



Agenda

VAULT COPY

City of Brookings
Common Council Meeting
Brookings City Hall Council Chambers
898 Elk Drive, Brookings Oregon
July 25, 2005 7:00 p.m.

I. Call to Order

II. Pledge of Allegiance

III. Roll Call

IV. Ceremonies/Appointments/Announcements

A. Ceremonies

1. Presentation of Certificate of Appreciation to Barbara Palicki, 10-Year Work Anniversary [page 5]
2. Presentation of Certificate of Appreciation to Keith Chavez, 10-Year Work Anniversary [page 7]

B. Announcements

V. Public Hearing


- A.** The appeal (APP-1-05) of Planning Commission approval of File No. CUP-2-05, a request for a conditional use permit to allow the Fred Meyer Store to use a portion of a 10.98 parcel of land, zoned R-3 (multi-family residential) owned by South Coast Lumber Co. for the temporary storage of materials used for the remodel of the store. The parcel is located on the east side of Mill Beach Rd. south of Railroad St.; identified as Assessor's Map 41-13-6DA, Tax lot 320. Steve Bismarck, appellant. [page 9]

VI. Oral Requests and Communications from the Audience

A. Committee and Liaison reports

1. Council Liaisons

B. Unscheduled



VII. Staff Reports

A. Community Development Department

1. Quitclaim Deed for 5' strip of land adjacent to Moore Street [page 45]
2. Quitclaim Deed for Curry County owned portion of Collis Lane [page 53]
3. Highway 101 sewer project [page 63]
4. Chetco Point Park Improvements matching funds [page 65]
5. Goals and Objectives for Public Works and Community Development Departments [page 67]
6. Grants Pass Wastewater biosolids dewatering and composting [page 69]
7. Biosolid contract [page 73]

VIII. Consent Calendar

- A. Approval of Council Meeting Minutes
 1. Meeting of July 11, 2005 [page 79]
- B. Acceptance of Planning Commission Minutes
 1. Meeting of June 7, 2005 [page 85]
- C. Liquor License Application-O'Holleran's Restaurant and Lounge [page 91]
- D. Approval of vouchers for month of June, 2005 (\$ 422,008.56) [page 95]

End Consent Calendar

IX. Remarks from Mayor and Councilors

- A. Council
- B. Mayor

X. Adjournment

Events Calendar

July 2005

| July 2005 | | | | | | | August 2005 | | | | | | |
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| City Hall CLOSED - 4th of July Holiday 9:30am CC- VIPS/Volunteers in Police Service/Marvin Parker 7:00pm FH-FireTng/ChShrp (Fire Hall) | 8:30am CC-Investigator/Patrol Information Sharing Meeting-Barbara Palicki-X217 9:30am KURY Radio Community Focus Talk Show w/City | 10:00am CC Ron Kreskey represent for Peter 10:00am FH - David Neighbor 12:00pm Comnity Agencies 1:00pm CC-Ed Wait ODOT 2:30pm FH-SafetyComMtg/ 7:00pm FH-PoliceReserves | 8:15am CC-CmtyDevDpt Staff mtg/EWait 9:00am CC-Crm Stoppers 10:00am CC- Site Plan Com Mtg/LauraLee Gray 1:30pm CC Com. Development Dept | | 6 |
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CC Council Chamber
FH Firehall

Events Calendar

August 2005

| August 2005 | | | | | | | September 2005 | | | | | | |
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| Monday | Tuesday | Wednesday | Thursday | Friday | Sat/Sun |
|--|---|---|---|--|---|
| August 1 | 2 | 3 | 4 | 5 | 6 |
| 9:30am CC- VIPS/Volunteers in Police Service/Marvin Parker 7:00pm FH-FireTng/ChShrp (Fire Hall) | 8:30am CC-Investigator/Patrol Information Sharing Meeting-Barbara Palic 9:30am KURY Radio Community Focus 7:00pm CC-Planning Commssn | 12:00pm Comnity Agencies mtg (Chetco Sr.Center) 2:30pm CC-SafetyComMtg/ Kathy Dunn 7:00pm FH-PoliceReserves | 8:15am CC-CmtyDevDpt Staff mtg/EWait 9:00am CC-Crm Stoppers 10:00am CC- Site Plan Com Mtg/LauraLee Gray | | Concert in the Park 1 pm |
| 8 | 9 | 10 | 11 | 12 | 13 |
| 7:00pm FH-FireTng/ChShrp (Fire Hall) 7:00pm CC-Council Mtg | 9:30am KURY Radio Community Focus Talk Show w/City Staff/Council (KURY) 10:00am FH-Brookings Rural Fire District-Phil Cox-469-5729 | | 8:15am CC-CmtyDevDpt Staff mtg/EWait 10:00am CC- Site Plan Com Mtg/LauraLee Gray | | Concert in the Park 1 pm |
| 15 | 16 | 17 | 18 | 19 | 20 |
| 9:30am CC-VIPS/Volunteers in Police Service-BPalicki 6:00pm CC-American Red Cross Mtg/Karen 7:00pm FH-FireTng/ChShrp (Fire Hall) | 8:30am CC-Investigator/Patrol Information Sharing Meeting-Barbara Palic 9:30am KURY Radio Community Focus 7:00pm CC Planning Commission meeting | 2:00pm WWTP bid opening for generator | 8:15am CC-CmtyDevDpt Staff mtg/EWait 10:00am CC- Site Plan Com Mtg/LauraLee Gray 1:00pm CC-Municipal Court | | |
| 22 | 23 | 24 | 25 | 26 | 27 |
| 7:00pm FH-FireTng/ChShrp (Fire Hall) 7:00pm CC-Council Mtg | 9:30am KURY Radio Community Focus Talk Show w/City Staff/Council (KURY 95.3) | 2:30pm CC-Downtown Subcommittee-Toni Mefford | 8:15am CC-CmtyDevDpt Staff mtg/EWait 10:00am CC- Site Plan Com Mtg/LauraLee Gray 1:00pm CC State of Oregon Family Health Insur 7:00pm CC-Parks & Rec | 4:00pm FH Helmet Instruction w/Marvin 2259 | 12:00pm City Volunteer & Employee Annual Picnic (Azalea Park) Concert in the Park 1 pm |
| 29 | 30 | 31 | | | |
| 7:00pm FH-FireTng/ChShrp (Fire Hall) | 9:30am KURY Radio Community Focus Talk Show w/City Staff/Council (KURY 95.3) | | | | |

CC Council Chamber
FH Firehall

Certificate of Appreciation

Awarded to

Barbara Palicki

for dedicated employment from July 10, 1995
honored this 25th day of July, 2005
for 10 years of service
to the citizens of the City of Brookings

Pat Sherman

Mayor Pat Sherman

Burke M. Raymond

Interim City Manager Burke M. Raymond



Certificate of Appreciation

Awarded to

Keith Chavez

for dedicated employment from July 10, 1995
honored this 25th day of July, 2005
for 10 years of service
to the citizens of the City of Brookings



Pat Sherman
Mayor Pat Sherman
Burke M. Raymond
Interim City Manager Burke M. Raymond

TO: Mayor and City Council

FROM: John Bischoff, Planning Director

THROUGH: Burke Raymond, City Manager

DATE: July 19, 2005



Issue: The appeal of the Planning Commission Decision approving a conditional use permit to allow the Fred Meyer Store to use a portion of a 10.98 parcel of land, zoned R-3 (Multiple Family Residential), owned by South Coast Lumber Co. for the temporary storage of materials used for the remodel of the store. The parcel is located on the east side of Mill Beach Rd. south of Railroad St.; identified as Assessor's Map 41-13-6DA, Tax Lot 320.

Background: At the end of April of this year it came to the attention of the city staff that the contractor for the Fred Meyer Store remodel was using the property described above for temporary storage of materials for the remodel project. Since the property is zoned R-3 (Multiple Family Residential), the use for storage is not an outright permitted use. Staff informed the Fred Meyer Store Manager that a conditional use permit for a temporary use permit is required.

An application for a conditional use permit was submitted and the case was scheduled and heard by the Planning Commission on June 7, 2005. Staff recommended approval of the permit based on the interpretation of the definition of a temporary use in Section 8, Definitions, of the Land Development Code, which reads:

"A short-term, seasonal or intermittent use, which shall be approved by the Planning Commission by means of the conditional use permit process with such conditions as the commission deems reasonable in accordance with the conditional use permit standards"

Since none of the city's zoning districts list of possible conditional uses specifically states "Temporary uses", and since there is no specific definition of what a temporary use is, staff's interpretation was that a temporary use could be allowed in any zone with a conditional use permit, the approval of which would determine the appropriateness of the use in the requested location. The Planning Commission agreed with this interpretation.

The primary basis for the appellant's appeal is that storage is not allowed in the R-3 Zone either as a permitted or conditional use.

A copy of the appellant's submittal, the staff report to the Planning Commission, Conditions of Approval and all material submitted before and at the hearing are attached.

Recommendation: The Planning Commission approved the conditional use permit based on the findings and conditions of approval in the staff report.

IN THE MATTER OF AN APPEAL TO THE BROOKINGS CITY COUNCIL TO REVERSE THE ACTION OF CITY OF BROOKINGS PLANNING COMMISSION FILE NO. CUP-2-05, A CONDITIONAL USE PERMIT TO ALLOW TEMPORARY COMMERCIAL STORAGE OF GOODS ON LAND ZONED R-3 (MULTIPLE FAMILY RESIDENTIAL)

DATE: June 20, 2005

STEVE BISMARCK, APPELLANT

SUBJECT PROPERTY: East side Mill Beach Rd., SE corner of Sec. 6, T41S, R13W, W.M., TAX LOT 320, South Coast Lumber Co., landowner, Fred Meyer Stores, permit applicant.

AFFECTED PARTIES: Those of record in the matter of Planning Commission file no. CUP-2-05

BASIS FOR APPEAL

I. Principal Allegations of Error – Planning Commission ruling

In finding CUP-2-05 to be in compliance with the comprehensive plan, the commission erred by misapplying the substantial evidence test required by BLDC 140.060. To wit:

1. They accepted the personal opinions of the Planning Director in lieu of factual findings of law (no basis in current law was given for the “temporary use” theory).
2. In citing the “good neighbor policy” and other personal philosophies as a basis for their decisions, certain members of the commission showed that they substituted subjective and nonevidentiary criteria for mandatory criteria in rendering judgment.
3. In citing “silence of the law” as a principle that breaks in favor of approving the application, the commission chairman extended *benefit of the doubt* to the applicant, thereby effectuating an impermissible burden-of-proof transfer to the opponent. Where burden of proof in the permit application process is properly construed, the opponent’s only burden is to produce sufficient findings as to undermine the proponent’s *substantial evidence* burden.^{1,2}

II. Principal Allegations of Error – Interpretations of Law and the effects of such interpretations

Clark v. Jackson County (1992) was a watershed case in Oregon land use history, and its major rulings were codified into law by the passing of ORS 197.829 in 1993. Briefly, the law states that local government oversteps its bounds of interpretive discretion when it renders a decision that:

- 1). is inconsistent with the express language of the comprehensive plan or other land use regulation,
- 2). contravenes the purpose of the zoning principle, or
- 3). subverts the underlying policy that the code provision is designed to implement³

Any interpretation that trespasses any *one* of these principles is unsustainable under state law, *infra*.⁴

BLDC 28.040 is a land use regulation that contains express language that declares, in no uncertain terms, that storage is a prohibited use in the R-3 zoning district.⁵ The planning department insists that the use is nevertheless allowed as a “temporary use”. This claim emanates from the baffling argument that the plain language of a land use regulation (Section 28.040) should yield to a dangling definition in the code’s glossary (Section 8) which defines “temporary use”, but provides no frame of reference to serve as a basis for regulation.

The definition of “temporary use” in Section 8 is an obsolete term that alludes to Section 6 of old Brookings General Ordinance 19. That ordinance was part of a wholesale revision of law that was repealed as prior inconsistent code by Ordinance 89-0-446 [Effective April 10, 1989]. The language has never resurfaced in a modern version of the comprehensive plan. I cannot emphasize this point too strongly: **there is no valid “temporary use” provision in applicable law.** Even if there were, it would be superseded by the authority of ORS 197.829. The planning department’s defense is based on dead law. BLDC 28.040 is the actual controlling authority of local code in this case.

The fact that the definitions list of Section 8 has been passed along intact and unrevised through successive generations of the code is simply a testament to negligence in the task of proofreading during the legislative process. At each revision, Section 8 should have been checked for inconsistencies of policy language and obsolete references to dead law, but this was apparently never done.

BLDC 28.040 exists to safeguard the public interest and to obviate the adverse impacts to neighboring areas that are now being so keenly felt. Why has the planning department flouted it, and attempted to exploit a clerical error in order to achieve an end that corrupts the policy that the code provision is designed to implement? This falls nothing short of “subverting legislation in the guise of interpreting it”⁶, and conforms to the judicial review standard for reversal: “unreasonable interpretations of local land use controls”.⁷

1 *Rochlin v. Multnomah County*, 35 Or LUBA 333 (1998)

2 *Stahl v. Tillamook County*, 43 Or LUBA 518 (2003)

3 *Clark v. Jackson County*, 313 Or 508, 515, 836 P2d 710 (1992).

- 4 **197.829 Board to affirm certain local government interpretations.** (1)
The Land Use Board of Appeals shall affirm a local government's interpretation of its comprehensive plan and land use regulations, unless the board determines that the local government's interpretation:
- (a) Is inconsistent with the express language of the comprehensive plan or land use regulation;
 - (b) Is inconsistent with the purpose for the comprehensive plan or land use regulation;
 - (c) Is inconsistent with the underlying policy that provides the basis for the comprehensive plan or land use regulation; or
 - (d) Is contrary to a state statute, land use goal or rule that the comprehensive plan provision or land use regulation implements.
- (2) If a local government fails to interpret a provision of its comprehensive plan or land use regulations, or if such interpretation is inadequate for review, the board may make its own determination of whether the local government decision is correct. [1993 c.792 §43; 1995 c.595 §4]

5 This ordinance, which lists permitted conditional uses in the R-3 district, reads, in relevant part:

“F. Governmental structures or uses including parks and recreation facilities, fire stations, libraries, museums, **but not including storage or repair yards, warehouses or similar uses.**” (underscoring emphasis mine)

6 *DLCD v. Tillamook County*, 33 Or LUBA 163 (1997)

7 *Church v. Grant County*, 187 Or App 518, 69 P3d 759 (2003):

WHEREAS:

The City Council has heard an appeal and additional testimony on the matter of Planning Commission file no. CUP-2-05, the appellant has furnished such evidence as needed to sufficiently undermine the applicant's burden of proof in seeking a conditional use permit for commercial storage on the subject property in the R-3 zoning district.

THEREFORE, LET IT BE HEARBY ORDERED that the appeal of City of Brookings Planning Commission file no. CUP-2-05 is upheld and the conditional use permit described therein for commercial storage on land zoned R-3 is denied. This approval of the appeal is supported by the following findings and conclusions:

FINDINGS

1. Compliance with the Comprehensive Plan for this proposal has not been established. The applicant has failed to meet the burden of proof based on substantial evidence supported by factual and supportive findings as required by BLDC 140.060.
2. No basis in applicable law has been found to exist for "temporary use" as a separate approval path outside the usual provisions of the conditional use protocol.

CONCLUSION

1. In granting the request for a conditional use permit, the Planning Commission erred in both its handling of burden of proof and its interpretation of key provisions of the Comprehensive Plan and/or applicable Oregon Revised Statutes. The opponent furnished such evidence as to sufficiently undermine the applicant's substantial evidence burden.

LET IT FURTHER BE OF RECORD that the conditional use permit in the matter of CUP-2-05 is hereby denied.

(signatures and dates to follow)

CITY OF BROOKINGS PLANNING COMMISSION
STAFF AGENDA REPORT

SUBJECT: Conditional Use Permit
FILE NO: CUP-2-05
HEARING DATE: June 7, 2005

REPORT DATE: May 19, 2005
ITEM NO: 8.4

GENERAL INFORMATION

APPLICANT: Fred Meyer Stores.

REPRESENTATIVE: Peter Lowry.

REQUEST: A conditional use permit to allow the use of a 10.98 acre parcel of land as temporary storage for materials and equipment during the remodel of the Fred Meyer Store.

TOTAL LAND AREA: 10.98 acres.

LOCATION: On the east side of Mill Beach Rd. approximately 171 feet south of Railroad St.

ASSESSOR'S NUMBER: 41-13-6D, Tax Lot 320.

ZONING / COMPREHENSIVE PLAN INFORMATION

EXISTING: R-3 (Multiple Family Residential).

PROPOSED: Same.

SURROUNDING: From one tier of lots south of Railroad St.—C-3 (General Commercial); East—M-2 (General Manufacturing); South—R-2 (Two Family Residential) and R-3; West—R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) and R-MH (Mobile Home Residential).

COMP. PLAN: Residential.

LAND USE INFORMATION

EXISTING: Vacant.

PROPOSED: Temporary storage of materials and equipment.

SURROUNDING: West and South—Single family homes and condos; North—Commercial uses; East—Industrial uses.

PUBLIC NOTICE: Mailed to all property owners within 250 feet of subject property and published in local newspaper.

BACKGROUND INFORMATION

The subject property is an irregular shaped, 10.98 acre parcel of land located on the east side of Mill Beach Rd. approximately 171 feet south of Railroad St. The property has approximately 1,527 feet of frontage on Mill Beach Rd. that extends to the Vegetation Line along the ocean. The property has approximately 300 feet of frontage on Wharf St. along its southern border. The easterly boundary extends north from Wharf St. to the mill pond boundary and then west and north around the mill pond to a point about 171 feet south of Railroad St. where it turns west back to Mill Beach Rd. The property is essentially flat except along the southerly boundary, which is a deep ravine that carries the mill pond outfall to the ocean. The city owns a small parcel that has 60 feet of frontage on Mill Beach Rd. south of Smith St. that extends into the subject property 40 feet and is the site of a sewer pump station.

The property is zoned R-3 (Multiple Family Residential) and is vacant. The area to the west is zoned R-3, R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) and R-MH (Mobile Home Residential) and is developed with condominium, single family homes and manufactured homes respectively. The area to the north is zoned C-3 (General Commercial) and developed with commercial uses and the area to the east is zoned M-2 (General Manufacturing) and is the site of the plywood mill. The area south of Wharf St. is zoned R-2 and contains residential uses.

Mill Beach Rd. is a paved travel way within a 50 foot right-of-way with no other improvement adjacent to the subject property.

PROPOSED CONDITIONAL USE PERMIT

The applicant is requesting a conditional use permit to allow the use of the property for temporary storage of material and equipment during the remodel of the Fred Meyer store located on the north side of Railroad St. Approximately 2.5 to 3 acres of the property will be used for this purpose as shown on Exhibit 2. The entire area will be paved and will have two access points to Mill Beach Rd. Storage of material will be in containers places as shown in Exhibit 2. The owner of the property, South Coast Lumber Company, has given written consent to use the property for this purpose.

Storage of materials is already occurring on the property and when the city became aware of the use, the Fred Meyer store was asked to submit an application for a conditional use, since storage on property zoned R-3 is not a permitted use.

ANALYSIS

In order to grant any conditional use, the planning commission must find that the application meets the requirements of the following criteria, which is listed in Section 140 Conditional Use Permits, of the LDC.

1. The proposal is in compliance with the Comprehensive Plan.
2. The site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this code.

