY TO TRANSIT CORRIDORS AND EMPLOYMENT, COMMERCIAL AND RECREATIONAL CENTERS;
- C. AN ENERGY-EFFICIENT TRANSPORTATION SYSTEM LINKED WITH INCREASED MASS TRANSIT, PEDESTRIAN AND BICYCLE FACILITIES;
- D. STREET LAYOUTS, LOTTING PATTERNS AND DESIGNS THAT UTILIZE NATURAL ENVIRONMENTAL AND CLIMACTIC CONDITIONS TO ADVANTAGE.
- E. FINALLY, THE COUNTY WILL ALLOW GREATER FLEXIBILITY IN THE DEVELOPMENT AND USE OF RENEWABLE ENERGY RESOURCES.

Applicant's Response: For this proposed use there are no new streets, power lines, or energy consumptive development requirements.

Staff Comment: Outside the urban area energy efficient transportation and lotting pattern issues are not applicable.

- (4) **POLICY NO. 37, UTILITIES.** THE COUNTY'S POLICY IS TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

WATER AND DISPOSAL SYSTEM

- A. THE PROPOSED USE CAN BE CONNECTED TO A PUBLIC SEWER AND WATER SYSTEM, BOTH OF WHICH HAVE ADEQUATE CAPACITY; OR
- B. THE PROPOSED USE CAN BE CONNECTED TO A PUBLIC WATER SYSTEM, AND THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) WILL APPROVE A SUBSURFACE SEWAGE DISPOSAL SYSTEM ON THE SITE; OR
- C. THERE IS AN ADEQUATE PRIVATE WATER SYSTEM, AND THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) WILL APPROVE A SUBSURFACE SEWAGE DISPOSAL SYSTEM; OR
- D. THERE IS AN ADEQUATE PRIVATE WATER SYSTEM, AND A PUBLIC SEWER WITH ADEQUATE CAPACITY.

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.

Applicant's Response: There has been an approved site for on site septic tank and

drainfield by the sanitarian. We plan to drill a private well. The water run-off will be handled on-site. And the property is serviced by PGE and GTE.

Staff Comment: Submittal of well reports is a condition of approval and the subsurface septic system "LFS" approval letter is made part of the record.

- (5) **POLICY NO. 38, FACILITIES.** THE COUNTY'S POLICY IS TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

SCHOOL

- A. THE APPROPRIATE SCHOOL DISTRICT HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENT ON THE PROPOSAL.

FIRE PROTECTION

- B. THERE IS ADEQUATE WATER PRESSURE AND FLOW FOR FIRE FIGHTING PURPOSES; AND
C. THE APPROPRIATE FIRE DISTRICT HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENT ON THE PROPOSAL.

POLICE PROTECTION

- D. THE PROPOSAL CAN RECEIVE ADEQUATE LOCAL POLICE PROTECTION IN ACCORDANCE WITH THE STANDARDS OF THE JURISDICTION PROVIDING POLICE PROTECTION.

Applicant's Response: All of the service forms have been signed and submitted, showing adequate service levels can be provided to the dwelling.

Staff Comment: Service forms from Scappoose School District, Multnomah County RFPD #20 for fire protection, and Multnomah County Sheriffs Office have all indicated that adequate service levels can be provided to the proposed dwelling.

- (6) **POLICY NO. 40, DEVELOPMENT REQUIREMENTS.** THE COUNTY'S POLICY IS TO ENCOURAGE A CONNECTED PARK AND RECREATION SYSTEM AND TO PROVIDE FOR SMALL PRIVATE RECREATION AREAS BY REQUIRING A FINDING PRIOR TO APPROVAL OF LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

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

Applicant's Response: This should not apply to a residential dwelling. Nor is there a nearby park or recreation area.

Staff Comment: This policy is not applicable to the type and scale of development proposed.

F. Compliance with Specific Protection Measures for Primary Wildlife Habitat Areas

The following section of this staff report is required pursuant to ORS 197.625(3)(a) because Multnomah County has adopted amendments to its Comprehensive Framework Plan that have not been acknowledged by the Land Conservation and development Commission (LCDC).

In response to the LCDC's Remand Order of April 23, 1993, the Multnomah County Board of Commissioners, in September 1994, adopted the West Hills Reconciliation Report (hereafter, Reconciliation Report) which applied Goal 5 requirements to specific scenic, stream, wildlife and mineral resources in the West Hills. The Reconciliation Report is an unacknowledged amendment to the Multnomah County Comprehensive Framework Plan.

The subject site is designated a significant Goal 5 wildlife habitat area for the reasons set out in the Reconciliation Report, pages V-3 through V-16. Conflicts with the proposed use, and the Goal 5 analysis showing how conflicts are to be resolved to comply with Goal 5 are detailed in the Reconciliation Report, pages V-18 through V-51. Except for findings showing how the proposal protects Goal 5 resources, which are set forth below, the findings of significance and Goal 5 analysis in the Reconciliation Report, together with the included relevant maps and tables, are hereby adopted by this reference.

Specific measures to protect primary wildlife habitat areas in the West Hills are detailed on page VI-25 of the Reconciliation Report. These measures are applicable to this proposal and are discussed below.

- (1) Where a parcel to be developed contains both primary and secondary, or primary and impacted wildlife habitat areas, development activities should be limited to the secondary or impacted areas to the maximum extent possible.

Applicant's Response: According to the West Hills Reconciliation Report the subject parcel consists of primary wildlife habitat although all of the adjoining parcels have houses, outbuildings and some have fences. We feel that the site that has been chosen for the house will have the least impact on the wildlife habitat for the following reasons:

Due to the natural configuration of the property we must site the dwelling closer to the property line in order not to disturb the ground with a lot of excavation and tree cutting which complies with MCC .2074(a)(3), and as mentioned in the West Hills Reconciliation Report is within the recommended 300 feet as not to impede on any passing wildlife, and in order for us not to place the house on too great of a slope which would be greater than 40% due to the fact that if we were to site the dwelling 200 feet from the side yard we would be over 40% slope. The proposed site is only 15% slope. For example if we were to place the house at least 60 feet from the center of Skyline Blvd. and at least 200

feet from all property lines, (which cannot be done due to the dimensions of the house and the distance from the house to the property lines is less than 200') it would be greater than a 40 % slope for which we would not be able to obtain a driveway permit because the maximum slope for a driveway is 12%, or an excavation permit without being in a slope hazard area and having to backfill property with an enormous amount of dirt. Which in turn would disturb the earth and deviate from the natural effect and appeal of the land and cause us to use more forest land than necessary which would be a noncompliance with MCC .2074(a)(3) and would adversely effect the wildlife on the ground. Another example would be to place the house 60 feet off Rocky Point Road. This is not possible due to the slope being 40% to 60% and due to the City of Portland denying a septic permit on that side of the property again due to the slope. Also along with siting the house closer to the property line, which is within the recommended 300 feet according to the West Hills Reconciliation Report, the driveway is also closer to the property line instead in the middle or cutting diagonally through the property and impeding the passage of any animals, if any due to the fact that the area is clustered with houses and outbuildings. Also, according to the West Hills Reconciliation Report Rocky Point Road and Skyline Blvd. are considered barriers to migrating animals and there is "plenty of room to 'jog' westward to forested areas to avoid the rural developments" which proves that in the proposed area we are less likely to impede on the wildlife habitat because of the roads and development that is in the area. Our property is located at the heavily trafficked intersection of Skyline and Rocky Point Road and it is unlikely that the animals would pass through our land to migrate to the adjoining lands across those roads, which are occupied by residences and are fenced, or vice versa. Also, as stated in the report, the 'edge effect' (parcels along the roadways that are developed) in our area is very common and has already impacted the area on all adjoining and surrounding properties.

Staff Comment: The parcel lies wholly within the primary wildlife habitat area.

- (2) Fencing should be prohibited along roadways, thus reducing barriers to wildlife movement. Design standards for fences outside of the "cultivated" area discussed below should be adopted which ensure that fences do not block passage for a wide range of wildlife species.

Applicant's Response: We do not plan to construct any fences in order not to impede on the passing of any migrating animals, if any.

Staff Comment: No fencing has been proposed for the subject property. However, any future fencing of the property will be required to conform to this standard. As a condition of approval, fencing will be prohibited within 60 feet from the centerline of a county maintained roadway to prevent developing a barrier to wildlife movement. This requirement is in conformance with standards established under MCC 11.15.6426.

- (3) The "cultivated" area (i.e., lawns and gardens) of residential lots in the primary habitat areas should be limited to one acre (consistent with fire safety standards), leaving the remaining land in the parcel in native vegetation, to be altered only in conjunction with approved forest management practices. The

cultivated area should be designed to minimize the edge effect along roads.

Applicant's Response: We only plan to use about 3% of the subject property for siting the dwelling which is less than the recommended 1 acre. Any gardening or excavation will not be elaborate and will not include any of the nuisance plants listed in MCC 11.15.6426(B)(4).

Staff Comment: The applicants state that they will use approximately 3% of the site area for the dwelling. This represents approximately 6100 square feet. To ensure that this proposal meets the criteria, as a condition of approval the proposed residence and cultivated area will be limited to an area no greater than one acre and the remaining land on the parcel will be required to be left in native vegetation unless altered in conjunction with an approved forest management plan.

(4) Similarly, the cleared area for community service and conditional uses should be limited to the minimum size necessary for the use, and should under no circumstances exceed two acres (consistent with fire safety standards).

Applicant's Response: Similarly, the cleared area will be of the minimum amount required for the development. We also plan to add vegetation native to the area on the rest of the already forested land.

Staff Comment: The proposed residence is a conditional use but will comply with the more stringent standards for residential lots, as per #3, above.

(5) Certain introduced vegetation should be prohibited (e.g., English Ivy, Vinca, and other invasive species), even in cultivated areas.

Applicant's Response: See (C).

Staff Comment: Application materials do not specify specific landscaping materials. In order to meet the criteria, as a condition of approval, introduction of invasive vegetation species will be prohibited.

(6) Erosion control standards should be adopted where there will be prolonged exposure of soils, or excavation, associated with residential development.

Applicant's Response: We will comply with all erosion control criteria and obtain any necessary permits as required.

Staff Comment: Grading, cutting or filling is not proposed under this application. In order to meet this criteria, as a condition of approval, the proposed residence and driveway will be required to demonstrate compliance with MCC 11.15.6700-.6735, Hillside Development and Erosion Control, prior to the issuance/approval of any building permit.

(7) Development along significant streams should be regulated as proposed in the

discussion of streams.

Applicant's Response: There are no streams within the subject parcel.

Staff Comment: The proposed residence is not located in the vicinity of a stream.

In addition to the resource protection measures on page VI-25 of the Reconciliation Report, the Report finds additional standards in the Significant Environmental Concern (SEC) overlay zone for wildlife protection will protect the Goal 5 wildlife habitat areas. While the SEC overlay zone designation was not made applicable to the subject site at the time of Conditional Use permit application, the code standards and criteria for the SEC overlay zone provide adequate guidelines to determine compliance with the Goal 5 requirements. Discussion of how the proposal meets these guidelines follows.

MCC 11.15.6426, Criteria for Approval of SEC-h Permit - Wildlife Habitat

(A) In addition to the information required by MCC .6408(C), and application for development in an area designated SEC-h shall include an area map showing all properties which are adjacent to the proposed development with the following information:

(1) Location of the primary, secondary, and impacted wildlife habitat areas as per the adopted reference map within the Multnomah County Comprehensive Plan;

Applicant's Response: The subject property is located in the primary wildlife habitat in the Wildwood/Mckay area. A map of the adjoining areas will be available at the time of the hearing showing the location of houses, fences and cleared and forested areas.

Staff Comment: A map depicting these features has been submitted by the applicants. See SEC-h Map 1.

(2) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas;

Applicant's Response: A map of the forested area of the subject property is attached (see file). The area was cleared prior to the purchase of the property to provide septic approval from the City of portland. This is the only area that septic was approved for because the rest of the property consists of slopes greater than 30%, which is too steep for a drainfield, according to the Bureau of Buildings septic codes.

Staff Comment: A map depicting these features has been submitted by the applicants. See SEC-h Map 2.

(3) Location of existing structures;

Applicant's Response: There are no existing structures on the subject property. All of the surrounding and adjoining properties have outbuildings on them.

Staff Comment: A map depicting these features has been submitted by the applicants. See SEC-h Map 2.

(4) Location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;

Applicant's Response: A site plan is included with this application as well as an are map showing all roads both public and private, driveways existing and proposed.

Staff Comment: A map depicting these features has been submitted by the applicants. See SEC-h Map 3.

(5) Proposed type and location of all fencing on the subject property.

Applicant's Response: We do not plan to fence any of the land. We do not feel it is necessary and it might impede on the passage of any wildlife traveling through the property, if any because of the fact that the are is clustered with residences, barns and fences.

Staff Comment: A map depicting these features has been submitted by the applicants. See SEC-h Map4.

(B) Approval shall be based on the ability of the proposal to meet the following standards:

(1) Where a parcel to be developed contains any combination of primary, secondary, and impacted wildlife habitat areas, development activities shall be limited to the less valuable of the wildlife habitat areas, except as necessary to provide access.

Applicant's Response: We feel that we have situated the house in an area of the parcel to be least likely to have a negative impact on the wildlife. We feel that it is close enough to the edge of th property so as to provide more area of passage as opposed to being right in the middle of the property where it would be more in the way of wildlife, if any, passing through the property. The immediate area is so populated by residences, both on adjoining and surrounding properties that building a single family dwelling on 4.66 acres (the smallest of the adjoining impacted parcels) it would have the least, if any, adverse effect on migrating wildlife, if any. Also this site is the least valuable of the wildlife habitat area due to it being at the heavily trafficked intersection of Skyline and Rocky Point Road, which are considered barriers to migrating animals according to the West Hills Reconciliation Report. So, it is unlikely that there is any migrating animals through our property going across the roads or to the already developed adjoining lands.

Staff Comment: The parcel lies wholly within the primary wildlife habitat area.

- (2) The proposed development shall be located so as to maintain existing forested areas which are broadly contiguous with forested areas or areas being reforested on adjacent properties.

Applicant's Response: The house is sited in the only unforested area of the land. The rest of the land is completely forested. There are currently no adjoining parcels being reforested, although there are adjoining and surrounding parcels that are either partially or completely cleared with no plans to reforest according to the property owners. A map will be provided at the hearing showing all land uses on adjoining lands. Also, according to the West hills Reconciliation Report, we are in one of the areas that might have the least impact if conflicting uses are allowed. The most potentially harmful areas are 7-10 miles to the south in the Cornelius Pass/McNamee areas. We are in the Wildwood/Mckay area on the west side of the crest of the West Hills.

Staff Comment: The size of the parcel, location of roads and level of development surrounding this parcel make application of this criteria questionable. The siting constraints (slope, etc.) of the parcel make siting of the dwelling in an idealized location near the roadway difficult. The applicant's proposal sites the dwelling on a cleared portion of the site that will leave over four acres of wooded/vegetated area remaining on site. This remaining wooded/forested area is broadly contiguous to other forested/wooded areas on adjoining parcels.

- (3) The proposed development shall satisfy either (a) or (b) below:

(a) Development location and fencing standards: *NOTE: ordinance standards (i) through (v) specify siting and development standards - the applicant has chosen to address (b) rather than (a);*

(b) Wildlife Conservation Plan: The applicant shall prepare a wildlife conservation plan for the proposed development which shall demonstrate that the proposed development has either:

- (i) Fully mitigated any adverse impacts to wildlife habitat on the site, or
(ii) Provided for wildlife enhancement measures which compensate for the loss of any wildlife habitat values on the site.

NOTE: the applicant has chosen to address (i) rather than (ii).

Applicant's Response: We plan to comply with all policies related to dwelling in a CFU zone. We also feel that the site that has been chosen for the house is the best site due to the natural configuration of the property we must site the dwelling closer to the property line in order not to disturb the ground with a lot of excava-

tion and tree cutting which complies with MCC .2074(a)(3), and as mentioned in the West Hills Reconciliation Report is within the recommended 300 feet as to not impede on any passing wildlife, and in order for us not to place the house on too great of a slope which would be greater than 40% due to the fact that if we were to site the dwelling 200 feet from the side yard we would be over 40% slope. For example, if we were to place the house at least 60 feet from the center of Skyline Blvd. and at least 200 feet from all property lines, (which cannot be done due to the dimensions of the house and the distance from the house to the property lines is less than 200') it would be greater than a 40% slope for which we would not be able to obtain a driveway permit because the maximum slope for a driveway is 12%, or an excavation permit without being in a slope hazard area and having to backfill the property with an enormous amount of dirt. Which in turn would disturb the earth and deviate from the natural effect and appeal of the land and cause us to use more forest land than necessary which would be a non-compliance with MCC .2074(a)(3) and would adversely effect wildlife on the ground which in turn would go against the recommendations of the West Hills Reconciliation Report. Another example would be to place the house 60 feet off Rocky Point Road. This is not possible due to the slope being 40% to 60% and due to the City of Portland denying a septic permit on that side of the property again due to the slope. Also along with siting the house closer to the property line, which is within the recommended 300 feet according to the West Hills Reconciliation Report, the driveway is also closer to the property line instead in the middle or cutting diagonally through the property and impeding the passage of any animals, if any due to the fact that the area is clustered with houses and out-buildings. Also, according to the West Hills Reconciliation Report Rocky Point Road and Skyline Blvd. are considered barriers to migrating animals and there is "plenty of room to 'jog' westward to forested areas to avoid the rural developments" which proves that in the proposed area we are less likely to impede on the wildlife habitat because of the roads and development that is in the area. Our property is located at the heavily trafficked intersection of Skyline and Rocky Point Road and it is unlikely that the animals would pass through our land to migrate to the adjoining lands across those roads, which are occupied by residences and are fenced, or vice versa. Also, as stated in the report, the 'edge effect' in our area is very common and has already impacted the area on all adjoining and surrounding properties.

We realize that there will be vegetation removal, although it should be minimal due to the site already being cleared, the proposed site is the least dense and needs the least excavation. In exchange for the small amount of clearing we plan to enhance the rest of the property by planting more trees and shrubs native to the area in the already completely forested remainder of the property. We only plan to use 3% of the property for our house which is less than the recommended 1 acre and with this in mind you can see that the land will be kept as natural and undisturbed as possible. We propose no fences, elaborate landscaping unnatural to the area so as to have the least environmental impact, major excavation, or any other use that is not already permitted. In fact what we are proposing we are 'working with the land' so to say, by siting the house in the most feasible area that

complies with all the ordinances and recommendations and in turn the land is kept as natural and undisturbed as possible.

Staff Comment: The Wildlife Conservation Plan option is an alternative to compliance with Multnomah County SEC-h approval criteria sections

11.15.6426(B)(3)(a)(i) through (v) which describe development location and fencing standards. If a development can meet the aforementioned standards, a wildlife conservation plan is not required. The proposed development meets, or is capable of meeting through conditions of approval, all of the criteria listed in .6426(B)(3)(a) except for subsection (i) which requires that development be located within 200 feet of any public road abutting a site. Therefore, the impact to wildlife habitat which must be mitigated is the impacts of siting the house 250 feet south of Rocky Point Road (an additional 50 feet) and 268 feet west of Sky-line Boulevard (an additional 68 feet). The impacts to wildlife habitat of this location compared to a location that meets the siting criteria is unknown. However, to mitigate the adverse impacts to wildlife habitat on the site as created by the siting location chosen for this dwelling, the applicant has proposed to use less than the allowed area (approximately 6,100 square feet compared to the one acre maximum) in developing their dwelling and have proposed enhancing the on-site vegetation to mitigate any impacts to wildlife habitat.

Staff recommends that in order to mitigate any adverse impacts to wildlife habitat created by this siting choice, as a condition of approval, the applicant shall: 1) be required to limit the developed area of the parcel, excluding access, to less than one acre; 2) be required to reforest any cleared areas on the parcel out side of the one acre "cultivated" area, including an existing "cat trail" used for dwelling-site clearing and the "ravine" along adjoining roadways ; and 3) be required to comply with the fencing standards listed in MCC 11.15.6426(B)(3).

G. Conclusions for Conditional Use Request

- (1) The proposal complies with the template test requirement of 11 other lots and 5 houses, that existed on January 1, 1993, being located within a 160 acre square centered on the center of the subject property.
- (2) The proposed dwelling will not have an adverse effect on farm or forest operations on the property or in the surrounding area.
- (3) The proposed dwelling location and fire safety area minimize risks associated with wildfire.
- (4) The applicant has provided adequate evidence to show that the requirements for a dwelling not related to forest management in the CFU district can be met.
- (5) Impacts to wildlife habitat on-site can be mitigated by applying conditions.
- (6) Conditions are necessary to assure compliance with all code requirements.

4. VARIANCE ORDINANCE CONSIDERATIONS, FINDINGS, AND CONCLUSIONS:

A. Ordinance Considerations and Findings of Fact

Variance Approval Criteria MCC 11.15.8505(A):

The Approval Authority may permit and authorize a variance from the requirements of this Chapter only when there are practical difficulties in the application of the Chapter. A Major Variance shall be granted only when all of the following criteria are met.

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

Applicant's Response: The subject property is restricted to 200 foot setbacks which the adjoining and surrounding properties with houses are not restricted to. Also due to the natural configuration of the property we must site the dwelling closer to the property line in order not to disturb the ground with a lot of excavation and tree cutting which complies with MCC .2074(a)(3), and in order for us not to place the house on too great of a slope which would be greater than 40% due to the fact that if we were to site the dwelling 200 feet from the side yard we would be over 40% slope. The proposed site is only 15% slope. For example, if we were to place the house at least 60 feet from the center of Skyline Blvd. and at least 200 feet from all property lines, (which cannot be done due to the dimensions of the house and the distance from the house to the property lines is less than 200 feet) it would be greater than a 40% slope for which we would not be able to obtain a driveway permit because the maximum slope for a driveway is 12%, or an excavation permit without being in a slope hazard area and having to backfill the property with an enormous amount of dirt. Which in turn would disturb the earth and deviate from the natural effect and appeal of the land and cause us to use more forest land than necessary which would be a noncompliance with MCC .2074(a)(3). Another example would be to place the house 60 feet off Rocky Point Road. This is not possible due to the slope being 40%-60% and due to the City of Portland denying a septic permit on that side of the property again due to the slope.

Staff Comment: The subject property is irregular in shape, with relatively short property line dimensions of approximately 300 to 600 feet in length. Areas along the street side frontages are typified by severe slopes in excess of 30%. Due to the large (200') side and rear yard setback requirements of the CFU zone, and the 60 foot minimum front yard setback requirement, the area for siting a dwelling that complies with the setbacks is severely constrained. Sites that would meet setbacks are located in areas with slopes estimated at 30% to 40%. These sites would require excessive

amounts of grading and filling. It is also questionable whether driveway requirements could be met while complying with the setbacks of the CFU zone.

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

Applicant's Response: Because this zoning requirement was created in 1993 and all of the existing dwellings were created prior to that, then this does restrict us to a greater degree. And due to the physical limitations of the property we are unable to meet the requirement of the 200 foot setback on the side yard. Which all of the houses on the adjoining properties are not restricted to nor do they have that distance of setback between their houses and the property lines.

Staff Comment: At 4.66 acres, this site is significantly smaller than the 80 acres required of new parcels in the CFU zone. This lot is also smaller than all of the existing lots that adjoin it. Lot dimensions on the subject site are also proportionally smaller. The setback requirements of the CFU zone restrict this property to a greater degree than others in the zone by severely constraining potential building sites.

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

Applicant's Response: We have spoken to the owners of the adjoining property to which we intend to site the house closer on many occasions and they have not expressed any concerns, in fact they have signed the Property Owner Consent of Variance Request form. Also the property is not forested in the immediate area so the proposal would not impede nor impact any of their practices. We have also recorded the necessary document with the County of Multnomah stating that we will not impede the rights of any land owners and their forest practices. As for adversely affecting the development of adjoining properties, the adjoining properties are already developed.

Staff Comment: Staff concurs. Granting a variance to the side yard setback will not harm the public welfare nor will it be injurious to properties in the vicinity or adversely affect development of adjoining properties. Properties adjacent to the subject site have already been developed.

- (4) **The granting of the variance will not adversely affect the realization of the Comprehensive Plan nor will it establish a use which is not listed in the underlying zone.**

Applicant's Response: No use is being permitted that is not allowed either outright or through a conditional use permit. And due to the natural features of the property, the existing code does allow a variance. The variance will not adversely affect the realization of the Comprehensive Plan since all applicable Plan Policies and County

Code Standards will be satisfied.

Staff Comment: Staff concurs. Granting a variance will not adversely affect the realization of the Comprehensive Plan nor will it establish a use not listed in the CFU zone. A dwelling is allowed in the CFU zone under certain conditions.

Additional Applicant Comment: There is a small valley that runs north parallel to Skyline Blvd. half way up the property line which consists of slopes of greater than 30% then turns runs west through the property basically cutting it in half. The property line that runs along Rocky Point Road slopes into the property also with greater than 30%, which has been denied for a septic drainfield. This leaves us with one site on the property with the least amount of slope and the most amount of space to accommodate the septic and drainfield. The site is sort of a knoll in the land. And the site lets us accommodate the dwelling without significantly changing the natural characteristics of the land and the trees and complies with MCC .2074(a)(3). To be able to build the house it has to be placed no more than 100 feet away from the south side property line because the house has to be the required distance away from the drainfield and the drainfield has to slope away from the house and the well with no greater slope than 30% and according to the Bureau of Buildings this is where the septic and drainfield must be.

B. Conclusions for Side Yard Setback Variances Request:

- (1) The approval criteria for a major variance to the side yard setback are satisfied.

The Staff Report and recommendation on Conditional Use application CU 5-95; HV 11-95 will be presented at a public hearing on July 19, 1995 before the Hearings Officer.

The Hearings Officer MAY announce a decision on the item:

- at the close of the hearing; or,
- upon continuance to a time certain; or,
- after the close of the record following the hearing.

A written decision is usually mailed to all parties within ten days following the Decision of the Hearings Officer.

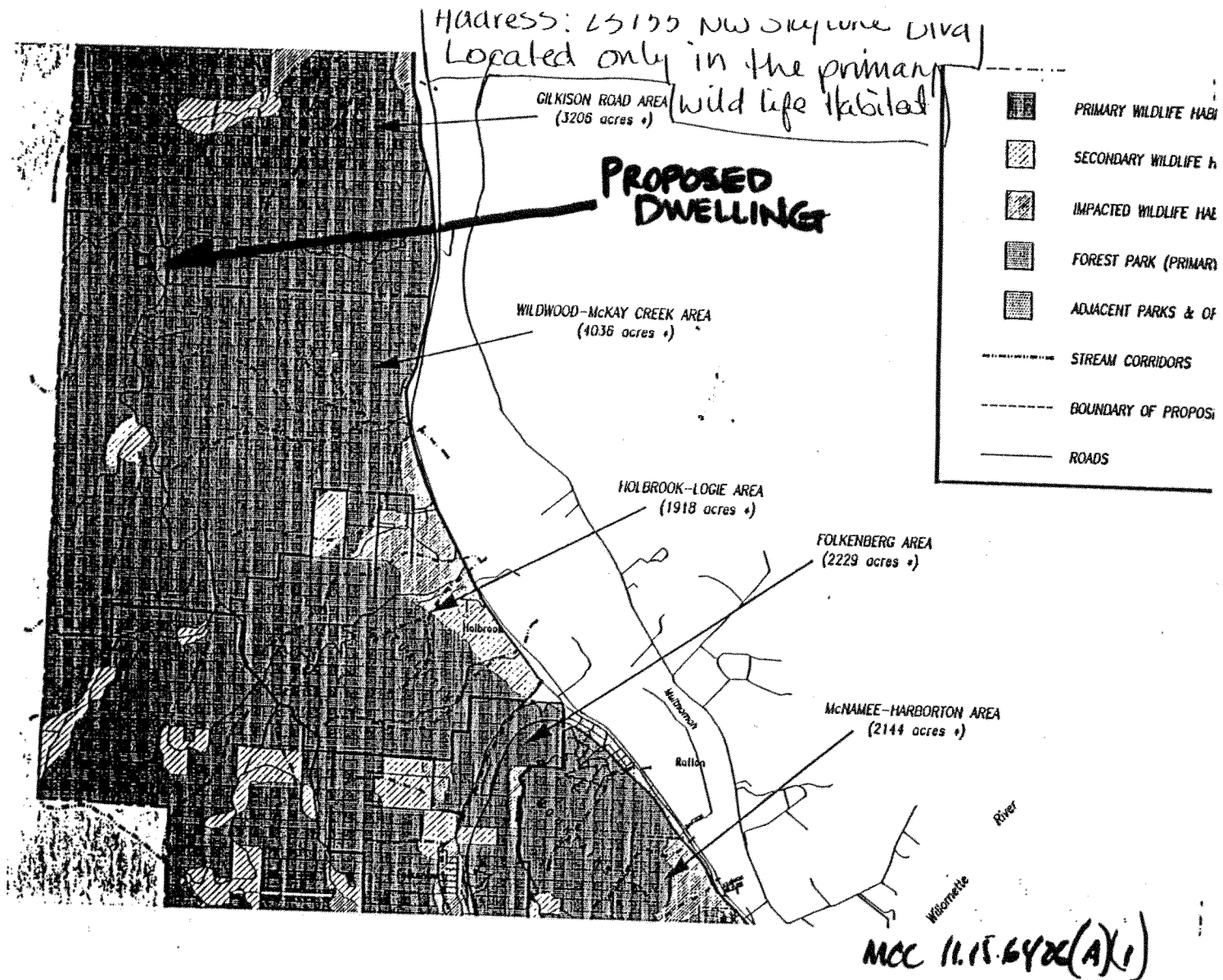
Decisions of the Hearings Officer may be appealed to the Board of County Commissioners (Board) by any person or organization who appears and testifies at the hearing, or by those who submit written testimony to the record. A "Notice of Appeal" form and fee must be submitted to the County Planning Director, 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 \$500.00 plus a \$3.50-per-minute charge for a transcript of the initial hearing(s) [REF. MCC 11.15.9020(B)]. "Notice of Appeal" 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

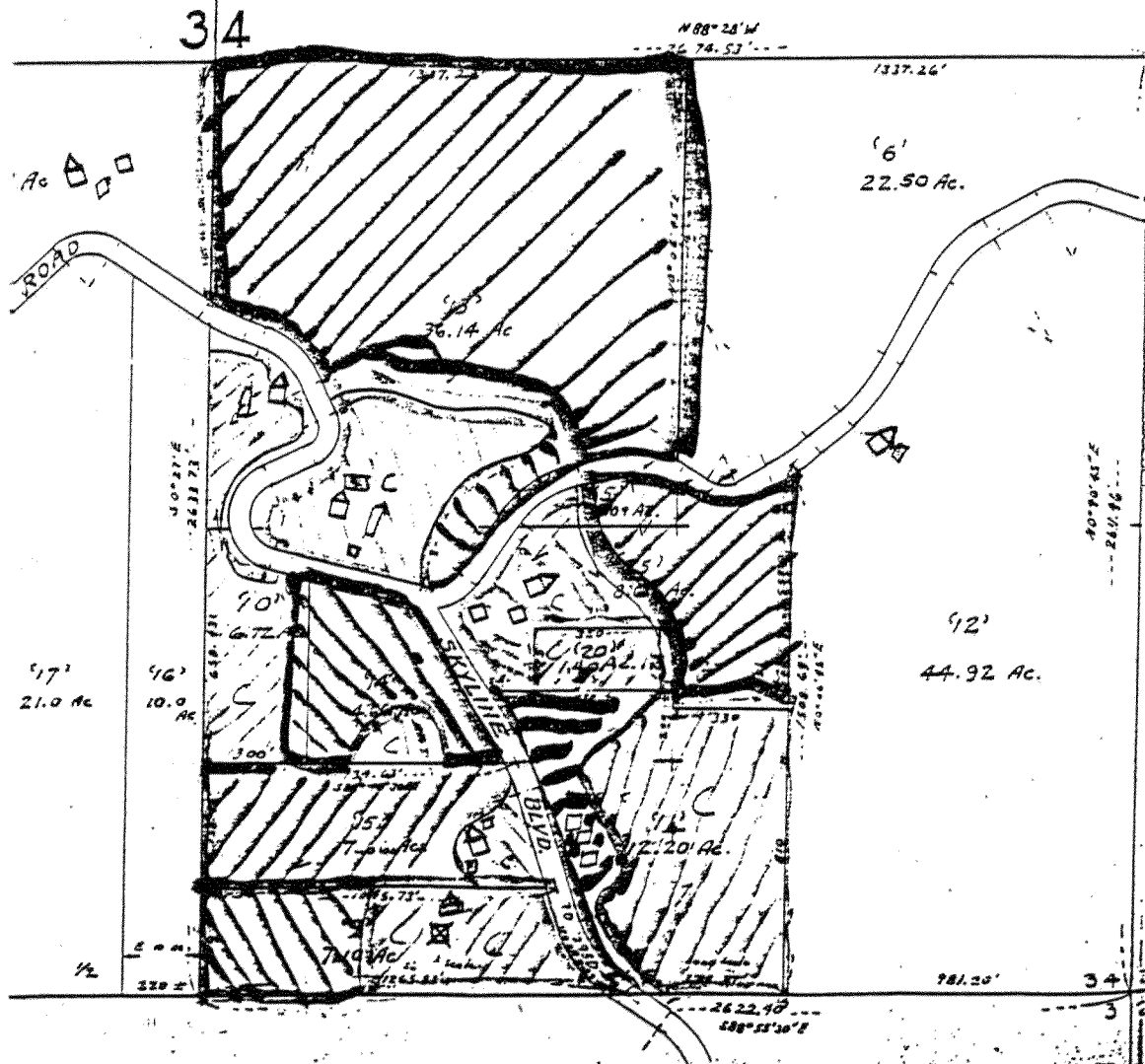
Hearings Officer decisions are typically reported to the Board for review on the first Tuesday following the ten day appeal period. The Board meets at 1:30 p.m. in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development Division at 248-3043.

SEC-H MAP 1



160 A^c MCC 11.15.6426(A)(2)(3)

Forested
forestland 
Cleared
forestland 
all existing
structures
 OUTBUILDINGS
 DWELLINGS



SEC-H MAP 2

MCC 11.15.6422(a)

160 Ac.

width
12 ft.

Proposed Driveways



Driveways-existing



Public Roads-existing

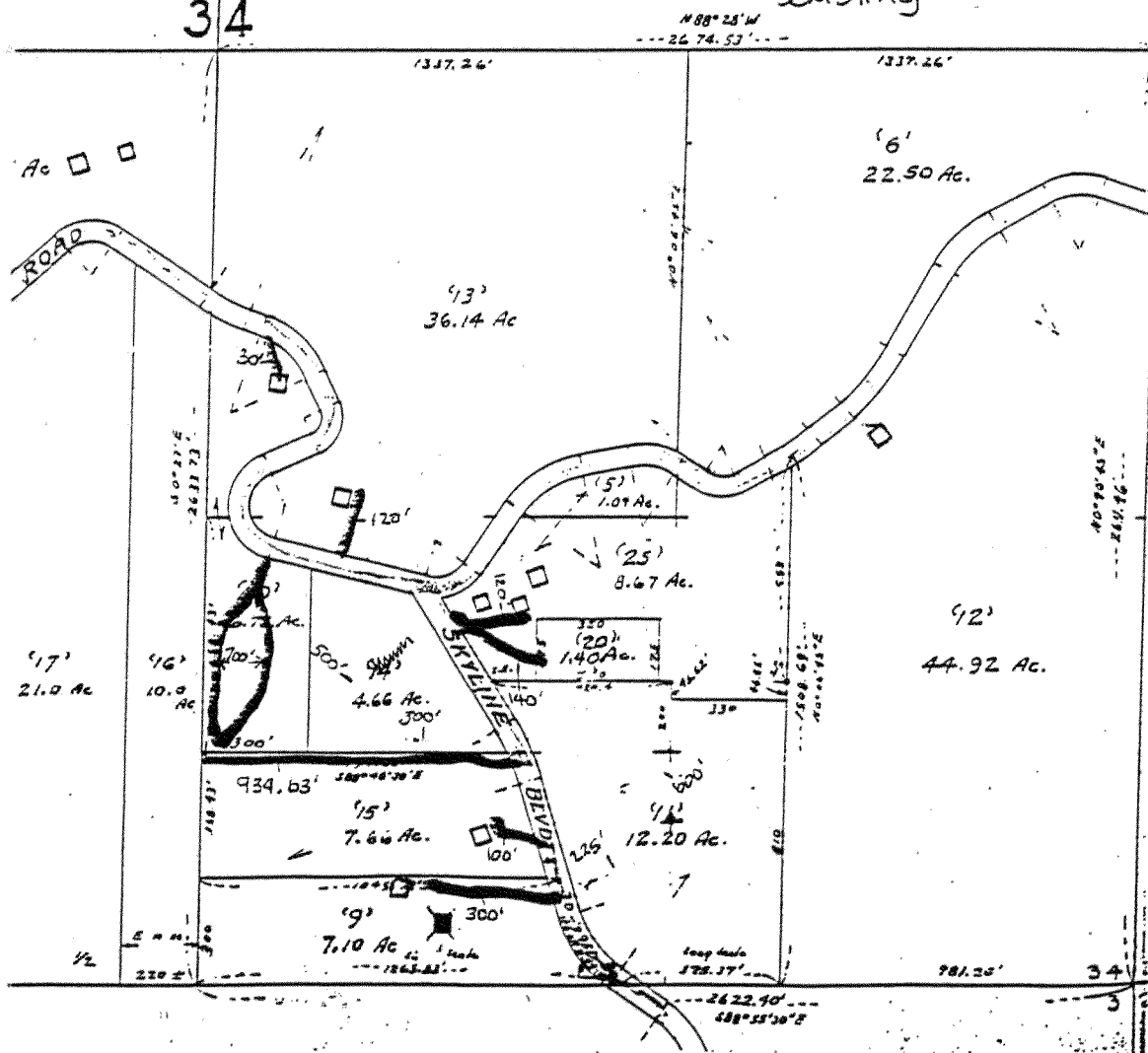


Private Access Roads-existing

width
10 ft.

Service corridors-existing

34



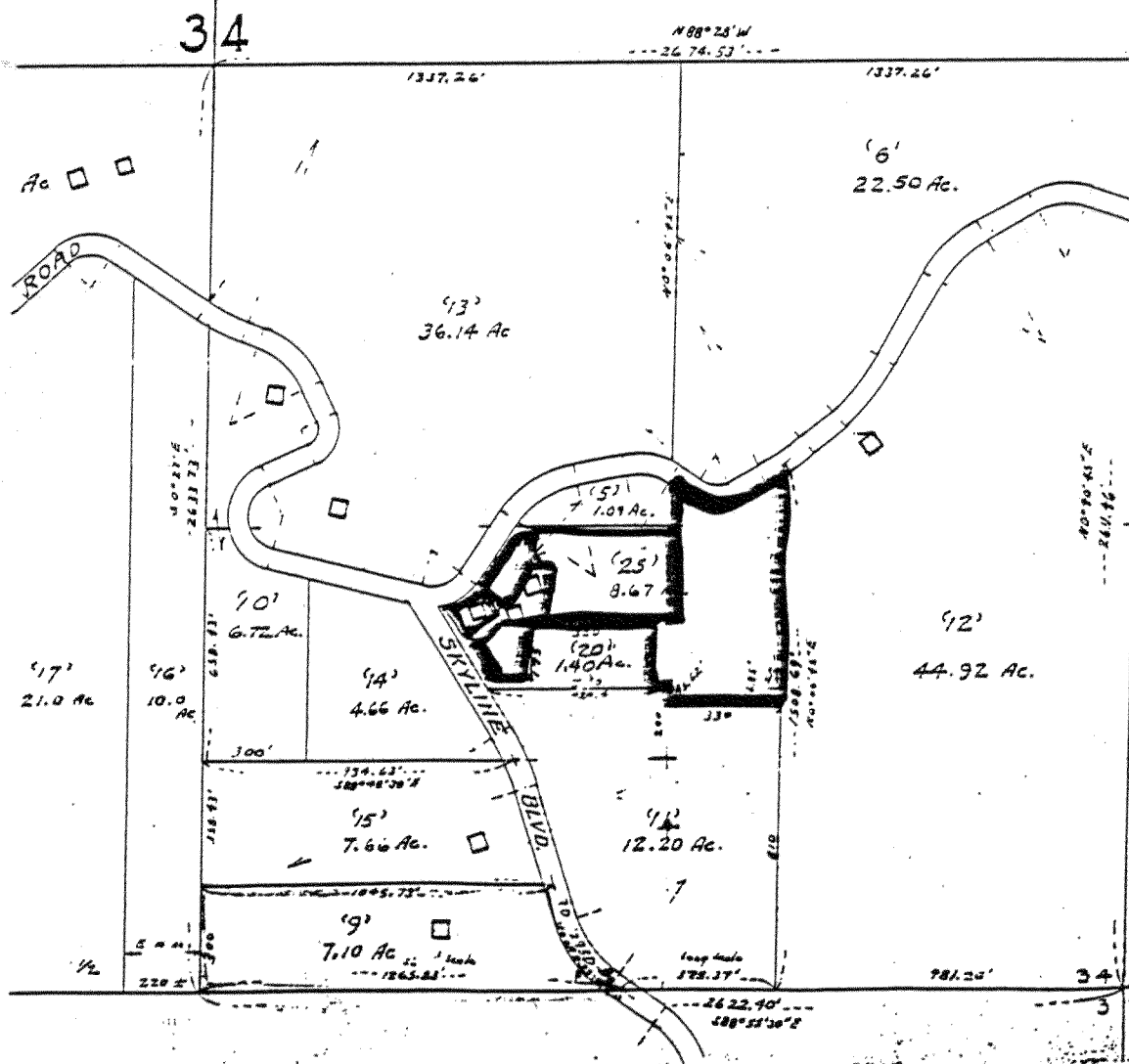
SEC-H MAP 3

160 Ac.

11.15.6126(A)(5)

- Existing Barbed + Electric Fencing
- Existing wood fence
- Existing gated + Barbed wire Fencing

note: NO proposed or existing fencing on subject parcel (Lot 14)



SEC-H MAP 4

Submitted 10/10/95

PAUL NORR
ATTORNEY AND COUNSELOR AT LAW
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October 10, 1995

Board of County Commissioners
Multnomah County
1020 SW Fifth Avenue
Portland, OR 97205

**Re: Appeal of Hearings Officer Decision in Planning Case
No. CU 5-95/HV 11-95 (Burger Property)**

Dear Board of County Commissioners,

I represent the appellant, Carol Winner, in this matter. I do not represent any of the other objecting neighbors. This letter is submitted into the record in the above referenced matter.

The purpose of this letter is to address a few of the appeal issues raised by Ms. Winner.

I. THE HEARINGS OFFICER ERRED IN SUBSTITUTING CONDITIONS OF APPROVAL FOR REQUIRED FINDINGS.

State law and the County code require that the applicant (the Burgers) demonstrate with adequate facts in the record that all of the applicable approval criteria are met before any approval can be given. The County must make the required findings before the approval is given, and may not justify an approval by attaching conditions which will require the applicant bring in the necessary evidence after the approval is given.

The Hearings Officer failed to make the required findings, and there is not appropriate evidence in the record to support such findings, regarding:

A. THE FINDINGS REQUIRED BY MCC 11.15.2074 (EVIDENCE REQUIRED FOR FIRE SAFETY ZONES AND DOMESTIC WATER SUPPLY):

1. FINDINGS OF COMPLIANCE WITH THE DEVELOPMENT STANDARDS OF .2074 ARE REQUIRED BEFORE APPROVAL.

MCC 11.15.2052 and .2074 combine to require, prior to approval, that adequate findings based on evidence in the record be made with regard to the required primary and secondary fire safety zones and the required domestic water supply.

While typically the development standards of 11.15.2074 may not come into play until the time an applicant applies for building permits, MCC 11.15.2052(A)(9) creates an exception by requiring that compliance with the development standards be proven prior to an approval of a dwelling not related to forest management.

MCC 11.15.2052 states:

"11.15.2052 Dwelling Not Related to Forest Management

(A) A dwelling not related to forest management may be allowed subject to the following:

...

(9) The dwelling meets the applicable development standards of MCC .2074."

Therefore, proof of compliance with 11.15.2074 cannot be postponed with a condition of approval. For a non-forest management related dwelling, compliance with the development standards must be demonstrated prior to the conditional use approval.

Rather than make the required findings based on evidence in the record, the Hearing Officer attached as conditions of approval Conditions 3 and 4:

"3. Prior to issuance of a building permit for the dwelling, applicant shall supply a copy of a well report demonstrating that a domestic supply is available on the property, that complies with the provisions of MCC 11.15.2074(C).

4. Prior to the issuance of a building permit, applicant shall establish primary and secondary fire safety zones around the proposed site of the structure...."

The Hearings Officer erred by substituting conditions of approval for the required findings.

**2. THE REQUIRED FIRE SAFETY ZONES
FINDINGS CANNOT BE MADE.**

The significance of the requirement that the evidence be presented and the findings made prior to approval is pointed out in this case by the fact that the required primary and secondary fire safety zones cannot be provided with the proposed site plan.

MCC 11.15.2074(5)(b) requires both a primary zone of 50 feet on the 15% slope where the dwelling is proposed, plus a secondary zone of 100 feet. The applicant proposes to locate the dwelling 100 feet from the property line, and has requested a side yard variance to reduce the side yard setback from 200 feet to 100 feet. The required combined 150 foot primary and secondary fire safety zones ($50 + 100 = 150$) cannot be provided when the dwelling is located only 100 feet from the property line.

No variance to the fire safety zone requirements has been requested. No such variance can be approved.

**3. THE REQUIRED WATER SUPPLY FINDINGS
CANNOT BE MADE.**

Regarding the water supply, the Hearings Officer acknowledges that although the applicant proposes to drill a well, "There is no evidence in the record from any water authority or engineer regarding the extent of an underground aquifer." (See Hearings Officer Decision, page 22). There is also no evidence that the source of the proposed water supply qualifies as an appropriate source. The required findings cannot be made.

**B. THE FINDINGS REQUIRED BY COMPREHENSIVE PLAN POLICY 13
(AIR, WATER AND NOISE QUALITY):**

Plan Policy 13 requires, prior to approval of a quasi-judicial action, a statement from the appropriate agency that all standards can be met with respect to water quality. The Hearings Officer acknowledges that a confirming statement is required by Policy 13 (See Hearings Officer Decision, page 23), and that none was provided.

The Hearings Officer erred in attempting to avoid the pre-approval requirement by attaching a condition of approval.

**C. THE FINDINGS REQUIRED BY COMPREHENSIVE PLAN POLICY 37
(UTILITIES):**

Plan Policy 37(C) requires, prior to approval of this quasi-judicial action, that "There is an adequate private water system...". The Hearings Officer acknowledges that there is no evidence in the record from any water authority or engineer regarding the extent of an underground aquifer (See Hearings Officer Decision, page 22).

The Hearings Officer erred in attempting to avoid this pre-approval requirement by attaching a condition of approval.

**D. THE FINDINGS REQUIRED BY COMPREHENSIVE PLAN POLICY 38
(FACILITIES):**

Plan Policy 37(C) requires, prior to approval of this quasi-judicial action; that "There is adequate water pressure and flow for fire fighting purposes...". The Hearings Officer relies on the application form submitted by the applicant, which was signed by a representative of RFPD No. 20 on September 28, 1993. This information, which refers to the availability of fire engines at that time, and which simply states that pressure "varies" and that the volume in gallons per minute "varies", is out of date and insufficient to support the required findings.

The Hearings Officer erred in attempting to avoid this pre-approval requirement by attaching a condition of approval.

**II. THE HEARINGS OFFICER ERRED IN APPROVING THE SIDE YARD
SETBACK VARIANCE.**

The Hearings Officer's decision contradicts itself, by finding under MCC 11.15.8505(A)(2) that "Most of the adjoining parcels have structures which are not built to the 200 foot setback standards", while also finding under .8505(A)(1) that "...there are circumstances applying to the site which do not generally apply to other property in the same area". (See Hearings Officer Decision, page 21).

Also, there is no evidence in the record to support the Hearings Officer's finding that the slopes of this property, which the Hearings Officer uses to justify the variance, are any

Board of County Commissioners
October 10, 1995
page 5

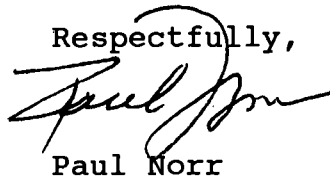
(Re: CU 5-95/HV 11-95)

different from other properties in the same vicinity or district. To the contrary, the Board should take notice of the fact that the topography of the Skyline Blvd. vicinity is generally one of rolling hills and steep slopes.

III. SUMMARY

For each of the above reasons, the Hearings Officer's decision should be reversed and the conditional use application for a non-forest management related dwelling and the accompanying variance should be denied.

Respectfully,

A handwritten signature in black ink, appearing to read "Paul Norr", written over the typed name.

Paul Norr

PN/2
c: Carole Winner

January 7, 1993.

- (2) The building permit must continue to be kept valid under the permit regulations of the applicable government issuer until completion of the dwelling.
- (3) Pursuant to the provisions and requirements of ORS 215.428, application for a "residential use, not in conjunction with a primary use" referenced above will be accepted until January 7, 1993.

[Amended and Renumbered 1992, Ord. 743 § 2]

11.15.2074 Development Standards for Dwellings and Structures

Except as provided for the replacement or restoration of dwellings under MCC .2048(E) and .2049 (B), all dwellings and structures located in the CFU district after January 7, 1993 shall comply with the following:

- (A) The dwelling or structure shall be located such that:
 - (1) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the minimum yard and setback requirements of .2058(C) through (G);
 - (2) Forest operations and accepted farming practices will not be curtailed or impeded;
 - (3) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;
 - (4) Any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and
 - (5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:
 - (a) Access for a pumping fire truck to within 15 feet of any perennial water source on the lot. The access shall meet the driveway

standards of MCC .2074(D) with permanent signs posted along the access route to indicate the location of the emergency water source;

- (b) Maintenance of a primary and a secondary fire safety zone.

- (i) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.

- (ii) On lands with 10 percent or greater slope the primary fire safety zone shall be extended down the slope from a dwelling or structure as follows:

Percent Slope	Distance In Feet
Less than 10	Not required
Less than 20	50
Less than 25	75
Less than 40	100

- (iii) A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with plan-

ning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection District.

- (iv) No requirement in (i), (ii), or (iii) above may restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules; and

- (c) The building site must have a slope less than 40 percent.

(B) The dwelling shall:

- (1) Comply with the standards of the Uniform Building Code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;
- (2) Be attached to a foundation for which a building permit has been obtained; and
- (3) Have a minimum floor area of 600 square feet.

- (C) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class II stream as defined in the Forest Practices Rules. If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.

- (D) A private road (including approved easements) accessing two or more dwellings, or a driveway accessing a single dwelling, shall be designed, built, and maintained to:

- (1) Support a minimum gross vehicle weight (GVW) of 52,000 lbs. Written verification of compliance with the

52,000 lb. GVW standard from an Oregon Professional Engineer shall be provided for all bridges or culverts;

- (2) Provide an all-weather surface of at least 20 feet in width for a private road and 12 feet in width for a driveway;
- (3) Provide minimum curve radii of 48 feet or greater;
- (4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;
- (5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments, except as provided below:

- (a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades exceeding 6 percent;

- (b) The maximum grade may be exceeded upon written approval from the fire protection service provider having responsibility;

- (6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;

- (7) Provide for the safe and convenient passage of vehicles by the placement of:

- (a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or

- (b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length at a maximum spacing of 1/2 the driveway length or 400 feet whichever is less.

[Amended and Renumbered 1992, Ord. 743 § 2]

POLICY 13: AIR, WATER AND NOISE QUALITY

MULTNOMAH COUNTY, RECOGNIZING THAT THE HEALTH, SAFETY, WELFARE, AND QUALITY OF LIFE OF ITS CITIZENS MAY BE ADVERSELY AFFECTED BY AIR, WATER AND NOISE POLLUTION, SUPPORTS EFFORTS TO IMPROVE AIR AND WATER QUALITY AND TO REDUCE NOISE LEVELS. THEREFORE, IT IS MULTNOMAH COUNTY'S POLICY TO:

- A. COOPERATE WITH PRIVATE CITIZENS, BUSINESSES, UTILITIES AND PUBLIC AGENCIES TO MAINTAIN AND IMPROVE THE QUALITY OF AIR AND WATER, AND TO REDUCE NOISE POLLUTION IN MULTNOMAH COUNTY.
- B. SUPPORT AND PARTICIPATE IN THE IMPLEMENTATION OF STATE AND REGIONAL PLANS AND PROGRAMS TO REDUCE POLLUTION LEVELS.
- C. MAINTAIN HEALTHFUL AIR QUALITY LEVELS IN THE REGIONAL AIRSHED; TO MAINTAIN HEALTHFUL GROUND AND SURFACE WATER RESOURCES; AND TO PREVENT OR REDUCE EXCESSIVE SOUND LEVELS WHILE BALANCING SOCIAL AND ECONOMIC NEEDS IN MULTNOMAH COUNTY.
- D. DISCOURAGE THE DEVELOPMENT OF NOISE-SENSITIVE USES IN AREAS OF HIGH NOISE IMPACT.

FURTHERMORE, IT IS THE COUNTY'S POLICY TO REQUIRE, PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION, A STATEMENT FROM THE APPROPRIATE AGENCY THAT ALL STANDARDS CAN BE MET WITH RESPECT TO AIR QUALITY, WATER QUALITY, AND NOISE LEVELS. IF THE PROPOSAL IS A NOISE SENSITIVE USE AND IS LOCATED IN A NOISE IMPACTED AREA, OR IF THE PROPOSED USE IS A NOISE GENERATOR, THE FOLLOWING SHALL BE INCORPORATED INTO THE SITE PLAN:

- 1. BUILDING PLACEMENT ON THE SITE IN AN AREA HAVING MINIMAL NOISE LEVEL DISRUPTIONS,
- 2. LANDSCAPING OR OTHER TECHNIQUES TO LESSEN NOISE GENERATION TO LEVELS COMPATIBLE WITH SURROUNDING LAND USES.
- 3. INSULATION OR OTHER CONSTRUCTION TECHNIQUES TO LOWER INTERIOR NOISE LEVELS IN NOISE-IMPACTED AREAS.

POLICY 36: TRANSPORTATION SYSTEM DEVELOPMENT REQUIREMENTS

THE COUNTY'S POLICY IS TO INCREASE THE EFFICIENCY AND AESTHETIC QUALITY OF THE TRAFFICWAYS AND PUBLIC TRANSPORTATION BY REQUIRING:

- A. THE DEDICATION OF ADDITIONAL RIGHT-OF-WAY APPROPRIATE TO THE FUNCTIONAL CLASSIFICATION OF THE STREET GIVEN IN POLICY 34 AND CHAPTER 11.60.
- B. THE NUMBER OF INGRESS AND EGRESS POINTS BE CONSOLIDATED THROUGH JOINT USE AGREEMENTS,
- C. VEHICULAR AND TRUCK OFF-STREET PARKING AND LOADING AREAS,
- D. OFF-STREET BUS LOADING AREAS AND SHELTERS FOR RIDERS,
- E. STREET TREES TO BE PLANTED,
- F. A PEDESTRIAN CIRCULATION SYSTEM AS GIVEN IN THE SIDEWALK PROVISIONS, CHAPTER 11.60,
- G. IMPLEMENTATION OF THE BICYCLE CORRIDOR CAPITAL IMPROVEMENTS PROGRAM,
- H. BICYCLE PARKING FACILITIES AT BICYCLE AND PUBLIC TRANSPORTATION SECTIONS IN NEW COMMERCIAL, INDUSTRIAL AND BUSINESS DEVELOPMENTS, AND
- I. NEW STREETS IMPROVED TO COUNTY STANDARDS IN UNINCORPORATED COUNTY MAY BE DESIGNATED PUBLIC ACCESS ROADS AND MAINTAINED BY THE COUNTY UNTIL ANNEXED INTO A CITY, AS STATED IN ORDINANCE 313.

POLICY 37: UTILITIES

THE COUNTY'S POLICY IS TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

WATER AND DISPOSAL SYSTEM

- A. THE PROPOSED USE CAN BE CONNECTED TO A PUBLIC SEWER AND WATER SYSTEM, BOTH OF WHICH HAVE ADEQUATE CAPACITY; OR
- B. THE PROPOSED USE CAN BE CONNECTED TO A PUBLIC WATER SYSTEM, AND THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) WILL APPROVE A SUBSURFACE SEWAGE DISPOSAL SYSTEM ON THE SITE; OR
- C. THERE IS AN ADEQUATE PRIVATE WATER SYSTEM, AND THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) WILL APPROVE A SUBSURFACE SEWAGE DISPOSAL SYSTEM; OR

- D. THERE IS AN ADEQUATE PRIVATE WATER SYSTEM, AND A PUBLIC SEWER WITH ADEQUATE CAPACITY.

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.

POLICY 38: FACILITIES

THE COUNTY'S POLICY IS TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

SCHOOL

- A. THE APPROPRIATE SCHOOL DISTRICT HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENT ON THE PROPOSAL.

FIRE PROTECTION

- B. THERE IS ADEQUATE WATER PRESSURE AND FLOW FOR FIRE FIGHTING PURPOSES; AND
- C. THE APPROPRIATE FIRE DISTRICT HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENTS ON THE PROPOSAL.

POLICE PROTECTION

- D. THE PROPOSAL CAN RECEIVE ADEQUATE LOCAL POLICE PROTECTION IN ACCORDANCE WITH THE STANDARDS OF THE JURISDICTION PROVIDING POLICE PROTECTION.

