

Agenda

VAULT COPY

City of Brookings
Common Council Meeting
Brookings City Hall Council Chambers
898 Elk Drive, Brookings Oregon
September 13, 2004 7:00 p.m.

- I. Call to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. Ceremonies/Appointments/Announcements
 - A. Ceremonies
 - 1. Proclamation—Fall Clean-up Time in Brookings-Harbor [page 1]
 - 2. Proclamation—National Emblem Club Week [page 3]
 - B. Announcements
 - 1. Yard of the Month/Most Improved Property for September
- V. Public Hearing
 - A. In the matter of Planning Commission File No. MPD-1-04, a request for approval of a Master Plan of Development on a 553-acre parcel; consisting of 1,000 dwelling units of various types, a 2.43 acre commercial site, and a 10-acre college campus, to be built in phases implemented in detailed development plans approved by the Planning Commission; located on the easterly side of Highway 101, approximately 4,500 feet (0.8 miles) north of Carpenterville Road and extending north to approximately the Cape Ferrelo overlook entrance; Assessor's Map 41-14 and Index, Tax Lots 2400, 2401, and a portion of 2402; U.S. Borax, applicant; Burton Weast, representative; and in the matter of Ordinance 04-O-565 amending the Comprehensive Plan to include the Lone Ranch Master Plan as a separate document of Goal 14. [page 5]
 - B. In the matter of Planning Commission File No. CPZ-3-04, an application for a zone change from I-P (Industrial) to C-3 (General Commercial), located at 340 Pacific Avenue, 769 and 777 Cottage Street; Assessor's Map 41-13-06 DB, Tax Lot 2700 and 41-13-06 DA, Tax Lots 1700, 1900, and 1901; William Sewell, George and Letty Lee, applicants; James Reynolds, representative. [page 123]
- VI. Oral Requests and Communications from the Audience
 - A. Committee and Liaison reports
 - 1. Chamber of Commerce
 - 2. Council Liaisons
 - B. Unscheduled

VII. Staff Reports

A. Community Development Department

1. Approval of bids for Fifth Street Intersection with Elk Drive [page 133]
2. Approval of bids for Chetco Avenue Water Distribution Project, Schedule C [page 135]
3. Acceptance of dedication deed for right-of-way for construction of Lucky Lane [page 137]

B. City Manager

1. Swimming Pool Improvements [page 147]
2. Other

VIII. Consent Calendar

A. Approval of Council Meeting Minutes

1. Minutes of August 23, 2004, regular Council meeting [page 149]

B. Acceptance of Parks and Recreation Commission Minutes

1. Minutes of June 24, 2004, regular Commission meeting [page 155]

C. Acceptance of Planning Commission Minutes

1. Minutes of July 27, 2004, special Commission meeting [page 159]
2. Minutes of August 3, 2004, regular Commission meeting [page 163]

D. Approval of Vouchers for month of August, 2004, (\$639,459.92) [page 167]

End Consent Calendar

IX. Ordinances/Resolutions/Final Orders

A. Final Orders

1. In the matter of Planning Commission File No. MPD-1-04; a request for a Master Plan of Development; U. S. Borax, applicant. [page 171]
2. In the matter of Planning Commission File No. CPZ-3-04; application for a zone change; William Sewell/George and Letty Lee, applicants. [page 175]

B. Ordinances

1. In the matter of Ordinance No. 04-O-565, an Ordinance amending the Comprehensive Plan of the City of Brookings to incorporate the Lone Ranch Master Plan into Goal 14 as a separately bound document of the Plan. [page 177]
2. In the matter of Ordinance No. 04-O-564, an Ordinance amending the Comprehensive Plan Designation on Four (4) parcels of land located on Pacific Avenue and Cottage Street from Industrial to Commercial and the zoning from I-P (Industrial Park) to C-3 (General Commercial). [page 179]

X. Remarks from Mayor and Councilors

- A. Council
- B. Mayor

XI. Adjournment

City of Brookings
Events Calendar

September 2004

September 2004							October 2004						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
5	6	7	1	2	3	4	3	4	5	6	7	1	2
12	13	14	15	16	17	18	10	11	12	13	14	15	16
19	20	21	22	23	24	25	17	18	19	20	21	22	23
26	27	28	29	30			24	25	26	27	28	29	30
							31						

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			September 1	2	3	4
			12:00pm Comnity Agencies mtg (Chetco Sr.Center) 1:30pm CC-Downtown Subcommittee 2:00pm FH-SafetyComMtg/ Kathy Dunn 7:00pm FH-PoliceReserves	8:15am CC-CmtyDevDpt Staff mtg/LLightle 9:00am CC-Crm Stoppers 10:00am CC- Site Plan Com Mtg/LauraLee Gray 1:15pm CC-Bld Opening-Chetco Avenue Sanitary and Water Lines-Cathle		Farmers Markets on Frontage Road
5	6	7	8	9	10	11
	City Hall CLOSED - Labor Day 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 Staff/Council (KURY 95.3) 7:00pm CC-Planning Commssn	2:00pm CC-downtown subcommittee	8:15am CC-CmtyDevDpt Staff mtg/LLightle 10:00am CC- Site Plan Com Mtg/LauraLee Gray 7:00pm CC-Economic Development Committee-Ed Wait, Dianne Snow	7:00pm CC-Coos-Electric Co op Town Hall meeting-Diane Jackson-541 332-3931	Farmers Markets on Frontage Road
12	13	14	15	16	17	18
	12:00pm CC-Pelican Bay Telecommunications 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)	6:00pm CC-Victim's Impact Panel-Mindy Curry Prevention Services-247-2412	8:15am CC-CmtyDevDpt Staff mtg/LLightle 10:00am CC- Site Plan Com Mtg/LauraLee Gray	2:00pm CC-Oregon OSU Harris Beach Water Quality meeting-Frank Bruce-800-356-3986	Farmers Markets on Frontage Road 10:00am SOLV Great Fall Beach Clean Up-469-0224
19	20	21	22	23	24	25
	FH-Auditors- Sruce Up, Clean Up Yard Week					Farmers Markets on Frontage Road Garage Sale Saturday-Area Wide
	9:00am CC-Municipal Court/ JdgHarper 9:30am CC-VIPS/Volunteers In Police Service-BPalicki 6:00pm CC-American Red Cross Mtg/Karen Degenals 7:00pm FH-FireTng/ChShrp (Fire Hall)	8:30am CC-Investigator/Patrol Information Sharing Meeting-Barbara Palick 9:30am KURY Radio Community Focus Talk Show w/City 10:00am CC-Surburban Fire District-Phil Cox-469-5729		8:15am CC-CmtyDevDpt Staff mtg/LLightle 10:00am CC- Site Plan Com Mtg/LauraLee Gray 7:00pm CC-Parks & Rec Comm/ LBlodgett		
26	27	28	29	30		
	CTR Free Yard Debris Pick Up					
	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)		8:15am CC-CmtyDevDpt Staff mtg/LLightle 10:00am CC- Site Plan Com Mtg/LauraLee Gray		

CC-Council Chambers
FH-Fire Hall

City of Brookings
Events Calendar

October 2004

October 2004							November 2004						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
3	4	5	6	7	8	9	7	8	9	10	11	12	13
10	11	12	13	14	15	16	14	15	16	17	18	19	20
17	18	19	20	21	22	23	21	22	23	24	25	26	27
24	25	26	27	28	29	30	28	29	30				
31													

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					October 1	2
					CTR Free Yard Debris Pick Up	Farmers Markets on Frontage Road Keep Brookings Beautiful Clean up-Pro
3	4	5	6	7	8	9
	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 Palick 9:30am KURY Radio Community Focus Talk Show w/City 7:00pm CC-Planning Commssn	Free Metal and Yard Debris Drop Off at Wridge Creek Transfer Station			
			12:00pm Connity Agencies mtg (Chetco Sr.Center) 2:00pm CC-Bid Opening-Cathie M 2:00pm FH-SafetyCommMtg/ Kathy Dunn 7:00pm FH-PoliceReserves	8:15am CC-CmtyDevDpt Staff mtg/LLightle 9:00am CC-Crm Stoppers 10:00am CC- Site Plan Com Mtg/LauraLee Gray		
10	11	12	13	14	15	16
Free Metal and Yard Debris Drop Off	12:00pm CC-Pelican Bay Telecommunications 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)		8:15am CC-CmtyDevDpt Staff mtg/LLightle 10:00am CC- Site Plan Com Mtg/LauraLee Gray 7:00pm CC-Economic Development Committee-Ed Wait, Dianne Snow		
17	18	19	20	21	22	23
	9:00am CC-Municipal Court/ JdgHarper 9:30am CC-VIPS/Volunteers in Police Service-BPalick 6:00pm CC-American Red Cross Mtg/Karen Degenals 7:00pm FH-FireTng/ChShrp (Fire Hall)	8:30am CC-Investigator/Patrol Information Sharing Meeting-Barbara Palick 9:30am KURY Radio Community Focus Talk Show w/City 10:00am FH-Surburban Fire District-Phil Cox-469-5729		8:15am CC-CmtyDevDpt Staff mtg/LLightle 10:00am CC- Site Plan Com Mtg/LauraLee Gray 2:00pm CC-CEP (Citizens for Emergency Preparedness): MARrell-469-5731, JRupert		
24	25	26	27	28	29	30
	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)		8:15am CC-CmtyDevDpt Staff mtg/LLightle 10:00am CC- Site Plan Com Mtg/LauraLee Gray 7:00pm CC-Parks & Rec Comm/ LBlodgett		
31						



PROCLAMATION

WHEREAS, the Brookings-Harbor area has attained wide recognition for its natural beauty and friendliness; and

WHEREAS, the citizens of the Brookings-Harbor area are known for their civic pride; and


WHEREAS, everyone loves a bargain;

NOW, THEREFORE, I, Bob Hagbom, Mayor of the City of Brookings, do hereby proclaim the months of September and October, 2004, as

"FALL CLEAN-UP TIME IN BROOKINGS-HARBOR"

And ask all citizens to pitch-in, join the Community Pride Partnership Clean-Up Program and take advantage of the free clean up opportunities offered by Curry Transfer and Recycling, and show pride in our community.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Brookings to be affixed this 13th day of September, 2004.


Bob Hagbom
Mayor



PROCLAMATION

WHEREAS, the members of the Supreme Emblem Club of the United States of America, in promulgating community service, have actively engaged in seeking out the worthy and the needy in every community, and

WHEREAS, their assistance and guidance to young men and women is evidenced by great numbers of scholarships, assuring the advanced education of the deserving, and

WHEREAS, the needs of the aged, the crippled, the mentally retarded, and the handicapped, the hospitalized, the veterans, and the poor are considered and fulfilled insofar as can be, and

WHEREAS, the members are vitally concerned with the immediate and permanent needs of those placed in stress by reason of flood, quake, hurricane, and other disasters of nature, and

WHEREAS, these are dedicated to the principle of philanthropic endeavor, and

WHEREAS, be it resolved that the deeds of dedicated, charitable members of the Supreme Emblem Club of the United States of America be recognized,

NOW, THEREFORE, I, Bob Hagbom, Mayor of the City of Brookings, Oregon, do hereby proclaim the week of September 12, 2004, through September 18, 2004, as

NATIONAL EMBLEM CLUB WEEK


Bob Hagbom
Mayor



TO : Mayor and City Council
FROM : John Bischoff, Planning Director
THROUGH : Leroy Blodgett, City Manager
DATE : August 20, 2004



Issue: Approval of the Lone Ranch Master Plan and amendment of the city's Comprehensive Plan to include the approved master plan a separately bound document of Goal 14, Urbanization.

Background: The Lone Ranch Master Plan covers an area of 553 acres of land located on the east side of Highway 101 approximately 0.80 miles north of Carpenterville Rd. The project would consist of 540 single family detached homes, 150 single family attached homes (Townhouses) and 310 multi-family apartment and/or condominium units for a total of 1,000 dwelling units. The project also includes a 2.43 acre convenience commercial complex and a 10 acre college site. 370 acres of the site will be left in natural open space. The applicant, pursuant to the provisions of Section 70, Master Plan Development Zone, of the Land Development Code, is asking for flexibility in street standards, building height and lot sizes, as compared with other residential zones within the city.

If the Master Plan is approved, the approved document must be incorporated into the city's Comprehensive Plan by agreement with LCDC when the subject property was brought into the city's Urban Growth Boundary.

Attached are the Planning Commission Staff Report, Recommended Conditions of Approval, the Master Plan Document and Technical Appendices, and an ordinance to adopt the Plan as an amendment to Goal 14, Urbanization, of the Comprehensive Plan.

Recommendation: The Planning Commission and Staff are recommending approval of the Master Plan.

CITY OF BROOKINGS PLANNING COMMISSION
STAFF AGENDA REPORT

SUBJECT: Master Plan of Development
FILE NO: MPD-1-04
HEARING DATE: July 27, 2004

REPORT DATE: July 20, 2004
ITEM NO: 8.1

GENERAL INFORMATION

APPLICANT: U.S. Borax Inc.

REPRESENTATIVE: Burton Weast, Western Advocates.

REQUEST: Approval of a Master Plan for the development of land to establish 1,000 dwelling units of various types, a commercial area, a college site, with new streets, walking trails, and natural areas.

TOTAL LAND AREA: 553 acres.

LOCATION: On the east side of Highway 101 starting approximately 0.8 miles north of Carpenterville Rd. and extending 1.8 miles north along the highway

ASSESSOR'S NUMBER: 40-14 & Index, Tax Lots 2400, 2401 and 2402.