3. The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use.
4. The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the commission shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and bulk of buildings, walls and fences, landscaping, screening, exterior lighting and signing.
5. In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complimentary to the surrounding area.

Since the first criterion includes the requirements of all of the others it will be discussed after the last four.

Criterion 2, Adequate Size And Shape.

The proposed use will occupy about 3 acres of the 10.98 acre site. The area is flat and easily accessed from Mill Beach Rd. The site is adequate in size for the proposed use.

Criterion 3, Relation of Streets.

Although Mill Beach Rd. is not fully improved, the applicant has indicated that all of about six of the containers used for storage have already been moved onto the site. The proposed use will generate more traffic on Mill Beach Rd. but the applicant has stated that trips to and from the area will average about one an hour. There may be 3 or 4 hours with no trips and at time several trips in an hour. Since the use is temporary and sporadic, Mill Beach Rd. will be able to accommodate the use.

Criterion 4, Neighborhood Impact.

The proposed use is temporary in nature and will be terminated in t the middle of November this year and all containers and equipment will be removed. The containers and equipment can be seen from the single family houses on Mill Beach Rd. but is some distance removed. Part of the storage area is screened from the houses at the southerly end of Mill Beach Rd. by a row of trees along the boundary of the subject property. Staff has received one comment concerning noise of trucks entering and leaving the site, especially semi-trucks. Staff will recommend a condition of approval to limit the size of trucks and thus the noise generated from the site during evening and early morning hours. The arrangement of the storage containers is orderly and the property is in a clean and neat condition and, being temporary in nature, should not have a particular negative impact on the neighborhood.

Criterion 5, Historic, Scenic Or Cultural Attributes.

There are no recorded historic, scenic or cultural attributes on or in the vicinity of the subject property. The mill pond can of course be considered a scenic attribute but since the proposed use is temporary any particular impact will not last.

Criterion 1, Compliance With Comprehensive Plan.

The city's Comprehensive Plan is silent on the issue of temporary uses. The proposed use is in relation to the remodel of the Fred Meyer store, which enhances the economic viability of the city and thus is consistent with that policy of Goal 9, Economy, of the Plan. Section 8, Definitions, of the Land Development Code defines a temporary use as "A short-term, seasonal, or intermittent use, which shall be approved by the Planning Commission by means of the conditional use permit process with such conditions as the commission deems reasonable in accordance with the conditional use permit standards." By this definition a temporary use is not zone specific.

PROPOSED FINDINGS

1. The applicant is requesting a conditional use permit to allow the temporary storage of materials and equipment used for the remodel of the Fred Meyer store, on a 10.98 acre parcel of land.
2. The subject property is zoned R-3 (Multiple Family Residential) and is designated as Residential by the Comprehensive Plan.
3. The area to the west of the subject property is zoned for and developed with residential uses. The areas to the north and east are zoned for commercial or industrial uses. The subject property runs to the ocean on the south with a small residential node at the end of Wharf St.
4. All of the materials will be kept in metal containers located on the site.
5. The area used for storage will occupy approximately three acres of the subject site.
6. The conditions of approval contain requirements for the storage area to be paved and hours in which noise restrictions will apply.
7. The only historic, scenic or cultural attribute on or in the vicinity of the site is the existing mill pond.
8. The applicant has stated that the use of the property will end in mid November of this year (2005).

PROPOSED CONCLUSIONS

1. The proposed use will involve about 3 acres of the 10.98 acre site and thus the site is large enough to accommodate the proposed use.
2. The proposed use will generate more traffic on Mill Beach Rd., which consists of a paved travel way with no other improvements adjacent to the subject site. The applicant has stated that the trips generated will average approximately one trip per hour but at times there may be several trips in an hour and times when three or four hours pass without a trip. The use is temporary and the trip generation sporadic, Mill Beach Rd. will be able to accommodate the generated traffic.

3. The greatest impact on the surrounding neighborhood is that of noise generated by vehicles moving materials in and out of the site. During the day light hours, the noise generated by the proposed temporary use would be no greater than and probably less than the noise generated by construction of apartment building on the site, which would be a permitted use in the underlying R-3 Zone. A condition of approval will be applied to limit noise generated by vehicles and heavy equipment during the evening and early morning hours. Although there is a visual impact, it is primarily of containers setting on the property and is only temporary.
4. The mill pond is the only historic, scenic or cultural attribute on or in the vicinity of the subject site. The mill pond is on a separate parcel of land that is not subject to this application and the proposed use will not intrude into that parcel and is only temporary and thus will not impact the pond.
5. The city's Comprehensive Plan is silent on the issue of temporary uses. The proposed use is in relation to the remodel of the Fred Meyer store, which enhances the economic viability of the city and thus is consistent with that policy of Goal 9, Economy, of the Plan. Section 8, Definitions, of the Land Development Code defines a temporary use as "A short-term, seasonal, or intermittent use, which shall be approved by the Planning Commission by means of the conditional use permit process with such conditions as the commission deems reasonable in accordance with the conditional use permit standards." By this definition a temporary use is not zone specific.

CONDITIONS OF APPROVAL

The proposed conditions of approval are attached to and made a part of this report.

RECOMMENDATION

Staff recommends **APPROVAL** of Case File No. CUP-2-05, based on the findings and conclusions stated in the staff report and subject to the conditions of approval listed above.

Staff has prepared a Final ORDER to be considered at this meeting.

CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT

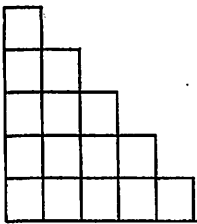
CUP-2-05

June 7, 2005

As amended by the Planning Commission

General Conditions

1. Approval of this conditional use permit will expire on December 31, 2005. If additional time is required due to delayed construction scheduled, a one time extension of no more than three (3) months may be requested from the Planning Commission. Any action after that would require a new application for a conditional use permit.
2. The conditions stated herein are mandatory and must be completed. Failure to comply with any condition will result in the review and possible revocation of your permit pursuant to Section 140.110, Violation of Conditions, of the Land Development Code. The loss of your permit will result in the loss of the ability to use the site for the proposed purpose.
3. Prior to any construction or paving on the site, the contractor will place, in a location visible from an existing public street, a sign containing the name of the contractor, a telephone number and address where the contractor can be reached. *The sign shall indicate that the use is temporary and indicate the date of expected completion. The telephone number shall be monitored on a 24 hr a day basis. (Added by the Planning Commission, June 7, 2005)*
4. All vehicle maneuvering and parking surfaces shall be paved and the pavement shall extend to the pavement on Mill Beach Rd. *The applicant shall provide on going dust control measures until such time as paving is complete. (Added by the Planning Commission, June 7, 2005)*
5. All drainage from the site shall be directed away from Mill Beach Rd. and from the mill pond.
6. To limit noise during evening and early morning hours, the use of heavy equipment and heavy trucks to move materials on or off the site shall be prohibited between the hours 7:00 PM and 7:00 AM during week days and 7:00 PM and 8:00 AM during weekends and holidays. Any complaints generated by noise during these hours shall be acted upon immediately upon notice to the applicant.
7. To the extent possible, equipment and materials too large to place within the containers shall be stored behind the metal containers out of site of the houses along Mill Beach Rd.
8. A trash bin shall be located on the site in a location accessible to the collection truck.
9. *The applicant shall place a sign on the subject property at the entrance to the storage area stating that there will be no parking of project vehicles on Mill Beach Rd. at any time.*
10. *The applicant shall take steps to reduce congestion on Mill Beach Rd. due to vehicles entering and or leaving the site.*
11. *The applicant shall install a sight obscuring fence of at least six (6) feet in height around all sides of the storage facility for security purposes. (Added by the Planning Commission, June 7, 2005)*
12. *The applicant shall cause the pavement placed for the storage facility to be removed within sixty (60) days from the completion of the remodel project. (Added by the Planning Commission, June 7, 2005)*



**Western
Construction
Services, Inc.**

PO Box 5768 • Vancouver, WA 98668 • 360-699-5317 or 503-222-9296 • Fax 360-694-7818
WA LIC. WESTECS 162R8 • OR LIC. OR63717 • CA LIC. 513599 • UT LIC. B100 98-366992-5501

May 10, 2005

City of Brookings
898 Elk Drive
Brookings, OR 97415

Re: Fred Meyer Land-Use Permit

Dear Mr. Bischoff/City of Brookings:

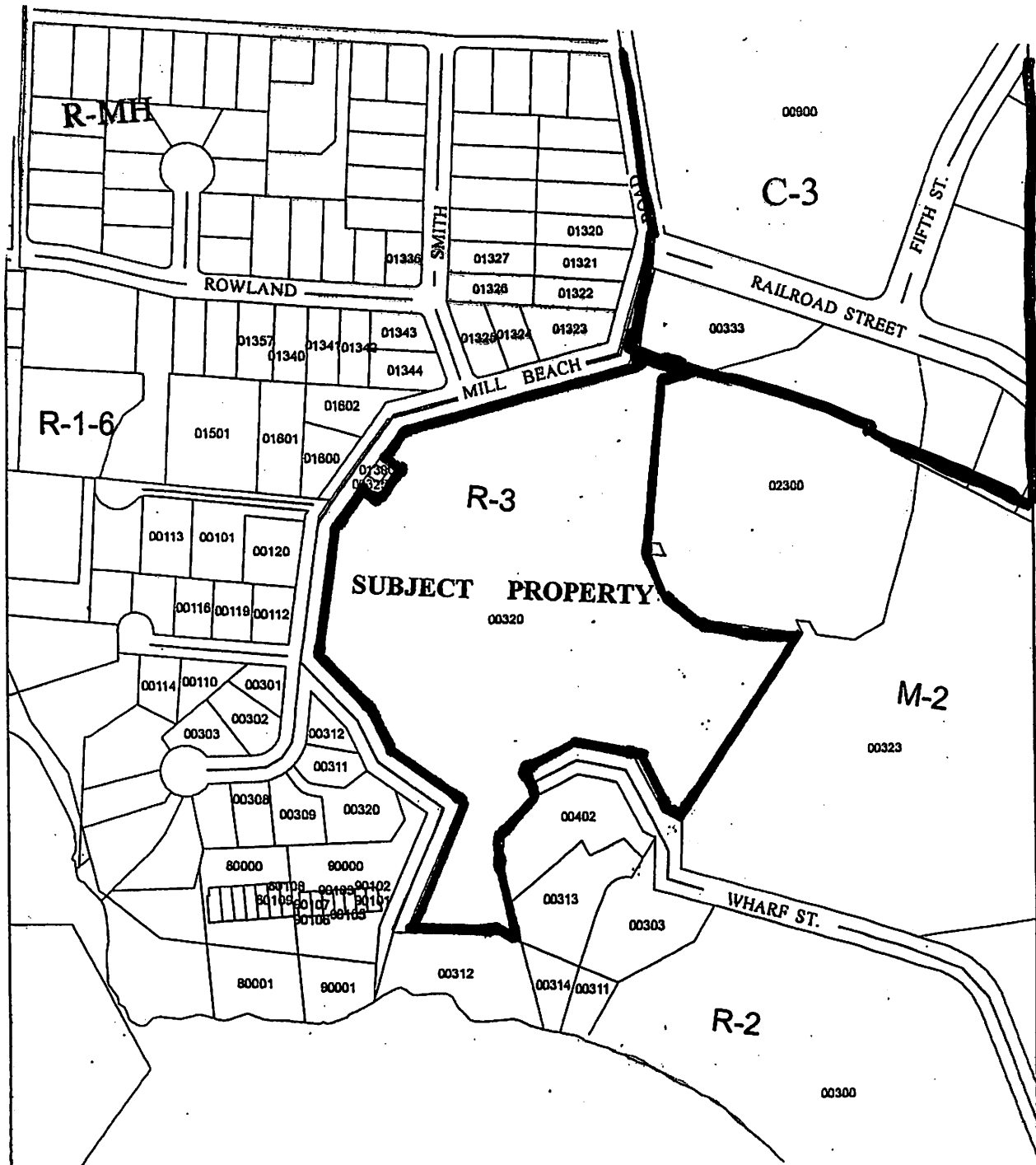
Pursuant to the Land-Use Permit for the Brookings Fred Meyer, please find the following responses pertaining to Conditional Use Permits (Section 140).

- A. Affirmative, this proposal is in accordance with the comprehensive plan.
- B. The site for the proposed use is adequate in size to accommodate the said use.
- C. The relationship between the proposed use and the adjacent streets would be limited to trucks delivering goods pertaining to the Fred Meyer remodel project. The average volume of traffic is estimated at three truck per day.
- D. The proposed use will have minimal impact upon the adjoin properties. The proposed use of this property is for a duration of approximately six months.
- E. Our proposed use of the land will not have a detrimental effect on the surrounding area.

If you have any questions, comments or concerns pertaining to this property use, please call me at 541.661.4940 or email at erik@westernconstruction.com.

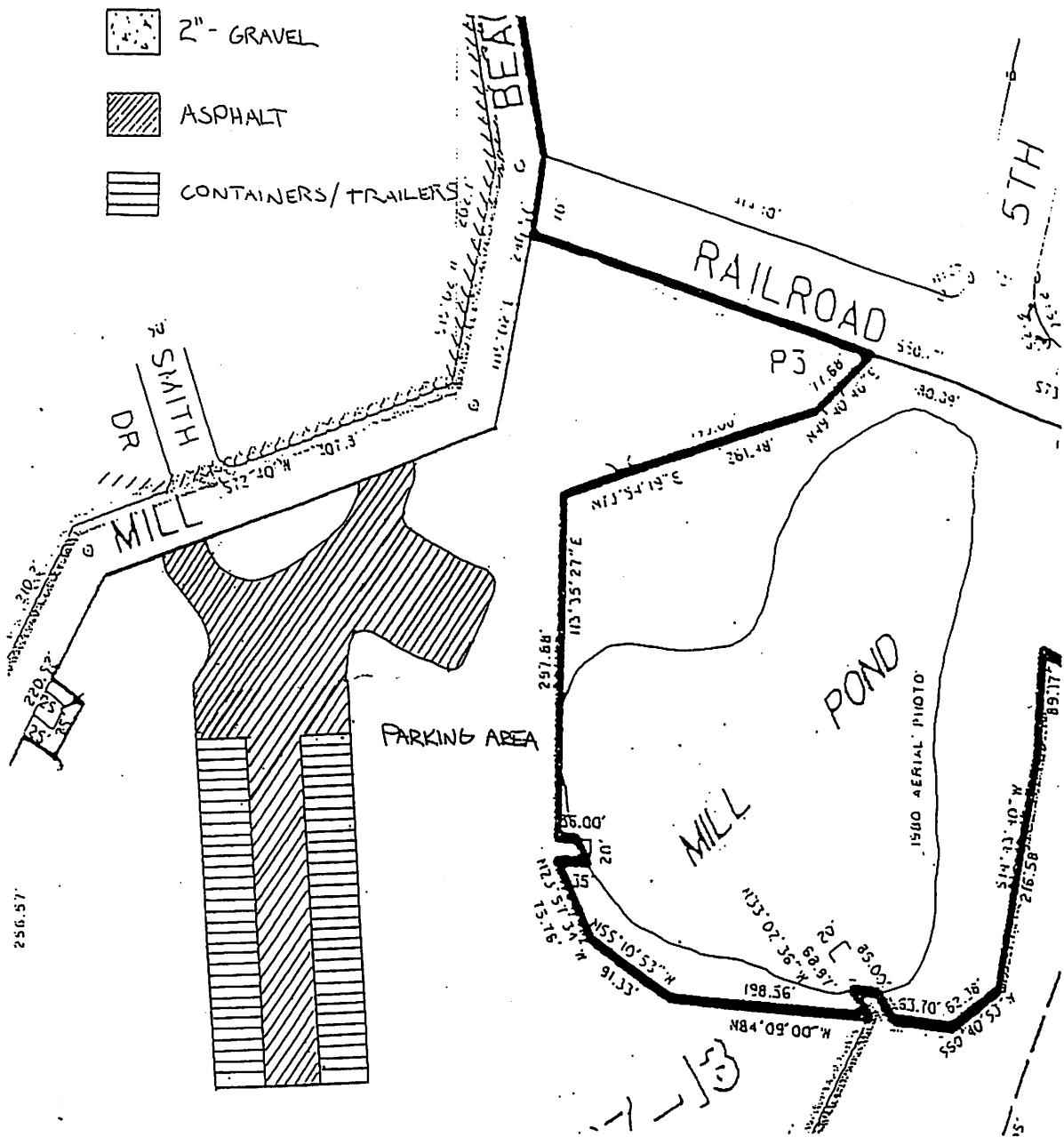
Respectfully,

Erik Ulbricht
Western Construction Services, Inc.
P: 541.412.7310
F: 541.412.8105
C: 541.661.4940



| | |
|----------------|-----------------------------------|
| Applicant: | Fred Meyer Store |
| Assessor's No: | 41-13-06 C Tax Lot 320 |
| Size: | 10.98 acres. |
| Location: | 325 Fifth Street |
| Zone: | R-3 (Multiple Family Residential) |





Applicant: Fred Meyer Store

Assessor's No: 41-13-06 C Tax Lot 320

Size: 10.98 acres.

Location: 325 Fifth Street

Zone: R-3 (Multiple Family Residential)



June 27, 2005

received
06/27/05 DC

Mr. Burke Raymond
Brookings City Manager
City of Brookings
898 Elk Drive
Brookings, Oregon 97415

RE: Stop-work order on Tax Lot 320, and deprivation of due process complaint

Dear Mr. Raymond,

Last Thursday, June 23, 2005, I left a message on your answering service informing you that unpermitted work was still being performed at the Western Construction storage site on Mill Beach Ave. I notified you of the two ordinances that establish that a) such work performed without a permit is unlawful and b) you are the city official charged with the duty of enforcement (BLDC 40.020, BLDC 164.010).

At shortly after 9:00 a.m. the following morning, Planning Director John Bischoff called me to offer his opinion that the city could do nothing to stop unlawful construction already in process. That conversation resulted in my awareness that the city has been depriving me of my due process rights as an appellant by not adhering to the legally-required procedures for staying a conditional use permit throughout the local appeals process (BLDC 140.100). As you must certainly be aware, preliminary injunctive relief from the public nuisance produced by unpermitted construction is necessary so that the final verdict is not worthless for the moving party. Please note that this is an inconsistent land use and the application has no presumptive validity.

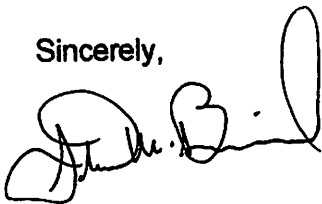
Legal counsel has advised me that, pursuant to BLDC 140.100, you have an obligation to issue a stop-work order on Tax Lot 320 at least until the local appeals process is complete. I would advise you to follow due process on this issue with utmost care. Please provide us with proof that this has been done ASAP. I have supplied a SASE for such use. As Section 4 forbids both *development* and *use* without a valid permit, this stop-work order must include at a minimum:

- 1) no further construction
- 2) no vehicular activity within the disputed *situs*

The site itself also needs to be red tagged as having been stop-ordered at the driveway entrance.

The following page contains the three ordinances, which when taken together, clearly lay out the mandatory course for a stop-work order. Note that BLDC 164.010 also charges you with the duty of nullifying any permit that may have been mistakenly issued in violation of applicable code provisions.