Excerpts from:

Submitted 10/10/95
CAROLE A. WINDER

TESTIMONY OF H.G. SCHLICKER

REVIEW OF WILDWOOD LANDFILL SITE

(Aug 5, 1982)

INTRODUCTION

Part I is the Summary and Recommendations. Part II presents a discussion of the geology and the results of our field inspection of the proposed Wildwood Landfill site. Part III is a review of Volumes 1 and 3 of the *Wildwood Sanitary Landfill Feasibility Study* prepared by CH2M Hill Northwest Inc. Part IV is a review of the Foundation Sciences, Inc. letter reports dated January 8, 1982 and June 1, 1982. Part V is a review of Exhibits, and Part VI is Conclusions.

PART I

SUMMARY AND RECOMMENDATIONS

The geology is the most important aspect of a landfill site. The presence of certain geologic conditions could seriously impair or rule out the use of a site for use as a sanitary landfill. Therefore, the geology of a site must be thoroughly understood before a meaningful conceptual design for operation of a landfill can be made.

In the case of Wildwood, the available geologic information is not adequate to make a decision. Geologic models presented in volumes 1 and 3 include (1) a series of small shallow coalescing landslides, and (2) a large moderately deep translational landslide, and claim a nearly impermeable Scappoose Formation. A conceptual plan designed for the worst of these two types of landslides is presumed to be adequate for all eventualities.

Our interpretation of the site presents a third concept, that the landslide is a large slump type landslide more than 200

feet in depth near the head of the slide in the area of the proposed landfill. This type of landslide is consistent with the topography of the Wildwood area, and other typical landslides along the Columbia River.

I recommend that the configuration of this landslide be determined by detailed field mapping and properly located test borings of sufficient depth to accurately locate the major slip plane. With this information the feasibility of removing landslide debris to expose the undisturbed Scappoose Formation as proposed in Volume 3 can be determined. It is also imperative that faults, if present, be located and the extent of displacement of the Scappoose beds and the presence of fault gouge and breccia be considered relative to permeability and slope stability.

Because the 165 acres chosen for the landfill is in an area where the slide mass could easily average 70 yards deep, about 60 million cubic yards of slide debris could be present. Even if it is only 35 yards deep 30 million cubic yards of debris must be removed.

The economics of the site relative to geology is a major concern; however, environmental concerns are no less important. If 210 feet or even 105 feet of debris is to be excavated at or near the headscarp of a large slump, the face overlooking the landfill would be high, excessively steep and highly unstable. To correct this condition another 700,000 cubic yards of material would likely need to be removed above the landfill area in presently unacquired land.

Groundwater would also be a problem at the depth of the landfill. Any artesian flow or springs beneath a membrane liner

placed at the base of a landfill would create problems as reported in a memo concerning Snohomish County Landfill from Starr Dehn of CH2M Hill, 18 February 1982. Exhibit A-56, Metro Application.

Regional mapping of the Scappoose Formation shows that it contains highly permeable beds. Such materials are readily observable within the landslide mass. All of the landslide material must be excavated to expose in place Scappoose Formation so that the permeable zones can be observed and treated. Failure to install or keep a leachate barrier membrane intact could allow leachate contamination of the groundwater. The conceptual plan for the worst possible condition must consider these possible conditions. CH2M Hill's plan does not.

PART II

GEOLOGIC INVESTIGATION OF THE WILDWOOD SITE

The site is located northwest of Portland, Oregon in Sections 1 and 2, T. 2 N., R. 1 W., between Rocky Point Road and Logie Trail and west of Highway U.S. 30 (see Map Plate 1). The majority of the property is owned by Publisher's Paper Company.

The site was visited on February 3, 1982 in the company of Walter Wright, Frank Fujitani, and Maurice Veatch, all employees of Shannon and Wilson, Engineers. The purpose of the visit was to observe geology and site conditions for use in reviewing documents prepared by CH2M Hill and Foundation Sciences and to make certain judgments concerning the site use for a landfill.

The Scappoose is overlain by the Columbia River basalt. Most outcrops of Scappoose including the proposed Wildwood Landfill Site are actually a landslide complex, and therefore are not in place. The topography of the exposed Scappoose is characterized by multiple scarps and the steplike levels that are the tops of tilted landslide blocks.

The log of an oil well drilled in the Tualatin Mountains in the NW 1/4 SE 1/4 sec. 23, T. 1 N., R. 1 W., shows about 1,200 feet of Scappoose below Columbia River basalt.

Although the Scappoose formation is composed primarily of fossiliferous tuffaceous shale and sandstone, it locally contains a few conglomeratic lenses of granule and pea-size gravel. The formation has been deeply weathered. Most exposures are either the yellowish-gray clayey weathered shale or sandstone. Fresh rock is light olive-gray or medium brown and is well indurated. The beds locally contain carbonized or silicified wood fragments. Most exposures appear to be poorly bedded because weathering has destroyed much of the structural features. The dip measurements were considered meaningless because of disorientation from landsliding.

Most of the Scappoose is tuffaceous containing grains of Feldspar, quartz, and mica, the predominant mineral constituents. Tuffaceous shale layers and abundant medium and coarse grained clean, friable sandstone beds are present in the Wildwood landslide.

The tuffaceous content of the formation weathers to clay. Most exposures of fine grained material are moderately soft and greasy when dry, and slippery when wet. The tuffaceous

material along Dixie Mountain Road has been altered to bentonite that swells to several times its initial volume when wet. These features result in highly unstable slopes of which most have already failed.

The base of the Scappoose formation rests disconformably on the underlying Pittsburg Bluff formation not exposed in this area. The Scappoose formation is overlain unconformably by the Columbia River basalt. The upper surface of the Scappoose formation was folded and deeply eroded prior to the deposition of the basalt.

Columbia River Basalt Group

The lava flows of the Columbia River basalt stratigraphically overlie the Scappoose Formation. The Columbia River basalt in this region is part of the vast flood of middle Tertiary basalt that extends from Idaho to the Pacific Ocean and covers wide areas in southeastern Washington and northeastern Oregon.

The Columbia River basalt west of the Willamette and Columbia Rivers is present in much of the Tualatin Mountains. It rests unconformably on the eroded surface of the Scappoose Formation. Locally, it had an original thickness of about 1,000 feet; however, much of the Columbia River basalt has been removed by erosion.

The basalt is best exposed in hilly or mountainous areas where it is hard and resistant and forms prominent ridges and steep-walled canyons. In many places where erosion has exposed the underlying marine Scappoose formation, the basalt has been involved in massive landslides.

is not feasible to compact the stockpile material because it will be removed later when used for cover. However, if the material is not stored with some degree of compaction, it will be very susceptible to saturation by heavy rainfall and become highly unstable. Experience has shown that this type of soil is nearly impossible to dry, given the site and climatic conditions. The resulting high moisture content of this stockpile material would make it impossible to compact properly for use as landfill cover. Although there are plans for keeping a 7-day supply of covered material available, it may not be practical considering the quantities that are involved. The time it would take to reduce moisture in the stockpile by air drying would often be much longer than 7 days, except possibly in the short dry season.

Landslide Configuration

The dimensions of the landslide are reasonably shown on the geologic map contained in the report. The major difference in our map and CH2M's are that an area in the northern part of the map shown by CH2M Hill to be stable is actually part of the landslide mass. Also, several blocks of basalt in the landslide mass were mistakenly considered by them to be in place.

The CH2M Hill report contains a major misconception concerning the landslide because it considers the slide area to be a number of small, shallow landslides. Actually, the slide area is a slump type landslide the lower part of which has been modified to a debris slide by flowage towards the toe. Smaller secondary slides have occurred around the steep margins of the original slide. This interpretation could place the slip plane

200 feet or more below the surface, instead of only 40 feet or more in places, as the CH2M report indicates.

Leachate Control

The production of leachate from the landfill is estimated to be 650 gpm during the wetter months of the year. The CH2M Hill report does not state the winter hourly or daily runoff peaks. The leachate is proposed to be captured by a cutoff trench in which the leachate flows along the contact between the landslide and the "in place" Scappoose formation on the top of the impermeable slip plane soil. The leachate is then proposed to be collected and pumped from a cutoff trench. An effective trench will need to be at least 100 feet deep or more. If the slip plane were not everywhere impermeable as supposed, the leachate from the landfill could pass through it and enter permeable layers in the Scappoose formation which could then transmit the leachate around the landfill into the Lacustrine sands or alluvium, contaminating ground water in the Sauvie Island area and along the east slope of the Tualatin Mountains.

Boring Logs

A small amount of the material from the borings was tested by CH2M Hill for permeability, grain size, and engineering characteristics. Several of the logs showed silty non-plastic sand at depths of 95 feet or so and again at 110 feet, and oxidized permeable tan sandstone at about 40 feet depth. One boring showed 10 to 20 feet of wet gravel and sand overlying weathered basalt. The basalt has to be a misplaced block of Columbia River Basalt.

VOLUME III - REVISED WILDWOOD LANDFILL

FEASIBILITY STUDY MAY 1982

As a result of objections by Foundation Sciences regarding the landslide mechanism and the conceptual plan relative to slope stability, a new plan was presented in Volume III. The geology presented in Volume III is unchanged from Volume I except that the translational landslide is acknowledged as a possibility. I propose that neither the multiple nor translation landslide mechanism is correct.

Volume III presents a new conceptual plan designed to mitigate slope stability and leachate collecting problems not solved by the plan presented in Volume I.

This revised plan proposes that it is possible to excavate all of the landslide material to expose the undisturbed Scappoose Formation. If permeable zones are present, they can be treated.

The landslide is a deep slump type landslide and the slide debris may well be greater than 200 feet deep at the landfill site. The Volume III plan will not work if it is. Only after adequate exploration has been accomplished will the site conditions be known and an operational plan be designed -- providing it is economically feasible.

The description of the geology in the report is inadequate and would be barely acceptable to be used for a legend on a generalized map. The geologic history as presented is of academic interest only. No mention is made of the Pleistocene and recent geologic history which would relate to a proper interpretation of the landslide. The report interprets Trimble's

description as a series of coalescing landslides. Trimble's description better fits a large slump-type landslide which we believe is the case.

CH2M Hill's geologists also state that they were unable to find a continuous slide plane through the slide mass. We do not doubt that they were unable to find a continuous slide plane because, with this type of slide, the major slide plane could be and probably is 200 to 300 feet deep in places, with the individual large rotational slump blocks separated by subsidiary slide planes. X

CH2M Hill geologists report that no bulbous toe of the landslide is present; therefore, the large translational slide (or slump type slide) is not present. This is an erroneous interpretation based on an inadequate interpretation of the geologic history and geomorphology of the Columbia River area. The toe of this landslide is probably buried by later sedimentation.

PART IV

REVIEW OF FOUNDATION SCIENCES INC. (FSI) REPORT

The report reviewing the CH2M Hill study by Dr. Kienle of FSI reports a number of CH2M Hill's observations to be seriously open to questions and a number of the conclusions to be inconsistent with the findings.

FSI Findings Listed

The following is a list of the deficiencies or differences of opinion concerning the landfill site.

Leachate Mitigation

The success of either a leachate cutoff or a well system depends upon the virtual impermeability of the Scappoose Formation and upon the engineering system not being disrupted by slope failures in or uphill of a system. The available data does not establish the virtual impermeability of the Scappoose Formation. In fact, the Scappoose Formation cannot be impermeable because of the abundance of relatively clean sands found in the Scappoose Formation observed within the landslide. The landslide slope is presently unsafe. The disrupting features of the landfill operation will likely cause renewed slope movement.

Recommendations by FSI to do additional work are:

1. Map in detail the geology of the site and surrounding area.
2. Sample and test the clay in the slide slip plane.
3. Drill and continuously sample two pairs of holes which penetrate 100 feet into the undisturbed Scappoose Formation.
4. Check permeability by making cross-hole flow tests between 2 pairs of drill holes.
5. Install piezometers to monitor seasonal fluctuations in groundwater elevation.
6. Using new information, make a stability analysis of the slide mass.
7. Model the groundwater flow qualitatively using new informational data from nearby wells if owners will cooperate.

of the landslide material and the Scappoose Formation could allow leachate to contaminate groundwater reserves.

The type of a slide found at the site has a configuration that is not compatible for the landfill conceptual plan as presented, and there may be no reasonable solution for the following reasons:

1. The base of the slide may well be more than 200 feet deep at the head.
2. Excavation of all the slide material as proposed would leave a face 200 feet or more in height which would be susceptible to slope failure.
3. The area of sliding extends to or almost to the crest of the slope and possibly past the north end of the landfill site.
4. Proposed cuts and the stream diversion channel at the northwest edge of the proposed landfill are in landslide material and may well cause slope failure.

For these reasons, the studies and plans before this hearing are grossly inadequate to determine the feasibility of this site as a landfill. I doubt that this site is feasible from an economic and geologic viewpoint, but that can only be determined after adequate studies are performed on the site and a plan formulated to conform to those studies.

Yes, you can make a difference! Yes, we need your help!

For six long years and through four (count 'em, four) court battles, West Hills and Island Neighbors (WHI) has been battling the Metropolitan Service District and Multnomah County to preserve the Wildwood site as a Class II forest area and not the second largest garbage dump west of the Mississippi.

Metro with pig-headed, single-minded determination refused to consider any other site. And now DEQ is exhibiting the same tunnel vision. We are again dealing with an unresponsive bureaucracy.

We need your help to steer DEQ away from Wildwood. Metro spent \$700,000 of taxpayers' money to be told by the courts that Wildwood was not an appropriate site. Yet we are No. 3 on DEQ's list!

The evaluation/selection process this time will be lightning fast. Legal recourse will be limited. If DEQ picks Wildwood, there will be only one appeal before the bulldozers move onto the site.

WHAT WILL HAPPEN IF DEQ SELECTS WILDWOOD?

- * An estimated 700,000 tons of garbage per year for years to come will be transported to Wildwood.
- * Scenic Highway 30 will be clogged with hundreds of garbage trucks and sewer sludge trucks daily.
- * The drinking water for families in the West Hills, Sauvie Island, Scappoose, St. Helens, Columbia City and beyond-- is in danger of contamination.
- * Polluted water (leachate) will in time seep into Multnomah Channel and poison the fish (including migrating salmon).
- * Garbage attracts sea gulls, starlings and rats. Unlike an industrial site, Wildwood offers excellent hiding places for these pests. Gulls carry parasites and are predators - the duck population on Sauvie Island will be reduced.
- * The wildlife refuge on Sauvie Island, not to mention the eagles that hunt on the dump site, will be threatened.
- * Property values will plummet.
- * The damage of an earthquake (Wildwood is on an earthfault) will be much worse if the hillslide is disturbed.

What can you do? Send Money: WHI, PO Box 03237, Portland, 97203

Come to the DEQ Open House - Wednesday, February 4
6-9 p.m. - Scappoose High School

CONTENTS

"...the relative impermeability of the Scappoose Formation would become the only reliable barrier to off-site migration of the leachate."

--Foundation Sciences, Inc., 1982

- A comparison between:

Those Who Believe
the Scappoose Bowl
Is Impermeable:

("Magic Bowl" Theory)

CH2M Hill

-AND-

Those Who Do Not:

1. C.F. Kienle, Senior Geologist, Foundation Sciences, Inc., 1982
2. Balsillie and Benson, PSU, 1971.
3. Mult. Co. Dept. of Environmental Serv study of Hazards in West Hills, 1974
4. Wright and Veatch testimony (for Shannon and Wilson)
5. Ewart Baldwin, U. of O.
6. M.J. Setvin, P.E.
7. H.G. Schlicker (formerly with Ore. Dept. of Geology and Minerals)
8. Steve Wille, Hydrologist
9. Warren and Norbistrath (who named the Scappoose Formation)
10. R.J. Deacon, consulting geologist
11. N.H. Tuelker, Consulting Soils Engineer, Seattle
12. Soil Conservation Service survey, 1983
13. LCDC state-wide plan
14. Prof. John Eliot Allen, PSU

Believes in the Magic Bowl:

"...all quantities of leachate...can be collected on top of the virtually impermeable 'Scappoose Formation.'"

-- CH2M Hill, Information Update:
Five Potential Sanitary Landfill
Sites, Feb. 1981

Believe the Scappoose Formation Is Permeable:

(In some cases, the experts quoted have presented evidence of the still active landslide upon which Wildwood rests. It seems impossible for any thinking individual to believe CH2M Hill's preposterous theory that the Scappoose Bowl, resting on unstable sandstone and shale, is unbroken and in one piece after centuries of earthquake and landslide movement.)

If the Bowl's cracked, so is CH2M Hill's theory.

1. "Index properties...from the shear zone exposed at the toe of the slide south of the landfill site also indicate a residual shear strength between 5 degrees and 10 degrees in good agreement with the strength suggested by the slope data. These data suggest to us that removal of significant amounts of material from the slide has a high potential for causing large-scale slope failure. Even if the site is developed without major cuts and/or fills, clearer understanding of slope stability will still be required to guide conceptual design of the fill. The potential for changes in groundwater pore pressures beneath the possible slide plane and changes in slide mass from landfill development also need to be evaluated."

-- (emphasis added) from letter to Larry Epstein of Mult. Co. Dept. of Environmental Services from C.F. Kienle, Senior Geologist, Foundation Science's "Review of Geotechnical Elements of Wildwood Landfill Feasibility Study by CH2M Hill," p. 6 (1/08/82).

"Elimination of the subsurface hill and a more precise rendering of the headscarp area combine to yield a profile which appears to be a large translational landslide, as opposed to the interpretation given in the [CH2M Hill] Feasibility Study."

-- Ibid., p. 4

Believe the Scappoose Formation Is Permeable:

"GEOHYDROLOGY

"The major significance of the inferred potential for large slope instability is that it could preclude construction and maintenance of an engineered leachate collection system. In that case, the shape and relative impermeability of the Scappoose Formation would become the only reliable barrier to off-site migration of the leachate. ... Thus, even if the Scappoose is "virtually impermeable," as stated by CH2M Hill, a much longer cut-off would be required to collect leachate, possibly 3,000 ft in length. In places, this cutoff would need to be more than 100 ft deep."

-- (emphasis added) Ibid., p. 7.

"Success of either a leachate, cutoff or a well system depends upon the 'virtual impermeability' of the Scappoose Formation and upon the engineered system not being disrupted by large slope failures uphill of the system. In our opinion, available data do not establish the 'virtual impermeability' of the Scappoose. ... all in situ tests showed values ... far from 'virtually impermeable.' ... Reports of pea gravels in the field logs and observation of relatively clean sands in the Scappoose Formation in other areas highlight the necessity for evaluation of the magnitude and distribution of permeabilities within the Scappoose Formation beneath the site."

-- (emphasis added) Ibid., p. 7.

"CONCLUSIONS AND RECOMMENDATIONS

"The available data suggest to us that a large translational slide mass of unknown stability may underlie the proposed site. Careful evaluation of this interpretation is, in our opinion, necessary before a feasible design for development of the site can be formulated. Available groundwater and permeability data do not appear adequate to establish that the Scappoose Formation is 'virtually impermeable' and can be relied upon to provide an adequate barrier to off-site migration of leachate."

---(emphasis added) Ibid., p. 8.

Believe the Scappoose Formation Is Permeable:

2. "Of the 240 earthquakes felt in Oregon between 1841 and 1958, 51 were reported in the Portland area (Berg and Baker, 1963). Although this proportion may reflect population distribution in part, Portland is certainly among the more seismic areas in the state. In the last few years about one shock has been felt in the Portland area per year.

-- "Evidence for the Portland Hills Fault," by J.H. Balsillie and G.T. Benson, Dept. of Earth Sciences, PSU, The Ore Bin, Vol. 33, No. 6, June 1971.

3. "LANDSLIDE AND SLOPE INSTABILITY

"The geology of the Hills makes slope instability a major problem.

"...water saturates the overlying silt deposits during the winter rainy period. Where saturation occurs in areas that have slopes steeper than 15 to 20 percent, mud flows and slumps may result. These conditions are particularly serious where the basalt bedrock is dipping downslope and gravitational pull is acting upon the overlying wet mass of silt.

"... Where these rocks dip steeply downslope, topographic evidence of past landslide movement and localized slope instability is of widespread occurrence.

"Careful engineering and environmental analysis ought to precede any proposed development of the hill lands.

"EARTHQUAKE

"Geologists infer a geological fault line along Multnomah Channel, parallel to the base of the Hills. Structures should be carefully engineered near this potential earthquake hazard, and extra care should be taken in evaluating development on nearby hills."

-- (emphasis added) From "Sauvie Island and West Hills Comprehensive Planning Project." "Hazards: Areas potentially dangerous to human life and property," Sept. 1, 1974. Agency: Mult. Co. Dept. of Environmental Services. Consultant: Environmental Study Group, Skidmore, Owings and Merrill.

Believe the Scappoose Formation Is Permeable:

4. "The Scappoose Formation contains thick, permeable sandstone beds."

-- Wright and Veatch testimony (for Shannon and Wilson Inc.).

5. "The Scappoose Formation contains loosely consolidated, medium-grained sandstone, and in places it is pebbly, crossbedded, and carbonaceous."

-- Geology of Oregon by Ewart Baldwin, U of O, p. 45.

6. "Siting on steep slopes in an area with a wet climate is unprecedented and area drainage will add substantial cost."

-- "Comments to Draft Report," M.J. Setvin, P.E., p. 1.

"The area is in a landslide location and again without radical and costly measures will be untenable. If the site is excavated to the Scappoose, cuts of 150 ft. high or more will exist in several locations. These will be subject to landslides, from the saturated earth.... Should a major slide occur, it would render a large portion of the fill useless.... ...without constant attention and sophisticated methods, neither of which is common to such operations [ed. note: especially not with Metro in charge], accidents will occur where even loss of life without warning is a distinct possibility. Drilling drain holes in cut slopes as they are opened will add substantial site maintenance costs."

-- (emphasis added) Ibid., pp. 1-2.

"The Scappoose may have permeable inclusions or broken zones through which leachate could migrate rapidly downstream to the Channel."

"The Wildwood Site would be highly inefficient energywise with transfer station operations and the long-haul distances. The built-in super operating cost escalation is unwarranted and should be considered in cost comparisons."

-- Ibid., p.2

Believe the Scappoose Formation Is Permeable:

7. "Regional mapping of the Scappoose Formation shows that it contains highly permeable beds. Such materials are readily observable within the landslide mass."

-- Testimony of H.G. Schlicker, Aug. 5, 1982, p. 3. Mr. Schlicker, an expert geologist and (more importantly when we are dealing with Metro/CH₂M Hill/DEQ) a man of unquestioned integrity, formerly with the Oregon Dept. of Geology and Minerals.

"The tuffaceous material along Dixie Mountain Road has been altered to bentonite that swells to several times its initial volume when wet. These features result in highly unstable slopes of which most have already failed."

-- (emphasis added) Ibid., p. 7.

"The major areas of Scappoose mapped in the vicinity are involved in massive landslides. ...the site itself is a large slump-debris landslide."

-- (emphasis added) Ibid., p. 9.

"The success of either a leachate cutoff or a well system depends on the virtual impermeability of the Scappoose Formation and upon the engineering system not being disrupted by slope failures in or uphill of a system. The available data does not establish the virtual impermeability of the Scappoose Formation. In fact, the Scappoose Formation cannot be impermeable because of the abundance of relatively clean sands ... within the landslide. The landslide slope is presently unsafe. The disrupting features of the landfill operation will likely cause renewed slope movement."

-- Ibid., p. 19.

"The Wildwood Landfill landslide, we believe, occurred as a result of river cutting and oversteepening. ... This type of slide will adjust periodically for many years. The presence of curved trees indicates that some movement has continued to the present time.

(cont.)

Believe the Scappoose Formation Is Permeable:

"The new proposed conceptual plan by CH2M Hill is based on the premise that the landslide is either a series of coalescing landslides, or a large translational landslide. It appears to be neither type.

"Because of the headscarp configuration, removal of the landslide material could create a serious condition of instability which could cause failure of the upper slope that would include Rocky Point Road and presently stable timberland."

-- (emphasis added) Ibid., p. 23.

8. "If the Scappoose Formation ... is not impermeable, but instead "contains loosely consolidated, medium grained sandstone, and in places is pebbly, cross bedded, and carbonaceous" (Warren and Norbistrath, 1946), the negative environmental effects on groundwater are numerous. Particularly if the geohydrologic assessment of witnesses Wright and Veatch is correct, then unquestionably the groundwater contamination hazard makes this site unfeasible."

-- Written material accompanying the testimony of Steve Wille, Hydrologist, 8/05/82.

"Geraghty and Miller (1977) list Region X (Pacific Northwest) as an area of high priority in the nation as to waste disposal practices and their relative impact to groundwater, based on regional soil types and climatic conditions. The principal contaminants for concern in Region X are reported as: Chloride, Iron, Heavy Metals, and Phenols.

"The disposal of solid wastes in landfills carries the inherent potential for degrading the quality of groundwater in the area of the landfill. There are numerous examples of municipal landfills producing groundwater pollution. Garland and Mosher (1975) have cited several examples where the pollution from landfills could be detected. Exler (1974) reported that a landfill in Germany had a groundwater plume that was detected for a distance of over one mile down the flow gradient from the fill."

- Ibid., p. 11.

Believe the Scappoose Formation Is Permeable:

"If the unweathered Scappoose Formation ... is actually impermeable, only minor leaching of contaminants from the wastes should occur. However, any porous or fractured zones in this formation would allow leaching of the wastes. If significant amounts of rainfall penetrate the wastes, a local perched water table may develop in the vicinity of the fill, and that water will likely be highly contaminated, both chemically and bacteriologically."

-- Ibid., p. 13.

"High flood-stage waters from the Willamette River and a high rainfall could sufficiently elevate local watertables and allow contact with the refuse. The resulting high volume of leachate produced could seriously tax the abilities of the proposed leachate treatment plant. As flood water receded, the now contaminated groundwater would move through the flood-plain deposits towards local wells.... The former process could be gradual and may take the CH₂M Hill estimate of 4-8 years to occur. The latter would occur more abruptly, and would seriously threaten human health in the area. CH₂M Hill has ignored this distinct possibility."

-- Ibid., pp. 13-14.

"Geraghty and Miller (1977) caution that 'typical water-well monitoring programs traditionally have not been directed toward protecting public health because water analyses normally do not include ... heavy metals, organic chemicals, and viruses.' CH₂M Hill has no plan to deal with this contamination, probably because there is little to be done."

Removing the sources of contamination does not clean up the aquifer once contaminated. The contamination of the aquifer at Wildwood would rule out its usefulness as a drinking water source for decades and possibly centuries. IN NO CASE RECORDED TO DATE HAVE THE VICTIMS BEEN FULLY COMPENSATED FOR THEIR LOSSES (Geraghty and Miller, 1977). [ed. note: Total limit property owners could recover is \$300,000.] ...it is difficult to assess the impact of possible damages in the future. Providing adequate replacement water for irrigation uses ... presents an impossible task.

-- Ibid., p. 14.

Believe the Scappoose Formation Is Permeable:

9. Warren and Norbistrath (who named the Scappoose Formation), 1946, p. 220.
10. R.J. Deacon, Consulting Geologist
11. N.H. Tuelker, Consulting Soils Engineer, Seattle.
12. Soil Conservation Service survey, 1983.
13. LCDC state-wide plan.
14. Letter by Prof. John Eliot Allen (PSU)

Slide potential found far greater

Wednesday, February 11, 1987

Wildwood findings raise new concerns

By Greg Cohen
of The Chronicle

New engineering findings have
raised more questions about the

potential dangers of Wildwood as a
prospective site for a regional landfill.

At an informal "community open house" Wednesday night at the Scappoose High School, a consulting geologist for the state Department of Environmental Quality revealed that extensive testing has shown far greater instability of the hillside on which the dump is proposed to be sited than was first believed.

Don Cordell, a hydro-geologist with Sweet Edwards & Associates of Longview, said his firm's study had determined "the slide is much more thicker than first suspected — it could be as deep as 250 feet".

The study by Sweet Edwards appears to contradict an earlier analysis by CH2M-Hill of the site, which is located across Highway 30 from Sauvie Island south of Scappoose. The original study established the potential slide area no deeper than 75 feet.

Despite the potential dangers in-

volved in siting a landfill on property prone to slide, Cordell said there are possible "ways to stabilize" such land. "But the costs would go up significantly the deeper you go," he added.

In a related matter, a DEQ official, Steve Greenwood, acknowledged Wednesday night that the state agency within the past several days had begun a search for a new location to store large mounds of cover material for the landfill, because of the instability of the 39-acre proposed site.

"Loading of the soil on the present site would add to (its) instability," Greenwood said.

One possible site for the cover material to be stored would be the former Wildwood Golf Course, which is just below and less than a mile from the proposed landfill site, he said.

But Christine Lightcap, a member of the board of the West Hills & Island

(Continued on Page 2)

Page 2 CHRONICLE NEWS EXTRA

Wildwood findings...

(Continued from Page 1)

Neighbors, which has long opposed the Wildwood site for a garbage dump, said the relocation of the cover material to the golf course would threaten a nearby declared archaeological site.

"There's no way they can site a pile of dirt 1,000 feet from an archaeological site that's on the state registry," Lightcap said. "It violates (DEQ's) own rules on (maintaining) cultural sites."

Ed Griffith of EmCom Associates, a waste management consulting firm hired by the DEQ, denied that plans to relocate the cover material from an area adjacent to the landfill were directly related to questions about the site's stability, but rather, he said, it was do to a matter of "logistics".

"We don't have enough analysis available yet to make that determination" of the slide potential, Griffith said. "That's kind of conjecture right now."

The Wildwood site is one of three areas being considered by the DEQ for a regional landfill. The other two sites are in Industrial North Portland and in remote Northern Washington County near Vernonia.

Under its timetable for selection of a final site, the DEQ hopes to have draft feasibility studies of each site prepared by mid-March with hearings on each site's potential before the state Environmental Quality Commission scheduled to begin by mid-April. A final selection by the commission is due by the end of July.

Submitted 10/10/95
JUDY SCHAIBLE

To: Beverly Stein, Chair,
Multnomah County Bd. of Commissioners

From: Julia V. Kinney, landowner south of proposed site
23605 NW Skyline Blvd.
Hillsboro, OR 97124

Re: CU 5-95, HV 11-95

I, Julia Kinney, have not and will not sign a setback waiver or a firebreak waiver for James and Rachel Burger.

My husband Leonard and I first moved to Dixie Mountain in 1963. My concerns are for the preservation of the quality and quantity of well water in the area, since we are 16 miles from the nearest source of City water. Leonard and I have already had expenses with our first well on what is now Judy's land. The pipes would start to buckle, allowing sand and clay to seep into the water. The driller first tried pouring concrete into the well and then drilling through that. In the winter of 1980-81, the well collapsed. We had to haul water for ourselves, the cows, horses, and other animals until we could find a new location. If you have always lived on City water, you can't imagine how difficult it is to be without water, especially at 1,400 feet in the dead of winter. The driller went to 690 feet before he found what he thought would be a reliable water source. The 690-foot well cost us \$10,000 - today it would cost much, much more.

The people who live on Dixie Mountain have to be self-sufficient, which is why many of us have generators. If my electricity goes off, then my well turns off. If it stays shut down for too long, it could freeze, along with my pipes. Each family needs its own source of water for drinking, but also in case of fire. The first house we lived in caught fire, and Paul Lampa put it out with our garden hose. Our house would have burned to the ground in the time it would have taken for even the volunteer Scappoose Fire Dept. (some 8 miles away) to reach us. I gave Carole Winner a picture of me in 1968-69 with my daughters Linda and Judy. The roadsign in the second picture is 7 feet tall. It is treacherous and sometimes downright dangerous to travel up and down Rocky Point Road. There have been days when a fire truck could not make it to Dixie Mountain. You are putting us in danger if we each do not have a source of water to fight a winter fire.

I am equally concerned for the wildlife that have lived in this area since long before I moved here. The elk have always roamed in back of my property, and Multnomah County ought to redraw its boundaries of the Elk Reserve to acknowledge their presence. I want to testify to the presence of the elk, deer, bear, bobcats, beavers, and other animals who live here, including the American eagles who hunt on Tom Fijak's property - they should all be protected rather than driven away for lack of shelter, or lack of food, or lack of water.

Julia Kinney's Statement -2-

Property values are getting higher and higher, and that's going to mean higher property taxes. This is going to create an economic hardship on many of the people in the area. I ask the Commission-ers to reverse the Hearing Officer's decision and not allow the Burgers to build or to drill a well.

Over the years I have known of people whose wells ran dry when new neighbors drilled either at or below their water source. Please don't let that happen to my well or my daughter's well.

Julia V. Kinney
Julia V. Kinney

Oct. 9 / 1995
Write Date

Witness: Janey Kinney

10/9 / 1995

Submitted 10/10/95
Judy Schaible

To: Beverly Stein, Chair,
Multnomah County Bd. of Commissioners

From: Leonard R. Kinney, landowner on Dixie Mtn.
23605 NW Skyline Blvd.
Hillsboro, OR 97124

Neighbor to the south of the proposed Burger house

Re: CU 5-95, HV 11-95

I, Leonard Kinney, signed a setback waiver during the summer of 1995 at the request of Rachel Burger. Then, after Carole Winner filed an appeal (on Sept. 1, 1995) to protest the County's granting the Burgers building rights, Mrs. Burger again came to me and asked me to sign a waiver regarding the necessary firebreak.

I didn't take the time to think through or fully understand what I was signing. After checking into the matter, which is the use of my land for a 30-foot firebreak, I would like to retract my prior statements of approval.

I did not realize that my granting the Burgers setback and firebreak privileges would limit the use of my land, and would also decrease the value of my land.

My wife Julia and I agree in this matter.

Leonard R. Kinney
Leonard R. Kinney

10-9- / 1995
Date

Witness: Jay King

10/9 / 1995

Submitted 10/10/95
TIMOTHY RAMIS

Applicant's Response to Issues Raised

October 10, 1995

CU 5-95; HV 11-95

(Tabs Numbered According to Notice of Review)

- #1 - CREEK
- #2 - EXCAVATION
- #3 - FOREST PRACTICES
- #4 - HABITAT
- #5 - SETBACKS
- #6 - SLOPE HAZARD
- #7 - WATER SUPPLY
- #8 - POLICY 11F(1)
- #9 - POLICY 13
- #10 - POLICY 14D
- #11 - POLICY 14F
- #12 - POLICY 37C
- #13 - POLICY 38B
- #14 - MCC .6426
- #15 - FIRE ZONES
- #16 - 80 ACRES

#1
Creek

0000

Tomasz Fijak has submitted a letter expressing a concern that if the applicants "put a septic system in, it will seep into the creek on or near their land". However, the evidence in the record indicates that there is no water source or creek on the applicants' property. Ms. Fijak is not one of the adjacent property owners. The possibility of the contamination of his water source appears extremely remote.

The County Sanitarian has conducted a site evaluation of the Burger tract and has approved that for installation of a septic system. That approval process mandates that the system be designed and engineered in the fashion so that there will be no contamination of surrounding water sources. Accordingly, I find that the property can be served by an adequate private water system consisting of a well and that the Oregon Department of Environment Quality will approve a subsurface sewage disposal system on the site.

The applicants have indicated that water run-off will be handled on site and staff has concurred. Accordingly, I find that the water run-off can be handled on site and the run-off from the site will not adversely affect the water quality in adjacent streams, ponds, lakes relative to drainage on adjoining lands.

The applicants have indicated that the property is served by PGE and GTE. Accordingly, I find that there is adequate energy supply to handle the needs of the proposal and that communications facilities are available on site, meeting the requirements of factors H and I of this Plan Policy.

Accordingly, I do hereby make the findings that the water and disposal system, drainage system, and energy and communications systems are adequate for the proposed development.

- (5) POLICY NO. 38, FACILITIES. THE COUNTY'S POLICY IS TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

SCHOOL

- A. THE APPROPRIATE SCHOOL DISTRICT HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENT ON THE PROPOSAL.

FIRE PROTECTION

- B. THERE IS ADEQUATE WATER PRESSURE AND FLOW FOR FIRE FIGHTING PURPOSES; AND

Excavation
#2

0

Although the proposed dwelling would be a conditional use in this zone, the third protective measure listed above relating to limiting the developed and cultivated area to one acre is a more stringent standard and will be the condition imposed herein.

The introduction of invasive vegetation such as English Ivy, Vinca and other invasive species shall be prohibited on the tract, even in cultivated areas.

The sixth protective measure listed above provides that an erosion control standard should be adopted where there will be prolonged exposure of soils or excavation associated with the residential development. Although grading, cutting or filling is not a proposal under this application, the county zoning ordinance does have requirements for a hillside development and erosion control permit. Accordingly, if any grading, cutting, or filling which would come under the terms of MCC 11.15.6700-.6735 occurs, the applicants herein would be required to obtain a hillside development and erosion control permit.

There are no streams on the subject tract. Accordingly, the last protective measure listed above is inapplicable.

8. 11.15.6428 SEC Provisions Relating to Wildlife Habitat.

The designated level of protection for the significant wildlife habitat in the West Hills Area is 3.C., Page VI-23, West Hills Reconciliation Report. The plan provides that "implementation of these standards as regards residential and community service/conditional uses should be accomplished through use of a significant environmental concern (SEC) overlay zone for wildlife habitat protection." Page VI-24, West Hills Reconciliation Report.

An SEC overlay zone designation has not been made applicable to the subject tract that is the subject of this application. However, MCC 11.15.6409 provides: "For Goal 5 resources designated "3C", the approval criteria shall be used to determine the most appropriate location, size and scope of the proposed development, in order to make the development compatible with the purposes of this section, but shall not be used to prohibit a use or be used to require removal or relocation of existing physical improvements to the property."

Accordingly, the "criteria" in Section 11.15.6426 shall be reviewed in order to determine the most appropriate location for the proposed development, but shall not be utilized to prohibit that development.

- (A) A development application should include an area map showing properties which are adjacent to the proposed development with the following information:

1. Location of. . . wildlife habitat areas. . . .
2. Location of all existing forested areas. . . and non-forested "cleared" areas.
3. Location of existing structures.
4. Location of. . . roads. . . driveways. . . on the subject parcel and within 200 feet. . .
5. Proposed type and location of all fencing on the subject property.

Analysis. The applicants have submitted maps depicting all of these features. The applicants, however, do not propose to locate any fencing on the subject property.

- (B) The following standards shall be reviewed to determine the most appropriate location, size and scope of the proposed development.

1. Limitation of development activities to less valuable wildlife habitat areas where a parcel contains a combination of primary, secondary, and impacted wildlife habitat.

Analysis. The parcel lies wholly within the primary wildlife habitat area. Accordingly, as specified earlier in regards to the first protective measure listed in the West Hills Reconciliation Report for the Comprehensive Plan, this provision would not be applicable.

2. Development should be located so as to maintain existing forested areas which are broadly contiguous with forested areas or areas being reforested on adjacent property.

Analysis. The house is proposed to be sited on the only unforested area of the land. The rest of the land is completely forested. There are currently no adjoining parcels being reforested although there are adjoining and surrounding parcels that are either partially or completely cleared with no plans to reforest according to the property owners.

The applicants proposal sites the dwelling on a cleared portion of the site that will leave over four acres of wooded vegetated area remaining on site. This remaining wooded forested area is broadly contiguous to other forested wooded areas on adjoining parcels. I

find that the proposed site for the dwelling is the location that is most likely to maintain existing forested areas.

3. Wildlife Conservation Plan.

Analysis. The applicants have prepared a statement indicating how they propose to mitigate any adverse impacts of wildlife habitat on the subject tract. The applicants have indicated that siting the dwelling in the cleared area will minimize the amount of excavation and/or ground disturbing activity that would need to occur on the subject site. Such earth movement could have the affect of disturbing the wildlife.

Similarly, siting the dwelling on the portion of the site that is already cleared would minimize and avoid the impact to wildlife that a clear cut on another portion of the subject parcel would cause. The West Hills Reconciliation Report indicates that recent clear cuts have relatively low wildlife habitat value. Page V-15. The report also indicates in a footnote that forest wildlife often will skirt recently cleared areas. V-16, Note 2.

The proposed dwelling site is the least densely vegetated and would require the least excavation. In exchange for the small amount of clearing that the applicants propose, they plan to enhance the rest of the property by planting more trees and shrubs native to the area in the forested remainder of the property. The applicants proposal involves only utilization of 3% of the property for the house. The applicants propose no fencing or elaborate landscaping that does not utilize native vegetation.

A review of factors listed in the SEC portion of the zoning ordinance at 11.15.6426, indicate that the applicants have taken appropriate measures to consider and mitigate the potential impact of their development on wildlife habitat. The measures and actions of mitigation are appropriate and are consistent with the stated policy in the West Hills Reconciliation Report which balances the conflicting interests by protecting resources while allowing residential development which minimizes impact on those resources.

I find that a review of the application materials as they relate to the SEC Wildlife Standards indicate that the proposed location, size and scope of the dwelling have been appropriately located so as to make the proposed development compatible with the purposes of the SEC section to protect, conserve, enhance, restore

#3
Forest Practices



MULTNOMAH COUNTY

CONDITIONS AND RESTRICTIONS

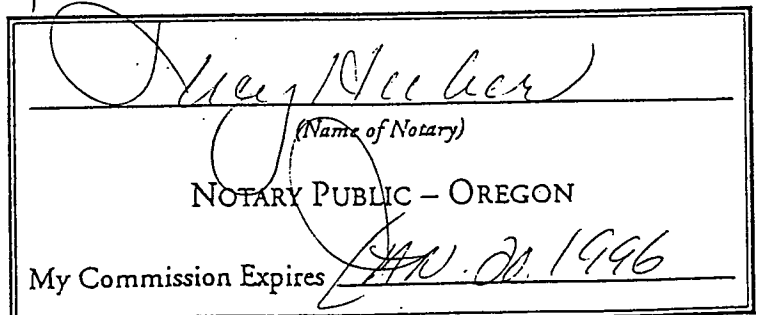
we 746 N. Tyler, Portland, Or 97203/285-2806

KNOW ALL MEN BY THESE PRESENTS THAT XX Rachael Burger and John Burger
the Owner of the following described real property located in Multnomah County, Oregon to
wit;

Section 34 3N 2W, TL# 14, 4.66 acres

recorded in Book _____, Page _____, on _____ in the
Multnomah County Book of Records, does hereby acknowledge on behalf of himself, his/her
heirs, legal representatives, assigns and lessees by the placement of this covenant or the
acceptance and recording of this instrument that the property herein described is situated in or
adjacent to an agricultural/forest zone in Multnomah County, Oregon and as such may be
subjected to common and accepted farming practices (as defined by ORS 215.203) or accepted
forest practices (as defined by ORS 527.610 to 527.730) such as pesticide and herbicide
spraying, weed cutting, slash burning, irrigating, field plowing, harvesting, and any other
accepted farming or forest practice. Said practices above enumerated ordinarily and necessarily
produce noise, dust, spray residue, smoke, vapor, and other types of visual, odor, or noise
pollution, which grantee accepts as a normal and necessary farming or forest practice and as part
of the risk of purchasing a residential dwelling in a farm or forest area.

Dated this 28 day of January, 1994 John B Burger & Rachael Burger
Signature

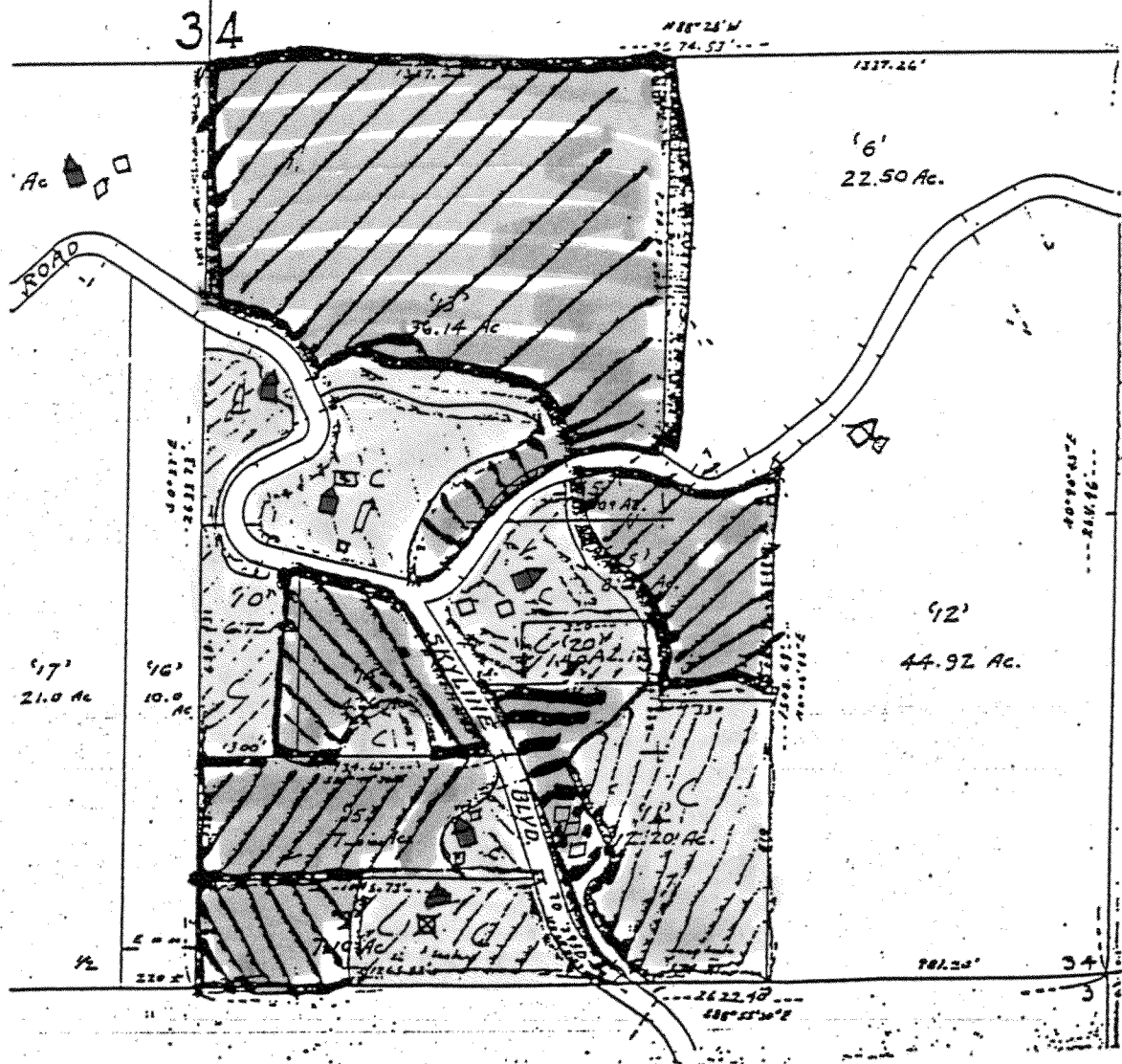


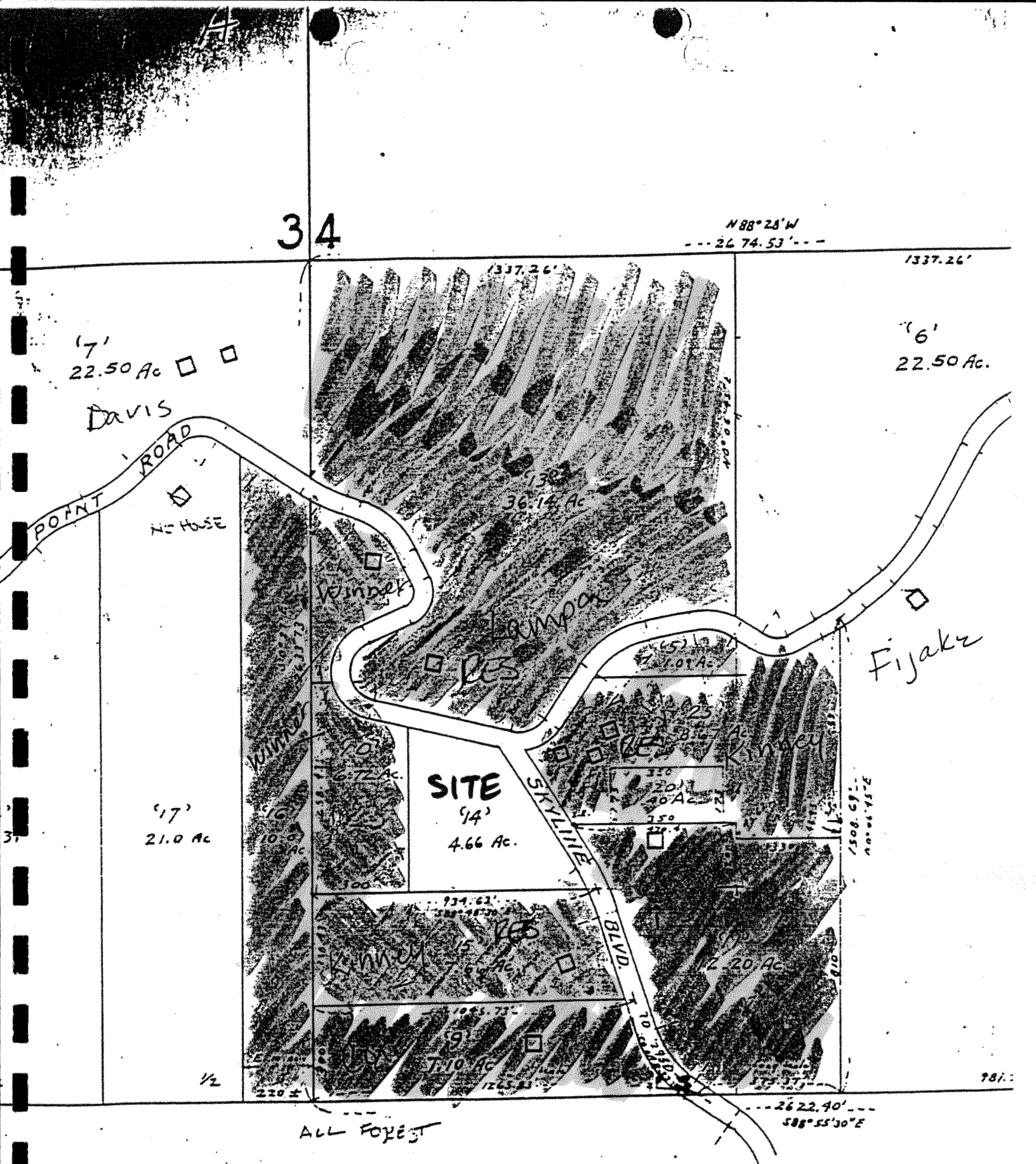
2

94-15629 (5)

160 Ac MCC 1115.6922(A)(2)(3)

- Forested forestland
- Cleared forestland
- all existing structures
- OUTBUILDINGS
- △ DWELLINGS





Oregon



DEPARTMENT OF
FISH AND
WILDLIFE

COLUMBIA REGION

March 2, 1994

Rachael Burger
7146 North Tyler St.
Portland OR 97203

Dear Rachael:

Reference is made to your proposal to build a home in sec. 34,3N2W in Multnomah county. Since this is an existing lot of record our department will not oppose the project based on impacts to wildlife. Deer and elk do use the area, however, and care should be taken to keep conflicts with wildlife to a minimum. Deer can be expected to nibble on fruit trees and gardens in the spring and summer. Thankyou.

Sincerely

Gene Herb

Gene Herb
District Wildlife Biologist

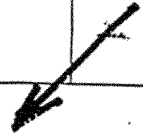


8

ATTACHMENT 2

BIG GAME
WINTER HABITAT AREA

SUBJECT
SITE



Channel

Multnomah

RIVER ROAD

TRACT

HOLBROOK

SHELTERED

#5
Setbacks

operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices.

Analysis: Exhibit 2 is a copy of the recorded document of applicant's statement acknowledging said rights. The document indicates the volume, page and recording date. Accordingly, I find that the applicants have, in fact, met this standard.

3. MCC 11.15.2052 (B): Dwellings not related to forest management shall not be allowed upon the effective date of a small scale resource land program adopted pursuant to the requirements of OAR 660, Division 6 and 33.

Analysis: There is no small scale resource land program adopted pursuant to the requirements of OAR 660, Division 6 and 33, in effect at this time. Accordingly, I find this section is not applicable to the decision in question.

4. MCC .2074 Development Standards for Dwellings and Structures.

Except as provided for the replacement or restoration of dwellings under MCC .2048(E) and .2049(B), all dwellings and structures located in the CFU district after January 7, 1993, shall comply with the following:

(A) The dwelling or structure shall be located such that:

- (1) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the minimum yard and setback requirements of .2058(C) through (G).

Analysis. No significant forestry is practiced on the parcels adjacent to the subject site. The proposed location of the dwelling is as far from any potential large scale forestry operations as is possible on the site. Applicants have recorded a statement recognizing and accepting forest practices on other parcels in the area. The applicants have testified that the proposed dwelling will be located so as to have the least impact on adjoining lands.

The applicants have requested a variance from the minimum side yard setback. The variance requirements will be cited in the subsequent portion of this opinion. However, the location where applicant proposes to site the structure is in a cleared area. The portion of the site which would meet the setback requirements for siting purposes is currently still forested. Thus, in order to site the dwelling on the portion of the site that meets the setback requirements, currently forested land would need to be cleared. Accordingly, it appears that siting the

dwelling on the proposed site would have the least impact on the forest lands at the site. I find that the applicants have met this standard.

- (2) Forest operations and accepted farming practices will not be curtailed or impeded. The siting insures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized (11.15.2074(A) (2) as mandatorily modified by OAR 660-06-029(1) (b) ..

Analysis. The proposed site for the location of the dwelling on the subject tract is an area that has already been cleared of trees. Because the area in question has been cleared, siting the dwelling there will result in little or no removal of additional trees, thereby allowing the balance of the forested portion of the tract to be utilized for forest practices. A condition that the cultivated area be limited to an area not exceeding one acre in size contiguous to the proposed dwelling will further minimize adverse impacts on forest operations and accepted forest practices. I find that the applicants have met this standard.

- (3) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized.

Analysis. The applicants are proposing to site the dwelling on a portion of the parcel that totals approximately 6,100 square feet. This represents approximately three percent of the total land area that would be used for the house and driveway. The site where the dwelling is to be built has already been cleared. Siting the dwelling there will allow the balance of the parcel which is forested to remain undisturbed. The applicant also proposes to put a daylight basement under the house to utilize space most efficiently and to further minimize the amount of forest land used to site the dwelling. I find that the applicant has demonstrated that the amount of forest land used to site the proposed dwelling is minimized.

- (4) Any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and

Analysis. The driveway length is at least 60 feet less than the maximum 500 feet in length. Therefore, I find this criteria does not apply.

#6
Slope Hazard

between ten and twenty percent. No additional fire safety zone is required if the slope at the site is less than ten percent. The Staff Report, on Page 28 and materials submitted by applicants indicate that the slope at the area of the proposed dwelling is approximately fifteen percent. Thus, the slope is between 10 and 20, and the primary fire safety zone needs to be extended downslope. Accordingly, I find that the risks associated with wild fire are, and can be, minimized at the site. However, I will add a condition that the applicants be required to maintain primary and secondary fire safety zones around all structures in accordance with MCC 11.15.2074(A)(5)(b).

- (c) The building site must have a slope less than 40 percent.

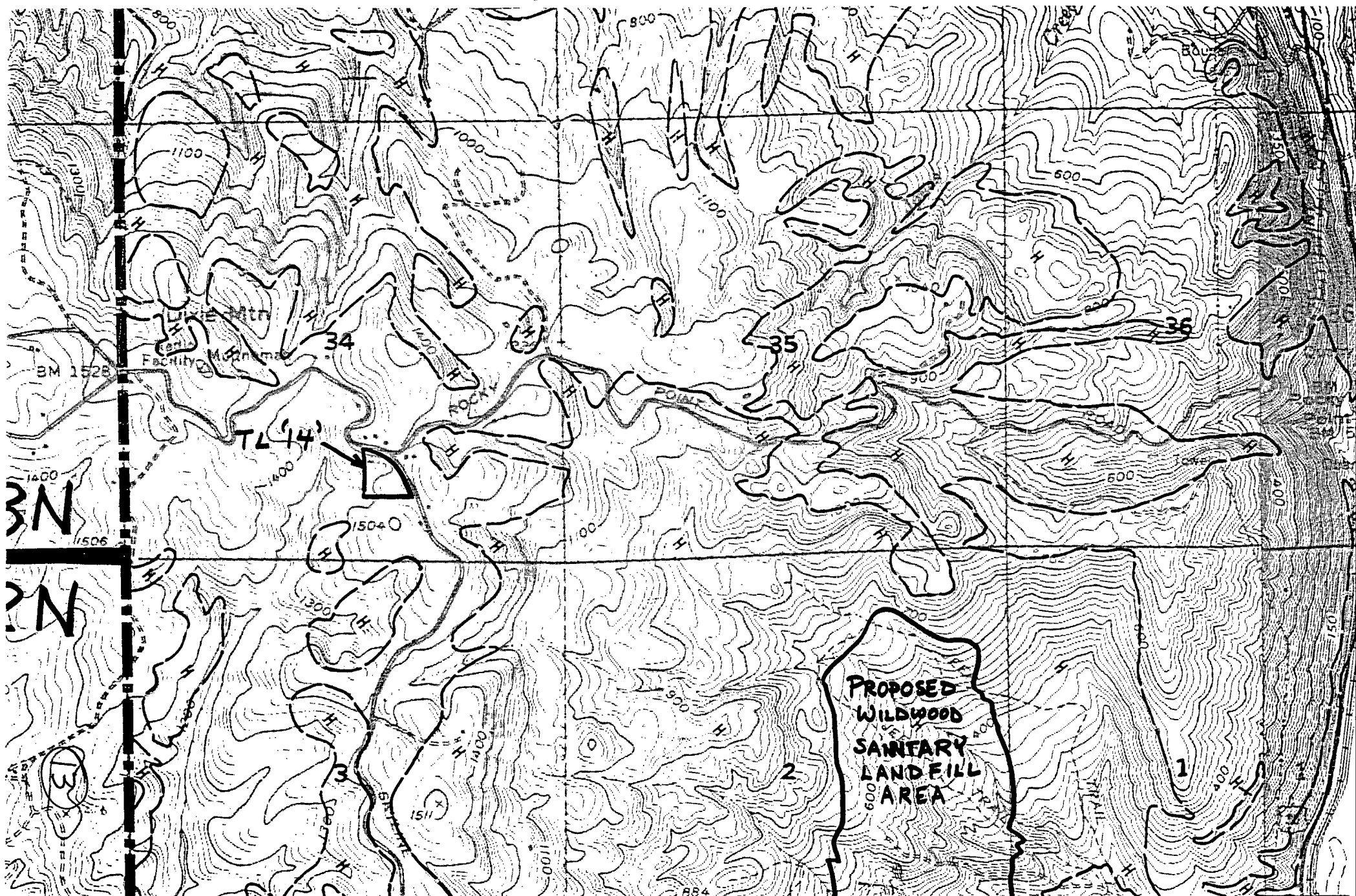
Analysis. The evidence in the record indicates that the slope at the proposed location of the dwelling is relatively flat. The slope is approximately 15 percent. Accordingly, I find that this standard has been met.