ZONING / COMPREHENSIVE PLAN INFORMATION

EXISTING: MPD (Master Plan Development).

PROPOSED: Same.

SURROUNDING: West of Highway 101—County PF (Public Facilities); North and East—County FG (Forest Grazing); South—County R-2 (Residential Two) and FG.

COMP. PLAN: Master Plan Area.

LAND USE INFORMATION

EXISTING: Vacant.

PROPOSED: A Master Plan of development.

SURROUNDING: West of Highway 101—Vacant parkland except the Rainbow Rock Condominiums; North and East—Vacant, Cape Ferrello area further north; South—Residential uses and mobile home park.

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

BACKGROUND INFORMATION

The subject property is a 553± acre parcel consisting of two complete tax lots and the majority portion of a third tax lot, located on the east side of Highway 101 beginning approximately 0.8 miles north of Carpenterville Rd. and extending north along the highway for approximately 9,500 feet. The northerly most boundary is 3,780 feet then it turns south for 2,642 feet. At this point the property boundary turns east again for a distance of 2,706 feet, then south once more for a distance of 5,173 feet where it turns west 1,101 feet back to the highway. The Rainbow Rock condominium homeowners association owns a small (in comparison) triangular piece of property on the east side of the highway at the south end of the subject property. This property extends east 1,017 feet from the highway and then south 888 feet back to the highway at a point 442 feet north of the southerly boundary of the subject property (See Exhibit 2). The property is vacant and has four dedicated access points from the highway. A power transmission line within a 100-foot wide easement crosses through the entire length of the property from north to south.

The subject property is divided by three stream corridors. Duley Creek and Lone Ranch Creek converge in the northerly most portion of the property and flow under the highway within the Lone Ranch Beach State Park. Ram Creek is located in the north central area of the property and flows under the highway to the ocean at the south end of Lone Ranch State Park. Taylor Creek is located in the very southerly portion of the property and flows under the highway to the ocean south of the Rainbow Rock condominiums. Topographically the property varies from 50 feet above sea level at the southwest corner where Taylor Creek leaves the property to 500 feet above sea level near the northeasterly most corner. Slopes range from very steep along the streambeds and flatter areas between the creek corridors. The steepest portion of the site, with slopes of 30% or greater are located in the northerly most section of the property along the north boundary and the Lone Ranch and Duley Creek corridors. Another small area of 30+% slopes is located just south of the middle east/west portion of the boundary and then along the Taylor Creek corridor in the southerly portion of the property. Two small areas near the highway also contain steep slopes, one of which is called "Sisters Knob" and at the northwest corner of the notch at the south end of the property. Several smaller areas of 30+% slopes are scattered throughout the property. The slope analysis, Exhibit 3 in the Master Plan Document provided by the applicant indicates breakdown of slopes on the subject property:

15% or less	262 acres	47.3% of total acreage
15 to 30%	166 acres	30.1%
<u>30% or greater</u>	<u>125 acres</u>	<u>22.6%</u>
Total	553 acres	100%

Besides the streambeds, 43 wetland areas that have been delineated on the subject property, however, because some of these are connected, the Wetland Assessment numbers them as Wetlands 1 thru 35. The size of the identified wetlands ranges from 0.005 acres (229 sq. ft.) to 12.6 acres and cover approximately 28 acres or about 5% of the property. Several colonies of the western lily have been identified within some of these wetlands. A copy of the Wetland Assessment and a complete geological report can be found in the Technical Appendix document.

The subject property was annexed into the city in 2002 and subsequently zoned MPD (Master Plan Development), which is implemented by an approved master plan. The area on the west side of the highway is zoned by the county as FG (Forest Grazing) from the northerly city limits to and including the property of the Rainbow Rock condominiums and from there north is Boardman State

Park in the county's PF (Public Facilities) Zone. The area to the north and east is zoned with the county's FG (Forest Grazing) Zone and is essentially vacant land. To the south and a small area at the southeast corner of the property is zoned RR-5 (Rural Residential, 5-acres minimum lot size) by the county and is developed with single-family homes and a mobile home park on Coverdale Rd. The septic system drainfield for the mobile home park is located via an easement at the very southeasterly corner of the subject property.

Highway 101, with a right-of-way that varies in width, extends along the entire westerly boundary of the subject property. The highway consists of two paved travel lanes with no other improvements. At this time there is no water or sewer service to the site nor are there mains within the highway adjacent to the site. Natural drainage is into the three stream systems that cross the site and then to the ocean through culverts under the highway.

MASTER PLAN PROCEDURE

The applicant is requesting approval of a Master Plan of Development over the 553-acre site. Pursuant to Section 70, Master Plan of Development, of the Land Development Code, the Master Plan Zone is implemented by the approval of a master plan (MP) of development, which is treated in somewhat the same manner as a planned unit development. The difference being that the master plan is for much larger parcel of land and thus more complex in nature. Both the Planning Commission and the City Council must approve the MP as an amendment to the city's Comprehensive Plan. The zone allows flexibility in development standards for issues such as street width and improvements, minimum lot sizes, types of housing product, mixed uses, and other criteria and these standards may vary from project to project. The approval of the master plan accepts the standards requested by the applicant as being appropriate for the site on which the project is located. Once the master plan is approved, it is implemented through a detailed development plan (DDP) for the individual phases or portions of phases that are described by the master plan. For example the first detailed development plan will likely be for the initial streets, water system, sewer system and other infrastructure necessary to enter the site and facilitate subsequent development. Detailed development plans for a housing phase will include the required subdivision, with streets and utilities as with a normal subdivision but may also include a cultural survey or discussion on the protection of adjacent wetlands or other natural features. The Planning Commission approves the DDP in the same manner as other land use applications. The MPD Zone remains on the property and all uses proposed on the site in the future must be consistent with the approved MP or the MP must be amended thru the same process as its approval.

PROPOSED MASTER PLAN

The proposed MP contains several housing types, a commercial area and a site for college campus, along with open spaces, walking trails and a street system with 4 different street sections. Each of these features is described below:

Circulation, Exhibits 6 and 7 in the Master Plan Document

The circulation plan provides three different street sections that are related to the purpose they serve. The first section is termed "Urban Residential Collector" within a 52-foot wide right-of-way and 28 feet of pavement, curb, gutters and sidewalks *or path* on *one* side. This street section is used as the main project entrance and as the collector street from the residential neighborhoods.

The second section, termed "Rural Residential Collector" has a 52-foot right-of-way with 28 feet

of pavement with swales at the shoulder with no curb or gutter. This section is used for two of the entrances to the project and as the connecting link between residential neighborhoods. The third street section, termed "Local Residential" has a 46-foot right-of-way with 24 feet of pavement with curb, gutter a 5½ foot parkway and sidewalk on both sides *of streets with houses on both sides an on one side if houses are only on one side of the street..* This street section will be the local street throughout the residential development. Although not shown in Exhibit 6, a private street within a 22-foot right-of-way with 20 feet of pavement has been indicated in the event it is needed to access a small number of residents or as an alley behind residents. A walking trail will run throughout the project connecting all of the local sidewalks with each other and to the commercial center.

Access to the site is from Highway 101 from four locations along the length of the project. The northerly most entrance is located just south of where Lone Ranch Creek crosses the highway. This entrance will serve the northerly most development on the site between Lone Ranch Creek and Ram Creek and because of the steep Ram Creek canyon, does not link back to the rest of the street system. The entrance street for this area will be a "Rural Residential Collector" and all of the other street sections will be used as appropriate. The walking trail does cross Ram Creek in two locations.

The second northerly most entrance is located just south of the Ram Creek highway crossing. The entrance street here will also be the "Rural Residential Collector" and will consist of a loop through two residential neighborhoods, and to the main entrance, which is located approximately 1,200 feet north of the driveway entrance to the Rainbow Rock Condominiums. The main entrance street section will be the "Urban Residential Collector", which will serve the commercial center, college site and connect to all of the residential neighborhoods south of Ram Creek. The other street sections are used throughout the development as appropriate.

The southerly most access point is a gated access for emergency use only and is located at south end of the project site just north of where Taylor Creek crosses the highway.

A traffic impact study can be found in the Technical Appendices document

Residential Development, Exhibit 1 of the Master Plan Document

Residential development on the subject property will take three forms – single-family detached, single family attached (townhouses/row houses) and multiple-family (apartments). The single-family detached housing will consist of 540 units on lots ranging in size from 5,000 sq. ft. or larger. Only 10% of the total lots will be less than 6,000 sq. ft. in size. Single-family homes will occupy approximately 93 acres of the site at an average density of 5.8 du/ac. The project will have 150 single-family attached homes in the form of a row houses and each individual unit will have a 1,250 sq. ft. lot and occupy approximately 11 acres of the project site with an overall density of 13.5 du/ac. The project will have 310 multi-family residential units on approximately 22 acres with an overall density of 14 du/ac. The applicant is proposing a maximum building height of 40 feet for the single-family detached homes and 45 feet for the single-family attached and multiple-family buildings. The applicant is also requesting flexibility for the front yard setbacks for the single-family detached homes with a minimum setback of 15 feet. The circulation plan shows the local streets for the single-family attached and single-family detached developments, but the access for the multi-family will be determined by the design of the units and shown on the DDP for those areas.

In one of the areas designated for multiple family development the MP shows a potential hotel site. The applicant is requesting this option, which would replace some of the multi-family units if a hotel were to be placed in that location. The DDP for that area will determine if a hotel is ultimately placed in that site.

Commercial Development, Exhibit 1 of the Master Plan Document

A 2.43-acre commercial area will be located adjacent to both sides of the main entrance street and adjacent to the highway right-of-way. The commercial development will be of a neighborhood commercial nature. Buildings in the commercial area will be a maximum height of 45 feet and parking requirements will be pursuant to Section 92, Parking and Loading Regulations, of the Land Development Code.

Community College Campus, Exhibit 1 of the Master Plan Document

The MP provides for a 10-acre site for the Southwest Oregon Community College campus. The campus itself will occupy slightly more than 5 acres with the remaining area as open space. Once the streets and sewer mains are in place, the college campus may be the first DDP that is submitted for approval and development.

Wetlands and Open Space, Exhibit 1 of the Master Plan Document

Approximately 371 acres of the total 553 acres will remain in open space, with most of this being within the stream canyons and on the steeper slopes and approximately 28 acres of wetlands. The design of much of the street system using drainage swales rather than curbs and gutters with underground drainage, is due to the need to protect the wetlands by ensuring that sufficient water is supplied to keep them viable and to also not drown them with too much water. Except in a very few areas, development will not occur within 50 feet of the wetland boundaries and the street system has been designed to avoid crossing the wetlands to the extent possible. Exhibit 2 in the MP document indicates that the street crosses a wetland in five places and the walking trail crosses a wetland in six places. No development will occur north of Lone Ranch Creek and south of Taylor Creek. Because of the steep stream canyons, the street system does not cross any of the existing streams except for ~~one~~ *two* places—at the very north end of the westerly branch of Taylor Creek and at the end of a small tributary of Ram Creek. A complete description of the wetland can be found in the Technical Appendices Document.

ANALYSIS

The Planning Commission shall approve an application for MPoD upon finding that the following approval criteria has been met:

- A. The proposed MPoD is consistent with the purposes identified in Section 70.010 and the intent of the MPD Zone.
- B. The proposed phasing schedule, if any, is reasonable and does not exceed 10 years between commencement of development on the first and last phases unless otherwise authorized by the Planning Commission either at the time of approval of the MPoD or by a modification to the MPoD. If at the end of 10 years the project is not built out, the Planning Commission shall review the MPoD and shall have the ability to require changes to or rescind the plan based on existing conditions.

- C. The proposed MPoD will demonstrate that adequate utilities and infrastructure are available or can reasonably be made available at each phase. The proposed MPoD will further demonstrate that existing utility services and water supplies for adjacent properties will not be negatively affected by each phase.
- D. The proposed MPoD will demonstrate that the plan respects the physical characteristics of the site.
- E. The applicant demonstrates that all deviations from the development standards are warranted.
- F. The Circulation proposed MPoD will demonstrate that adequate transportation facilities are available, and the plan promotes the most economic, safe and efficient movement of traffic.
- G. The proposed MPoD meets the applicable requirements of the Urban Growth Boundary Joint Management Agreement.

The applicant has submitted findings in Section V of the Master Plan document for each of the criteria listed above. The attached errata sheet and response to comments pages should be used in conjunction with the findings in the MP document (These sheets are in response to the comments staff has made back to the applicant upon review of the Mp document and Technical Appendices). To avoid redundant discussion of this material staff has reviewed the applicant's findings and commented with either a statement of agreement or with additional information as follows:

Criterion A, Consistency with purpose and intent of the master planning zone

The applicant has provided a finding for all of the provisions listed the purpose statement of Section 70 of the Land Development Code, except for provision "G", which is discussed under findings for Criterion "H", below. Staff agrees with the applicant's statements and findings for this criterion.

Criterion B, Proposed phasing schedule

Staff agrees with the applicant's statements and findings for this criterion. As permitted in Section 70, the applicant is requesting at this time for a 15-year buildout period. No phasing schedule is proposed at this time. Phasing will be proposed with the submittal of the first DDP.

Criterion C, Adequacy of utilities

Staff agrees with the applicant's statements and findings for this criterion. Also see the errata sheet and response to comments pages attached to the documents.

Criterion D, Demonstration that the plan respects the physical characteristics of the site

Staff agrees with the applicant's statements and findings for this criterion.

Criterion E, Description of proposed development standards and proposed variations.

Staff agrees with the applicant's statements and findings for this criterion. The variations requested by the approval of this include street right-of-way widths, street improvement standards, lot sizes, housing types, setback standards, and building heights, all of which have been discussed above and are allowed if approved as a part of the MP approval.