Sincerely,



Steve Bismarck, case appellant

140.100 Effect. No building or other permit shall be issued in any case where a conditional use permit is required by the terms of this code until 15 days after the decision of the Planning Commission is filed with the City Recorder. An appeal from an action of the Planning Commission shall automatically stay the issuance of a building or other permit until such appeal has been completed. In the event the Council acts to grant said conditional use permit, the building permit may be issued immediately thereafter, in accordance with such terms and conditions as may have been imposed on said permit.

4.020 Development permit required. Except as exempted by Section 4.070, no person shall engage in or cause the development of land for which a development permit has not been issued. Development permits shall be in a form prescribed by the city. Development permits are required for all uses, activities and developments, except those otherwise exempt, subject to the following processes and as required elsewhere in this code:

- A. All uses permitted, or conditionally permitted in all zoning districts of this code.
- B. Uses, activities and development subject to receipt of site plan approval.
- C. The following administrative and/or discretionary approval processes:
 - 1. Home occupation.
 - 2. Dwelling groups.
 - 3. Rear lot development.
 - 4. Planned unit development.
 - 5. Nonconforming uses.
 - 6. Variances.
 - 7. Conditional use permits.
 - 8. Amendments.
 - 9. Vacations.
 - 10. All uses subject to the provisions applying to special uses, Section 124.
 - 11. Minor, major partitions and subdivisions.

164.010 Enforcement. It shall be the duty of the City Manager to enforce this code. All departments, officials and public employees of the City of Brookings vested with the duty or authority to issue permits shall conform to the provisions of this code and shall issue no permit, certificate or license for any use, building or purpose which violates or fails to conform with conditions or standards imposed by this code. Any permit, certificate or license issued in conflict with the provisions of this code, intentionally or otherwise, shall be void.

164.020 Violations a nuisance. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this code and any use of any land, building or premise established, conducted, operated or maintained contrary to provisions of this code, shall be and the same is hereby declared unlawful and a public nuisance, and the city attorney to the City of Brookings may, upon advice of administrative staff, or upon order of the City Council shall, immediately commence action or proceedings for the abatement and removal and enjoinder thereof in a manner provided by law, and may take such other steps and apply to such courts as may have jurisdiction to grant such relief as will abate and remove such building or from setting up, erecting, building, maintaining or using any such building or structure or using property contrary to the provisions of this code. The remedies provided for herein shall be cumulative and not exclusive.

CITY OF BROOKINGS



June 24, 2005

Dan McKee, Store Manager
Fred Meyer
325 Fifth St.
Brookings, OR 97415

Re: Appeal of your conditional use permit for the temporary storage facility.

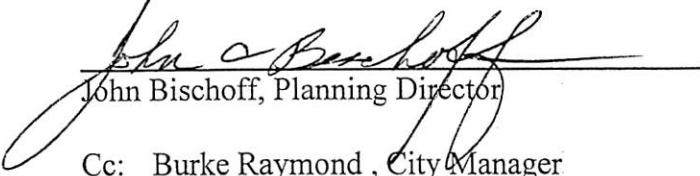
Dear Mr. McKee:

The Conditional Use Permit to operate a temporary storage facility on the South Coast Lumber Co. property was approved by the Planning Commission on June 7, 2005. This approval was subject to appeal by any participant of the June 7 hearing within a 15 day period after the hearing. On June 21, 2005 an appeal was filed in opposition to the permit. Accordingly, pursuant to Section 140.100, Conditional Uses, Effect, of the Land Development Code, once an appeal has been filed, the permit is stayed until the appeal has been completed.

Accordingly you are informed that as of the date of this letter you do not have a permit to operate the storage facility at its present location. Pursuant to Section 164, Enforcement and Penalties, of the Land Development Code, you must cease operation from that location or face penalties of up to \$200 for each day the use of the site continues from the date of receipt of this letter.

If you have any questions or have need more information please call me at (541) 469-1137.

Sincerely,


John Bischoff, Planning Director

Cc: Burke Raymond, City Manager
John Trew, City Attorney

IN THE MATTER OF FILE NO. CUP-2-05
 ARGUMENT IN OPPOSITION
 STEVE BISMARCK, TESTIFIER

June 6, 2005

Testifier:

Steve Bismarck,
 270 Allen Ln.,
 Brookings, OR 97415



Owner/occupant of the property identified as tax lot 112...a home where we are rudely awakened shortly after seven o'clock each morning wondering whether someone is holding a bowling tournament in our garage, or whether the Big Bass Drum society is rehearsing next door...the noise pollution is insufferable. Standing on my second-story deck, I was at first unsure whether the Marines had landed at Mill Beach, or whether a railroad salvage yard had opened across the street. The visual blight is beyond belief.

When I use the term "people" in this testimony, I'm referring to the position held by the people of the Mill Beach neighborhood who oppose this proposal. When I use the term "city", I'm referring to the City Planning staff's position of favoring the applicant.

Chairman Nishioka and members of the Planning Commission,

The applicant errs in asserting that the proposal is in accordance with the Comprehensive Plan, as it is grievously out of compliance with key requirements in Section 28 of the local LDC. In his staff report analysis, Mr. Bischoff has absent-mindedly leapfrogged over the initial stage of the approval process and started in the middle. Let's be clear about this: Section 140 applies only *after* it has been ascertained that the conditional use being petitioned for is one that is permitted in the specific zoning district's conditional use standards (R-3). In this case, the concerns of Section 140 are on hold until the proposal passes the compliance test posed by Section 28.040. The eighteen eligible uses in Section 28.040, labeled A-R, represent the absolute totality of conditional uses, temporary or indefinite, allowed by law in the R-3 district. Anything not on that list is a nonstarter for a permit. There is no separate or more lenient "temporary use" approval path outside of the regular conditional use standards. Temporary use *is* conditional use.

PEOPLE'S PROPOSED FINDING NUMBER ONE: Storage is not a permitted conditional use under Section 28.040 (R-3 zoning ordinance).

This by itself is more than dispositive to denial of the application, because the applicant cannot possibly meet his burden of proof. But let's dig a little deeper. Let's see if Section 28.040 has anything to say about storage at all. I made a digital copy of BLDC 28.040 and

highlighted in red any phrase that contains the word "storage". The first such reference appears in entry F which reads:

F. Governmental structures or uses including parks and recreation facilities, fire stations, libraries, museums, but not including storage or repair yards, warehouses or similar uses.

Q:\LAND DEV\CURRENT\WORD\SECTION 28.DOC
land development code-04/89 Updated as of 9-9-98, 1-02, 1-04 Section 28 Page 3

The next such reference is seen in entry M which allows for:

M. "Utility substations or pumping stations with no equipment storage."

Q:\LAND DEV\CURRENT\WORD\SECTION 28.DOC
land development code-04/89 Updated as of 9-9-98, 1-02, 1-04 Section 28 Page 4

PEOPLE'S PROPOSED FINDING NUMBER TWO: Section 28.040, a zoning ordinance establishing criteria for conditional uses, contains express language prohibiting the activity of storage in the R-3 district.

I am at a loss to understand the city's thinking here. In a zoning district governed by *a land use regulation containing express language that explicitly singles out storage as a disallowed activity*... even where appurtenant to a permitted use... the planning office is recommending approval of a conditional use permit for general storage? It is little wonder that the citizens of Brookings have completely lost faith in the civic planning process!

PEOPLE'S PROPOSED CONCLUSION NUMBER ONE: The disposition of the code with regard to storage in residential zones is so clear and compelling that no reasonable person, upon reading the provisions of BLDC 28.040, would arrive at the conclusion that the City of Brookings has the legal authority to issue conditional use permits for the purpose of storage in the R-3 district.

Furthermore, there are no conditions or modifications that the Commission can attach to the proposal to make it legal. While the Planning Commission has some latitude of discretionary authority, under state law, a decision rendered by local government is invalid if it is inconsistent with the express language of a land use regulation. (ORS 197.829(1)(a)).

PEOPLE'S PROPOSED FINDING NUMBER THREE: Section 28.040 is a land use regulation and the above highlighted text prohibiting storage is express language thereof.

The hands of the Commission are tied by the strictness of the language of the code. Storage is an expressly forbidden use in all "R" districts, no matter how temporary or conditional. There is nothing surprising about this. Because of the attendant problems of visual blight, noise pollution and potential environmental hazards, storage becomes increasingly difficult to justify as one moves down the zoning gradient from industrial to residential uses. In the "I/P" and "M" districts it is, for the most part, a use permitted outright. In the "C" districts, the legal status of storage becomes iffy. Even here, storage of this nature would require a conditional use permit, which might or might not be granted. In the "R" districts, it's not iffy at all – it's prohibited in any and all forms in order to safeguard the public interest, and to achieve the fundamental zoning goal of keeping industrial and residential activities segregated.

"Zoning ensures that commercial or industrial uses are not mixed with residential uses. Mixing commercial or industrial uses and residential occupancies could reduce the enjoyment of a home because of noise, odor, traffic or even unsightliness."

From What, Why, Where and How of Conditional Uses, City of Brookings Planning Office

Let me say something about Section 8. There is not a single rule, regulation, ordinance or any other article of law in Section 8. It is merely a glossary for the code. The terms defined therein have only *contextual validity* i.e., when embedded in the context of a land use regulation, code provision or ordinance, the *whole* of such a text has some level of legal potency because it constitutes an article of law. But a dangling definition by itself has no "legal tooth" to it. The LDC is a dynamic document. Code provisions get revised. Language is amended. Whole sections are repealed by city ordinances. As the code evolves, orphaned terms often accumulate in the definitions list, and years may go by before anyone realizes that there is an entry in Section 8 that no longer has an active antecedent in the main body of the LDC's current text. Don't be snookered by those who go on "fishing expeditions" in Section 8 in hopes of finding obfuscating issues raised by obsolete or inactive terms. Until such point as the party arguing the merit of such a term can verify its currency in legitimate context in the main body of the LDC, it is presumed to be a dead link to a previous version of the code and its argumentative value is *de minimus*.

PEOPLE'S PROPOSED FINDING NUMBER FOUR: An electronic search of the database has shown that the term "temporary use", found only in Section 8 (definitions), has no active circulation in the main corpus of the most recent version of the LDC. As such, it has no legal merit.

As to the other arguments, let's remember the basics. Pursuant to BLDC 1.060, ***any provision of the code that imposes greater restrictions than other rules, regulations or provisions shall become the prevailing jurisprudence in the disposition of the case.***

PEOPLE'S PROPOSED CONCLUSION NUMBER TWO: Since BLDC 28.040 imposes greater restrictions than any provisions mentioned in the staff report, or any other provisions of the LDC, it becomes the determinant land use regulation upon which adjudication of the application must rest. This makes the matter an adiscretional judgment for the Commission – the law requires that the Commission deny the application. The acting City Manager or his designee must write an order for the industrial squatter on tax lot 320 to cease further illegal activities and to quit the premises within 30 days.

It is high time to turn around the delinquent culture of illicit land use that plagues our area...and that's not going to happen by rewarding permit-shirkers with "sweetheart deals". This case underscores why permit-jumping is so pervasive in Brookings. It is precisely the fact that land-use violators are treated so leniently by city government that inspires others to do the same. The message is clearly sent that illegally-initiated development is a rather low-risk gamble in this town. Making permitted legitimacy the path of least resistance is becoming increasingly challenging as development fees soar. The only way to do so is to ensure that the consequences for illicit land use activity are sufficiently severe as to move the developers' assessment of risk assertively to the side of strict compliance with the law.

As an agent of a large corporation with its own legal resources, the applicant knew, or reasonably should have known, that the activities being contemplated for tax lot 320 were unlawful under the relevant zoning ordinances, and so the assumption-of-risk doctrine applies.

Adverse impacts of the project abound. The industrial activity underway on lot 320 has significantly impaired the enjoyment of residential occupancy for both residents and visitors in the Mill Beach neighborhood. It has, beyond a shadow of a doubt, substantially diminished the market value for those area homes whose owners need to sell them this summer. The City of Brookings, along with Fred Meyer Corporation and South Coast Lumber Company, may be held legally liable for such property losses as the diminished values would be a direct result of an inconsistent land use that compromises the livability of the neighborhood.

The people of Mill Beach neighborhood petition the Planning Commission to own up to its statutory obligations under ORS 227.280, cf. ORS 227.215(2) and settle the matter of CUP-2-05 in a manner that both adequately punishes the violator(s) for damages already incurred, and discourages future illegal land development in the community.

Exhibit 1-2 of 21
A
Received at P.C.
Hearing 6-4-05











Exhibit 11-12 of 21

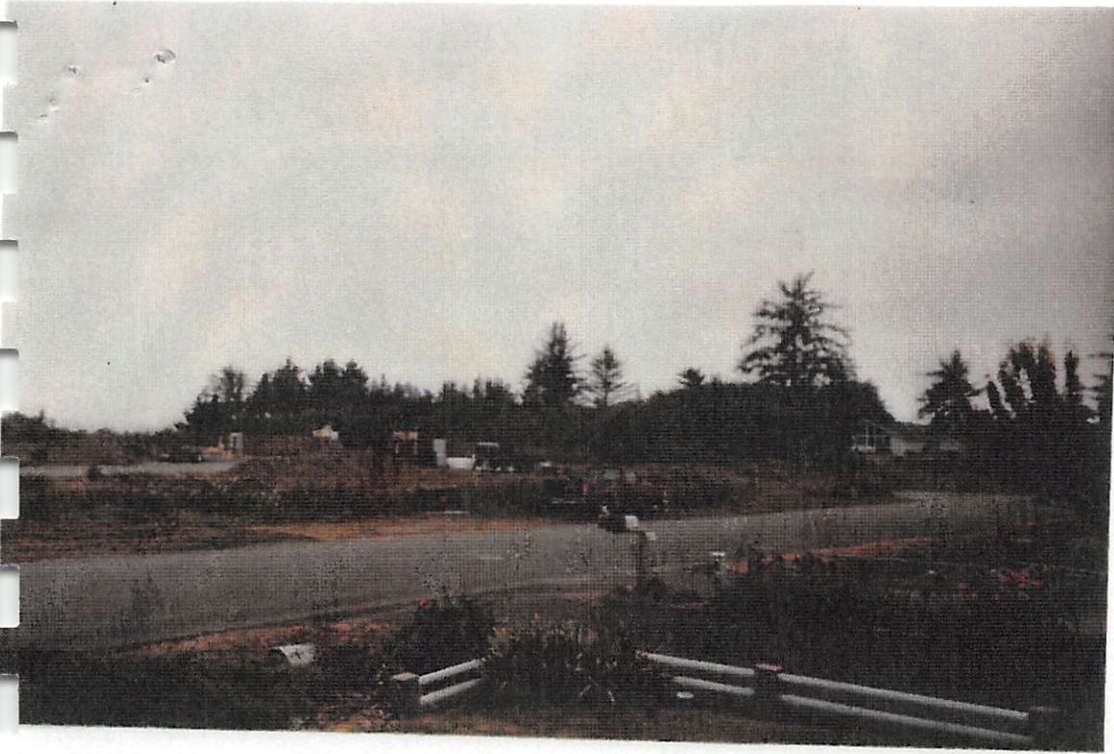




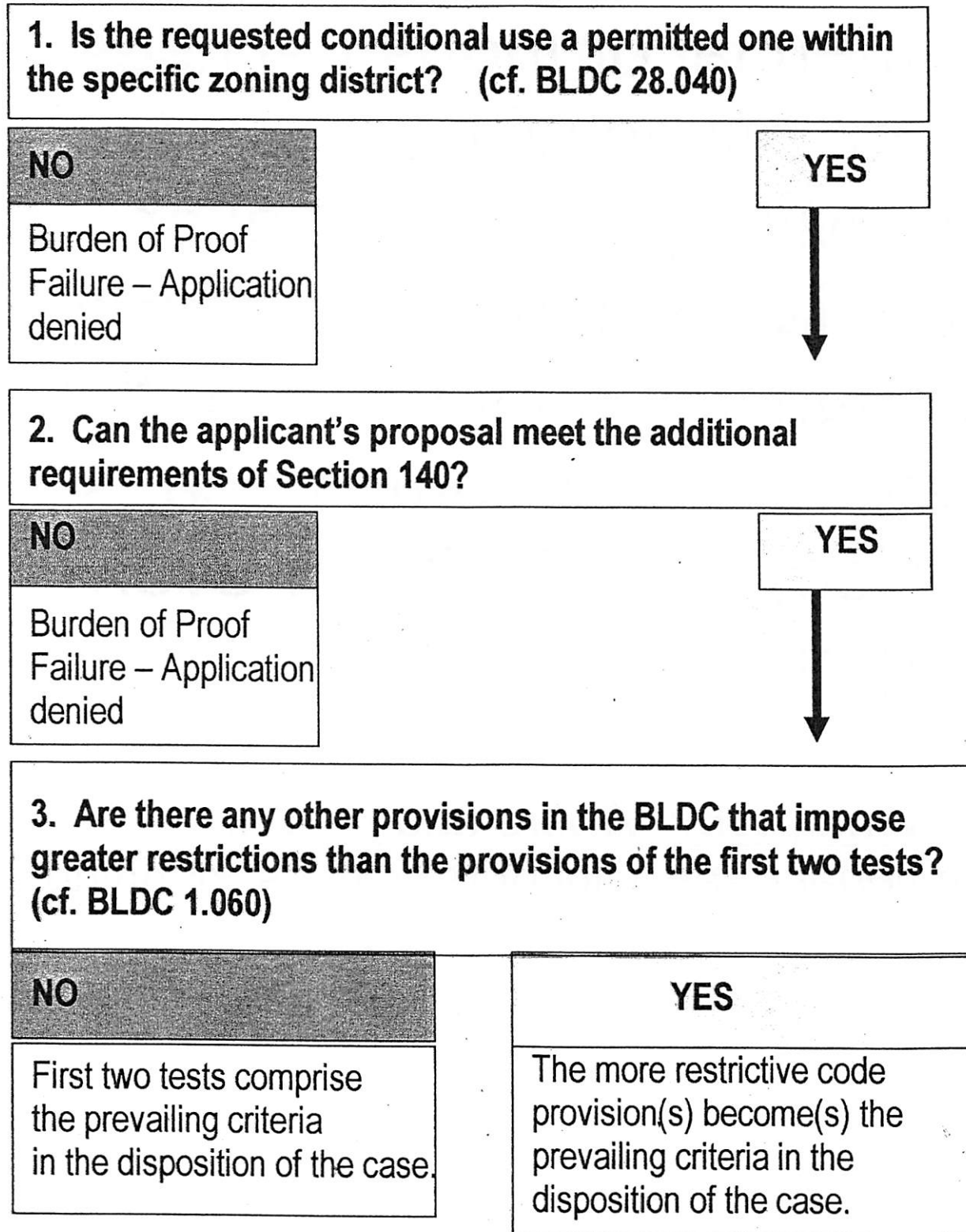




Exhibit 19-20 of 21





Validity Tests Flowchart for Conditional Use Permit Approval

“Zoning ensures that commercial or industrial uses are not mixed with residential uses. Mixing commercial or industrial uses and residential occupancies could reduce the enjoyment of a home because of noise, odor, traffic or even unsightliness.”

From What, Why, Where and How of Conditional Uses, City of Brookings Planning Office

received
07/08/05
EXHIBIT E

Harold E. Thiesen
Mail - P. O. Box 4183
Brookings, OR 97415

July 7, 2005

City of Brookings
898 Elk Drive
Brookings, OR 97415

Mayor: Pat Sherman
Members of City Council

I have been reading about the problems a Mill Beach Area resident has brought before the City Council concerning the temporary storage on the property of South Coast Lumber Co. and I would like to pass along my feelings on the matter to you.