(B) The dwelling shall:

- (1) Comply with the standards of the Uniform Building Code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;
- (2) Be attached to a foundation for which a building permit has been obtained; and
- (3) Have a minimum floor area of 600 square feet.
- (4) OAR 660-06-035(5) The dwelling shall have a fire retardant roof.
- (5) OAR 660-60-035(6) If the dwelling has a chimney, or chimneys, each chimney shall have a spark arrestor.

Analysis. The applicants have indicated that the dwelling which will be placed on the property will meet all building code requirements. The proposed dwelling will be attached to a foundation and have the appropriate building permit. The floor area will exceed 600 square feet. The building will have a fire retardant roof and the chimney will have a spark arrestor. These requirements of the Oregon Administrative Rules will be listed as conditions of approval. Accordingly, I find that the applicants have met the requirements for this standard.

H = Slope Hazard



#7
Water Supply

major variance of 100 feet from the required 200 -
feet setback, based on the findings and
conclusions contained herein.

CONDITIONS OF CONDITIONAL USE APPROVAL

1. Approval of this conditional use shall expire two years from the date of this order unless substantial construction has taken place in accordance with MCC 11.15.7110(C).
2. Applicant must provide evidence that a stocking survey report has been submitted to the County Tax Assessor in accordance with OAR 660-06-029(5)(C). The Assessor will then determine whether the property can receive tax deferral status.
3. Prior to the issuance of a building permit for the dwelling, applicant will submit a copy of a well report demonstrating that a domestic water supply is available on the property, that complies with the provisions of MCC 11.15.2074(C).
4. Prior to the issuance of a building permit, applicant shall establish primary and secondary fire safety zones around the proposed site of the structure. As long as the property is under forest resource zoning, applicant will maintain primary and secondary fire safety zones around all structures in accordance with MCC 11.15.2074(A)(5)(b), and as required by the Forest Practice Rules under the Department of Forestry, Forest Management Plan.
5. The dwelling shall have a fire retardant roof and all chimneys shall be equipped with spark arrestors in accordance with the requirements of OAR 660-06-035(4) and (6).
6. To prevent creation of a wildlife barrier, no fences shall be erected within 60 feet of the center line of a roadway. Any fences erected shall be erected in accordance with the standards of MCC 11.15.6426(B)(3).
7. Residential landscaping areas (also known as the "cultivated area") shall not exceed one acre in size and shall be contiguous to the proposed dwelling. Any future additional development of the property shall comply with the code provisions in effect at the time the development occurs.
8. No species of an invasive vegetation (English Ivy, Vinca, etc.) shall be introduced in the "cultivated" area contiguous to the proposed dwelling. The remaining portion of the parcel shall be left in native vegetation unless altered in conjunction with an approved forest management plan, or to comply with primary and secondary fire safety zone requirements.

CLATSOP CO.
TILLAMOOK CO.

COLUMBIA CO.
WASHINGTON CO.

FILE COPY T3N

SITE

NORTH COAST
BASIN

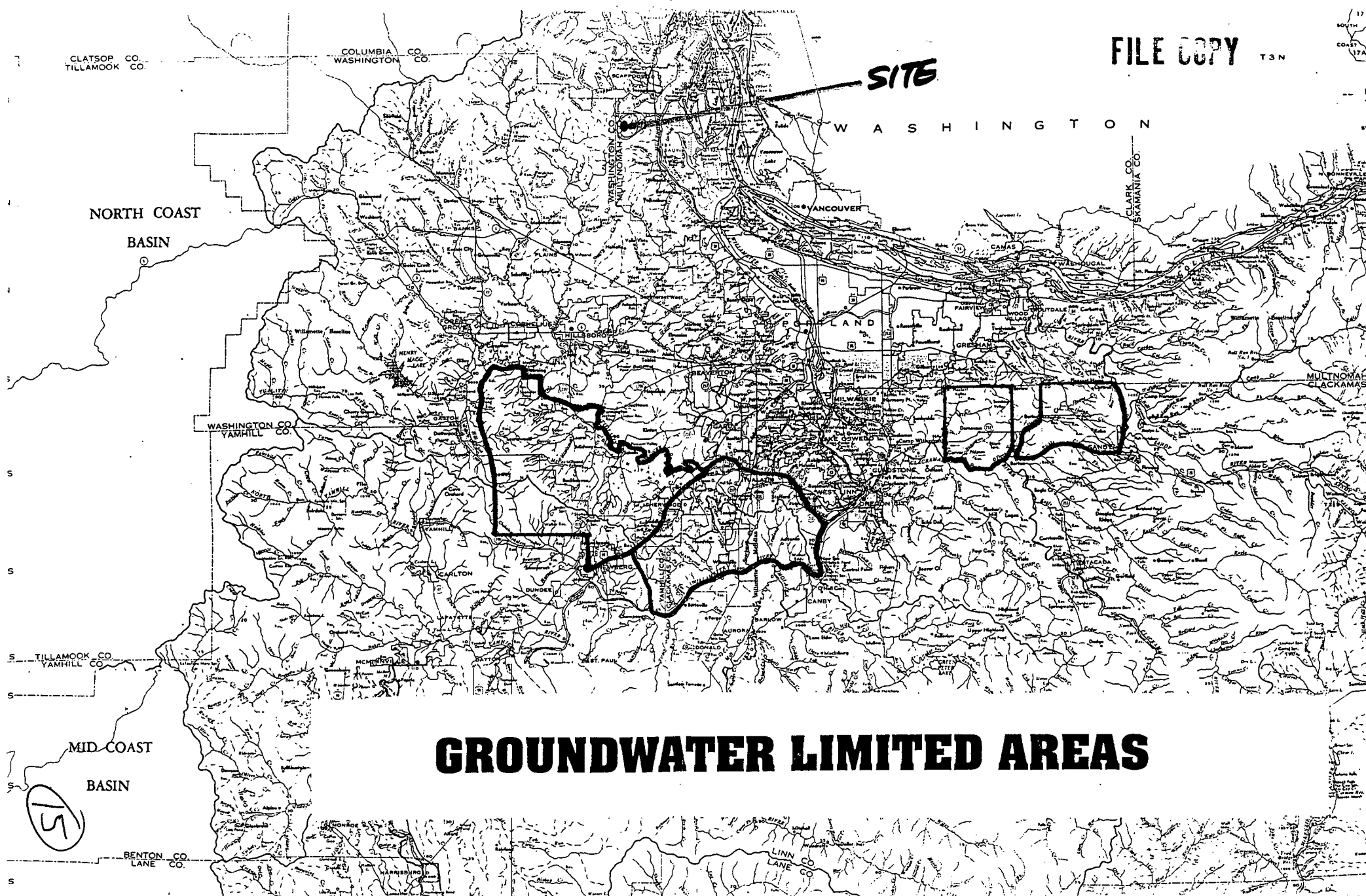
WASHINGTON CO.
YAMHILL CO.

TILLAMOOK CO.
YAMHILL CO.

MID-COAST
BASIN

BENTON CO.
LANE CO.

GROUNDWATER LIMITED AREAS



O'DONNELL RAMIS CREW
CORRIGAN & BACHRACH

ATTORNEYS AT LAW
1727 N.W. Hoyt Street
Portland, Oregon 97209

TELEPHONE: (503) 222-4402
FAX: (503) 243-2944

DATE: October 9, 1995
TO: Burger/Multnomah County File
FROM: G. William Selzer
RE: Telephone Conversation with Water Resources Department

I spoke with District 1 Watermaster Greg Beaman (503-397-0633) about the subject property in Section 34, T3N, R2W.

I referred him to the eleven groundwater limited areas listed in the department's November 1994 water rights booklet, and asked him if this property was in one of them.

Beaman said the property is not in a groundwater area that is currently being restricted by the Water Resources Department.

Groundwater Limited Areas

The northern Willamette Valley and much of the Columbia River plateau contain many sources of groundwater that are isolated in volcanic rock. These aquifers are called the Columbia River Basalt group, or basalt for short. Heavy pumping in the basalt and another formation, the Troutdale Formation, has caused declines in these areas. Recently, the Commission established 11 "groundwater limited areas" in the northern Willamette Valley. Through classifications in basin programs, additional pumping in these areas is restricted to a few designated uses.

The role of the Department is to prevent excessive groundwater declines, restore aquifer stability, and preserve aquifers with limited storage capacity for designated uses. As more wells are drilled, the Department may find other areas where use from basalt and other aquifers must be limited. The limitation applies to the specific source, or "aquifer," that a well is tapping. In many cases, water may be available at a different depth from a different geologic formation or type of earth and rock.

The 11 designated limited areas in the Willamette Valley are in the following approximate locations: Sandy-Boring, Damascus, Glad Tidings, Kingston, Mt. Angel, Sherwood, Dammasch-Wilsonville, Stayton-Sublimity, Parrett Mountain, Chehalem Mountain, Eola Hills, and South Salem Hills. The Willamette and Sandy Basin programs list the limitations.

Tomasz Fijak has submitted a letter expressing a concern that if the applicants "put a septic system in, it will seep into the creek on or near their land". However, the evidence in the record indicates that there is no water source or creek on the applicants' property. Ms. Fijak is not one of the adjacent property owners. The possibility of the contamination of his water source appears extremely remote.

The County Sanitarian has conducted a site evaluation of the Burger tract and has approved that for installation of a septic system. That approval process mandates that the system be designed and engineered in the fashion so that there will be no contamination of surrounding water sources. Accordingly, I find that the property can be served by an adequate private water system consisting of a well and that the Oregon Department of Environment Quality will approve a subsurface sewage disposal system on the site.

The applicants have indicated that water run-off will be handled on site and staff has concurred. Accordingly, I find that the water run-off can be handled on site and the run-off from the site will not adversely affect the water quality in adjacent streams, ponds, lakes relative to drainage on adjoining lands.

The applicants have indicated that the property is served by PGE and GTE. Accordingly, I find that there is adequate energy supply to handle the needs of the proposal and that communications facilities are available on site, meeting the requirements of factors H and I of this Plan Policy.

Accordingly, I do hereby make the findings that the water and disposal system, drainage system, and energy and communications systems are adequate for the proposed development.

- (5) POLICY NO. 38, FACILITIES. THE COUNTY'S POLICY IS TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

SCHOOL

- A. THE APPROPRIATE SCHOOL DISTRICT HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENT ON THE PROPOSAL.

FIRE PROTECTION

- B. THERE IS ADEQUATE WATER PRESSURE AND FLOW FOR FIRE FIGHTING PURPOSES; AND

Instructions for completing this report are on the last page of this form.

(START CARD)#

67526

SALEM, OREGON	(9) LOCATION
---------------	--------------

Well Number

(9) LOCATION OF WELL by legal description:

Street Address of Well (or nearest address) 28155 N. Rocky Point Road

☒ New Well ☐ Deepening ☐ Alteration (repair/recondition) ☐ Abandonment

☒ Rotary Air ☐ Rotary Mud ☐ Cable ☐ Auger
☐ Other _____

☒ Domestic ☐ Community ☐ Industrial ☐ Irrigation
☐ Thermal ☐ Injection ☐ Livestock ☐ Other _____

Special Construction approval ☐ Yes ☒ No Depth of Completed Well 270 ft.
Explosives used ☐ Yes ☒ No Type _____ Amount _____

How was seal placed: Method ☐ A ☐ B ☒ C ☐ D ☐ E
☐ Other _____

(6) CASING/LINER:

Final location of shoe(s) 98

☒ Perforations Method DRILL
☐ Screens Type _____ M _____
Tel# _____

(8) WELL TESTS: Minimum testing time is 1 hour

Temperature of water 51 Depth Artesian Flow Found

Did any strata contain water not suitable for intended use? ☐ Too little

Date started 12-28-94 Completed 12-30-94

I certify that the work I performed on the construction, alteration, or abandonment of this well is in compliance with Oregon water supply well construction standards. Materials used and information reported above are true to the best of my knowledge and belief.

(bonded) Water Well Constructor Certification:

I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon water supply well construction standards. This report is true to the best of my knowledge and belief.

Signed Dan Fackler WWC Number 715 Date 12-2

WATER RESOURCES DEPARTMENT
SALEM, OREGON 97310within 30 days from the date
of well completion

MAR 27 1979

STATE OF OREGON

(Please type or print)

WATER RESOURCES DEPARTMENT write above this line)

SALEM, OREGON

State Well No.

3N/2W-3E

State Permit No.

(1) OWNER:

Name Frank Fijak
Address Route 1, Box 281
Scappoose, Oregon 97056

(2) TYPE OF WORK (check):

New Well ☒ Deepening ☐ Reconditioning ☐ Abandon ☐

If abandonment, describe material and procedure in Item 12.

(3) TYPE OF WELL:

Rotary ☒ Driven ☐
Cable ☐ Jetted ☐
Dug ☐ Bored ☐

(4) PROPOSED USE (check):

Domestic ☒ Industrial ☐ Municipal ☐
Irrigation ☐ Test Well ☐ Other ☐

(5) CASING INSTALLED:

Threaded ☐ Welded ☒
6-5/8" Diam. from plus 1 ft. to 62 ft. Gage .250
4 1/2" Diam. from 0 ft. to 280 ft. Gage PVC-160
" Diam. from _____ ft. to _____ ft. Gage _____

(6) PERFORATIONS:

Perforated? ☒ Yes ☐ No.Type of perforator used DrillSize of perforations 3/8 in. by diameter in.

_____ perforations from _____ ft. to _____ ft.
_____ perforations from _____ ft. to _____ ft.
_____ perforations from _____ ft. to _____ ft.

(7) SCREENS:

Well screen installed? ☐ Yes ☒ No

Manufacturer's Name _____

Type _____ Model No. _____

Diam. _____ Slot size _____ Set from _____ ft. to _____ ft.

Diam. _____ Slot size _____ Set from _____ ft. to _____ ft.

(8) WELL TESTS:

Drawdown is amount water level is
lowered below static levelWas a pump test made? ☐ Yes ☒ No If yes, by whom?

airlift 12 gal./min. with 140 ft. drawdown after 2 hrs.
" 10 " 110 " "
" 9 " 85 " "

Bailer test gal./min. with ft. drawdown after hrs.

Artesian flow g.p.m.

Temperature of water Depth artesian flow encountered _____ ft.

(9) CONSTRUCTION:

Well seal—Material used Cement grout & gelWell sealed from land surface to 62 ft.Diameter of well bore to bottom of seal 10 in.Diameter of well bore below seal 6 in.Number of sacks of cement used in well seal 9 sacksHow was cement grout placed? Tremied in dry annular bore
from 62 feet to ground levelWas a drive shoe used? ☐ Yes ☒ No Plugs _____ Size: location _____ ft.Did any strata contain unusable water? ☐ Yes ☒ No

Type of water? _____ depth of strata _____

Method of sealing strata off _____

Was well gravel packed? ☐ Yes ☒ No Size of gravel: _____

Gravel placed from _____ ft. to _____ ft.

(10) LOCATION OF WELL:

County Multnomah Driller's well number _____
NE 1/4 SE 1/4 Section 34T. 3 N R. 2 W. W.
Bearing and distance from section or subdivision corner _____

(11) WATER LEVEL: Completed well.

Depth at which water was first found 180Static level 140 ft. below land surface. Date 3/22/79

Artesian pressure _____ lbs. per square inch. Date _____

(12) WELL LOG: Diameter of well below casing _____ 6"

Depth drilled 280 ft. Depth of completed well 280

Formation: Describe color, texture, grain size and structure of material
and show thickness and nature of each stratum and aquifer penetrate
with at least one entry for each change of formation. Report each change
position of Static Water Level and indicate principal water-bearing strata

MATERIAL	From	To	SWL
Brown clay w/rock fragments	0	10	
Red-brown rotten rock w/clay	10	35	
Weathered brown basalt	35	45	
Broken brown basalt	45	56	
Gray-brown basalt-occ. dirty	56	80	
Dirty brown basalt	80	90	
Brown & gray-brown basalt	90	155	
Gray-brown & gray-black basalt	155	180	
Brown & gray-brown basalt-- occ. broken	180	240	3 gr
Hard gray-black basalt-occ. broken	240	260	3 gr
Broken brown basalt	260	275	6 gr
Hard gray-black basalt	275	280	

Work started 3/21/79 19 Completed 3/22/79 19Date well drilling machine moved off of well 3/22/79 19

Drilling Machine Operator's Certification:

This well was constructed under my direct supervision
Materials used and information reported above are true to my
best knowledge and belief.

[Signed] [Signature] Date 3/23/79, 19____
(Drilling Machine Operator)

Drilling Machine Operator's License No. 523

Water Well Contractor's Certification:

This well was drilled under my jurisdiction and this report is
true to the best of my knowledge and belief.

Name A. M. JANNSEN WELL DRILLING CO. INC.

(Person, firm or corporation)

(Type or print)

Address 21075-SW Tualatin Valley Hwy. Aloha, Or

[Signed] [Signature]
(Water Well Contractor)

Contractor's License No. 79 Date 3/23/79, 19____

WATER WELL REPORT

STATE OF OREGON

(Please type or print)

(Do not write above this line)

WATER RESOURCES DEPARTMENT.

SALEM, OREGON 97310

within 30 days from the date
of well completion.

State Well No. 3N/2W-34dc

State Permit No. _____

(1) OWNER:

Name Leonard Kinney
Address Route 3, Box 399
Hillsboro, Oregon 97123

(2) TYPE OF WORK (check):

New Well ☒ Deepening ☐ Reconditioning ☐ Abandon ☐
If abandonment, describe material and procedure in Item 12.

(3) TYPE OF WELL:

Rotary ☒ Driven ☐
Cable ☐ Jetted ☐
☐ Bored ☐

(4) PROPOSED USE (check):

Domestic ☒ Industrial ☐ Municipal ☐
Irrigation ☐ Test Well ☐ Other ☐

(5) CASING INSTALLED:

Threaded ☐ Welded ☒
6" Diam. from plus 1 ft. to 199 ft. Gage 250
" Diam. from _____ ft. to _____ ft. Gage _____
" Diam. from _____ ft. to _____ ft. Gage _____

(6) PERFORATIONS:

Perforated? ☐ Yes ☒ No.

Type of perforator used _____

Size of perforations in. by in.
_____ perforations from _____ ft. to _____ ft.
_____ perforations from _____ ft. to _____ ft.
_____ perforations from _____ ft. to _____ ft.

(7) SCREENS:

Well screen installed? ☐ Yes ☒ No

Manufacturer's Name _____
Type _____ Model No. _____
Diam. _____ Slot size _____ Set from _____ ft. to _____ ft.
Diam. _____ Slot size _____ Set from _____ ft. to _____ ft.

(8) WELL TESTS:

Drawdown is amount water level is
lowered below static level

Was a pump test made? ☐ Yes ☒ No If yes, by whom?
Lift 3 gal./min. with 100 ft. drawdown after 2 hrs.

" " " " " "
" " " " " "

Ballor test gal./min. with ft. drawdown after hrs.
" " " " " "

Temperature of water _____ g.p.m. Depth artesian flow encountered _____ ft.

(9) CONSTRUCTION:

Well seal—Material used Cement grout & 5% gel
Well sealed from land surface to 199 ft.
Diameter of well bore to bottom of seal 10 in.
Diameter of well bore below seal 6 in.
Number of sacks of cement used in well seal 16 sacks
How was cement grout placed? Bottom seal @ 199' 8" bore
tremied through casing 6 sacks- Topseal @ 40'
10" bore - tremied on O. D. of casing 40' to
ground level - 10 sacks.

Was a drive shoe used? ☐ Yes ☒ No Plugs _____ Size: location _____ ft.
Did any strata contain unusable water? ☐ Yes ☒ No

Type of water? _____ depth of strata _____

Method of sealing strata off _____

Was well gravel packed? ☐ Yes ☒ No Size of gravel: _____

Gravel placed from _____ ft. to _____ ft.

(10) LOCATION OF WELL:

County Multnomah Driller's well number _____
SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34 T. 3 N. R. 2 W. W.M.
Bearing and distance from section or subdivision corner _____

(11) WATER LEVEL: Completed well.

Depth at which water was first found 440 ft.
Static level 350 ft. below land surface. Date 3/10/80
Artesian pressure _____ lbs. per square inch. Date _____

(12) WELL LOG:

Diameter of well below casing 6"

Depth drilled 690 ft. Depth of completed well 690 ft.

Formation: Describe color, texture, grain size and structure of materials;
and show thickness and nature of each stratum and aquifer penetrated,
with at least one entry for each change of formation. Report each change in
position of Static Water Level and indicate principal water-bearing strata.

MATERIAL	From	To	SWL
Sticky brown & red-brown clay			
occ. rock fragment	0	20	
Brown clay & rotten rock	20	30	
Gray basalt	30	55	
Dirty gray-brown basalt-occ.			
hard	55	90	
Broken gray-brown basalt-occ.			
dirty	90	135	
Brown & gray-brown basalt-occ.			
broken	135	170	
Hard gray-black basalt	170	185	
Gray-black lava & basalt	185	210	
Fractured gray & gray-brown			
basalt	210	230	
Black & gray-black basalt-occ.			
broken	230	295	
Brown basalt w/seapstone	295	310	
Gray-black basalt-occ. gray-			
brown	310	350	

Work started 2/27/80 19 Completed 3/10/80 19
Date well drilling machine moved off of well 3/10/80 19

Drilling Machine Operator's Certification:

This well was constructed under my direct supervision.
Materials used and information reported above are true to my
best knowledge and belief.

[Signed] A.M. Jannsen Date 3/17/80, 19____
(Drilling Machine Operator)

Drilling Machine Operator's License No. 523

Water Well Contractor's Certification:

This well was drilled under my jurisdiction and this report is
true to the best of my knowledge and belief.

Name A.M. JANNSEN WELL DRILLING CO., INC.
(Person, firm or corporation) (Type or print)

Address 21075-SW Tualatin Valley Hwy. Aloha, Or.

[Signed] A.M. Jannsen (Water Well Contractor) 21

Contractor's License No. 79 Date 3/17/80, 19____

NOTICE TO WATER WELL CONTRACTOR

The original and first copy
of this report are to be
filed with the

STATE ENGINEER, SALEM, OREGON 97310

within 30 days from the date
of well completion.

STATE ENGINEER
SALEM, OREGON

STATE OF OREGON JUL 16 1973

(Please type or print)

STATE ENGINEER

SALEM, OREGON

State Permit No.

(1) OWNER:

Name LEONARD KINNEY
Address Box 399 Rt 3 Hillsboro

(2) TYPE OF WORK (check):

New Well ☒ Deepening ☐ Reconditioning ☐ Abandon ☐

If abandonment, describe material and procedure in Item 12.

(3) TYPE OF WELL:

Rotary ☒ Driven ☐
Cable ☐ Jetted ☐
" ☐ Bored ☐

(4) PROPOSED USE (check):

Domestic ☒ Industrial ☐ Municipal ☐
Irrigation ☐ Test Well ☐ Other ☐

(5) CASING INSTALLED:

Threaded ☐ Welded ☐

6" Diam. from 0 ft. to 55 ft. Gage 250
" Diam. from _____ ft. to _____ ft. Gage _____
" Diam. from _____ ft. to _____ ft. Gage _____

(6) PERFORATIONS:

Perforated? ☐ Yes ☒ No.

Type of perforator used _____

Size of perforations in. by _____ in.
_____ perforations from _____ ft. to _____ ft.
_____ perforations from _____ ft. to _____ ft.
_____ perforations from _____ ft. to _____ ft.

(7) SCREENS:

Well screen installed? ☐ Yes ☒ No

Manufacturer's Name _____ Model No. _____
Type _____ Slot size _____ Set from _____ ft. to _____ ft.
Diam. _____ Slot size _____ Set from _____ ft. to _____ ft.

(8) WELL TESTS:

Drawdown is amount water level is
lowered below static level

Was a pump test made? ☐ Yes ☒ No If yes, by whom?

_____ gal./min. with _____ ft. drawdown after _____ hrs.
" " " " " "

Bailer test High Pressure Air 69 lbs
10 gal./min. with 45 ft. drawdown after 1 hrs.

Artesian flow _____ g.p.m.
Temperature of water _____ Depth artesian flow encountered _____ ft.

(9) CONSTRUCTION:

Well seal—Material used CEMENT
Well sealed from land surface to 55 ft.
Diameter of well bore to bottom of seal 6 in.
Diameter of well bore below seal 6 in.
Number of sacks of cement used in well seal 6 sacks
Number of sacks of bentonite used in well seal _____ sacks
Brand name of bentonite _____
Number of pounds of bentonite per 100 gallons
of water _____ lbs./100 gals.
Was a drive shoe used? ☐ Yes ☒ No Plugs _____ Size: location _____ ft.
Did any strata contain unusable water? ☐ Yes ☒ No
Type of water? _____ depth of strata _____
Method of sealing strata off _____
Was well gravel packed? ☐ Yes ☒ No Size of gravel: _____
Gravel placed from _____ ft. to _____ ft.

(10) LOCATION OF WELL:

County Washington Driller's well number _____
5 1/2 1/4 35 1/4 Section 34 T. 3N R. 2W W.M.
Bearing and distance from section or subdivision corner _____

(11) WATER LEVEL: Completed well.

Depth at which water was first found 300 ft.
Static level 280 ft. below land surface. Date 7-12-73
Artesian pressure _____ lbs. per square inch. Date _____

(12) WELL LOG:

Diameter of well below casing 6

Depth drilled 735 ft. Depth of completed well 735 ft.

Formation: Describe color, texture, grain size and structure of materials;
and show thickness and nature of each stratum and aquifer penetrated,
with at least one entry for each change of formation. Report each change in
position of Static Water Level and indicate principal water-bearing strata.

MATERIAL	From	To	SWL
Blue sandstone Med	2	55	
Grey sandstone Hard Med	55	310	
Grey Basalt Med	310	490	
Grey Basalt broken Med	490	542	
Grey Basalt Hard	542	735	
5" liner installed From 0 to 145'			

Work started 7-1 1973 Completed 7-12 1973
Date well drilling machine moved off of well 7-12 1973

Drilling Machine Operator's Certification:

This well was constructed under my direct supervision.
Materials used and information reported above are true to my
best knowledge and belief.

[Signed] _____ Date 7-12, 1973
(Drilling Machine Operator)

Drilling Machine Operator's License No. 724

Water Well Contractor's Certification:

This well was drilled under my jurisdiction and this report is
true to the best of my knowledge and belief.

Name Steve Waterwell Drilling Inc
(Person, firm or corporation) (Type or print)

Address 2021 500 6th Portland OR

[Signed] _____ (Water Well Contractor) 23

Contractor's License No. 572 Date 7-12, 1973

002128

8279

(9) LOCATION OF WELL by legal description:
County Malit Latitude _____ Longitude _____
Township 3N Nor S. Range 2W E or W, W 1
Section 34 NW $\frac{1}{4}$ SW $\frac{1}{4}$
Tax Lot _____ Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) same

☒ New Well ☐ Deepen ☐ Recondition ☐ Abandon

☒ Rotary Air ☐ Rotary Mud ☐ Cable
☐ Other

☒ Domestic ☐ Community ☐ Industrial ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

Special Construction approval Yes ☐ No ☒ Depth of Completed Well 107 ft.

Explosives used Yes ☐ No ☒ Type _____ Amount _____

How was seal placed: Method ☐ A ☐ B ☐ C ☐ D ☐ E
☒ Other POURED

Backfill placed from _____ ft. to _____ ft. Material _____
Gravel placed from _____ ft. to _____ ft. Size of gravel _____

	Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing:	8	+1	28	250	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Liner:	4	0	100	Pvc	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Final location of shoe(s) none

☒ Perforations Method DRILL
☐ Screens Type _____ Material _____

[illegible]

☐ Pump ☐ Bailer ☒ Air ☐ Flowing
Artesian

Yield gal/min	Drawdown	Drill stem at	Time
---------------	----------	---------------	------

Temperature of water _____ Depth Artesian Flow Found _____

Was a water analysis done? ☐ Yes By whom

Did any strata contain water not suitable for intended use? ☐ Too little

☐ Salty ☐ Muddy ☐ Odor ☐ Colored ☐ Other

Depth of strata:

(9) LOCATION OF WELL by legal description:

County Malheur Latitude _____ Longitude _____
Township 3N Nor S. Range 2W E or W, W1
Section 34 NW $\frac{1}{4}$ SW $\frac{1}{4}$
Tax Lot _____ Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) Same

75 ft. below land surface. Date 2-20
Artesian pressure _____ lb. per square inch. Date _____

Depth at which water was first found 76

From	To	Estimated Flow Rate	S
76	89	272	7

(12) WELL LOG:

Ground elevation

[illegible]

Date started 2-14 Completed 2-20

(unbonded) Water Well Constructor Certification:

I certify that the work I performed on the construction, alteration, abandonment of this well is in compliance with Oregon well construction standards. Materials used and information reported above are true to my best knowledge and belief.

Signed _____ WWC Number _____
Date _____

(bonded) Water Well Constructor Certification:

I accept responsibility for the construction, alteration, or abandonment of the well and the work performed on this well during the construction dates reported above. The work performed during this time is in compliance with Oregon well construction standards. This report is true to the best of my knowledge and belief.

belief. WWC Number 715
Signed Don Feather Date 3-12-89

NOTICE TO WATER WELL CONTRACTOR

The original and first copy of this report are to be filed with the

MULT

WATER WELL REPORT

STATE OF OREGON

(Please type or print)

(Do not write above this line)

State Well No.

State Permit No.

STATE ENGINEER, SALEM, OREGON 97310
within 30 days from the date of well completion.

002129

SEP 27 1976

(1) OWNER:

Name Rodney T. Cox
Address Box 221
Grangeville, Idaho 83530

(2) TYPE OF WORK (check):

New Well ☒ Deepening ☐ Reconditioning ☐ Abandon ☐
If abandonment, describe material and procedure in Item 12.

(3) TYPE OF WELL:

Rotary ☒ Driven ☐
Cable ☐ Jetted ☐
Dug ☐ Bored ☐

(4) PROPOSED USE (check):

Domestic ☒ Industrial ☐ Municipal ☐
Irrigation ☐ Test Well ☐ Other ☐

(5) CASING INSTALLED:

Threaded ☐ Welded ☒
6-5/8" Diam. from plus 1 ft. to 145 ft. Gage 250
" Diam. from _____ ft. to _____ ft. Gage _____
" Diam. from _____ ft. to _____ ft. Gage _____

(6) PERFORATIONS:

Perforated? ☐ Yes ☒ No.

Type of perforator used _____

Size of perforations _____ in. by _____ in.
_____ perforations from _____ ft. to _____ ft.
_____ perforations from _____ ft. to _____ ft.
_____ perforations from _____ ft. to _____ ft.

(7) SCREENS:

Well screen installed? ☐ Yes ☒ No

Manufacturer's Name _____
Type _____ Model No. _____
Diam. _____ Slot size _____ Set from _____ ft. to _____ ft.
Diam. _____ Slot size _____ Set from _____ ft. to _____ ft.

(8) WELL TESTS:

Drawdown is amount water level is lowered below static level.

Was a pump test made? ☐ Yes ☒ No If yes, by whom?
air lift
Yield: 10 gal./min. with 85 ft. drawdown after 2 hrs.
7 " " " " " "

Ballor test _____ gal./min. with _____ ft. drawdown after _____ hrs.

Artesian flow _____ g.p.m.

Temperature of water _____ Depth artesian flow encountered _____ ft.

(9) CONSTRUCTION:

Well seal—Material used Cement grout & 2% gel
Well sealed from land surface to 145 ft.
Diameter of well bore to bottom of seal 9-5/8 in.
Diameter of well bore below seal 6 in.
Number of sacks of cement used in well seal 9 sacks
Number of sacks of bentonite used in well seal _____ sacks
Brand name of bentonite _____
Number of pounds of bentonite per 100 gallons of water _____ lbs./100 gals.
Was a drive shoe used? ☐ Yes ☒ No Plugs _____ Size: location _____ ft.
Did any strata contain unusable water? ☐ Yes ☒ No
Type of water? _____ depth of strata _____
Method of sealing strata off _____
Was well gravel packed? ☐ Yes ☒ No Size of gravel: _____
Gravel placed from _____ ft. to _____ ft.

(10) LOCATION OF WELL:

County Multnomah Driller's well number _____
1/4 1/4 Section 34 T. 3 N. R. 2 W. W.M.
Bearing and distance from section or subdivision corner _____

(11) WATER LEVEL: Completed well.

Depth at which water was first found 480 ft.
Static level 435 ft. below land surface. Date 9/23/76
Artesian pressure _____ lbs. per square inch. Date _____

(12) WELL LOG:

Diameter of well below casing 6"
Depth drilled 522 ft. Depth of completed well 520 ft.

Formation: Describe color, texture, grain size and structure of materials; and show thickness and nature of each stratum and aquifer penetrated, with at least one entry for each change of formation. Report each change in position of Static Water Level and indicate principal water-bearing strata.

MATERIAL	From	To	SWL
Buckshot brown clay top soil	0	2	
Brown clay-occ.red clay streaks	2	30	
Hard sticky gray-brown clay	30	35	
Brown clay w/occ.rotten rock	35	40	
Gray-brown clay	40	50	
Weathered brown rock & brown clay	50	100	
Broken brown basalt	100	110	
Gray-brown basalt-occ.soft brown basalt streaks	110	135	
Black & brown basalt-occ. broken	135	170	
Brown basalt-occ.broken streak - soapstone	170	190	
Hard gray-brown & gray-black basalt-occ. soapstone	190	250	
Brown basalt-occ.hard gray-brown basalt	250	360	
Hard gray-black basalt	360	390	

Work started 9/20/76 19 Completed 9/23/76 19
Date well drilling machine moved off of well 9/23/76 19

Drilling Machine Operator's Certification:

This well was constructed under my direct supervision. Materials used and information reported above are true to my best knowledge and belief.

[Signed] _____ Date 9/24/76, 19_____
(Drilling Machine Operator)

Drilling Machine Operator's License No. 523

Water Well Contractor's Certification:

This well was drilled under my jurisdiction and this report is true to the best of my knowledge and belief.

Name A.M. JANNSEN DRILLING CO. (Type or print)
(Person, firm or corporation)
Address 21075 SW Tualatin Valley Hwy. Aloha, Oregon

[Signed] _____ (Water Well Contractor)

Contractor's License No. 79 Date 9/24/76, 19_____
SP*45656-119

WATER RESOURCES DEPARTMENT
SALEM, OREGON 97310

within 30 days from the date of well completion.

SEP 23 1977

STATE OF OREGON

(Please type or print)

State Well No.

State Permit No.

OREGON

OCT 19 1977

(10) LOCATION OF WELL:

County Clatsop Driller's well number 18
SALEM, OREGON 1/4 Section 34 T. 3N R. 2W

Bearing and distance from section or subdivision corner

(11) WATER LEVEL: Completed well.

Depth at which water was first found 175
Static level 175 ft. below land surface. Date 8-17
Artesian pressure _____ lbs. per square inch. Date _____

(12) WELL LOG: Diameter of well below casing 6
Depth drilled 810 ft. Depth of completed well 810

Formation: Describe color, texture, grain size and structure of material and show thickness and nature of each stratum and aquifer penetrat with at least one entry for each change of formation. Report each change position of Static Water Level and indicate principal water-bearing strata

MATERIAL	From	To	SWL
Top Soil	0	2	
Brown Clay	2	6	
Red Clay	6	38	
Brown Clay	38	46	
Red Clay	46	78	
Blue Clay	78	95	
BRN Clay Small Gravel	95	117	
Blue Clay	117	145	
Brown Soft Rock	145	152	
Yellow Soft Rock	152	164	
Black Hard Rock	164	173	
BRN. Soft Rock	173	187	175
Sandstone Brown	187	195	
Claystone Blue	195	235	
Blue Clay	235	238	
Claystone Blue	238	265	
Blue Clay	265	266	
Claystone Blue	266	315	
Blue Clay	315	319	

Work started 8-9-77 Completed 8-17-77
Date well drilling machine moved off of well 8-17-77

Drilling Machine Operator's Certification:

This well was constructed under my direct supervision. Materials used and information reported above are true to my best knowledge and belief.

[Signed] James C. Gussner Date 9-15, 1977
(Drilling Machine Operator)

Drilling Machine Operator's License No. 193-Louie CRIS

Water Well Contractor's Certification:

This well was drilled under my jurisdiction and this report is true to the best of my knowledge and belief.

Name Submersible Pump & Drilling Co. (Type or print)
(Person, firm or corporation)

Address Rt. 1, Box 84-B, Hillsboro, OR 97121

[Signed] Thursell T. Helling (Water Well Contractor)

Contractor's License No. 669 Date 9-15, 1977

(1) OWNER:

Name Gary Henry
Address Rt 1 Box 284
Scappoose, OR. 97056

(2) TYPE OF WORK (check):

New Well ☒ Deepening ☐ Reconditioning ☐ Abandon ☐

If abandonment, describe material and procedure in Item 12.

(3) TYPE OF WELL:

Rotary ☒ Driven ☐
Cable ☐ Jetted ☐
Dug ☐ Bored ☐

(4) PROPOSED USE (check):

Domestic ☒ Industrial ☐ Municipal ☐
Irrigation ☐ Test Well ☐ Other ☐

CASING INSTALLED:

Threaded ☐ Welded ☒
6" Diam. from 0 ft. to 171 ft. Gage 250
4 1/4" Diam. from 0 ft. to 810 ft. Gage 188
" Diam. from _____ ft. to _____ ft. Gage _____

PERFORATIONS:

Perforated? ☒ Yes ☐ No.

Type of perforator used SAW
Size of perforations 1/8 in. by 10 in.
726 perforations from 180 ft. to 800 ft.
perforations from _____ ft. to _____ ft.
perforations from _____ ft. to _____ ft.

(7) SCREENS:

Well screen installed? ☐ Yes ☒ No

Manufacturer's Name _____
Type _____ Model No. _____
Diam. _____ Slot size _____ Set from _____ ft. to _____ ft.
Diam. _____ Slot size _____ Set from _____ ft. to _____ ft.

(8) WELL TESTS:

Drawdown is amount water level is lowered below static level

Was a pump test made? ☐ Yes ☒ No If yes, by whom?

Yield: _____ gal./min. with _____ ft. drawdown after _____ hrs.

" " " " " "

" " " " " "

Water test 6 gal./min. with 400 ft. drawdown after 1 hrs.

Artesian flow _____ g.p.m.

Temperature of water 53 Depth artesian flow encountered _____ ft.

(9) CONSTRUCTION:

Well seal—Material used Cement

Well sealed from land surface to 171 ft.

Diameter of well bore to bottom of seal 10 in.

Diameter of well bore below seal 6 in.

Number of sacks of cement used in well seal 25 sacks

How was cement grout placed? Shovel & poured

Was a drive shoe used? ☐ Yes ☒ No Plugs _____ Size: location _____ ft.

Did any strata contain unusable water? ☐ Yes ☒ No

Type of water? _____ depth of strata _____

Method of sealing strata off _____

Was well gravel packed? ☐ Yes ☒ No Size of gravel: _____

Gravel placed from _____ ft. to _____ ft.

(USE ADDITIONAL SHEETS IF NECESSARY)

ate
STATE ENG (Do not write above this line)
SALEM OR

Name Donny Chapman
Address 2023 1/2 N 6th
Portland, Ore.

New Well ☒ Deepening ☐ Reconditioning ☐ Abandon ☐
If abandonment, describe material and procedure in Item 12.

Rotary	<input checked="" type="checkbox"/>	Driven	<input type="checkbox"/>	Domestic	<input checked="" type="checkbox"/>	Industrial	<input type="checkbox"/>	Municipal	<input type="checkbox"/>
Cable	<input checked="" type="checkbox"/>	Jettied	<input type="checkbox"/>	Irrigation	<input type="checkbox"/>	Test Well	<input type="checkbox"/>	Other	<input type="checkbox"/>
Dug	<input type="checkbox"/>	Bored	<input type="checkbox"/>						

(1) CASING INSTALLED: Threaded ☐ Welded ☒
 6" Diam. from 71 ft. to 79 ft. Gage 250
 " Diam. from ft. to ft. Gage
 " Diam. from ft. to ft. Gage

Size of perforations	in. by	in.
perforations from _____	ft. to _____	ft.
perforations from _____	ft. to _____	ft.
perforations from _____	ft. to _____	ft.

Manufacturer's Name _____
Type _____ Model No. _____
Diam. _____ Slot size _____ Set from _____ ft. to _____ ft.
Diam. _____ Slot size _____ Set from _____ ft. to _____ ft.

Was a pump test made? ☐ Yes ☒ No If yes, by whom?

Yield: gal./min. with ft. drawdown after hrs

5 gal./min. with ft. drawdown after - 1 hrs

Artesian flow _____ g.p.m.
 Temperature of water _____ Depth artesian flow encountered ft

Well seal—Material used CEMENT GROUT
Well sealed from land surface to 19 ft.
Diameter of well bore to bottom of seal 10 in.
Diameter of well bore below seal 6 in.
Number of sacks of cement used in well seal 5 sacks
Number of sacks of bentonite used in well seal _____ sacks
Brand name of bentonite _____

Number of pounds of bentonite per 100 gallons
of water lbs./100 gal.

Was a drive shoe used? ☒ Yes ☒ No Plugs Size: location f

Did any strata contain unusable water? ☐ Yes ☒ No

Type of water? depth of strata

Method of sealing strata off

Was well gravel packed? ☐ Yes ☒ No Size of gravel: _____

Gravel placed from _____ ft. to _____ ft.

County _____ Driller's well number _____
 N¹/₂ x SW ¹/₄ Section 34 T. 3N R. 2W
 Bearing and distance from section or subdivision corner _____

Depth at which water was first found 645

Static level 590 ft. below land surface. Date 5/8

Artesian pressure _____ lbs. per square inch. Date _____

(12) WELL LOG: Diameter of well below casing 6
Depth drilled 660 ft. Depth of completed well 660

Formation: Describe color, texture, grain size and structure of material and show thickness and nature of each stratum and aquifer penetrated with at least one entry for each change of formation. Report each change in position of Static Water Level and indicate principal water-bearing strata.

MATERIAL	From	To	SV
TOP SOIL	0	2	
CLAY RED	2	30	
CLAY BROWN	30	75	
BASALT BLACK FRACTURED	75	115	
ROCK, RED, FRACTURED	115	130	
BASALT BLACK FRACTURED	130	145	
BASALT BLACK	145	170	
BASALT DECOMPOSED	170	179	
BASALT, BLACK, FRACT.	179	230	
BASALT BLACK	230	270	
BASALT BLACK FRACT.	270	283	
BASALT BLACK	283	350	
BASALT, BLACK FRACT	350	435	
BASALT, BLACK	435	520	
BASALT, BLACK, FRACT.	520	540	
BASALT, BLACK, HARD	540	645	
BASALT, BLACK FRACT.	645	660	5
CLAY GREY	660		

Work started 5/3 1974 Completed 5/8
Date well drilling machine moved off of well 5/8

This well was constructed under my direct supervision. Materials used and information reported above are true to best knowledge and belief.

[Signed] Robert L. Smith Date 3/11/1
(Drilling Machine Operator)
Drilling Machine Operator's License No. 879

This well was drilled under my jurisdiction and this report true to the best of my knowledge and belief.

Name SWIFT WATER WELL DRILLING (Type or print)
(Person, firm or corporation)

Address 421 SW 6th AVE PORTLAND

[Signed] Joe McKnight
(Water Well Contractor) (30)

Contractor's License No. 576 Date 6-4

STATE ENGINEER, SALEM, OREGON 97310
within 30 days from the date of well completion.

NOV 26 1975

(Please type or print)
(Do not write above this line)

State Well No. 3N/2W-3

State Permit No.

WATER RESOURCES DEPT.
SALEM, OREGON

(1) OWNER:

Name Robert Roy
Address 11210 S. E. Fuller Rd.
Portland, Oregon 97222

(2) TYPE OF WORK (check):

New Well ☒ Deepening ☐ Reconditioning ☐ Abandon ☐

If abandonment, describe material and procedure in Item 12.

(3) TYPE OF WELL:

Rotary ☒ Driven ☐
Cable ☐ Jetted ☐
Dug ☐ Bored ☐

(4) PROPOSED USE (check):

Domestic ☒ Industrial ☐ Municipal ☐
Irrigation ☐ Test Well ☐ Other ☐

CASING INSTALLED:

6-5/8" Diam. from 0 ft. to 70 ft. Gage 250
" Diam. from ft. to ft. Gage
" Diam. from ft. to ft. Gage

PERFORATIONS:

Perforated? ☐ Yes ☒ No.

Type of perforator used

Size of perforations in. by in.
perforations from ft. to ft.
perforations from ft. to ft.
perforations from ft. to ft.

(7) SCREENS:

Well screen installed? ☐ Yes ☒ No

Manufacturer's Name
Type Model No.
Diam. Slot size Set from ft. to ft.
Diam. Slot size Set from ft. to ft.

(8) WELL TESTS:

Drawdown is amount water level is lowered below static level

Was a pump test made? ☐ Yes ☐ No If yes, by whom?

Yield: gal./min. with ft. drawdown after hrs.

" " " " " "

airlift 15 gal./min. with 45 ft. drawdown after 2 hrs.

Artesian flow g.p.m.

perature of water Depth artesian flow encountered ft.

(9) CONSTRUCTION:

Well seal—Material used Cement grout & 2% gel
Well sealed from land surface to 70 ft.
Diameter of well bore to bottom of seal 10 in.
Diameter of well bore below seal 6 in.
Number of sacks of cement used in well seal 10 sacks
Number of sacks of bentonite used in well seal - sacks
Brand name of bentonite International Gel
Number of pounds of bentonite per 100 gallons
of water lbs./100 gals.
Was a drive shoe used? ☐ Yes ☒ No Plugs Size: location ft.
Did any strata contain unusable water? ☐ Yes ☒ No
Type of water? depth of strata
Method of sealing strata off
Was well gravel packed? ☐ Yes ☒ No Size of gravel:
Gravel placed from ft. to ft.

(10) LOCATION OF WELL:

County Multnomah Driller's well number
1/4 1/4 Section 35 T. 3N R. 2 W.
Bearing and distance from section or subdivision corner

(11) WATER LEVEL: Completed well.

Depth at which water was first found 180
Static level 130 ft. below land surface. Date 11/
Artesian pressure lbs. per square inch. Date

(12) WELL LOG:

Diameter of well below casing 6"

Depth drilled 195 ft. Depth of completed well 195

Formation: Describe color, texture, grain size and structure of mater and show thickness and nature of each stratum and aquifer penetra with at least one entry for each change of formation. Report each chang position of Static Water Level and indicate principal water-bearing str

MATERIAL	From	To	SW
Light brown clayw/rock frgmnts	0	10	
Weathered brown basalt	10	15	
Dirty broken gray-brn.basalt	15	20	
Weathered red-brown basalt w/ clay (caving)	20	30	
Dirty broken gray-brn.basalt	30	55	
Black&brown basalt--occ.broken streak	55	75	
Broken brown basalt--occ.dirty (caving)	75	100	
Muddy broken brown basalt-- (caving)	100	180	
Broken brown basalt	180	190	15
Muddy brown basalt	190	195	

WELL COMPLETED TO 190 FT.

Work started 11/13/75 19 Completed 11/20/75 19

Date well drilling machine moved off of well 11/20/75 19

Drilling Machine Operator's Certification:

This well was constructed under my direct supervisio Materials used and information reported above are true to m best knowledge and belief.

[Signed] Date 11/24/75, 19
(Drilling/Machine Operator)

Drilling Machine Operator's License No. 523

Water Well Contractor's Certification:

This well was drilled under my jurisdiction and this report i true to the best of my knowledge and belief.

Name A. M. JANNSEN DRILLING CO.
(Person, firm or corporation) (Type or print)

Address 21075 S.W. Tualatin Valley Hwy, Aloha, O

[Signed] (Water Well Contractor)

Contractor's License No. 79 Date 11/24/75 31

#8
Policy 11F(1)

POLICY 10: MULTIPLE USE AGRICULTURAL LAND

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

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

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

POLICY 11: COMMERCIAL FOREST LAND

INTRODUCTION

The purpose of the Commercial Forest Land Area Classification is to conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

The intent of the Commercial Forest Land Area Classification is to allocate lands which are suitable for commercial forest management including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources.

Forest operations, practices and auxiliary uses shall be allowed on forest lands subject only to such regulation of uses as are found in ORS 527.722. Uses which may be allowed subject to standards set forth in Statewide Planning Goal 4 and Oregon Administrative Rule 660, Division 6 are: (1) uses related to and in support of forest operations; (2) uses to conserve soil, water and air quality, and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment; (3) locationally dependent uses; (4) forest management dwellings that are necessary for, and accessory to, forest operations; and (5) other dwellings under prescribed conditions.

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

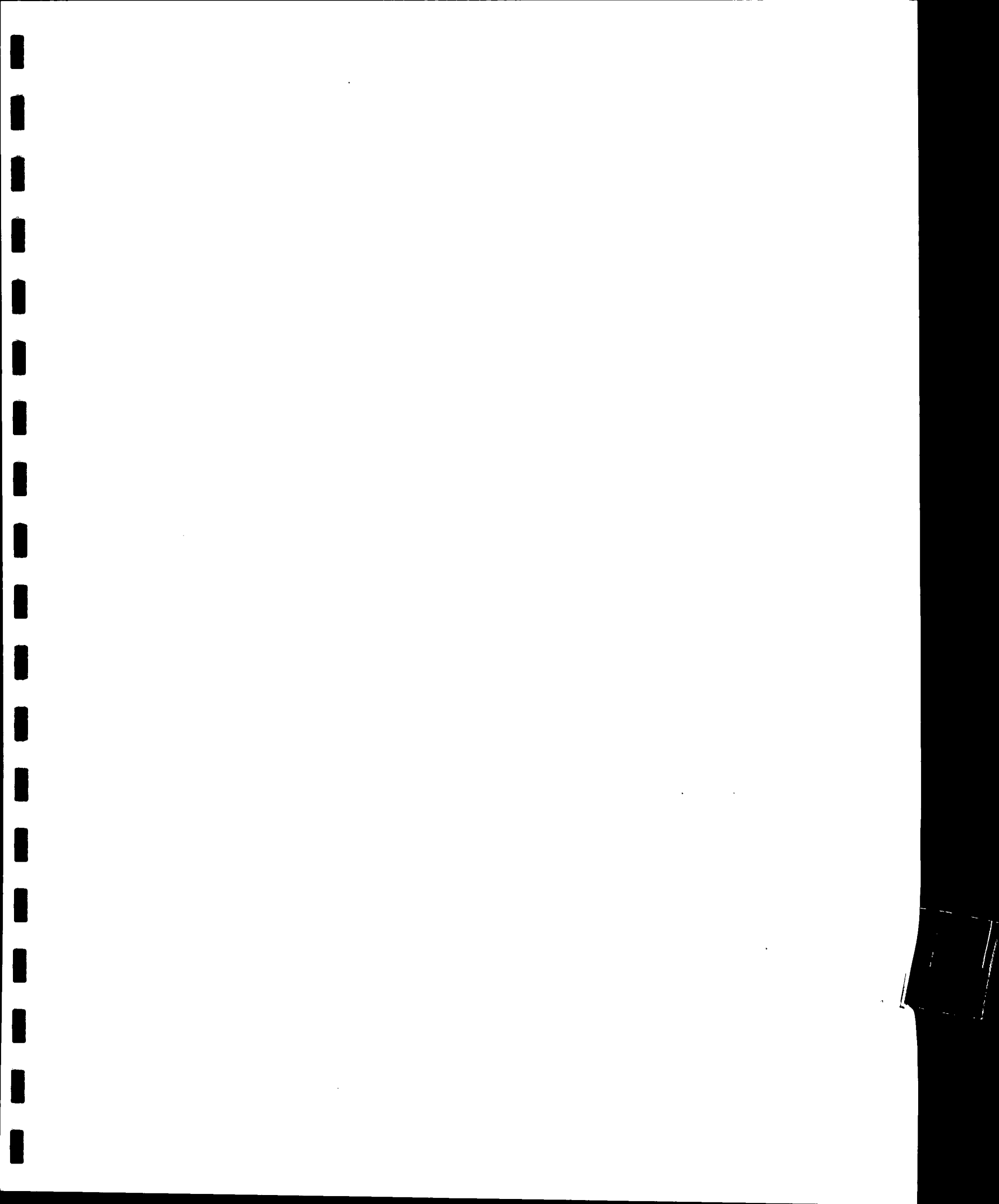
- A. PREDOMINANTLY IN FOREST CUBIC FOOT SITE CLASS I, II, AND III, FOR DOUGLAS FIR AS CLASSIFIED BY THE U.S. SOIL CONSERVATION SERVICE;

- B. SUITABLE FOR COMMERCIAL FOREST USE AND SMALL WOODLOT MANAGEMENT;
- C. POTENTIAL REFORESTATION AREAS, BUT NOT AT THE PRESENT USED FOR COMMERCIAL FORESTRY;
- D. NOT IMPACTED BY URBAN SERVICES; AND
- E. COHESIVE FOREST AREAS; OR
- F. OTHER AREAS WHICH ARE:
 - 1. NECESSARY FOR WATERSHED PROTECTION OR ARE SUBJECT TO LANDSLIDES, EROSION OR SLUMPING; OR
 - 2. WILDLIFE AND FISHERY HABITAT AREAS, POTENTIAL RECREATION AREAS OR OF SCENIC SIGNIFICANCE.

THE COUNTY'S POLICY IS TO ALLOW FOREST MANAGEMENT WITH RELATED AND COMPATIBLE USES, BUT TO RESTRICT INCOMPATIBLE USES FROM THE COMMERCIAL FOREST LAND AREA, RECOGNIZING THAT THE INTENT IS TO PRESERVE FOREST LANDS FROM INAPPROPRIATE AND INCOMPATIBLE DEVELOPMENT.

STRATEGIES

- A. The following strategies shall be addressed as part of the Community Development Ordinance. The strategies are designed to make land divisions and allowed uses compatible with forest operations and agriculture consistent with Statewide Planning Goal 4 and Oregon Administrative Rule (OAR) 660, Division 6:
 - 1. The Zoning Code should include a Commercial Forest Zone with:
 - a. A base minimum lot size of 80 acres appropriate to commercial forestry, with aggregation of lots in single ownership required;
 - b. Forest and farm uses as primary uses;
 - c. Forest management dwellings and dwellings not related to forest management as conditional uses. Such dwellings are to be allowed under approval criteria and siting standards designed to assure conservation of the natural resource base, protection from hazards, and protection of big game winter habitat;
 - d. Compatible community service uses allowed by OAR 660, Division 6, mineral and aggregate extraction, and support services for forestry activities as conditional uses;
 - e. Lots of Record provisions; and
 - f. Mortgage lot provisions.
 - 2. The County Street and Road Standards Code should include criteria related to street width, road construction standards, and required improvements appropriate to the function of the road.



POLICY 13: AIR, WATER AND NOISE QUALITY

MULTNOMAH COUNTY, RECOGNIZING THAT THE HEALTH, SAFETY, WELFARE, AND QUALITY OF LIFE OF ITS CITIZENS MAY BE ADVERSELY AFFECTED BY AIR, WATER AND NOISE POLLUTION, SUPPORTS EFFORTS TO IMPROVE AIR AND WATER QUALITY AND TO REDUCE NOISE LEVELS. THEREFORE, IT IS MULTNOMAH COUNTY'S POLICY TO:

- A. COOPERATE WITH PRIVATE CITIZENS, BUSINESSES, UTILITIES AND PUBLIC AGENCIES TO MAINTAIN AND IMPROVE THE QUALITY OF AIR AND WATER, AND TO REDUCE NOISE POLLUTION IN MULTNOMAH COUNTY.
- B. SUPPORT AND PARTICIPATE IN THE IMPLEMENTATION OF STATE AND REGIONAL PLANS AND PROGRAMS TO REDUCE POLLUTION LEVELS.
- C. MAINTAIN HEALTHFUL AIR QUALITY LEVELS IN THE REGIONAL AIRSHED; TO MAINTAIN HEALTHFUL GROUND AND SURFACE WATER RESOURCES; AND TO PREVENT OR REDUCE EXCESSIVE SOUND LEVELS WHILE BALANCING SOCIAL AND ECONOMIC NEEDS IN MULTNOMAH COUNTY.
- D. DISCOURAGE THE DEVELOPMENT OF NOISE-SENSITIVE USES IN AREAS OF HIGH NOISE IMPACT.