Criterion F, Demonstration that the circulation plan promotes the most economic, safe and efficient movement of traffic.

Staff agrees with the applicant's statements and findings for this criterion. The applicant has worked with the Oregon Department of Transportation to ensure that traffic generated impacts on Highway 101 have been addressed and measures have been proposed and accepted as adequate to mitigate the projected impacts through buildout of the project. A Traffic Impact Study is provided in the Technical Appendices. Internal circulation provides links all of the neighborhoods with two open access points and one emergency access point, except for the neighborhoods between Ram Creek and Lone Ranch Creek, which only have one access point. This neighborhood can possibly be connected to Duley Creek Rd., especially if the UGB is expanded again at some point in the future. The neighborhood between Ram Creek and Lone Ranch Creek will probably be the last phase of the development and may well correspond with the need for the next expansion of the UGB to provide the required 20 years worth of growth potential.

Criterion G, Consistency with the applicable requirements of the UGB Join Management Agreement
Staff agrees with the applicant's statements and findings for this criterion.

Criterion H, Consistency with the goals and policies of the Comprehensive Plan

Staff agrees with the applicant's statements and findings for this criterion. The applicant has provided a statement and finding on how the proposed project is consistent with each of the goals of the Comprehensive Plan. At staff's request the applicant has provided additional findings for Goals 3 and 4, Agriculture and Forestry, concerning the impact of the project on the adjoining resource lands. These findings are attached to this report.

FINDINGS

1. The applicant has submitted a Master Plan of Development pursuant to Section 70, Master Plan Development District, of the Land Development Code, for development of 553 acres of land within the city limits.
2. The property is zoned Master Plan Development and is designated as Master Plan Area by the Comprehensive Plan.
3. The applicant has submitted findings addressing the criteria set forth by the Master Plan Development Zone for the approval of a Master Plan of Development.
4. The applicant has completed a Transportation Impact Study (TIS) addressing traffic impacts on Highway 101 that will be generated by the proposed project.
5. The TIS indicates that three intersections, Highway 101/Carpenterville Rd., Highway 101/Fifth St., and the main entrance to the proposed project *will be impacted by the proposed development*.
6. Improvement to the Carpenterville Rd. and Fifth St. intersections are addressed in the city's adopted Transportation System Plan (TSP).

7. Because the extent of development on the subject site was not known at the time the TSP was adopted, project generated improvements were not included.
8. The TIS submitted by the applicant has provided improvement options for the main entrance to the project site, which will be implemented as required and with necessary Oregon Department of Transportation Access Permits.

CONCLUSIONS

1. The materials and findings submitted by the applicant have adequately met the requirements of Section 70, Master Plan Development District, of the Land Development Code.
2. At the time of the adoption of the city's Transportation System Plan, detailed analysis of the proposed Lone Ranch project was deferred. Now that development has been proposed, the TSP will be amended prior to approval of the first Detailed Development Plan, to include the planned improvement identified in the TIS. Because the overall traffic generation from the proposed master plan application is less than that envisioned for the site in the TSP, and because the required improvements can be accommodated during the acquisition of access permits, the Lone Ranch project is consistent with the Transportation Planning Rule.

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. MPD-1-04, 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
LONE RANCH MASTER PLAN
MPD-1-04
(As Recommended By The Planning Commission)

General Conditions

1. Approval of this Master Plan will expire in 15 years or in four (4) years from approval, unless a Detailed Development Plan (DDP) pursuant to Section 70, Master Plan Development District, of the Land Development Code, is submitted and approved by the Planning Commission and construction of the DDP shall start within three years of approval. Each subsequent DDP must be filed within four (4) years of the completion of the previously approved DDP, or the Master plan will expire. If the conditions at the time warrant, the Planning Commission may extend the 15 year Master Plan permit or the four (4) year DDP permit period for an additional two-year period at the request of the applicant.
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 70, of the Land Development Code.
3. All subsequent applications for a DDP shall be in substantial conformance with the appropriate area of the approved Master Plan. Any deviation from the approved Master Plan beyond that allowed by Section 70 of the Land Development Code shall require an amendment to the approved Master Plan.
4. Prior to any construction or grading on the site, the applicant shall submit 4 copies of the construction plans to the city staff to be reviewed and approved by the City Engineer. With the exception of the removal of the rock and reclamation in the area of the existing quarry, (ODOT Quarry and college site) the applicant shall submit a DDP for review and approval of the Planning Commission prior to construction or grading for that phase of the construction.
5. Prior to any construction or grading 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.
6. The applicant shall consult with all applicable state and federal agencies to develop measures to protect the existing wetlands and the associated western lily.

Conditions Prior To Development of Any Collage, Commercial or Residential Phase.

To ensure that all infrastructure facilities are in place to support the first phase of development, the following conditions shall be met prior to or simultaneously with the approval of the first phase of construction for either commercial, collage or residential development on the site.

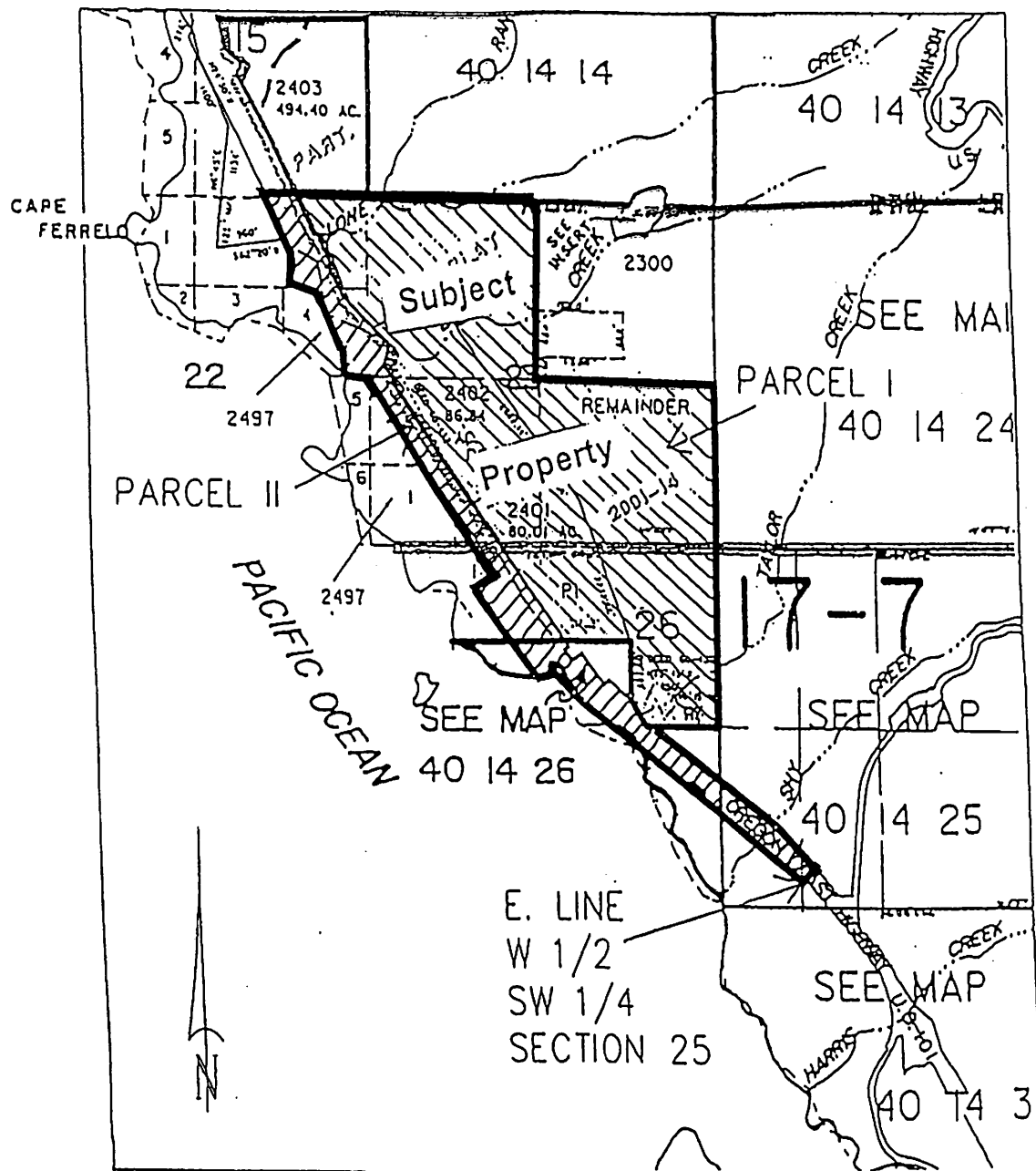
7. Prior to any construction within the project area, the applicant shall submit four (4) copies of street construction plans providing access into the site, for review and approval of the City Engineer and an application for a DDP for the street construction for review and approval by the Planning Commission.

8. All streets shall be constructed in the manner and standards set forth in the approved Master Plan for that street segment. Any deviation from that of the approved Master Plan beyond that allowed by Section 70 of the Land Development Code shall require an amendment to the Master Plan document.
9. Prior to any construction within the project area, the applicant shall submit four (4) copies of water system construction plans providing service to the construction site, for review and approval of the City Engineer and an application for a DDP for the water system construction for review and approval by the Planning Commission.
10. All water lines shall be installed pursuant to the provisions set forth in the OAR Chapter 33, Sections 42-200 through 42-243, by the Oregon State Health Division and the City of Brookings Standard Specifications Document.
11. Prior to any construction within the project area, the applicant shall submit four (4) copies of sanitary sewer construction plans providing service to construction the site, for review and approval of the City Engineer and an application for a DDP for the sanitary sewer system construction for review and approval by the Planning Commission.
12. Sanitary sewer installation shall comply with the standards of the State of Oregon Department of Environmental Quality and the provisions of Brookings City Ordinance No. 430, and Standard Specifications Document, dated August 1988.
13. All development shall comply with the state regulations regarding cultural resources, specifically, ORS 358.905 to 358.955, ORS 390.235 to 390.240 and ORS 97.740 to 97.760, to the extent applicable.
14. All street, water, sewer storm drainage and other utility construction to be carried out simultaneously may be included in one DDP for review and approval by the City Engineer and Planning Commission.
15. The project water system shall be developed to connect to the existing city system and allow reverse flows.
16. The applicant shall be prepared to provide a geological report related to the installation and construction of streets and utilities if required by the City Engineer.

Conditions for the Development of Commercial, College or Residential Phases. .

17. Prior to the construction of any phase or partial phase of the project the applicant shall submit a DDP pursuant to Section 70 of the Land Development Code, for review and approval by the Planning Commission.
18. Each DDP shall be in significant conformance for that phase or partial phase of the area shown in the approved Master Plan. Any deviation beyond that allowed by Section 70 shall require an amendment to the Master Plan document.

19. Each phase of development shall be complete within itself for access, water service, sewer service, storm drainage, and all utilities, and all streets, services and utilities shall be extended to the furthest limit of the phase to ensure connection to the next phase.
20. Each DDP containing slopes greater than 15% shall include a geological report pursuant to Section 100, Hazardous Building Site/Hillside Development Standards, of the Land Development Code.
21. All appropriate federal and state permits related to the direct impact of development on the waters of the State or U.S. shall be obtained prior to development.
22. Prior to approval of the Detailed Development Plan (DDP), covenants, which are enforceable by the city, protecting Western Lilies shall be provided as part of each DDP, which includes known Western Lily habitat.
23. Prior to construction of any phase that may adversely affect the quality or quantity of water available through the existing Rainbow Rock Service Association (RRS) surface water supply system, the applicant shall demonstrate how such adverse impacts will be mitigated or that RRSA can obtain an adequate alternative water supply. Each DDP shall evaluate the impact of development on the existing RRSA surface water system, unless RRSA has previously discontinued use of the system.
24. All required improvements to Highway 101 at the Lone Ranch access as identified in the Lone Ranch Transportation Impact Study, dated April 19, 2004 shall be required as part of the ODOT access permit for that entrance. The specific configuration of the improvements to Highway 101 at the southern access will be negotiated between the applicant and ODOT.
25. The applicant shall support any future effort to reestablish the ability for fish passage under Highway 101 for Lone Ranch Creek, Ram Creek and Taylor Creek. "Support" means that the applicant shall not oppose such efforts.



Applicant: U. S. Borax

Assessor's No: 40-14 & Index, Tax Lots 2400, 2401, and a portion of 2402

Size: 553 Acres

Location: East of Hwy. 101 and north of Carpenterville Road

Zone: MPD-Master Plan Development





Oregon

Theodore R. Kulongoski, Governor

EXHIBIT A

Department of Transportation
Region 3 - Planning
3500 NW Stewart Parkway
Roseburg, OR 97470
Telephone (541) 957-3692
FAX (541) 957-3547
thomas.guevara@odot.state.or.us

JULY 26, 2004

JOHN C. BISCHOFF, PLANNING DIRECTOR
CITY OF BROOKINGS PLANNING DEPARTMENT
898 ELK DRIVE
BROOKINGS, OREGON 97415

Re: US Borax Lone Ranch Master Plan (MPD-1-04)

Dear Mr. Bischoff,

This correspondence is to provide comments on the approval of a Master Plan for the development of land to establish 1,000 dwelling units of various types, a commercial area, a college site, with new streets, walking trails and natural areas located on the east side of US 101 starting approximately 0.8 miles north of Carpenterville Road and extending 1.8 miles north along the highway. The Oregon Department of Transportation (ODOT) has reviewed the staff report, traffic evidence and conditions of approval, and has no transportation concerns with the proposed project subject to the following corrections to the Findings of Fact and conditions of approval.