I wonder if the complainant has considered the boost to our city economy this Fred Meyer remodel is bringing into our area. The workers on the project must eat and they must have a bed to sleep in. They also must buy their personal necessities locally. This expenditure totals no small amount of money.

My residence is a couple of blocks from the storage yard. I go by the storage yard once or twice each day and have not suffered any from dust or the unsightliness of the storage units. There have been no noticeable traffic problems in the surrounding area.

This issue might not arise again, but on the chance that it could, it might be worthwhile for our city to change the ordinance for this type of activity, to allow it on a temporary basis for a set limited time.

The City can always find use for some extra funds, but fining the Contractor in a situation like this is the wrong way to get it.

Sincerely,



Harold E. Thiesen
Member City of Brookings Budget Committee

TO: Mayor and City Council
FROM: John Bischoff, Planning Director
THROUGH: Burke Raymond, City Manager
DATE: July 13, 2005



Issue: Deed for additional right-of-way on Moore St.

Background: An apartment project located on Moore St. will require the dedication of 5 feet of additional right-of-way and street improvements. The applicant has submitted a deed to the city for the right-of-way and is attached to this memo.

Recommendation: Staff is recommending the acceptance of the deed for recordation.



After recording return to:
City of Brookings
898 Elk Drive
Brookings, OR 97415

Until a change is requested all tax statements
shall be sent to the following address:
City of Brookings
898 Elk Drive
Brookings, OR 97415

File No.: ()
Date: June 27, 2005

THIS SPACE RESERVED FOR RECORDER'S USE

DEED

Mahar/Kessler Properties LLC, Grantor, conveys to **The City of Brookings**, Grantee, the following described real property:

See Legal Description attached hereto as Exhibit A and by this reference incorporated herein.

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.

The true consideration for this conveyance is **Street Dedication**. (Here comply with requirements of ORS 93.030)

Dated this _____ day of _____, 20_____.

APN:

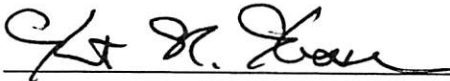
Bargain and Sale Deed
- continued

File No.: **kimaccomm (KEP)**
Date: **06/27/2005**

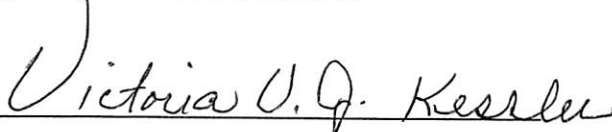
Mahar/Kessler Properties LLC



By: Michael T. Mahar, Member



By: Kurt R. Kessler, Member



By: Victoria V.J. Kessler, Member

APPROVED BY: THE CITY OF BROOKINGS, by _____

STATE OF Oregon)
County of Jackson)ss.
)

This instrument was acknowledged before me on this 5th day of July, 2005
by Michael T. Mahar as member of Mahar/Kessler Properties LLC, on behalf of the limited liability
company.



Notary Public for

My commission expires: **02/25/08**



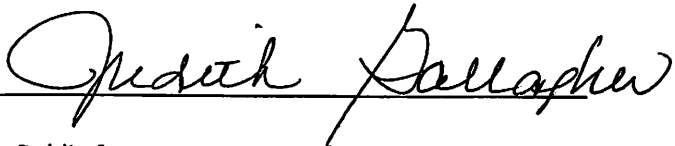
APN:

Bargain and Sale Deed
- continued

File No.: **kimaccomm (KEP)**
Date: **06/27/2005**

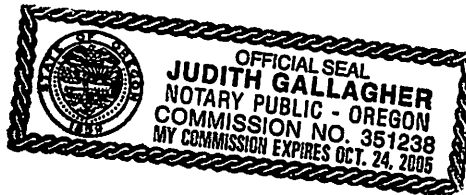
STATE OF Oregon)
)ss.
County of Curry)

This instrument was acknowledged before me on this 8th day of July, 2005
by Kurt R. Kessler and Victoria V.J. Kessler as members of Mahar/Kessler Properties LLC, on behalf of the
limited liability company.



Notary Public for
My commission expires:

10/24/05

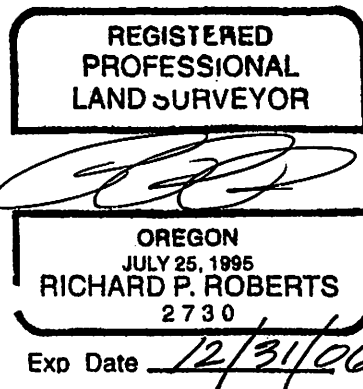


Moore Street
Dedication

EXHIBIT A

A strip of land for public road and utility purposes lying in the Government Lots 2 and 3 in Section 6, Township 41 South, Range 13 West, Willamette Meridian, City of Brookings, Curry County, Oregon, included within the following described lines:

COMMENCING at a point that is South 73.72 feet and West 777.23 feet (Record South 73.80 feet and West 777.00 feet) from the Northeast corner of said Government Lot 3;
thence North 174.72 feet to the TRUE POINT OF BEGINNING;
thence West 88.17 feet to the beginning of a non-tangent curve concave to the Northwest, having a radius of 35.00 feet, the long chord of which bears South 74°09'21" West 32.78 feet;
thence along said curve through a central angle of 55°50'18" an arc distance of 34.11 feet;
thence North 00°04'00" East 5.13 feet to the beginning of a non-tangent curve concave to the Northwest, having a radius of 30.00 feet, the long chord of which bears North 73°19'10" East 30.72 feet;
thence along said curve through a central angle of 61°35'24" an arc distance of 32.25 feet;
thence East 90.27 feet;
thence South 5.00 feet to the POINT OF BEGINNING.




APPROVED AND ACCEPTED BY THE CITY OF BROOKINGS, a municipal corporation of the State of Oregon, by Pat Sherman, Mayor, this _____ day of _____, 2005.

Pat Sherman, Mayor

State of Oregon)
)
County of Curry) ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 2005, by Pat Sherman, Mayor of Brookings.

Notary Public for Oregon
My Commission Expires:

TO: Mayor and City Council
FROM: Dianne Snow, Senior Planner
THROUGH: Burke Raymond, Interim City Manager 
DATE: July 12, 2005



Issue: Deed for a portion of Collis Lane right-of-way as depicted on the attached Assessor Map.

Background: A property owner, Gerald Hughes, has discussed a future partition for property accessed by Collis Lane. Mr. Hughes surveyor discovered the subject portion of Collis Lane was owned by Curry County. The County Roadmaster, Dan Crumley, believes it was likely acquired by the County as a result of tax foreclosure. Community Development Director, Ed Wait, wrote Mr. Crumley a letter requesting the County to deed this portion of Collis Lane to the City. This allows City control of future development and improvements on this street which is located in City limits. The Board of Commissioners, in their July 5, 2005 meeting approved a resolution to deed this portion of Collis Lane to the City. A deed was prepared by the County and sent to John Trew, City Attorney, for his review. Mr. Trew has forwarded the deed to the City stating it needs to be placed on City Council agenda for acceptance. Mr. Hughes has submitted a application to partition his property and create one additional lot. The City, Mr. Hughes, and several of the Collis Lane residents have met to discuss the needed street improvements. Presently Collis Lane is a dead-end without a turnaround. With the improvements Collis Lane will be connected to Arnold Lane to correct this problem. Other details of design are still being discussed. I have attached the correspondence regarding this matter and the deed.

Recommendation: Acceptance of the deed for recording.

SEE MAP 41 13 6BC

CANCELLED NO.

0 100 200
SCALE IN FEET

AREA OF
COLLIS LANE TO BE
DEEDED TO THE CITY

41 13 6CB
BROOKINGS

CITY OF BROOKINGS



March 3, 2005

Curry County Road Department
P. O. Box 746
Gold Beach, OR. 97444

Attn: Dan Crumley, Road Master

Subject: Collis Lane ownership

Dear Mr. Crumley,

The City of Brookings is reviewing an application for some property located on Collis Lane in Brookings. Through this process it was indicated that Curry County has ownership of a portion of the Right-of-way, specifically 41-13-6 CB, Tax Lot 5000. We anticipate that the ownership was acquired by tax default and with the current interest in development for this area we now have an opportunity to get this area paved and improvements placed. This would benefit the community and remove another segment of the ROW for the county to maintain.

To that end we believe the simplest and easiest way to correct this issue is for the County to deed the Tax Lot (41-13-6CB, Tax Lot 5000) to the City of Brookings. The City would bring this into our inventory and take over operation and maintenance of this small segment under current County Jurisdiction.

If you have any questions or require further information, please contact me at 1-541-469-1134.

Best regards,

Ed Wait
Community Development Director

Cc: Leroy Blodgett, City Manager
Dianne Snow, Senior planner

Legal
COPY**BEFORE THE BOARD OF COUNTY COMMISSIONERS****IN AND FOR THE COUNTY OF CURRY, OREGON**

In the Matter of a Resolution)
Setting a Hearing on a Proposal)
For Curry County to Transfer a) **RESOLUTION**
Portion of Collis Lane to the)
City of Brookings)

WHEREAS, Curry County owns a portion of the right-of-way on Collis Lane, specifically Tax Lot 5000 on Curry County Assessor Map No. 41-13-6CB, in Brookings, Oregon; and

WHEREAS, the City of Brookings has sent a letter to the County asking that it deed the property to the City of Brookings; and

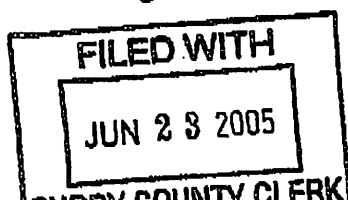
WHEREAS, the City of Brookings has indicated that it has the opportunity to get the area paved and improvements placed to benefit the community and to remove another segment of the right of way for the County to maintain; and

WHEREAS, the subject property is not part of the County road system, and the Curry County Road Master supports transferring ownership of this parcel to the City of Brookings;

WHEREAS, the subject property was likely acquired by the County as a result of tax foreclosure; and

WHEREAS, ORS 271.330(1) provides "Any political subdivision is granted express power to relinquish the title to any of its property not needed for public use to any governmental body, providing such property shall not be used for not less than 20 years for a public purpose by the governmental body in the State of Oregon. These transfers for public purposes may include transfers without consideration of property held by counties as a result of tax foreclosure"; and

WHEREAS, ORS 271.330(2) requires that before tax foreclosed properties be transferred to another governmental body, notice be published in a newspaper of general circulation in the county for two successive weeks of the intention to transfer the property, and that a hearing be held to allow public comment on the proposal;

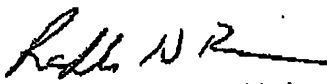


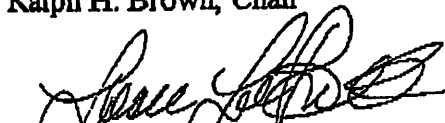
NOW, THEREFORE, THE BOARD OF CURRY COUNTY COMMISSIONERS
HEREBY RESOLVES AS FOLLOWS:

- 1) It is the intention of the Board of Curry County Commissioners to transfer Tax Lot 5000 on Curry County Assessor Map No. 41-13-6-CB to the City of Brookings.
- 2) A hearing on the proposal shall be set during the next regular Board of Commissioners' meeting at 10:30 A.M. on July 5, 2005, in the Commissioners' Hearing Room, Courthouse Annex, 94235 Moore Street, Gold Beach, Oregon.
- 3) Notice of the hearing shall be published in accordance with ORS 271.330(5).
- 4) After the hearing set in the notice is held and objections, if any, are heard, the Board, in its sound discretion, may proceed with the transfer.

DATED this 20th day of June, 2005.

BOARD OF CURRY COUNTY COMMISSIONERS


Ralph H. Brown, Chair


Lucie La Bonté, Vice Chair


Marlyn Schafer, Commissioner

Approved as to Form:


M. Gerard Herbage
Curry County Legal Counsel

JOHN B. TREW
CAROL P. CYPHERS
JOHN MEYNINK

TREW, CYPHERS & MEYNINK

ATTORNEYS AT LAW
222 E. 2nd Street
P.O. Box 158
Coquille, Oregon 97423-0158
(541) 396-3171
FAX (541) 396-5723
e-mail: trewcypers@verizon.net

ESTABLISHED BY
A. J. SHERWOOD
IN 1886
HARRY A. SLACK, SR.
(1900-1988)
HARRY A. SLACK, JR.
(RETIRED 1991)

July 8, 2005

Ed Wait
Community Development Director
898 Elk Dr.
Brookings, OR 97415

Re: ***Collis Lane Deed***

Dear Ed,

Enclosed find a letter from Jerry Herbage, the original County Deed to Municipal Corporation and county form for the acceptance of property.

The matter should be placed on the agenda of the next meeting of the Council. The county form can be used by changing it to the City. The Council should accept the deed by motion and then the deed should be recorded with the County Clerk.

If you have any questions or if you want me to do anything further regarding the matter please advise.

Yours truly,



JOHN B. TREW

JBT:lkp

Enclosures

Until further notice,
send tax statements to:
Not Applicable

[space reserved for recorder]

After recording, send to:
City Administrator
City of Brookings
898 Elk Drive
Brookings, OR 97415

COUNTY DEED TO MUNICIPAL CORPORATION

THIS DEED is made this 5th day of July, 2005, by Curry County, a Political Subdivision of the State of Oregon ("Grantor") to the City of Brookings, a Municipal Corporation of the State of Oregon ("Grantee").

RECITALS:

- A. The real property described in Exhibit "A", which is attached and incorporated by reference, is owned by Grantor. Under ORS 271.330(1) a political subdivision is granted express power to relinquish title to any property not needed for public use to another governmental body, "providing such property shall be used for not less than 20 years for a public purpose by the governmental body."
- B. The Board of Curry County Commissioners finds that the subject property is not needed for County public use.
- C. On June 20, 2005, by Board Resolution the Curry County Board of Commissioners expressed its intent to transfer the real property described in Exhibit "A" to Grantee in accordance with ORS 271.330 pursuant to the request of Grantee. This deed is made to consummate the transaction, following notices and a public hearing on the matter.

NOW, THEREFORE, Curry County, Grantor, does hereby release and quitclaim to the City of Brookings, Grantee, all right title and interest in and to the real property described in the attached Exhibit "A".

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$0.

"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 USE AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930."

GIVEN UNDER OUR HANDS OFFICIALLY the date first set forth above.

Ralph H. Brown
Ralph H. Brown, Chair

7-5-05
Date

Lucie LaBonté
Lucie LaBonté, Vice Chair

7-5-05
Date

Marlyn Schafer
Marlyn Schafer, Commissioner

7-5-05
Date

STATE OF OREGON)

County of Curry)

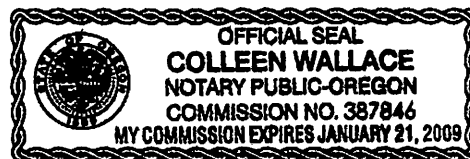
) ss

This instrument was acknowledged before me this 5th day of July, 2005 by Ralph H. Brown, Lucie LaBonté, Marlyn Schafer, commissioners, as the governing body of Curry County, Oregon.

Colleen Wallace

Notary Public for Oregon

My Commission Expires: 1/21/09



Collis Lane Description

EXHIBIT A

A parcel of land lying in Government Lot 3, Section 6, Township 41 South, Range 13 West, Willamette Meridian, City of Brookings, Curry County, Oregon, more particularly described as follows:

BEGINNING at a 5/8" iron rebar set at the northeast corner of that parcel conveyed to James f. Paisley and Doreen K. Paisley in Instrument 2003-8128, Official Records of Curry County, Oregon, said rebar is described as being South 788.8 feet and West 817.62 feet from the northeast corner of said Government Lot 3;

thence North 89°58'26" East, a distance of 20.00 feet (record East 20.00 feet) to the Northwest corner of that parcel conveyed to June Whitehead in Instrument 2000-2962, Official Records of Curry County, Oregon, and the point of curve of a non tangent curve to the left, of which the radius point lies South 89°45'59" East, a radial distance of 25.66 feet;

thence following the westerly boundary of said Whitehead parcel, southerly along the arc, through a central angle of 45°14'02", a distance of 20.26 feet;

thence South 45°00'00" East, a distance of 87.35 feet to a tangent curve to the left having a radius of 34.15 feet and a central angle of 45°00'00";

thence easterly along the arc a distance of 26.82 feet;

thence East, a distance of 55.79 feet;

thence leaving said Whitehead parcel South, a distance of 20.00 feet to the Northeast corner of that parcel conveyed to Gerald P. Hughes and Julie A. Hughes in Instrument 2004-4232, Official Records of Curry County, Oregon;

thence along the northerly boundary of Hughes, West, a distance of 55.79 feet to a tangent curve to the right having a radius of 54.15 feet and a central angle of 45°00'00";

thence westerly along the arc a distance of 42.53 feet;

thence North 45°00'00" West, a distance of 52.43 feet to the southeast corner of said Paisley parcel;

thence along the easterly boundary of said Paisley parcel North 45°00'00" West, a distance of 34.92 feet to a tangent curve to the right having a radius of 45.66 feet and a central angle of 45°07'12";

thence northerly along the arc a distance of 35.96 feet to the POINT OF BEGINNING.

Containing 4,118.45 square feet or 0.0945 acres, more or less.

APPROVED AND ACCEPTED BY THE CITY OF BROOKINGS, a municipal corporation of the State of Oregon, by Pat Sherman, Mayor, this _____ day of _____, 2005.

Pat Sherman, Mayor

State of Oregon)
)
County of Curry)

ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 2005, by Pat Sherman, Mayor of Brookings.

Notary Public for Oregon
My Commission Expires:

CITY OF BROOKINGS




STAFF REPORT

Date: July 14, 2005

To: Mayor Sherman and City Councilors

From: Ed Wait, Community Development Director

Through: Burke Raymond, Interim City Manager 

Subject: Highway 101 sewer project

REPORT

The State of Oregon Department of Transportation (ODOT) has let a contract for Highway 101 from Lone Ranch Beach to the Chetco River Bridge. The improvements will include drainage, paving, signing, illumination, signals and guardrails. Once this project is completed by ODOT they will place a moratorium on cuts into the road for a number of years, except for emergencies.

To that end, last fiscal year the City moved forward to replace deteriorated water and sewer lines in Highway 101 anticipating this restriction. During construction a sewer line issue developed, late in our fiscal year, that requires our attention now. The sewer line north of 5th Street was replaced with a 10 inch diameter pipe. The point of connection at 5th and Chetco Avenue was excavated and the downstream pipe was supposed to be 10 inch. That is not the case and we now have a line segment in Highway 101 that goes from 10 inch upstream to 8 inch downstream and back to 10 inch at the next manhole (Please refer to the drawing attached for this line segment). This now creates a restriction point in our system and needs to be rectified. The anticipated cost for this replacement is \$70,000.

Two specific projects were developed in our 2005-2006 wastewater fund and our Waste Water System Development Fund. The projected total costs for these two projects are \$610,000 and utilizes a combination of these two funds to complete. Priorities sometimes develop that require our attention even with the best laid plans. In this case we would like to program some of these dollars to complete the 101 project to beat ODOT and maintain the integrity of our systems capacity. The project we would reprogram partial funding from is the 36" line replacement project from Wharf Street to the Waste Water Treatment Plant.

RECOMMENDATION

Approve reprogramming some of these funds to complete this project.