FURTHERMORE, IT IS THE COUNTY'S POLICY TO REQUIRE, PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION, A STATEMENT FROM THE APPROPRIATE AGENCY THAT ALL STANDARDS CAN BE MET WITH RESPECT TO AIR QUALITY, WATER QUALITY, AND NOISE LEVELS. IF THE PROPOSAL IS A NOISE SENSITIVE USE AND IS LOCATED IN A NOISE IMPACTED AREA, OR IF THE PROPOSED USE IS A NOISE GENERATOR, THE FOLLOWING SHALL BE INCORPORATED INTO THE SITE PLAN:

- 1. BUILDING PLACEMENT ON THE SITE IN AN AREA HAVING MINIMAL NOISE LEVEL DISRUPTIONS,
- 2. LANDSCAPING OR OTHER TECHNIQUES TO LESSEN NOISE GENERATION TO LEVELS COMPATIBLE WITH SURROUNDING LAND USES.
- 3. INSULATION OR OTHER CONSTRUCTION TECHNIQUES TO LOWER INTERIOR NOISE LEVELS IN NOISE-IMPACTED AREAS.

Winner property than requiring the applicants to strictly adhere to the setback requirements. Accordingly, I find that the authorization of the proposed setback variance will not be materially detrimental to the public welfare or injurious to any property in the vicinity or district, including the Winner property, or adversely affect the appropriate development of adjoining properties.

- (4) The granting of the variance will not adversely affect the realization of the Comprehensive Plan nor will it establish a use which is not listed in the underlying zone.

Analysis. Dwellings are allowed as conditional uses in the underlying Commercial Forest Use Zone. The granting of the variance will not adversely affect the realization of the Comprehensive Plan. The issues relative to the Comprehensive Plan are discussed in more detail in a subsequent section of this opinion. I find that this subsection of the variance standards is satisfied.

6. Multnomah County Comprehensive Plan Policies

- A. Policies in the Comprehensive Plan which are applicable to these Quasi-judicial Decisions are discussed as follows:

- (1) **POLICY NO. 13, AIR, WATER AND NOISE QUALITY. MULTNOMAH COUNTY, . . . SUPPORTS EFFORTS TO IMPROVE AIR AND WATER QUALITY AND TO REDUCE NOISE LEVELS. . . . FURTHERMORE, IT IS THE COUNTY'S POLICY TO REQUIRE, PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION, A STATEMENT FROM THE APPROPRIATE AGENCY THAT ALL STANDARDS CAN BE MET WITH RESPECT TO AIR QUALITY, WATER QUALITY AND NOISE LEVELS..**

Analysis. A single family home is not a "noise generator". The County has not indicated that there are any state air quality standards applicable to the proposed residential use. Accordingly, I find that the noise and air quality elements of this policy are inapplicable to a single family residence. The county sanitarian has found that the subject site can be served by an on-site septic system. Such a certification indicates that the septic system can be installed without any degradation of water quality. The applicant is also being required to submit confirmation that they have a domestic water supply which does not come from a Class II stream, and which is from a source authorized by the Water Resources Department ground water rules. Accordingly, I find that the applicants have demonstrated that the applicable agencies have issued statements that all relevant standards can be met with respect to air

quality, water quality and noise levels consistent with Policy 13 of the Comprehensive Plan.

- (2) POLICY NO. 14, DEVELOPMENTAL LIMITATIONS. THE COUNTY'S POLICY IS TO DIRECT DEVELOPMENT AND LAND FORM ALTERATIONS AWAY FROM AREAS WITH DEVELOPMENT LIMITATIONS EXCEPT UPON A SHOWING THAT DESIGN AND CONSTRUCTION TECHNIQUES CAN MITIGATE ANY PUBLIC HARM OR ASSOCIATED PUBLIC COST, AND MITIGATE ANY ADVERSE EFFECTS TO SURROUNDING PERSONS OR PROPERTIES. DEVELOPMENT LIMITATIONS AREAS ARE THOSE WHICH HAVE ANY OF THE FOLLOWING CHARACTERISTICS:

- A. Slopes exceeding 20%;
- B. Severe soil erosion potential;
- C. Land within the 100 year flood plain;
- D. A high seasonal water table within 0-24 inches of the surface for 3 or more weeks of the year;
- E. A fragipan less than 30 inches from the surface; and
- F. Land subject to slumping, earth slides or movement.

Analysis. The applicant has indicated that the property is not located in a slope hazard area and that fact has been confirmed by County staff. The property is not located in a flood plain, nor does it have high water tables. Exhibit 4 demonstrates that the soils under the subject tract are Columbia River Basalt with Loess overburden, a stable land form. The subject property is almost a mile removed from the former proposed site of a Wildwood Landfill, a site composed of land in the Scappoose formation which is of a landslide complex. The portion of the subject tract where the proposed site development will occur is the most level portion of the parcel. Accordingly, granting a variance to the side yard setback requirements to allow the applicants to build the proposed dwelling at the portion of the tract where the slopes approximate 15% furthers the Comprehensive Plan Policy. There does not appear to be any severe soil erosion potential on the site. However, if the dwelling will require the movement of over 50 cubic yards of soil, a grading and erosion control permit will be required to control erosion potential, prior to issuance of a building permits. Accordingly, I find

#10
Policy 14D

POLICY 14: DEVELOPMENTAL LIMITATIONS

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POLICY 15: WILLAMETTE RIVER GREENWAY

THE COUNTY'S POLICY IS TO PROTECT, CONSERVE, ENHANCE, AND MAINTAIN THE NATURAL, SCENIC, HISTORICAL, AGRICULTURAL, ECONOMIC, AND RECREATIONAL QUALITIES OF LANDS ALONG THE WILLAMETTE RIVER.

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

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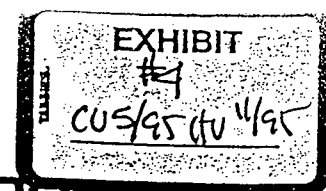
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MULTNOMAH COUNTY OREGON



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

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

MEMORANDUM

TO: Joan Chambers, Hearings Officer
FROM: Gary Clifford, Planner
DATE: July 25, 1995
SUBJECT: Information submitted into the record for CU 5-95

At the public hearing of July 19, 1995 regarding conditional use application CU 5-95 there were questions raised about how the past proposal for the "Wildwood Sanitary Landfill" may point to potential problems with the construction of the subject dwelling. The Wildwood site was abandoned before the landfill was built due to the immediate landslide potential of the site. Below is a short response that should be useful in this analysis.

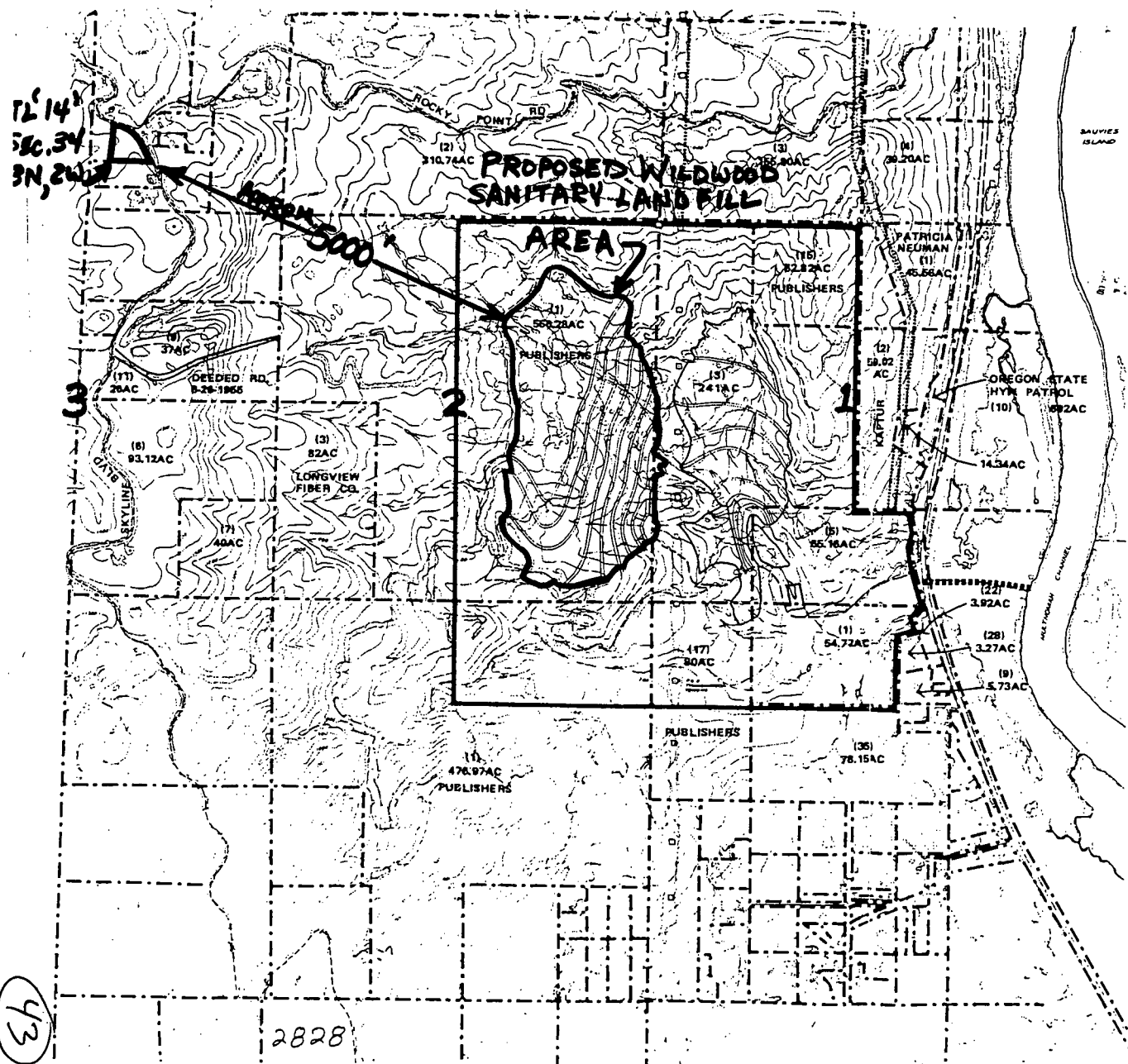
Location

1. At the hearing I volunteered to point out on a wall map where the Wildwood site was. The location I gave was wrong and resulted in the distance between the subject site (tax lot 14) of the conditional use and the proposed landfill site being greatly overstated.
2. Attached to this memo is a copy of a map from the Wildwood Landfill files on which I have outlined the two locations in question. The measured distance between the locations from that map is approximately 5,000 feet or just under one mile.

Land Slide Potential

3. The second attached map is taken from a map in the Geology of Portland, Oregon and Adjacent Areas, Geological Survey Bulletin 1119, By Donald E. Trimble, United States Government Printing Office, Washington, 1963. I outlined the two sites on this map and it clearly shows that the underlying geology of the two are two completely different formations: tax lot 14 is shown to be Columbia River Basalt with Loess overburden; the Wildwood site is entirely in the Scappoose formation.

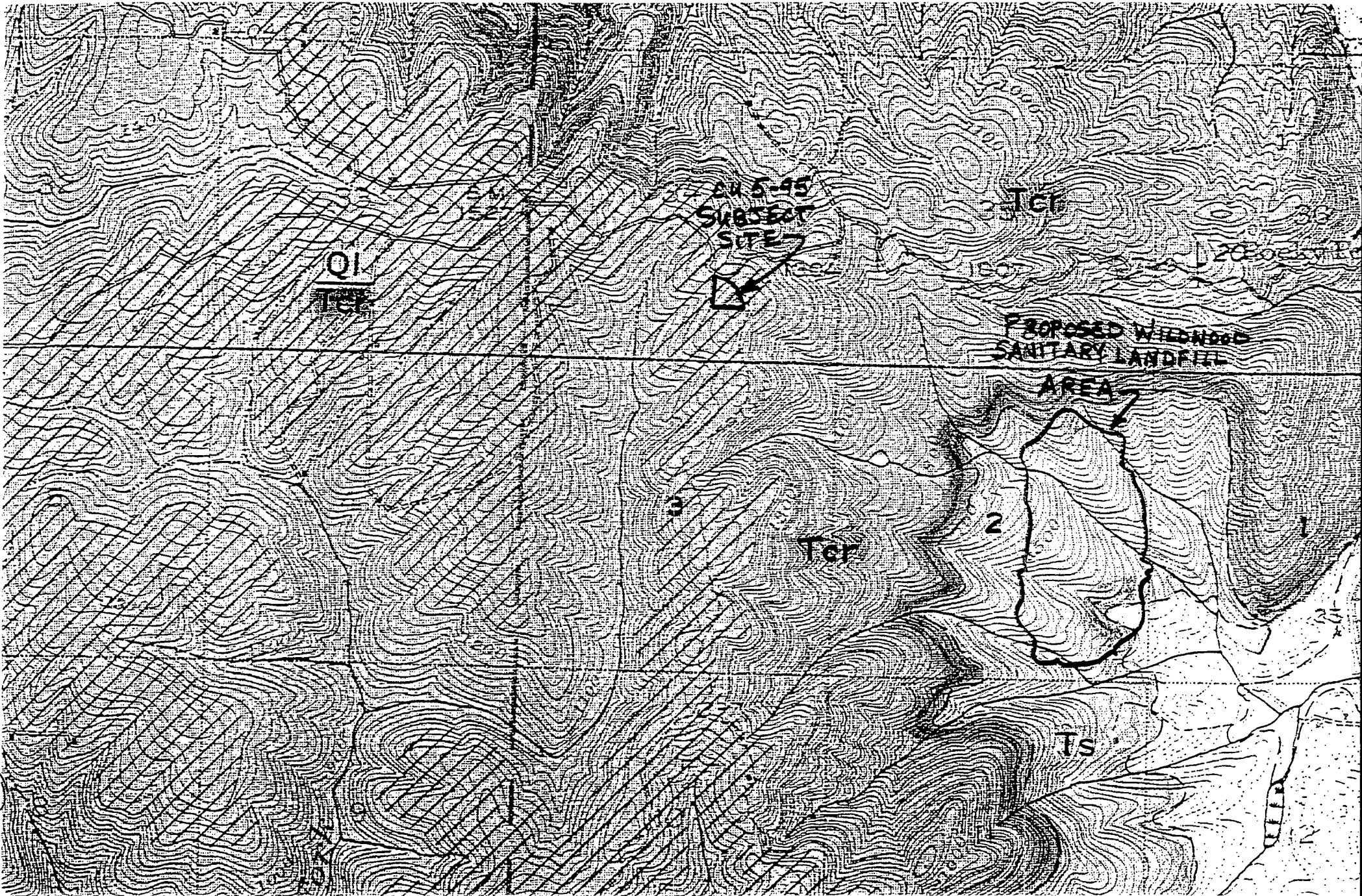
4. The publication by Trimble on page 80 states: "As previously discussed, most of the area of exposure of the Scappoose formation is a landslide complex." There are no such descriptions of the Columbia River Basalt formation, only confirmation of the desirability of the formation for building stone, rock walls, riprap and road materials that must be quarried (page 106-107). The Angell Brothers quarry located west of the Sauvie Island Bridge is also in the same formation and their quarrying requires heavy blasting to extract rock materials.
5. The third attached map is a portion of Multnomah County's "Slope Hazard Map" adopted by reference in MCC 11.15.6710(A). Any property appearing within the mapped slope hazard area, (designated with an "H"), will require a Hillside Development Permit for development. Part of the application for this permit is the requirement for a professional geotechnical engineer to investigate and report on the specific site. The subject tax lot 14 is clearly not within a mapped "H" area and the Wildwood site is entirely within that area.
6. The "Slope Hazard Maps" were developed by Shannon & Wilson Geotechnical Consultants in 1978 for the County Planning Division. The report by that firm, entitled "Geotechnical and Engineering Slope-Hazard Studies, Unincorporated Multnomah County, Oregon", is submitted into the record to explain the methodology and purpose of the maps.
7. Also of note are the topography lines shown on the third map. Skyline Blvd. generally follows the crest of the ridge of the Tualatin Mountains. Elevations fall to the east and west sides of the road. Tax lot 14 is on the west side of Skyline and the Wildwood site is almost a mile to the east of Skyline. I conclude from the above paragraphs 1 through 7 that the geology and landslide potential characteristics for tax lot 14 and the Wildwood Landfill site are not comparable.



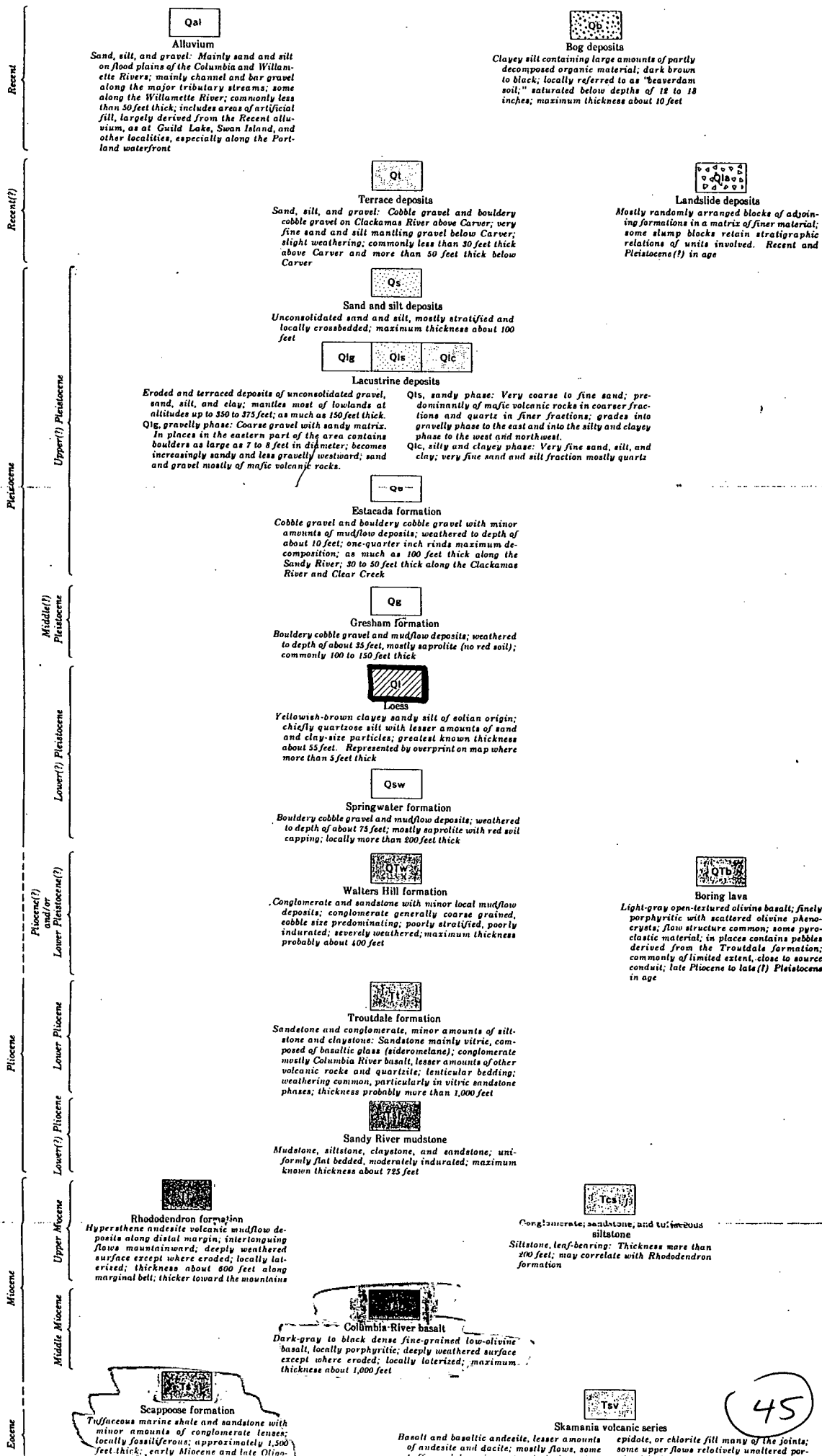
7/19/95
bc

<u>METRO PROPERTY</u>	<u>DESCRIPTION</u>	<u>AREA</u>	
	T2N, R2W, SEC. 1	T.L. 3	241 Ac.
		T.L. 5	65.16 Ac.
		T.L. 15	52.82 Ac.
	T2N, R2W, SEC. 2	T.L. 1	320 Ac. (partitioned)
	T2N, R2W, SEC. 11	T.L. 1	80 Ac. (partitioned)
	T2N, R2W, SEC. 12	T.L. 1	54.77 Ac.
		T.L. 17	40 Ac. (partitioned)
			<u>853.75 Acres</u>

WILDWOOD SANITARY LANDFILL FEASIBILITY STUDY



EXPLANATION SEDIMENTARY AND VOLCANIC ROCKS



QUATERNARY

TERTIARY

that there would be no impact on the water quality in the area from the septic system.

- L. Gary Clifford, Planner, provided information regarding the location of the previously proposed Wildwood Sanitary Landfill. Subsequently, in a memorandum dated July 25, 1995, Mr. Clifford provided additional information that more specifically delineated the location of the Wildwood site. The location of the previously proposed Wildwood Landfill was at a site just under one mile from the subject application site. The additional material that Mr. Clifford presented indicated that the geologic formation under the lot, which is the site of the subject application, is completely different than that found at the previously proposed Wildwood site. The geologic information provided clearly indicates that the underlying geologic formation below the subject lot is Columbia River Basalt with Loess overburden. The Wildwood site is entirely within the Scappoose formation. While the Scappoose formation may be of a landslide complex, the Columbia River Basalt formation is a very hard rock formation, and not of a landslide complex. The information also indicates Skyline Boulevard generally follows the crest of the ridge of the Tualatin Mountains. Elevation falls to the east and west side of the road. Tax Lot 14 is on the west side of Skyline. The Wildwood site is almost a mile to the east of Skyline. Thus, if any slides were to occur at the Wildwood site, they would go in a direction away from the subject site. The evidence clearly demonstrates that the geologic and landslide characteristics for Tax Lot 14 and the Wildwood Landfill site are not comparable.
- M. Tomasz Fijak submitted a letter expressing concerns that the well proposed for this application would affect his well. He also expressed a concern that the septic system would adversely affect water quality.

STANDARDS AND CRITERIA ANALYSIS AND FINDINGS OF FACT

1. Conditional Use Approval Criteria for a Dwelling Not Related to Forest Management in the Commercial Forest Use Zone.

The lot in question is located within the Commercial Forest Use Zone. A dwelling not related to forest management is permitted as a conditional use pursuant to 11.15.2050(B) pursuant to the provisions of MCC .2052 and .2074.

2. MCC 11.15.2052(A): A dwelling not related to forest management may be allowed subject to the following:

#12
Policy 37C

- (4) POLICY NO. 37, UTILITIES. THE COUNTY'S POLICY IS TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

WATER DISPOSAL SYSTEM

- A. THE PROPOSED USE CAN BE CONNECTED TO A PUBLIC SEWER AND WATER SYSTEM, BOTH OF WHICH HAVE ADEQUATE CAPACITY; OR
- B. THE PROPOSED USE CAN BE CONNECTED TO A PUBLIC WATER SYSTEM, AND THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) WILL APPROVE A SUBSURFACE SEWAGE DISPOSAL SYSTEM ON THE SITE; OR
- C. THERE IS AN ADEQUATE PRIVATE WATER SYSTEM, AND THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) WILL APPROVE A SUBSURFACE SEWAGE DISPOSAL SYSTEM; OR
- D. THERE IS AN ADEQUATE PRIVATE WATER SYSTEM, AND A PUBLIC SEWER WITH ADEQUATE CAPACITY.

DRAINAGE

- E. THERE IS ADEQUATE CAPACITY IN THE STORM WATER SYSTEM TO HANDLE THE 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.

Analysis. There are no public water or sewer systems in the area. The applicants have indicated that they intend to drill a well and obtain their water from such a source. The applicants will, in fact, be required to submit a well report as a condition of this approval. The applicants propose to install a septic system to meet the disposal considerations. Carol Winner expressed a concern that the septic system would contaminate wells on adjacent properties. Similarly,

Tomasz Fijak has submitted a letter expressing a concern that if the applicants "put a septic system in, it will seep into the creek on or near their land". However, the evidence in the record indicates that there is no water source or creek on the applicants' property. Ms. Fijak is not one of the adjacent property owners. The possibility of the contamination of his water source appears extremely remote.

The County Sanitarian has conducted a site evaluation of the Burger tract and has approved that for installation of a septic system. That approval process mandates that the system be designed and engineered in the fashion so that there will be no contamination of surrounding water sources. Accordingly, I find that the property can be served by an adequate private water system consisting of a well and that the Oregon Department of Environment Quality will approve a subsurface sewage disposal system on the site.

The applicants have indicated that water run-off will be handled on site and staff has concurred. Accordingly, I find that the water run-off can be handled on site and the run-off from the site will not adversely affect the water quality in adjacent streams, ponds, lakes relative to drainage on adjoining lands.

The applicants have indicated that the property is served by PGE and GTE. Accordingly, I find that there is adequate energy supply to handle the needs of the proposal and that communications facilities are available on site, meeting the requirements of factors H and I of this Plan Policy.

Accordingly, I do hereby make the findings that the water and disposal system, drainage system, and energy and communications systems are adequate for the proposed development.

- (5) POLICY NO. 38, FACILITIES. THE COUNTY'S POLICY IS TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

SCHOOL

- A. THE APPROPRIATE SCHOOL DISTRICT HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENT ON THE PROPOSAL.

FIRE PROTECTION

- B. THERE IS ADEQUATE WATER PRESSURE AND FLOW FOR FIRE FIGHTING PURPOSES; AND

major variance of 100 feet from the required 200 -
feet setback, based on the findings and
conclusions contained herein.

CONDITIONS OF CONDITIONAL USE APPROVAL

1. Approval of this conditional use shall expire two years from the date of this order unless substantial construction has taken place in accordance with MCC 11.15.7110(C).
2. Applicant must provide evidence that a stocking survey report has been submitted to the County Tax Assessor in accordance with OAR 660-06-029(5)(C). The Assessor will then determine whether the property can receive tax deferral status.
3. Prior to the issuance of a building permit for the dwelling, applicant will submit a copy of a well report demonstrating that a domestic water supply is available on the property, that complies with the provisions of MCC 11.15.2074(C).
4. Prior to the issuance of a building permit, applicant shall establish primary and secondary fire safety zones around the proposed site of the structure. As long as the property is under forest resource zoning, applicant will maintain primary and secondary fire safety zones around all structures in accordance with MCC 11.15.2074(A)(5)(b), and as required by the Forest Practice Rules under the Department of Forestry, Forest Management Plan.
5. The dwelling shall have a fire retardant roof and all chimneys shall be equipped with spark arrestors in accordance with the requirements of OAR 660-06-035(4) and (6).
6. To prevent creation of a wildlife barrier, no fences shall be erected within 60 feet of the center line of a roadway. Any fences erected shall be erected in accordance with the standards of MCC 11.15.6426(B)(3).
7. Residential landscaping areas (also known as the "cultivated area") shall not exceed one acre in size and shall be contiguous to the proposed dwelling. Any future additional development of the property shall comply with the code provisions in effect at the time the development occurs.
8. No species of an invasive vegetation (English Ivy, Vinca, etc.) shall be introduced in the "cultivated" area contiguous to the proposed dwelling. The remaining portion of the parcel shall be left in native vegetation unless altered in conjunction with an approved forest management plan, or to comply with primary and secondary fire safety zone requirements.

Oct. 9 '95 16:13

PENINSULA STATION

FAX 503-283-7665

P. 2



CITY OF

PORTLAND, OREGON

BUREAU OF BUILDINGS

Margaret M. Mahoney, Director
1120 S.W. 5th Avenue
Portland, Oregon 97204-1992
Mailing Address: P.O. Box 8120
Portland, Oregon 97207-8120
(503) 796-7300

June 14, 1990

SITE EVALUATION REPORT

LFS: 82-90

Rachael Sauser
10820 NW Springvill Rd
Portland OR 97229

In response to your application, a land feasibility study has been conducted to evaluate the site legally described as: Tax Lot 14 Section 34 3N-2W for the purpose of using a subsurface sewage disposal septic tank/drainfield system in accordance with your proposed drainfield location.

Based upon the results of the on-site study and soils studies of the natural soil by Phillip Crawford this site is considered SUITABLE for the use of a standard septic tank/drainfield disposal system in compliance with the standards set forth in On-Site Sewage Disposal Rules adopted on March 11, 1982.

The following type and size of the system and absorption area is required:

- a) Serial distribution system.
- b) Septic tanks to serve single family dwellings shall be sized on the number of bedrooms in the dwelling as follows:
 - (I) 1 to 4 bedrooms..... 1,000 gallons
 - (II) 5 bedrooms..... 1,250 gallons
 - (III) More than 5 bedrooms..... 1,500 gallons
- c) 100 lineal feet of absorption trench per bedroom for first 3 bedrooms and lineal feet per bedroom for any bedrooms over 3 (system needs to be sized for a minimum of 3 bedrooms).
- d) Other Drainfield must be a minimum of 100 feet from well.

This letter does not constitute a permit to install this subsurface sewage system, however, an APPROVED SITE EVALUATION REPORT assures that the property owner will receive a permit to construct a system on that property provided procedures and conditions for permit issuance found in Rule 340-71-160 are met. A scaled site plan submitted by owner or license installer is required. See enclosure.

Sincerely,

Phillip Crawford
Phillip Crawford, RS
Environmental Soils Specialist

PC/lm

cc: file

Encl (2)

50

#13
Policy 38B

Tomasz Fijak has submitted a letter expressing a concern that if the applicants "put a septic system in, it will seep into the creek on or near their land". However, the evidence in the record indicates that there is no water source or creek on the applicants' property. Ms. Fijak is not one of the adjacent property owners. The possibility of the contamination of his water source appears extremely remote.

The County Sanitarian has conducted a site evaluation of the Burger tract and has approved that for installation of a septic system. That approval process mandates that the system be designed and engineered in the fashion so that there will be no contamination of surrounding water sources. Accordingly, I find that the property can be served by an adequate private water system consisting of a well and that the Oregon Department of Environment Quality will approve a subsurface sewage disposal system on the site.

The applicants have indicated that water run-off will be handled on site and staff has concurred. Accordingly, I find that the water run-off can be handled on site and the run-off from the site will not adversely affect the water quality in adjacent streams, ponds, lakes relative to drainage on adjoining lands.

The applicants have indicated that the property is served by PGE and GTE. Accordingly, I find that there is adequate energy supply to handle the needs of the proposal and that communications facilities are available on site, meeting the requirements of factors H and I of this Plan Policy.

Accordingly, I do hereby make the findings that the water and disposal system, drainage system, and energy and communications systems are adequate for the proposed development.

- (5) POLICY NO. 38, FACILITIES. THE COUNTY'S POLICY IS TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

SCHOOL

- A. THE APPROPRIATE SCHOOL DISTRICT HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENT ON THE PROPOSAL.

FIRE PROTECTION

- B. THERE IS ADEQUATE WATER PRESSURE AND FLOW FOR FIRE FIGHTING PURPOSES; AND

- C. THE APPROPRIATE FIRE DISTRICT HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENT 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.

Analysis. The applicant has submitted signed forms from the Scappoose School District, Multnomah County RFPD No. 20 for fire protection, and Multnomah County Sheriff's Office indicating that adequate service levels can be provided to the proposed dwelling. Accordingly, I find that the applicant has met the Comprehensive Plan Policy No. 38 criteria relating to facilities.

- (6) POLICY NO. 40, DEVELOPMENT REQUIREMENTS. THE COUNTY'S POLICY IS TO ENCOURAGE A CONNECTED PARK AND RECREATION SYSTEM AND TO PROVIDE FOR SMALL PRIVATE RECREATION AREAS BY REQUIRING A FINDING PRIOR TO APPROVAL OF LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

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

Analysis. This Policy requires consideration of three factors where appropriate. The obvious emphasis in this policy is related to multiple family, commercial and industrial developments and urban area development. This policy is not applicable to a single family residential development in the Commercial Forest Use Zone. Accordingly, I find that this Plan Policy has been given the appropriate level of consideration.

7. Applicability of West Hills Reconciliation Report

- A. In September of 1994, Multnomah County adopted the "West Hills Reconciliation Report" which is considered an amendment to the Multnomah County Comprehensive Framework



DEPT. OF ENVIRONMENTAL SERVICES
DIVISION OF PLANNING AND DEVELOPMENT
2115 SE MORRISON ST., PORTLAND, OR 97214
(503) 248-3043

7 Skyline - 286-5030 973
N
S
FIRE DISTRICT REVIEW

Take this form to the Fire District that
serves the property.

Address of Site Skyline Blvd + Rocky Pointe Rd Sec 34 3N 2W
Tax Roll Description Section 34 3N 2W/T1 # 14 4.66 acres

Description of Proposed Use Residential

If Residential Use, Total Number of Units 1

—TO THE APPLICANT—

Approval of most land uses involving a new or expanded use or involving the creation of a new parcel requires verification that the fire district serving the property has had an opportunity to review and comment on the proposal. Complete the applicable sections of this form and take it to the fire district. After receiving a response, include this form with your application.

Applicant John B Burger Rachael Burger
Address 7146 N Tyler Phone 285-2806
City Portland State OR Zip Code 97203

—TO BE COMPLETED BY A FIRE DISTRICT OFFICIAL—

There is adequate water pressure and flow for fire fighting purposes.

Yes ☒ No ☐

Source 1-1000 GAL ENGINES 2 3000 GAL TANKERS

Pressure VARIES Volume (Gal. per Min.) VARIES

(Optional)

The District provides the following additional comments:

25 VOL FIRE FIGHTERS

Date 9-28-93

Mult Co REPD 20

Name of Fire District

CRAB COTTAGE

Name of Official

ASSNT-CHIEF

Office Held by Official

RETURN THIS FORM TO THE APPLICANT.

53

#14
MCC . 6426

berms to block and/or disrupt views of the development. Priority should be given to retaining existing vegetation over other screening methods. Trees planted for screening purposes should be coniferous to provide winter screening. The applicant is responsible for the proper maintenance and survival of any vegetation used for screening.

- (5) Siting in a manner so that grading, cuts or fill are minimized and accomplished in a manner so that the topography after completion of the development will blend with the surrounding landscape.
- (6) Limiting structure height to remain below the surrounding forest canopy level.
- (7) Siting and/or design so that the silhouette of buildings and other structures remains below the skyline of bluffs or ridges as seen from identified viewing areas. This may require modifying the building or structure height and design as well as location on the property, except:
 - (a) New communications facilities (transmission lines, antennae, dishes, etc.), may protrude above a skyline visible from an identified viewing area upon demonstration that:
 - (i) The new facility could not be located in an existing transmission corridor or built upon an existing facility;
 - (ii) The facility is necessary for public service; and
 - (iii) The break in the skyline is the minimum necessary to provide the service.
- (C) Mining of a protected aggregate and mineral resource shall be done in accordance with any standards for mining identified in the protection program approved during the Goal 5 process.
- (D) The approval authority may impose conditions of approval on an SEC-v permit in

accordance with MCC .6418, in order to make the development visually subordinate. The extent and type of conditions shall be proportionate to the potential adverse visual impact of the development as seen from identified viewing areas, taking into consideration the size of the development area that will be visible, the distance from the development to identified viewing areas, the number of identified viewing areas that could see the development, and the linear distance the development could be seen along identified viewing corridors.

[Added 1994, Ord. 801 § 3]

11.15.6426 Criteria for Approval of SEC-h Permit Wildlife Habitat

- (A) In addition to the information required by MCC .6408(C), an application for development in an area designated SEC-h shall include an area map showing all properties which are adjacent to the proposed development, with the following information:
 - (1) Location of primary, secondary, and impacted wildlife habitat areas as per the adopted reference map within the Multnomah County Comprehensive Plan;
 - (2) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas;
 - (3) Location of existing structures;
 - (4) Location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;
 - (5) Proposed type and location of all fencing on the subject property.
- (B) Approval shall be based on the ability of the proposal to meet the following standards:
 - (1) Where a parcel to be developed contains any combination of primary, secondary, and impacted wildlife habitat areas, development activities shall be limited to the less valuable of the wildlife habi-

tat areas, except as necessary to provide access.

- (2) The proposed development shall be located so as to maintain existing forested areas which are broadly contiguous with forested areas or areas being reforested on adjacent properties.
- (3) The proposed development shall satisfy either (a) or (b) below:
 - (a) Development location and fencing standards:
 - (i) The development shall be within 200 feet of any public road abutting the site
 - (ii) Access road/driveway and service corridor serving the development shall not exceed 500 feet in length
 - (iii) Access road/driveway shall be located within 100 feet of the property boundary if adjacent property has an access road or driveway within 200 feet of the property boundary
 - (iv) The development shall be within 300 feet of the property boundary if adjacent property has structures and developed areas within 200 feet of the property boundary.
 - (v) Fencing within a required setback from a public road shall be designed so as to allow the passage of wildlife. Such fencing shall meet the following criteria:
 - (A) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.
 - (B) Fences may be constructed of rail, barbed, or barbless wire. The bottom strand of a wire

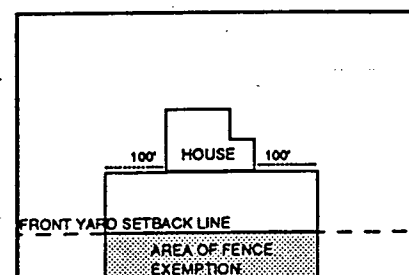
fence shall be barbless. Fences may be electrified. Cyclone, woven wire, and chain link fences are prohibited.

- (C) Solid fencing which acts as a visual barrier to wildlife is not permitted.

- (D) That portion of the required setback along a public road which can be described as an area bounded by:
 - (1) the public road,
 - (2) a line connecting two points extending one hundred (100) feet from each end of the building line of the principal residence or structure.
 - (3) a line connecting the public road and one of the two outer points described in (2) above which is perpendicular to the public road, and
 - (4) a line connecting the public road and the other of the two outer points described in (2) above which is perpendicular to the public road:

shall not be subject to these fencing requirements.

FIGURE .6400A
FENCE
EXEMPTION
AREA



(b) Wildlife Conservation Plan

The applicant shall prepare a wildlife conservation plan for the proposed development which shall demonstrate that the proposed development has either:

- (i) Fully mitigated any adverse impacts to wildlife habitat on the site, or
- (ii) Provided for wildlife enhancement measures which compensate for the loss of any wildlife habitat values on the site.

- (4) The following nuisance plants shall not be included within landscape plans:

Scientific Name	Common Name
<i>Chelidonium majus</i>	Lesser celandine
<i>Cirsium arvense</i>	Canada Thistle
<i>Cirsium vulgare</i>	Common Thistle
<i>Clematis ligusticifolia</i>	Western Clematis
<i>Clematis vitalba</i>	Traveler's Joy
<i>Conium maculatum</i>	Poison hemlock
<i>Convolvulus arvensis</i>	Field Morning-glory
<i>Convolvulus nyctagineus</i>	Night-blooming Morning-glory
<i>Convolvulus sepium</i>	Lady's nightcap
<i>Cortaderia selloana</i>	Pampas grass
<i>Crataegus sp. except C. douglasii</i>	hawthorn, except native species
<i>Cytisus scoparius</i>	Scotch broom
<i>Daucus carota</i>	Queen Ann's Lace
<i>Elodea densa</i>	South American Waterweed
<i>Equisetum arvense</i>	Common Horsetail
<i>Equisetum telemateia</i>	Giant Horsetail
<i>Erodium cicutarium</i>	Crane's Bill
<i>Geranium robertianum</i>	Robert Geranium
<i>Hedera helix</i>	English Ivy
<i>Hypericum perforatum</i>	St. John's Wort
<i>Ilex aquafolium</i>	English Holly
<i>Laburnum watereri</i>	Golden Chain Tree
<i>Lemna minor</i>	Duckweed, Water Lentil
<i>Loentodon autumnalis</i>	Fall Dandelion
<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
<i>Phalaris arundinacea</i>	Reed Canary grass
<i>Poa annua</i>	Annual Bluegrass
<i>Polygonum coccineum</i>	Swamp Smartweed
<i>Polygonum convolvulus</i>	Climbing Binaweed
<i>Polygonum sachalinense</i>	Giant Knotweed

<i>Prunus laurocerasus</i>	English, Portugese Laurel
<i>Rhus diversiloba</i>	Poison Oak
<i>Rubus discolor</i>	Himalayan Blackberry
<i>Rubus laciniatus</i>	Evergreen Blackberry
<i>Senecio jacobaea</i>	Tansy Ragwort
<i>Solanum dulcamara</i>	Blue Bindweed
<i>Solanum nigrum</i>	Garden Nightshade
<i>Solanum sarrachoides</i>	Hairy Nightshade
<i>Taraxacum officinale</i>	Common Dandelion
<i>Utricularia vulgaris</i>	Common Bladderwort
<i>Urtica dioica</i>	Stinging Nettle
<i>Vinca major</i>	Periwinkle (large leaf)
<i>Vinca minor</i>	Periwinkle (small leaf)
<i>Xanthium spinosum</i>	Spiny Cocklebur
various genera	Bamboo sp.

[Added 1994, Ord. 801 § 3]

11.15.6428 Criteria for Approval of SEC-s Permit Streams

Protected Streams consist of those streams which have been found through a Goal 5 ESEE analysis to be either "2-A", "3-A", or "3-C", are identified as protected in the Comprehensive Framework Plan, and are designated SEC-s on the Multnomah County Sectional Zoning Maps.

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

Stream Conservation Area – An area extending 300' upslope from and perpendicular to the centerline of a protected stream. Any development proposed within a Stream Conservation Area shall be required to demonstrate that the development satisfies the standards of MCC 11.15.6428(A) through (D).

- (A) Except for the following exempt uses, no development shall be allowed within a Stream Conservation Area unless approved by the Approval Authority pursuant to the provisions of MCC 11.15.6428(B) through (D).

- (1) Forest practices conducted under the Forest Practices Act
- (2) Planting of native vegetation
- (3) Agricultural uses, except structures

Plan. The Reconciliation Report consists of both findings and policy recommendations. The policy recommendations have not yet been separately incorporated into the Comprehensive Framework Plan. The report has not yet been acknowledged by LCDC. However, pursuant to ORS 197.625(3)(a), this unacknowledged but adopted Comprehensive Plan provision is effective for purposes of this application, because no stay has been granted under ORS 197.845. Accordingly, the West Hills Reconciliation Report will be applied to this application.

The subject tract is part of the West Hills area of Multnomah County that has been designated a significant Goal 5 wildlife habitat area in the reconciliation report. The report contains a Goal 5 ESEE Analysis that discusses the various conflicting uses relative to the wildlife habitat. Ultimately, the plan adopts a balanced approach which limits, but does not prohibit, conflicting uses in order to protect wildlife habitat. Accordingly, under the provisions of the plan, residential use is a "conflicting use" which is allowed in the areas where significant wildlife habitat exists. The approach of the report is to protect the resources by imposing conditions which minimize impact upon the wildlife resources.

The West Hills Reconciliation Report indicates that conflicting uses such as residential uses should be limited in order to protect significant wildlife habitat. The plan proposes that residential uses would be allowed conditionally, and that standards for protection of wildlife habitat should consider various measures to insure the maintenance and enhancement of the designated primary habitat areas as homes for various species of wildlife. The report also indicates that different standards are necessary for protection of primary, secondary and impacted wildlife habitat areas.

The specific protection measures set forth in the West Hills Reconciliation Report for primary wildlife habitat areas include the following:

1. Where a parcel to be developed contains both primary and secondary, or primary and impacted wildlife habitat areas, development activities should be limited to the secondary or impacted areas to the maximum extent feasible.
2. Fencing should be prohibited along roadways, thus reducing barriers to wildlife movement. Design standards for fences outside of the "cultivated" area discussed below should be adopted which ensure that fences do not block passage for a wide range of wildlife species.

3. The "cultivated" area (i.e., lawns and gardens) of residential lots in the primary habitat areas should be limited to one acre (consistent with fire safety standards), leaving the remaining land in the parcel in native vegetation, to be altered only in conjunction with approved forest management practices. This cultivated area should be designed to minimize the edge effect along roads.
4. Similarly, the cleared area for community service and conditional uses should be limited to the minimum size necessary for the use, and should under no circumstances exceed two acres (consistent with fire safety standards).
5. Certain introduced vegetation should be prohibited (e.g., English Ivy, Vinca, and other invasive species), even in cultivated areas.
6. Erosion control standards should be adopted where there will be prolonged exposure of soils, or excavation, associated with residential development.
7. Development along significant streams should be regulated as proposed in the discussion of streams.

Analysis. The first protective measure listed above is inapplicable since the subject tract is entirely within an area designated as primary wildlife habitat. Accordingly, it is not possible to limit the proposed development of a single family resident to an area on the tract that is a secondary or impacted area, since the entire site consists of primary wildlife habitat area.

The applicants have not proposed to construct any fences. However, a condition should be imposed that would limit future construction of fences. Accordingly, as a condition of approval, fencing will be prohibited within 60 feet from the centerline of the county maintained roadway to prevent developing a barrier to wildlife movement.

To implement the third protective measure, a condition will be imposed limiting the cultivated area adjacent to the proposed dwelling to an area no greater than one acre. The remaining land on the parcel will be left in native vegetation unless altered in conjunction with an approved forest management plan or to be consistent with fire safety standards, or the requirements of the Multnomah County zoning ordinance relating to primary and secondary fire safety zones.

Although the proposed dwelling would be a conditional use in this zone, the third protective measure listed above relating to limiting the developed and cultivated area to one acre is a more stringent standard and will be the condition imposed herein.

The introduction of invasive vegetation such as English Ivy, Vinca and other invasive species shall be prohibited on the tract, even in cultivated areas.

The sixth protective measure listed above provides that an erosion control standard should be adopted where there will be prolonged exposure of soils or excavation associated with the residential development. Although grading, cutting or filling is not a proposal under this application, the county zoning ordinance does have requirements for a hillside development and erosion control permit. Accordingly, if any grading, cutting, or filling which would come under the terms of MCC 11.15.6700-.6735 occurs, the applicants herein would be required to obtain a hillside development and erosion control permit.

There are no streams on the subject tract. Accordingly, the last protective measure listed above is inapplicable.

8. 11.15.6428 SEC Provisions Relating to Wildlife Habitat.

The designated level of protection for the significant wildlife habitat in the West Hills Area is 3.C., Page VI-23, West Hills Reconciliation Report. The plan provides that "implementation of these standards as regards residential and community service/conditional uses should be accomplished through use of a significant environmental concern (SEC) overlay zone for wildlife habitat protection." Page VI-24, West Hills Reconciliation Report.

An SEC overlay zone designation has not been made applicable to the subject tract that is the subject of this application. However, MCC 11.15.6409 provides: "For Goal 5 resources designated "3C", the approval criteria shall be used to determine the most appropriate location, size and scope of the proposed development, in order to make the development compatible with the purposes of this section, but shall not be used to prohibit a use or be used to require removal or relocation of existing physical improvements to the property."

Accordingly, the "criteria" in Section 11.15.6426 shall be reviewed in order to determine the most appropriate location for the proposed development, but shall not be utilized to prohibit that development.

- (A) A development application should include an area map showing properties which are adjacent to the proposed development with the following information:

#15
Fire Zones

- (5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

- (a) Access for a pumping fire truck to within 15 feet of any perennial water source on the lot. The access shall meet the driveway standards of MCC .2074(D) with permanent signs posted along the access route to indicate the location of the emergency water source;

Analysis. There is no perennial water source on site. Accordingly, the standard dealing with access for a pumping truck to water source is not applicable.

- (b) Maintenance of a primary and secondary fire safety zone.

- (i) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure.

- (ii) On lands with 10 percent or greater slope the primary fire safety zone shall be extended down the slope from a dwelling or structure as follows:

<u>Percent Slope</u>	<u>Distance in Feet</u>
Less than 10	Not Required
Less than 20	50
Less than 30	75
Less than 40	100

- (iii) A secondary fire safety zone is a fire break extending a minimum of 100 in all directions around the primary safety zone. . . .

- (iv) No requirement in (i), (ii) or (iii) above may restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules; and

Analysis. The applicant has designated a primary and secondary fire safety zone on the site plan. The primary fire safety zone is designated as being 30 feet from the dwelling, and the secondary fire safety zone extends an additional 100 feet. Both proposed safety zones comply with MCC 11.15.2074(5)(B)(i) and (iii). However, on lands with ten percent or greater slope, the primary fire safety zone shall be extended down the slope from the dwelling fifty feet if the slope is

between ten and twenty percent. No additional fire safety zone is required if the slope at the site is less than ten percent. The Staff Report, on Page 28 and materials submitted by applicants indicate that the slope at the area of the proposed dwelling is approximately fifteen percent. Thus, the slope is between 10 and 20, and the primary fire safety zone needs to be extended downslope. Accordingly, I find that the risks associated with wild fire are, and can be, minimized at the site. However, I will add a condition that the applicants be required to maintain primary and secondary fire safety zones around all structures in accordance with MCC 11.15.2074(A) (5) (b).

- (c) The building site must have a slope less than 40 percent.

Analysis. The evidence in the record indicates that the slope at the proposed location of the dwelling is relatively flat. The slope is approximately 15 percent. Accordingly, I find that this standard has been met.

(B) The dwelling shall:

- (1) Comply with the standards of the Uniform Building Code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;
- (2) Be attached to a foundation for which a building permit has been obtained; and
- (3) Have a minimum floor area of 600 square feet.
- (4) OAR 660-06-035(5) The dwelling shall have a fire retardant roof.
- (5) OAR 660-60-035(6) If the dwelling has a chimney, or chimneys, each chimney shall have a spark arrestor.

Analysis. The applicants have indicated that the dwelling which will be placed on the property will meet all building code requirements. The proposed dwelling will be attached to a foundation and have the appropriate building permit. The floor area will exceed 600 square feet. The building will have a fire retardant roof and the chimney will have a spark arrestor. These requirements of the Oregon Administrative Rules will be listed as conditions of approval. Accordingly, I find that the applicants have met the requirements for this standard.

COPY

September 22, 1995

~~Allen: Oct~~

Oregon

Ms. Rachael Burger
P.O. Box 83714
Portland, OR 97283

DEPARTMENT OF
FORESTRY

FOREST GROVE DISTRICT

re: Proposed Dwelling Siting in Multnomah County for Tax Lot R-98234-0140, T3N, R2W, Sec 34.



"STEWARDSHIP IN
FORESTRY"

Dear Ms. Burger:

We have reviewed your proposed dwelling in regard to Multnomah County's standards for fuel breaks around structures in forest zones. We have not looked at the property in any other regard so I am assuming that your proposal will meet all other applicable county siting standards.

Your proposal locates the house only 100 feet from the south property line. Generally we prefer to see at least 200 feet between the homesite and adjacent forest land. This helps to minimize conflicts between forest management activities such as harvesting, slash burning and spraying on the adjacent parcel. In addition it provides enough room to provide a primary and secondary fuel break around the structure.

In this case however, the topography limits the area on which a house can be located. The flattest area is along the south property line. It appears that the house could be sited more to the northeast, but doing so would locate the house at the head of a draw. This is a dangerous location in the event of a fire approaching from below since the draw would act as a chimney, causing the fire to rush to the top. In fact, the proposed location is also at risk since it is perched at the top of the slope rather than located a distance back from the edge. But to move it away from the edge, the house would need to be located more to the southeast, putting it even closer to the south property line.

Considering the topographic features of the property, and the trade-offs involved in wildfire protection and minimizing conflicts on adjacent forest land, the proposed location may be the best choice. However, the fuel break area to the northwest should be increased because of the steepness of slope in that direction. Appropriate fuel break distances are described in the enclosed *Recommended Fire Siting Standards for Dwellings and Structures*. In addition, since there is only 100 feet between the proposed dwelling and the south property line, it would be wise for you to increase the primary fuel break to at least 60 feet on the south side of the house, with the remaining distance being secondary.



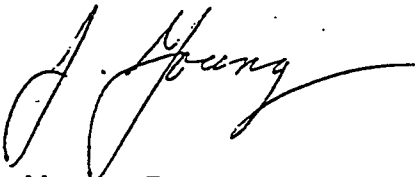
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801 Gales Creek Road
Forest Grove, OR 97116
(503) 357-2191
FAX (503) 357-4548

In summary, we believe that your proposed dwelling location would be a reasonable compromise given the topography of the parcel. We recommend however that you make the modifications to the fuel break areas as suggested above.

As you know, the Department of Forestry can only comment on land use activities - Multnomah County will make any necessary decision on your proposal. I am offering this letter as the Department of Forestry's observation and comment which you may pass on to Multnomah County for their consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. Young", with a long horizontal flourish extending to the right.

Jim Young, Protection Unit Forester

cc: Barry Manning, Mult. Co.
D. Johnson
file



**TUALATIN VALLEY FIRE & RESCUE
AND
BEAVERTON FIRE DEPARTMENT**

4755 S.W. Griffith Drive • P.O. Box 4755 • Beaverton, OR 97076 • (503) 526-2469 • FAX 526-2538

October 9, 1995

Rachael Burger
P.O. Box 83714
Portland, Oregon 97283

Re: Proposed Dwelling, (Tax Lot R-98234-0140, T3N, R2W, Section 34)
Skyline and Rocky Point Road

Dear Ms. Burger:

Tualatin Valley Fire and Rescue, successor to Multnomah County Fire District 20, currently provides fire protection for the above listed area. We have reviewed the letter from the Oregon Department of Forestry dated September 22, 1995, as it relates to fire protection in a forested area and concur with the findings.

If we may be of any further assistance, please do not hesitate to call.

Very truly yours,


Rex H. Jeffries
Assistant Fire Marshal

RHJ:kw

major variance of 100 feet from the required 200 - feet setback, based on the findings and conclusions contained herein.

CONDITIONS OF CONDITIONAL USE APPROVAL

1. Approval of this conditional use shall expire two years from the date of this order unless substantial construction has taken place in accordance with MCC 11.15.7110(C).
2. Applicant must provide evidence that a stocking survey report has been submitted to the County Tax Assessor in accordance with OAR 660-06-029(5)(C). The Assessor will then determine whether the property can receive tax deferral status.
3. Prior to the issuance of a building permit for the dwelling, applicant will submit a copy of a well report demonstrating that a domestic water supply is available on the property, that complies with the provisions of MCC 11.15.2074(C).
4. Prior to the issuance of a building permit, applicant shall establish primary and secondary fire safety zones around the proposed site of the structure. As long as the property is under forest resource zoning, applicant will maintain primary and secondary fire safety zones around all structures in accordance with MCC 11.15.2074(A)(5)(b), and as required by the Forest Practice Rules under the Department of Forestry, Forest Management Plan.
5. The dwelling shall have a fire retardant roof and all chimneys shall be equipped with spark arrestors in accordance with the requirements of OAR 660-06-035(4) and (6).
6. To prevent creation of a wildlife barrier, no fences shall be erected within 60 feet of the center line of a roadway. Any fences erected shall be erected in accordance with the standards of MCC 11.15.6426(B)(3).
7. Residential landscaping areas (also known as the "cultivated area") shall not exceed one acre in size and shall be contiguous to the proposed dwelling. Any future additional development of the property shall comply with the code provisions in effect at the time the development occurs.
8. No species of an invasive vegetation (English Ivy, Vinca, etc.) shall be introduced in the "cultivated" area contiguous to the proposed dwelling. The remaining portion of the parcel shall be left in native vegetation unless altered in conjunction with an approved forest management plan, or to comply with primary and secondary fire safety zone requirements.

#16
80 Acres

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

Analysis: The applicants have submitted evidence indicating that the lot was created in 1945. The lot is shown on the 1962 Multnomah County Zoning Map, where it appears in the F-2 (Agricultural/Timber Growing District - Two Acre Minimum Lot Size) District. County records, therefore, indicated that the lot existed prior to 1962. From 1958 to 1962 this parcel was also zoned F-2. From 1955 to 1958, the minimum lot size in Multnomah County was 7,000 square feet. Prior to 1955, the County had not adopted zoning for the subject site. Therefore, this parcel met the zoning in effect prior to 1962. The parcel is not contiguous to another substandard parcel or parcels under the same ownership. OAR 660-06-027(5)(A) further expands on the definition of contiguous ownership. That section provides "tract" means one or more contiguous lots or parcels in the same ownership. The tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway. There are no other dwellings on the parcel. An Assessor's printout is part of the record, as well as a map depicting adjacent ownership since 1980. There have not been any adjacent common ownerships since 1980. Therefore, the lot does qualify as a lot of record pursuant to the standards of MCC 11.15.2062 and the relevant provisions of OAR 660-06. I find that this standard has been met.

- (2) The lot shall be of sufficient size to accommodate siting the dwelling in accordance with MCC .2074 with minimum yards of 60 feet to the centerline of any adjacent County Maintained road and 200 feet to all other property lines. Variances to this standard shall be pursuant to MCC .8505 through .8525, as applicable.

Analysis: The lot is of sufficient size and the dimensions are adequate to accommodate the proposed dwelling and meet the setbacks of CFU Zone. However, the lot is irregular in shape with maximum north-south dimension of 500 feet. This dimension occurs on the western edge of the property and is not adjacent to a road. Due to this dimensional constraint and severe topography at the portion of the lot where a dwelling could be sited in full compliance with the setback requirements, a variance to the setback has been requested by applicants and will be discussed in the portion of the opinion dealing with the variance application.

- (3) The lot shall meet the following standards: . . .

TAX LOT 14	SEC. 34	T 3 N	R 2 W	ACRES	SD	WD	RFPD	CODI
ACCT. NO. 98234-0140	9294-6257			4.66			20	780.20
OWNER - Rheam, Gates H.								
(See over)								
Hawksley, William cl. 2145-424								
CONT. TO				TOTAL	DEEDED 46, 56, (59 cont) 59, 60, 63			
					OUT OF Tax Lot 5			

DATE	BOOK	PAGE	DESCRIPTION
1945	Div		That part of the northeast quarter of southwest quarter of southeast quarter of Section 34, 3 N, 2 W that lies west of Skyline Boulevard Extended and south of Rocky Point Road, and that part of northwest quarter of southwest quarter of southeast quarter of Section 34, that lies south of Rocky Point Road and west of Skyline Boulevard Extended.; excepting therefrom the west 300' that lies south of Rocky Point Road.