1. ODOT recommends that the second conclusion on page 8 in the staff report be included in the Final Findings of Fact and conclusions of law to be adopted by the City Council; and
2. Condition of Approval number 24 should remove the word "southern" to ensure that all improvements for the accesses to the subject property are made as part of an ODOT Road Approach Permit.

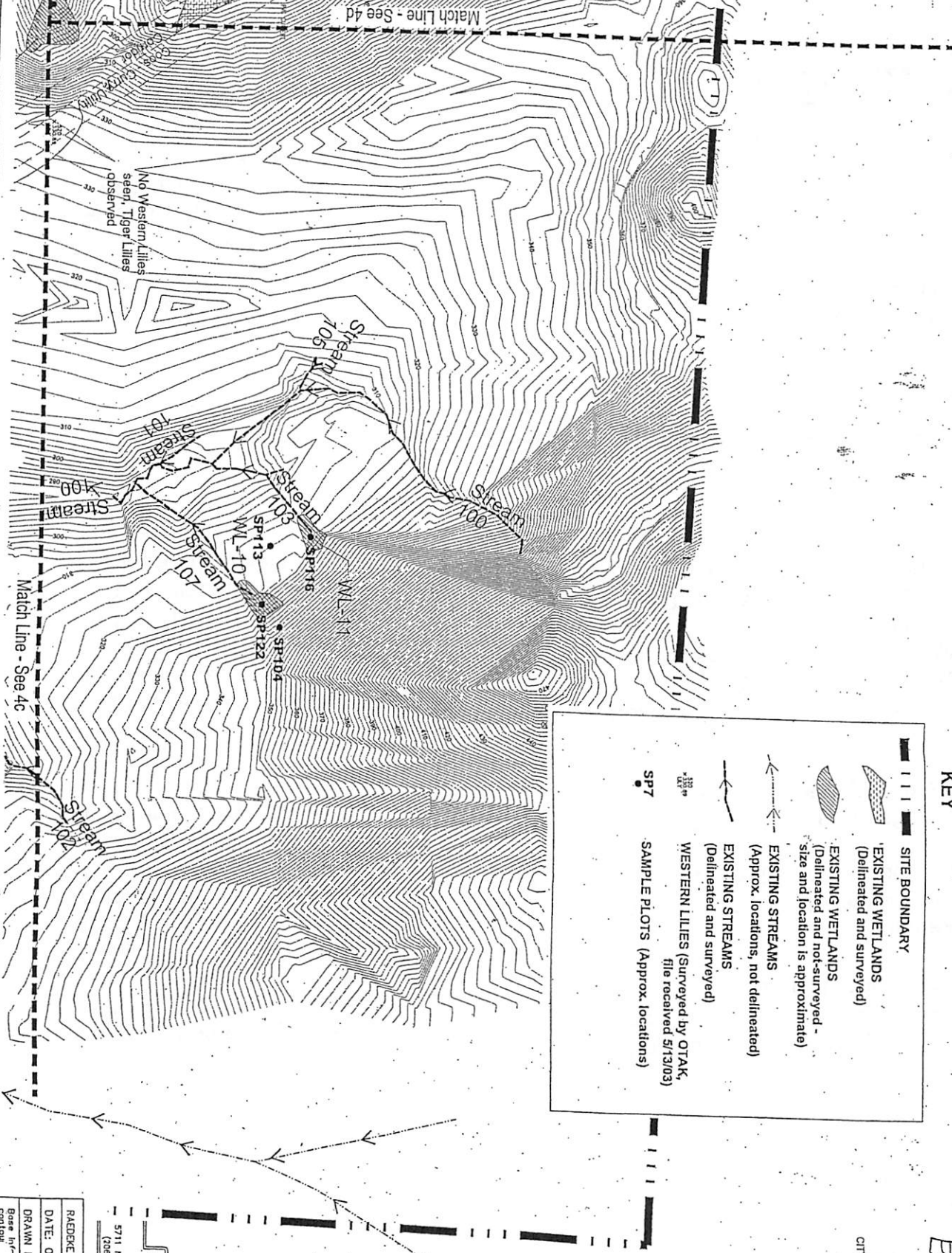
We appreciate the opportunity to provide assistance on the proposed project, and look forward to serving the City of Brookings in the future. Please contact me at (541) 957-3692 if you have any questions or need additional information.

Sincerely,

THOMAS GUEVARA
Development Review Planner

Cc: Marty Stiven, Western Advocates

Exhibit



KEY

- SITE BOUNDARY
- EXISTING WETLANDS (Delineated and surveyed)
- EXISTING WETLANDS (Delineated and not surveyed - size and location is approximate)
- EXISTING STREAMS (Approx. locations, not delineated)
- EXISTING STREAMS (Delineated and surveyed)
- WESTERN LILIES (Surveyed by OTAK, file received 5/13/03)
- SAMPLE PLOTS (Approx. locations)

EXHIBIT B **FIGURE 4e**
U.S. BORAX
LONE RANCH
 CITY OF BROOKINGS, CURRY COUNTY, OREGON
 EXISTING CONDITIONS

RADEBE ASSOCIATES, INC.
 5711 NORTHEAST 63RD ST. SEATTLE, WA 98115
 (206) 525-9122 FAX: (206) 526-2880

RADEBE ASSOCIATES PROJECT: 2003-014-003
 DATE: 03-16-04
 DRAWN BY: CJM

Base information provided by OTAK, files contain 19, plan0128.dwg, and wetland.dwg received 1-28-04

EXHIBIT 6

96370 Duley Creek Rd.
Brookings, OR 97415
Aug. 25, 2003

Ms. Karen Quigley
Executive Director
Legislative Commission on Indian Services
900 Court St., Room 167
Salem, OR 97301

Dear Ms. Quigley,

I am writing to you out of concern for probable cultural resources sites on property near Brookings. I live near the property, and am very familiar with it. I want to make sure that state Land Use Goal #5, which requires cultural resources surveys, is complied with, as well as ORS 358.905 and ORS 390.235 on cultural resources in the path of development. It is my understanding, checking with the State Historic Preservation Office, that no such surveys have as yet taken place.

The property in question is a 640-acre parcel owned by U.S. Borax, which was recently included in the Urban Growth Boundary expansion of Brookings, and annexed into the City approximately a year ago. The Borax property is entirely undeveloped, save for a power line corridor. It is nearly all forested, with some large, old trees. Both Duley Creek and Lone Ranch Creek run through this property, and empty into the ocean in Sam Boardman State Park, which is directly across Highway 101 from the property. Lone Ranch Creek has large shell middens at its mouth, and other large ones exist nearby on the beach.

U.S. Borax and the City are now working on plans for a major development on the property, including many hundred houses, a hotel, golf course and commercial center. The Borax property has just been rezoned to have Master Planning status apply to it. In the ordinance, the Brookings Planning Commission included a statement about cultural resources and the importance of recognizing them, but the City Council removed it.

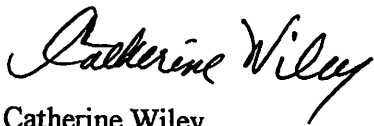
I spoke with Elmer Jordan, whose grandmother was of the Chetco people, who are now a part of the Confederated Tribes of the Siletz. He stated that according to the oral history of the Chetco River people, there was a large *permanent* Native settlement of board houses, numbering at least forty houses, on what is now the Borax property. The other major permanent settlement was along the Chetco River. He stated that such a permanent site is the only way the shell middens at the mouth of Lone Ranch Creek, and other nearby nearby mounds, could be so large.

It is therefore likely that major archeological sites exist on the Borax property. It is well known that there are many ancient cultural sites at Indian Sands, about three miles north of Borax. The whole area was clearly heavily used by Native people, both ceremonially and for permanent settlement.

I hope that U.S. Borax and the City of Brookings, in conjunction with the Confederated Tribes of the Siletz, and other federally-recognized Tribes as appropriate, will work together to require a survey of the property before any development takes place, in order that no State law be broken concerning cultural resources. It is also imperative that Brookings and Curry County comply with State Land Use Goal #5, which *requires* cultural resources surveys.

I thank you for your consideration. Please contact me if you have any further questions.

Sincerely,



Catherine Wiley

cc:

James Hamrick

Dennis Griffin

Robert Kentta

June Olson

Tom Younker and Don Ivy

Bob Hagbom, Mayor of Brookings

City of Brookings Planning Commission

Curry County Commission

7/26/04

To: City of Brookings Planning Commission

From: Catherine J. Wiley - 96370 Duley Creek Rd Brookings 97415

Re: Planning Staff Report and Recommendation

Re: MPD 1-04 - "U.S. Borax"

I am requesting that the only conscionable action this Commission could make would be to reject the approval of "a Master Plan" for the development of the property referred to as the US Borax property. In lieu of outright rejection of the plan, I request a continuance on the issue.

The basis for continuance is the fact that notices were not sent as promised by Planning staff and the Commission, and further that materials were not made available in the legally required time frame (Documentation is all attached.)

The basis for rejection of the proposal ~~for~~ The entire proposal and responses are saturated with ambiguous assurances; if not outright obfuscations.

While the purported rationale for annexation of the non-contiguous piece of property to the city of Brookings was to ensure established standards; compliance/improvement on existing City planning issues as well as to expand urban development to meet community needs. In fact the proposal is counter-point to its proposed intention/purpose.

• Building lots, building heights, sidewalks, roadways, drainage, gutters, etc., etc. are at variance with City standards.

①

- Commercial development will not exclude businesses already cited by downtown advisory groups as problematic - including auto, boat and trailer dealerships

- Parking is not specified for residences, nor commercial areas but is referenced that it "may" be included for guests or visitors.

- Presentation of wetland areas is documented as variant from 20 to 28 to 75 acres (article attached).

- Wetlands are proposed to be filled and are purported to be "minimally impacted" - as long as the "minimum number" of desired units can be built.

- Stream buffers are not identified, nor assured.

- Per their own memoranda - reservoirs may be "side-by-side" - "adjacent" or "in the same vicinity"

- Existing ground cover - essential for groundwater absorption will have to be removed to ensure sound foundations & roadways - after all, it acts as a "sponge".

- Costs previously presented as being the sole responsibility of Bosax or the developer(s) are now stated to be "shared" by the City of Brookings - The "shared" amount and means of obtaining these "shared" costs from the citizens of Brookings is not addressed.

It should be noted, that with the current City budget of over 18 million dollars, every man, woman and child in the City limits is currently "costing" over \$3,000. per person.

- While references have been made to "spotted owls" (Mr West) and marbled murrelets (in consultant report) - there is no final ecological report / recommendation.

- There is no projection on watershed in consideration of tree, foliage and soil removal.

- There is a clear statement indicating the residents of Rainbow Rock Condominiums will have both the quality and quantity of their water impacted by the proposed development. However no means of remedy are indicated covering the costs that may be incurred.

- There is no assessment of impact on surrounding homeowners - Taylor Creek, Ram Creek, Duley Creek and the quality / quantity of their water.

- There is now direct reference to "cutting through" Duley Creek Road. When this issue was previously raised, Mr West, sarcastically responded by informing me I would wish they would cut the road through - with the beautiful hotel & golf course below - Of course they no longer exist either. Do the residents of Duley Creek Rd now have a say, or information on their impact?

In summary, the entire proposal indicates that "US Borax" and their selected developers will do what they say - unless something else is more expected - ensures their "minimum unit", or increases profit. Some of the facts that one would hope a responsible Planning Commission would consider:

- Development should fit the land.
- Land should not be compromised to ensure developers' greed.
- Borax is NOT a "US" company.
- The said property is unique. It never was logged but used as a permanent Native American settlement prior to displacement in 1858. Subsequently the land was used for cattle & sheep grazing and raising potatoes.
- The property is exceptional - it is abundant with wildlife - rare and endangered plants - old growth spruce and fir. It has very possibly the oldest living spruce on earth (11.12 the water falls 100 feet from Juley Creek to Lone Run and both sides are covered with sphagnum moss thick enough to climb. Fish exist in the streams.
- There is no assurance the proposed paths, walkways, trails will be open to the public (as should be mandated within the City).

Borax, nor its representatives have revealed that they have been mandated to obtain an archaeological survey for cultural and historical sites. It should be noted that the wording previously included by this Planning Commission, in this matter, was removed by the Mayor and City Council at the request of the Borax representative.

. It is anticipated, based on oral and documented surveys of the past that this area is abundant with artifacts, including elk pits, housing, burial sites, etc.

Further: what is the status of taxation of the property; who has actually seen the deed of trust for the property? What can anyone be sure of, when all things are changed or manipulated to meet the desires of a foreign, multinational mining corporation?

The decisions you make today and in the days to come will impact this community, and the greater ecology forever.

I thank you for your serious and sincere consideration of these issues

CITY OF BROOKINGS



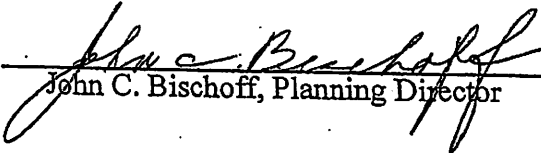
PUBLIC NOTICE NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Brookings Planning Commission will hold a special meeting on Tuesday, July 27, 2004, at 7:00 p.m. in the Council Chambers of Brookings City Hall, 898 Elk Drive, Brookings.