CITY OF BROOKINGS



STAFF REPORT

Date: July 14, 2005

To: The Urban Renewal Agency

From: Ed Wait, Community Development Director

Through: Burke Raymond, Interim City Manager *[Signature]*

Subject: Matching funds for Chetco Point Park Improvements

REPORT

Last year the City of Brookings was successful in receiving a matching grant from the Department of Land Conservation and Development in the amount of \$50,000 for Chetco Point Park. These dollars are to provide improvements to the parking area, trail system, addition of viewing points, directional signage and handicapped accessibility. The site has been surveyed, conceptual designs completed, and bid documents are now being prepared.

Chetco Point Park is located in the Urban Renewal District and is included in the Urban Renewal Plan. Section 700, of the Urban Renewal Plan, provides descriptions of projects to be undertaken and, under Section 701A – Public Parks and Open Spaces, specifically points out enhancements to Chetco Point as a targeted project.

To that end, we are recommending the replacing of the budgeted matching dollars from the General Fund to the Urban Renewal budget. This project should be completed this fiscal year. Additional grant will be sought for additional improvements. If we are successful the funds will most likely require matching funds from future Urban Renewal Agency budget.

The money is available through our revolving line of credit for this project.


RECOMMENDATION

Approve reprogramming of these funds to complete this project.

CITY OF BROOKINGS



STAFF REPORT

Date: July 14, 2005
To: Mayor Sherman and City Councilors
From: Ed Wait, Community Development Director
Through: Burke Raymond, Interim City Manager 
Subject: Goals and Objectives

REPORT

In a council work session the 2005-2006 Council Goals were refined to facilitate staff focus on the most strategic attainable goals for this fiscal year. Next, staff was directed to outline objectives under these goals. The following is the outline for the Community Development and Public Works Departments.

Public Works Department

Goal: Storm Water Master Plan

Objectives:

- Contract with Rogue Valley Council of Governments (RVCOG) to assist in this process. – In process
- Determine the possibility of working with Curry County to complete a plan for the entire Brookings Urban Growth Boundary. – In process
- Seek grant funding to assist in this process. – Favorable review by State
- Complete an Intergovernmental Agreement with the County to accomplish the plan. – In process
- Develop a scope of work and complete a Request for Proposals based on the Scope. – Not started
- Hire a consultant to initiate the Design and modeling. – Not started
- Complete as much work as possible within the funding limits. – Include in the 2006-2007 City budget
- Develop a strategy to complete the project in the 2006-2007 fiscal year.

Goal: Water Source Protection

Objectives:

- Increase the number of sites that can be utilized for Biosolids disposal. – In process

- Complete an agreement with the City of Grants Pass to take our Biosolids. Approved by Council on 07-25-05
- Dispose of enough Biosolids to provide winter storage at our facility. - Ongoing
- Continue to review alternate methods of disposal. - Ongoing
- Review additional treatment options and costs. - Ongoing
- Review the fiscal impacts for modified methods and adjust user rates. – Recommendation in 2006-2007 budget review

Community Development Department

Goal: Land Development Code

Objectives:

- Review Sections concerning Bonding and modify. – Summer or fall 2005
- Review and modify Section 100, Hillside Standards – In process
- Begin codification process of the Land Development Code. – Subject to completion of city codification

Goal: Downtown Revitalization

Objectives

- Underground utilities in conjunction with the ODOT reconstruction project downtown. – Completion spring or summer of 2006
- Place decorative street lighting in downtown in conjunction with the ODOT reconstruction project. – Completion spring or summer of 2006
- Complete handicap accessibility to Chetco Point Park. – Fall 2005 - Spring 2006
- Establish an advisory group to the Urban Renewal Agency. – Fall 2005

RECOMMENDATION

Approve the objectives outlined for each goal for the Public Works Department and Community Development Department.

CITY OF BROOKINGS




STAFF REPORT

Date: July 14, 2005

To: Mayor Sherman and City Councilors

From: Ed Wait, Community Development Director

Through: Burke Raymond, Interim City Manager 

Subject: Grants Pass Wastewater biosolids dewatering and composting

REPORT

The City does not currently have the capacity to place all our biosolids, created annually, in a land application manner. Staff has been exploring options to alleviate this issue and has made progress on two fronts. The first method we are utilizing is forest based application within our region. To that end, we have secured additional sites for application purposes and received permits to application. This course is the most cost effective method, however, we do not have enough land bases in our inventory to apply our entire product. We are continuing to explore other areas for land based application.

The second front we have established is with the City of Grants Pass. Staff has negotiated an agreement for treatment of our biosolids at their Water Restoration Plant and conversion at their JO-GRO composting facility. That agreement has been reviewed by our legal counsel and accepted by Grants Pass.

We still need to transport a large volume of material throughout the summer months and early fall to reach a level which we can maintain through the winter months. With the additional land base established for biosolids and the assistance from the City of Grants Pass. We anticipate we will be in good condition for our winter season if this agreement is approved.

RECOMMENDATION

Approve the agreement with the City of Grants Pass.

**BROOKINGS - GRANTS PASS
WASTEWATER LIQUID BIOSOLIDS
DEWATERING AND COMPOSTING AGREEMENT**

PARTIES: The City of Grants Pass (GP) and the City of Brookings (Brookings)

RE: Liquid Biosolids (BIOS) generated at the Brookings Wastewater Treatment Plant

WHEREAS, The City of Brookings (Brookings) desires to remove BIOS generated at the Brookings Wastewater Treatment Plant by delivering it to the Grants Pass Water Restoration Plant (GPWRP), where it will be dewatered after which the dewatered BIOS (cake) will be trucked by GP to the JO-GRO™ Co-composting facility (JO-GRO) for final disposal with the estimated volume of BIOS generated per year by Brookings to be 2,000,000 gallons containing about 1.6 percent solids.

NOW THEREFORE, in consideration of the above and of the provisions contained herein, the Parties agree to the following terms and conditions.

1. **EXPIRATION.** This agreement will run from July 15, 2005 through June 30, 2008. Any extensions must be in writing and signed by the GP City Manager. GP makes no expressed or implied representation that this agreement will be extended beyond June 30, 2008.
2. **TRANSPORT AND DELIVERY.** Brookings (at its sole expense) shall transport and unload the BIOS at GPWRP. Except as noted in section , deliveries will be accepted by GPWRP between the hours of 8:00 a.m. and 4:30 p.m., 7 days a week except for those days listed on "Exhibit 2" which is attached to and incorporated herein. GPWRP will determine the quantities that may delivered in any given day and week which will depend on GPWRP's determination of available excess capacity for handling and dewatering the BIOS and the quality of the BIOS.
3. **GPWRP RESPONSIBILITY.** GPWRP will be responsible for dewatering the BIOS and composting the cake at JO-GRO.
4. **FEE.** Brookings shall pay GP the sum of \$310 per dry ton of BIOS delivered to GPWRP. This total price includes \$160.00 for dewatering services and \$150.00 for composting services. GPWRP will sample each load to determine the solids concentration. The weight will be calculated as follows: Volume x 8.34 pounds per gallon x percent dry weight concentration. If Brookings disagrees with GPWRP's determination it may (at its sole expense) have an independent laboratory split a sample with GPWRP for analysis. The independent laboratory's determination shall be controlling.
5. **BILLINGS.** GP will submit monthly billings, indicating the date of delivery, number of loads and quantity of BIOS delivered, including the solids content for each load of BIOS as determined by GPWRP.
6. **CLEANLINESS AND SPILLAGE RESPONSIBILITIES.** Brookings shall keep the equipment used to transport and dispose of the BIOS clean and free debris or liquids that could potentially contaminate the BIOS or the environment. Brookings shall promptly cleanup any spillage on roadways or at GPWRP. Brookings shall promptly report all spills to GPWRP and to the proper State and Federal agencies.

7. **LICENSING AND COMPLIANCE.** Brookings continually warrants that all licensing and transporting requirements of the State of Oregon and the State of California will be continuously met without interruption during the term of this agreement. Brookings shall comply with all State and Federal laws.
8. **TESTING REQUIREMENTS.** Brookings shall have the BIOS analyzed quarterly for Ammonia, TKN, Nitrate, Phosphorus, Potassium, Arsenic, Cadmium, Chromium, Copper, Lead, Mercury, Molybdenum, Nickel, Selenium, Zinc and Silver. Copies of the test results shall be immediately forwarded to GPWRP. Failure of the BIOS to meet the EPA 503 regulations for class "B" Biosolids, or the addition of any constituents to the BIOS shall constitute just cause.
9. **INDEPENDENT CONTRACTOR.** Brookings will provide the names and phone numbers of any independent contractors they hire to transport and unload BIOS to GPWRP. Brookings shall be jointly and severally liable for the acts of independent contractors.
10. **HOLD HARMLESS.** Brookings and its successors and assigns (including independent contractors) agrees to completely protect, save, defend, hold harmless and indemnify GP, and its officers, agents and employees, from any liability or obligation of any kind or nature whatsoever arising from injury or injuries, including death, to any person or persons, or damage to any property, real or personal, or damage to any contractual, or other commercial right or interest, suffered or alleged to have been suffered all or in part by any person, property, or business, or from any other liability of whatever kind or nature arising out of any conduct, act, or failure to act, by Brookings, or by an employee, representative, independent contractor, or agent of Brookings.
11. **TERMINATION FOR JUST CAUSE.** This agreement may be terminated immediately for just cause by either Party by providing faxed notice of the intent to terminate. Failure of the other Party to comply with any of the terms of this agreement shall constitute just cause. Notice may be given at any time during a 24 hour day.
12. **TERMINATION WITHOUT CAUSE.** This agreement may be terminated without cause by either Party by providing faxed notice of the intent to terminate not less than 28 days in advance. The following shall be acceptable circumstances for termination without cause: Brookings has decided on alternative disposal methods or sites; GP has decided that it does not have sufficient excess capacity to warrant the acceptance of BIOS generated outside Josephine County.
13. **ATTORNEY FEES,** If suit or action is brought by either Party to enforce any right created by this Contract, the prevailing Party shall be entitled to recover in any trial court, and appellate courts, reasonable attorney fees, including costs and disbursements therein.

IN WITNESS WHEREOF, the PARTIES hereto on the dates indicated set their hands by through their duly authorized agents.

CITY OF GRANTS PASS by Laurel Samson, City Manager, _____ Date _____

Attest: Joanne Stumpf, Administrative Services Director _____ Date _____

CITY OF BROOKINGS by Burke M. Raymond, City Manager, _____ Date _____

Attest: Administrative Assistant _____ Date: _____

CITY OF BROOKINGS



Staff Report

Date: July 18, 2005

To: Mayor Sherman and City Council

From: Joe Ingwerson, Chief Plant Operator

Through: Ed Wait, Community Development Director &
Burke Raymond, Interim City Manager

Subject: Final Agreement between The City of Brookings & City of Grants Pass for
hauling and processing biosolids, and Contract between Roto Rooter.

Report

You will see attached the Final Agreement between the City of Brookings and Grants Pass. Next will be the Contract for hauling to Grants Pass by Roto Rooter.

If possible we will haul 32,000 gallons each day to Grants Pass for processing. The Grants Pass facility can take this amount of biosolids six days per week. If we sustain this amount every week, our biosolids tank will be drawn down enough by mid September for use through out the winter.

The Oregon Department of Environmental Quality has given the city approval for three new forest sites. Operators will utilize all sites possible this year to save the cost of transporting to Grants Pass. City Wastewater Treatment Staff are also looking in to using other farm sites and are seeking DEQ approval for these.

Recommendation

Approve the agreement with Roto Rooter.

**Roto Rooter of Curry County – Brookings
Hauling Agreement**

Parties: The City of Brookings and Roto Rooter of Curry County

Re: Hauling Liquid Biosolids to the City of Grants Pass Water Reclamation Plant.

Whereas, The City of Brookings desires to remove biosolids generated at the Brookings Wastewater Treatment Plant by having it transported by tanker trucks to The City of Grants Pass Water Reclamation Plant. Estimated volume will be around 1,000,000 gallons containing 1.6 % solids.

NOW THEREFORE, in consideration of the above and of the provisions contained herein, the Parties agree to the following terms and conditions.

1. **EXPIRATION.** This agreement will run from July 26, 2005 through September 30, 2005, or until the biosolids tank #3 is emptied. Brookings makes no expressed or implied representation that this agreement will be extended beyond September 30, 2005.
2. **TRANSPORT AND DELIVERY.** Roto Rooter of Curry County shall transport and unload the biosolids at Grants Pass Water Reclamation Plant between the hours of 8:00 a.m. and 4:30 p.m., on the days agreed upon between the City of Brookings and The City of Grants Pass. Grants Pass Water Reclamation Plant will determine the quantities that may be delivered in any given day and week which will depend on their determination of available excess capacity for handling and dewatering the biosolids.
3. **Roto Rooter of Curry County RESPONSIBILITY.** Roto Rooter of Curry County will be responsible for the safe hauling and delivery of the City of Brookings liquid biosolids.
4. **FEE.** The City of Brookings shall pay Roto Rooter of Curry County \$0.09 per Gallon. Gallons transported will be measured by the City of Brookings Wastewater Treatment Plant Sludge Loading Flow Meter at Tank # 3.
5. **BILLINGS.** The City of Brookings will submit monthly billings, indicating the number of loads delivered, including gallons per truck.
6. **CLEANLINESS AND SPILLAGE RESPONSIBILITIES.** Roto Rooter of Curry County shall keep the equipment used to transport and dispose of the biosolids clean and free of debris or liquids that could potentially contaminate the biosolids or the environment. Roto Rooter of Curry County shall promptly cleanup any spillage on roadways or at the Grants Pass Water Reclamation Plant.

Roto Rooter of Curry County shall report all spills to The City of Brookings, Grants Pass Water Reclamation Plant and the proper State and Federal agencies.

7. **LICENSING AND COMPLIANCE.** Roto Rooter of Curry County continually warrants that all licensing and transporting requirements of the State of Oregon and the State of California will be continuously met without interruption during the term of this agreement. Roto Rooter of Curry County shall comply with all State and Federal laws.
8. **INDEPENDENT CONTRACTOR.** Roto Rooter of Curry County will provide the names and phone numbers of any independent contractor they hire to transport and unload biosolids to Grants Pass Water Reclamation Plant. Roto Rooter of Curry County shall be jointly and severally liable for the acts of independent contractors and their own operators.
9. **HOLD HARMLESS.** Roto Rooter of Curry County and its successors and assigns (including independent contractors) agrees to completely protect, save, defend, hold harmless and indemnify the City of Brookings, and its officers, agents and employees, from any liability of obligation of any kind or nature whatsoever arising from injury or injuries, including death, to any person or persons, or damage to any property, real or personal, or damage to any contractual, or other commercial right or interest, suffered or alleged to have been suffered all or in part by any person, property, or business, or from any other liability of whatever kind or nature arising out of any conduct, act, or failure to act, by Roto Rooter of Curry County, or by an employee, representative, independent contractor, or agent of Roto Rooter of Curry County.
10. **TERMINATION FOR JUST CAUSE.** This agreement may be terminated immediately for just cause by either Party by providing faxed notice of the intent to terminate. Failure of the other Party to comply with any of the terms of this agreement shall constitute just cause. Notice may be given at any time during a 24 hour day.
11. **TERMINATION WITHOUT JUST CAUSE.** This agreement may be terminated without cause by either Party by providing faxed notice of the intent to terminate not less than 5 working week days in advance. The following shall be acceptable circumstances for termination without cause: The City of Brookings has decided on alternative disposal methods or sites; The City of Grants Pass has decided that it does not have sufficient excess capacity to warrant the acceptance of biosolids generated outside Josephine County.
12. **ATTORNEY FEES.** If suit or action is brought by either Party to enforce any right created by this Contract, the prevailing Party shall be entitled to recover in any trial court, and appellate courts, reasonable attorney fees, including costs and disbursements therein.

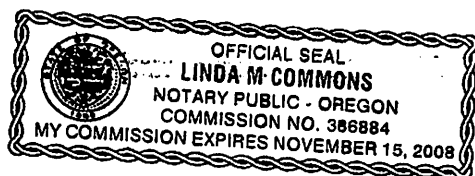
IN WITNESS WHEREOF, the PARTIES herto on the dates indicated set their hands by through their duly authorized agents.

City of Brookings by Burke M. Raymond, City Manager, . . . Date _____

Attest: Administrative Assistant Date .

Roto Rooter of Curry County by Don Bauman, Site Manager _____ Date 7-20-05

Attest: Notary Linda M. Commons Date 7/20/05



Control Number

35262

DEPARTMENT OF ENVIRONMENTAL QUALITY
LICENSE FOR SEWAGE DISPOSAL SERVICE
LICENSE PERIOD: JULY 1, 2004 THROUGH JUNE 30, 2005

License Number

Corporation 36303

Curry Transfer & Recycling,
ROTO-ROOTER OF CURRY COUNTY
PO Box 4008
Brookings OR 97415-0081

Pumper Only

4059

Payment Received:

06-29-2004

License Issued:

07-01-2004

License Expires:

JUNE 30, 2005


HOLLY R. SCHROEDER, Administrator, Water Quality Division

DEQ/WQ-102 (5

MARSH USA INC.

CERTIFICATE OF INSURANCE

CERTIFICATE NUMBER
SEA-000579969-00PRODUCER
Marsh Risk & Insurance Services
Post Office Box 193880
San Francisco, CA 94119-3880
Attn: G. GILBERT GOETZTHIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS
NO RIGHTS UPON THE CERTIFICATE HOLDER OTHER THAN THOSE PROVIDED IN THE
POLICY. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE
AFFORDED BY THE POLICIES DESCRIBED HEREIN.

COMPANIES AFFORDING COVERAGE

COMPANY

A UNITED STATES FIDELITY AND GUARANTY COMPANY

COMPANY

B DISCOVER PROPERTY & CASUALTY CO.

COMPANY

C N/A

COMPANY

D

102413-CAS-LIAB-

C9

GLAL

INSURED
CURRY TRANSFER
WASTE CONNECTIONS, INC.
620 COOLIDGE DRIVE, SUITE 350
FOLSOM, CA 95630-3155

COVERAGES

This certificate supersedes and replaces any previously issued certificate for the policy period noted below.