67

**TURNER DRILLING COMPANY**Submitted 10/10/95
TIMOTHY RAMIS

WATER WELLS

BLAST HOLES

TEST DRILLING

WATER SYSTEMS

Phone 621-3851

LICENSED - BONDED

14825 N.W. Gillihan Rd.
Portland, OR 97231STATEMENT Oct 9-95

IN MY OPINION AS A WELL DRILLER, HAVING
DRILLED IN THE SKYLINE AREA SINCE 1977, THAT
A DOMESTIC WATER WELL DRILLED ON THE PROPOSED
BUILDING SITE OWNED BY MR + MRS JOHN BURGER
WOULD IN NO WAY HAVE AN ADVERSE EFFECT ON ANY
EXISTING WELLS.

THE CONCERNED AREA IS NOT DENSELY POPULATED, NOR
IS IT CONSIDERED TO BE A CRITICAL GROUND AREA BY THE
OREGON WATER RESOURCES DEPARTMENT.

Don Fealer
WWC# 715

BOARD OF
COUNTY COMMISSIONERS

1995 OCT 24 PM 2:38

MULTNOMAH COUNTY
OREGON

PAUL NORR

ATTORNEY AND COUNSELOR AT LAW

1020 TAYLOR BUILDING, SUITE 530

1020 S.W. TAYLOR STREET

PORTLAND, OREGON 97205-2550

TELEPHONE (503) 228-3862
FAX (503) 224-1123

October 24, 1995

Board of County Commissioners
Multnomah County
1020 SW Fifth Avenue
Portland, OR 97205

**Re: Appeal of Hearings Officer Decision in Planning Case
No. CU 5-95/HV 11-95 (Burger Property)**

Dear Board of County Commissioners,

I represent the appellant, Carol Winner, who opposes this proposal for (1) Conditional Use approval for a single family residence not related to forest management in the CFU zone, and (2) a Major Variance to the side yard setback requirements.

This letter is submitted into the record in response to new materials provided by the applicants on October 10, 1995.

Incorporated herein are the issues raised in my letter to the Board dated October 10, 1995. The additional materials submitted by the applicant fail to cure the defects in the Hearings Officer's findings as discussed in my previous letter.

On behalf of Ms. Winner, I ask the Board to specifically consider the following before making a decision:

- I. ADEQUATE FINDINGS BASED ON FACTS IN THE RECORD ARE REQUIRED BEFORE THE BOARD APPROVES A QUASI-JUDICIAL APPLICATION. CONDITIONS OF APPROVAL CANNOT BE SUBSTITUTED FOR THE REQUIRED FINDINGS.

The law in Oregon is well settled that conditions of approval cannot be substituted for required findings in quasi-judicial cases.

The Hearings Officer failed to make the required findings, and there is not appropriate evidence in the record to support

such findings, particularly with regard to the 150 foot fire safety zone (primary plus secondary) required by MCC 11.15.2052 and .2074.

The applicant's site plan shows the proposed house to be located 100 feet from the south property line, and asks for a side yard setback variance to allow that shorter distance instead of the code required 200 foot side yard set back. No variance has been requested to the separate fire safety break requirements.

The required combined 150 foot primary and secondary fire safety zones cannot be provided within the proposed 100 foot side yard. The applicant has not and cannot demonstrate how a 150 foot fire break fits within a 100 foot side yard.

II. THE BOARD'S DECISION IS THE COUNTY'S FINAL LAND USE DECISION IN THIS CASE, NOT THE BUILDING PERMIT.

I believe that at the October 10, 1995, hearing, County Counsel stated that the County's decision in this case would not be considered final until building permits were approved. This implies that conditions of approval requiring compliance by the time building permits are approved, rather than requiring the necessary findings now before Board approval, would be sufficient.

To the contrary, MCC 11.15.8280(D), specifically states:

"The Board's decision shall be final on the 10th day after the Decision, Findings of Fact and Conclusions have been filed under subsection (C) above, unless the Board on its own motion grants a rehearing under MCC .8285(A)."

The Board's land use decision is a final, appealable decision. The substitution of conditions of approval is not satisfactory when there is no feasible method of compliance proposed. With regard to the fire break, no variance to the County's requirement has been requested, and compliance with the requirement is impossible with the proposed site plan.

If the Board were to be inclined to find that a feasible fire break solution has been offered, I respectfully request that the Board make specific findings explaining the Board's understanding of the relationship of the 150 foot fire break and the proposed 100 foot side yard.

Board of County Commissioners
October 24, 1995
page 3

(Re: CU 5-95/HV 11-95)

III. SUMMARY

The Hearings Officer's decision should be reversed and the conditional use application for a non-forest management related dwelling and the accompanying variance should be denied.

Respectfully,

A handwritten signature in dark ink, appearing to read "Paul Norr", written in a cursive style.

Paul Norr

PN/2

c: Carole Winner
Clerk of Board
Timothy V. Ramis, attorney for applicant
Planning Staff

O'DONNELL RAMIS CREW
CORRIGAN & BACHRACH

JEFF H. BACHRACH
THEODORE W. BAIRD
PAMELA J. BEERY
MARK L. BUSCH
DOMINIC G. COLLETTA**
CHARLES E. CORRIGAN*
STEPHEN F. CREW
GARY F. FIRESTONE*
WILLIAM E. GAAR
G. FRANK HAMMOND*
KENNETH D. HELM
MALCOLM JOHNSON*
MARK P. O'DONNELL
TIMOTHY V. RAMIS
WILLIAM J. STALNAKER

ATTORNEYS AT LAW
1727 N.W. Hoyt Street
Portland, Oregon 97209

TELEPHONE: (503) 222-4402
FAX: (503) 243-2944

PLEASE REPLY TO PORTLAND OFFICE

October 24, 1995

CLACKAMAS COUNTY OFFICE
181 N. Grant, Suite 202
Canby, Oregon 97013
TELEPHONE: (503) 266-1149

VANCOUVER, WASHINGTON OFFICE
First Independent Place
1220 Main Street, Suite 570
Vancouver, Washington 98660-2964
TELEPHONE: (360) 699-7287
FAX: (360) 699-7221

JAMES M. COLEMAN
SUSAN J. WIDDER
SPECIAL COUNSEL

* ALSO ADMITTED TO PRACTICE IN WASHINGTON
** ALSO ADMITTED TO PRACTICE IN CALIFORNIA

VIA HAND-DELIVERY

Deborah L. Bogstad
Office of the Board Clerk
1120 S.W. Fifth Avenue, Room #1510
Portland, OR 97204

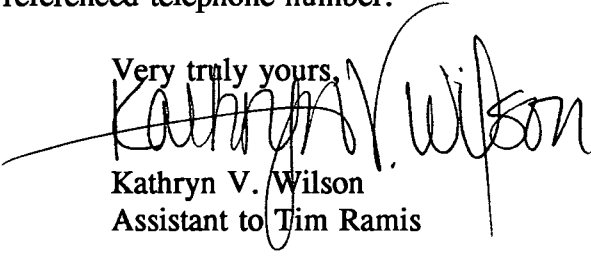
Re: John and Rachel Burger
Case File CU 5-95; HV 11-95

Dear Debbie:

Enclosed herein please find the letter from Tim Ramis to the Board of Commissioners that you have been expecting. This cover letter will confirm our telephone conversation of this morning wherein we discussed the fact that the Board of Commissioners meeting will be on Thursday, October 26, 1995 at 9:30 A.M., and that the above-referenced case is item R-4 on the agenda (following a brief Employee Service award).

If you have any questions, or if my understanding of our conversation is incorrect, please do not hesitate to contact me at the above-referenced telephone number.

Very truly yours,


Kathryn V. Wilson
Assistant to Tim Ramis

/kvw
Enclosure
tvr\burger\Bogstad.L01

RECEIVED

OCT 24 1995

BEVERLY STEIN
MULTNOMAH COUNTY CHAIR

1995 OCT 24 PM 4:36
MULTNOMAH COUNTY
OREGON

O'DONNELL RAMIS CREW
CORRIGAN & BACHRACH

JEFF H. BACHRACH
THEODORE W. BAIRD
PAMELA J. BEERY
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Portland, Oregon 97209

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FAX: (503) 243-2944

PLEASE REPLY TO PORTLAND OFFICE

October 24, 1995

CLACKAMAS COUNTY OFFICE
181 N. Grant, Suite 202
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JAMES M. COLEMAN
SUSAN J. WIDDER
SPECIAL COUNSEL

* ALSO ADMITTED TO PRACTICE IN WASHINGTON
** ALSO ADMITTED TO PRACTICE IN CALIFORNIA

VIA HAND-DELIVERY

Board of County Commissioners
Multnomah County
1120 SW Fifth Avenue
Room 1510
Portland, OR 97204

RE: John and Rachel Burger, Case File CU 5-95; HV 11-95

Dear Chair Stein and Commissioners:

This letter responds to objections raised by Ms. Carole Winner to hearing officer Joan Chamber's approval of John and Rachel Burger's application for a conditional use permit and variance to site their home in a commercial forest use (CFU) zone.

Variance

Ms. Winner, for the first time at the hearing on October 10, 1995, attacked the hearing officer's decision to approve an area variance for the Burgers' property. For this reason, consideration of the hearing officer's approval of a side yard variance is not appropriately before the Board. To invoke the Board's jurisdiction the opponent must have raised objections to the variance in her notice of appeal. Ms. Winner failed to do so. As a result, MCC 11.15.8270(g) forecloses any further consideration of the variance approval by the Board:

MCC 11.15.8270(g) - Review by the Board, if upon Notice of Review by an aggrieved party, shall be limited to the grounds relied upon in the Notice of Review under MCC .8260(B) and any hearing permitted under MCC .8270(B).

RECEIVED

OCT 24 1995

BEVERLY
MULTNOMAH COUNTY CHAIR

1995 OCT 24 PM 4:36
MULTNOMAH COUNTY
OREGON

Board of County Commissioners
October 24, 1995
Page 2

Even if Ms. Winner had properly raised the variance, the hearings officer's conclusions on the issue are more than adequate. The hearings officer approved a side yard setback variance of 100 feet for the Burgers' parcel because the topography and other setback requirements imposed by the CFU zone would have placed their home site in an area with slopes of over 30 percent. Concluding that these conditions do not apply generally to other parcels in the area, the hearings officer correctly found that a 100 foot side yard variance would allow the Burgers to place their home on the most sensible site on their property - the only area with slopes of less than 15 percent. Ms. Winner disputes this finding arguing that in order to grant a variance the hearings officer must have found that the parcel is "physically different" from other properties in the vicinity. This is an incorrect statement of law.¹ To satisfy the variance criteria in MCC 11.15.8505(a)(1) the hearings officer need only find that "A circumstance or condition applies to the property or the intended use that does not apply generally to other property in the same vicinity or district." This is precisely what the hearings officer found because the topography and setback requirements limit the area within which the Burgers may place their home.

Conditional Use Permit

Ms. Winner claims that the hearings officer has improperly deferred consideration of certain conditional use criteria by imposing conditions of approval which require proof of compliance prior to the issuance of a building permit. Specifically, Ms. Winner attacks the hearings officer's findings that: 1) a private well is feasible; 2) the Burgers can comply with fire safety zone requirements; and 3) the Burgers' home can be adequately served by the rural fire protection district. Ms. Winner has also alleged that language in the Multnomah County Comprehensive Framework Plan requires a finding of compliance with plan policies "prior to approval."

Multnomah County hearings officers are authorized to place conditions on permit approvals to insure that permit criteria are met.² Furthermore, the hearings officer possesses the authority

¹ LUBA has found "that in interpreting the meaning of code variance provisions it is the code language, rather than appellate court or LUBA decisions interpreting traditional variance standards, that govern." Sokol v. City of Lake Oswego, 17 Or LUBA 429, 438 (1990).

² ORS 216.416(4) and MCC 11.15.7130.

Board of County Commissioners
October 24, 1995
Page 3

to make findings which conclude that compliance with permit criteria can feasibly be met if conditions of approval are satisfied. Kenton Neighborhood Association v. City of Portland, 17 Or LUBA 784, 805 (1990).

Assuming a local government finds compliance, or feasibility of compliance, with all approval criteria during the first stage (where statutory notice and public hearing requirements are observed), it is entirely appropriate to impose conditions of approval to assure those criteria are met and defer responsibility for assuring compliance with those conditions to planning and engineering staff as part of a second stage. Rhyme v. Multnomah County, 23 Or LUBA 442, 447 (1992).

The findings made by Ms. Chambers and the additional evidence attached to this letter demonstrate that the Burgers can feasibly comply with all issues raised by Ms. Winner in this review.

Well and Water Supply

Ms. Winner claims that the Burgers' well will adversely impact the well located on her property. To meet the criteria for dwellings in forest zones MCC 11.15.2074(C) requires that "[t]he applicant shall provide evidence that the domestic water supply is from a source in accordance with the Department of Water Resources" rules. Although Ms. Winner claims that her well will be negatively impacted, there is no requirement in MCC 11.15.2074 that applicants show that wells on adjacent properties will not be adversely affected. Moreover, the hearings officer conditioned the issuance of any future building permits on submission of a well report demonstrating that a domestic water supply is available.

Contrary to Ms. Winner's assertions, the Burgers have provided evidence that a well is feasible on their property. The most recent evidence, attached as Exhibit A, indicates that: 1) the Burgers will find water on their property; 2) the well will not interfere with neighboring wells; and 3) water will probably be found between 400 and 600 feet. It is also important to remember that the Burgers plan to install a non-potable water recovery system which will decrease the demands placed on their well. This evidence shows that compliance with the hearings officer's condition is feasible and that it is unlikely that Ms. Winner's well will be adversely affected.

Board of County Commissioners
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Page 4

Fire Safety Zones

Ms. Winner asserts that because the proposed home site is only 100 feet from the Burgers' southern property line, that the 130 foot primary and secondary fire safety zone required by MCC 11.15.2074(A)(5)(a) cannot be met. The hearings officer found that compliance with this section is feasible and placed a condition on the issuance of a building permit that the fire safety zones be maintained.

The Burgers have demonstrated that they can maintain the fire safety zones by creating a fire zone plan with the Oregon Department of Forestry. MCC 11.15.2074(A)(5)(a)(iii) provides that "Assistance with planning forestry practices which meet these [fire safety zone] objectives may be obtained from the State of Oregon Department of Forestry..." In accordance with this provision, the Burgers consulted with the Department on a plan to double the primary fire zone to 60 feet on the south side of the home site to compensate for the loss of 30 feet of secondary fire zone. The plan is a sensible compromise, sanctioned by the hearings officer, and authorized by the County Code.

If the Board is not satisfied with the conditions imposed by the hearings officer or the Department of Forestry plan, the Burgers are prepared to stipulate to a further condition that their proposed home site must be relocated to 130 feet from the southern boundary of their property.³ This would satisfy the objection of Ms. Winner. Relocation of the home site by 30 feet is feasible and workable and places the house within the area of less severe terrain. This would assure that no further variance would be necessary.

Rural Fire Protection

Ms. Winner displayed several photographs at the last Board hearing as evidence that fire trucks could not serve the Burgers' property by Rocky Point Road during heavy winter conditions. As to fire protection, MCC 11.15.2052(A)(6) requires only that "The proposed dwelling will be located on a lot within a rural fire protection district..." The Burgers' property is served by the

³ The proposed condition reads "Prior to issuance of a building permit applicants shall submit site plans which demonstrate that the proposed home site can comply with the primary and secondary fire safety zones required by MCC 11.15.2074(A)(5)(b)."

Board of County Commissioners
October 24, 1995
Page 5

Tualatin Valley Rural Fire & Rescue District which will access the property via Skyline Boulevard. The snowy pictures of Rocky Point Road in winter are not relevant. A letter from the Tualatin Valley Fire & Rescue District stating that the district will service to the Burgers' property is attached as Exhibit B. This evidence is more than adequate to show that the Burgers can feasibly comply with fire protection criteria.

Conclusion

Joan Chambers approved the variance and conditional use permit for the Burgers' property based on the finding that compliance with permit conditions was feasible if the conditions of approval were met. In light of all the information in the record, and the supplemental information attached to this letter, it is indeed more than feasible that the Burgers can comply with the conditions imposed upon development of their property. The Burgers have worked very hard to meet all approval criteria in good faith. They should now be allowed to proceed with their building plans.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'J. Ramis' or similar, with a stylized flourish at the end.

Timothy V. Ramis

TVR/KDH/kvw

Enclosures

cc: Rachel Burger

tvr/burger/commission.k2

October 13, 1995

Mr. John B. Burger
PO Box 83714
Portland, Oregon 97283

Re: 23755 NW Skyline Blvd.

I understand that there has been some concern over whether water can be found on your property. My experience of 18 years indicates that you will find an adequate water supply on your land. Also due to the fact that you will have a non-potable water system for gardening, washing and toilets you will enhance your total water supply by having less consumption from the well and the amount of water for consumption is negligible compared to using it for your sole water supply. It is also my experience that just by drilling a well on your property in all probability, it will not interfere with the neighboring wells. I have been drilling wells in the Skyline area since 1977 and I have not experienced a neighboring well being adversely affected because another well had been drilled. As for the depth of your well, I would not drill through the volcanic rock to the marine rock due to the possibility that you could loose any water that you have already found. I have looked at the well reports for the area and find that you should find an adequate amount of water between 400 feet to 600 feet. Also if you install a holding tank you may be able to find an adequate water supply around 200 to 300 feet as the Lampas did right across the street from your property. As for the integrity of you well, you should not worry about the well collapsing. Wells collapse due to geologic change such as earthquakes and tremors, not from water levels in the area dropping. The reason a well won't collapse due to water levels in the area dropping is due to the basalt formations (the formation of the rock, which is the structure of the well). Also, most wells drilled today are lined the full depth which also increase their structural integrity. All of the wells that I drill are fully lined.

If you have any further concerns or question please feel free to call.

Regards,



Don Feakin
Turner Well Drilling



**TUALATIN VALLEY FIRE & RESCUE
AND
BEAVERTON FIRE DEPARTMENT**

4755 S.W. Griffith Drive • P.O. Box 4755 • Beaverton, OR 97076 • (503) 526-2469 • FAX 526-2538

October 18, 1995

Rachael Burger
P.O. Box 83714
Portland, Oregon 97283


Re: Proposed Dwelling (Tax Lot R-98234-0140, T3N, R2W, Section 34)
Skyline and Rocky Point Road

Dear Ms. Burger:

This letter is to further clarify that Tualatin Valley Fire and Rescue does provide fire protection to that area formerly served by Multnomah County Fire District 20. Initial fire protection would come from the fire station located at Pederson and Johnson Roads in the Skyline area and that area also would receive further fire protection from stations located on N.W. Kaiser Road and S.W. 185th at Highway 26. Apparatus currently at the station on Pederson and Johnson are a 1200 gallon tanker and one 1,000 gpm pumper carrying 500 gallons and both are used by the volunteer firemen in that area for fire protection. As to whether or not an engine could reach you in the winter, I have no way of determining what sort of weather factors would be involved. The engines, of course, carry tire chains and would make every effort to reach a fire in that area during the winter months.

I hope this provides you with the additional information you requested. If I may be of further assistance, please do not hesitate to call.

Very truly yours,


Rex H. Jeffries
Assistant Fire Marshal

RHJ:kw

Date: October 24, 1995

To: Beverly Stein, Chair,
Multnomah County Bd. of Commissioners

From: Carole A. Winner, Ph.D.
23410 NW Rocky Point Road
Scappoose, OR 97056

Re: CU 5-95, HV II-95

BOARD OF
COUNTY COMMISSIONERS
1995 OCT 24 PM 5:08
MULTNOMAH COUNTY
OREGON

Commissioners:

I ask that you review Paul Norr's letter dated October 10, 1995. Since Mr. Norr was a Hearings Officer for Multnomah County, he is quite familiar with codes. If Multnomah County officials had concurred with Paul Norr's findings concerning the proposed Wildwood landfill in 1982, they would have saved County taxpayers \$1.1 million (\$700,000 - Metro and \$400,000 - DEQ).

Trying to be as concise as possible, I wish to point out the reasons that the site is not a good building site and refer you to attachments.

A. The Burger Site Violates Area Zoning

The zoning for Dixie Mountain is 80 acres per residence - the Burgers wish to build on less than 5 acres.

B. The Burger Site Violates Side Bar Setback

The required setback is 200 feet; the Burgers are asking for an exemption of this code: 100 feet.

C. The Burger Site Violates the Required Fire Safety Zones

Multnomah County Code (11.15.2074(A) specifies that the uphill fire safety zone be 30 feet for the primary zone and 100 feet for the secondary zone. Because of the steep slopes on the property, the downhill fire safety zone must be 50 feet for the primary and 100 feet for the secondary zones. The Burger site slopes away from Skyline, but also slopes toward the ravine that cuts through the site; thus, two downhill slopes.

EX. 1 Site location showing that the Burgers have a 200' x 250' fire zone instead of the required 280' x 280'. They have 50,000 sq. ft and they need 78,400 sq. ft.

EX. 2 MCC 11.15.2074

Stated simply, the Burgers do not have any possibility of meeting the Code requirements. I ask you Commissioners not to allow the Burgers to circumvent the required fire safety zone because if a fire breaks out on the Burger site, all area residents could be at risk. Two letters from people who admit they have not visited the site are not sufficient to substitute for the required fire safety zones.

If the fire safety zones do not need to be a total of 130 feet uphill and 150 feet downhill, then the Burgers should work to change the Code, not bypass it. The most obvious danger on the site is the deep ravine that cuts through the site; even though Jim Young of the Oregon Dept. of Forestry thinks 100 feet can substitute for the required 130 to 150 fire safety zone, he warns of this danger: "This is a dangerous location in the event of a fire approaching from below since the draw would act as a chimney, causing the fire to rush to the top" (p. 62 of Applicants' Response dated Oct. 10, 1995).

Commissioners, if you approve the Burgers' petition, how can you justify putting me and the surrounding neighbors at risk by allowing this violation of the fire safety zone requirements? A second question: is Multnomah County liable for any injuries, deaths, property loss or property damage that occur as a result of allowing the Burgers to violate the Code?

I have discovered that Tualatin Valley Fire and Rescue provides the primary fire protection for Dixie Mountain and that the Scappoose Fire District is the backup station. My hope is that in case of fire on Dixie Mountain the 911 operator will know to notify both Tualatin and Scappoose simultaneously because if Rocky Point is not iced over or packed with snow, the Scappoose truck, traveling 5 miles to the base of Rocky Point and 3.5 miles to the top, has far less miles to come than the fire truck coming down Skyline from Johnson Road. If the roads are impassable, it is conceivable that no outside help will be able to reach Dixie Mtn.

I speak with some authority on comparative response times because my house burned to the ground in Feb. 1979 or 1980. My neighbor called both Scappoose and Portland, but the Scappoose volunteers beat Portland by some 10-15 minutes. The Scappoose firefighters were preparing to go by the time Portland arrived.

On October 23, I spoke with Mike Greisen, Fire Chief of the Scappoose Fire District. Chief Greisen did not feel comfortable commenting on the fire safety zone violations, since Dixie Mtn. is within the jurisdiction of the Tualatin Valley Fire District. However, he did give me permission to use his comments with regard to the weather conditions in the area. He said that in winter the roads can be hazardous and that his Department's response time up Rocky Point could at times be delayed due to snow and ice.

D. The Burger Site Violates Policy 14
14.A. Slopes Exceeding 20%
14.B. Severe Soil Erosion Potential
14.D. A High Seasonal Water Table

Because of the slopes and esp. the steep ravine on the Burger site, the potential for soil erosion, and for contaminants to be carried into the creek on the Burger site, is greatly increased due to Dixie Mtn.'s receiving an average of 60 inches of rain/year (10 inches more than Portland) and that much of that precipitation falls as snow or freezing rain (Dixie Mtn. receives an average of 22 inches of snow yearly as compared with 8 inches for Portland).

EX. 3 Material compiled by WHI (West Hills and Island Neighbors) during the fight to protect Wildwood.

CRITERION #89 - PRECIPITATION

EX. 4 WHI material: CRITERION #90 - CLIMACTIC EXTREMES

EX. 5 Pictures from 1968: Julia Kinney and her daughters Linda and Judy (now Judy Schaible's property).

Picture of the 7-to 8-foot-tall sign at the corner of Skyline and Rocky Point Road nearly covered with snow.

During the winter of 1968, there would have been no way on earth for a fire truck to get to Dixie Mtn., for Skyline was as inaccessible as Rocky Point. I moves to Dixie Mtn. in 1979 and during two winters the snow level exceeded two feet (not drifts, snow on the ground). Commissioners, if you allow any more wells to be dug on Dixie Mtn., and if the Burgers' 900-foot well draws down the water pressure for my well or any wells not as deep as 900 feet, you will be jeopardizing the homes, possessions, and people on Dixie Mountain. Julia Kinney's letter tells about the time that a fire was spreading outward along a wall from the fire source and a neighbor (Paul Lampa) was able to put the fire out with the Kinneys' garden hose. No fire truck could have saved their house, even if the roads were clear. The closest fire truck (Scappoose) could not have arrived any faster than 10 minutes. Please do not place us in danger of fire by jeopardizing our ability to fight a fire on days when ice or snow or freezing rain make it difficult or impossible for a fire truck to put out a fire.

14.F Land Subject to Slumping Earth Slides or Movement

EX. 6 Excerpts from 8/05/82 H.G. Schlicker Testimony
EX. 7 Excerpts from EPA's Hugh Kaufman, 2/09/84
EX. 8 CH2M Hill vs 14 experts on slope instability, potential for pollution of area wells, etc.
EX. 9 Mult. County's admission that massive earthfault exists
EX. 10 Material submitted by C. Winner in 1987.

E. The Burgers' Well/Septic System Will Violate Policy 13

Water is an irreplaceable resource. If Multnomah County causes wells to run dry, it can NEVER compensate the affected nearby and downhill property owners.

EX. 11 Testimony of Stephen A. Wille on July 6, 1982

Wille talks about the extensive damage to the aquifer that Wildwood might cause. On page 14 he talks about how victims have never been fully compensated for their losses.

There is no evidence that the Burger well will not affect my well and more shallow wells. How can you Commissioners grant the Burgers the right to drill a well at my expense? There are property owners whose wells have run dry due to excessive drilling in their aquifers.

In point of fact, the Burgers do not have their own domestic water source (entirely underneath their property). They will be tapping into pools and pockets of water that are interconnected. There is NO EVIDENCE in the record that the Burgers' aquifer is not connected to the Wildwood aquifer at some point or points. The well reports that the Burgers furnished do not show that any of the wells have high pressure. Why jeopardize an irreplaceable resource?

EX. 12-A Map of Dixie Mtn. showing the path the creek on the Burger property takes when it leaves the Winner parcels.

A question: since four of the five end-points for the creek are in Washington County, is Multnomah County obligated to inform Washington County about possible contaminants washing into their county?

Ex 12-B - Photos of creek bed on Burger site

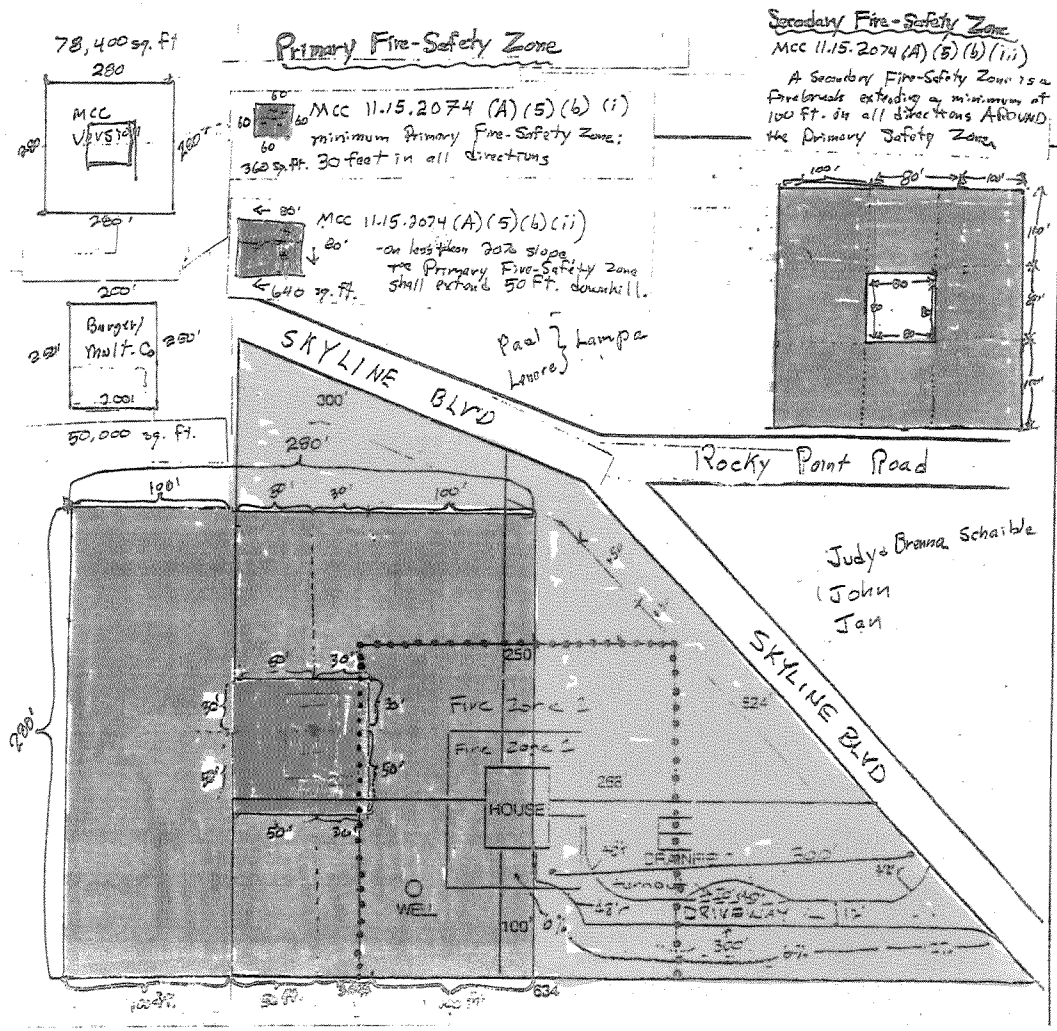
F. The Burgers Will Have a Negative Impact on Area Wildlife

Dixie Mtn. is part of the Wildlife Corridor.

EX. 13 Picture of American Eagle on Wildwood site.

G. Neighbors and Environmentalists Oppose the Burger Proposal

EX. 14 Statements of every neighbor except Paul and Lenore Lampa; statements of people concerned about preserving the quality of life for animals and people on Dixie Mountain.



January 7, 1993.

- (2) The building permit must continue to be kept valid under the permit regulations of the applicable government issuer until completion of the dwelling.

- (3) Pursuant to the provisions and requirements of ORS 215.428, application for a "residential use, not in conjunction with a primary use" referenced above will be accepted until January 7, 1993.

(Amended and Renumbered 1992, Ord. 743 § 2)

11.15.2074 Development Standards for Dwellings and Structures

Except as provided for the replacement or restoration of dwellings under MCC .2048(E) and .2049 (B), all dwellings and structures located in the CFU district after January 7, 1993, shall comply with the following:

- (A) The dwelling or structure shall be located such that:

- (1) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the minimum yard and setback requirements of .2058(C) through (G);
- (2) Forest operations and accepted farming practices will not be curtailed or impeded;
- (3) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;
- (4) Any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and
- (5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:
 - (a) Access for a pumping fire truck to within 15 feet of any perennial water source on the lot. The access shall meet the driveway

standards of MCC .2074(D) with permanent signs posted along the access route to indicate the location of the emergency water source;

- (b) Maintenance of a primary and a secondary fire safety zone.

- (i) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.

- (ii) On lands with 10 percent or greater slope the primary fire safety zone shall be extended down the slope from a dwelling or structure as follows:

Percent Slope	Distance In Feet
Less than 10	Not required
Less than 20	50
Less than 25	75
Less than 40	100

- (iii) A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with plan-

CRITERION # 89 PRECIPITATION**DEQ RATING: 10>24****DESCRIPTION: Less than 50 inches of rainfall annually.****WHI RATING: 3>9****DESCRIPTION: 58 inches of rainfall annually, with two consecutive years (1982-1983) over 68 inches.****DISCUSSION**

The decision of the Multnomah County Hearings Officer, September 13, 1982, noted the expected rainfall at the Wildwood site to be 49 to 60 inches per year, based on the average of area reports and US Soil Conservation Service interpretations.

The most specific rainfall information was compiled from a meteorological station installed at the Wildwood site by CH2M Hill which showed annual rainfall to be 64.87 inches from June 1, 1981 to May 31, 1982.

Precipitation statistics for the years 1976 through 1983 have been compiled from the Dixie Mountain station of the National Oceanic and Atmospheric Administration (NOAA), located approximately 2 miles from the proposed Wildwood site. Average annual rainfall for those 8 years listed is 58.6 inches, which would establish the Wildwood site criterion rating at 5.

However, three out of eight of those years had precipitation amounts between 60 and 70 inches--one as high as 68.1--while the maximum year showed a total of 73.3 inches. WHI proposes a criterion rating of 3 because landfills must be engineered to handle peak precipitation levels in order to accommodate maximum leachate production. Two years of consecutive maximum rainfall, such as 1982-1983 at Wildwood, could put a severe strain on a leachate collection system engineered to handle a smaller load.

DOCUMENTATION

1. Decision of Multnomah County Hearings Officer, Sept. 13, 1982.
2. Letter from Mike Kennedy and Don Caniparoli, CH2M Hill, to Dennis O'Neil, METRO, July 15, 1982.
3. Tabulated Summary of NOAA rainfall statistics for Dixie Mountain.
4. NOAA rainfall statistics, 1976-1983.

TABULATED SUMMARY OF NOAA ANNUAL RAINFALL STATISTICS
FOR DIXIE MOUNTAIN

<u>YEAR</u>	<u>RAINFALL INCHES</u>
1977	56.80
1978	53.00
1979	51.60
1980	60.50
1981	61.40
1982	68.10
1983	73.30

AVG: 58.6 inches per year.

CRITERION #90 CLIMACTIC EXTREMES**DEQ RATING: 10>20**

DESCRIPTION: Areas without identified extreme wind speeds (low or high) or frequent freezing rain, snow, and ice.

WEI RATING: 1>2

DESCRIPTION: Known area of frequent snow.

DISCUSSION

Data obtained from Bonneville Power Administration Meteorologist Charles Ferris shows average snowfall at the 1000 foot elevation on the east slope of the West Hills to be 22 inches annually, compared to 8 inches annually at the Portland Airport, with maximum snowfalls at the 1100 foot level as high as 3 to 4 times that recorded at the airport.

The highest elevation of the Wildwood site, as shown in DEQ's topographical maps of the 19 proposed landfill sites, is 1100 feet.

A letter from Arthur W. Huber, former bus driver in the Wildwood area, describes the difficulties encountered with winter weather conditions, including numerous school closings and the necessity for chaining up on school busses.

DOCUMENTATION

1. Letter from Charles Ferris, Bonneville Power Administration Meteorologist.
2. Letter from Arthur W. Huber.



DATE: August 3, 1995

FAXED from Scappoose to:
HAND-DELIVERED (503) 248-3389

4:44 pm

TO: Joan Chambers, Multnomah County Hearings Officer
2115 SE Morrison Street
Portland, OR 97214

FROM: Carole A. Winner, Ph.D.
23410 NW Rocky Point Road
Scappoose, OR 97056

Carole A. Winner

RE: Need for Further Testimony/Written Statements
in the Matter of CU 5-95; HV 11-95

Water is an irreplaceable resource. If Multnomah County causes wells to run dry, it can NEVER compensate the affected nearby and downhill property owners. I realize that this may not concern you, Joan, Barry Manning, or any of the other Multnomah County officials because you are not personally responsible for the irreversable environmental damage, however dire, that you cause by your actions. Also, you have probably drunk Bull Run water all your life and think it will always be there.

Multnomah County did an insufficient job of notifying nearby property owners by posting two 8-1/2"x11" pieces of paper at the 'Burgers' site. Hulan Davis and his wife Sadie had no idea that people were planning to build next to me. "Barbie" Burger did not bother to walk (or drive) the distance to talk to them.

Multnomah County made no effort to contact people on Rocky Point Road. The next homeowner past Judy's ranch is Tom Fijak. Remember, you city folk, shit runs downhill. Seepage from the Burgers' septic system will run into a creek that feeds a larger creek on my land. The waste could affect Tom's 280-foot well. Tom, who does not travel up the mountain to turn around on his way to work, did not see the notice. I told him about the hearing, but thought he knew the location. Tom took July 19 off from work, went to the wrong location, but still wants to have his say.

Julia Kinney, the other neighbor adjoining the Burger parcel, has also signed a statement of protest. She will not be able to attend a hearing due to her recent stroke, but she has lived on Dixie Mountain 34 years and is very concerned about water and the wildlife here. As she states, "But would like my vote counted."

You will receive by mail a statement by a potential buyer for my 10 acres, Julieann Gangon. I may yet be able to contact Paul Richmond, who has considered leasing/buying the 10 acres for some two years now. I am enclosing statments by Robert V. Kane and David Saunders.

This isn't going to be Wildwood II, is it?

Tomasz Fijak

22740 N.W. Rocky Pt. Rd.
Scappoose, OR. 97056-9613
(503) 621-3545

Tomasz Fijak
22740 N.W. Rocky Pt. RD.
Scappoose, OR 97056

To Carol Chambers
2115 SE Morrison
Portland, OR 97214

Re; Case File Cu 5-95; HV 11-95

Mam:

I own property down hill from the site of a new house that is going in with your permission. The reason I am writing this letter is that I am worried about the septic and water situation for this area. Most of my neighbors above had to drill down 1000 ft. to get water. This property, that I live on, has an existing well of 280 ft. with good water. I would like to keep it that way. The zoning in this area was set up the way it is to protect the water quality in the region, in other words the water in this area is hard to come by if at all. I know of one neighbor who drilled to find water and didn't find it, they lost their land just to pay the well.

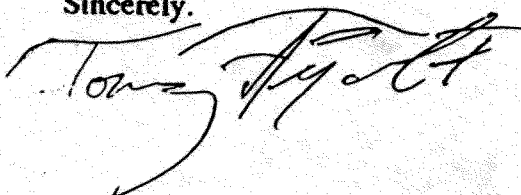
^{WINNER'S}
If the people who are looking to put a house in do, and put a septic system in, it will seep into the creek on or near their land and disrupt a lot of families down hill from them. This creek also runs on Carol Winters land which would bring a undue hardship on her. Should something happen, the water in this region, are you willing to pipe it 16 miles here from Linnton? So many years ago the state came through this area and made anyone with fuel tanks above ground, bury them. 5 or so years ago, the state came back through and made everyone dig their fuel tanks back up, and if any of the tanks leaked, the polluted soil had to be cleaned up to at OWNERS EXPENSE.

The County set up certain guide lines to keep the density down. Now you are looking to bend your own rules set down by Goal 5. Why? Do you have any concern for the drop in property values that will change the housing density will cause? Another thing that you should consider is that this is the corner of the big game Elk preserve; you will be interfering with lots of wildlife by increasing the housing density. This area has a big herd of elk roaming it. I have pictures of 24 cows. Deer also live up here. Last but, not least, There are some Eagles that lives in a stand of trees not 1000 ft. from my house during the spring. They Follow the geese migration.

I share 45 Acres with my brother and sister. Which I live on. They haven't been able to build up here because of CUF-80. Now you are saying that someone with less than 5 Acres next door can build, yet not my brother or sister. There is something wrong with that reasoning. Especially considering that the the land that the Burgers own is unsuitable for building on. (Steep and swampy). Plus the fact that they have not met the requirements of air quality, water quality, and noise level. The land is zoned exclusively for forestry. With less than 5 acres all I can imagine is a house and lots of grass and trees.

If you wish to contact me you can do so by telephone at 621-3545. I Have an answering machine or via E-mail AOL.com@tomaszfij

Sincerely,



Joan Manning

● Dear Ms. Manning

As a 25 year resident of Multnomah County, a tax payer, and an environmentalist, I am interested in the recent hearings regarding water use in the Dixie Mountain Area. Also the wildlife - that is in the area, I love taking groups of kids so they can experience what I did. Instead of reading about it, I really like to show them the real thing.

May I be put on your mailing list + on your speaking roster for the next public hearing.

Leroy Stanton
8615 N. Endicott
Portland, Oregon
97217

TO: Joan Chambers,
Multnomah County Hearings Officer
2115 SE Morrison Street
Portland, OR 97214

FROM: Zachary Browne
(print name, then sign and date below)
4757 NECully
Portland, Oregon 97218

RE: CU 5-95; HV II-95

I add my support to Carole Winner and other residents of Dixie Mountain who believe that growth ought to be controlled. How can Multnomah County consider allowing the Template Test in an area where there are already too many wells competing with the animals for water as it is. The animals are losing.

Overpopulating and overdrilling in the Dixie Mountain area may cause irreversable environmental damage. The aquifer beneath Dixie Mountain affects the water of thousands of residences/businesses in the Wildwood area, on Sauvie Island, and as far away as Scappoose. Pollutants reaching the Multnomah Channel could affect salmon runs.

The petition of the Burgers to build a residence and dig a 900-foot well should be denied because:

1. Water is an irreplaceable resource.
2. Use for the area is Commercial Forest Use, not Residential.
3. The zoning for the area is 80 acres; the Burgers want to build on less than 5 acres.
4. The area is already the home of wildlife--to allow development in the area denies a quiet, peaceful habitat to: elk, deer, bear, beaver, eagles, bobcats, etc.
5. The battle to site Wildwood as a landfill cost Multnomah County taxpayers a million dollars over 7 years. Only then did the County admit the entire site rests on a still-moving earthfault. The Burgers plan to build 1.5 miles away.
6. The Template Test ought to be applied to long-term residents as well. Tom Fijak, born on Dixie Mountain, cannot add a second residence on his 45 acres. Carole Winner cannot build on her 10-acre tax lot because she owns the adjoining 7 acres.

- ____ - Please add me to your mailing list.
- ____ - I wish to give public testimony on this matter.

Signature: Zachary Browne Date: 8.4.95

TO: Joan Chambers,
Multnomah County Hearings Officer
2115 SE Morrison Street
Portland, OR 97214

FROM: Judy A. Schauble
(print name, then sign and date below)
23808 N.W. Skyline Blvd.
Hillsboro OR 97124

RE: CU 5-95; HV II-95

I add my support to Carole Winner and other residents of Dixie Mountain who believe that growth ought to be controlled. How can Multnomah County consider allowing the Template Test in an area where there are already too many wells competing with the animals for water as it is. The animals are losing.

Overpopulating and overdrilling in the Dixie Mountain area may cause irreversable environmental damage. The aquifer beneath Dixie Mountain affects the water of thousands of residences/businesses in the Wildwood area, on Sauvie Island, and as far away as Scappoose. Pollutants reaching the Multnomah Channel could affect salmon runs.

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4. The area is already the home of wildlife--to allow development in the area denies a quiet, peaceful habitat to: elk, deer, bear, beaver, eagles, bobcats, etc.
5. The battle to site Wildwood as a landfill cost Multnomah County taxpayers a million dollars over 7 years. Only then did the County admit the entire site rests on a still-moving earthfault. The Burgers plan to build 1.5 miles away.
6. The Template Test ought to be applied to long-term residents as well. Tom Fijak, born on Dixie Mountain, cannot add a second residence on his 45 acres. Carole Winner cannot build on her 10-acre tax lot because she owns the adjoining 7 acres.

☒ - Please add me to your mailing list.

☒ - I wish to give public testimony on this matter.

Signature: Judy A. Schauble

Date: 8-29-95

TO: Joan Chambers,
Multnomah County Hearings Officer
2115 SE Morrison Street
Portland, OR 97214

FROM: Marjorie Dreiscorn
(print name, then sign and date below)
8410 NW Copeland
Portland, OR 97229

RE: CU 5-95; HV 11-95

I add my support to Carole Winner and other residents of Dixie Mountain who believe that growth ought to be controlled. How can Multnomah County consider allowing the Template Test in an area where there are already too many wells competing with the animals for water as it is. The animals are losing.

Overpopulating and overdrilling in the Dixie Mountain area may cause irreversable environmental damage. The aquifer beneath Dixie Mountain affects the water of thousands of residences/businesses in the Wildwood area, on Sauvie Island, and as far away as Scappoose. Pollutants reaching the Multnomah Channel could affect salmon runs.

The petition of the Burgers to build a residence and dig a 900-foot well should be denied because:

1. Water is an irreplaceable resource.
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5. The battle to site Wildwood as a landfill cost Multnomah County taxpayers a million dollars over 7 years. Only then did the County admit the entire site rests on a still-moving earthfault. The Burgers plan to build 1.5 miles away.
6. The Template Test ought to be applied to long-term residents as well. Tom Fijak, born on Dixie Mountain, cannot add a second residence on his 45 acres. Carole Winner cannot build on her 10-acre tax lot because she owns the adjoining 7 acres.

☒ - Please add me to your mailing list.

☐ - I wish to give public testimony on this matter.

Signature: Marjorie Dreiscorn

Date: 7/3/95

Want to Help Preserve the Dixie Mountain Aquifer?

1. Send CONTRIBUTIONS to: Carole A. Winner, Ph.D.
(not tax-deductible 23410 NW Rocky Point Road
as of 10/04/95) Scappoose, OR 97056

Costs to date: Mult. Co. - fee/transcript \$762.50;
Planning Consultant 200.00 (est.)
Land-Use Attorney Paul Norr 1,250.00 (est.)
Private Well/Water Survey ?
Printing, duplicating costs 150.00

2. TESTIFY on: Tues.. Oct. 10, 1:30 p.m. CU 5-95: HV 11-95
at: Multnomah County Courthouse
1021 SW Fourth, Room 602

3. WRITE to: Beverly Stein, Chair 248-3308
Multnomah County Bd. of Commissioners
1120 SW Fifth Ave.. #1510
PDX 97204

ALSO:

District 1: Dan Saltzman
District 2: Gary Hansen
District 3: Tanya Collier
District 4: Sharron Kelley

If you send the following form--or your own letter--to Multnomah County, send Carole a copy (so you will be on her mailing list).

RE: CU 5-95: HV 11-95 allows John/Rachel Burger to build on 4.7 acres in an 80-acre-minimum zone, build a septic system above a seasonal creek, and sink a 900-foot well that might pollute and/or run dry wells in the area.

I add my support to Carole Winner's fight to stop the Burgers from potentially running her 900-foot well dry. Also at risk downhill is Tomasz Fijak's 280-foot well, as well as others.

Allowing residences in the Dixie Mountain area, part of the Wildlife Corridor, will cause irreversable environmental damage. The aquifer beneath Dixie Mountain may be connected to the aquifer beneath the site of the once-proposed Wildwood Landfill, which once was estimated to serve some 2,000 homes/businesses in Dixie Mountain, on Sauvie Island, and as far away as Scappoose. Multnomah County (with Earl Blumenhauer leading the pack, wanted to dump 700,000 tons of garbage/ sewer sludge yearly.

Now, in August 1995, County Hearings Officer Joan Chambers granted the Burgers' petition to build in an unstable area less than 2 miles from Wildwood, near a steep ravine. Her decision should be reversed by the Commissioners.

(which allows 16 residences in a 160-acre parcel,)

Furthermore, the Oregon Template Test should not be applied:

1. Where area residents/businesses are dependent on well water;
2. In any area with significant earthfaults;
3. Where the building site and septic system are above a water source which serves as drinking water for area wildlife and/or feeds into a water source for human beings;
4. Where the current zoning would not allow another residence;
5. In a wildlife corridor and/or wildlife preserve; and/or
6. Where granting building privileges to new owners would be an act of blatant economic discrimination against the long-time land-owners, who are forced to adhere strictly to the zoning requirements.

☒ - Please add me to your mailing list.

☐ - I wish to give public testimony on this matter.

Signature:

David Anderson

Date:

12/3/95

Print Name:

David Anderson

Address:

5 SE 24th
Portland, Oregon 97215

Additional comments:

(which allows 16 residences in a 160-acre parcel,)

Furthermore, the Oregon Template Test should not be applied:

1. Where area residents/businesses are dependent on well water;
2. In any area with significant earthfaults;
3. Where the building site and septic system are above a water source which serves as drinking water for area wildlife and/or feeds into a water source for human beings;
4. Where the current zoning would not allow another residence;
5. In a wildlife corridor and/or wildlife preserve: and/or
6. Where granting building privileges to new owners would be an act of blatant economic discrimination against the long-time land-owners, who are forced to adhere strictly to the zoning requirements.

____ - Please add me to your mailing list.

____ - I wish to give public testimony on this matter.

Signature: _____

Date: _____

Print Name: _____

Address: _____

735 1st St
P.O. Box 97405

Additional comments:

(which allows 16 residences in a 160-acre parcel,)

Furthermore, the Oregon Template Test ~~should~~ not be applied:

1. Where area residents/businesses are dependent on well water;
2. In any area with significant earthfaults;
3. Where the building site and septic system are above a water source which serves as drinking water for area wildlife and/or feeds into a water source for human beings;
4. Where the current zoning would not allow another residence;
5. In a wildlife corridor and/or wildlife preserve: and/or
6. Where granting building privileges to new owners would be an act of blatant economic discrimination against the long-time land-owners, who are forced to adhere strictly to the zoning requirements.

☒ - Please add me to your mailing list.

☐ - I wish to give public testimony on this matter.

Signature: Kathryn (Cherie) Holenstein Date: 10/4/95

Print Name: KATHRYN (CHERIE) HOLENSTEIN

Address: 6141 SE Steele
Portland Ore 97206

Additional comments:

Furthermore, the Oregon Template Test (which ignores zoning requirements and allows 16 residences in a 160-acre area) should NOT be applied:

1. Where area residents/businesses are dependent on well water;
2. In any area with significant earthfaults;
3. Where the building site and septic system are above a water source which serves as drinking water for area wildlife and/or feeds into a water source for human beings;
4. Where the current zoning would not allow more residences;
5. In a wildlife corridor and/or wildlife preserve; and/or
6. When granting building privileges to new owners is an act of blatant economic discrimination against long-time landowners, who are forced to adhere strictly to zoning requirements.

X - Please add me to your mailing list.

 - I wish to give public testimony on this matter.

Signature: John P. Norgaard

Date: 10-5-95

Print Name: John P. Norgaard

Address: 23808 NW Skyline
Hillsboro, Or. 97124

Additional comments:



Don't EVER give up!

To: Beverly Stein, Chair,
Multnomah County Bd. of Commissioners

From: Julia V. Kinney, landowner south of proposed site
23605 NW Skyline Blvd.
Hillsboro, OR 97124

Re: CU 5-95, HV II-95

I, Julia Kinney, have not and will not sign a setback waiver or a firebreak waiver for James and Rachel Burger.

My husband Leonard and I first moved to Dixie Mountain in 1963. My concerns are for the preservation of the quality and quantity of well water in the area, since we are 16 miles from the nearest source of City water. Leonard and I have already had expenses with our first well on what is now Judy's land. The pipes would start to buckle, allowing sand and clay to seep into the water. The driller first tried pouring concrete into the well and then drilling through that. In the winter of 1980-81, the well collapsed. We had to haul water for ourselves, the cows, horses, and other animals until we could find a new location. If you have always lived on City water, you can't imagine how difficult it is to be without water, especially at 1.400 feet in the dead of winter. The driller went to 690 feet before he found what he thought would be a reliable water source. The 690-foot well cost us \$10,000 - today it would cost much, much more.

The people who live on Dixie Mountain have to be self-sufficient, which is why many of us have generators. If my electricity goes off, then my well turns off. If it stays shut down for too long, it could freeze, along with my pipes. Each family needs its own source of water for drinking, but also in case of fire. The first house we lived in caught fire, and Paul Lampa put it out with our garden hose. Our house would have burned to the ground in the time it would have taken for even the volunteer Scappoose Fire Dept. (some 8 miles away) to reach us. I gave Carole Winner a picture of me in 1968-69 with my daughters Linda and Judy. The roadsign in the second picture is 7 feet tall. It is treacherous and sometimes downright dangerous to travel up and down Rocky Point Road. There have been days when a fire truck could not make it to Dixie Mountain. You are putting us in danger if we each do not have a source of water to fight a winter fire.

I am equally concerned for the wildlife that have lived in this area since long before I moved here. The elk have always roamed in back of my property, and Multnomah County ought to redraw its boundaries of the Elk Reserve to acknowledge their presence. I want to testify to the presence of the elk, deer, bear, bobcats, beavers, and other animals who live here, including the American eagles who hunt on Tom Fijak's property - they should all be protected rather than driven away for lack of shelter, or lack of food, or lack of water.

Julia Kinney's Statement -2-

Property values are getting higher and higher, and that's going to mean higher property taxes. This is going to create an economic hardship on many of the people in the area. I ask the Commission-ers to reverse the Hearing Officer's decision and not allow the Burgers to build or to drill a well.

Over the years I have known of people whose wells ran dry when new neighbors drilled either at or below their water source. Please don't let that happen to my well or my daughter's well.

Julia V. Kinney
Julia V. Kinney

Oct. 9 / 1995
Write Date

Witness:

Tammy Kinney

10/9 / 1995

To: Beverly Stein, Chair,
Multnomah County Bd. of Commissioners

From: Leonard R. Kinney, landowner on Dixie Mtn.
23605 NW Skyline Blvd.
Hillsboro, OR 97124

Neighbor to the south of the proposed Burger house

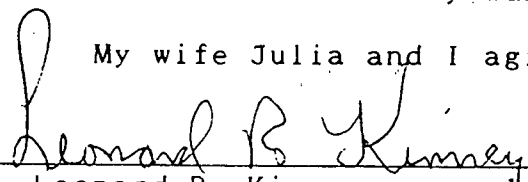
Re: CU 5-95, HV 11-95

I, Leonard Kinney, signed a setback waiver during the summer of 1995 at the request of Rachel Burger. Then, after Carole Winner filed an appeal (on Sept. 1, 1995) to protest the County's granting the Burgers building rights, Mrs. Burger again came to me and asked me to sign a waiver regarding the necessary firebreak.

I didn't take the time to think through or fully understand what I was signing. After checking into the matter, which is the use of my land for a 30-foot firebreak, I would like to retract my prior statements of approval.

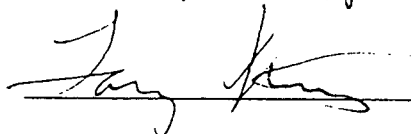
I did not realize that my granting the Burgers setback and firebreak privileges would limit the use of my land, and would also decrease the value of my land.

My wife Julia and I agree in this matter.


Leonard R. Kinney

10. 9 - / 1995
Date

Witness:



10 / 9 / 1995

Furthermore, the Oregon Template Test (which ignores zoning requirements and allows 16 residences in a 160-acre area) should NOT be applied:

1. Where area residents/businesses are dependent on well water;
2. In any area with significant earthfaults;
3. Where the building site and septic system are above a water source which serves as drinking water for area wildlife and/or feeds into a water source for human beings;
4. Where the current zoning would not allow more residences;
5. In a wildlife corridor and/or wildlife preserve; and/or
6. When granting building privileges to new owners is an act of blatant economic discrimination against long-time landowners, who are forced to adhere strictly to zoning requirements.

☒ - Please add me to your mailing list.

☐ - I wish to give public testimony on this matter.

Signature: ANN ANDRIN

Date: 10-9-95

Print Name: JAN KIRKDALIK

Address: 23508 NW SKYLINE
HILLSBORO, OR 97124

Additional comments:

WATER USE IS A
SERIOUS CONCERN
OVERLOADING THIS
AREA IS A DANGEROUS
HEALTH HAZARD.



Don't EVER give up!

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

In the Matter of the Review of the)
Hearings Officer Decision which)
approved a proposed single family)
dwelling in the CFU zoning district)

FINAL ORDER
CU 5-95 / HV 11-95
95-247

WHEREAS this matter is before the Multnomah County Board of Commissioners as an appeal, filed by Dr. Carole Winner, of the Hearings Officer's decision in land use case CU 5-95/HV 11-95; and

WHEREAS after proper notice of a public hearing, the Board of County Commissioners heard the testimony and evidence of parties at a de novo hearing on October 10, 1995; received additional written evidence through October 24, 1995, and heard additional testimony and rebuttal evidence on October 26, 1995; and

WHEREAS the Board of County Commissioners being fully advised hereby orders:

1. The Hearings Officer's decision dated August 14, 1995 in the matter of CU 5-95HV 11-95 is affirmed subject to the following modifications:

- A. The following Condition of Approval shall replace Condition of Approval number one (1) regarding the variance request:

The proposed dwelling shall be located on the subject property so as to maintain the following setbacks: north side yard (Rocky Point Road) - 200 feet minimum; south side yard - 130 feet minimum; front yard (Skyline Blvd.) - 60 feet minimum from the centerline of the road; rear yard - 200 feet minimum. These setbacks are imposed to ensure compliance with the dimensional standards of the primary and secondary fire safety zones described in MCC 11.15.2074(5)(b).

- B. The Hearings Officer's decision in the matter of the variance request shall be modified to read as follows:

Approve, subject to conditions, a side yard variance setback of 130 feet between the proposed dwelling and the south side property line, thereby granting a major variance of 70 feet from the required 200 foot setback, based on the need to maintain a minimum 130 foot setback to meet fire safety zone standards.

C. The following findings are added to the Hearings Officer's Decision:

The applicant's evidence demonstrated that it would be feasible to provide an on-site water source that complies with MCC 11.15.2074(C) and the Multnomah County Comprehensive Plan. The Condition of Approval requiring evidence of an on-site water supply prior to issuing a building permit satisfies the standard in MCC 11.15.2074(C).