In the matter of Planning Commission File No. **MPD-1-04**, a request for approval of a Master Plan of Development on a 553-acre parcel; consisting of 1,000 dwelling units of various types, a 2.43 acre commercial site, and a 10-acre college campus, to be built in phases implemented in detailed development plans approved by the Planning Commission; located on the easterly side of Highway 101, approximately 4,500 feet (0.8 miles) north of Carpenterville Road and extending north to approximately the Cape Ferrelo overlook entrance; Assessor's Map 41-14 and Index, Tax Lots 2400, 2401, and a portion of 2402; U.S. Borax, applicant; Burton Weast, representative. Criteria used to evaluate this master plan can be found in Section

The public is invited to attend and participate in this public hearing. All persons wishing to address this matter will have an opportunity to do so in person at the hearing or by submitting written evidence to the Brookings City Planning Director at the address above. A copy of the staff report prepared for this case will be available for inspection, at no cost, and provided at reasonable cost, seven days prior to the hearing. All documents may be viewed or obtained at the Planning Department at Brookings City Hall or call John Bischoff at (541) 469-2163 ext. 237.

If special accommodations are needed for the physically challenged, contact Cathie Mahon at 469-2163 ext. 203 or TDD 469-3118.

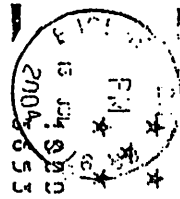

John C. Bischoff, Planning Director



City of Brookings
898 Elk Drive
Brookings OR 97415



NOT DELIVERABLE
AS ADDRESSED,
UNABLE TO FORWARD



4462 MAILED FROM ZIP CODE 97415

Catherine Wiley
~~96370 Dewey Road~~
~~Brookings, OR 97415~~

Duley Creek Rd



Wednesday 7-21
C. Wiley:
Sorry for the
Delay - See Attached

CATHERINE MATHIAS

KEY

FIGURE 4e







U.S. BORAX

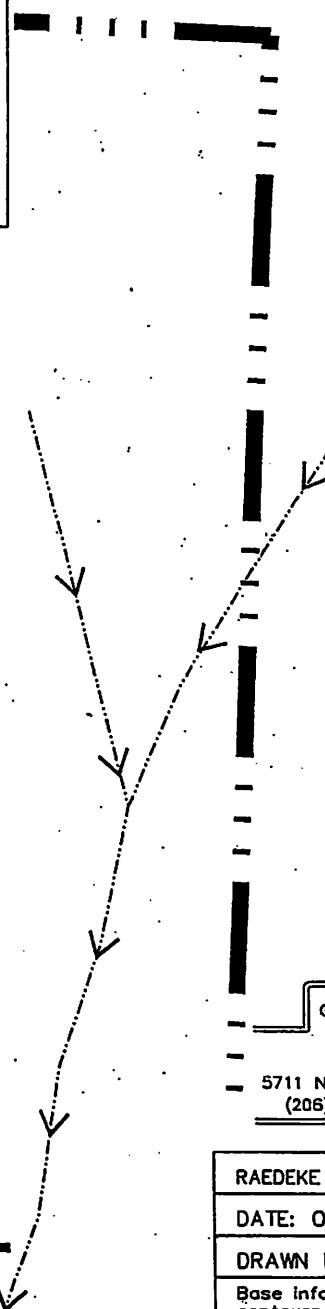
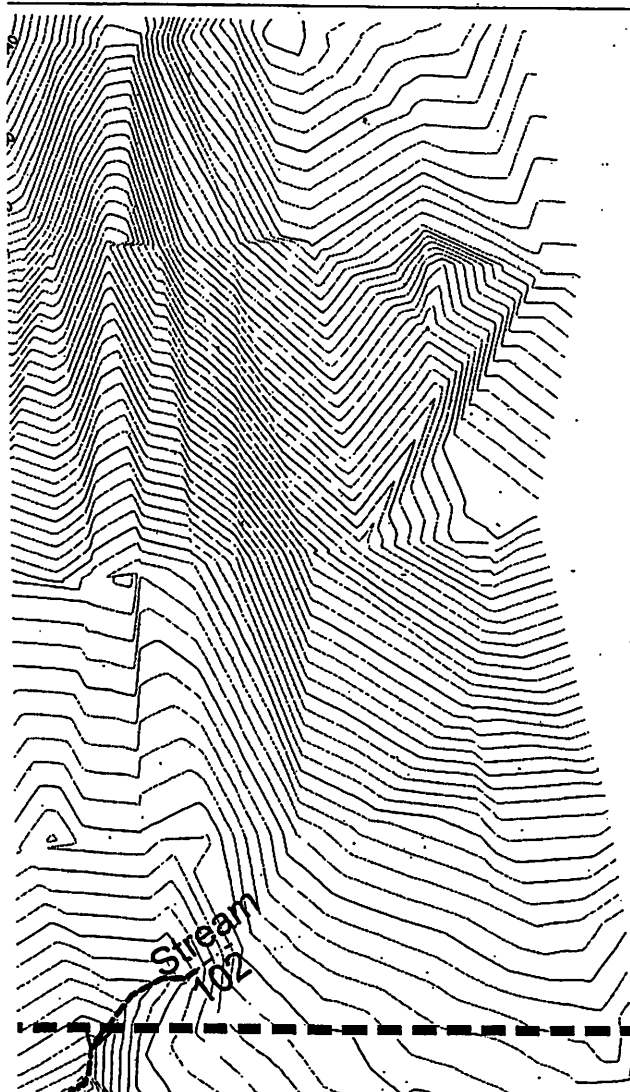
LONE RANCH

CITY OF BROOKINGS, CURRY COUNTY, OREGON

EXISTING CONDITIONS

*Phone call from Mr. Bischoff
2PM 7/26/04 - on recorder
Picked up 3:15 PM 7/26/04*

- ■ ■ ■ ■ SITE BOUNDARY
-  EXISTING WETLANDS
(Delineated and surveyed)
-  EXISTING WETLANDS
(Delineated and not-surveyed -
size and location is approximate)
-  EXISTING STREAMS
(Approx. locations, not delineated)
-  EXISTING STREAMS
(Delineated and surveyed)
-  WESTERN LILIES (Surveyed by OTAK,
file received 5/13/03)
-  SP7 SAMPLE PLOTS (Approx. locations)



north



RAEDEKE ASSOCIATES, INC.

5711 NORTHEAST 63RD ST. SEATTLE, WA 98115
(206) 525-8122 FAX: (206) 526-2880

RAEDEKE ASSOCIATES PROJECT: 2003-014-003

DATE: 03-16-04

DRAWN BY: CJM

Base information provided by OTAK; files
contours.dwg, plan0128.dwg, and wetland.dwg
received 01-28-04

Brookings business leaders discuss

By DONALD ALLISON
Pilot Staff Writer

Business leaders were updated on current projects in the Brookings-Harbor area during the recent "Futures Forum" portion of the Business Outlook Conference at the Elks Lodge.

Borax development

U.S. Borax Consultant Burton Weast told the 160 people in attendance that Borax hopes to submit its master plan for its proposed 750-to-800 unit housing development to the City of Brookings sometime in February.

Borax owns 550 acres of property at the north end of Brookings that was annexed into the city last August. Weast said 275 to 300 acres would be left undeveloped.

Borax has spent a little more than \$500,000 on consultant studies for the housing development so far, which are almost finished, Weast said, but Borax must still check for spotted owls on the property.

"The only way you can do that is in the month of April," Weast said.

A small number of endangered western lilies also exist within the wetlands on the property.

Weast said Borax originally estimated there were 20 acres of wetlands on its property, but after a survey they found 75 acres of wetlands.

"Most of them are low-grade wetlands and consist of soil type and certain plants," Weast said. "There is no standing water."

Weast said Borax spent three months redesigning its development in order to work the wetlands into the project, and now less than one-half acre of the wetlands would be impacted.

"We were able to keep our minimum number of units," Weast said. "I believe it has created a better product and a better development when it is built, because now almost every unit and home will back up on a wetlands area or a natural area."

of Brookings.

"It is enough water to supply the northern part of the urban growth boundary," Weast said.

Proposed hospital

Brookings City Manager Leroy Blodgett said the quest to build a hospital began when the city council sought to create a 24-hour emergency care facility so patients could be flown out of the Brookings Airport.

"Although as we started looking into it, you can't have just a stand-alone emergency room; it has to be attached to a hospital," Blodgett said.

Building a hospital would help keep health care dollars in the area, make Brookings more attractive for potential new residents, create easy access to emergency health care and allow patients to be flown out of Brookings Airport to a larger hospital if necessary, Blodgett said.

He also spoke of the economic impact.

"We hear the same thing from potential new and expanding businesses in the area that one of the downsides we have is the lack of a hospital," Blodgett said. "The hospital would create directly approximately 100 jobs. Indirectly, I don't know how many, but I'm sure quite a few."

Blodgett said a study last year by Southern Oregon University projected the population of Brookings would increase by 35 percent in 10 years, which is another reason to build a hospital.

"We are probably going to exceed that 35 percent," he said. "Two years ago the value of construction just in the city limits was \$6 million. Last year it was \$10 million, not including the school project. This year, at the end of November, we were at \$23 million."

The current population of people in Brookings who are 65 and older is 27 percent, and it is expected to go up to 64 percent by the year 2020.

"There is going to be a drastic need for additional medical attention," Blodgett said.

Regarding a location for the hospital, Blodgett said the state

'We probably won't see any phases developed until 2005.'

Borax spokesman
Burton Weast



region that includes 530,000 people in the nine Southern Oregon/Northern California counties, which includes Curry County."

Blodgett said the feasibility study is underway and will take six months to complete. If the study is positive, a certificate of need would be the next step and entails an eight-to-18 month process.

Port Projects

Russ Crabtree, executive director for the Port of Brookings Harbor, gave an overview of current "in-house" projects at the port, which include a new state-of-the-art boat fueling facility, piling replacement in both boat basins and a new commercial retail building.

Port staff also constructed universal access gangways to the boat slips which will be modeled on those by the Oregon State Marine Board throughout Oregon, Crabtree said.

Port staff is also finishing the cold storage facility, which will help the local fishing fleet increase the value of its product.

"We will have this online for albacore season this summer," Crabtree said.

When the port purchased the former Eureka Fisheries property, it allowed port staff to construct an alternate crab-buying station at the old dock over a three-week period and in time for a successful crab season, Crabtree said.

That property will also give the port "a real opportunity" to build a barge loading facility, create an independent seafood purchasing station, a high dock available for leasing space and a fish processing facility with 21st century technology.

"We will be developing that and talking about that a lot more as time goes by," Crabtree said.

The port is also planning to link the sidewalks from Sporthaven Beach and Highway 101, install port signage off of Highway 101, improve the parking area and seek funding through Homeland Security for a video surveillance system.

Motel Bed Tax

Billie Rathbun-Moor, program director for the Oregon Tourism Commission, gave an overview of the 1 percent statewide lodging tax that went into effect Jan. 1.

"There is a 5 percent collection reimbursement charge for the lodging facilities," Rathbun-Moor said. "One-hundred per-

CAL/OR
Insurance Specialists, Inc.
"We always have time"

- Auto
- Home
- Life
- Business

) DIANA & PETER CHASAR)

EXHIBIT D

935 Marina Heights Road, Brookings, Oregon, 97415 • 541 469-2377 • pjc@chasar.com

July 27, 2004

Brookings Planning Commission
CITY OF BROOKINGS
898 Elk Drive
Brookings, OR 97415

Dear Chairman & Commissioners:

RE: MPD-1-04

GOAL 5-Open Spaces, Scenic and Historic Areas and Natural Resources

At an earlier hearing regarding this property, this commission added a stipulation that an archaeological survey be required. But the City Council later removed that requirement at the urging of the applicant. While the staff report includes a condition that "cultural surveys" be performed prior to approval of detailed development plans, this does not address the impact of development on archaeological sites in the project's open space areas.

GOAL 8-Recreational Needs

Based on my past experience preserving and maintaining public open space, I'm convinced that this master plan's open space program as described on Page 22 will fail to meet the requirements of Goal 8. Here are some reasons to support my assertion.

First of all, to be truly open and public, trails and other open space need to be publicly owned and managed. It's been my experience that neighborhood associations will restrict access to their local open space and trails, and that the more affluent the neighborhood, the more resistance to have "strangers" use their trails. To back up this assertion, I've attached a copy of a relevant news article.

If this is indeed to be a public open space system, here's what needs to happen:

- The trails and open space need to be preserved in perpetuity as public open space.
- Before any homes are built, the public open space and trails should be clearly marked/signed on the ground, so that even before residents move in, they know that public open space is nearby.
- A management plan under a single entity needs to be created. Relying on 15 different homeowners groups to manage open space will simply be a disaster. The management plan needs to include things like trail standards, a maintenance plan and what activities will and will not be allowed. For example, will horses be permitted on trails? What about all terrain vehicles and mountain bikes?
- Another consideration should be parking for users from outside of the

project. The community college could serve that purpose. If parking areas aren't designated, outside users will simply park on neighborhood streets, a situation that usually irritates homeowners.

- There should be safe, convenient connections between the project's trails, Boardman State Park and any future trails connecting to the south and north. A tunnel or pedestrian bridge to Lone Ranch Park is essential. The applicant may argue that the cost would be prohibitive. But the cost of just one fatality would be even greater.

And, regarding the following four policy goals...

GOAL 11-Public Facilities and Services To plan and develop a timely, orderly and efficient arrangement of public facilities and services...

GOAL 12-Transportation To provide and encourage safe, convenient and economic transportation...

GOAL 13-Energy Conservation To conserve energy...

GOAL 14-Urbanization To minimize the expansion of the urban service area...