2

THIS IS TO CERTIFY THAT POLICIES OF INSURANCE DESCRIBED HEREIN HAVE BEEN ISSUED TO THE INSURED NAMED HEREIN FOR THE POLICY PERIOD INDICATED.
NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THE CERTIFICATE MAY BE ISSUED OR MAY
PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, CONDITIONS AND EXCLUSIONS OF SUCH POLICIES. LIMITS SHOWN
MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| CO LTR | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YY) | POLICY EXPIRATION DATE (MM/DD/YY) | LIMITS |
|-----------|--|------------------|-------------------------------------|--------------------------------------|---|
| A | GENERAL LIABILITY | D004L00024 | 08/01/02 | 08/01/03 | GENERAL AGGREGATE \$ 2,000,000 |
| | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY | | | | PRODUCTS - COMP/OP AGG \$ 1,000,000 |
| | <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR | | | | PERSONAL & ADV INJURY \$ 1,000,000 |
| | OWNER'S & CONTRACTOR'S PROT | | | | EACH OCCURRENCE \$ 1,000,000 |
| | | | | | FIRE DAMAGE (Any one fire) \$ 1,000,000 |
| | | | | | MED EXP (Any one person) \$ 5,000 |
| B | AUTOMOBILE LIABILITY | D004A00064 (TX) | 08/01/02 | 08/01/03 | COMBINED SINGLE LIMIT \$ 5,000,000 |
| A | <input checked="" type="checkbox"/> ANY AUTO | D004A00065 (AOS) | 08/01/02 | 08/01/03 | BODILY INJURY (Per person) \$ |
| | ALL OWNED AUTOS | | | | BODILY INJURY (Per accident) \$ |
| | SCHEDULED AUTOS | | | | PROPERTY DAMAGE \$ |
| | HIRED AUTOS | | | | |
| | NON-OWNED AUTOS | | | | |
| | | | | | |
| | GARAGE LIABILITY | | | | AUTO ONLY - EA ACCIDENT \$ |
| | <input type="checkbox"/> ANY AUTO | | | | OTHER THAN AUTO ONLY: \$ |
| | | | | | EACH ACCIDENT \$ |
| | | | | | AGGREGATE \$ |
| | EXCESS LIABILITY | | | | EACH OCCURRENCE \$ |
| | <input type="checkbox"/> UMBRELLA FORM | | | | AGGREGATE \$ |
| | OTHER THAN UMBRELLA FORM | | | | \$ |
| | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | | | WC STATU- TORY LIMITS OTH- ER \$ |
| | THE PROPRIETOR/ PARTNERS/EXECUTIVE OFFICERS ARE: <input type="checkbox"/> INCL <input type="checkbox"/> EXCL | | | | EL EACH ACCIDENT \$ |
| | | | | | EL DISEASE-POLICY LIMIT \$ |
| | OTHER | | | | EL DISEASE-EACH EMPLOYEE \$ |

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS (LIMITS MAY BE SUBJECT TO DEDUCTIBLES OR RETENTIONS)

CERTIFICATE HOLDER

CURRY COUNTY
ATTN: LAUREL

CANCELLATION

SHOULD ANY OF THE POLICIES DESCRIBED HEREIN BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF,
THE INSURER AFFORDING COVERAGE WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE
CERTIFICATE HOLDER NAMED HEREIN, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR
LIABILITY OF ANY KIND UPON THE INSURER AFFORDING COVERAGE, ITS AGENTS OR REPRESENTATIVES.

MARSH USA INC.

BY: G. Gilbert Goetz



7/91(9/99)

VALID AS OF: 08/09/02

CITY OF BROOKINGS
COMMON COUNCIL MEETING MINUTES
City Hall Council Chambers
898 Elk Drive, Brookings, OR 97415
July 11, 2005 7:00 p.m.

I. Call to Order

Mayor Sherman called the meeting to order at 7:00 p.m.

II. Pledge of Allegiance

The pledge of allegiance was led by Sally Laasch.

III. Roll Call

Council Present: Mayor Pat Sherman, Council President Larry Anderson, Councilors Craig Mickelson, Jan Willms, and Dave Gordon; a quorum was present.

Council absent: None

Staff Present:

Interim City Manager Burke Raymond

Finance Director Paul Hughes

Director of Community Development Ed Wait

Interim Administrative Assistant Jan Krick

Media Present: *Curry Coastal Pilot* Reporter Brian Bullock

Others: approximately 12 citizens

IV. Ceremonies/Appointments/Announcements

A. Ceremonies

1. *Presentation of Certificate of Appreciation to Hilary Thompson, 10-Year Work Anniversary*
Hilary Thompson was unable to attend; Finance Director Paul Hughes, as her supervisor, stated that Hilary has been with the Finance Department for her entire ten years and has been his assistant for the past two years. He is absolutely thrilled with her performance; she is greatly appreciated.
2. *Presentation of Certificate of Appreciation to Barbara Palicki, 10-Year Work Anniversary*
Barbara Palicki was unable to attend; she will receive her award at the July 25 council meeting.

B. Announcements

1. Yard of the Month – Dolor and Alvina Almeida, 862 Jodee Lane
2. Most Improved Property – Francisco Garcia, 406 Linden
3. Commercial Property – South Coast Inn, 516 Redwood
4. Mayor Sherman announced that the City now offers public comment cards so that people in the audience may sign up to speak on a council agenda item

V. Oral Requests and Communications from the Audience

A. Committee and Liaison reports

1. *Chamber of Commerce*

Les Cohen, Chamber of Commerce president, reported that the American Music Festival has experienced a very successful season. Sunday's Lab Band was inspiring and, even though the concert was moved indoors due to rain, there was a good turn out. He also stated that, according to Oregon Tourism, there is good news to report. Dean Runyan Associates, the state's tourism analysts, report that tourism is up significantly in Curry County and especially in Brookings. Details can be obtained on Dean's website at www.deanrunyan.com. Councilor Anderson commented that housing costs are also rising in our area and that affordable housing is in short supply. Brookings will need to address with developers the creation of more homes for workers engaged in the tourism industry, as well as for other service workers such as teachers, police, nurses, etc.

2. *Council Liaisons*

Councilor Anderson, due to personal business, was not able to attend meetings this month.

Mayor Sherman attended the meeting of the Pelican Bay Art Center, Citizens for Emergency Preparedness presentation of emergency generators at B-H High School, and the B-H Education Foundation and Community Agencies meetings.

Councilor Willms' recent surgery prevented her from attending meetings this month.

Councilor Mickelson attended the Chamber of Commerce promotions meeting today.

Councilor Gordon attended three board meetings of the Port Commission, the Southwestern Area Transportation Steering Committee, and the Community Agencies meeting.

B. Unscheduled

None

VI. Staff Reports

A. Community Development Department

1. *Brookings Harbor Farmer's Market*

Ed Wait introduced Lynn Truman, representative for the Brookings Farmers' Market, who is requesting that the City permit a venue change to the U S Bank property. Truman addressed council to give information and answer questions regarding the change. Councilor Gordon asked if parking would be monitored; Truman answered to the affirmative. Councilor Anderson was concerned about littering and area clean up; Truman responded that the vendor contract addresses garbage pickup.

A motion to approved the staff recommendation for a new venue with the conditions noted was made by Councilor Gordon, seconded , and the motion passed unanimously.

2. *Quitclaim Deed for 5' strip of land adjacent to Parkview Drive*

Councilor Anderson recused himself, stating a conflict of interest, and exited the Council Chambers while the staff report concerning the application submitted was introduced. In a staff report prepared by Senior Planner Dianne Snow, it was recommended that the council accept the deed for recording.

Councilor Mickelson made the motion, a second followed and the council voted unanimously, to accept the quitclaim deed.

3. *Freeman Well Water Resource Assessment*

Interim City Manager Burke Raymond addressed council, stating that the details of this assessment are still unclear and requesting time to gather additional information to which the councilors will have access by means of staff's updated recommendation.

A motion was made by Councilor Anderson, seconded, and the council voted unanimously (without Councilor Anderson present) to table this issue until the staff is able to comfortably present further information.

B. City Manager

1. *Other Approval of Application to Possess and Consume Alcohol for Robinson /Cuff*

Attention was directed to the application made by Mr. Ian Robinson to serve alcoholic beverages at a wedding on July 23, 2005. Discussion ensued among councilors regarding precedent, liability, and the monitoring of underage drinkers and driving after consumption of alcoholic beverages following the event.

It was further discussed that the existing ordinance, established in 1979, be studied and that, possibly, a new policy be instated. City Manager Raymond will begin the process and report back to council.

Based on existing Ordinance 315, a motion to approve Mr. Robinson's request and application before the council was made by Councilor Mickelson, seconded, and so moved, with Councilors Gordon, Mickelson, and Willms and Mayor Sherman voting for the motion and Councilor Anderson voting against.

VII. Consent Calendar

- A. *Approval of Council Meeting Minutes*
 - 1. *Meeting of June 27, 2005*
- B. *Acceptance of Parks and Recreation Commission Minutes*
 - 1. *Meeting of April 28, 2005*
- C. *Approval of Application to Possess and Consume Alcohol for Robinson/Cuff*

Discussion ensued regarding the positioning of this issue on the agenda under the category of Consent Calendar. City Attorney John Trew suggested that it be removed from the consent calendar and each be voted on separately. See Staff Reports, City Manager, Other for proceedings regarding this application.

A motion was made by Councilor Anderson, seconded, and passed unanimously by council to remove the Application to Possess and Consume Alcohol for Robinson/Cuff from the Consent Calendar.

A motion to approve the Consent Calendar was made by Councilor Gordon, seconded and passed unanimously by council to approve the Consent Calendar as amended.
End Consent Calendar

VIII. Ordinances/Resolutions/Final Orders

- A. **Resolutions**

05-R-746 Resolution to Amend Resolution 92-R-534 adopting rates, fees and charges to the users of the City of Brookings water supply services

Finance Director Paul Hughes presented to council Resolution 05-R-746 addressing a rate increase for water services for the City of Brookings. Hughes requested that council adopt this resolution and its recommendation.

A motion was made, seconded, and passed unanimously to support staff recommendation approving Resolution 05-R-746, effective July 1, 2-05, amending Resolution 92-R-534 of the City of Brookings, adopting rates, fees and charges to the user of the City of Brookings water supply services.

IX. Remarks from Mayor and Councilors

- A. *Council*

Councilor Anderson, responding to comments regarding affordable housing made earlier by Les Cohen of the Chamber of Commerce, invited discussion about the

need for incentives for developers to forego large profits to consider projects that allow for greater density and affordability and a study of the land development code with that purpose in mind. Mayor Sherman suggested that this be fit into the proposed schedule for council workshops this summer. Discussion ensued, and a decision was made to revisit this issue at a later time.

B. Mayor
None.

X. Adjournment

A motion was made, a second followed, and the Council voted unanimously by voice vote to adjourn the meeting at 8:17 p.m.

Respectfully submitted:

Pat Sherman
Mayor

ATTESTED by City Recorder this ____ day of _____, 2005.

Paul Hughes
Finance Director/City Recorder

**MINUTES
BROOKINGS PLANNING COMMISSION
Regular Meeting
June 7, 2005**

Chair Nishioka called the meeting of the Brookings Planning Commission to order at 7:00 p.m. in the Council Chambers at the Brookings City Hall on the above date with the following Commission members and staff in attendance.

Commissioners Present:

| | |
|--------------|----------------|
| Jim Collis | Randy Gorman |
| Rick Dentino | Ron Hedenskog |
| Bill Dundom | Bruce Nishioka |

Commissioners Absent:

Bill Smith

Staff Present:

John Bischoff, City Planner
Dianne Snow, Senior Planner
Cathie Mahon, Community Development Secretary

Media: Coastal Pilot reporter, Brian Bullock

Other:

Approximately 30 citizens in the audience.

CHAIRPERSON ANNOUNCEMENTS

None.

MINUTES

By a 4-0-2 vote (Motion: Commissioner Dentino; Commissioners Gorman and Collis abstained due to being absent at the last meeting) the Planning Commission approved the minutes of May 3, 2005, as written.

THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION ON WRITTEN REQUESTS AND COMMUNICATION

None.

THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION IN THE PUBLIC HEARINGS

1. By a 6-0 vote (motion: Commissioner Hedenskog) the Planning Commission approved File No. **CUP-1-05**, a request for a conditional use permit to operate an automobile service and car-wash station on a 1.57 acre parcel; located at 336 Fifth Street; Assessor's Map 41-13-06DB, Tax Lot 1600; C-3 (General Commercial) zone; John Cole, Lundin Cole Architects, applicant for proposed *Oil Can Henry* business.

The following conditions were added to the Conditions of Approval:

- 20) The applicant shall install a STOP sign at the intersection of the private street and Fifth Street.
- 21) The applicant shall install two (2) "No Parking" signs along the subject frontage of the private street.
- 22) The applicant shall provide either landscaping in the form of a hedge or fence of sufficient height to deflect noise from the outdoor vacuums away from adjoining uses. The fence or hedge cannot block the view of vehicles entering the private street from the facility.
- 23) The applicant shall provide the City with a fifteen (15) foot wide easement over the storm sewer main along the northerly boundary of the property.
- 24) The applicant shall provide a hard surface walking path along the easement requested in Condition No. 23.
- 25) The applicant shall provide a name for the private street for consideration by the Planning Commission.

All commissioners declared ex parte due to familiarity with the subject property. There was no challenge from the audience as to the jurisdiction of the Commission to hear the request.

The action was taken following questions and answers regarding the request from the following:

John Cole, Lundin Cole Architects, representative, 208 SW Stark St., Suite 200, Portland.

Jeffrey Tribble 15630 Highway 101 South Brookings, OR 97415

Entered into the record by John Cole, and distributed to the commissioners and the audience, were building renderings:

- Exhibit A Oil Can Henry's station in Colorado
- Exhibits B and C: Proposed architecture of station for the subject property

The Public Hearing was closed at 7:55 p.m.

By a motion from Commissioner Collis, and unanimously approved, the Public Hearing was reopened at 8:12 p.m. for additional information. It was closed at 8:22 p.m.

The applicant waived his right to seven (7) days in which to submit written argument.

2. By a 6-0 vote (Motion: Commissioner Gorman) the Planning Commission approved a request for a final ORDER and Findings of Fact for File No. **CUP-1-05**.
3. By a 6-0 vote (Motion: Commissioner Collis) the Planning Commission approved File No. **SUB-3-05**, a request for a subdivision at *The Cove*, to divide a 0.88 acre parcel into 4 lots; located at Schooner Bay Drive; Assessor's Map 41-13-07AA, Tax Lots 199 and 2100; R-1-6 (6,000 square foot minimum lot size) and R-2 (Two-Family Residential) zones; Jim Cole, representative for *The Cove Home Owners Association, Inc.*.

The action was taken following questions and answers regarding the request from the following:

Jim Cole, President of the Cove Homeowners Association, 209 Schooner Bay Drive

A letter in support of the proposal was read into the record from:

Mr. and Mrs. Manuel Cunha, 3175 Corte Cabrillo Aptos, CA

All commissioners declared ex parte due having familiarity with the subject property. There was no challenge from the audience as to the jurisdiction of the Commission to hear the request.

4. By a 6-0 vote (Motion: Commissioner Gorman) the Planning Commission approved the Final ORDER and Findings of Fact for File No. **SUB-3-05**.
5. By a 6-0 vote (Motion: Commissioner Dentino) the Planning Commission approved File No. **VAR-1-05**, a request for a front yard and side yard setback variance to allow the construction of a new roof on a pre-existing nonconforming single family house that will raise the height of the building by 10 inches; located at 520 Myrtle Street; Assessor's Map 41-13-05CA, Tax Lot 101; R-1-6, (6,000 square foot minimum lot size) zone; Adam Taylor, applicant; Tiko Crowe, representative.

All commissioners except Commissioner Nishioka declared ex parte due to a site visit. There was no challenge from the audience as to the jurisdiction of the Commission to hear the request.

The action was taken following questions and answers regarding the request from the following:

Tiko Crowe, representative; 740-B Pioneer Road, Brookings, OR 97415

The applicant waived his right to seven (7) additional days in which to submit written argument.

6. By a 6-0 vote (Motion: Commissioner Collis) the Planning Commission approve the Final ORDER and Findings of Fact for File No. **VAR-1-05**.
7. By a 6-0 (Motion: Commissioner Dundom) the Planning Commission approved File No. **CUP-2-05**, a request for a conditional use permit to allow the use of a 10.98 acre parcel of land as temporary storage for materials and equipment during the remodel of the Fred Meyer Store; located at 325 Fifth Street; R-3 (Multiple Family Residential) zone; Assessor's Map 41-13-06D, Tax Lot 320; Fred Meyer Stores, applicant; Ken Coors, Western Construction Services, representative.

All the commissioners declared ex parte due to familiarity and buying products at the Fred Meyer store. There was no challenge from the audience as to the jurisdiction of the Commission to hear the request.

The following conditions were added to the Conditions of Approval:

- The sign shall indicate the use is temporary and indicate the date of expected completion. The telephone number shall be monitored on a 24-hour a day basis.
- The applicant shall provide on going dust control measures until such time as paving is complete.
- The applicant shall place a sign on the subject property at the entrance to the storage area stating that there will be no parking of project vehicles on Mill Beach Road at any time.
- The applicant shall take steps to reduce congestion on Mill Beach Road due to vehicles entering and/or leaving the site.
- The applicant shall install a sight obscuring fence of at least six (6) feet in height around all sides of the storage facility for security purposes.
- The applicant shall cause the pavement placed for storage facility to be removed within sixty (60) days from the completion of the remodel project.

This action was taken following questions and comments regarding the request from the following:

| | |
|--|---------------------|
| Ken Coors, applicant, Western Construction Services, | Vancouver, WA. |
| Jim Miller, South Coast Lumber P. O. Box 2453 | Brookings, OR 97415 |
| John & Debbie Chegus P. O. Box 164 | Brookings, OR 97415 |
| Steve Bismarck 270 Allen Lane | Brookings, OR 97415 |

Entered into the record were the following exhibits:

| | |
|---|-----------------------------|
| Exhibit A 21 photos of the subject property | submitted by John Chegus |
| Exhibit B 4 page argument in opposition | submitted by Steve Bismarck |
| Exhibit C & D two exhibits on zoning | submitted by Steve Bismarck |

The applicant waived his right to seven (7) days in which to submit written argument.

8. By a 6-0 (Motion: Commissioner Dundom) the Planning Commission approved the Final ORDER and Findings of Fact for File No. **CUP-2-05**.

A short recess was declared at 10:37 p.m. The meeting reconvened at 10:45 p.m. with the same six commissioners present.

9. By a 6-0 vote (Motion Commissioner Gorman) the Planning Commission will send a favorable recommendation to Curry County in the matter of File No. **CR-AD-0514**, a conditional use permit to establish a single-family dwelling and accessory structures on a 5.82 acre parcel of land, located within the County Forest Grazing (FG) zone and an area of potential geologic hazard; Assessor's Map 41-13-06D, Tax Lot 320; Milburn and Janis Barr, applicants; Jim Capp, representative.

The following conditions were recommended:

- The proposed dwelling and accessory structures must be sited in compliance with the geologic hazard report submitted with the applicant's findings.
- The applicant must obtain and record an easement from adjacent property owners to accommodate the required 130 foot fire break around the proposed

structures.

- The applicant must submit engineered grading, storm water drainage and erosion control

UNSCHEDULED PUBLIC APPEARANCES

Yvonne Maitland, 15676 Oceanview Drive, read into the record two documents referencing the County Referral File No. **CR-AD-0514** – Harbor Hills Master Plan Area within the City UGB. She stated as a representative of *Citizens for Orderly Development*, the submitted documents addressed three (3) issues: public safety, health and welfare, specifically for the File No. CR-AD-0514:

1. Lack of adequate water availability.
2. Road Safety and Standards
3. Natural Hazard Overlay Zone and Rapidly Moving Land Slides

MESSAGES FROM CITY MANAGER

None.

MESSAGES FROM THE MAYOR

None.

PLANNING STAFF COMMENTS

Senior Planner Snow discussed a letter received from Gary and Linda Wassel, 714 Fifth Street. The letter referenced File No. Sub-2-05 heard at the May public hearing. Their property abuts the proposed subdivision and the concern of erosion affecting their property.

City Planner Bischoff discussed the possibility of having two meetings a month due to the projected workload. Discussion ensued and it was concluded having two meetings versus one meeting until midnight was conveyed by most of the commissioners. Planner Bischoff explained the second meeting would be for minor actions like extensions.