The proposed dwelling will be located such that it complies as closely as possible with the siting standards of MCC 11.15.2074(A), given siting constraints imposed by the secondary fire safety zone. The proposed dwelling is subject to the standards of MCC 11.15.6700-.6735, Hillside Development and Erosion Control. Compliance with these standards will ensure that the site is developed in a manner that is sensitive to topographic features and drainage issues. Location of the well and on-site sewage disposal system is subject to the standards of the City of Portland Sanitarian.

Dated this 1st day of December, 1995.



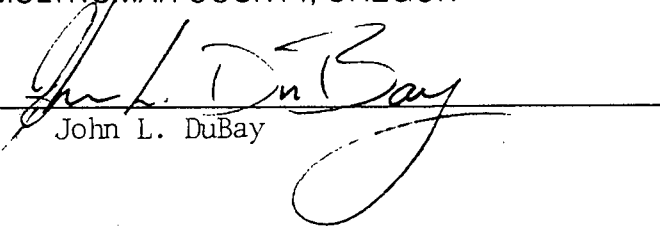
By


Beverly Stein
Multnomah County Chair

REVIEWED:

JOHN DUBAY, CHIEF ASSISTANT COUNTY COUNSEL
for MULTNOMAH COUNTY, OREGON

By


John L. DuBay

MEETING DATE: OCT 26 1995

AGENDA NO: R-5

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Cancellation of Uncollectable Personal Property Taxes

BOARD BRIEFING: Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: October 26, 1995

Amount of Time Needed: 5 minutes

DEPARTMENT: Environmental Services DIVISION: Assessment & Taxation

CONTACT: Kathy Tuneberg TELEPHONE #: 248-5132 X2331
BLDG/ROOM #: 166/300/Collections

PERSON(S) MAKING PRESENTATION: Kathy Tuneberg

ACTION REQUESTED:

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

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

Matter of cancellation of Uncollectable Personal Property Taxes for 1981/82 through 1994/95, in the amount of \$219,524.51.

These are taxes that have been delinquent for more than one year and have been determined to be uncollectable.

10/27/95 copies to Kathy Tuneberg

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: James W. Dwyer Patricia Williams

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

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

BOARD OF
COUNTY COMMISSIONERS
1995 OCT 19 AM 10:18
MULTI-COUNTY
OREGON

BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM BRIEFING
STAFF REPORT SUPPLEMENT

TO: BOARD OF COUNTY COMMISSIONERS

FROM: KATHY TUNEBERG

TODAY'S DATE: OCTOBER 16, 1995

REQUESTED PLACEMENT DATE: OCTOBER 26, 1995

RE: MATTER OF CANCELLATION OF UNCOLLECTIBLE PERSONAL PROPERTY TAXES
FOR 1981/82 THROUGH 1994/95, IN THE AMOUNT OF \$219,524.51.

I. Recommendation/Action Requested:

REQUEST APPROVAL

II. Background/Analysis:

Attached is a list of personal property tax accounts determined to be uncollectible. We are either unable to collect the balance because of Federal Bankruptcy protection or our collection efforts have been exhausted and further effort would not be cost effective.

III. Financial Impact:

The accounts to be written off cover tax years from 1981/82 through 1994/95 and total \$219,524.51. Amounts written off are small portions of each particular year's total tax levy and have little fiscal impact on Multnomah County or other taxing districts.

IV. Legal Issues:

Cancellation of personal property taxes due to uncollectability is provided for in ORS 311.790.

V. Controversial Issues:

None known

VI. Link to Current County Policies:

N/A

VII. Citizen Participation:

None expected

VIII. Other Government Participation:

Other taxing districts are minimally affected and they know there are uncollectible taxes.

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

**In the Matter of Canceling
Uncollectible Personal Property
Taxes, 1981/82 through 1994/95**

) **ORDER**
)
)

This matter is before the Board to consider the cancellation of certain personal property taxes; it appearing that the taxes have been delinquent that the Tax Collector and County Counsel have determined that said taxes are wholly uncollectible and have requested the Board for an order directing that the taxes be canceled in accordance with ORS 311.790, and the Board being duly advised in the premises, it is

ORDERED, that the Tax Collector for Multnomah County, Oregon, is directed to cancel those personal property taxes which are listed and appended hereto and incorporated herein for tax years 1981/82 through 1994/95, in the total amount of \$219,524.51 for the reason that the same are found to be uncollectible.

Dated this 17 day of October, 1995.

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

**By _____
Chair**

REVIEWED:

LARRY KRESSEL, COUNTY COUNSEL
By Sandra A. Ruff
Deputy County Counsel

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

Canceling Uncollectable Personal) ORDER
Property Taxes for Tax Years) 95- 228
1981/82 through 1994/95)

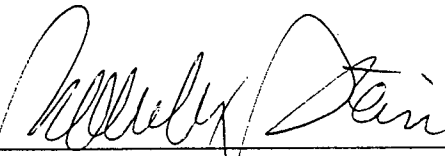
IT APPEARING that certain personal property taxes have been delinquent and that the Tax Collector and County Counsel have determined that said taxes are wholly uncollectable and are requesting the Board approve an order directing that the taxes be canceled in accordance with ORS 311.790; now therefore

IT IS HEREBY ORDERED that the Tax Collector for Multnomah County, Oregon, is directed to cancel those certain personal property taxes which are listed and appended hereto and incorporated herein, for tax years 1981/82 through 1994/95, in the total amount of \$219,524.51 for the reason that the same are found to be uncollectable.

DATED this 26th day of October, 1995.



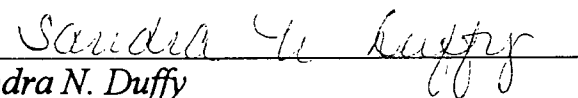
BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON



Beverly Stein, Chair

REVIEWED:

LAURENCE KRESSEL, COUNTY COUNSEL
MULTNOMAH COUNTY, OREGON

By 
Sandra N. Duffy

WRITE OFF SUMMARY

10/13/95

14:04:46

TAX YEARS # of ACCT. YEARS TOTAL DOLLARS

81/82	7	\$1,324.93
82/83	2	\$384.00
83/84	2	\$691.01
84/85	11	\$3,227.16
85/86	24	\$5,536.68
86/87	33	\$27,682.24
87/88	45	\$23,185.16
88/89	63	\$37,032.03
89/90	59	\$34,219.26
90/91	34	\$51,922.62
91/92	35	\$25,994.87
92/93	26	\$5,410.93
93/94	9	\$2,877.73
94/95	1	\$35.89

	# OF ACCT. YEARS	DOLLARS
TOTALS	222	\$219,524.51
WRITE-OFF DUE TO BANKRUPTCY	46	\$38,786.60
PERCENT BANKRUPTCIES OF TOTAL \$		17.67%
WRITE-OFF DUE TO DISSOLUTION OF CORP.	88	\$83,410.79
PERCENT CORPORATIONS OF TOTAL \$		38.00%

1995

WRITE OFF LIST

10/13/95

13:35:14

TAX YEARS - DOLLARS

ACCOUNT NUMBER	CASE	81/82	82/83	83/84	84/85	85/86	86/87	87/88	88/89	89/90	90/91	91/92	92/93	93/94	94/95	ACCOUNT TOTALS
P010546005	108										\$31.49					\$31.49
P011228300	2678												\$31.15			\$31.15
P011232002	1384					\$75.55										\$75.55
P011234000	1655					\$37.73										\$37.73
P011412000	3118							\$30.27								\$30.27
P012314000	2870						\$68.55	\$72.88								\$141.43
P012570000	108								1934.82							\$1,934.82
P012982000	3015						\$106.67	\$113.81								\$220.48
P013578000	1059										\$1,393.92	\$863.07				\$2,256.99
P020560000	2007											\$166.98				\$166.98
P020724014	1196												\$13.06			\$13.06
P021802000	2033							\$444.90								\$444.90
P030137520	108										\$28,054.23					\$28,054.23
P030137525	108										\$81.75					\$81.75
P030860006	3053									\$5.83						\$5.83
P031564001	1957			\$231.26												\$231.26
P032396000	3206				\$48.06											\$48.06
P032906514	2517						\$72.14									\$72.14
P040239000	3204					\$87.83	\$104.47									\$192.30
P040633500	1153							\$85.72								\$85.72
P040736001	3068						\$612.09									\$612.09
P042925000	2774					\$400.20	\$429.30	\$459.90	\$480.32							\$1,769.72
P044010009	1909				\$45.36											\$45.36
P044551500	3247									\$1,556.81						\$1,556.81
P046010150	2718								\$786.58	\$840.79						\$1,627.37
P051865500	636					\$777.04	\$833.47									\$1,610.51
P053887512	108						\$284.21			\$2,037.31		\$11,103.49				\$13,425.01
P053913020	432				\$61.83											\$61.83
P053985250	2789									\$413.08						\$413.08
P053988000	3039								\$100.08							\$100.08
P054096502	108								952.81							\$952.81
P061558000	2522						\$87.34	\$113.81								\$201.15
P062019500	3439				\$153.68	\$166.65										\$320.33
P062019500	3439				\$153.68	\$166.65										\$320.33
P062654000	1985							\$29.32	\$180.61							\$209.93
P063132000	1658				\$488.01	\$401.13										\$889.14
P063275500	2458								\$157.35							\$157.35
P063849000	2459									\$22.27						\$22.27

1995

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TAX YEARS - DOLLARS

ACCOUNT NUMBER	CASE	81/82	82/83	83/84	84/85	85/86	86/87	87/88	88/89	89/90	90/91	91/92	92/93	93/94	94/95	ACCOUNT TOTALS
P064052000	2547									\$252.84	\$1,383.87	\$1,095.35	\$928.50	\$867.76		\$4,528.32
P064353800	838											\$64.65				\$64.65
P064595500	452							\$201.31	\$210.08	\$226.65						\$638.04
P064659500	3210									\$157.35						\$157.35
P064667002	3043													\$294.40		\$294.40
P070406404	2951											\$148.50				\$148.50
P070412041	1925							\$212.58	\$221.87							\$434.45
P070450665	528				\$48.55											\$48.55
P070475201	763							\$306.60	\$320.21							\$626.81
P070538618	2394											\$214.49				\$214.49
P080270005	3124										\$300.30					\$300.30
P080270030	50					\$31.18										\$31.18
P080517500	2170										\$47.07	\$81.23				\$128.30
P080777455	2433												42.03			\$42.03
P080780200	1312					\$21.57	\$207.40	\$227.38	\$260.98							\$717.33
P080780200	1312					\$21.57	\$207.40	\$227.38	\$260.98							\$717.33
P080850005	2167				\$114.09	\$93.53	\$103.77									\$311.39
P080872020	1222					\$29.70	\$88.15									\$117.85
P081231776	3205							\$255.50								\$255.50
P090216290	3073								\$255.07							\$255.07
P091023655	106						\$175.60									\$175.60
P091076000	2954											\$1,382.24				\$1,382.24
P091094800	2433												\$33.22			\$33.22
P091151100	2954									\$1,376.41						\$1,376.41
P103420000	108						\$8,790.34		\$5,412.05		\$4,753.99					\$18,956.38
P111873300	997						\$193.40									\$193.40
P112291100	950				\$245.78	\$320.16										\$565.94
P112291100	950				\$245.78	\$320.16										\$565.94
P114030800	3124										\$80.40					\$80.40
P200075839	3211											\$44.36	\$42.95	\$63.64		\$150.95
P200107796	1338								\$94.12	\$91.15	\$100.16					\$285.43
P200114511	617						\$58.01	\$62.29								\$120.30
P200124023	2633											\$29.01				\$29.01
P200124031	2236													\$14.28		\$14.28
P200127800	2428											\$42.23	\$40.39			\$82.62
P200129618	2147							\$26.30	\$130.29	\$144.56	\$130.31	\$47.49	\$45.51	\$37.24	\$35.89	\$597.59
P200196494	1945								\$347.12	\$322.71						\$669.83
P290414001	671									\$197.73						\$197.73

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		TAX YEARS - DOLLARS													94/95	ACCOUNT TOTALS
ACCOUNT NUMBER	CASE	81/82	82/83	83/84	84/85	85/86	86/87	87/88	88/89	89/90	90/91	91/92	92/93	93/94		
P400009800	921		\$192.00													\$192.00
P400011200	2957		\$192.00													\$192.00
P400013100	2141	\$239.00														\$239.00
P400018200	1056	\$425.00														\$425.00
P400020000	2785	\$425.00														\$425.00
P410000185	1295	235.93														\$235.93
P410002500	711			\$459.75												\$459.75
P602300014	48											\$10.16				\$10.16
P674200018	2456						\$43.09									\$43.09
P698100003	108									\$222.30						\$222.30
U255800000	2610					\$241.40										\$241.40
U955400000	3202							\$681.07								\$681.07
P011811085 B	2904												\$67.07			\$67.07
P013480000 B	3275													\$330.28		\$330.28
P030021000 B	3051						\$1,744.21									\$1,744.21
P030401000 B	669						\$286.20									\$286.20
P031527500 B	2438											\$128.19				\$128.19
P031640000 B	83											\$842.28				\$842.28
P032043500 B	2139										\$214.22					\$214.22
P040031000 B	3019									\$87.41						\$87.41
P040930000 B	669	FILE NOT ARCHIVED						\$232.45								\$232.45
P041818200 B	2510										\$1,484.59					\$1,484.59
P041975500 B	2864												\$96.80			\$96.80
P042448800	2441						\$96.18	\$102.54								\$198.72
P042963000 B	2869							\$98.98	\$103.06							\$202.04
P045376800 B	892								\$123.92							\$123.92
P045845500 B	1876								\$2,830.15							\$2,830.15
P046010500 B	1395				\$1,622.34											\$1,622.34
P052160120 B	1783												\$151.72			\$151.72
P052160130 B	2764												\$86.25			\$86.25
P052920600 B	205												\$345.30			\$345.30
P053985800 B	2062										\$514.38					\$514.38
P060104000 B	2387												\$659.55	\$748.12		\$1,407.67
P060973600 B	1848							\$603.31	\$1,073.45							\$1,676.76
P061728507 B	1795											\$328.16	\$870.48			\$1,198.64
P064655000 B	1960											\$140.48	\$96.84			\$237.32
P070155064 B	399					\$48.52										\$48.52
P070395029 B	1560								108.57	116.3						\$224.87

1995

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10/13/95 13:35:14

TAX YEARS - DOLLARS

ACCOUNT NUMBER	CASE	81/82	82/83	83/84	84/85	85/86	86/87	87/88	88/89	89/90	90/91	91/92	92/93	93/94	94/95	ACCOUNT TOTALS
P070395029 B	643							\$924.82								\$924.82
P070526020 B	169										\$377.26					\$377.26
P070537604 B	1080									\$267.16						\$267.16
P070593000 B	2053									\$498.77	\$479.04	\$2,509.59				\$3,487.40
P080001905 B	2384												\$261.62			\$261.62
P080618986 B	2859										\$209.53					\$209.53
P080777725 B	40								\$177.96							\$177.96
P080828007 B	1281													\$18.90		\$18.90
P081068000 B	1190					\$147.59	\$152.45									\$300.04
P090267000 B	1234	FILE NOT ARCHIVED									\$85.09					\$85.09
P091089000 B	669											\$58.71				\$58.71
P091461500 B	40	FILE NOT ARCHIVED						\$196.84								\$196.84
P102090500 B	2291										\$419.14					\$419.14
P136208460 B	668							\$3,294.28	\$7,483.05							\$10,777.33
P136550000 B	668							\$2,841.60	\$270.50							\$3,112.10
P694500001 B	3008								\$66.09	\$135.27						\$201.36
P694500002 B	3008								\$63.43	\$131.41						\$194.84
P694500004 B	3008								\$21.02	\$24.28						\$45.30
P694500005 B	3008								\$55.41	\$86.76						\$142.17
P694500006 B	3008								\$569.39	\$577.34						\$1,146.73
P010147003 C	2313												\$16.48			\$16.48
P010883300 C	1324									\$75.79						\$75.79
P011131001 C	2365						\$203.34	\$217.62	\$227.15	\$242.60						\$890.71
P011131005 C	913							\$62.29	\$75.14	\$83.07	\$93.76					\$314.26
P011426001 C	2210									\$42.40						\$42.40
P011768700 C	875								\$194.19							\$194.19
P012600000 C	2251											\$52.09				\$52.09
P021638000 C	2966						\$464.02									\$464.02
P021780000 C	1519								\$608.41	\$631.36						\$1,239.77
P021926300 C	2889										\$933.63	\$662.15				\$1,595.78
P022132001 C	1017												\$46.42			\$46.42
P022466009 C	2588										\$1,376.71	\$943.22				\$2,319.93
P030109000 C	2335											\$343.76				\$343.76
P030313600 C	959							\$153.64	\$170.69							\$324.33
P032088100 C	2696									\$71.11						\$71.11
P032560506 C	2101								\$98.73							\$98.73
P040454500 C	2884										3201.38	579.99				\$3,781.37
P043290000 C	500									\$184.38						\$184.38

1995

WRITE OFF LIST

10/13/95 13:35:14

TAX YEARS - DOLLARS

ACCOUNT NUMBER	CASE	81/82	82/83	83/84	84/85	85/86	86/87	87/88	88/89	89/90	90/91	91/92	92/93	93/94	94/95	ACCOUNT TOTALS
P043681000 C	655								\$712.47	\$1,015.92	\$1,024.08	\$812.79				\$3,565.26
P043908200 C	1394							\$262.11								\$262.11
P043908200 C	2111											\$131.91				\$131.91
P045239000 C	214								\$6.99							\$6.99
P046011890 C	2138									\$3,240.57						\$3,240.57
P046021010 C	1553										\$3,433.23					\$3,433.23
P050225002 C	2913						\$92.86									\$92.86
P051435000 C	1933									\$155.21						\$155.21
P051564600 C	2696									\$1,442.30						\$1,442.30
P053567000 C	1628									\$91.70						\$91.70
P053821000 C	2889									\$1,526.71						\$1,526.71
P053833842 C	872											\$205.71				\$205.71
P054025800 C	1790										\$21.62					\$21.62
P060352600 C	238					\$400.20										\$400.20
P060372000 C	9										\$279.76					\$279.76
P060848000 C	2016											\$123.97				\$123.97
P061182000 C	1315													\$334.28		\$334.28
P061388600 C	1315										\$539.68	\$512.63	\$396.70			\$1,449.01
P061689600 C	2014											\$234.50				\$234.50
P061992000 C	475									\$256.23						\$256.23
P063643700 C	2190										\$119.94					\$119.94
P064348215 C	11											\$1,084.79				\$1,084.79
P070125905 C	2738							\$59.32	\$72.04	\$66.45						\$197.81
P070390150 C	1666									\$114.64						\$114.64
P070458020 C	2116									\$632.47						\$632.47
P080290905 C	208									\$7,124.69						\$7,124.69
P080618961 C	1476												\$76.72			\$76.72
P080687600 C	218											\$787.96				\$787.96
P080694330 C	1425							\$2,557.74	\$2,667.38							\$5,225.12
P080694335 C	1131								\$141.86							\$141.86
P080728100 C	2253								\$163.01							\$163.01
P080731000 C	450										\$231.20	\$170.22				\$401.42
P080827960 C	753						\$2,534.57	\$2,795.40								\$5,329.97
P080981885 C	1562									\$416.51						\$416.51
P090045100 C	214									\$1,234.48						\$1,234.48
P090152800 C	1191							\$208.12	\$217.22							\$425.34
P090158800 C	1673							\$113.81	\$118.57	\$126.30						\$358.68
P090210200 C	1677									\$792.53	\$136.98					\$929.51

1995

WRITE OFF LIST

10/13/95

13:35:14

		TAX YEARS - DOLLARS														
ACCOUNT NUMBER	CASE	81/82	82/83	83/84	84/85	85/86	86/87	87/88	88/89	89/90	90/91	91/92	92/93	93/94	94/95	ACCOUNT TOTALS
P090210210 C	1677									\$125.94	\$136.98					\$262.92
P090216035 C	3058								\$1,131.05	\$1,248.55						\$2,379.60
P090339530 C	2965							\$147.91	\$154.25							\$302.16
P090352000 C	2024							\$69.32	\$72.04	\$76.45						\$217.81
P090367901 C	1805								\$630.50	\$629.43						\$1,259.93
P090408955 C	496							\$827.91	\$884.99							\$1,712.90
P090427699 C	729							\$1,058.28	\$499.62	\$497.49						\$2,055.39
P090740000 C	844					\$357.70	\$407.55	\$427.95	\$443.32	\$449.52						\$2,086.04
P090740000 C	844					\$357.70	\$407.55	\$427.95	\$443.32	\$449.52						\$2,086.04
P091152700 C	1941										\$129.30		\$185.77	\$187.73		\$502.80
P091152700 C	534								\$208.69	\$225.77						\$434.46
P091157000 C	111								\$98.14	\$108.17						\$206.31
P091336583 C	484												\$707.31			\$707.31
P091351610 C	3134							\$71.51	\$73.64							\$145.15
P091351736 C	1980									\$370.08						\$370.08
P091507000 C	1088							\$37.72	\$84.38	\$95.59						\$217.69
P091528600 C	1383					\$692.43	\$778.12	\$141.25	\$154.28							\$1,766.08
P102182500 C	2232												\$14.44			\$14.44
P104120001 C	3102												\$135.75			\$135.75
P110530000 C	4								\$110.56							\$110.56
P110951800 C	495											\$48.52				\$48.52
P112290200 C	1677								\$739.86							\$739.86
P112300701 C	1677								\$127.57							\$127.57
P112470301 C	207					\$60.10	\$74.64									\$134.74
P112520400 C	2232								\$83.52							\$83.52
P115305705 C	1002							\$148.30	\$165.10	\$166.14						\$479.54
P117142000 C	1100					\$280.39	\$300.74									\$581.13
P117660003 C	431						\$4,415.52									\$4,415.52
P117680004 C	15								\$402.01	\$416.70						\$818.71
P120094000 C	253							\$1,551.17								\$1,551.17
P136259500 C	2412						\$3,258.89									\$3,258.89
P602200001 C	22										\$123.63					\$123.63

MEETING DATE: OCT 26 1995

AGENDA NO: R-6

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: REQUESTING APPROVAL TO ALLOW THE PORTLAND DEVELOPMENT COMMISSION
TO PURCHASE A TAX FORECLOSED PROPERTY FROM MULTNOMAH COUNTY

BOARD BRIEFING: Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: October ²⁶/₁₉, 1995

Amount of Time Needed: 5 minutes

DEPARTMENT: Environmental Services DIVISION: Assessment & Taxation

CONTACT: Stephen Kelly/Matt Ryan TELEPHONE #: 248-3590/248-3138
BLDG/ROOM #: 166/300 Tax Title

PERSON(S) MAKING PRESENTATION: Kathy Tuneberg & Stephen Kelly

ACTION REQUESTED:

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

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

Under the provisions of ORS 275.090 (2) and ORS 275.110 (2) Tax
Foreclosed Property may be sold to a governmental body.

The Portland Development Commission is requesting to purchase the
property located at 4316 NE Garfield for outstanding taxes and
maintenance costs.

continued to 11/2/95

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: Betsy Waller Robert Ellis

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

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

BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM BRIEFING
STAFF REPORT SUPPLEMENT

TO: BOARD OF COUNTY COMMISSIONERS

FROM: Kathy Tuneberg, Assessment & Taxation
Stephen Kelly, Tax Title
Matt Ryan, County Counsel

TODAY'S DATE: October 9, 1995

REQUESTED PLACEMENT DATE: October 19, 1995

RE: Request approval to sell a Tax Foreclosed property to the Portland Development Commission.

I. Recommendation/Action Requested:

Request Board approve the sale of tax foreclosed property located at 4316 NE Garfield to the Portland Development Commission.

II. Background/Analysis:

This property was deeded to the County on November 2, 1989 and was subsequently transferred to NECDC. NECDC quitclaimed it back to the County because it was an unsuitable for its purposes.

PDC is working with a manufacturing company to expand its business and is interested in this piece of property which is located next to the existing business.

Under ORS 275.110 and Ordinance 795 the County may sell this property to PDC for the amount of taxes, interest, fees and maintenance costs. The total due is \$8,377.78.

III. Financial Impact:

The County will be reimbursed for all back taxes, interest, fees and maintenance costs associated with maintaining this property.

IV. Legal Issues:

Such sales are provided for in ORS 275.110 and Ordinance 795. No other legal issues anticipated.

V. Controversial Issues:

None anticipated.

VI. Link to Current County Policies:

In accordance with the Board's Resolution committing properties to NECDC and Ordinance 795, this property was offered to NECDC. NECDC subsequently returned the property as unsuitable for their development. No other government or non-profit housing entity has expressed any interest in this property.

There are no known conflicts with County policy.

VII. Citizen Participation:

None anticipated.

VIII. Other Government Participation:

None anticipated.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

<i>Authorizing Sale of Certain Tax</i>)	
<i>Foreclosed Property to the City of</i>)	<i>ORDER</i>
<i>Portland, Portland Development</i>)	<i>95-</i>
<i>Commission and Authorizing Chair</i>)	
<i>to Execute Deed D961262</i>)	

WHEREAS, the City of Portland, Portland Development Commission (PDC) has offered to purchase from the County certain real property hereinafter described for the amount of \$8,377.78, as allowed under County Ordinance 795, Section VI, paragraph G; and

WHEREAS, pursuant to ORS 275.110(2) the County's sale of real property to PDC, a public body, is exempt from the public sale requirements under ORS 275.110(1); and

WHEREAS, it is in the best interest of Multnomah County to sell the property to PDC for that amount; now therefore

IT IS HEREBY ORDERED that the Multnomah County Board of Commissioners approves the sale of real property described as Lot 5, Block A, ALBINA HOMESTEAD ADDITION, a recorded subdivision in the County of Multnomah, State of Oregon, commonly known as 4316 NE Garfield Avenue (Tax Account # R-01050-0050); and

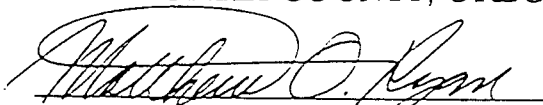
IT IS FURTHER ORDERED that the County Chair be and she hereby is, authorized to execute the attached deed D961262 conveying title of the property to Portland Development Commission upon completion of the sale.

DATED this 26th day of October, 1995.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

Beverly Stein, Chair

REVIEWED:
LAURENCE KRESSEL, COUNTY COUNSEL
MULTNOMAH COUNTY, OREGON


Matthew O. Ryan, Assistant

DEED D961262

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to THE CITY OF PORTLAND, PORTLAND DEVELOPMENT COMMISSION, Grantee, the following described real property, situated in the County of Multnomah, State of Oregon:

Lot 5, Block A, ALBINA HOMESTEAD ADDITION, a recorded subdivision in County of Multnomah, State of Oregon. Commonly known as 4316 NE. GARFIELD AVE (Tax Account #: R-01050-0050).

The true and actual consideration paid for this transfer, stated in terms of dollars is \$8,377.78.

This instrument will not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring fee title to the property should check with the appropriate City or County Planning Department to verify approved uses, and to determine and limits on lawsuits against farming or forest practices as defined in ORS 30.930.

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

Portland Development Commission
1120 SW. 5th Avenue
Portland, Oregon 97204

IN WITNESS, WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of County Commissioners this day of , 1995 by authority of an Order of said Board of County Commissioners heretofore entered of record.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

(SEAL)

Beverly Stein, Chair

REVIEWED:
Laurence Kressel, County Counsel
for Multnomah County, Oregon

DEED APPROVED:
Janice Druian, Director of
Assessment & Taxation

By _____

By _____

MEETING DATE: OCT 12 1995 OCT 26 1995
AGENDA NO: R-14 R-7

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Addendum to EMS Ordinance 816

BOARD BRIEFING Date Requested: _____

Amount of Time Needed: _____

BOARD MEETING: Date Requested: 10/12/95

Amount of Time Needed: 10 minutes

DEPARTMENT: Health DIVISION: EMS

CONTACT: Bill Collins TELEPHONE #: 248-3220
BLDG./ROOM#: 10th Floor - McCoy Bldg

PERSON(S) MAKING PRESENTATION: Bill Collins

ACTION REQUESTED:

() INFORMATIONAL ONLY () POLICY DIRECTION (X) APPROVAL () OTHER

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

Adds to MCC 6.33.510

(A) (7) A representative from the City of Gresham.

(A) (8) A representative from the City of Portland

10/27/95 copies to Bill Collins & Ordinance
Distribution List
ELECTED OFFICIAL; _____

OR

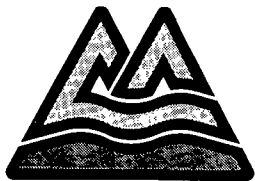
DEPARTMENT MANAGER: Billi Degea/H

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3777/248-5222

1995 OCT -5 PM 2:24
MULTI-MEDIA COUNTY
OREGON

CLERK OF BOARD
COUNTY COMMISSIONERS



MULTNOMAH COUNTY OREGON



HEALTH DEPARTMENT
426 S.W. STARK STREET, 8TH FLOOR
PORTLAND, OREGON 97204-2394
(503) 248-3674
FAX (503) 248-3676
TDD (503) 248-3816

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

TO: Board of County Commissioners

FROM: Billi Odegaard: *Billi / AO*

REQUESTED PLACEMENT DATE: October 12, 1995

DATE: October 5, 1995

SUBJECT: Addendum to the Emergency Service and Ambulance Code.

=====

- I. Recommendation/Action Requested: Approval of the addendum to the Code.
- II. Background/Analysis: Language needs to be added to allow representation from Portland and Gresham on the Contract Compliance Committee. This was a request that came after the ordinance was approved.
- III. Financial Impact: None.
- IV. Legal Issues: None.
- V. Controversial Issues: None.
- VI. Link to Current County Policies: This addendum will provide representation for the major Medical First Responders in the EMS system.
- VII. Citizen Participation: None.
- VIII. Other Government Participation: None.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY
ORDINANCE NO. 836

An ordinance amending MCC 6.33, adding members to the Contract Compliance and Rate Regulation Committee.

Multnomah County ordains as follows:

Section I. Findings.

1. On April 6, 1995 Multnomah County adopted MCC Chapter 6.33, Emergency Medical Service and Ambulance Code, (Ordinance No.816) in order to implement the ambulance service plan for Multnomah County.

2. MCC 6.33 calls for the formation of a Contract Compliance and Rate Regulation Committee to review the performance of the ambulance service contractor and to review and recommend adjustments to the rates charged by the contractor.

3. The Cities of Portland and Gresham, as medical first responders in the EMS system, have requested membership on the committee and the County agrees that their membership will enhance the proceedings of the committee.

Section II. Adoption of the Addendum.

The following language is added to MCC 6.33.510 and is adopted.

- (B) (7) A representative from the City of Gresham.
- (B) (8) A representative from the City of Portland.

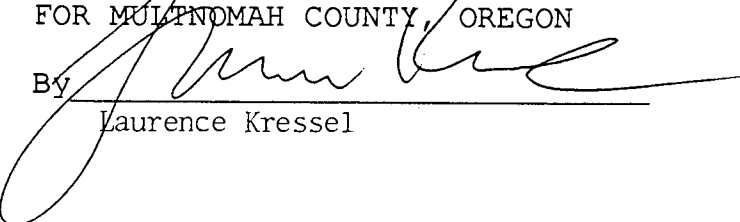
ADOPTED this 26th day of October, 1995, being the date of the second reading before the Board of County Commissioners of Multnomah County, Oregon.

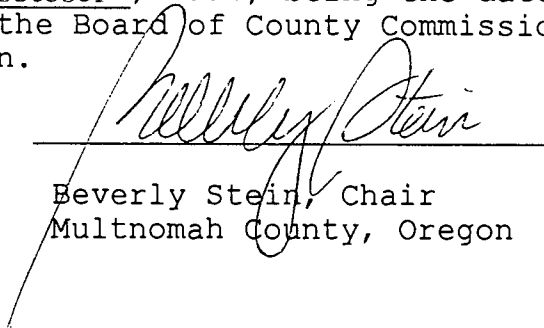


REVIEWED:

Laurence Kressel, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By


Laurence Kressel


Beverly Stein, Chair
Multnomah County, Oregon

1. REQUEST FOR PLACEMENT ON THE AGENDA FOR:

(Date)

DEPARTMENT: COMMUNITY AND FAMILIES SERVICES

DIVISION: N/A

CONTACT: KATHY TINKLE / WENDY BYERS

PHONE: 3691 6858

* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD: SUSAN CLARK / KATHY TINKLE

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

Budget Modification # 3 is a housekeeping modification that moves revenue and expenses between program/organization codes and adjusts City of Portland revenue to actual revenue agreements.

2. DESCRIPTION OF MODIFICATION: [Explain the changes being made: What budget does it increase / decrease? What do the changes accomplish? Where does the money come from?

[X] PERSONNEL CHANGES ARE SHOWN IN DETAIL ON THE ATTACHED SHEET

This modification moves Pass Through between organization codes within the Adult Mental Health Program and City of Portland revenue for Adult Mental Health is increased by \$1,870 per the actual revenue agreement.

Indirect support added with Technical Amendment for the Target Cities project is corrected to reflect grant paid indirect.

3. REVENUE IMPACT

(Explain revenues being changed and reason for the change)

City of Portland
CGF - Indirect
Srv Reimb F/S CG Fund

\$1,870
(\$2,962)
(\$45)

TOTAL (\$1,137)

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
1995 OCT 12 PM 4:40

4. CONTINGENCY STATUS [to be completed by Budget & Planning]

Fund Contingency BEFORE THIS MODIFICATION (as of _____): \$ _____
AFTER THIS MODIFICATION: \$ _____

(Specify Fund)

Originated By:

Date:

Department Director:

Date:

Plan / Budget Analyst:

Date:

Employee Services:

Date:

Board Approval:

Date:

EXPENDITURES

Budget Fiscal Year: 95/96

[illegible]

Budget Fiscal Year: 95/96

1:\Lotus\9596\Budget\Budmods\3BM9596.WK4



MULTNOMAH COUNTY OREGON

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES
421 SW SIXTH AVENUE, SUITE 700
PORTLAND, OREGON 97204
PHONE (503) 248-3691
FAX (503) 248-3379
TDD (503) 248-3598

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

MEMORANDUM

TO: Board of County Commissioners
FROM: *Lolene Poe* Director
Community and Family Services Division
DATE: September 29, 1995
SUBJECT: Budget Modification CFSD #3

I. RECOMMENDATION/ACTION REQUESTED: The Community and Family Services Division recommends the approval of Budget Modification **CFSD #3**. This modification makes adjustments between expense line items within the Department of Community and Family Services and increases City of Portland Revenue.

II. BACKGROUND/ANALYSIS: This is a "housekeeping" budget modification that moves Pass Through between organization codes within the Adult Mental Health Program and increases City of Portland revenue in Adult Mental Health to reflect actual contract amount. It also corrects Target Cities expenses and revenue to reflect grant paid indirect.

III. FINANCIAL IMPACT: This Budget Modification will reduce the Department of Community and Family Services budget by \$1,092. City of Portland revenue is increased by \$1,870, the Service reimbursement to CGF is decreased by \$45 and County General Fund Indirect support is reduced by \$2,962.

IV. LEGAL ISSUES: N/A

V. CONTROVERSIAL ISSUES: N/A

VI. LINK TO CURRENT COUNTY POLICY: N/A

VII. CITIZEN PARTICIPATION: N/A

VIII. OTHER GOVERNMENT PARTICIPATION: N/A

BUDGET MODIFICATION NO. NOV 26 #6(For Clerk's Use) Meeting Date OCT 26 1995Agenda No. R-91. REQUEST FOR PLACEMENT ON THE AGENDA FOR October 12, 1995

(Date)

DEPARTMENT Non-DepartmentalDIVISION Emergency ManagementCONTACT Mike GilsdorfTELEPHONE 251-2466*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Mike Gilsdorf

SUGGESTED

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

Request for approval of budget modification to transfer cost savings in Personal Services to Materials and Services.

(Estimated Time Needed on the Agenda)

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

☒ PERSONNEL CHANGES ARE SHOWN IN DETAIL ON THE ATTACHED SHEET

Emergency Management working with the County Budget and Quality Office has identified a cost savings in Personal Services and prepared the attached budget modification request. The savings in personnel cost were generated by the May 1995 resignation of the Emergency Management Administrator. The difference in salary between the previous Administrator and the Interim Director has resulted in a cost savings. The attached budget modification transfers budgeted money from Personal Services to Materials and Services. Approval of this budget modification will offset inflation cost cuts made to Emergency Management's Materials and Services budget during fiscal year 1995-1996 budget process. This budget modification is consistent with County fiscal year 95-96 budget policy that allows Departments/Divisions to use cost savings in Personal Services to compensate for inflation cost in Material and Services.

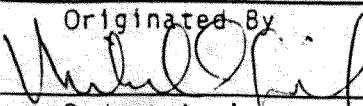
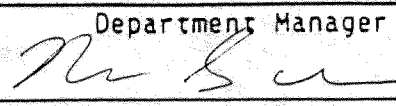
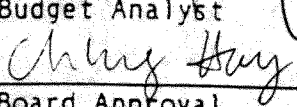
3. REVENUE IMPACT (Explain revenues being changed and the reason for the change)

This budget modification transfers funds from Personal Services to Materials and Services. There is no revenue increase or decrease.

4. CONTINGENCY STATUS (to be completed by Finance/Budget)

(Specify Fund) Contingency before this modification (as of _____) (Date)

After this modification

Originated By 	Date <u>2 OCT 95</u>	Department Manager 	Date
Budget Analyst 	Date <u>10-10-95</u>	Personnel Analyst	Date
Board Approval			Date

CLERK'S OFFICE
1995 OCT 12 PM 4:40
MULTI-MEDIA COUNTY
OREGON

EXPENDITURE
TRANSACTION ED []

GM [] TRANSACTION DATE _____

ACCOUNTING PERIOD _____

BUDGET FY _____

Document Number	Action	Fund	Agency	Organi- zation	Activity	Reporting Category	Object	Current Amount	Revised Amount	Change Increase (Decrease)	Sub- Total	Description
		156	050	6901			5100	116,215	111,195	(5,020)	(5,020)	Personal Cost
		156	050	6901			5300	0	2,000	2,000	(3,020)	OverTime Cost
		156	050	6901			5500	20,415	19,520	(895)	(3,915)	Fringe
		156	050	6901			5550	17,618	17,533	(85)	(4,000)	Benefits
		156	050	6901			6230	2,460	4,595	2,135	(1,865)	Supplies
		156	050	6901			6270	1,100	1,400	300	(1,565)	Food
		156	050	6901			6310	350	1,850	1,500	(65)	Travel & Training
		156	050	6901			7150	965	1,030	65	0	Telephone
		400	050	7531			6580			(85)		Medical/Dental Claims
		402	030	7990						65		Supplies
										0	0	TOTAL EXPENDITURE CHANGE

TOTAL EXPENDITURE CHANGE

REVENUE

TRANSACTION RD []

GM [] TRANSACTION DATE _____

ACCOUNTING PERIOD _____

BUDGET FY _____

Document Number	Action	Fund	Agency	Organi- zation	Activity	Reporting Category	Revenue Source	Current Amount	Revised Amount	Change Increase (Decrease)	Sub- Total	Description
		400	050	7040			6602			(85)		Fed/St Svcs. Reimb.
		402	030	7990			6602			65		Fed/St Svcs. Reimb.
												TOTAL REVENUE CHANGE

TOTAL REVENUE

NOND 6

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

6. CURRENT YEAR PERSONNEL DOLLAR CHANGES (Calculate costs/savings that will place in this FY; these should explain the actual dollar amounts being changed by this BudMod)

		CURRENT FY			
Permanent Position, Temporary, Overtime or Premium)	Explanation of Change	BASE PAY Increase (Decrease)	Increase/(Decrease)		TOTAL Increase (Decrease)
			Fringe	Ins.	
(1) Permanent Position	Resignation of Emergency Management Administrator	(58,667.00)	(10,306.00)	(8,485.00)	(77,458.00)
1 Permanent Position	Appointment of Interim Emergency Management Administrator	52,747.00	9,266.00	8,265.00	70,278.00
TOTAL CURRENT FISCAL YEAR CHANGES		(5,920.00)	(1,040.00)	(220.00)	(7,180.00)

BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM BRIEFING
STAFF REPORT SUPPLEMENT

RECEIVED

OCT 06 1995

TO: BOARD OF COUNTY COMMISSIONERS

FROM: MIKE GILSDORF
MULTNOMAH COUNTY EMERGENCY MANAGEMENT

BEVERLY STEIN
MULTNOMAH COUNTY CHAIR

TODAY'S DATE: OCTOBER 05, 1995

REQUESTED PLACEMENT DATE: OCTOBER 12, 1995

RE: BUDGET MODIFICATION

I. Recommendation/Action Requested:
(Concise listing of recommendation/action requested.)

Approve budget modification to transfer cost savings in Emergency Management's Personal Services to Materials and Services.

II. Background/Analysis:
(Explanation of the item. This section should be as detailed as necessary to provide the BCC with the information it needs to make a decision. Why does this item have to go to the Board? What has the Board already seen about this issue?)

This budget modification reflects the savings in personal cost generated by the resignation of the Emergency Management Administrator. The difference in salary between the previous Administrator and the Interim Administrator has resulted in budgeted funds in the amount of \$6,000.00 being available in personal costs that will be reallocated to other budget line items. Based upon expenditures for the last two years, \$2000.00 will be allocated for staff overtime. The budget currently does not have funds allocated for overtime. The supplies line item will be increased by \$2,135.00 to allow completion of the conversion of the former Hazardous Materials Team motor home into a Multi-Jurisdictional - Multi-Agency Incident Command Post and Community Policing Precinct vehicle. The line item for food will be increased by \$300.00 to account for increased costs due to the use of new training sites, and an increase in the planned number of training courses. Travel and training funds will be increased by \$1,500.00 to allow attendance at additional conferences and training opportunities. The telephone line item will be increased by \$65.00 to account for an additional pager and cellular phone.

III. Financial Impact:

(Revenue/Expenditure? Address current and long term issues. Is it going to result in a budget modification? If so, what is the time line. If it is a budget modification, what caused the need for change? Has the budget office been consulted? Detailed explanation.)

Emergency Management working with the County Budget and Quality Office has identified a cost savings in Personal Services and prepared the attached budget modification request. The savings in personnel cost were generated by the May 1995 resignation of the Emergency Management Administrator. The difference in salary between the previous Administrator and the Interim Director has resulted in a cost savings. The attached budget modification transfers budgeted money from Personal Services to Materials and Services. Approval of this budget modification will offset inflation cost cuts made to Emergency Management's Materials and Services budget during fiscal year 1995-1996 budget process. This budget modification is consistent with County fiscal year 95-96 budget policy that allows Departments/Divisions to use cost savings in Personal Services to compensate for inflation cost in Material and Services.

IV. Legal Issues:

(What are the legal issues? How do you know? Cite ORS, ordinance or administrative procedure if appropriate.)

None

V. Controversial Issues:

(Policy/Political)

None

VI. Link to Current County Policies:

(Consistent/Changes Needed)

This request is consistent with County budgeting policy for FY 1995-1996 that allows Departments/Divisions to use cost savings in Personal Services to offset inflation cost in Materials and Services.

VII. Citizen Participation:

(What has been the degree of citizen involvement - Formal, i.e., task force or committee - Informal input? Do you anticipate citizen testimony at the board meeting?)

None

VIII. Other Government Participation:

(Does it affect another jurisdiction/county department? Do they know about it?)

None

OCT 26 1995

Meeting

~~OCT 12 1995~~

Agenda

R-3 R-10

(Above Space for Board Clerk's Use *ONLY*)

AGENDA PLACEMENT FORM

SUBJECT: An Ordinance amendment relating to the merit system for county employees.

BOARD BRIEFING: Date Requested:

REGULAR MEETING: Date Requested: October 12, 1995
Amount of Time Needed: 5 Minutes

DEPARTMENT: Chair's Office

DIVISION:

CONTACT: Maria Rojo de Steffey

TELEPHONE: 248-3308

BLDG/ROOM: 106/1515

PERSON(S) MAKING PRESENTATION: Maria Rojo de Steffey

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

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

This ordinance amendment revises the policy prohibiting discrimination in personnel actions.

10/27/95 copies to Maria Rojo de Steffey, Susan
Ayers & Ordinance Distribution List

1995 OCT - 5 AM 8:52
CLERK OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON

SIGNATURES REQUIRED:

ELECTED OFFICIAL: Beverly Stein

OR

MANAGER: _____

Any Questions? Call the Office of the Board Clerk at 248-3277 or 248-5222.

TO: BOARD OF COUNTY COMMISSIONERS

FROM: Maria Rojo de Steffey

DATE: October 5, 1995

REQUESTED PLACEMENT DATE: October 12, 1995

RE: Ordinance Revision relating to the merit system for county employees and Repeal of Resolution pertaining to employee travel.

I. Recommendation/Action Requested:

Approval of Ordinance revising the policy regarding prohibiting discrimination in personnel actions to include sexual orientation. Update language changing the term Handicap to Disability; and

Approval of Resolution repealing resolution 94-100 pertaining to travel by county employees to localities that have

II. Background/Analysis:

In 1994, the Board of County Commissioners amended Resolution 92-221 prohibiting funding of travel to states and localities that have constitutional or charter provisions that deny civil rights to persons based on their sexual orientation. That amendment lifted the ban to allow County employees to travel to these areas for business travel only. The restriction was kept in effect for travel to conferences with exceptions being allowed by the Chair for specific purposes.

In that amendment, the Board also appointed an employee task force to review Policy 94-100 and develop a strategy on how Multnomah County can best protect and advance the civil rights of all individuals.

The Task Force recommends the following action:

1. Amend the County Ordinance relating to the merit system for county employees by including non-discrimination in personnel actions for sexual orientation; change the term handicap to the preferred term - disability; and

2. Repeal Resolution 94-100 to allow conference travel to localities which have on record or have attempted to enforce anti-gay measures.

The Task Force agrees with the Board that non-discrimination is a basic right that should be available for all employees and that by including sexual orientation, all employees will be protected.

The Task Force believes that the County should support all the people in those states and localities with discriminatory laws who do not believe in discrimination. Repealing this resolution calls for healing and an end to divisiveness in those communities. The resolution also calls for your continued pursuit and support of non-discrimination and basic rights for all people.

III. Financial Impact:

None

IV. Legal Issues:

A County Ordinance can be referred to the voters.

V. Controversial Issues:

A Board action that addresses sexual orientation may be controversial.

VI. Link to Current County Policies:

Multnomah County has adopted several policies that support basic rights and affirmative action for all employees.

VII. Citizen Participation:

The Task Force has met regularly with the East Metro Human Rights Coalition, Metropolitan Human Rights Commission and other members of the public.

VIII. Other Government Participation:

This Ordinance and Resolution only apply to Multnomah County employees.

1 BEFORE THE BOARD OF COUNTY COMMISSIONERS

2 FOR MULTNOMAH COUNTY OREGON

3 ORDINANCE NO. 837

4 An ordinance amending MCC Chapter 3.10.010(P), 3.10.015(B)(3), and
5 3.10.270(A) relating to the merit system for county employees and repealing and
6 replacing sections of Ordinance No. 448 and Ordinance No. 461.

7 MULTNOMAH COUNTY ORDAINS AS FOLLOWS:

8 Section I. Findings.

9 (A) Multnomah County, Oregon has adopted a merit system of personnel
10 administration which is contained in MCC Chapter 3.10.

11 (B) It is the desire of the Board of County Commissioners to revise the policy
12 regarding prohibited discrimination in personnel actions.

13 Section II. Amendment.

14 MCC Chapter 3.10.010(P) is amended to read:

15 "Discrimination complaint" means a complaint that a personnel action was
16 motivated by discrimination on the basis of race, religion, sex, sexual orientation,
17 age, marital status, national origin, physical or mental [handicap] disability or
political affiliation.

18 Section III. Amendment.

19 MCC Chapter 3.10.015(B)(3) is amended to read:

20 Assuring impartial treatment of applicants and employees in all aspects of
21 personnel administration without regard to political affiliation, race, religion, color,
22 sex, sexual orientation, age, physical or mental [handicap] disability, marital status
or national origin, and with proper regard for their privacy and constitutional rights
as citizens.

23 Section IV. Amendment.

24 MCC Chapter 3.10.270(A) is amended to read:

25 Discrimination in any personnel actions on the basis of race, color, sex, sexual
26 orientation, age, religion, national origin, political affiliation, marital status, or
physical or mental [handicap] disability is prohibited except when they constitute
bona fide occupational qualifications.

1 Section V. Repeal.

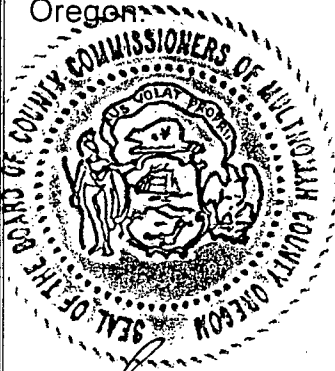
2 Section V. of Ordinance No. 448 and Section IV. of Ordinance No. 461 are
3 repealed.

4 Section VI. Prohibited Discrimination in Unclassified Exempt Service.

5 The following policy is adopted:

6 Discrimination in any personnel action in the unclassified exempt service on the
7 basis of race, color, sex, sexual orientation, age, religion, national origin, political
8 affiliation, marital status or physical or mental disability is prohibited except when
they constitute bona fide occupational qualifications.

9 ADOPTED the 26th day of October, 1995, being the date of
10 its second reading before the Board of County Commissioners of Multnomah County,
11 Oregon.



12 By Beverly Stein
13 Beverly Stein, Chair
14 MULTNOMAH COUNTY, OREGON

15 REVIEWED:

16 Laurence Kressel
17 Laurence Kressel, County Counsel
18 of Multnomah County, Oregon

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MEETING DATE: OCT 26 1995

AGENDA NO: R-11

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Consent to change in control of Hayden Island cable franchise from Columbia Cable to TCI

BOARD BRIEFING: None requested.

REGULAR MEETING: Date Requested: October 26, 1995
Amount of Time Needed: 15 minutes

DEPARTMENT: Nondepartmental: Commissioner Kelley

CONTACT: David C. Olson
Mt. Hood Cable Regulatory Commission

TELEPHONE: 823-5385
BLDG/ROOM: 106/1160
105/1160

PERSON(S) MAKING PRESENTATION:
David C. Olson and Ernie Bonner (County Representative to MHCRC)

ACTION REQUESTED

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

SUMMARY:

This emergency ordinance consents to a change in control of the County's cable franchise on Hayden Island from Columbia Cable to TCI. The Mt. Hood Cable Regulatory Commission voted to recommend the ordinance to Multnomah County on October 16, 1995. A federal deadline for action on cable transfers means the County (and also the City of Portland) must complete action by October 30, 1995. This action is part of a larger sale of Columbia cable properties to TCI throughout the metropolitan area (including Washington County and Clark County, Washington). The County's consent is necessary because an undeveloped portion of Hayden Island remains within the County. The ordinance contains conditions developed by the Commission. The conditions in the ordinance are consistent with the ordinance to be considered by the Portland City Council. No adverse personnel or fiscal impact is foreseen. The Cable Commission's direct costs (including outside financial consulting) will be reimbursed by TCI.

10/27/95 ORIGINAL EXHIBITS B&C TO MHCRC FOR COMPLETION;
COPIES OF ORDINANCE TO SIGNATURES REQUIRED: MHCRC & ORDINANCE
DISTRIBUTION LIST & COMMISSIONER KELLEY

ELECTED OFFICIAL: Sharon Kelley

OR

DEPARTMENT MANAGER: David C. Olson

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

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

TO: Board of County Commissioners

FROM: Commissioner Sharron Kelley

RE: Consent to change in control of Hayden Island cable franchise from Columbia Cable to TCI

DATE: October 18, 1995

AGENDA DATE: October 26, 1995

I. Recommendation/Action Requested

Passage of Ordinance, as recommended by the Mt. Hood Cable Regulatory Commission.

II. Background/Analysis

Hayden Island has been served by Columbia Cable since shortly after Multnomah County issued a franchise for cable services to the Island in 1986. The franchise was originally issued to American Earthstations, Inc. (dba Hayden Island Cable), but ownership was transferred to Columbia with the County's approval in December, 1986. Columbia Cable has for several years served a number of areas in the Portland metro area (including Washington County and Clark County). In June, 1995 Columbia and TCI Cable announced that all of Columbia's cable properties in the Portland metro area would be sold to TCI, subject to approval of local governments in Columbia's service area. Columbia and TCI subsequently (July 3, 1995) submitted a request for approval of the ownership transfer of the Hayden Island franchise to Multnomah County and the City of Portland. Under newly-issued federal rules concerning cable system transfers, jurisdictional action must take place within 120 days of a properly-submitted request. Thus, *Multnomah County and the City of Portland have until October 30, 1995 to take action on this transfer request or it else it is deemed approved under federal rules. This is why it is necessary to include an emergency clause in the recommended ordinance.* The Mt. Hood Cable Regulatory Commission, utilizing its staff and outside financial consultant, has studied the proposed transfer and made recommendations about necessary conditions to include in approving the transfer. The conditions recommended by the Commission have been included in proposed ordinances to be considered by the Multnomah County Board of Commissioners (on October 26) and the Portland City Council (on October 25).

III. Financial Impact

No adverse financial impact on the County is foreseen. Currently, all cable subscribers on the Island reside within areas annexed to the City of Portland. All franchise fees collected on Hayden Island will continued to be paid, and the proposed ordinance requires reimbursement of the Commission's direct expenses in studying the transaction.

IV. Legal Issues

The terms of the proposed transfer ordinance have been discussed at length among Commission staff, Commission legal counsel, TCI, and Columbia. Legal issues discussed include the status of the new general partner, liability for past and future franchise violations, need for a corporate guarantor, interconnection of local channels with the Island, and reimbursement of the Commission's direct costs, among other things.

V. Controversial Issues

At this writing, most controversial issues appear to be resolved. Difficult issues up to this point had included the issues of cost reimbursement, access channel interconnection, and notification and approval regarding future corporate and management changes.

VI. Link to Current County Policies

Approval of the transfer, as recommended by the Cable Commission, relates to current County policies which promote citizen involvement, efficient delivery of services, and reduction in per capita dollars spent for city and county government.

VII. Citizen Participation

The Mt. Hood Cable Regulatory Commission has made a special effort to involve citizens of Hayden Island in this proceeding. Several Hayden Island residents testified at the MHCRC meeting of September 11, 1995; and Commission staff attended a meeting of the Hayden Island Neighborhood Board on September 28, 1995.

VIII. Other Government Participation

Through the County's jurisdictional partners on the Mt. Hood Cable Regulatory Commission, the County will have processed this cable ownership transfer on an inter-jurisdictional basis, with prior study and recommendation by the Commission (where the County is represented through its designated appointee, Ernie Bonner).

EXHIBIT E - MULTNOMAH COUNTY, OREGON
ORDINANCE FACT SHEET

Ordinance Title:

Ordinance consenting to change in control of Hayden Island cable franchise, with conditions, and declaring an emergency.

To be considered by Board on October 26, 1995.

Brief statement of purpose of ordinance (rationale, persons benefited, etc.)

The purpose of the ordinance is to follow federal rules by taking action on a cable transfer of ownership within the required federal timeline of 120 days. The County has an existing cable franchise with Columbia Cable of Washington which governs an unincorporated (and unpopulated) portion of Hayden Island. Columbia Cable is selling its area cable systems to TCI. Approval of the City of Portland is required (for the annexed portion of Hayden Island) and approval of the County is necessary (for the unannexed portion). The Mt. Hood Cable Regulatory Commission has reviewed and studied this transaction following formal notification (completed on July 3, 1995). Federal rules require the County and the City to act by a final deadline of October 30, 1995. The Mt. Hood Cable Regulatory Commission recommended the ordinance to the County unanimously in action by the Commission on October 16, 1995.

What other local jurisdictions have enacted similar legislation?

This ownership transfer from Columbia Cable to TCI has also been reviewed by Vancouver and Clark County, Washington; and by 16 jurisdictions in Washington County, Oregon (including Washington County). Although these approvals are still in process, all jurisdictions which have considered the transfer have approved it so far. Each of the other Counties (Washington County and Clark County) have utilized their own Cable Commissions and regulatory staff to analyze the transaction.

What has been the experience in other areas with this type of legislation?

The need to review cable ownership transfers within 120 days is a new process established by Congress in the Cable Consumer Protection and Competition Act of 1992, which was followed by implementing rules of the Federal Communications Commission. Many jurisdictions have already processed cable ownership transfers under the new rules, including Multnomah County (which approved the ownership transfer of Paragon Cable from Houston Industries to Time Warner in May of 1995).

What is the fiscal impact, if any?

No fiscal impact is foreseen. Franchise fees will continue to be collected from the cable operator on Hayden Island, and the Cable Commission's direct costs of analyzing this matter are required to be reimbursed as a condition of the ordinance.

SIGNATURES

Person filling out form,
Department Manager:



David C. Olson, Director, Mt. Hood Cable Regulatory Commission

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 838

An ordinance consenting to a change in control of the Hayden Island cable franchise of Columbia Cable of Washington with conditions; and declaring an emergency. (Ordinance)

Multnomah County ordains as follows:

Section I. Findings.

A. Columbia Cable of Washington presently owns and controls a cable franchise to operate on Hayden Island entered into by Multnomah County on October 6, 1986 with American Earthstations, Inc. (dba Hayden Island Cable, Limited Partnership) (the "Hayden Island franchise"). Multnomah County approved the transfer of ownership of the Hayden Island franchise to Columbia Cable of Washington ("Transferor") on December 18, 1986.

B. The City of Portland has annexed all of the residential portions of Hayden Island, but there remains an unincorporated, undeveloped section in the western portion of the Island that technically remains within Multnomah County.