I assert that this master plan does not meet any of these policy goals. Yes, technically, this property is NOW within the city. But in reality, it is a classic example of leap-frog development. Just look at the map, without the dog-leg annexation of half-mile of Highway 101 right-of-way, this property would have no connection to the City of Brookings.

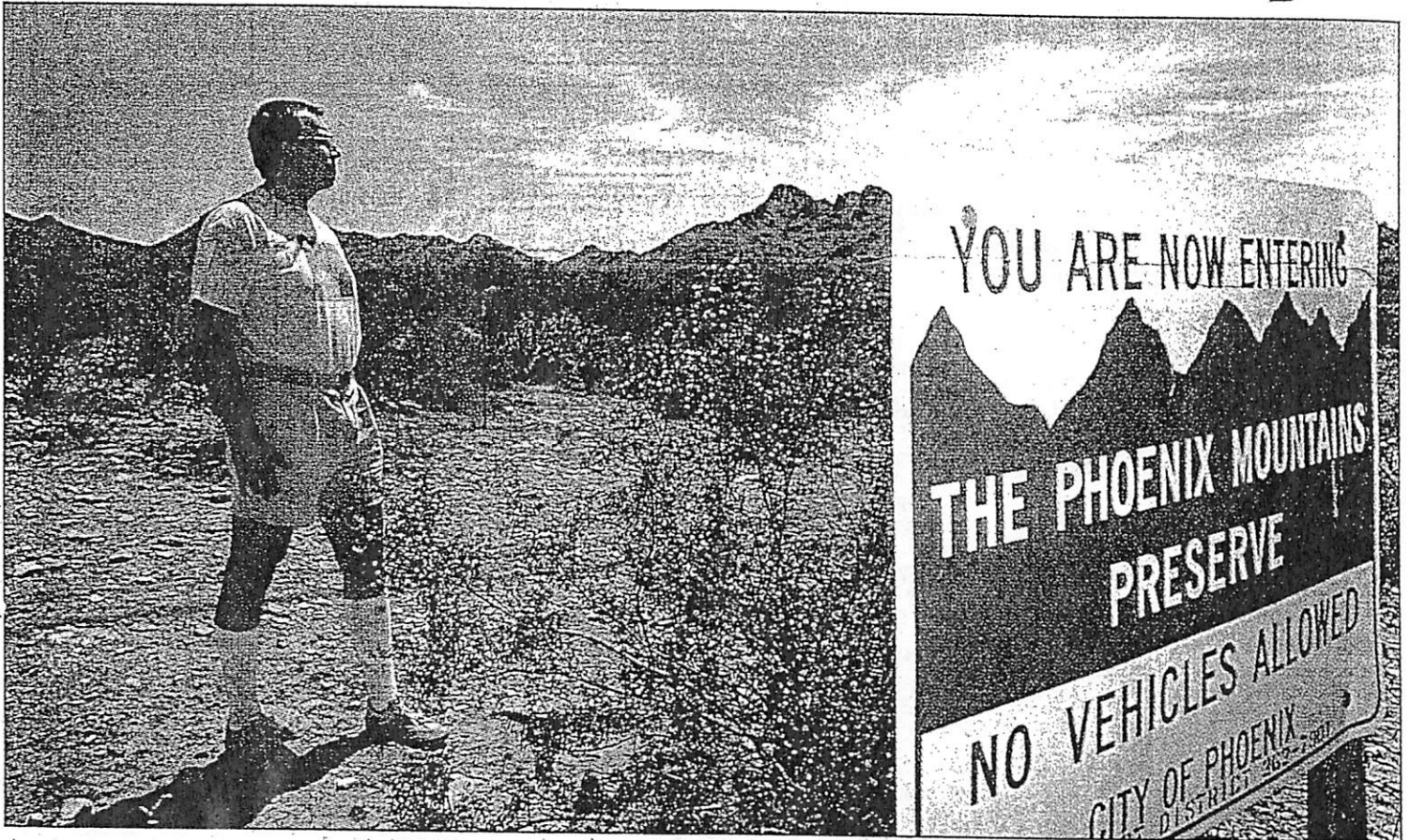
Because this master plan and its supporting documents do not adequately address so many policy goals, I request an additional 14 days to provide additional information, as provided for under ORS-197.763(6).

Sincerely,

A handwritten signature in cursive script, appearing to read 'Pete Chasar', written in dark ink.

Pete Chasar

Modern range wars: Recreation or privacy?



Mountains Preserve advocate Peter Chasar says Lookout Mountain residents want to block access so they can have a private retreat. Nancy Engbretson / THE PHOENIX GAZETTE

Homeowners try to limit access to outdoor areas



Neighborhood activist Boyd Heckel says residents want a proposed parking lot for Lookout Mountain built at another site. THE PHOENIX GAZETTE

By Michael Murphy
THE PHOENIX GAZETTE

Lookout Mountain used to be part of Arizona's wide open spaces.

Now the rugged outcropping in north Phoenix is walled in by subdivisions that advertise "luxury mountainside homes" with gated entries that keep the communities off-limits to all but residents and guests.

What's more, some homeowners are trying to limit the public's access to the taxpayer-funded North Mountain Preserve, opposing a proposed parking lot on the grounds that it will bring vandalism, fires and other "undesirable side effects" of increased public use.

Phoenix Mountains Preserve advocate Peter Chasar, though, says the Lookout Mountain neighbors simply want a private retreat.

"They're trying to say we don't want the public coming here," he said. "The public paid for that preserve. It existed long before those homes were there."

The conflict in north Phoenix is not an isolated battle.

Modern-day range wars between private land owners and recreationists are erupting across Arizona as thousands of new residents fill up the state's open spaces, according to conservationists and outdoorsmen.

"Historically accessible areas for recreation are becoming either difficult or impossible to get to," Tucson Sierra Club activist Paul Pierce said.

"So there's a large hue and cry that's developed in the outdoor recreational community."

See ■ PRIVACY, Page A10

■ PRIVACY

It used to be that reaching the state's numerous recreation areas and hiking trails presented few problems.

The biggest hurdles might be washed out roads, or fences erected by ranchers to contain livestock.

Nowadays, though, the state's residents are buying up land around publicly owned recreation areas and posting signs to keep people out.

Consider:

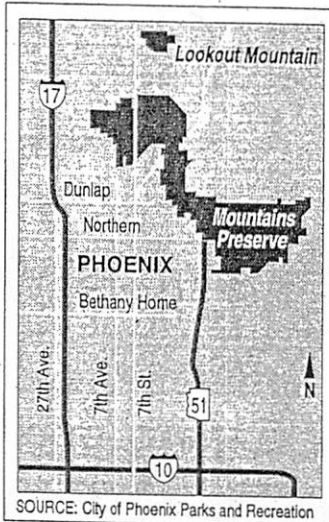
■ Landowners north of Cave Creek have closed Spur Cross Road, blocking access to a scenic canyon and a popular trail head in the Tonto National Forest.

The road, which the state says has been in existence since territorial times, was declared off-limits several years ago by property owners who fear lawsuits if hikers and others are injured on their land.

Hikers who want to reach the Cave Creek trail system now must drive nearly an hour to reach another access point. Even Tonto National Forest rangers have been told to leave their vehicles behind when traversing the road.

■ In Tucson, recreationists are negotiating with developers who plan to build a resort in Pima Canyon north of the city. The canyon, in the Santa Catalina Mountains, is one of the city's most popular hiking spots, and hikers and bird watchers fear they may lose access to the area once it's developed.

■ In the Superstition Mountains east of Mesa, residents of the Kings Ranch subdivision successfully fought efforts by Tonto National Forest rangers to open access to the Hieroglyphic Canyon, which is virtually locked in by homes.



SOURCE: City of Phoenix Parks and Recreation

THE PHOENIX GAZETTE

those sites to disappear."

In Phoenix, the city Parks Department is prepared to go ahead with plans to build a 20-space parking lot on the north side of Lookout Mountain unless unhappy neighbors can persuade the City Council to block the development.

James Burke, deputy director of the city's Parks, Recreation and Library Department, doesn't buy claims made by neighbors opposed to the parking lot.

Enough access now

But neighborhood activist Boyd Heckel thinks there's plenty of access to Lookout Mountain, noting a city park on the mountain's southeast side and cul-de-sacs that offer access on the east and west sides.

He said residents favor another cul-de-sac on the north side — where 16th Street dead-ends into a

going to be completely surrounded by development," resident Adam Canter said. "We're not going to have access to the mountain."

In Scottsdale, conservationists fighting to protect the McDowell Mountains hope to avoid the conflict occurring over Phoenix's

mountain preserves.

If efforts to buy and set aside large tracts of the mountains are successful, planners hope to provide access points to the mountains from major streets, avoiding conflicts with residents of nearby neighborhoods.

From A1

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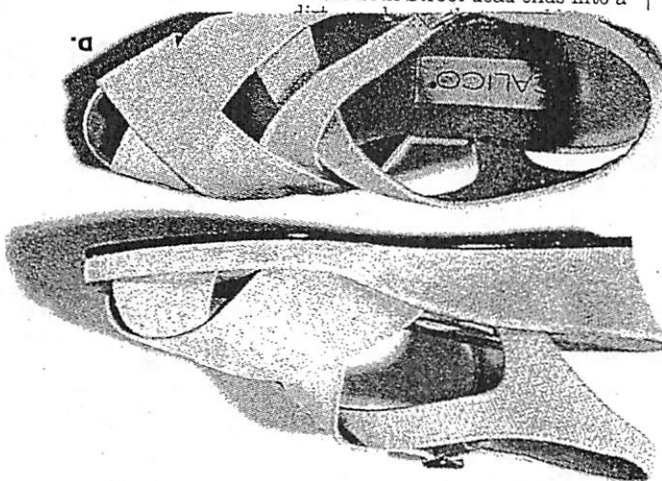
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CITIZENS FOR ORDERLY DEVELOPMENT
PO Box 7102, Brookings, OR 97415 * 541 412 - 1200

Borax Master Plan Hearing July 27, 2004

My name is Yvonne Maitland, Citizens For Orderly Development, and I would like to give you a brief overview from a different perspective.

Wealthy Borax is not in the business of development and building houses, previously in Forestry and Grazing, 553-acres were annexed by the City of Brookings and the property was designated as Open Space, until such time as Borax was ready to present a Master Plan.

The Pilot's glowing reports that 370-acres will be left in Open Space is not because of Borax's generosity, but because of the constraints of the land itself. Steep slopes and ravines, three streams and corridors, wetlands, threatened plant life (Western lily) and an area of earth movement – slump and earth flow, as well as soil creep on moderate slopes which show up later as cracked foundations and buckling of roads. e.g. Highway 101. Rapidly moving landslides can occur when steep slopes are cleared of vegetation. Coastal development must face the constraints of a geologically active zone.

1,000 homes on 134-acres is high density development and hopefully the land carrying capacity can sustain that many housing units.

Wealthy Borax is asking the City for a lesser standard for streets, lots sizes, set-backs, height of buildings – narrower, smaller, higher, etc. All of the above, as well as clustering, will cut down building costs for developers on land that previously could be categorized as marginal, critical and substandard.

Under forestry and Grazing rules, wealthy Borax could build one house per 80-acres, which amounts to 6 houses on their 553-acre tract. So, Borax is not doing anyone a favor. It's there to make big bucks, and therefore should be asked to do off-site improvements, such as connect to the city sewer and run the one mile sewer line to the pumping station. The city has the authority to require Borax to pay offsite improvements if it so chooses. ORS-223. This is not a wealthy area, and the community cannot be expected to subsidize growth. Recently, Brookings almost doubled its sewer rates to its residents.

The statement: "To accommodate the sewer capacity from Lone Ranch, upsizing of lines and pumping stations will be required. The City of Brookings, as part of their capital improvement plans, is working on replacement of insufficient and aging sewer lines. Also the Public Facilities Plan identified older lines that have infiltration and inflow problems due to age and settlement.

Addressing future sanitary sewer needs, the Public Facilities Plan concluded; "Of the existing 19,700 feet of pipe that will be affected by the new flow [north of the Chetco River], approximately 16,300 feet will not be large enough to convey its required flow. These pipes will have to be replaced". Also, "Brookings current wastewater treatment plant will not be able to treat all the wastewater that the projected growth will bring".

What are the estimated total costs to the community of the new and improved infrastructure? The Public Facilities Plan estimated \$30.8 million north of the Chetco River, and \$36.05 million south of the Chetco River. When asked about the high cost of providing water, Mr. Weast told the city Planning Commission at the first hearing, that Borax is only concerned with what happens within its property. Also in the annexation application, wealthy Borax stated, "The extension of the existing sewer system is cost prohibitive due to required length of pipe and pump station". In its Master Plan, Borax is prepared to pay partial costs. System Development Charges allow the city to charge the full cost to Borax.

The Chetco River is a municipal water source for both Brookings and Harbor. "Future collision between fisheries concerns and urban growth should be avoided as part of the infrastructure." Also, the availability of alternative sources is limited in the Chetco River basin. The surface water is overutilized making development of additional surface water sources illegal. (PFP - W. & H. Pacific Inc.)

Goal One Coalition (page 10) presented some interesting information. "The status of the City of Brookings' rights to water from the Chetco River is currently the subject of litigation".