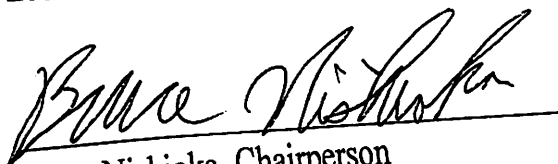
The second item discussed was changing the July 5th meeting. Most of the commissioners have Fourth of July plans and expressed moving the meeting. It was decided to move the meeting date one week, until July 12th.

ADJOURNMENT:

With no further business before the Planning Commission, the meeting was adjourned at 11:45 p.m.

Respectfully submitted,

BROOKINGS PLANNING COMMISSION



Bruce Nishioka, Chairperson

CITY OF BROOKINGS POLICE DEPARTMENT

Chris Wallace, Chief of Police



To: Brookings City Council through City Manager Burke Raymond
From: Lieutenant John Bishop 22605/202
Date: July 14, 2005
Subject: Liquor License Application

The Brookings Police Department found no local disqualifying information prohibiting Rodney G. Minnier and Eileen B. Minnier with their attached individual liquor license applications. The Minniers will be the new owners of O'Holleran's Restaurant and Lounge located at 1210 Chetco Avenue, Brookings, Oregon. It is the recommendation of the Brookings Police Department the above mentioned applicants be granted their request with final approval coming from the Oregon Liquor Control Commission.

Respectfully Submitted

A handwritten signature in black ink, appearing to be "J. Bishop", written over a horizontal line.

Lieutenant John Bishop
Brookings Police Department



898 ELK DRIVE Phone: (541) 469-3118
BROOKINGS, OR. 97415 Fax (541) 412-0253
www.brookings.or.us



OREGON LIQUOR CONTROL COMMISSION
LIQUOR LICENSE APPLICATION



PLEASE PRINT OR TYPE

Application is being made for:

LICENSE TYPES

- ☒ Full On-Premises Sales (\$402.60/yr)
☒ Commercial Establishment
☐ Caterer
☐ Passenger Carrier
☐ Other Public Location
☐ Private Club
☐ Limited On-Premises Sales (\$202.60/yr)
☐ Off-Premises Sales (\$100/yr)
☐ with Fuel Pumps
☐ Brewery Public House (\$252.60)
☐ Winery (\$250/yr)
☐ Other: _____

ACTIONS

- ☒ Change Ownership
☐ New Outlet
☐ Greater Privilege
☐ Additional Privilege
☐ Other _____

FOR CITY AND COUNTY USE ONLY
The city council or county commission:

(name of city or county)

recommends that this license be:

Granted ☐ Denied ☐

By: _____

(signature)

(date)

Name: _____

Title: _____

OLCC USE ONLY

Application Rec'd by: 1057

Date: 7-7-05

90-day authority: ☐ Yes ☐ No

Applying as:

- ☒ Individuals ☐ Limited Partnership ☐ Corporation ☐ Limited Liability Company

1. Applicant(s): [See SECTION 1 of the Guide]

① RODNEY G. MINNIER ③ _____

② EILEEN B. MINNIER ④ _____

2. Trade Name (dba): O'HOLLERANS RST. + Lounge

3. Business Location: 1210 Chetco Ave. Brookings OR 97415
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: P.O. box 1423 Brookings OR 97415
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 541-469-9907 541 469 7945
(phone) (fax)

6. Is the business at this location currently licensed by OLCC? ☒ Yes ☐ No

7. If yes to whom: O'HOLLERANS INC. Type of License: _____

8. Former Business Name: O'HOLLERANS RST. + Lounge

9. Will you have a manager? ☐ Yes ☒ No Name: _____

(manager must fill out an individual history form)

10. What is the local governing body where your business is located? Brookings, Curry
(name of city or county)

11. Contact person for this application: RODNEY MINNIER 541 469 7945
(name) (phone number(s))
P.O. box 1423 541-469-7945 atomict0005@AOL.com
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① Rodney G. Minnier Date 6-30-05 ③ _____

② Eileen B. Minnier Date 6-30-05 ④ _____

Date 6-30-05

Date _____

1-800-452-OLCC (6522)
www.olcc.state.or.us

OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY



PLEASE PRINT OR TYPE

YOU MUST ANSWER ALL QUESTIONS ON THIS FORM. IF THE QUESTION DOES NOT APPLY, WRITE N/A IN THE SPACE.
ATTACH ADDITIONAL SHEETS IF NECESSARY.

Trade Name (d.b.a.): OHOLLERANS City: Brookings

1. Name: MINNIE RODNEY GERALD
(last) (first) (middle)

2. Other names used (maiden, other): _____

3. Residence Address: 14990 OCEANVIEW DR Brookings OR 97415
(number and street) (city) (state) (ZIP code)

4. Home Phone: (541) 469-7945 Business Phone: (541) 661-4394

5. *SSN: 548-06-5852 Place of Birth: CALIF. DOB: 06/21/1956 Sex: M ☒ F ☐
(State/Country) (mm) (dd) (yyyy)

6. Driver License or State ID #: 6537179 State: OR Spouse's name: EILEEN

7. List all states, other than Oregon, where you have lived during the past ten years: CALIFORNIA

8. Do you currently hold, or have you ever held a liquor license in this or any other state? ☒ Yes ☐ No
If yes, when and where? VENTURA CALIF 1998

9. In the past twelve years, have you been convicted of any violation, misdemeanor or felony?
(include traffic violations, if the fine was more than \$50.00) ☒ Yes ☐ No
If yes, what, when and where? speeding ticket - August 03?

10. Have you ever entered into a diversion agreement? ☐ Yes ☒ No
If yes, when and where? _____

11. Do you have any arrests or citations that have not been resolved? ☐ Yes ☒ No
If yes, arrested/cited for: _____ Date: _____ County/City/State/ _____

12. If you are applying for a retail liquor license:
a. Do you have any financial interest, direct or indirect, in any manufacturer or distributor of alcohol? ☐ Yes ☐ No If yes, what and where: _____
b. Does any person having a financial or ownership interest in a manufacturer or distributor have an interest in, or potential claim upon your business or premises, for instance through investment, a loan, lease or contract? ☐ Yes ☐ No If yes, who? _____

13. Have you ever had a warning, violation, suspension, fine, cancellation or refusal as a licensee or service permittee, in Oregon or any other state? ☐ Yes ☒ No If yes, when: _____ where: _____

I UNDERSTAND THE OLCC WILL USE THE ABOVE INFORMATION TO CHECK FOR CRIMINAL RECORDS. I UNDERSTAND IF MY ANSWERS ARE NOT TRUE AND COMPLETE, THE OLCC MAY DENY MY LICENSE APPLICATION.

Applicant Signature: Rodney S. Minner Date: 6-27-05

*SOCIAL SECURITY NUMBER DISCLOSURE As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). The OLCC will refuse a license to any applicant or licensee who fails to provide his/her SSN. Your SSN will be used only for child support enforcement purposes unless you sign below.

Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your voluntary consent to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a)). If you consent to these uses, please sign here:

Applicant Signature: Rodney S. Minner Date: 6-27-05



4 5 1 0 0 1 A 1

1-800-452-OLCC (6522)
www.olcc.state.or.us

OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY



PLEASE PRINT OR TYPE

YOU MUST ANSWER ALL QUESTIONS ON THIS FORM. IF THE QUESTION DOES NOT APPLY, WRITE N/A IN THE SPACE.
ATTACH ADDITIONAL SHEETS IF NECESSARY.

Trade Name (d.b.a.): O HOLLERANS

City: BROOKINGS

1. Name: MINNIER EILEEN BENSON
(last) (first) (middle)

2. Other names used (maiden, other): _____

3. Residence Address: 14990 OCEANVIEW DR. BROOKINGS OR 97415
(number and street) (city) (state) (ZIP code)

4. Home Phone: (541) 469-7945 Business Phone: (541) 661-4394

5. *SSN: 550-90-0664 Place of Birth: SCOTLAND DOB: 2 / 7 / 52 Sex: M X F X
(State/Country) (mm) (dd) (yyyy)

6. Driver License or State ID #: 6558811 State: OR Spouse's name: RODNEY

7. List all states, other than Oregon, where you have lived during the past ten years: CALIFORNIA

8. Do you currently hold, or have you ever held a liquor license in this or any other state? X Yes No
If yes, when and where? Ventura, CALIFORNIA, 1998

9. In the past twelve years, have you been convicted of any violation, misdemeanor or felony?
(include traffic violations, if the fine was more than \$50.00) Yes X No
If yes, what, when and where? _____

10. Have you ever entered into a diversion agreement? Yes X No
If yes, when and where? _____

11. Do you have any arrests or citations that have not been resolved? Yes X No
If yes, arrested/cited for: _____ Date _____ County/City/State/ _____

12. If you are applying for a retail liquor license:
a. Do you have any financial interest, direct or indirect, in any manufacturer or distributor of alcohol? Yes No If yes, what and where: _____
b. Does any person having a financial or ownership interest in a manufacturer or distributor have an interest in, or potential claim upon your business or premises, for instance through investment, a loan, lease or contract? Yes No If yes, who? _____

13. Have you ever had a warning, violation, suspension, fine, cancellation or refusal as a licensee or service permittee, in Oregon or any other state? Yes X No If yes, when: _____ where: _____

I UNDERSTAND THE OLCC WILL USE THE ABOVE INFORMATION TO CHECK FOR CRIMINAL RECORDS. I UNDERSTAND IF MY ANSWERS ARE NOT TRUE AND COMPLETE, THE OLCC MAY DENY MY LICENSE APPLICATION.

Applicant Signature: Eileen B. Minnier Date: 6-27-05

*SOCIAL SECURITY NUMBER DISCLOSURE As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). The OLCC will refuse a license to any applicant or licensee who fails to provide his/her SSN. Your SSN will be used only for child support enforcement purposes unless you sign below.

Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your voluntary consent to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a)). If you consent to these uses, please sign here:

Applicant Signature: Eileen B. Minnier Date: 6-27-05



4 5 1 0 0 1 A 1

1-800-452-OLCC (6522)
www.olcc.state.or.us

| Per | Date | Check No | Vendor No | Payee | Check GL Acct | Amount |
|-------|------------|----------|-----------|-------------------------------|---------------|--------------|
| 06/05 | 06/22/2005 | 51648 | 1787 | VOID - Pape' Machinery | 10-00-2005 | 62,600.00 -M |
| 06/05 | 06/02/2005 | 51904 | 150 | Any Time Coffee Service | 10-00-2005 | 24.25 |
| 06/05 | 06/02/2005 | 51905 | 138 | Becco, Inc | 10-00-2005 | 57.90 |
| 06/05 | 06/02/2005 | 51906 | 3183 | Betty Neligh Boeggeman | 10-00-2005 | 9.07 |
| 06/05 | 06/02/2005 | 51907 | 714 | Brookings Signs & Graphics | 10-00-2005 | 65.00 |
| 06/05 | 06/02/2005 | 51908 | 313 | Brookings Vol Firefighters | 10-00-2005 | 2,083.33 |
| 06/05 | 06/02/2005 | 51909 | 1840 | Chetco Federal Credit Union | 10-00-2005 | 3,330.00 |
| 06/05 | 06/02/2005 | 51910 | 3016 | Cradar Enterprises Inc | 10-00-2005 | 91,309.72 |
| 06/05 | 06/02/2005 | 51911 | 316 | Donald & Roberta Chandler | 10-00-2005 | 548.00 |
| 06/05 | 06/02/2005 | 51912 | 2882 | Globalstar USA | 10-00-2005 | 78.53 |
| 06/05 | 06/02/2005 | 51913 | 1082 | Hilary Thompson | 10-00-2005 | 30.05 |
| 06/05 | 06/02/2005 | 51914 | 3181 | Jim Kemp | 10-00-2005 | 1.62 |
| 06/05 | 06/02/2005 | 51915 | 1397 | L N Curtis | 10-00-2005 | 48,598.02 |
| 06/05 | 06/02/2005 | 51916 | 1127 | Lyle Signs Inc | 10-00-2005 | 819.00 |
| 06/05 | 06/02/2005 | 51917 | 3182 | Margie Jacques | 10-00-2005 | 14.06 |
| 06/05 | 06/02/2005 | 51918 | 334 | North Coast Electric | 10-00-2005 | 690.62 |
| 06/05 | 06/02/2005 | 51919 | 910 | OR Department of Justice | 10-00-2005 | 115.38 |
| 06/05 | 06/02/2005 | 51920 | 1132 | OR Department of Justice | 10-00-2005 | 322.15 |
| 06/05 | 06/02/2005 | 51921 | 1742 | OR Department of Justice | 10-00-2005 | 307.93 |
| 06/05 | 06/02/2005 | 51922 | 2366 | OR Department of Justice | 10-00-2005 | 203.08 |
| 06/05 | 06/02/2005 | 51923 | 852 | PaperDirect | 10-00-2005 | 96.90 |
| 06/05 | 06/02/2005 | 51924 | 2974 | Pat Sherman | 10-00-2005 | 20.37 |
| 06/05 | 06/02/2005 | 51925 | 3180 | Pat Silva | 10-00-2005 | 15.03 |
| 06/05 | 06/02/2005 | 51926 | 205 | PERS Retirement | 10-00-2005 | 11,644.72 |
| 06/05 | 06/02/2005 | 51927 | 322 | Postmaster | 10-00-2005 | 586.00 |
| 06/05 | 06/02/2005 | 51928 | 1193 | PRN Data Services, Inc | 10-00-2005 | 3,500.00 |
| 06/05 | 06/02/2005 | 51929 | 3176 | Quick Wrap Bags | 10-00-2005 | 60.98 |
| 06/05 | 06/02/2005 | 51930 | | Information Only Check | 10-00-2005 | .00 V |
| 06/05 | 06/02/2005 | 51931 | 207 | Quill Corporation | 10-00-2005 | 662.55 |
| 06/05 | 06/02/2005 | 51932 | 199 | Richard Harper | 10-00-2005 | 300.00 |
| 06/05 | 06/02/2005 | 51933 | 3184 | Ron Walker | 10-00-2005 | 6.14 |
| 06/05 | 06/02/2005 | 51934 | 2254 | Sunny Wheatley | 10-00-2005 | 164.00 |
| 06/05 | 06/02/2005 | 51935 | 142 | Tidewater Contractors Inc | 10-00-2005 | 273.24 |
| 06/05 | 06/02/2005 | 51936 | 273 | Traffic Safety Supply Co, Inc | 10-00-2005 | 465.26 |
| 06/05 | 06/02/2005 | 51937 | 1206 | Travis & LaVerne Atkins | 10-00-2005 | 40.74 |
| 06/05 | 06/02/2005 | 51938 | 990 | United Parcel Service | 10-00-2005 | 277.34 |
| 06/05 | 06/02/2005 | 51939 | 136 | United Pipe & Supply Co Inc | 10-00-2005 | 111.00 |
| 06/05 | 06/02/2005 | 51940 | 157 | Viking Office Products | 10-00-2005 | 44.88 |
| 06/05 | 06/02/2005 | 51941 | 3104 | West Coast Lines & Graphics | 10-00-2005 | 9.00 |
| 06/05 | 06/02/2005 | 51942 | 652 | Wildfire | 10-00-2005 | 715.20 |
| 06/05 | 06/02/2005 | 51943 | | Information Only Check | 10-00-2005 | .00 V |
| 06/05 | 06/02/2005 | 51944 | 2122 | VISA | 10-00-2005 | 1,518.86 |
| 06/05 | 06/13/2005 | 51945 | 800 | American Red Cross | 10-00-2005 | 84.00 |
| 06/05 | 06/13/2005 | 51946 | 146 | Bay West Supply, Inc | 10-00-2005 | 280.08 |
| 06/05 | 06/13/2005 | 51947 | 148 | B-H Chamber of Commerce | 10-00-2005 | 2,269.96 |
| 06/05 | 06/13/2005 | 51948 | 149 | Carpenter Auto Center | 10-00-2005 | 183.45 |
| 06/05 | 06/13/2005 | 51949 | 110 | Cavern Auto And Truck Supply | 10-00-2005 | 83.72 |
| 06/05 | 06/13/2005 | 51950 | 1745 | Coastal Paper & Supply, Inc | 10-00-2005 | 144.61 |
| 06/05 | 06/13/2005 | 51951 | 182 | Coos-Curry Electric | 10-00-2005 | 1,233.15 |
| 06/05 | 06/13/2005 | 51952 | 173 | Curry Equipment Company | 10-00-2005 | 25.00 |
| 06/05 | 06/13/2005 | 51953 | 195 | Curry Transfer & Recycling | 10-00-2005 | 553.02 |
| 06/05 | 06/13/2005 | 51954 | | Information Only Check | 10-00-2005 | .00 V |
| 06/05 | 06/13/2005 | 51955 | | Information Only Check | 10-00-2005 | .00 V |
| 06/05 | 06/13/2005 | 51956 | 166 | Dan's Auto & Marine Electric | 10-00-2005 | 381.14 |
| 06/05 | 06/13/2005 | 51957 | 259 | Da-Tone Rock Products | 10-00-2005 | 181.05 |
| 06/05 | 06/13/2005 | 51958 | 185 | Del Cur Supply | 10-00-2005 | 31.35 |
| 06/05 | 06/13/2005 | 51959 | 2930 | Eureka Oxygen Company | 10-00-2005 | 219.14 |