C. The Hayden Island franchise as originally issued by

1 the County included limited service requirements, such as 12-
2 channel video capacity with only one Public, Education and
3 Government ("PEG") access channel. Following the annexation of
4 residential areas of the Island by the City of Portland, the City
5 became the County's successor for administration and enforcement
6 of the Hayden Island franchise. The obligations of the original
7 Hayden Island franchise were upgraded by the City of Portland in
8 City of Portland Ordinance No. 159282 to require, among other
9 things, a 54 channel cable system including two Portland-
10 originated PEG channels, one of which carried government related
11 programming such as City Council meetings. These conditions were
12 accepted by the Transferor.

13 D. Section 3.6 of the Hayden Island franchise requires the
14 Transferor to promptly notify the County of any proposed change
15 or transfer of control of Transferor. Any change in control
16 renders the Hayden Island franchise subject to revocation unless
17 and until the County has given its prior written consent. Under
18 this franchise provision, the County may inquire into the
19 qualifications of the proposed controlling party, and may make
20 its approval subject to any conditions deemed appropriate by the
21 County, so long as such conditions are limited to those deemed
22 necessary by the County to ensure the strict performance of the
23 requirements of the Hayden Island franchise.

24 E. Columbia Associates, L.P. currently holds a 99% general

1 partnership interest in Transferor, and Columbia International,
2 Inc. ("CI") currently holds a 1% general partnership interest in
3 Transferor. Columbia Associates, L.P. is currently owned by
4 Liberty of Greenwich, Inc., various limited partners and CI.

5 F. On July 3, 1995, the Transferor submitted a completed
6 FCC Form 394, together with copies of legal documents and
7 required exhibits, to the County. In its Form 394 filing,
8 Transferor has represented to the County that TCI/CI Merger Sub
9 Corp. (the "Transferee" or "Applicant"), a newly-created and
10 wholly-owned subsidiary of TCI West, Inc. ("TCI West"), a wholly-
11 owned subsidiary of Tele-Communications, Inc., has agreed to
12 acquire control of Transferor (including the Hayden Island
13 franchise) pursuant to various Agreements among the parties (the
14 "Transaction"). Transferor's Form 394 filing further represents
15 that, following completion of the Transaction, Transferor (to be
16 renamed TCI of Southern Washington) will be owned by Applicant
17 and Columbia Associates, L.P. (to be renamed TCI Washington
18 Associates, L.P.) as general partners. TCI Washington
19 Associates, L.P. will be owned by Applicant as general partner
20 and TCI/CA Acquisition Sub Corp., a newly-created and wholly-
21 owned subsidiary of TCI West, as limited partner.

22 G. The Mt. Hood Cable Regulatory Commission ("Commission")
23 represents Multnomah County on cable franchising matters. The

1 Commission was created by an Intergovernmental Agreement, (the
2 "IGA"), among Multnomah County and other jurisdictions. As set
3 forth in Section 4.B.2. of the IGA, the Jurisdictions have
4 reserved full authority to act on their own behalf on "(a)ny
5 decision concerning a change of ownership or control of a cable
6 communications system or a Grantee". However, each Jurisdiction
7 has agreed "to take no action in these areas until the Commission
8 has had a prior opportunity to consider the matter." IGA §4.B.
9 Thus, the Commission acts in an advisory capacity to Multnomah
10 County in connection with proposed transfers of system ownership
11 and control.

12 H. The Commission receives staff support from the City of
13 Portland's Office of Cable Communications and Franchise
14 Management (the "Cable Office"). With the assistance of
15 financial consultant KFA Services and Commission legal counsel,
16 the Cable Office has studied the Applicant's legal, technical,
17 and financial qualifications to assume control over and operate
18 the Hayden Island franchise. After studying Transferor's FCC
19 Form 394 filing, and supplemental information provided to the
20 Cable Office and other jurisdictions considering this transfer,
21 the Cable Office concluded that the Applicant's legal, technical,
22 and financial qualifications are adequate. The Cable Office
23 believes that certain conditions would be appropriate to ensure
24 performance of the Hayden Island franchise, and has recommended
25 such conditions to the Commission.

1 I. Through Cable Office staff, the Commission has received
2 a completed Form 394 filing on July 3, 1995, observed a
3 Vancouver/Clark Cable Commission public hearing on July 19, 1995,
4 participated in a joint jurisdictional briefing on July 26, 1995,
5 and reviewed the record of the public hearing of the Metropolitan
6 Area Communications Commission held on August 2, 1995. The
7 Commission held a public hearing and information session on
8 September 11, 1995 on the proposed transfer, and considered the
9 conditions recommended in connection with the proposed transfer
10 of control to Applicant. The Commission's Regulation Standing
11 Committee held a work session on October 2, 1995, and voted
12 unanimously to recommend that the Commission consider approving
13 the transfer with conditions developed by the Cable Office in
14 discussions with local Portland TCI management. The Commission
15 met on October 16, 1995 to take final action on a recommendation
16 to Multnomah County and the City of Portland. The Commission has
17 recommended that Multnomah County approve the transfer of control
18 subject to certain specified conditions.

19 J. Prior to this Transaction, Applicant did not exist as
20 an operating entity. Applicant has relied upon the financial and
21 technical qualifications of TCI West and other TCI subsidiaries
22 to demonstrate its own qualifications to perform the obligations
23 of the Hayden Island franchise. Therefore, the guaranty of TCI
24 West should be obtained, as a condition of the County's consent
25 to change in control, to ensure strict performance of the Hayden

1 Island franchise. Requiring such a guaranty would be consistent
2 with the County's treatment of other transfer requests, including
3 the recent approval of the transfer of the County's Paragon Cable
4 franchises to Time Warner, Inc. in Ordinance No. 817, passed by
5 the Board of Commissioners on May 18, 1995.

6 K. In meetings with the Cable Office, the local Portland
7 area TCI system manager has stated that local management will
8 directly supervise the management of Applicant.
9

10 L. Section 2(5) of City of Portland Ordinance No. 159282
11 requires the carriage of up to two PEG access channels, including
12 government related programming such as City Council meetings.
13 Hayden Island residents have expressed concern to the Cable
14 Office and to the Commission regarding the need for notice to
15 Island subscribers with respect to access and local programming
16 interconnections required under this franchise section. The
17 transfer to Applicant should be approved with conditions that
18 adequately describe the access and local programming carriage
19 requirements, and provide for adequate notice to Hayden Island
20 subscribers. Carriage of the Community Access Network (CAN)
21 channel (as carried in the Portland area on Channel 11 and
22 carried on Channel 49 on Hayden Island) and the "City Net"
23 government access channel (as carried in the Portland area on
24 Channel 30 and carried on Channel 64 on Hayden Island) is
25 currently acceptable to the County as meeting the requirements of

1 Section 2(5).

2 M. The material filed in connection with FCC Form 394, and
3 information provided to other jurisdictions, indicate that the
4 Applicant and its affiliates may amend their agreements
5 subsequent to the proposed change in control. Such amendments
6 may result in legal changes within and among the new and existing
7 subsidiaries of TCI West after the closing date of this
8 Transaction. The proposed transfer should be approved with a
9 condition requiring the Applicant to promptly notify the County
10 of further changes in control, pursuant to Sections 3.5 and 3.6
11 of the Hayden Island franchise. Such a condition will help to
12 ensure the strict performance of requirements contained in the
13 Hayden Island franchise.

14 N. In order to study and take final action on this request
15 for approval of the change in control of the Hayden Island
16 franchise to Applicant, the Commission has incurred direct costs
17 in financial consulting, legal hours, and printing. Consistent
18 with the County's recent action approving the transfer of other
19 cable franchises, Applicant shall reimburse the Commission's
20 reasonable and necessary direct costs incurred in this
21 proceeding.

22 O. The process utilized in reaching a decision on the
23 proposed transfer of ownership of the Hayden Island franchise is

1 subject to the requirements of the Cable Communications Policy
2 Act of 1992 ("1992 Cable Act"), and applicable implementing
3 regulations of the Federal Communications Commission ("FCC").
4 Among other things, these requirements and regulations require
5 that franchising authorities have a maximum of 120 days from the
6 submission of a completed FCC Form 394, together with all
7 information required pursuant to applicable franchise agreements,
8 to render a final decision on a transfer request, including the
9 legal, technical, and financial qualifications of the Applicant.
10 Unless mutually extended, the 120 day federal deadline will
11 expire locally on October 30, 1995.

12 P. Multnomah County should approve the transfer of control
13 of the Hayden Island franchise to Applicant subject to the formal
14 acceptance of the Hayden Island franchise and the conditions of
15 this ordinance by Columbia Cable of Washington, through and with
16 its general partners TCI/CI Merger Sub Corp. and Columbia
17 Associates, and subject to execution of a guaranty of
18 franchisee's performance by TCI West, Inc.

19 Section II. Approval

20 Multnomah County hereby approves the transfer of control of the
21 franchise entered into by Multnomah County on October 6, 1986
22 with American Earthstations, Inc. (dba Hayden Island Cable,
23 Limited Partnership) (the "Hayden Island franchise") as

1 transferred to Columbia Cable of Washington ("Transferor") with
2 the approval of Multnomah County on December 18, 1986, to TCI/CI
3 Sub Merger Corp. Inc. ("the Applicant") and Columbia Associates,
4 in their capacity as general partners, subject to certain
5 conditions which are reasonably necessary to ensure the
6 performance of the Hayden Island franchise:

7 A. Compliance with franchise. Applicant, in its capacity
8 as general partner, shall comply with the requirements of the
9 Hayden Island franchise pursuant to its terms and shall
10 specifically comply with all other conditions imposed by the City
11 of Portland and agreed to by Transferor in City of Portland
12 Ordinance No. 159282, passed by the Portland City Council on
13 December 24, 1986, including without limitation all applicable
14 ordinances, orders, contracts, and regulatory actions taken
15 pursuant thereto by the City of Portland or the Mt. Hood Cable
16 Regulatory Commission. The Hayden Island franchise and City of
17 Portland Ordinance No. 159282 are attached hereto as Exhibit A.
18 The applicable ordinances, orders, contracts, and regulatory
19 actions taken pursuant thereto are specified and identified in
20 Exhibit D attached to this Ordinance.

21 B. Applicant's acceptance. Transferor, through its
22 general partners, and Applicant, in its capacity as a general
23 partner, shall fully accept the provisions of the Hayden Island
24 franchise in accordance with the terms thereof. Applicant and

1 Transferor's acceptance shall be in the form attached to this
2 ordinance as Exhibit B. Such acceptance shall be unqualified and
3 shall be construed to be an acceptance of all the terms,
4 conditions and restrictions contained in this ordinance. The
5 Acceptance shall not be deemed a confirmation by Applicant and
6 Transferor that the findings set forth in Subsections A. through
7 P. above are agreed to by Applicant or Transferor.

8 C. Guarantor. Applicant's parent company TCI West, Inc.
9 shall fully guarantee Applicant's obligations, as a general
10 partner, under the Hayden Island franchise, in the form attached
11 to this ordinance as Exhibit C.

12 D. Implementation and notification regarding interconnect
13 requirements. Transferor shall comply with Ordinance No. 159282
14 (Exhibit A) by carrying the signals of the Community Access
15 Network (CAN) and the "City Net" government access channel, on
16 the Hayden Island cable system in the manner provided in Section
17 2(5) of the ordinance. Unless Transferor has notified all Hayden
18 Island subscribers of the availability of these channels prior to
19 the closing of the Transaction, notification shall be provided
20 within 90 days after the closing date of the Transaction.
21 Thereafter, Transferor shall notify all Hayden Island subscribers
22 of the availability of these PEG channels at least once a year.
23 Transferor's carriage of the Community Access Network (CAN)

1 channel (as carried in the Portland area on Channel 11 and
2 carried on Channel 49 on Hayden Island) and the "City Net"
3 government access channel (as carried in the Portland area on
4 Channel 30 and carried on Channel 64 on Hayden Island) is
5 currently acceptable to the County as meeting the requirements of
6 Section 2(5).

7 E. Notification regarding closing of the Transaction and
8 further restructuring. Applicant or Transferor shall notify the
9 County of the closing of the Transaction. Subject to the
10 provisions of Section 3.5 and 3.6 of the Hayden Island franchise,
11 Applicant shall notify the County of all further changes in
12 Applicant or Transferor's legal or ownership structure. Such
13 notice shall not modify or waive any of Applicant or Transferor's
14 obligations or rights under the franchise agreement or federal law.

15 F. Reimbursement of costs. Upon issuance of an invoice,
16 the Commission shall be reimbursed for all of the direct costs
17 deemed reasonable and necessary by the Commission, incurred in
18 analyzing and taking action on Applicant's request for approval
19 of a change in control of the franchise. Such costs may include,
20 costs of financial consulting, legal counsel, printing, and any
21 publication. Payment of cost reimbursement shall be due within
22 forty-five days of any invoice billing by the Commission. Due to
23 Applicant's status as an applicant for transfer of the franchise,
24 and not as a cable operator, the amounts reimbursed in such

1 transfer-related costs do not represent franchise fees.

2 Therefore, Applicant shall not modify or otherwise affect the
3 franchisee's obligation to pay franchise fees as provided under
4 the Hayden Island franchise agreements.

5 G. Responsibility for non-compliance by franchisee. The
6 legislative history of the 1992 Cable Act contemplates that
7 franchising authorities should address any deficiencies in
8 service, including non-compliance, at the time of transfer. The
9 County, through the Mt. Hood Cable Regulatory Commission, has
10 made a good-faith attempt to identify and resolve any compliance
11 issues under the Hayden Island franchise. However, it is
12 possible that not all compliance issues have been addressed. The
13 County's approval of the transfer shall not operate to serve as a
14 waiver of any material compliance deficiencies which may be
15 discovered in the future.

16 H. Anti-trafficking. To the extent applicable, the Transaction
17 is subject to the anti-trafficking provisions of the Cable
18 Television Consumer Protection and Competition Act of 1992.
19 Applicant will fully comply with these requirements and
20 applicable FCC implementing regulations.

21 I. Written Acceptance and Guaranty.

22 (1) This ordinance shall not be effective until accepted in

1 writing by Columbia Cable of Washington, through and with its
2 general partners TCI/CI Merger Sub Corp. and Columbia Associates,
3 and subject to execution of a guaranty of franchisee's
4 performance by TCI West, Inc. The acceptance, which shall be
5 contingent upon final closing of the Transaction, shall be in the
6 form to that attached hereto as Exhibit B and the Guaranty shall
7 be in the form attached hereto as Exhibit C.

8 (2) Within thirty days after passage of this ordinance by
9 the Council, Applicant shall file in the Office of the Clerk of
10 the Board of Multnomah County such written acceptance of this
11 ordinance and Guaranty.


12 (3) Any failure to file such written acceptance and
13 Guaranty within such time shall be deemed an abandonment and
14 rejection of the rights and privileges conferred hereby and this
15 ordinance shall thereupon be null and void.

16 J. The Applicant has notified the County that the Transaction
17 is currently scheduled to reach final closure no later than
18 December 31, 1995. In the event the parties are unable to reach
19 final closure by that time, then: (1) the parties shall so notify
20 the County, through the Mt. Hood Cable Regulatory Commission.
21 and, (2) this ordinance, together with the written acceptance and
22 guaranty required hereunder, shall be null and void.

Section III. This Ordinance, being necessary for the health, safety and welfare of the people of Multnomah County, an emergency is declared; and the ordinance shall take effect upon its execution by the County Chair, pursuant to Section 5.50 of the Charter of Multnomah County.

ADOPTED this 26th day of October, 1995 being the date of its first reading before the Board of County Commissioners of Multnomah County, Oregon.




Beverly Stein, Chair
Multnomah County, Oregon

LAWRENCE KRESSEL, COUNTY COUNSEL
MULTNOMAH COUNTY, OREGON


Katie Gaetjens
Assistant County Counsel

EXHIBIT A

- 1. ORDINANCE NO. 159282 (PASSED BY THE CITY COUNCIL OF
PORTLAND, OREGON, DECEMBER 24, 1986)**

**Consisting of a total of 48 pages and exhibits
(including Franchise granted by Multnomah County
to Hayden Island Cable, Ltd.)**

An ordinance consenting to a change in control of the cable television franchise of Hayden Island Cable, Ltd., to Columbia Cable of Washington; with conditions; providing for acceptance; and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. On September 4, 1986, Multnomah County entered into a cable television franchise agreement for Hayden Island with American Earthstations, Inc., doing business as Hayden Island Cable, Limited Partnership.
2. The City of Portland has annexed a portion of Hayden Island (Annexation A-37-86, effective November 5, 1986), and the City Council has recommended that the remainder of Hayden Island be annexed to the City.
3. Section 3.115.160 of the City Code provides that the City will assume regulatory authority in annexed territory pursuant to the terms of a cable franchise issued by another public body. After annexation, the City succeeds to all rights under the franchise of the County and the cable company's obligations are to the City rather than the County.
4. On November 20, 1986, Columbia Cable of Washington, a Washington General Partnership, gave the City formal written notice of a proposed transfer of ownership of the cable television franchise of Hayden Island Cable to Columbia Cable, and requested the City's approval of the transfer pursuant to Section 3.5 and 3.6 of the Hayden Island cable franchise.
5. Section 3.5 of the Hayden Island cable franchise provides that the franchise may not be transferred without the prior written consent of the franchising authority. Section 3.6 of the Hayden Island cable franchise provides that the franchising authority may inquire into the qualifications of the prospective controlling party, and may make its approval subject to appropriate conditions.
6. The City Office of Cable Communications conducted an investigation into the qualifications of Columbia Cable. The Office reported the results of its investigation to the Cable Regulatory Commission. The Office concluded that the qualifications of Columbia Cable were adequate to ensure performance of the franchise, subject to certain conditions addressed to ongoing City regulatory and policy concerns and incorporating additional commitments made by Columbia Cable in its written submission to City and County franchising authorities.
7. The Cable Regulatory Commission held a public meeting on the proposed transfer of control, and recommended that the City Council approve the transfer subject to conditions recommended by the Office of Cable Communications.
8. The City should approve the transfer of control of the cable television franchise of Hayden Island Cable to Columbia Cable of Washington, subject to Columbia Cable's acceptance of this ordinance and the conditions recited herein.

NOW, THEREFORE, the Council directs:

Section 2. The City of Portland hereby approves the transfer of control of the cable television franchise of Hayden Island Cable, Limited Partnership, to Columbia Cable of Washington, a Washington General Partnership, pursuant to the terms of the franchise agreement attached hereto as Exhibit A and subject to the following additional conditions:

- (1) In accordance with letters from Calvin D. Broussard to David C. Olson dated November 20, 1986 and December 5, 1986, Columbia Cable will provide to Hayden Island a 550 MHz capable, 54-channel activated, two-way state-of-the-art cable system (52 channel downstream, 2 upstream, FM service).
- (2) In lieu of the initial configuration of program services set forth in Section 6.1 of the franchise, Columbia Cable will initially provide residential cable television services in accordance with the channel lineup attached hereto as Exhibit B. In all other respects, the provisions of Section 6.1 of the franchise shall apply, except that, where necessary, notice shall be given to and consent received from the City instead of the County.
- (3) Subject to the Cable Communications Policy Act of 1984, Columbia Cable will provide residential cable services at rates and charges attached hereto as Exhibit C. In accordance with Section 7.2 of the franchise and Section 3.115.090 of the City Code, Columbia Cable will file its initial schedule of rates and charges with the City Auditor, and will provide at least 30 days notice of future changes in the schedule of rates and charges by filing a revised schedule of rates and charges with the City Auditor and Office of Cable Communications.
- (4) Columbia agrees to comply with the franchise in all respects, as set forth in Exhibit D attached hereto, except for the requirement in Section 14.1 of the franchise agreement that the Hayden Island system be managed out of an office in Multnomah County. The City agrees to waive this requirement, provided that Columbia Cable manages the Hayden Island System from its office utilized for the Clark County system, and makes available to Hayden Island subscribers and residents a toll-free telephone number for use in making service calls and requests for service.
- (5) Pursuant to the City's goal of promoting interconnection of cable systems as set forth in Section 3.115.060 of the City Code, Columbia agrees to:
 - a. Carry on channels designated on its Clark County system as education access channels that would otherwise be carried on the Hayden Island system, up to two public, educational and government access channels, including a local origination channel carrying government related programming such as City Council Meetings on the Hayden Island system provided that signals are made available to Columbia at no cost at either a location on Hayden Island or at a headend located in Clark County either through a hard cable interconnect or microwave interconnection.

ORDINANCE No.

- b. If such signals are available at a Clark County headend Columbia Cable will bear the costs of transporting such signals to Hayden Island and carrying the signals on the Hayden Island system including all costs of necessary hardware and equipment.
 - c. Prior to carrying such signals, pursuant to Section 6.1 of the franchise, Columbia Cable shall consult with the City to insure that channels dropped from its line-up in order to honor this commitment are dropped with the approval of the City.
 - d. If Columbia Cable is required to interconnect with the cable systems operating in the City of Portland by Clark County or Vancouver, Washington, it will do so. The transport of the entirety of Columbia Cable's channel line-up to Hayden Island will constitute a major link in the accomplishment of this interconnection. To the extent that Rogers Cablesystems agrees to transmit signals, either through a coaxial cable interconnect or through microwave, to Columbia Cable, Columbia Cable will, if required to do so by Vancouver, Washington or Clark County, construct at its expense signal pathways to transmit a like number of channels to Rogers in order to accomplish a two-way interconnect.
- (6) This approval shall not be effective until accepted in writing by Columbia Cable, the acceptance form to be provided by the City Auditor, and its execution to be approved as to form by the City Attorney. On execution of the acceptance form by Columbia Cable, the acceptance and this ordinance shall be an enforceable contract between the City and Columbia Cable.

Section 3. The Council declares that an emergency exists in that it is necessary to approve the transfer of ownership so that construction can begin and Hayden Island residents can receive cable television services as soon as possible; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

COMMISSIONER SCHWAB
David C. Olson
December 10, 1986

Passed by the Council, DEC 24 1986

Jewel Lansing
Auditor of the City of Portland
By

Edna Lerovera Deputy

ACCEPTANCE

RECEIVED

JAN 14 1987

OFFICE OF THE
CITY AUDITOR

JEWEL LANSING

Auditor of the City of Portland
Room 202, City Hall
Portland, Oregon 97204

This is to advise the City of Portland, Oregon, that I hereby accept the terms and provisions of Ordinance No. 159282, passed by Council December 24, 1986, consenting to a change in control of the cable television franchise of Hayden Island Cable, Ltd., to Columbia Cable of Washington; with conditions; and providing for acceptance,

and in consideration of the benefits to be received thereunder by me I hereby agree to abide by and perform each and all of the terms and provisions thereof applicable to me.

Very truly yours,

COLUMBIA CABLE OF WASHINGTON

Signature:

Colin D. Ferguson

Title:

Vice President

Address:

110 Y Street
Vancouver, WA 98661

Approved as to form:

12
City Attorney

*When an acceptance is signed by an officer of a firm or corporation, his or her official title must be stated.

EXHIBIT A

ATTACHMENT #1

CABLE TELEVISION FRANCHISE AGREEMENT

BETWEEN

MULTNOMAH COUNTY, OREGON

AND

HAYDEN ISLAND CABLE, LIMITED PARTNERSHIP

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SECTION 1: PURPOSE AND INTENT

1.1 Transaction. Through this franchise agreement, Multnomah County, Oregon, grants to Hayden Island Cable, Limited Partnership, a non-exclusive, revocable 15 year right to construct, operate, and maintain a cable communications system for the area defined in this agreement.

1.2 Short Reference to Parties. Throughout this agreement, Multnomah County, Oregon, will be referred to as County; Hayden Island Cable, Limited Partnership will be called Cable Company or Company.

1.3 Purpose and Scope of Agreement. The purpose of this franchise agreement is to create a binding, enforceable contract between the County and the Cable Company. Therefore, this franchise agreement is considered by the County and the Cable Company to be a contractual action of the parties rather than a legislative action by the County.

The parties acknowledge that the provisions of this franchise agreement are subject to the Cable Communications Policy Act of 1984. The County is a "franchising authority" under the act and the Cable Company is a "cable operator".

SECTION 2: DEFINITIONS

In this franchise agreement, the following words, terms, phrases, and their derivations have the meanings given below. When consistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "will" is always mandatory and not merely directory.

2.1 "Access." Also sometimes referred to as "community access." Access refers to the right of various agencies, organizations, and individuals in the community to use the cable system to acquire, create, and cablecast programming in the public interest. Access provided to individuals on a first-come, first-serve basis is often called "public access." Such access is not to be confused with leased access or local origination programming.

2.2 "Access Channel." Any channel or portion of a channel made available through a cable access corporation or otherwise for transmission of access programming.

2.3 "Activation." The status of any part of the cable system in which any service requiring the use of that part may be made available without further installation of system hardware or software.

2.4 "Advertising." Programming designed entirely or in part to promote the commercial sale of a product or service.

2.5 "Availability of Service." The ability of a subscriber to obtain cable service within 60 days by requesting the service and paying applicable charges.

2.6 "Broadcast signal." A television or radio signal that is transmitted over-the-air to a wide geographic audience and is received by a cable communications system off-the-air, whether by microwave link, by satellite receiver, or by some other means.

2.7 "Cable Access Corporation," "Access Corporation," or "CAC." A non-profit, public corporation whose duties may include the management of community access channels.

2.8 "Cable Company" or "Company." Hayden Island Cable, Limited Partnership, an Oregon limited partnership. Also, the lawful successors, transferees, or assignees of Hayden Island Cable, Limited Partnership, as well as its general partner, American Earth Stations, Inc.

2.9 "Cable communications system," "cable television system," or "system," sometimes referred to as "cable TV system." A system of antennas, cables, amplifiers, towers, microwave links, cable-casting studios, and any other conductors, terminals, converters, equipment or facilities, designed and constructed for the purposes of distributing video programming to subscribers and of producing, receiving, amplifying, storing, processing, or distributing audio, video, digital, or other forms of electronic or electrical signals.

2.10 "Cable Regulatory Commission," "Commission," or "CRC." The Multnomah Cable Regulatory Commission and its officers, agents and employees, created by and exercising powers pursuant to an intergovernmental agreement entered into by the Jurisdictions as authorized by state law (particularly ORS Chapter 190) and the laws, charters and other authority of the individual member units of local government who are members of the Commission. The powers of the Commission have been delegated to it by the Jurisdictions and although it may exercise those powers as an entity, it remains a composite of the Jurisdictions.

2.11 "Channel." A six megahertz (MHz) frequency band which is capable of carrying either one standard television signal, or a number of audio, digital or other non-video signals, or some combination of such signals.

2.12 "Class of subscribers." A group of actual or potential subscribers identified by the Cable Company on the basis of specified characteristics, for the purpose of establishing service rates and charges.

2.13 "Commencement of construction." The beginning of installation of any part of the distribution system, including, but not limited to, the stringing of any strand wire or the laying of any conduit to facilitate the placing of coaxial cable within the franchise area.

2.14 "Commencement of system operations." The date on which, for the first time, any service utilizing the cable system is provided to any subscriber on the subscriber's premises.

2.15 "Completion of construction." The condition of the cable system in which all major system components are installed, and all services scheduled for availability may be provided to all subscribers of the initial service area without further installation of system hardware or software.

2.16 County. Multnomah County, Oregon, a home rule County.

2.17 "Educational channel," "Educational access channel." Any channel or portion of a channel on which educational institutions are the primary designated programmers or users.

2.18 "Effective date of the franchise." The earliest date upon which all of the following have occurred: 1) the franchise agreement has been approved by the County, and 2) the Cable Company's acceptance of the agreement has been filed with the County.

2.19 "FCC." The Federal Communications Commission.

2.20 "Franchise" or "franchise agreement." This agreement, including all referenced material, adopted in the appropriate manner by the County and fully executed by the County and the Cable Company.

2.21 "Franchise area." The territory located within the boundaries of Hayden Island and Tomahawk Island within the boundary of Multnomah County as they are now constituted or may hereinafter exist.

2.22 "Government access channel" or "government channel." Any channel or portion of a channel on which governmental institutions are the primary designated programmers.

2.23 "Gross annual revenues" or "revenues." The annual gross receipts of the Cable Company from all sources in the operation of the cable communications system less any rebates or returns of advance payments to subscribers, and excluding any sales tax, excise tax, or other taxes collected for direct pass-through to local, state or federal government.

2.24 "Initial service area" or "ISA." That portion of the franchise area more fully described as area R-1, R-2, R-3, R-4, R-5, R-5A, and R-6 on the attached map which is marked as Exhibit A and hereby incorporated by reference.

2.25 "Initial," or "initially." A qualifier which pertains to the 12-month period following the effective date of the franchise and, wherever applicable, to the construction schedule or other timetables included in the franchise.

2.26 "Interactive services." A service offering which enables the subscriber to interact with people or equipment elsewhere on the cable system by sending as well as receiving transmission signals over the cable system.

2.27 "Interconnection." The provision of all physical and administrative components necessary to accomplish a linking of the cable system with any other communication systems so that programming may be sent to and received from the other systems.

2.28 "Local origination channel." Any channel or portion of a channel used for local origination service.

2.29 "Local origination service." Programming which is locally produced, selected, and scheduled for use on the Cable System, solely under the control of the Cable Company or a designated local third party; also channel space, facilities, equipment, and operating support provided by the Cable Company to create and deliver such programming.

2.30 "Monitoring." Observation of a one way communications signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer, whether the signal is observed by visual or electronic means, for any purpose whatsoever.

2.31 "Non-broadcast signal." A signal that is transmitted by a cable communications system and that is not involved in an over-the-air broadcast transmission path.

2.32 "Non-commercial use." Use of cable system service by any public, tax-exempt organization or by any other user for a purpose that is not intended to generate income which may be subject to federal, state, or local taxes.

2.33 "Person." Any corporation, partnership, proprietorship, individual, organization, or other entity authorized to do business in the State of Oregon; any natural person.

2.34 "Penalty, Penalties." Any and all monetary penalties provided for in Section 8.1. These will be considered to be liquidated damages. In the event the Cable Company fails to comply with this agreement, the damages suffered by the County will include lost franchise fees, increased costs of administration, and other costs difficult to measure. The penalties provided for are deemed a reasonable measure of the damages suffered.

2.35 "Programmer." Any person responsible for programming on the cable system.

2.36 "Programming." The process of causing television programs or other patterns of signals in video, voice, or data format to be transmitted on the cable system; the programs or patterns of signals transmitted on the cable system.

2.37 "Section." Any section, subsection or provision of this franchise agreement, unless specified as part of another document.

2.38 "Streets and public ways." The surface of and the space above and below any public street, sidewalk, alley, or other public way, now or hereafter existing as such within the franchise area, and any public easements, rights of ways or other similar means of access to the extent the County has the right to allow the Cable Company to use them.

2.39 "Subscriber." Any person who has requested and is receiving cable service on premises owned or occupied by such person.

2.40 "Subscriber complaint" or "complaint." A written or oral communication about the Cable Company's operations or service sufficiently reasonable in nature that the Cable Company should issue an internal memorandum requiring further action in response to the complaint.

2.41 "Tapping." Observing for any purpose a two-way communications signal exchange where the observer is neither of the communicating parties, whether the exchange is observed by visual or electronic means.

2.42 "Writing." Handwriting, typewriting, printing, photostating, photographing and every means of recording, including letters, words, pictures, sounds or symbols, or combinations thereof; in reference to records, this may include papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, software, or other documents.

2.43 "Year." A full calendar year, unless designated otherwise, such as a fiscal year.

SECTION 3: GRANT OF FRANCHISE

3.1 Grant. The County hereby grants to the Cable Company a non-exclusive, revocable franchise for a 15 year period from the effective date of this agreement to construct, operate and maintain a cable communications system within the franchise territory. This franchise constitutes the sole authority, right, privilege, and obligation to provide the services of a cable communications system as required by the provisions of this franchise agreement.

The franchise is granted subject to the terms and conditions contained herein, and consistent with the charter, ordinances or other laws or regulations of the County, which are incorporated by this reference and made a part of this franchise agreement as if fully set forth herein.

The franchise is hereby made subject to the general ordinances or other regulations of the County now in effect or hereafter made effective. Nothing in this franchise will be deemed to waive the codes and ordinances of the County requiring permits, fees, construction standards, or other forms of compliance.

3.2 Use of Public Streets and Ways. For the purpose of constructing, operating, and maintaining a cable communications system in the franchise area, the Cable Company may erect, install, construct, repair, replace, reconstruct, and retain on, in, over, under upon, across, and along the public streets and ways such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary, convenient and appurtenant to the operation of the cable communications system. The County shall have authority at all times, in furtherance of the safety, convenience and welfare of the public to control, by appropriate regulations the location, elevation and manner of construction and maintenance of the streets, highways, bridges and public places, subject to the provision of any State laws and Grantor's ordinances applicable thereto; and the Grantee shall promptly conform with all such regulations.

3.3 Duration and Effective Date of Franchise. Except as otherwise provided herein, the term of this franchise and all rights, privileges, obligations, and restrictions pertaining to it will extend 15 years from the effective date of this agreement, at which time the franchise will expire and be of no force and effect unless it is renewed. Upon ratification of this agreement by the County and the subsequent filing of a written acceptance by the Cable Company pursuant to Section 3.7, this agreement will be given full force and effect.

3.4 Non-exclusiveness of the Franchise. The franchise granted through this agreement is not exclusive. This franchise agreement may not be construed as any limitation upon the right of the County through its proper officers, to grant to other persons or corporations rights, privileges or authority the same as, similar to, or different from the rights, privileges, or authority set forth in this agreement. Such grants may pertain to any streets or public ways within the County and they may be conferred by franchise, permit, or other means.

3.5 Non-transferability of the Franchise. The franchise may not be sublet, sold, leased, assigned, or otherwise transferred, nor may any of the rights or privileges granted by the franchise be sublet, leased, assigned, sold, or transferred, either in whole or in part, without the prior written consent of the County. Nor may title, either legal or equitable, or any right, interest, or property utilized in the system covered by this agreement, pass to or vest in any person, except the Cable Company, either by act of the Cable Company or by operation of law, without the prior written consent of the County. The granting of such consent in one instance will not render consent unnecessary in any other instance. Such consent will not be withheld unreasonably. The County may exercise the same control over a transfer of the franchise as it is empowered to exercise over a change in control as provided for in Section 3.6 below.

Within 60 days of any transfer request approved by the County, the Cable Company will file with the County a copy of the deed, agreement, lease, or other written instrument evidencing such sale, lease, assignment, or transfer, certified and sworn to as correct by the Cable Company. Every such transfer as heretofore described, whether voluntary or involuntary, will be deemed void and of no effect unless the Cable Company obtains approval from the County and files such certified copy.

3.6 Change in Control. The Cable Company will promptly notify the County of any proposed change in, transfer of, or acquisition by any other party of control of the Cable Company. Any change in control will render this franchise agreement subject to revocation unless and until the County has given prior written consent to the change. Such consent will not be withheld unreasonably. For the purpose of determining whether they will consent to such change, the County may inquire whether the prospective controlling party qualifies to perform the obligations of the Cable Company under this agreement. The Cable Company will assist the County in any such inquiry. The County may make its approval of a change in control subject to any conditions they deem appropriate so long as such conditions are limited to those deemed necessary by the County to ensure strict performance of this agreement by the Cable Company.

A change in control shall be deemed to have occurred if: (1) American Earth Stations, Inc., ceases to be the general partner of the cable company, (2) any additional person shall also become a general partner or, (3) any person or persons other than a person owning stock in American Earth Stations, Inc., on August 1, 1986, acquires more than 50% of the voting rights of American Earth Stations, Inc.

3.7 Franchise Acceptance. Within 30 days after the tender by the County of this franchise agreement, the Cable Company will file with the County a written acceptance of this agreement. The acceptance will be executed by the Cable Company in a form approved by the County, and it will be filed with the County clerk or recorder.

In the event the Cable Company fails to accept this franchise agreement as specified herein, the County's tender will be null and void.

3.8 Taxes. Nothing contained in this agreement may be construed to exempt the Cable Company from any tax, levy, or assessment which is authorized by law or which may be authorized by law hereafter.

3.9 Annexation by City. In the event any or all of the franchise territory shall be annexed by a city then all of the rights, duties, and obligations of the County under this agreement shall become the rights, duties, and obligations of the City as they shall apply within the territory annexed by the City.

SECTION 4: FRANCHISE AREA, SYSTEM DESIGN AND PERFORMANCE REQUIREMENTS

4.1 Franchise Area. The franchise area shall consist of all territory located on Hayden Island and Tomahawk Island as they are now constituted or may hereinafter exist.

4.2 Channel Capacity. The cable system will be installed so as to be capable of delivering signals at frequencies up to 400 MHz, with specific initial capacity as indicated below.

<u>Cable Network</u>	<u>Signal Direction</u>	<u>Signal Frequency Range</u>	<u>Initial Video Channel Capacity</u>	<u>Maximum Video Channel Capacity</u>
Residential	Outbound	52-400 MHz	12	54 plus FM band

The initial configuration of the system shall provide for two-way interactive capability. The Cable Company shall offer two-way interactive services at such time as the Cable Company determines such services are economically feasible.

The Company agrees to provide program services beyond the initial 12 channels when such services are economically feasible given the cost of adding the services including the cost of providing convertors where necessary.

4.3 Standby Power. As a precaution against the event of an electric utility power outage, the Cable Company will provide standby battery units at all power points within the system.

The Cable Company will test the standby power systems at the intervals recommended by the manufacturer or more frequently if required by policy of the corporation. The Cable Company will report the manufacturer's testing recommendations to the County at the time standby power systems are installed, will keep records of all tests completed, and will make such records available to the County upon request.

4.4 Technical Standards. The Federal Communications Commission Rules and Regulations, Part 76, Subpart K (Technical Standards), as now or hereafter written, will apply to the system built and operated under this franchise agreement. The following referenced specifications as they apply to cable systems and are not in conflict with the FCC standards referred to above will also apply, unless exception is agreed upon between the County and the Cable Company.

- Applicable city, county, and state codes, and ordinances as they apply to the construction of cable systems, buildings, towers and other structures;
- Applicable Utility Joint Attachment Practices;
- National Electrical Safety Code, NFPA No. 70;

- State Building Code requirements;
- Local right-of-way and undergrounding requirements.

The Cable Company agrees that the FCC Technical Standards referenced above are hereby incorporated into this franchise agreement and are fully enforceable by the County.

In the event a court of competent jurisdiction renders a final decision establishing that the FCC lacks authority to prohibit the County from enforcing more stringent technical standards then the cable company agrees to also comply with additional technical standards that will be proposed by the Company at the request of the County and subject to the County's approval. Such additional standards shall be the Company's own internal technical standards.

4.5 Performance Testing. The Cable Company will perform all tests necessary to determine compliance with the FCC Technical Standards. Written records of test results will be maintained and will be available for County inspection upon request. The County may require the Cable Company to show compliance with the FCC Technical Standards in response to a subscriber(s) complaint.

The Cable Company will have access to sufficient quantities and suitable types of test equipment to ensure proper system operation in compliance with the specifications stated in this franchise agreement.

SECTION 5: CONSTRUCTION AND AVAILABILITY OF SERVICE

5.1 General. The Cable Company will meet or exceed all the construction, extension, and service availability requirements set forth in this franchise agreement.

5.2 Construction Schedule. The Cable Company will complete system construction and make services available to all residents in the initial service area within 12 months of the granting of the franchise. For purposes of this franchise agreement, "commencement of construction" means the beginning of installation of any part of the distribution system, including but not limited to the stringing of any strand wire or the laying of any conduit to facilitate the placing of coaxial cable within the franchise area. Availability of service will mean the ability of a subscriber to request service from the Cable Company and receive service within 60 days of the request. Failure to commence or complete construction will be considered a material violation of the franchise and penalties may be assessed, pursuant to Section 8.1.

5.3 Geographic Coverage for Standard Installation and Service.

A. Inside the Initial Service Area.

- (1) The Cable Company will make residential subscriber services available at standard installation charges and standard service charges to all residential subscribers in the areas marked as R-1, R-2, R-3, R-4, R-5, R-5A, and R-6 on the attached map which is marked Exhibit A and hereby incorporated by reference. These areas are also referred to as the initial service area (ISA).
- (2) The Company shall publish pursuant to Section 7.2 a definition of a standard installation. Installations for subscribers that require additional costs beyond that required for a standard installation may be charged for the additional costs of materials, labor and easements so long as the existence of such extra charges and the methodology for determining such charges is included in the Company's rate schedule published pursuant to Section 7.2.

B. Outside the Initial Service Area.

- (1) The Company, whenever it shall receive a request for service from at least twenty-five (25) potential subscribers within 1500 cable feet of its trunk cable, shall extend its system to such subscribers at no cost to the subscribers for system extension other than the usual connection fees for all subscribers, provided that such extension is technically and physically feasible. The 1500 feet shall be measured in extension length of Company's cable required for service located within the public way or easement and shall not include length of necessary service drop to the subscriber's home or premises.

- (2) No person, firm, or corporation in the Company's service area shall be arbitrarily refused service. However, in recognition of the capital costs involved, for a density of less than twenty-five (25) subscribers per 1500 feet of cable system, in order to prevent inequitable burdens on potential cable subscribers in more densely populated areas, service may be made available on the basis of cost of materials, labor, and easements. In the event the Company receives a request for service pursuant to this paragraph it shall determine the cost to provide service and construct the necessary plant upon receipt of payment from the requesting subscriber. Prior to construction of any such extension the Company shall submit to the County a policy for rebate of any payments if additional subscribers are added to the extension, such policy to be subject to the approval of the County.

5.4 Construction Drawings. The Cable Company will provide to the County "as-built" drawings of the system. The purpose of the drawings is to show the actual location of all facilities. "As-built" drawings will be provided six months after construction of the system. Drawings will be updated within six months of any changes in the system.

5.5 Undergrounding of Cable. Cable must be installed underground where any one or more of the following circumstances exists: 1) if all existing utilities are already underground, 2) if any existing utilities are already underground with conduit space available at reasonable rates, 3) if any statute or County ordinance requires all utilities to be placed underground, 4) if underground trenching is offered at no cost to the cable company by developers of new residential areas, or 5) if utilities are overhead but residents prefer cable underground, provided that the cost of labor and materials for the conversion is borne by residents. The Cable Company may, at its sole discretion, place cable underground if pole clearance is not available.

5.6 Erection of Poles. If additional poles in an existing aerial utility system route are required, the Cable Company will negotiate with the utility company or provider for the installation of the needed poles. The Cable Company may not erect any pole on or along any street or public way in an existing aerial utility system unless approved by the County. The Cable Company will negotiate the lease of the pole space and facilities from the existing pole owners for all aerial construction, under mutually acceptable terms and conditions, and will comply with all ordinances, resolutions, rules, and regulations of the County.

5.7 Construction Codes. The Cable Company will strictly adhere to all building, zoning, or other codes currently or hereafter in force in the County. The Cable Company will arrange its lines, cables, and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference with the use of such property. In the event of such interference, the County may require the removal of the Cable Company's lines, cables, and appurtenances from the property in question.

5.8 Right to Inspect Construction. The County will have the right to inspect all system construction or installation work within its territory and to make such tests as it finds necessary to ensure compliance with the terms of this franchise agreement and pertinent provisions of law.

5.9 Repair and Restoration of Streets, Public Ways, and Grounds. Whenever the Cable Company disturbs the surface or otherwise damages any street, alley, public highway, other public way or ground for any purpose mentioned herein, it will repair and restore such property to the condition in which it was prior to the opening or other damage in question. When the Cable Company makes any opening in any hard surface pavement in any street, alley, public highway, or other way, it will promptly refill the opening and restore the pavement to its prior condition. If the Cable Company neglects to repair an opening or other damage, the County may make the necessary repairs, and the Cable Company will pay the County full and actual costs for such repairs. All excavations made by the Cable Company in the streets, alleys, public highways, or other ways will be properly safeguarded for the prevention of accidents. The work required will be done in strict compliance with the rules, regulations, and ordinances of the County as now or hereafter provided.

5.10 Reservations of Street Rights. Nothing in this franchise agreement will be construed to prevent the County from constructing sewers, from grading, paving, repairing, and/or altering any street, alley or public highway, from laying down, repairing or removing water mains, or from constructing or establishing any other public work. If any property of the Cable Company interferes with the construction or repair of any street or public improvement, whether it be construction, repair, or removal of a sewer or water main, the improvement of a street or any other public improvement, all such property, including poles, wires, conduits, or other appliances and facilities will be removed, replaced, or relocated by the Cable Company in such manner as will be directed upon reasonable notice by the County. The Cable Company will bear the expense of such removal, replacement, or relocation.

5.11 Trimming of Trees or Other Vegetation. In the conduct of its business, it may be necessary for the Cable Company to trim trees or other vegetation in order to provide space for its facilities. Tree or vegetation trimming will be done only in accordance with the ordinances and other rules and regulations of the County and, if the tree or vegetation is located on private property, with permission of the owner of the property on which the tree or vegetation stands. Nothing contained in this franchise agreement may be deemed to empower or authorize the Cable Company to cut, trim, or otherwise disturb any trees or other vegetation, whether ornamental or otherwise, without the authorization required in this section.

5.12 Street Vacation and Abandonment. In the event all or any particular street, alley, or public highway used by the Cable Company is vacated by the County, or if the use of any such way is discontinued by the Cable Company during the term of this franchise agreement, the Cable Company will promptly remove its facilities from those sites unless specifically permitted in writing by the new property owner to let such facilities remain. At the time of facility removal the Cable Company will restore, repair, or reconstruct the

street area where such removal has occurred in accordance with the general rules, regulations, and ordinances of the County as now or hereafter provided. In the event of failure, neglect or refusal of the Cable Company to repair, improve or maintain such street, the County may do such work or contract it. The cost of any such repair will be paid by the Cable Company.

5.13 Movement of Facilities. In the event it is necessary temporarily to move or remove any of the Cable Company's wires, cables, poles, or other facilities placed pursuant to this agreement, in order to lawfully move a large object, vehicle, building, or other structure over the streets, alleys, or highways of the County, the Cable Company, upon notice as required by local ordinances or regulations, will move at the expense of the person requesting the temporary removal those facilities required to enable such movements. The Cable Company may require a deposit not to exceed its anticipated direct costs prior to moving or removing its facilities.

5.14 County Use of Facilities. The County shall have the right to make additional use, for any public or municipal purpose, of any poles or conduits controlled or maintained exclusively by or for the Company in any street, provided such use by County does not interfere with the use by Company. The County shall indemnify and hold harmless the Company against and from any and all claims, demands, causes of actions, actions, suits, proceedings, damages, costs, or liabilities of every kind and nature whatsoever arising out of such use of Company's poles or conduits.

SECTION 6: PROGRAM SERVICES

6.1 Initial Services and Programming. The Cable Company shall provide the following video programming on Twelve (12) channels at a minimum.

INITIAL PROGRAM SERVICES

SERVICE	SOURCE	HOURS	TYPE
1. KATU] -	Portland	Full Broadcast Day	Local Broadcast
2. KOIN] - or other local	" "	" "	" "
3. KGW] - broadcast	" "	" "	" "
4. KOAP] - services	" "	" "	" "
5. KPTV] -	" "	" "	" "
6. HBO, or other Pay TV service	Satellite	24 hours	Pay TV
7. WTBS, or other distant broadcast super station (satellite)	Satellite	24 hours	Distant Broadcast
8. CNN, or other satellite news & information service	Satellite	24 hours	Satellite News & Information Service
9. ESPN, USA, or other satellite sports & entertainment service	Satellite	24 hours	Sports & Entertainment
10. CBN, or other satellite family programming	Satellite	24 hours	Family Oriented Programming (includes religious & inspirational)
11. Discovery or other satellite science, non-fiction or travel information service	Satellite	12 hours	Science/Non-Fiction & Travel/Information
12. Reserved for future Satellite Service to be determined by Company and may be utilized for local information, program guide, advertising, weather information or similar services including character generated information until a satellite service is selected.			

The Company may not delete any type of program service provided in the initial configuration or provide fewer total hours of program services than furnished on that date without the consent of the County or as authorized by Section 625 of the Cable Communications Policy Act of 1984. (47USC545).

~~In any event, the Company shall give the County 30 days advance written notice of any changes in program services offered.~~

6.2 Control of Potentially Objectionable Material. The Cable Company will not transmit or permit to be transmitted over any channel any material that is obscene as defined by Oregon law. The Cable Company will be deemed to have transmitted or permitted a transmission of obscene material if a court finds any of the Company's officers, employees, or agents have violated Oregon law relating to obscenity, including, but not limited to ORS 167.075, 167.080, 167.087, or 167.090 as a result of the transmission of any program or material on the system.

The Cable Company will make available to each subscriber upon request a parental control device using either a code, a mechanical device, or both in order to enable parents to control access to both the audio and video portions of any or all channels.

SECTION 7: RATES AND CHARGES

7.1 Regulation of Rates. The Cable Company agrees that this agreement grants to the County the right and authority to regulate all rates and charges established or collected by the Cable Company for the provision of cable services. However, the County agrees that the Cable Communications Policy Act of 1984 and the regulations of the FCC adopted pursuant thereto presently limit the County's ability to regulate rates. Until such time as the law is so amended or the FCC either amends its rules to allow the County to regulate or determines, pursuant to a final order, that the County has authority to regulate rates, the Cable Company may determine its own rates and charges without the prior consent of the County to the initial rates and charges or any changes therein.

7.2 Publication of Rates. In all cases, all rates will be published in the form of a rate card. The schedule of rates will include installation and monthly charges for providing basic, pay television and converter deposit charges. No rate or charge may be imposed or collected which is not stated on the published rate card. Any rates will be nondiscriminatory and uniform to persons and organizations of like classes, under similar circumstances and conditions. The Company may waive or modify connection and service charges on a uniform basis during promotional campaigns. All classes of subscribers will be defined and published by the Cable Company. The Cable Company will give the County thirty (30) days advance written notice of any change in rates and charges in the form of a revised rate card. ~~The initial rates and charges will be published and referred to the County at least 30 days prior to the commencement of system operations.~~

7.3 Refunds to Subscribers. Subscribers will be entitled to certain refunds from the Cable Company in instances where services or portions of services are not delivered, in instances where services are not delivered according to standards set forth in this franchise agreement, or in certain instances where subscribers elect to terminate services. Refunds will be governed by the following requirements, which the Cable Company will furnish to subscribers in writing at the time they subscribe to cable services.

A) If the Cable Company fails within a reasonable time to provide any service requested by a subscriber, it will promptly refund all deposits or advance charges that the subscriber has paid in connection with the request for such service.

B) If a subscriber terminates monthly service during the first 12 months of service because of the failure of the Cable Company to provide service in accordance with the standards set forth in this agreement, the Cable Company will refund to that subscriber an amount equal to the installation or reconnection charges paid by the subscriber multiplied by the fraction of the 12-month period for which the subscriber will not be receiving service.

C) If a subscriber terminates any service at any time and has a credit balance, the Cable Company will, upon notice to the Company that the ~~service~~ is to be terminated, and upon return of all Company equipment,

refund the entire credit balance to the subscriber. The subscriber will be responsible for furnishing the Cable Company a proper address to which to mail the refund.

D) If any subscriber is denied subscribed services for more than 24 consecutive hours during the month due to technical failure, damage, or other circumstances within the control of the Cable Company, the Cable Company will credit the account of that subscriber on a prorata basis, upon the subscriber's written request. The credit will be calculated using the number of 24-hour periods that service is impaired as a fraction of the total number of days in the month that the service impairment occurs.

7.4 Advance Charges and Deposits. The Cable Company will not require subscribers to pay more than one month in advance for basic monthly services, except in the case of line extension as provided in Section 5.3(B)(2). Deposits for line extensions may not be charged without prior approval of the County.

7.5 Installation and Reconnection. The Cable Company may charge subscribers for the installation of service outlets and for the reconnection of service outlets. The rates for such connection or reconnection will be published as provided in Section 7.2.

7.6 Disconnection. There will be no charge for disconnection of any installation or outlet. If any subscriber fails to pay a properly due monthly subscriber fee, or any other properly due fee or charge, the Cable Company may disconnect the subscriber's service outlet. Such disconnection may not be carried out until 30 days after the due date of said delinquent payment and until 10 days after adequate written notice of the intent to disconnect. Notice of the intent to disconnect shall be stated separately from the billing statement. Upon subscriber payment of the delinquent bill and the payment of a reconnection charge, the Cable Company will promptly reinstate the subscriber's cable service. However, the Cable Company will not be obligated to reinstate cable service if a subscriber's service has been disconnected twice within a six-month period for failure to pay a properly due fee or charge. Upon publication pursuant to 7.2, the Company may require a deposit securing payment of future charges from subscribers who have previously been disconnected for failure to pay.

Prior to disconnecting any subscriber, the Cable Company will develop and abide by a written disconnection policy which contains procedures and sample notice forms for resolving disputed billings, billing errors, and disconnection decisions. This policy and any subsequent amendments to it must be approved by the County.

SECTION 8: REGULATION OF SYSTEM OPERATIONS

8.1 Remedies for Franchise Violations. For Cable Company violations of this franchise agreement, the County has the right to impose certain penalties. Violations will be determined and penalties will be assessed according to the following terms, conditions, and procedures.

A) Penalties. Upon determining that the Cable Company has violated any provision of this agreement, and following the conditions and procedures outlined in B) and C) and D) below, the County may assess single or combined penalties from among the following two options: 1) impose a financial penalty, not to exceed \$100 per day per violation, or 2) require the Cable Company to make rebates or payments to customers or classes of customers in amounts and on such basis as the County deems reasonable until the Cable Company remedies the violation at issue to the satisfaction of the County. As a separate option, but only following the imposition of any or all of the first two options, the County may also shorten the term of the remaining life of the franchise agreement. In the event a violation continues to occur after the County has shortened the term of the franchise, the County, pursuant to Section 13.1, may revoke the franchise agreement.

B) Rules for Application of Penalties. 1) Monetary fines exceeding a cumulative total of \$100 per violation may be levied by the County only for substantial and material violations, as such violations are defined by the County. 2) Service rebates or payments to customers or classes of customers may be made only for violations related to subscriber service. Rebate or payment penalties of \$10 or less per subscriber will be made to such customers in the form of a credit against their cable service bill. 3) Shortening of the life of the franchise may be made only for substantial and material violations, as defined by the County, and only after the Cable Company has been penalized for a violation and has willfully disregarded a request to correct that violation. Furthermore, the life of the franchise may be shortened only for the length of time that the County determines the Cable Company has willfully disregarded a request for corrective action coupled to an earlier penalty. In all cases, penalties may not be imposed unless the Company has been given written notice of the possible penalty and an opportunity to cure.

C) Further Basis for Assessing Penalties. Beyond the rules described in B) above, the County may also take the following into consideration as a basis for assessing penalties: 1) the nature and extent of the violation, 2) whether the Cable Company has a history of similar violations, 3) the remedy deemed appropriate to prevent such violations in the future, and 4) the damages suffered by the public and the costs of remedying the violation.

D) Procedure for Determining and Assessing Penalties. The County will first discuss with the Cable Company representatives any violation which appears to be taking place. If these discussions do not lead to any resolution of the problem, the County, in conformity to notice requirements described in Section 14.11, will advise the Cable Company that a violation may have occurred. Such notice will specify the nature of the possible violation and the way in which it transgresses this agreement. The Cable Company will have 21 days to respond in writing or to correct the potential violation or make a good faith effort to correct

it. The burden will be on the Cable Company to demonstrate to the County 1) that it is making the effort, and 2) how it is making that effort. If the County determines that the Cable Company is not making sufficient effort, that those efforts are not correcting the problem, or that an earlier problem of the same or similar nature has recurred, the County may propose the imposition of a penalty.

E) Other Remedies. Both parties agree that neither waives or surrenders any remedies available at law or in equity and that such remedies shall be in addition to the remedies set forth herein. The Cable Company acknowledges that damages at law may be an inadequate remedy for violations of the franchise and therefore agrees that the County may obtain injunctive relief or specific performance from the appropriate courts to enforce the provisions of this agreement.

G) Excuse of Violations. Upon application of the Cable Company, the County may excuse the Cable Company from strictly performing terms and conditions of this agreement where it finds 1) that strict performance would not substantially further the purpose of this agreement and 2) that strict performance would result in practical difficulties and hardship to the Cable Company which outweigh the benefit to be derived by the system of subscribers.

8.2 Public Disclosure. Pursuant to the terms of this agreement, the Cable Company is required to frequently furnish the County with reports containing information that the Cable Company regards as proprietary. To the extent that such information is protected under Oregon's Public Records Law, the County will not release such reports or disclose their content without the Cable Company's prior written consent. Any demands for records disclosure pursuant to the Oregon Public Records Law will be defended by the County at Cable Company expense until all reasonable avenues of defense have been exhausted.

8.3 Public Notice. Advance notice for any official public meeting relating to this franchise will conform to Oregon's Public Meeting Laws.

8.4 Performance Evaluations. As a regulated service provider, the Cable Company agrees to submit to periodic public evaluations of its performance. Such evaluations will be carried out in two ways: 1) the regulatory staff of the County will examine system performance and service, and 2) the County will conduct public hearings:

A) The County and the Cable Company will hold scheduled performance evaluations sessions not later than six months after the completion of construction and during the fifth and tenth years of the franchise. All such evaluations sessions will be open to the public.

B) Special evaluation sessions may be held at any time during the term of the franchise at the request of the County or the Cable Company.

C) All evaluation sessions will be open to the public and announced in a newspaper of general circulation. The Cable Company will include notice of such sessions in its monthly subscriber billings, each notice to be received by subscribers no fewer than five days before each session.

D) Topics to be discussed at any scheduled or special evaluation session may include, but not be limited to, the following: franchise fee, franchise agreement penalties, free or discounted services, application of new technologies, channel capacity, interactivity, system performance, system services, new program services, diversity of programming, system staffing and expenditure levels, customer complaints, customer relations, privacy issues, amendments to the franchise agreement, judicial and FCC rulings affecting the cable franchise, line extension policies, and plans and policies for integrating the system into any existing regional cable communication systems on an interconnected basis including plans to upgrade the system.