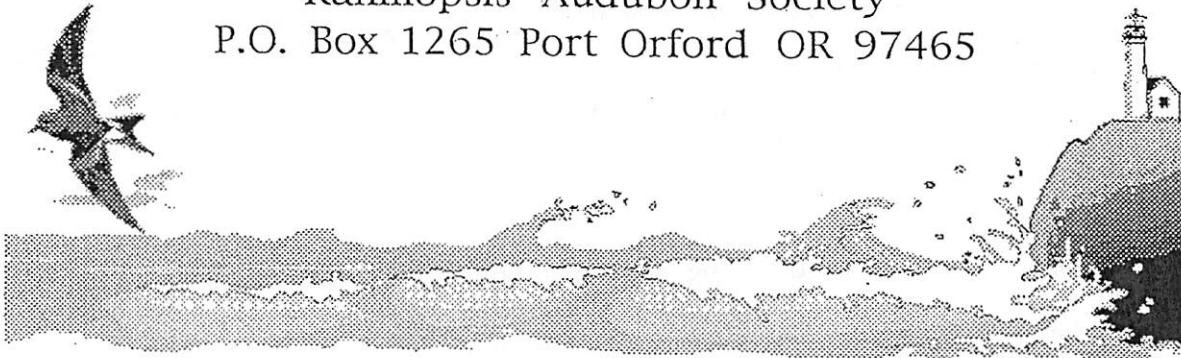
The minimum stream and tributary setbacks on the Borax tract should not be less than 50-feet, and if averaged, then some areas should have wider setbacks. Some of the streams are fish bearing, predominantly Cutthroat Trout, however all fish species are important and need the same protection. Street and other impervious runoff should not be allowed to drain into streams, especially Taylor Creek. Water quality is always a concern, and has to be maintained by providing adequate buffers.

Finally, all slopes and contours, including the slope analysis map appear not to have a scale showing distance, although 21-foot contour interval lines are shown. CFOD requests Borax to provide a standard size topographical map showing the scale and contours.

Thank you for your time.

Yvonne Maitland

Kalmiopsis Audubon Society
P.O. Box 1265 Port Orford OR 97465



July 15, 2004

City of Brookings Planning Director and Planning Commission
898 Elk Dr.
Brookings, OR 97415

Dear Mr. Bischoff and Planning Commission Members:

I am writing on behalf of the Kalmiopsis Audubon Society. Our group has 150 members—a large number of them in Brookings—who are concerned about the bird, fish, and wildlife habitat that is so vital to our area. For that reason, we have questions and concerns about the Borax Development Master Plan.

First we are concerned that the Borax Master Plan does not fit with the requirements of the Brookings Comprehensive Plan, Goal 5, policy 1, which clearly states the goal of protecting natural and scenic resources.

One of the most significant natural resources are the site's many wetlands. The Master Plan identifies 28 acres of delineated wetlands: 35 distinct wetland complexes that are comprised of 43 distinct wetland communities or types.

While we appreciate the plan's efforts to cluster development, the sheer scale of it (1,000 dwelling units) means that how water and sediment runs off the site will be changed. With 1,000 new homes and driveways and connecting roads, there will be a large amount of new impervious surface that will cause faster, and more polluted runoff. Because of this, we are concerned that hydrology will be changed in ways that could have detrimental effects on wetlands. Water may flow into wetlands at much higher rates causing sedimentation that would kill aquatic life that forms the base of a larger food chain. Sedimentation, which is recognized as a form of pollution, could degrade the quality of wetlands and their ability to provide habitat for birds and wildlife. Moreover, in addition to sediment, runoff from lawns will likely include fertilizers and pesticides that will have a damaging impact on wetland life.

We also worry that wells tapped for water supply and fire protection might draw down water tables and have the effect of drying up wetlands or streams, such as Taylor Creek that has two wells planned at its head.

In addition to changes in hydrology, we are concerned about fragmentation of the wetland habitat areas. With houses built in close proximity to wetlands and around wetlands, critical habitat values for wildlife and birds will be lost. Connectivity between wetlands will be lost, which may be particularly important for smaller creatures such as amphibians. And the complexity of the vegetative cover and structure around wetlands will be significantly reduced in many places, leading to a loss of biological value and richness.

The wetlands on this site provide habitat not only for wildlife and birds but also for the Western Lily, which is an endangered wetland plant that only grows in a small area along southwest Oregon's coast and into Del Norte County, CA. Much of this plant's bog habitat has already been whittled away making the few small populations that remain all the more valuable.

The Borax Master Plan states that there will be no direct impacts to wetlands that host Western lilies, however there will likely be indirect impacts, such as changing hydrology, which could affect these rare plants. Even though direct impacts will be more than 1,000 feet away from western lily sites, changes in hydrology could damage the lily habitat. It appears, for example, that several wetland lily sites (WL-12, WL-15, WL20 and WL22) have development occurring quite close that could effect these rare plants.

Aside from providing habitat, wetlands function to protect water quality by holding water, so it runs off more slowly, and by filtering water. These functions could be impaired by increased runoff and sedimentation.

The Master Plan indicates that 0.5 acres of wetland will be filled and that 400 feet of stream will be impacted by road crossings. Lone Ranch-Dudley Creek appears to be well protected by buffers, but Ram and Taylor Creek appear to be exposed to significant runoff from the proposed development. Fertilizers and pesticides likely to be used on lawns will run off and make it to Lone Ranch Beach potentially degrading water quality there. Brookings already has a problem with contamination at Harris and Mill Beaches, and no one has yet figured out what is causing it. Borax states that it will provide treatment of runoff as part of its development plan, but this runoff treatment is not planned to occur until a later stage of development.

The water quality impacts of this project are very important to evaluate up front because they will be far more difficult and costly to correct later if there are problems.

For these reasons, we urge the Planning Commission to require that U.S. Borax do ALL that it can do to minimize both direct and indirect impacts to all wetlands and streams, and especially to western lily sites. This could include eliminating or reducing the number of dwelling units and road crossings in close proximity to wetlands where indirect effects—which let's not forget are damaging effects nonetheless—are likely to occur.

To protect wetland values, we strongly recommend that the Planning Commission require larger buffer zones for wetlands AND monitoring of wetlands—both during construction and after the development is complete—to prevent degradation and to ensure compliance with Clean Water Act requirements. If degradation occurs, then the developer should be required to repair the conditions that have caused the degradation. We also urge the Planning Commission to require the developer to provide larger buffer zones for Ram and Taylor Creeks to protect them from polluted runoff.

In addition, we urge the Planning Commission to require the developer to move treatment of runoff into an earlier phase of the project. One way to ensure that this important water treatment will happen would be to require treatment of runoff as a precondition of later phases of development. There have been many instances where good things have been promised in Master Development plans up front, but then they are forgotten when costs are higher than anticipated. Protecting water quality is a critical matter that must not be forgotten or left to until the end. It needs to be regarded as a critical aspect of the development.

In addition to the natural values, Goal 5, Policy 1 directs the Planning Commission to prioritize scenic values as well. We are concerned that the Borax Development will have serious impacts on the experience of visitors to Sam Boardman State Park who will see hoards of homes instead of scenic hillsides. We urge the Planning Commission to require the developer to consider impacts to the viewsheds of Samuel Boardman State Park and to the experience of park visitors.

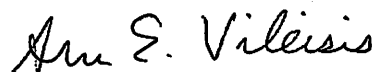
Finally, we want to make sure that questions about water supply are clarified. In our reading of the master plan and technical appendices, we came across what appear to be contradictory information. On page 18 of the Master Plan, it states that the proposed water system will have no impact on the Chetco River and that onsite wells will supply water for both residential use and fire protection. However, the technical appendix suggests that—for final build out—the Lone Ranch Development will need water from the City of Brookings water system, which, as we understand it, is supplied by the Chetco River. Before the Master Plan is approved, impacts must be assessed for the full-build-out and not just the initial stages of the development.

If the proposed development will eventually need to tap water from the Chetco River, this could have detrimental effects on our prized Chetco River fishery, and this impact should be evaluated in a straightforward, public, upfront manner.

We believe that good planning can preserve a high quality of life and make most efficient use of city infrastructure and resources. It can preserve the natural and scenic resources that make our part of the coast so unique. For this reason, we believe that any new developments, especially development at the enormous scale proposed, must be held to the highest standards of excellence and must make every effort to protect the city's natural and scenic values.

Thank you for considering our comments.

Cordially,



Ann Vileisis
Conservation Director



United States Department of the Interior

FISH AND WILDLIFE SERVICE



EXHIBIT G

Roseburg Field Office
2900 NW Stewart Parkway
Roseburg, Oregon 97470
Phone: (541) 957-3474 FAX: (541) 957-3475

Reply To: 8330.04402(04)
TS: 04-3371
Filename: BoraxDevelopment.doc
Log #: 1-15-04-TA-0440
X-Ref: 03-1642

John Bischoff
Brookings Planning Director
Brookings Department of Public Services
898 Elk Drive
Brookings, Oregon 97415

RECEIVED
JUL 29, 2004
BY ~~XXXX~~ 6:00 PM.
CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

Subject: Comments on Borax Development Draft Master Plan for the City of Brookings
(1-15-04-TA-0440)

Dear Mr. Bischoff:

The U.S. Fish and Wildlife Service (Service) has reviewed the above referenced Draft Master Plan (DMP) for a 553-acre development north of Brookings, Oregon dated May 4, 2004 and received in this office July 2, 2004. Our review of the proposed plan is based on the materials you have provided, public meetings attended July 15, 2003 and September 30, 2003, and site visits July 15, 2003, and July 16, 2004. These comments have been prepared under the authority of and in accordance with the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*), the Endangered Species Act (16 U.S.C. 1531 *et seq.*), as amended (1973), and are consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347).

Overview

The Service is concerned that a federally endangered western lily (*Lilium occidentale*) (lily) population at the Borax Development site is not adequately mapped, assessed, and surveyed to provide sufficient avoidance in the DMP. Observations from site visits on July 15, 2003 and July 16, 2004 to the Borax Development site by Service staff are not consistent with DMP lily estimates. Site surveys and analysis of the plant as described in the DMP appear insufficient to develop a complete hydrologic analysis, wetland buffer, or street and housing plan.

Additionally, the DMP hydrologic analysis does not include assessment of function and value for lily survival. Buffers require the incorporation of a more meaningful hydrologic analysis and lily distribution. Wetlands that are occupied by lilies should have priority for wider buffers to preserve population viability.

Comments

Western lily

The lily population on the Borax property is one of only three known populations within the Recovery Area 4 (Brookings to Rainbow Rock area), as designated in the Final Recovery Plan (USFWS 1998). A fourth population located in the City of Brookings was extirpated in about 1995 as a result of illegal filling and development. The recovery plan calls for at least four stable populations within Recovery Area 4, each containing at least 1,000 flowering plants, in order to consider downlisting of this species.

The DMP states on page 13: "Because of minimal impact to wetlands and absence of development within the power line easements, minimal impact to the western lily is expected." However, this statement largely ignores many basic ecological processes, and the data necessary to support this statement is not provided.

The Service does not agree with lily mapping or population numbers in the DMP. The DMP indicates that 46 lily plants were documented on the property, 39 of which were located within 50 feet of the utility corridor. The methods used for the lily survey, including habitat inspected, intensity of inspection, and time spent for the survey are not described in the DMP or Technical Appendix. Based on discussions between Service and Raedeke Associates, Inc. (consultant) staff on July 13, 2003, a visual inspection for flowering individuals of the lily was conducted in some or most (not all) of the wetland habitats across the project area. The consultant observed the lily within 7 of the 43 wetlands delineated on the property. These wetlands comprise some 18 acres out of the entire 28 acres of wetlands delineated. Approximate locations for the lily encountered were mapped in the Technical Appendix. One lily was encountered outside the delineated wetland habitat.

On July 16, 2004, David Imper, Service Ecologist, inspected the vicinity of wetlands WL-20, WL22, WL24, WL25 and WL25A in the central portion of the property near the utility corridor. An informal lily inventory in WL22 observed a total of 10 reproductive plants and 24 juvenile or seedling plants. A similar inventory of WL25A and habitat separating it from WL25 (not delineated as wetland) yielded 8 reproductive plants and 44 juvenile or seedling plants. Together these 2 wetlands totaling 0.21 acres or approximately 1 percent of the delineated wetland areas in which the lily was encountered contained 18 reproductive lilies and a total of 86 lilies. A brief inspection of a portion of WL25 yielded 10 more reproductive individuals and 18 juveniles or seedlings, and a brief walk west within the upper portion of WL20 yielded 21 reproductive plants and 7 juveniles, most of which occurred far west of the utility corridor. Another lily site has been known for many years in the lower portion of WL20 near Highway 101. That colony contained more than 40 plants in 1994. That site was not relocated or reported in preparation of the DMP.

For comparison, the largest known lily population in Oregon in 2003 contained 198 reproductive plants and a total 469 plants. Based on the limited informal survey by Service staff on July 16, 2004, the 142 plants observed are expected to account for the lily population throughout the Borax property to easily exceed 1,000 plants, making it the largest population in Oregon and the second or third largest population known. A comprehensive lily survey has not yet been conducted on the site. Therefore, we do not yet know the array of habitats occupied, or the total distribution and abundance of the plant at the site.

The statement on page 45 of the Technical Appendix "The wetlands, buffers and other retained open space areas...contain all the known occurrences of the western lily on site" is misleading because an adequate survey has not been conducted.

The DMP does not assess the importance of the resident population of lily in the context of the overall distribution of this species. As a result, the DMP does not provide the information necessary to assess whether the development described in the DMP constitutes a significant impact or jeopardy to the species overall.

Much of the lily occurs well away from the utility corridor, and in the lower portion of the onsite wetlands, highly vulnerable to development of surrounding uplands. The lily may and does occur in habitat not delineated as wetlands on the site. It is not mentioned in DMP that lilies may occur outside wetland boundaries.