M = Manual Check, V = Void Check

Check Register - Summary Report
 GL Posting Period(s): 06/05 - 06/05
 Check Issue Date(s): 06/01/2005 - 06/30/2005

| Per | Date | Check No | Vendor No | Payee | Check GL Acct | Amount |
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| 06/05 | 06/13/2005 | 51960 | 153 | Ferrellgas | 10-00-2005 | 923.26 |
| 06/05 | 06/13/2005 | 51961 | 2763 | Frank Dunn | 10-00-2005 | 102.00 |
| 06/05 | 06/13/2005 | 51962 | 298 | Freeman Rock, Inc | 10-00-2005 | 174.87 |
| 06/05 | 06/13/2005 | 51963 | 3188 | George Humphrey's | 10-00-2005 | 93.77 |
| 06/05 | 06/13/2005 | 51964 | 198 | Grants Pass Water Lab | 10-00-2005 | 180.00 |
| 06/05 | 06/13/2005 | 51965 | 154 | Hagen's Dry Cleaners | 10-00-2005 | 29.25 |
| 06/05 | 06/13/2005 | 51966 | 139 | Harbor Logging Supply | 10-00-2005 | 145.43 |
| 06/05 | 06/13/2005 | 51967 | 131 | HGE, Inc | 10-00-2005 | 3,451.64 |
| 06/05 | 06/13/2005 | 51968 | 3190 | Jim & Sharon Maier | 10-00-2005 | 26.13 |
| 06/05 | 06/13/2005 | 51969 | 526 | Joe Ingwerson | 10-00-2005 | 53.00 |
| 06/05 | 06/13/2005 | 51970 | | Information Only Check | 10-00-2005 | .00 V |
| 06/05 | 06/13/2005 | 51971 | | Information Only Check | 10-00-2005 | .00 V |
| 06/05 | 06/13/2005 | 51972 | | Information Only Check | 10-00-2005 | .00 V |
| 06/05 | 06/13/2005 | 51973 | | Information Only Check | 10-00-2005 | .00 V |
| 06/05 | 06/13/2005 | 51974 | | Information Only Check | 10-00-2005 | .00 V |
| 06/05 | 06/13/2005 | 51975 | 162 | Kerr Hardware | 10-00-2005 | 706.82 |
| 06/05 | 06/13/2005 | 51976 | 3186 | Kolleen K Damell | 10-00-2005 | 33.02 |
| 06/05 | 06/13/2005 | 51977 | 997 | Kurt Kessler Kustom Bldr Inc | 10-00-2005 | 15.33 |
| 06/05 | 06/13/2005 | 51978 | 1397 | L N Curtis | 10-00-2005 | 500.20 |
| 06/05 | 06/13/2005 | 51979 | 1817 | Mike Wilson | 10-00-2005 | 102.00 |
| 06/05 | 06/13/2005 | 51980 | 3175 | Nat'l Neighborhood Watch Inst | 10-00-2005 | 48.00 |
| 06/05 | 06/13/2005 | 51981 | 293 | Petty Cash | 10-00-2005 | 158.53 |
| 06/05 | 06/13/2005 | 51982 | 3187 | Ray Benner | 10-00-2005 | 19.73 |
| 06/05 | 06/13/2005 | 51983 | 180 | Ray's Food Place | 10-00-2005 | 227.52 |
| 06/05 | 06/13/2005 | 51984 | 3185 | Ron Tribble | 10-00-2005 | 45.00 |
| 06/05 | 06/13/2005 | 51985 | 169 | Roto Rooter | 10-00-2005 | 4,691.75 |
| 06/05 | 06/13/2005 | 51986 | 3191 | Stanley Phelps | 10-00-2005 | 10.59 |
| 06/05 | 06/13/2005 | 51987 | 2577 | SuppliesUSA.com, Inc | 10-00-2005 | 319.48 |
| 06/05 | 06/13/2005 | 51988 | 396 | Tom Moody | 10-00-2005 | 102.00 |
| 06/05 | 06/13/2005 | 51989 | 179 | Trew, Cyphers & Meynink | 10-00-2005 | 4,687.50 |
| 06/05 | 06/13/2005 | 51990 | 161 | United Communications Inc | 10-00-2005 | 1,477.18 |
| 06/05 | 06/13/2005 | 51991 | 991 | Verizon Northwest | 10-00-2005 | 518.24 |
| 06/05 | 06/13/2005 | 51992 | 861 | Village Express Mail Center | 10-00-2005 | 7.70 |
| 06/05 | 06/13/2005 | 51993 | 3189 | Warner Fieldhouse | 10-00-2005 | 15.32 |
| 06/05 | 06/13/2005 | 51994 | 3104 | West Coast Lines & Graphics | 10-00-2005 | 300.00 |
| 06/05 | 06/13/2005 | 51995 | 253 | Xerox Corporation | 10-00-2005 | 70.73 |
| 06/05 | 06/15/2005 | 51996 | 910 | OR Department of Justice | 10-00-2005 | 115.38 |
| 06/05 | 06/15/2005 | 51997 | 1132 | OR Department of Justice | 10-00-2005 | 322.15 |
| 06/05 | 06/15/2005 | 51998 | 1742 | OR Department of Justice | 10-00-2005 | 307.93 |
| 06/05 | 06/15/2005 | 51999 | 2366 | OR Department of Justice | 10-00-2005 | 203.08 |
| 06/05 | 06/15/2005 | 52000 | 205 | PERS Retirement | 10-00-2005 | 12,377.90 |
| 06/05 | 06/16/2005 | 52001 | 682 | Al's Radio Shack | 10-00-2005 | 29.99 |
| 06/05 | 06/16/2005 | 52002 | 3193 | Andrew S. Moore | 10-00-2005 | 145.00 |
| 06/05 | 06/16/2005 | 52003 | 768 | AWWA Northwest OR Subsection | 10-00-2005 | 140.00 |
| 06/05 | 06/16/2005 | 52004 | 1522 | Blumenthal Uniforms | 10-00-2005 | 148.90 |
| 06/05 | 06/16/2005 | 52005 | 1458 | Bob Schaefer | 10-00-2005 | 150.00 |
| 06/05 | 06/16/2005 | 52006 | 3015 | Charter Communications | 10-00-2005 | 990.00 |
| 06/05 | 06/16/2005 | 52007 | 822 | Coast Auto Center | 10-00-2005 | 29.00 |
| 06/05 | 06/16/2005 | 52008 | 183 | Colvin Oil Company | 10-00-2005 | 2,777.44 |
| 06/05 | 06/16/2005 | 52009 | 182 | Coos-Curry Electric | 10-00-2005 | 1,760.92 |
| 06/05 | 06/16/2005 | 52010 | 1801 | Cop Shop Etc | 10-00-2005 | 92.00 |
| 06/05 | 06/16/2005 | 52011 | 2542 | Crystal Fresh Bottled Water | 10-00-2005 | 130.00 |
| 06/05 | 06/16/2005 | 52012 | 389 | Cummins Northwest | 10-00-2005 | 108.66 |
| 06/05 | 06/16/2005 | 52013 | 151 | Curry Coastal Pilot | 10-00-2005 | 2,504.31 |
| 06/05 | 06/16/2005 | 52014 | 173 | Curry Equipment Company | 10-00-2005 | 166.00 |
| 06/05 | 06/16/2005 | 52015 | 2024 | Dakota Ammo, Inc | 10-00-2005 | 389.80 |
| 06/05 | 06/16/2005 | 52016 | 284 | Day-Wireless Systems | 10-00-2005 | 1,547.50 |

M = Manual Check, V = Void Check

| Per | Date | Check No | Vendor No | Payee | Check GL Acct | Amount |
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| 06/05 | 06/16/2005 | 52017 | 484 | DMV | 10-00-2005 | 54.00 |
| 06/05 | 06/16/2005 | 52018 | 773 | Environmental Resource Assoc | 10-00-2005 | 226.16 |
| 06/05 | 06/16/2005 | 52019 | 153 | Ferrellgas | 10-00-2005 | 755.47 |
| 06/05 | 06/16/2005 | 52020 | 139 | Harbor Logging Supply | 10-00-2005 | 16.31 |
| 06/05 | 06/16/2005 | 52021 | 131 | HGE, Inc | 10-00-2005 | 21,609.21 |
| 06/05 | 06/16/2005 | 52022 | 307 | Industrial Steel & Supply Inc | 10-00-2005 | 192.10 |
| 06/05 | 06/16/2005 | 52023 | 3163 | Kwik-Crafts Ltd | 10-00-2005 | 1,751.01 |
| 06/05 | 06/16/2005 | 52024 | 2052 | Les Brown Towing | 10-00-2005 | 100.00 |
| 06/05 | 06/16/2005 | 52025 | 328 | Les Schwab Tire Company | 10-00-2005 | 817.52 |
| 06/05 | 06/16/2005 | 52026 | 1553 | O.N.E.A. | 10-00-2005 | 155.00 |
| 06/05 | 06/16/2005 | 52027 | 279 | One Call Concepts, Inc | 10-00-2005 | 47.25 |
| 06/05 | 06/16/2005 | 52028 | 252 | Paramount Pest Control | 10-00-2005 | 38.00 |
| 06/05 | 06/16/2005 | 52029 | 1193 | PRN Data Services, Inc | 10-00-2005 | 1,567.00 |
| 06/05 | 06/16/2005 | 52030 | 3158 | Southern Oregon Trees & Stumps | 10-00-2005 | 225.00 |
| 06/05 | 06/16/2005 | 52031 | 3194 | Stuart Watkins | 10-00-2005 | 10.09 |
| 06/05 | 06/16/2005 | 52032 | 2182 | Sunnyside Inn Motel | 10-00-2005 | 160.50 |
| 06/05 | 06/16/2005 | 52033 | 170 | Umpqua Research Co | 10-00-2005 | 37.80 |
| 06/05 | 06/16/2005 | 52034 | 136 | United Pipe & Supply Co Inc | 10-00-2005 | 35.60 |
| 06/05 | 06/16/2005 | 52035 | 1020 | Valley Elect Contractors Inc | 10-00-2005 | 888.00 |
| 06/05 | 06/16/2005 | 52036 | 991 | Verizon Northwest | 10-00-2005 | 19.08 |
| 06/05 | 06/16/2005 | 52037 | 3104 | West Coast Lines & Graphics | 10-00-2005 | 212.00 |
| 06/05 | 06/16/2005 | 52038 | 1253 | Western Burner Co Inc | 10-00-2005 | 622.41 |
| 06/05 | 06/23/2005 | 52039 | 100 | Anchor Lock & Key | 10-00-2005 | 40.00 |
| 06/05 | 06/23/2005 | 52040 | 3196 | Armando & Maria Muro | 10-00-2005 | 13.23 |
| 06/05 | 06/23/2005 | 52041 | 1522 | Blumenthal Uniforms | 10-00-2005 | 405.69 |
| 06/05 | 06/23/2005 | 52042 | 147 | Brookings Glass Inc | 10-00-2005 | 61.00 |
| 06/05 | 06/23/2005 | 52043 | 822 | Coast Auto Center | 10-00-2005 | 249.94 |
| 06/05 | 06/23/2005 | 52044 | 182 | Coos-Curry Electric | 10-00-2005 | 3,153.75 |
| 06/05 | 06/23/2005 | 52045 | 888 | CRS | 10-00-2005 | 925.00 |
| 06/05 | 06/23/2005 | 52046 | 2804 | Current USA Processing Center | 10-00-2005 | 15.46 |
| 06/05 | 06/23/2005 | 52047 | 195 | Curry Transfer & Recycling | 10-00-2005 | 43.40 |
| 06/05 | 06/23/2005 | 52048 | 798 | Dan Palicki | 10-00-2005 | 72.19 |
| 06/05 | 06/23/2005 | 52049 | 259 | Da-Tone Rock Products | 10-00-2005 | .00 |
| 06/05 | 06/23/2005 | 52050 | 2729 | DJC | 10-00-2005 | 546.00 |
| 06/05 | 06/23/2005 | 52051 | 2117 | Edge Wireless | 10-00-2005 | 60.95 |
| 06/05 | 06/23/2005 | 52052 | 153 | Ferrellgas | 10-00-2005 | 4,191.29 |
| 06/05 | 06/23/2005 | 52053 | 1346 | Gail's Graphics | 10-00-2005 | 350.00 |
| 06/05 | 06/23/2005 | 52054 | 2109 | Granite Construction Co. | 10-00-2005 | 929.27 |
| 06/05 | 06/23/2005 | 52055 | 2090 | HM Buzz Hansen | 10-00-2005 | 90.00 |
| 06/05 | 06/23/2005 | 52056 | 598 | Hydra-Flo, Inc | 10-00-2005 | 160.50 |
| 06/05 | 06/23/2005 | 52057 | 1699 | Imagistics | 10-00-2005 | 293.07 |
| 06/05 | 06/23/2005 | 52058 | 3162 | Industrial Rebuild Inc | 10-00-2005 | 840.53 |
| 06/05 | 06/23/2005 | 52059 | 2748 | J & A Handy Crafts | 10-00-2005 | 2,258.90 |
| 06/05 | 06/23/2005 | 52060 | 3203 | James & Susanna Crooks | 10-00-2005 | 27.37 |
| 06/05 | 06/23/2005 | 52061 | 3201 | John & Judith McKee | 10-00-2005 | 34.42 |
| 06/05 | 06/23/2005 | 52062 | 3197 | Jones/Asztalos | 10-00-2005 | 6.04 |
| 06/05 | 06/23/2005 | 52063 | 2801 | Keith's Sporting Goods | 10-00-2005 | 197.30 |
| 06/05 | 06/23/2005 | 52064 | 3198 | Kendra Walker | 10-00-2005 | 30.16 |
| 06/05 | 06/23/2005 | 52065 | 2860 | Kiefer | 10-00-2005 | 470.82 |
| 06/05 | 06/23/2005 | 52066 | 2299 | KLB Global Enterprises | 10-00-2005 | 923.36 |
| 06/05 | 06/23/2005 | 52067 | 997 | Kurt Kessler Kustom Bldr Inc | 10-00-2005 | 8.57 |
| 06/05 | 06/23/2005 | 52068 | 386 | Lab Safety Supply Inc | 10-00-2005 | 44.89 |
| 06/05 | 06/23/2005 | 52069 | 3174 | Michelle Benoit | 10-00-2005 | 702.00 |
| 06/05 | 06/23/2005 | 52070 | 3199 | Mike Shepherd | 10-00-2005 | 121.25 |
| 06/05 | 06/23/2005 | 52071 | 155 | Mory's | 10-00-2005 | 5.10 |
| 06/05 | 06/23/2005 | 52072 | 283 | Mufflers & More | 10-00-2005 | 42.00 |
| 06/05 | 06/23/2005 | 52073 | 1844 | My-Comm, Inc | 10-00-2005 | 455.05 |

M = Manual Check, V = Void Check

Check Register - Summary Report
 GL Posting Period(s): 06/05 - 06/05
 Check Issue Date(s): 06/01/2005 - 06/30/2005

| Per | Date | Check No | Vendor No | Payee | Check GL Acct | Amount |
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| 06/05 | 06/23/2005 | 52074 | 1960 | National Fire Fighter Corp | 10-00-2005 | 766.15 |
| 06/05 | 06/23/2005 | 52075 | 572 | OMFOA | 10-00-2005 | 170.00 |
| 06/05 | 06/23/2005 | 52076 | 2089 | OVFA | 10-00-2005 | 225.00 |
| 06/05 | 06/23/2005 | 52077 | 1700 | Phil's Auto Recycling | 10-00-2005 | 35.00 |
| 06/05 | 06/23/2005 | 52078 | 866 | Pitney Bowes | 10-00-2005 | 402.00 |
| 06/05 | 06/23/2005 | 52079 | 3200 | Richard Wilson | 10-00-2005 | 900.00 |
| 06/05 | 06/23/2005 | 52080 | 3195 | Slam'n Salmon Ocean Derby | 10-00-2005 | 500.00 |
| 06/05 | 06/23/2005 | 52081 | 380 | Stadelman Electric | 10-00-2005 | 203.00 |
| 06/05 | 06/23/2005 | 52082 | 2238 | The Hunting Shack | 10-00-2005 | 541.91 |
| 06/05 | 06/23/2005 | 52083 | 170 | Umpqua Research Co | 10-00-2005 | 355.50 |
| 06/05 | 06/23/2005 | 52084 | 136 | United Pipe & Supply Co Inc | 10-00-2005 | 2,510.50 |
| 06/05 | 06/23/2005 | 52085 | 3202 | Warren Muller | 10-00-2005 | 8.48 |
| 06/05 | 06/23/2005 | 52086 | 212 | White House Sales | 10-00-2005 | 2,084.10 |
| 06/05 | 06/23/2005 | 52087 | 269 | WW Grainger | 10-00-2005 | 60.94 |
| 06/05 | 06/28/2005 | 52088 | 1881 | AFLAC | 10-00-2005 | 369.48 |
| 06/05 | 06/28/2005 | 52089 | 205 | PERS Retirement | 10-00-2005 | 11,732.18 |
| 06/05 | 06/30/2005 | 52090 | 167 | American Sigma | 10-00-2005 | 225.00 |
| 06/05 | 06/30/2005 | 52091 | 3204 | Brookings Development | 10-00-2005 | 2,290.00 |
| 06/05 | 06/30/2005 | 52092 | 3205 | Burke Raymond | 10-00-2005 | 163.62 |
| 06/05 | 06/30/2005 | 52093 | 3209 | Burt Rosenberg | 10-00-2005 | 10.78 |
| 06/05 | 06/30/2005 | 52094 | 1373 | Cascade Fire Equipment | 10-00-2005 | 112.39 |
| 06/05 | 06/30/2005 | 52095 | 336 | Chris Wallace | 10-00-2005 | 150.00 |
| 06/05 | 06/30/2005 | 52096 | 183 | Colvin Oil Company | 10-00-2005 | 2,606.57 |
| 06/05 | 06/30/2005 | 52097 | 182 | Coos-Curry Electric | 10-00-2005 | 12,856.39 |
| 06/05 | 06/30/2005 | 52098 | 1674 | Correct Equipment Inc | 10-00-2005 | 268.88 |
| 06/05 | 06/30/2005 | 52099 | 3016 | Cradar Enterprises Inc | 10-00-2005 | 154,035.07 |
| 06/05 | 06/30/2005 | 52100 | 2394 | Craig Mickelson | 10-00-2005 | 25.00 |
| 06/05 | 06/30/2005 | 52101 | 337 | Curry County Health Dept | 10-00-2005 | 50.00 |
| 06/05 | 06/30/2005 | 52102 | 173 | Curry Equipment Company | 10-00-2005 | 29.99 |
| 06/05 | 06/30/2005 | 52103 | 958 | Delaney's Bakery | 10-00-2005 | 35.00 |
| 06/05 | 06/30/2005 | 52104 | 153 | Ferrellgas | 10-00-2005 | 872.46 |
| 06/05 | 06/30/2005 | 52105 | 3079 | Grant E Smith | 10-00-2005 | 102.00 |
| 06/05 | 06/30/2005 | 52106 | 131 | HGE, Inc | 10-00-2005 | 20,190.44 |
| 06/05 | 06/30/2005 | 52107 | 1082 | Hilary Thompson | 10-00-2005 | 26.57 |
| 06/05 | 06/30/2005 | 52108 | 3208 | Kathy Games | 10-00-2005 | 54.63 |
| 06/05 | 06/30/2005 | 52109 | 137 | LauraLee Gray | 10-00-2005 | 276.12 |
| 06/05 | 06/30/2005 | 52110 | 424 | Munnell & Sherrill | 10-00-2005 | 233.20 |
| 06/05 | 06/30/2005 | 52111 | 334 | North Coast Electric | 10-00-2005 | 63.36 |
| 06/05 | 06/30/2005 | 52112 | 2025 | Numborg Scientific | 10-00-2005 | 38.03 |
| 06/05 | 06/30/2005 | 52113 | 1787 | Pape' Machinery | 10-00-2005 | 73.56 |
| 06/05 | 06/30/2005 | 52114 | 2974 | Pat Sherman | 10-00-2005 | 21.06 |
| 06/05 | 06/30/2005 | 52115 | 293 | Petty Cash | 10-00-2005 | 69.43 |
| 06/05 | 06/30/2005 | 52116 | 3192 | Symbol Arts | 10-00-2005 | 1,240.00 |
| 06/05 | 06/30/2005 | 52117 | 396 | Tom Moody | 10-00-2005 | 132.00 |
| 06/05 | 06/30/2005 | 52118 | 136 | United Pipe & Supply Co Inc | 10-00-2005 | 841.69 |
| 06/05 | 06/30/2005 | 52119 | 1020 | Valley Elect Contractors Inc | 10-00-2005 | 105.00 |
| 06/05 | 06/30/2005 | 52120 | 1374 | Verdicon, Inc | 10-00-2005 | 429.50 |
| 06/05 | 06/30/2005 | 52121 | 2328 | Vicki Bailey | 10-00-2005 | 45.78 |
| 06/05 | 06/30/2005 | 52122 | 861 | Village Express Mail Center | 10-00-2005 | 26.77 |
| 06/05 | 06/30/2005 | 52123 | 269 | WW Grainger | 10-00-2005 | 274.68 |
| Totals: | | | | | | <u>422,008.56</u> |

| Per | Date | Check No | Vendor No | Payee | Check GL Acct | Amount |
|-----|------|----------|-----------|-------|---------------|--------|
|-----|------|----------|-----------|-------|---------------|--------|

Dated: _____

Mayor: _____

City Council: _____

City Recorder: _____