SECTION 9: ACCESS SERVICES AND OPERATIONS

9.1 Public Education and Government Access Channel. The Company will provide one channel dedicated to public, educational, and government access use when utilized channel capacity of the system exceeds 12 channels. Channel playback time shall be available according to rules and regulations established by the County in consultation with the Company. To the extent the channel is not used for public, educational, or government access, the Company may utilize the channel for its own purposes including locally produced programming.

9.2 Public Educational and Government Access Fund. In the event and at such time as an access channel is provided pursuant to Section 9.1, the County shall dedicate 60% of the then 5% franchise fee (i.e. 3% of gross cable revenues) to a special fund which will be used exclusively to support public, educational, and government access. Funds may be granted to the Company or others, including the County to support access. The County will grant the funds under rules and regulations it shall adopt. Funds not expended or granted in one fiscal year shall be carried over into the following fiscal year(s) where they will be available to be granted and expended.

9.3 Access Equipment. At such time as a PEG Access Channel is required under Section 9.1 the Company shall allow the installation of playback equipment. This equipment shall be located at the system head end or at some other location hardwired into the system so that access users can cablecast their programs. The cost of this equipment is not the responsibility of the Company.

SECTION 10: GENERAL FINANCIAL AND INSURANCE PROVISIONS

10.1 Franchise Fee Compensation to the County. At a minimum as compensation for the grant of franchise, for regulation of the cable service, for permission to use the streets and public ways of the County for the construction, operation, and maintenance of a cable communications system, and for support of community cable access activities, the Cable Company will pay to the County an amount equal to 3% of the Cable Company's gross annual revenues derived from the entire system within the franchise area. At such time as an access channel is required to be provided by the Company pursuant to Section 9.1 the amount of the franchise fee due and payable shall be increased to 5% of the Company's gross annual revenues.

10.2 Payment of Franchise Fees. The franchise fee payments due under this provision will be paid quarterly to the County within 30 days of the end of each quarter.

Acceptance of the payment will not be construed as an accord that the amount paid is in fact the correct amount. Nor will such acceptance of payment be construed as a release of any claim the County may have for further or additional sums payable under the provisions of this section. All amounts paid will be subject to audit.

10.3 Security Fund Letter of Credit. Within 30 days after the effective date of this franchise, the Cable Company will establish with a local bank a letter of credit which will be maintained for the life of the franchise as security for 1) the faithful performance by it of all the provisions of this franchise, 2) compliance with all orders, permits, directions of any agency of the County, and 4) the payment of penalties imposed by the County for Cable Company violation of the terms of this agreement. The letter of credit will initially be in the amount of \$25,000. Following the completion of construction, the County will reduce the amount required to \$10,000

Prior to assessing and withdrawing any amount against the letter of credit, the County must notify the Cable Company and give it an opportunity to be heard in the same manner as provided in Section 8.1.

Within 30 days after notice to it that a specified amount has been withdrawn by the County from the amount provided by the letter of credit, the Cable Company will do one of the following: 1) restore the credit to the full amount required by this section, or 2) post a performance bond or another security instrument satisfactory to the County, running to the County, of twice the amount to be replenished in the security fund. The Cable Company will furnish to the County written proof of such replenishment, posting, or security. Failure by the Cable Company to meet the requirements of this paragraph will be grounds for revocation as provided in Section 13.1.

The rights reserved to the County by this section are in addition to all other rights of the County whether reserved by this contract or authorized by law. No action, proceeding, or exercise of a right pertaining to the security ~~letter of~~ credit will affect any other right the County may have under the terms of this agreement.

10.4 Damages and Defense. The Cable Company will defend, indemnify and hold harmless the County, its officers, agents and employees, including but not limited to members of all boards and commissions, from and against all claims, damages, and penalties as a result of the award and exercise of this franchise agreement. These claims, damages, and penalties will include, but will not be limited to, damages arising out of copyright infringement, defamation, or anti-trust actions, and all other damages arising out of the award of the franchise or the construction, operation, maintenance, or reconstruction of the cable communications system authorized herein, if any act or omission complained of is authorized, allowed, or prohibited by this franchise. This obligation to defend, indemnify, and hold harmless will not extend to claims, damages, and penalties arising solely from the negligent acts or omissions of the County, its officers, agents, or employees.

10.5 Liability Insurance and Indemnification. The Cable Company will maintain, throughout the term of the franchise agreement, liability insurance insuring the Cable Company, the County, its officers, agents, and employees, with regard to all claims, damages, and penalties mentioned in Section 10.4 above in the minimum amounts of:

- \$200,000 for personal injury or death to any one person;
- \$300,000 for personal injury or death resulting from any one accident;
- \$100,000 for property damage resulting from any one accident; and
- \$300,000 for other types of liability covered by a comprehensive general Liability policy and broadcasters Liability coverage in the same amount if local origination service programming is being carried on the system.

Such insurance will name as additional insureds the County, its officers, agent, and employees. The policy for such insurance will provide that such coverage may not be cancelled without 30 days prior written notice being furnished to the County.

The Cable Company will file with the County copies of all insurance showing up-to-date coverages and evidence of payment of premiums as set forth above. Coverages may not be reduced or cancelled without approval of the County. Failure to maintain required insurance may be considered by the County to be breach of this agreement.

Upon request of the County, the Cable Company will annually review with the County all insurance policies and coverages. If the County determines that it is reasonable and necessary to increase insurance coverage and liability limits to adequately cover the risks of the Cable Company and of the County, along with its officers, agents, and employees, such coverage and limits will be increased subject to mutual agreement between the County and the Cable Company. The Cable Company agrees that if the limits of liability of public bodies, as provided by Oregon law, are increased to an amount which exceeds the coverage in effect under this section, the Cable Company, upon notice from the County, will increase the amount of insurance to at least the new liability limit, provided the County shall excuse the Company from not providing increased liability coverage if the County in good faith finds that the Company has demonstrated that such increased coverage is not available at reasonable rates.

SECTION 11: RIGHTS RESERVED TO THE COUNTY

11.1 Right to Purchase the System. The County will have the right to purchase the system operated by the Cable Company if it has declared a forfeiture or otherwise revoked this franchise agreement in accordance with the provisions of Section 13.1, or if the system is offered for sale by a receiver or a trustee in bankruptcy.

11.2 Acquisition Price and Valuation. The price to be paid for the system will be the fair value of the system on the effective date of the notice of intent to acquire the system. If the County and the Cable Company are unable to agree upon the fair value of the system, the fair value will be determined by an arbitration committee, as provided in Section 11.3. The County will pay the fair value, determined as set forth in this section, to the Cable Company in money on the date it takes possession of the system.

For all purposes under this subsection, fair value of all or part of the system will be based upon the fair value of the plant and equipment, including real property, reduced by the amount of any lien, incumbrance, or obligation of the Cable Company which the County may assume. Where purchase is authorized pursuant to revocation, or forfeiture of the franchise agreement, fair value shall be equivalent to the equitable price required by 47USC547 (b)(1). If the purchase is made from a receiver or trustee in bankruptcy and no default then exists, fair value will be determined as the fair market value of all tangible and intangible property of the system, reduced by the amount of any lien, incumbrance, or obligation of the Cable Company assumed by the County but in any case, shall be equivalent to fair market value as defined in 47USC547 (a)2.

11.3 Arbitration of System Price. Arbitration as provided in Section 11.2 will be final and binding upon both parties. The County will have the right within 60 days of the determination of valuation to decide not to acquire the system subject to the valuation proceeding. It must exercise this right by resolution or other appropriate writing.

In the event the County desires to purchase the system pursuant to Section 11.1 and the parties cannot agree on a purchase price then the price shall be established by arbitration as provided for herein. The County may choose to employ arbitration by giving written notice to the Company. The County will name one arbitrator and the Company will name one arbitrator. The Cable Company by written notice will appoint one arbitrator within 15 days after receipt of the County's notice. The two arbitrators will select a third arbitrator within 15 days after the appointment of the second arbitrator. Within 60 days of the appointment of the third arbitrator, the three arbitrators will furnish a written report to the County and the Cable Company of their determination of the fair value of the system. A determination of valuation under this section must be agreed to by at least two of the three arbitrators. The cost of arbitration shall be shared equally between the County and the Company.

11.4 Right to Inspect Records. The Cable Company will provide information in such form as may reasonably be required by the County for its records, including, but not limited to: _____

A) The true and entire cost of construction of plant and equipment, of maintenance and of administration and operation; the amount of stock issued, if any; the amount of cash paid in; the number and par value of shares; the amount and character of indebtedness, if any; interest on debt; wear and tear or depreciation; and all amounts and sources of income;

B) The amount collected annually from users of services including the County if applicable, and the character and extent of the services rendered.

The information, in addition to any further data which may be reasonably required by the County, will be furnished by the Cable Company to the County upon request, and at the Cable Company's own expense, unless the requested information requires unusual conversion or reformatting, or voluminous production, in which case the County will bear the cost. The County, or its designated agents, will have the right to go to the premises of the Cable Company and to inspect all records, books, maps, plans, financial statements, and other like material of the Cable Company upon reasonable notice at any time during normal business hours.

All records, books, maps, plans, financial statements, and other like material provided to the County will be considered the private and confidential property of the Cable Company and will not be released, distributed, or made available in any way to any third party or parties, except designated agents of the County, without the express written consent of the Cable Company, except as provided for by the Oregon Public Records Law. Any demands for records disclosure pursuant to the Oregon Public Records Law will be defended by the County at Cable Company expense until all reasonable avenues of defense have been exhausted.

11.5 Right to Inspect Construction. The County, or its qualified representatives, will have the right to inspect all construction or installation work performed pursuant to the provisions of this franchise agreement. Upon 72-hour notice, it may make such tests as it deems necessary to ensure compliance with the terms of this franchise and other pertinent provisions of law.

11.6 Right to Intervene. The County will have the right to intervene in any suit or proceeding to which the Cable Company is party and which may have a major effect upon the construction, maintenance, or operation of the system. The Cable Company will not oppose such intervention by the County. This provision will not apply to negligence suits. The Cable Company will not be responsible for the expenses of the County, including attorney fees resulting from such intervention.

11.7 Right to Require Removal of Property. Upon a final determination that this franchise should not be renewed, or upon its forfeiture or revocation, as provided in this agreement, the County will have the right to require the Cable Company to remove, at Cable Company's own expense, all or any part of the cable communications system from all streets and public ways within the franchise area. In the event removal is required the Company shall no longer be obligated to provide service pursuant to Section 13.3.

SECTION 12: PROTECTION OF THE RIGHTS OF INDIVIDUALS

12.1 Prohibition Against Discriminatory Practices. The Cable Company will not deny service, deny access, or otherwise discriminate against adult subscribers, programmers, or persons on the basis of race, color, religion, national origin, sex, sexual preference, age, handicap, or marital status. The Cable Company will strictly adhere to the equal employment opportunity requirements of the U.S. Government. The Cable Company will comply at all times with all other applicable federal, state, or County laws, rules, and regulations prohibiting discrimination. The Cable Company will not discriminate against any group of potential subscribers based upon the income level of residents in any area where the group resides.

12.2 Prohibition Against Unauthorized Monitoring or Cable Tapping. The Cable Company will not allow its own personnel or any other person, agency, or entity to tap, or arrange for the tapping, of any cable, line, signal input device, or subscriber outlet or receiver without the written consent of the subscriber or the uses who would be subject to the monitoring or tapping. The Cable Company will comply with all provisions of Oregon and Federal law protecting privacy of communications. These provisions include ORS 165.540, Chapter 119 of Title 18 and Section 551 of Title 47 of the United States Code. Nothing in this section will be deemed to prevent sweeps or other temporary monitoring so as to insure the integrity of the system, to collect data of a non-individual nature concerning system-wide subscriber viewing preferences, or to prevent unauthorized reception of services.

For the purpose of this agreement, all communications carried on the system will be deemed to be wire communication within the meaning of Section 2510(1) of Title 18 of the United States Code. The Cable Company will comply with the provisions of such laws. Any act by the Cable Company found by the County to be in violation of these provisions may be deemed by the County to be a material violation of this agreement.

12.3 Privacy Rights: The Cable Company and the County will constantly guard against possible abuses of the right of privacy of any subscriber, programmer, or person resulting from any device or signal associated with the cable communications system. The Cable Company will not place in the building, structure, or any facility of any subscriber any converters or other terminal equipment capable of two-way communications without the written consent, revocable at will, of the subscriber and residents, and will not utilize the two-way communications capacity of the system for unauthorized or illegal subscriber surveillance of any kind. For purposes of this section, tenants who occupy premises will be deemed to be subscribers or residents, no matter who actually pays for the service.

12.4 Notice on Use of Private Easements. Nothing in this section grants to the Cable Company any easement rights to private property not otherwise possessed by the County.

12.5 Approval of Service Installations. Before installing service connections, the Cable Company will secure the permission of the property owner or agent.

12.6 Landlord-Tenant Provisions. Both the County and the Cable Company acknowledge 1) that tenants of rental-unit dwellings may have a desire to receive cable service, 2) that rental-unit property owners have a right to protect their dwellings from damage or disruption which could be occasioned by cable installation and service, and 3) that the Cable Company may wish to market and sell cable services to tenants of rental-unit dwellings. The Cable Company will provide to single family rental-units and to individual units of a multiple housing facility, such as a duplex, apartment, or condominium unit, all services offered to owner occupied units within the franchise area, providing the owner or owners of the unit or facility, or the agents of the owner(s), consent in writing to the following conditions.

- A) To allow the Cable Company to provide cable service to units.
- B) To permit reasonable procedures and times for installation, maintenance, and inspection of the system on their premises.
- C) To accept reasonable conditions which the Cable Company promulgates in order to protect its equipment and encourage widespread use of the system.
- D) To agree not to demand payment from the Cable Company for permitting the Cable Company to provide service to the unit(s) or facility.

12.7 Protection of Future Rights. The County will have the right to impose further restrictions on the Cable Company in order to protect individual's rights to privacy from unreasonable invasions arising from practices or technology not now contemplated or known.

12.8 Consent Forms. All forms presented to subscribers or potential subscribers will be filed with the County and reviewed by the County to insure accuracy with this franchise agreement.

12.9 Notification of Subscriber Rights. The Cable Company agrees to include in its initial marketing materials and distribute to all subscribers a publication describing subscriber service rights. The County will produce the publication at its expense with Cable Company review for accuracy.

SECTION 13: TERMINATION AND EXPIRATION

13.1 Revocation. In addition to any rights set out elsewhere in this document, the County reserves the right to declare a forfeiture or to otherwise revoke this franchise agreement, including all its rights and privileges, in the event that:

- A) The Cable Company violates any material provision of this agreement after it has been penalized pursuant to Section 8.1, fails to correct the violation after a reasonable opportunity to do so, and the next penalty which may be levied, after the County exercises other penalty options under that section, is revocation;
- B) The Cable Company becomes insolvent, becomes unable or unwilling to pay its debts, or is adjudged bankrupt as provided in Section 13.2;
- C) The Cable Company is found to have practiced fraud or deceit of a material nature upon the County;
- D) The Cable Company fails to obtain and maintain any required federal or state permit relating to the construction, maintenance, and operation of the system after notification from the appropriate government agency that the permit is lacking and the Cable Company fails to obtain the permit within a reasonable time.
- E) The Cable Company fails to maintain the full amount of its security fund letter of credit or to post a performance bond or equivalent security as required in Section 10.3.

Upon reaching a finding that there are grounds to revoke this franchise agreement, the County may by ordinance, resolution, or other appropriate writing, declare a forfeiture. However, before reaching such a finding, it must give the Cable Company an opportunity to be heard. The Cable Company will be afforded due process rights at the hearing as if the hearing were a contested case hearing subject to ORS Chapter 183, including the right to cross-examine witnesses and to require that all testimony be on the record, and to judicial review. The findings will be written and will stipulate the reasons for the decision. For general violations pertaining to the provisions of 13.1 A), the County will follow procedures specified in Section 8.1. For franchise noncompliance pursuant to the provisions of 13.1(B), (C), (D), or (E) above, the County must notify the Cable Company of the noncompliance and give it an opportunity to be heard. A single hearing will constitute compliance with this provision.

Upon a final order revoking this franchise, all rights of the holders of the franchise will immediately be divested without a further act upon the part of the County, and upon the written request of the County, the Cable Company will promptly remove its structures and property from the streets and restore the streets to their prior condition. If the Cable Company fails to do so, the County may perform the work either individually or jointly and then collect the cost of the work from the Cable Company. The actual cost of the work, including administrative costs, will be a lien upon all plant and property of the Cable Company effective upon placement in the lien docket. If the County elects to require the Company to remove its equipment, the provisions of Section 13.3 shall no longer apply.

13.2 Receivership. In the event that the Cable Company is placed in receivership, and in the event that the Cable Company has been under the control of a receiver or trustee more than 120 days from the date such a person is appointed, the Cable Company will be deemed to have violated a material portion of this agreement. The violation will be deemed to have occurred whether the Cable Company is in receivership, reorganization, bankruptcy, or other action or proceeding unless the following circumstances accompany the receivership:

A) Within 120 days after election or appointment, the receiver or trustee will have been approved by the County and will have fully complied with all the provisions of the franchise agreement and remedied all defaults under the agreement, and

B) The receiver or trustee, within the 120 days, will have executed an agreement, approved by the County as well as the court having jurisdiction, whereby the receiver or trustee assumes and agrees to be bound by each and every provision of the franchise agreement.

13.3 Mandatory Continuity of Service. So long as they pay their bills to the Cable Company on a timely basis and honor their other obligations to the Company, all subscribers will have the right to receive all available services offered by the Cable Company. In the event that the Cable Company elects to overbuild, rebuild, modify, or sell the system, the Cable Company will insure that all subscribers receive continuous, uninterrupted service, regardless of the circumstances, during the lifetime of the franchise agreement, except for temporary interruptions of service as may be required from time to time to rebuild, modify, or improve service. Any service interruption caused by the Cable Company will be subject to the rebate provisions contained in Section 7.3 (D).

Further, so long as it is entitled to revenues from operation of the system, the Cable Company will maintain continuity of service for any temporary transition in the status of the franchise agreement, the system, or the control of the Cable Company. Such transitions will include but not be limited to the following:

A) The event that the County revokes the franchise agreement or elects not to renew it.

B) The event that Cable Company's plant and equipment is taken over or held by the County.

C) The event that the County purchases, lease-purchases, acquires or otherwise takes over the system.

D) The event that there is a transfer of the system to any other person, including any other grantee of a cable communications franchise.

13.4 Holdover by the Cable Company. In the event that the Cable Company continues to operate the system after the expiration, revocation, or other termination of this franchise agreement, and in the event it does so without the renewal or extension of this agreement, the Cable Company will be bound by all terms, conditions, liabilities, and obligations, just as if this agreement were in full force and effect. During the period of any such holdover, the County will be entitled to all injunctive relief necessary to insure continued compliance with the terms of this agreement. Further, in the event of litigation during the period of any such holdover, the County will have the right to demand that the Cable Company post sufficient security with the court having jurisdiction in the matter to insure the Cable Company's faithful compliance with the terms of this agreement.

SECTION 14: OPERATION AND MAINTENANCE

14.1 Open Books and Records. The Cable Company will manage cable system operations from an office within the County. It will keep books and records which are accessible to the County. Upon reasonable notice to the Cable Company, representatives of the County will have the right to inspect at any time during normal business hours, all books, records, maps, plans, financial statements, service complaint logs, performance test results and other like materials of the Company which relate to the operation of the cable system. Access to such records will not be denied by the Cable Company to representatives of the County on the basis of the claim that such records contain "proprietary" information.

All records, books, maps, plans, financial statements, and other like material provided to the County will be considered the private and confidential property of the Cable Company and will not be released, distributed, or made available in any way to any third part or parties, except designated agents of the County, without the express written consent of the Cable Company, except as provided for by the Oregon Public Records Law. Any demands for records disclosure pursuant to the Oregon Public Records Law will be defended by the County at Cable Company expense until all reasonable avenues of defense have been exhausted.

14.2 Performance Reports. The Cable Company agrees to submit to the County certain reports of its service and financial condition.

A) Monthly Complaint Records. The Cable Company will maintain records of all complaints received per Section 14.3. The records or copies thereof shall be available to the County upon request. The Cable Company will submit a summary report of the monthly complaint records upon the request of the County within 10 days of such a request. The summary report shall contain the name, address, and telephone number of the complaining party, the specific nature of the complaint, date and time complaint was received, remedial action taken, date and time the remedial action took place and the current status of the complaint. The summary report will be requested by the County only for cause and will be in a format acceptable to the County.

B) Quarterly Financial Reports. For each calendar quarter, the Cable Company will submit to the County a written report to support the franchise fee payment which contains an accurate statement of the Cable Company's receipts for the quarter.

Each report must be submitted to the County within 30 days of the end of the quarter, must conform to format and data requirements specified by the County, and must be certified true by an officer of the Cable Company.

C) Annual Financial Report. For each calendar year, the Cable Company will submit to the County no later than two months after the end of the fiscal year a certified annual financial report. The document will report the financial results of the system operated under this agreement and will explain any procedures used to allocate revenues and expenditures between this system and any portion of this system operated by the Cable Company ~~inside~~ of the city limits of any City. This report will conform to format and data requirements specified by the County. The Cable Company will

present the following information, both for the year most recently completed and, on a pro forma basis, for the current year: 1) a statement of gross revenues from all sources, 2) gross revenue from subscribers in each category of service, 3) line-item operating expenditures, 4) net income, 5) statement of capital expenditures for the year, and 6) an end-of-year balance sheet. The report will clearly describe the Cable Company's methods for allocating both income statement and balance sheet data between the unincorporated area of the County and any area inside the City.

The County may request additional information in order to evaluate the financial condition of the franchise system. The Cable Company will comply with any such request.

D) Monitoring and Compliance Reports. The Company will file with the County copies of all reports submitted to the Federal Communications Commission as required to be in compliance with the FCC's requirements.

E) Additional Reports. The Cable Company will prepare and furnish to the County at the times and in the form prescribed by the County, any additional reports that the County deems reasonable, necessary, and appropriate to monitor the performance of the Cable Company in connection with this franchise agreement.

For future reference, it should be understood that the County, in specifying the reporting requirements in this section, does not intend to create unduly burdensome recordkeeping, report preparation, and report monitoring procedures and expenditures for either the Cable Company or the County.

14.3 Maintenance and Subscriber Complaints. The Cable Company will maintain an office in the County which will be open during all customary business hours. The Cable Company will also have a publicly listed local telephone, and will receive subscriber complaints and requests for repairs or adjustments on a 24-hour basis.

Sufficient telephone lines will be installed and sufficiently trained staff personnel provided, so that the average customer waiting time on the complaint line does not exceed 10 minutes, except during instances in which the system suffers an outage or other disruption affecting the trunks or distribution feeders and except during the period prior to the completion of construction.

The Cable Company will keep written records listing all complaints, their disposition, and the elapsed time between receipt of the complaint and resolution of the problem.

The Cable Company will render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, will be preceded by notice and will occur during periods of minimum use of the system. A written record will be maintained for all service interruptions.

The Cable Company will respond to all requests for repair or maintenance service with a telephone call and, if the problem cannot be solved by phone, an ~~on-site~~ service call from a service technician within 24 Cable Company working hours of receiving the request, except in cases involving a system

outage affecting more than one trunkline. The Company may also respond to the request with an on site service call within the required time period. No charges will be made to the subscriber for service calls. However, the Cable Company may levy service charges for chronic, unnecessary service calls, subject to terms and conditions approved by the County.

The Cable Company will inform all subscribers of its procedures for handling customer complaints through printed information left with each new subscriber, instructions provided by installers, and service and office telephone numbers printed on converters.

The County will ensure that all subscribers, programmers, and members of the general public have recourse to a satisfactory hearing of any complaints where there is evidence that the Cable Company has not settled a complaint to the satisfaction of the person initiating the complaint. The County will establish procedures for handling and settling complaints that subscribers appeal to the County.

Sufficient staff, equipment, and vehicles will be provided by the Company to comply with the provisions of this section.

14.4 Safety. The Cable Company will, at all times, employ standards of care commensurate with the risks involved in its operations. It will use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury, or nuisance to the public or its employees.

The Cable Company will install and maintain its wires, cables, fixtures, and other equipment in accordance with the requirements of the National Electric Safety Code as applicable to a cable system, and in such manner that they will not interfere with the installations of the County or any public utility.

14.5 Consumer Complaint Records. The Cable Company will keep the following records, mark them with the time, date, retain them in its files for a period of three years, and make them available to the County upon request: 1) complaint forms completed for each complaint received, including details of the complaint and the action taken, and 2) forms made out for each service call to a subscriber's residence, including a complete record of the call (time taken, time dispatched, and time completed).

SECTION 15: MISCELLANEOUS PROVISIONS

15.1 Compliance with Laws. The Cable Company will comply with all federal and state laws and regulations having a bearing on cable system construction and operation now in existence or hereafter established during the term of this franchise agreement. The Cable Company will also comply with all local ordinances, resolutions, rules, and regulations existing at the establishment of this franchise agreement, provided that the Cable Company will not be required to comply with this agreement or any local laws and regulations if to do so would require the Cable Company to violate state or federal law.

15.2 Interpretation of Agreement. This agreement will be construed liberally and interpreted to effect the purposes established in Section 1 of this agreement.

15.3 Separability. If any section, subsection, sentence, clause, phrase, or word of the franchise agreement is held to be invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase, or word will be deemed a separate, distinct and independent provision, and such holding will not affect the validity of the remaining provisions of this agreement.

15.4 Captions. The captions to sections throughout this franchise agreement are intended solely to create easier reference to this franchise agreement. The wording of captions will not affect the meaning or interpretation of this agreement.

15.5 Barrier to Recourse Against the County. The Cable Company will have no recourse whatsoever against the County of its officials, boards, commissions, agents, or employees for any of the following: 1) the occurrence of any loss, costs, or damage which may arise out of the Cable Company performing any provision or requirement contained in this agreement, 2) any loss, costs, or damage resulting from the non-negligent good faith acts of such persons in the enforcement or administration of this agreement, or 3) the event that this franchise agreement or any part of it is determined to be invalid.

15.6 Non-enforcement by the County. The Cable Company will not be relieved by its obligation to comply with any of the provisions of this franchise agreement by reason of any failure to the County to enforce prompt compliance.

15.7 Force Majeure. If by reason of force majeure the Cable Company is unable in whole, or in part to carry out its obligations under this agreement, the Cable Company will not be deemed in violation or default during the period for such inability. The term "force majeure" as used here means the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies, orders or other acts or omissions of the government of the United States of America, or of the State of Oregon, or their departments, agencies, political subdivisions, or officials; acts or omissions of any civil or military authority; insurrections; riots, epidemics; landslides; earthquakes; lightning; fires; icing conditions; hurricanes; volcanic

activity; storms; floods; washouts; droughts; restraint of government and people; civil disturbances; explosions; or partial or entire failure of utilities, or any other circumstances found in good faith by the County to be beyond the reasonable control of the Cable Company. The Cable Company agrees, however, to exert its best effort to remedy as soon as possible, under the circumstances, the cause or causes preventing it from carrying out its responsibilities and duties under this franchise agreement. In determining whether circumstances beyond the control of the Cable Company exist, the County will consider the cause of the nonperformance and whether any action or inaction of the Cable Company was a material contributing factor.

15.8 Entire Agreement. This franchise agreement contains the entire agreement between the parties. It supercedes all prior agreements or proposals except as specifically set forth herein. It cannot be changed orally but only by an instrument in writing executed by the parties.

15.9 Consent. Wherever the consent of either the Cable Company or the County is specifically required in this agreement, such consent will not be unreasonably withheld.

15.10 Performance Meetings. It is agreed that commencing with the effective date of this franchise agreement, at three year intervals, the Cable Company and the County will meet to discuss matters of concern or interest to either of them. The topics of such discussions will be stated in writing by each party prior to their meeting, but each party will be entitled to include any item of interest in the topic list.

15.11 Notices. All notices from the Cable Company to the County pursuant to this agreement will be sent to the clerk or the recorder of the County, unless the County designates an alternative recipient. The Cable Company will maintain with the County throughout the term of this agreement an address for service of notices by mail from the County. All notices required under this agreement will be sent certified mail, return receipt requested.

SECTION 16: EXECUTION OF THE FRANCHISE AGREEMENT

This Franchise Agreement is executed in triplicate original by the County and the Company. Execution hereof by the below-signed officials of the Company and the County is in accordance with appropriate resolution by and action by the Board of the County Commissioners of Multnomah County, Oregon. The effective date of this Franchise Agreement shall be the day the Board of the County Commissioners of Multnomah County affirmatively acts to accept the Agreement and authorizes execution thereof. The return of two fully executed originals of this Franchise Agreement to Multnomah County shall constitute formal acceptance by the Company.

Subscribed, executed, and entered into by Hayden Island Cable, Limited Partnership, on this 3rd day of October, 1986.

By: 

Norman G. Hotz

Title: President, American Earthstations, Inc. General Partner of Hayden Island Cable, Limited Partnership, an Oregon limited partnership

Subscribed, executed, and entered into by Multnomah County, Oregon, on this 6th day of October, 1986.

By: 

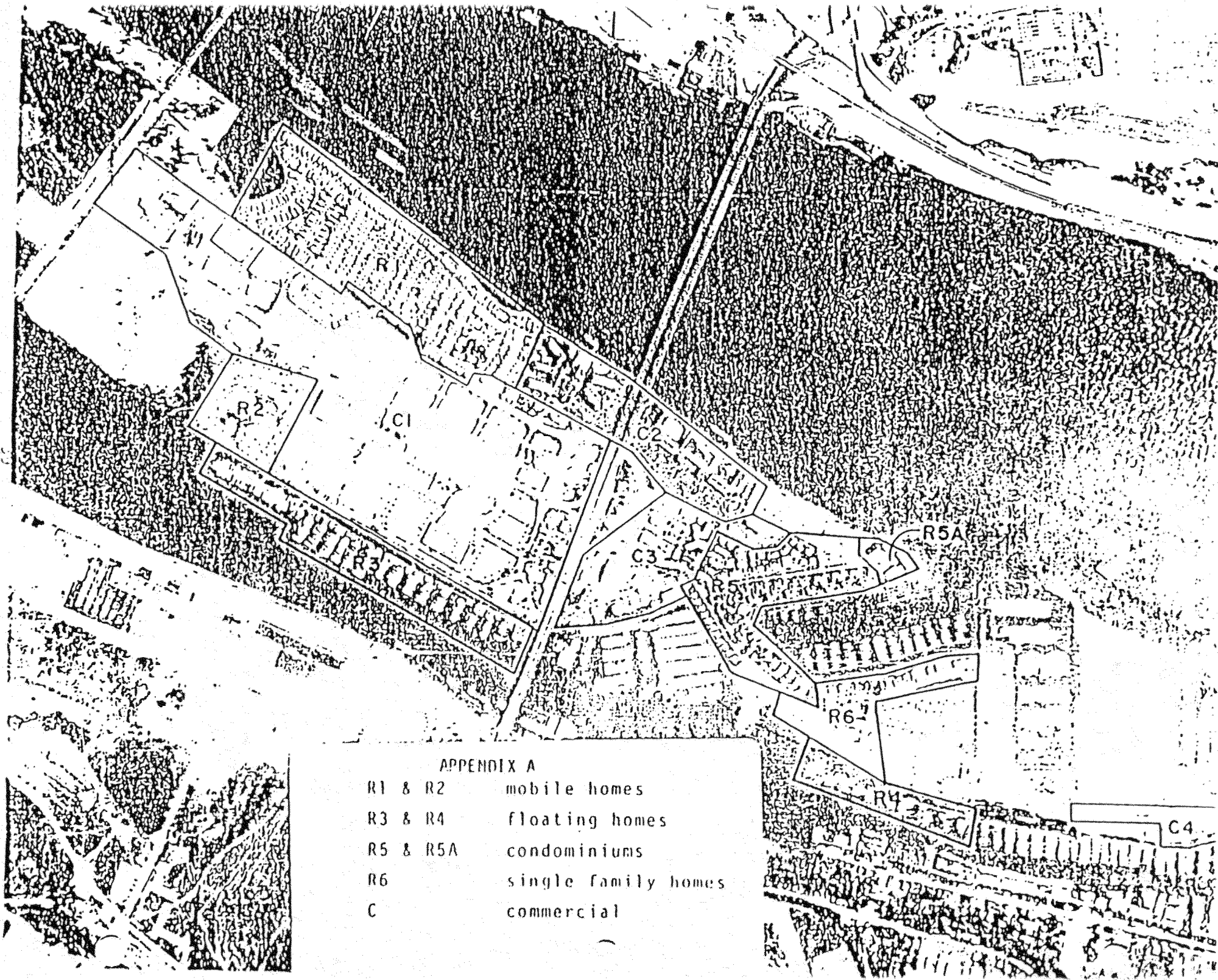
Dennis Buchanan
County Executive

Approved as to form:



John B. Leahy
County Counsel

4583E



APPENDIX A

R1 & R2	mobile homes
R3 & R4	floating homes
R5 & R5A	condominiums
R6	single family homes
C	commercial

Dear Hayden Island Resident:

Columbia Cable is proposing to serve your community with the following 52-channel Cable TV and FM Line-ups.

YOUR CHANNEL LINE-UP

2 KATU	15 HBO	30 MTV, Music Television	43 Cable Classroom
3 Customer Information	16 AMERICAN MOVIE CLASSICS*	31 THE NASHVILLE NETWORK	44 Cable Classroom
4 TV DECISIONS* Program Guide	17 SHOWTIME	32 VH-1, Video Hits One	45 Cable Classroom Library
5 CNN Headline News	18 CINEMAX	33 KECH	46 KCTS Cable Classroom
6 KOIN	19 THE MOVIE CHANNEL	34 KPDX	47 EYES ON THE WORLD
7 ESPN	20 BRAVO	35 KING	48 COLOR BARS Visually Impaired*
8 KGW	21 THE DISNEY CHANNEL	36 HOME SHOPPING NETWORK*	49 Community Access
9 THE DISCOVERY CHANNEL*	22 NICKELODEON	37 ARTS & ENTERTAINMENT	50 TEMPO
10 KOAP	23 CBSN	38 Ecumenical	
11 LIFETIME	24 CNN, Cable News Network	39 PTL	
12 KPTV	25 KCOL	40 CVTV	
13 USA Network	26 FNN/SCORE	41 C-SPAN, Cable Classroom	
14 REQUEST/BLAZER CABLE*	27 THE WEATHER CHANNEL	42 C-SPAN II, Senate*	
	28 WTBS, Atlanta		
	29 WGN, Chicago		

Handwritten notes:
music (near 30-32)
Regional (near 33-35)
Family (near 21-23)
news (near 24-26)
Religion (near 38-39)
Government (near 41-42)
Educational (near 2-4)
Variety (near 5-7)
Premium (near 8-10)
Superstations (near 11-14)

**COLUMBIA
CABLE**

110 Y Street Vancouver Mall

FM CHANNEL LINE-UP

88.9 KRRC FM 89.7	Students from Reed College Everything from Classical to Punk	94.9 KXL FM 95.5	Easy Listening	103.3 BRAVO	Premium
89.7 WWV	Bureau of Standards	96.5 KPBS FM 89.9	Classical	103.7 KXL AM 750	Easy Listening
90.1 KBOO FM 90.7	Eclectic-Classical Folk Jazz	97.7 KKS AM 91.0	Educational	104.5 WSU	Washington State University
91.1 KVAN AM 1550	Black Programming	98.1 KUPL FM 98.5	Classical Jazz	105.3 KMJK FM 107	Current Hits
91.7 KGON FM 92.3	Contemporary Adult	98.9 KJIB FM 99.5	Country Western	106.1 MTV	Rock
92.9 KAAR AM 1280	Rock	99.7 KKRZ FM 100.3	Country Western		
93.3 KPQ FM 93.7	50's 60's Hits	100.5 KYTE FM 101.1	Rock		
94.5 VH-1 VIDEO HITS ONE	Contemporary Christian	100.9	Country		
		101.3 KINK FM 101.9	National Weather Service		
		101.7 SHOWTIME	Adult		
		102.1 HOME BOX OFFICE	Contemporary Premium		
		102.5 CINEMAX	Premium		
		102.9 THE MOVIE CHANNEL	Premium		

Customer Service 695-1225
Repair 695-3273
REQUEST 695-9666

**COLUMBIA
CABLE**

110 Y Street Vancouver Mall

EXHIBIT C

VANCOUVER/CLARK COUNTY A LA CARTE RATES AND CHARGES* EFFECTIVE JANUARY 1, 1987

<u>BASIC CABLE SERVICE LEVELS (MONTHLY)</u>	<u>Primary Outlet</u>
Basic Cable - 21 Channels	\$ 5.25
Cable Plus - 41 Channels	12.25
<u>PREMIUM SERVICES (MONTHLY)</u>	
HBO, Showtime, Cinemax The Movie Channel, Disney, Bravo	11.00
American Movie Classics	4.95
<u>MISCELLANEOUS</u>	
Remote Control	3.85
Extra Remote Control	2.00
Extra Outlet	3.00
Extra Converter	3.20
Transaction Fee	5.00
Aerial Installation (Non-wired)	25.00
Aerial Installation (Wired)	10.00
Underground Installation (Non-wired)	35.00
Underground Installation (Wired)	10.00
Transfer of Service (Wired)	7.50
13 channels Stereo	N.C.

*"Choice Package" customers will continue to receive remote controls and premium channels at a discount.

EXHIBIT D

COMPLIANCE STATEMENT

Columbia Cable agrees to and will comply with all provisions of the current Hayden Island Franchise with the exception of having a business office in Multnomah County.

Columbia Cable intends to conduct business from its Clark County office. The response time for installations, trouble calls, etc., will be as good for our subscribers on Hayden Island as it is for our Vancouver/Clark County subscribers.

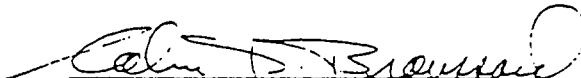

Calvin D. Broussard

EXHIBIT B
ACCEPTANCE

Office of the Clerk of the Board
County Commissioners of Multnomah County
1120 SW Fifth Avenue
Portland, OR 97204

This is to advise Multnomah County, Oregon that we, Columbia Cable of Washington, and Columbia Associates, L.P. and TCI/CI Merger Sub Corp, Inc. in their capacity as general partners, (individually and in combination referred to herein as the "Undersigned"), hereby accept the terms and provisions applicable to us of Ordinance No. 838, passed by the Board of County Commissioners on October 26, 1995, consenting to the change in control of Columbia Cable of Washington (Hayden Island franchise) with conditions. The Undersigned have represented to the County that TCI/CI Merger Sub Corp., a wholly-owned subsidiary of TCI West, Inc., has agreed to acquire control of Columbia Cable of Washington (including the Hayden Island franchise) pursuant to various Agreements among the parties (the "Transaction").

This Acceptance shall only be effective on and after the final closure of the Transaction. This Acceptance shall be null and void, without further action on the part of any party, if the final closure of the Transaction does not occur on or before December 31, 1995.

The Undersigned accept the terms and provisions applicable to us of:

- (a) the cable franchise of Hayden Island Cable, Ltd., issued by Multnomah County September 4, 1986;
- (b) Ordinance No. 159282 (passed by the Council of the City of ~~Portland~~ on December 24, 1986);
- (c) Ordinance No. 838, passed by the Board of County Commissioners of Multnomah County on October 26, 1995; and,
- (d) all applicable ordinances, orders, contracts, and regulatory actions taken, passed, entered into, or adopted by Multnomah County, the City of Portland, the Portland Cable Regulatory Commission, or the Mt. Hood Cable Regulatory Commission pursuant to the above-cited items, as specified and identified in Exhibit D of Ordinance No. 838.

In consideration of the benefits to be received thereunder, the Undersigned and their successors hereby agree to abide by and

ACCEPTANCE - Change in Control of Columbia Cable of Washington

punctually perform all of these obligations, and to abide by each and every term of thereof.

The County, through the Mt. Hood Cable Regulatory Commission, has made a good-faith attempt to identify and resolve any compliance issues under the Hayden Island franchise. However, it is possible that not all compliance issues have been addressed. The Undersigned acknowledge that the County's approval of the transfer of control shall not operate to serve as a waiver of any compliance deficiencies which may be discovered in the future. The Undersigned agree to assume responsibility for any and all material non-compliance under the Hayden Island franchise that may now exist or may later be discovered to have existed during the term of the franchise.

The Undersigned also attest that, as represented in the Form 394 filing submitted to Multnomah County as completed on July 3, 1995, following completion of the Transaction, Columbia Cable of Washington (to be renamed TCI of Southern Washington) will be owned by TCI/CI Merger Sub Corp. and Columbia Associates, L.P. (to be renamed TCI Washington Associates, L.P.), in their capacities as general partners, that in turn TCI Washington Associates, L.P. will be owned by TCI/CI Merger Sub Corp. as general partner and TCI/CA Acquisition Sub Corp., a newly-created and wholly-owned subsidiary of TCI West, as limited partner, and that there will be no other parties in ownership or control of the Hayden Island franchise.

The Undersigned attest that they are duly authorized to act on behalf of their respective principals, by any and all necessary corporate action, and that they have full authority to make the statements and representations contained herein.

COLUMBIA CABLE OF WASHINGTON, by its general partners listed below

(to be renamed ~~TCI~~ of Southern Washington effective as of the merger closing date of the Transaction)

BY: [Signature]

NAME: Stephen M. Brett

TITLE: Vice President of general partner, TCI/CI Merger Sub Corp.

DATE: NOVEMBER 22, 1995 (to be effective as of the merger closing date of the Transaction)

COLUMBIA ASSOCIATES, L.P., in its capacity as general partner

(to be renamed ~~TCI~~ Washington Associates, L.P. effective as of the merger closing date of the Transaction)

BY: [Signature]

NAME: Stephen M. Brett

TITLE: Vice President of general partner, TCI/CI Merger Sub Corp.

DATE: NOVEMBER 22, 1995 (to be effective as of the merger closing date of the Transaction)

ACCEPTANCE - Change in Control of Columbia Cable of Washington

TCI/CI MERGER SUB CORP. ~~INC.~~, in its capacity as general partner

BY: 

NAME: Stephen M. Brett

TITLE: Vice President

DATE: NOVEMBER 22, 1995 (to be effective as of the merger
closing date of the transaction)

Approved as to form:


County Counsel

ACCEPTANCE - Change in Control of Columbia Cable of Washington

EXHIBIT C
GUARANTY OF TCI WEST

Office of the Clerk of the Board
County Commissioners of Multnomah County
1120 SW Fifth Avenue
Portland, OR 97204

1. Recitals.

1.1. On this 21st day of November, 1995, TCI West, Inc., a wholly-owned subsidiary of Telecommunications, Inc., through its duly authorized representative, does hereby submit this sworn and notarized Guarantee for the benefit of Multnomah County, Oregon.

1.2. Columbia Cable of Washington ("Transferor") presently owns and controls a cable franchise to operate within a specified area on Hayden Island, located within Multnomah County ("County"). Columbia Associates, L.P. currently holds a 99% general partnership interest in Transferor, and Columbia International, Inc. ("CI") currently holds a 1% general partnership interest in Transferor. Columbia Associates, L.P. is currently owned by Liberty of Greenwich, Inc., various limited partners and CI. From and after the closing date (the "Closing-Date") of the Supplemental Agreement dated as of June 20, 1995 (the "Supplemental Agreement") by and among Columbia Associates, L.P., Columbia International, Inc., Liberty of Greenwich, Inc., TCI West, Inc., TCI/CI Merger Sub Corp. and TCI/CA Merger Sub Corp., TCI/CI Merger Sub Corp. will acquire control of Transferor, (including the Hayden Island franchise), pursuant to various Agreements among the parties (the "Transaction"). Following the Closing Date of the Transaction, Transferor (to be renamed TCI of Southern Washington) will be owned by TCI/CI Merger Sub Corp. (the "Transferee") and Columbia Associates, L.P. (to be renamed TCI Washington Associates, L.P.), as general partners. TCI Washington Associates, L.P. will be owned by TCI/CI Merger Sub Corp. as general partner and TCI/CA Acquisition Sub Corp. as limited partner.

1.3. The Mt. Hood Cable Regulatory Commission ("Commission") represents Multnomah County on cable franchising matters. The Commission was created by an Intergovernmental Agreement among Multnomah County and other jurisdictions. As set forth in Section 4.B.2. of the IGA, the Jurisdictions have reserved full authority to act on their own behalf on "(a)ny decision concerning a change of ownership or control of a cable communications system or a Grantee". However, each Jurisdiction has agreed "to take no action in these areas until the Commission has had a prior opportunity to consider the matter." (IGA §4.B.) Thus, the Commission acts in an advisory capacity to Multnomah

County in connection with the Applicant's proposed transfer of system ownership and control. The Commission recommended to the Board of County Commissioners, that the Board approve the transfer of control of Columbia to the Transferee. The Board of County Commissioners approved the transfer in change of control by Ordinance No. 838, passed by the County on October 26, 1995.

1.4. TCI/CI Merger Sub Corp. is a newly-created and wholly-owned subsidiary of TCI West, Inc., a Delaware Corporation ("TCI West"). TCI West has a substantial interest in the conduct of Transferee, in its capacity as a general partner, in complying with the Hayden Island franchise.

2. Guaranty.

2.1. Notwithstanding the date of this delivery to the County, this Guaranty shall be of no force or effect unless and until the Closing Date has occurred. This Guaranty shall become void without further action on the part of any party if the Closing Date does not occur on or before December 31, 1995.

2.2. Effective as of the Closing Date and subject to the last sentence of Section 2.3 herein, TCI West hereby unconditionally guarantees the punctual performance of any and all obligations of the Transferor and the Transferee as set forth in Ordinance No. 838, passed by the Multnomah County Board of Commissioners on October 26, 1995 (the "Hayden Island franchise"). In the event Transferor or Transferee for any reason fails to perform those obligations, TCI West agrees to perform or cause to be performed those obligations, subject to the last two sentences of Section 2.3 herein. TCI West's responsibilities under this Guaranty shall mature immediately, without notice or demand by the County, and become due upon the occurrence of any failure of performance under the Hayden Island franchise.

2.3. Subject to the last two sentences of this Section 2.3, this Guaranty is an absolute, continuing, and unlimited guaranty of performance of the Hayden Island franchise by Transferor and Transferee. The County shall not be obliged to proceed first against Transferor or Transferee or any other person, firm or corporation. In any action brought by the County against TCI West pursuant to this Guaranty, TCI West shall be subrogated to all rights of Transferor and Transferee, and shall be entitled to all defenses available to Transferor and Transferee. This Guaranty does not extend to an event of noncompliance or breach or default by Transferor under the Hayden Island franchise which exists as of the Closing Date, except those specifically identified in Multnomah County ordinance approving the Transaction.

2.4. TCI West consents that, without notice to TCI West, and without the necessity for any additional endorsement, consent, or guaranty by TCI West, the obligations of Transferor or Transferee may, from time to time, be amended, modified, compromised or released by the County and Transferor, all without impairing or affecting in any way the liability of TCI West hereunder.

2.5. TCI West waives notice of acceptance of this Guaranty, and further waives protest, presentment, demand for performance or notice of default to TCI West. TCI West agrees that it is TCI West's responsibility to be informed of the condition of Transferor and Transferee and the status of the Transferor and Transferee's performance of their obligations, and the County has no duty to advise the TCI West of any information known to it in that regard. This waiver, however, shall not be deemed a waiver of any requirement of the Hayden Island franchise as to notice to Transferor and Transferee.

2.6. The County's failure to require strict performance of the Hayden Island franchise shall not release TCI West from any liability under this Guaranty.

2.7. Any litigation between the County and TCI West arising under or regarding this Guaranty shall occur, if in the state courts, in the Multnomah County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon. The terms and provisions of this Guaranty shall be applied and interpreted according to the laws, statutes and judicial decisions of the State of Oregon.

2.8. This Guaranty, unless terminated, substituted or canceled, as provided herein, shall remain in full force and effect for the duration of the current term of the Hayden Island franchise.

2.9. TCI West may propose substitution of another guarantor to perform the obligations of this Guaranty. If the County finds the proposed substitute guarantor reasonably satisfactory, another Guaranty may be substituted upon mutual agreement of the County and the substitute guarantor. Such substitution shall not affect liability incurred or accrued under this Guaranty prior to the effective date of such substitution. No claim, suit or action under this Guaranty by reason of any default of Transferor or Transferee shall be brought against TCI West unless asserted or commenced within one year after the termination of this Guaranty, or in the case of a substitution, within one year after the effective date of such substitution of the Guaranty.

2.9. Any notice provided for under this Guaranty shall be sufficient if in writing and (1) delivered personally to the

following addressee or deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), or (3) sent by facsimile transmission addressed as follows, or to such other address as the receiving party hereafter shall specify in writing:

If to TCI West:

TCI West
2233 112th Avenue NE
Bellevue, Washington 98004
Fax Number (206) 462-8402

If to the County at:

Office of the Clerk of the Board
County Commissioners of Multnomah County
1120 SW Fifth Avenue
Portland, OR 97204

TCI WEST, INC., *SM Brett*

BY:

NAME: Stephen M. Brett

TITLE: Vice President

DATE: NOVEMBER 21, 1995

State of Colorado)

County of Grapeshoe)

) ss.

This Guaranty was acknowledged before me on the 21st day
of November, 1995, by Stephen M. Brett as
Vice President, a duly
authorized officer of TCI West, Inc.

Shela Merlo
Notary Public for _____
My Commission Expires:

My Commission Expires Feb. 25, 1999

Approved as to form:

Kate Gault
County Counsel

EXHIBIT D

**ORDERS AND RESOLUTIONS OF PORTLAND CABLE REGULATORY COMMISSION
AND MT. HOOD CABLE REGULATORY COMMISSION
AFFECTING COLUMBIA CABLE/HAYDEN ISLAND FRANCHISE
1988-1995**

- 93-16 Order providing additional time for review of
Columbia Cable basic service tier rates.
- 93-21 Authorizing Columbia Cable to combine basic rate
data from Hayden Island and Vancouver/Clark County
Franchise Areas.
- 94-4 In the matter of basic cable service and
associated equipment and installation charges of
Columbia Cable of Washington within the Hayden
Island, Oregon franchise area; ordering an
accounting.
- 94-12 In the matter of basic cable service and
associated equipment and installation charges of
Columbia Cable of Washington within the Hayden
Island, Oregon franchise area.
- 94-20 Order authorizing filing of petition for special
relief for FCC examination of cost-of-service
filing of Columbia Cable.
- 94-22 Order providing additional time for review of
Columbia Cable basic service tier rates.
- 95-4 Order providing additional time for review of
Columbia Cable rate adjustment.
- 95-6 In the matter of basic cable service and
associated equipment and installation charges of
Columbia Cable within Columbia's franchise area.

Sherman & Howard LLC.

ATTORNEYS & COUNSELORS AT LAW
FIRST INTERSTATE TOWER NORTH
633 SEVENTEENTH STREET, SUITE 3000
DENVER, COLORADO 80202
TELEPHONE: 303 297-2900
FAX: 303 298-0940
OFFICES IN: COLORADO SPRINGS
RENO • LAS VEGAS

Joanne F. Norris
Direct Dial Number: (303) 299-8136

November 22, 1995

VIA HAND DELIVERY

Ms. Deb Bogstad
Office of the Clerk of the Board
Board of County Commissioners
Multnomah County
1120 S.W. 5th Avenue
Portland, OR 97204

Dear Ms. Bogstad:

Pursuant to the requirements of Ordinance No. 838 passed by the Board of County Commissioners of Multnomah County on October 26, 1995 (the "Ordinance"), I am enclosing the executed Guaranty of TCI West, Inc. in the form attached to the Ordinance as Exhibit C, as approved by the County Counsel.

I am also enclosing three originals of the executed Acceptance of the franchisee, Columbia Cable of Washington, to be renamed TCI of Southern Washington effective as of the closing date (the "Merger Closing Date") of the completion of the transfer of control of Columbia Cable of Washington to TCI/CI Merger Sub Corp. ("TCI"). Because TCI will not be a general partner of the franchisee until the Merger Closing Date and because the person who has signed the Acceptance on behalf of the franchisee and Columbia Associates, L.P. will not be an authorized signatory for those entities until the Merger Closing Date, the Acceptance is being delivered to you in escrow pending the Merger Closing Date. You are authorized to release the Acceptance from escrow without further action on the part of any party on the Merger Closing Date.

The escrow solution has been discussed with County Counsel, Catherine Gaetjens, as a way to solve the timing difference between delivery of the enclosed documents and the time at which TCI is authorized to sign the enclosed documents. Please call me or Ms. Gaetjens if you have any questions.

The Ordinance requires TCI to notify Multnomah County regarding consummation of the transfer of control of Columbia Cable of Washington to TCI. TCI agrees that it will deliver

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
1995 NOV 22 PM 4:06

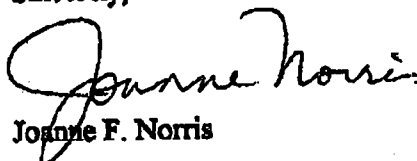
Sherman & Howard L.L.C.

Office of Clerk of the Board
Board of County Commissioners, Multnomah County
November 21, 1995
Page 2

written notice (the "Closing Notice") regarding the closing to you on the Merger Closing Date by facsimile at the following number: (503) 248-5262.

By the County's signature below, the County acknowledges receipt of the enclosed Guaranty and Acceptance and agrees that the requirements of Section II.I of the Ordinance have been met.

Sincerely,


Joanne F. Norris

JFN/mja

Enclosures

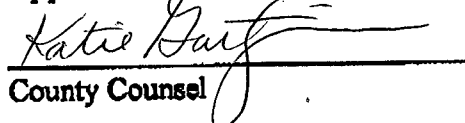
cc w/enc.: Mr. Bill Tierney (via facsimile)
Leigh Fulwood, Esq. (via facsimile)
cc w/o enc.: Mary S. Willis, Esq.
Mr. Jack Roemer

Acknowledged and Agreed:

**Multnomah County,
Board of County Commissioners**

By: Beverly Stein
Name: BEVERLY STEIN
Title: CHAIR

Approved as to Form:


County Counsel

Sherman & Howard L.L.C.

Joanne F. Norris
Direct Dial Number: (303) 299-8136

ATTORNEYS & COUNSELORS AT LAW
FIRST INTERSTATE TOWER NORTH
633 SEVENTEENTH STREET, SUITE 3000
DENVER, COLORADO 80202
TELEPHONE: 303 297-2900
FAX: 303 298-0940
OFFICES IN: COLORADO SPRINGS
RENO • LAS VEGAS

BOARD OF
COUNTY COMMISSIONERS
1995 NOV 28 PM 12: 21
MULTNOMAH COUNTY
OREGON

November 22, 1995

VIA HAND DELIVERY

Ms. Deb Bogstad
Office of the Clerk of the Board
Board of County Commissioners
Multnomah County
1120 S.W. 5th Avenue
Portland, OR 97204

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Sherman & Howard L.L.C.

Office of Clerk of the Board
Board of County Commissioners, Multnomah County
November 21, 1995
Page 2

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By the County's signature below, the County acknowledges receipt of the enclosed Guaranty and Acceptance and agrees that the requirements of Section II.I of the Ordinance have been met.

Sincerely,



Joanne F. Norris

JFN/mja

Enclosures

cc w/enc.: Mr. Bill Tierney (via facsimile)
Leigh Fulwood, Esq. (via facsimile)
cc w/o enc.: Mary S. Willis, Esq.
Mr. Jack Roemer

Acknowledged and Agreed:

**Multnomah County,
Board of County Commissioners**

By: _____
Name: _____
Title: _____

Approved as to Form:

County Counsel

Sherman & Howard L.L.C.

ATTORNEYS & COUNSELORS AT LAW
FIRST INTERSTATE TOWER NORTH
633 SEVENTEENTH STREET, SUITE 3000
DENVER, COLORADO 80202
TELEPHONE: 303 297 2900
FAX: 303 298-0940
OFFICES IN: COLORADO SPRINGS
KNO - LAS VEGAS

Joan Blaik

Direct Dial Number: (303) 299-8073

November 30, 1995

VIA FACSIMILE

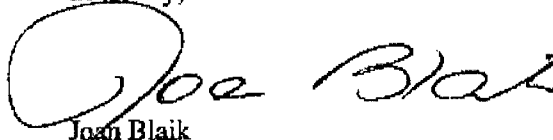
Ms. Deb Bogstad
Office of the Clerk of the Board
Board of County Commissioners
Multnomah County
1120 S.W. 5th Avenue
Portland, OR 97204

Dear Ms. Bogstad:

This letter serves as the written confirmation required under Section 6 of the Multnomah County Ordinance No. 838 that the transfer of control of Columbia Cable of Washington to TCI/CI Merger Sub Corp. ("TCI"), was completed on November 30, 1995 (the "Merger Closing Date").

Please acknowledge your receipt of this confirmation by signing below and telecopying this letter to me at (303) 298-0940.

Sincerely,


Joan Blaik

JB/

cc: Mr. Bill Tierney (via facsimile)
Leigh Fulwood, Esq. (via facsimile)
Mary S. Willis, Esq.
Mr. Jack Roemer
Joanne Norris, Esq.

Sherman & Howard L.L.C.

Ms. Deb Bogstad
Office of the Clerk of the Board
Board of County Commissioners
Multnomah County
November 30, 1995
Page 2

Receipt of Confirmation Acknowledged:**Multnomah County**

By: DEBORAH L. BOGSTAD
Name: DEBORAH L. BOGSTAD
Title: BOARD CLERK

H:\CLIENT\WBLA\90500515\CLOSING\MULTNOMA.CON
11/30/95 10:07 am