Hydrologic Analysis

Wetlands (and lily habitat) are intimately connected with, and largely a function of the surrounding uplands. Hydrological changes in the watershed can have severe impacts on the quality and composition of a wetland. Based on the development proposed on all sides of the onsite wetlands and lily habitat, there is reason to believe that changes in site hydrology as proposed will have significant impacts on the lily, even if its habitat is not directly affected.

The hydrological assessment on page 43 of the Technical Appendix states that "those wetlands dependant on surface water runoff for their hydrology are most likely to be affected by a reduction or alteration in timing of flow from the surrounding wetlands." The Service anticipates that both the timing and quantity of surface and subsurface are important factors in maintaining the quality of these wetlands and lily habitat. The potential impacts of proposed modifications to this watershed, including channelization and loss of sheet runoff, changes in water quality, and an increase or decrease in runoff volumes, may constitute a significant threat to the lily and wetland habitats. Altered hydrology may either impact the lily directly or indirectly through stimulation of competing species and habitat conversion. The potential impacts will need to be addressed through a detailed hydrological analysis prior to approval of a final development plan.

Potential Hydrological Impacts on Wetlands and Western Lilies

The DMP indicates that a detailed stormwater and drainage plan will be developed at a later date. It is the Service's opinion that the drainage and stormwater plan and hydrological analysis should be developed prior to the DMP. The DMP is premature, since it does not take into account potential limitations needed to maintain the integrity of onsite wetlands and endangered species habitat. As a result, the final development plan may need to be altered substantially to accommodate the results of the hydrological analysis.

Consistency with Brookings Development Code

The Service is concerned that the DMP may not be consistent with the Brookings Development Code, as stated in Item 3 of Section A (Consistency with purpose and intent of the master plan zone) on page 40 of the DMP, which states: "preserves existing landscape features and amenities in a harmonious manner." As proposed, there is a high risk that the diverse and unique wetlands onsite will decline as a result of fragmentation, altered hydrology, loss of upland support functions, and general residential impacts. The site supports a rare wetland type, distinguished not only by the high presence of the lily, but its high species diversity and unique plant

assemblage. This site also includes the southernmost extent of Blacklock soils, a wetland soil, and the southernmost stand of Blacklock scrub vegetation, more common farther north.

Delineated Wetland Boundaries (Technical Appendix: Wetland Delineation)

The consultant appears to have thoroughly defined most of the onsite wetlands. However, the Service's brief site inspection on July 16, 2004, raised concerns about the accuracy of the wetland boundaries presented in the DMP and Technical Appendix, particularly in the vicinity of the Blacklock series soils in the central portion of the property. As a result, the Service requests to assist with field verification of the wetland boundaries by the U.S. Army Corps of Engineers.

Assessment of Wetland Function (Technical Appendix: Wetland Delineation)

While the ranking of wetland function was a minor element in the wetland characterization process for this project, it should be pointed out that the method used to rate function does not recognize species diversity or support for endangered species in the ranking, factors which arguably should be taken into account in any wetland functional assessment. For example, wetlands WL12 and WL13 were generally ranked moderately low, even though they have relatively high species diversity and support the lily. The fact that WL20 is large, supports a large lily population, and supports a diverse and unique assemblage of species, including the sundew (*Drosera rotundifolia*), and several species considered rare and endangered in nearby California (e.g., Arctic starflower [*Trientalis arctica*] and great burnett [*Sanguisorba officinalis*] to name a few) it is perhaps the most important wetland on the property. These are factors which should be taken into account in determining the acceptable risk of development, and establishing buffers around the wetlands. For example, high quality wetlands such as WL20 should be allocated the greatest buffer distance and more active protections such as fencing to preclude pedestrian and domestic animal use.

The Brookings Marsh, which until 1990 was a very diverse marsh similar to wetlands at the Borax property, and once supported one of the largest lily populations in Oregon, provides an example of the critical nature of buffer size. Illicit ditching, filling and development within and surrounding the marsh in the early 1990's, without a setback buffer, soon led to the extirpation of the lily from the site. The unique features of this marsh and the lily were lost both through direct impacts and indirect impacts from "edge effects" associated with the surrounding development (trails, exotic species, garbage dumping, pedestrian and animal use, etc.).

Recommendations

Our recommendations with regard to potential impacts on the lily are as follows:

- The Service recommends additional detailed lily surveys. The results of those studies may warrant significant reconfiguration of the site plan, particularly in areas west of the utility alignment, where proposed development is in close proximity to lily habitat and wetlands.
- The Service recommends the DMP provide information describing the lily survey protocol used to identify and locate lily populations.
- The Service recommends the drainage/stormwater plan and hydrological analysis be developed prior to future development planning.

- The Service recommends the wetland functional assessment be revised to include information regarding occurrence of western lily and other species of concern, and/or their habitats.
- The Service recommends buffers designated for delineated wetlands in the DMP reflect the respective function and value for each wetland impacted by the proposed project.
- The Service recommends vegetation management techniques which promote lily habitat be included in the DMP (e.g., brush/weed control, fire, and grazing).

Thank you for the opportunity to comment on this draft management plan. If you have further questions or require technical assistance please contact Dave Imper at 707-825-5112 or Sam Friedman at 541-957-3478 or me at 541-957-3470.

Sincerely,

/s/ Craig A. Tuss

Craig A. Tuss
Field Supervisor

cc: Teena Monical, Army Corps of Engineers, Eugene, OR (e)
Lisa Grudzinski, Army Corps of Engineers, Coos Bay, OR (e)
Bob Lobdell, Oregon Division of State Lands, Salem, OR (e)
Clayton Barber, Oregon Department of Fish and Wildlife, Gold Beach, OR (e)
Robert Meinke, Oregon Department of Agriculture, Salem, OR (e)
John Raasch, Oregon Department of Transportation, Roseburg, OR (e)
Ken Phippen, NOAA-Fisheries, Roseburg, OR (e)
Fred Seavey, USFWS-Newport, Newport, OR (e)
David Imper, USFWS-Arcata, Arcata, CA (e)
Andy Robinson, USFWS-OWFO, Portland, OR (e)
Office Files, USFWS-OWFO, Portland, OR (e)

References

U.S. Fish and Wildlife Service. 1998. Recovery Plan for the Endangered Western Lily (*Lilium occidentale*). Portland, Oregon. 82 pp.

RECEIVED

AUG 2 2004

CMM

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

To: City of Brookings Planning Commission

From: Catherine J. Wiley
96370 Duley Creek Rd.
Brookings, OR 97415

Re: Additional Testimony and Documentation

Statewide Land use Planning goals mandate:

I. Goal 1 - Citizen Involvement.

"To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process."

The commitment made by the City Planning office and the Planning Commission was that all involved and interested parties would receive prior notification of meetings regarding the proposed development within the UGB.

Documentation attached, dated 7/3/03, verifies that I was on the list to receive notification, and that the City Planner's office had my correct address.

Despite these facts, attachment "B" clearly documents notification of the Planning Commission meeting was mailed one day prior to the general public notification in the Pilot, and obviously was not received due to its being mailed to a non-existent address.

It is my belief that the variances in the proposed Master Plan presented to the Planning Commission constituted "major" variances, and thus required a minimum of twenty (20) days for prior review.

Materials, specifically U.e., referenced in Mr. Emre's memo of June 22, 2004 to Mr. Bishop, were not in the public library documents, nor able to be "found" by Mr. Bishop until 7/26/04.

Further, subsequent requests for information and/or documentation to meet the seven day extension period have not been made available because staff was not in the office, or did not fulfill requests made.

Compliance with State requirements for citizen involvement should require mandates that appropriate and timely notifications are received; that all materials referenced are available; and, that documents and/or information requested be provided during regular working hours.

II. Goal 5: Natural resources, scenic and historic areas and open spaces.

In addition to Goal 5, State laws mandate protection of Indian graves and archeological sites.

Attached is documentation of the proposed Borax wording (p. 4, 3, (i)) indicating site plans would identify the "location of natural resource, historic and cultural resources as identified on adopted City and County inventories." Needless to say, there are no such "inventories" relative to the property.

The Planning Commission, at its meeting of July 1, 2003, added the words "and by a surface survey." These words were deleted at the City Council meeting of July 14, 2003 at the request of Borax and their attorney. Available documentation is attached.

Subsequently, I wrote a letter to Karen Quigley, Executive Director of the Legislative Commission on Indian Affairs. That letter and her response are attached. Based on her letter, and subsequent communication with Dennis Griffin, State Archeologist, a surface survey was required.

Additional oral and printed historical data (reference "General Series in Anthropology" by Joel Berseman, 1944) clearly indicates that this particular area warrants for more than a surface survey. Further, the assessment should not be limited to areas of construction. Even foot/bicycle paths can impact areas mandated to be protected. Surely, the old growth trees (not forest) warrant classification as natural and scenic resources.

Attachments:

1. July 3, 2003 Notification from City Planning office. 1p.
2. Copy of envelope mailed to wrong address on 7/13/04 with contents; notice of meeting 2p
3. Face sheet of memo from Mr. Emre to Mr. Bishop, dated 6/22/04, and narrative page re: Wetlands - Figure 4e 2p
4. Section of referenced map made available by Planning office 7/26/04 after multiple requests the previous week. 1p
5. July 1, 2003 Planning Commission Agenda 2p.
6. Face sheet of Master Plan Development District (MPDD) and p. 4, 3, (1) - referencing proposed "location..." 2p.
7. P. 3 Revised MPD Zoning ordinance sent to the City Council documenting added wording - as italicized in 1, c., (8). 1p.
8. Letter from attorney representing US Borax dated 7/14/04 requesting deletion of the language requiring a surface survey 2p
- a. Letter submitted to Executive Director of the Legislative Commission on Indian Services dated, 8/25/03 2p
10. Response letter from Karen Quigley 4p
11. Face sheet of anthropological study; Chaco Archaeology; Lone Ranch - Berreman 1p

CITY OF BROOKINGS



July 3, 2003

To interested Parties:

The Planning Commission held a public hearing on July 1, 2003, at 7:00 p.m. in the Council Chambers of Brookings City Hall, 898 Elk Drive, Brookings.

The purpose of the public hearing was to consider File No. **LDC-3-03**:

An amendment to the City's Land Development Code to add a new section, Section 70, titled "Master Plan Development (MPD) District." This new zone will be applied over areas within the Urban Growth Boundary that are designated as requiring a master plan of development when annexed to the city. To also consider an amendment to the policies of Goal 14 Urbanization, of the city's Comprehensive Plan, to create a land use designation to accommodate the new zone. These are city initiated changes. Criteria used to review amendment to the city's Land Development Code and Comprehensive Plan can be found in Section 144, Amendments, of the Land Development Code.

The Planning Commission made a favorable recommendation, with the recommended changes to City Council, to adopt: a new zoning district titled *Master Plan Development (MPD)*, to adopt an amendment to Goal 14, Urbanization; and to place the new Master Plan over the Borax property.

The City Council will hear this request and make a decision on Monday, July 14, 2003, at 7:00 p.m. in the Council Chambers. The public is invited to attend and participate in this public hearing. All persons wishing to address this matter will have an opportunity to do so in person at the hearing or can submit written testimony to the Brookings City Planning Director at the address below.

Please find enclosed a copy of the amended Master Plan Development, Section 70.

Sincerely,

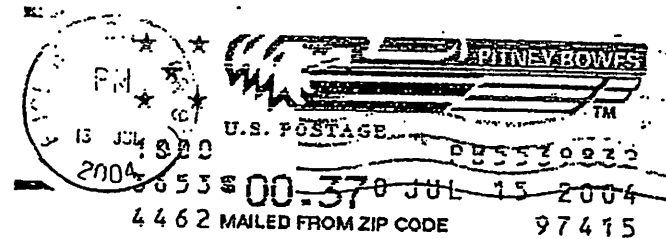
Cathie Mahon,
Planning Commission Secretary

CC:	Jim Capp	P. O. Box 2937	Harbor, OR 97415
	Mike Smith	17444 Hwy 101	Brookings, OR 97415
	Jerry LaRue	19921 Whaleshead	Brookings, OR 97415
	Pete Chasar	935 Marina Heights Road	Brookings, OR 97415
	Catherine Wiley	96370 Duley Creek Road	Brookings, OR 97415
	Yvonne Maitland	15676 Oceanview Drive	Brookings, OR 97415
	Ian Maitland	15676 Oceanview Drive	Brookings, OR 97415
	Milton Nelson	P. O. Box 1471	Port Orford, OR 97415



City of Brookings
898 Elk Drive
Brookings OR 97415

NOT DELIVERABLE
AS ADDRESSED
UNABLE TO FORWARD



WEDNESDAY 7-21
C. WILEY?
SORRY FOR THE
DELAY - SEE ATTACHED

CATHIE MANOL

Catherine Wiley
96370 Dewey Road
Brookings, OR 97415

Duley Creek Rd.

CITY OF BROOKINGS



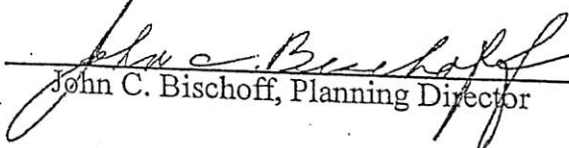
PUBLIC NOTICE NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Brookings Planning Commission will hold a special meeting on Tuesday, July 27, 2004, at 7:00 p.m. in the Council Chambers of Brookings City Hall, 898 Elk Drive, Brookings.

In the matter of Planning Commission File No. **MPD-1-04**, a request for approval of a Master Plan of Development on a 553-acre parcel; consisting of 1,000 dwelling units of various types, a 2.43 acre commercial site, and a 10-acre college campus, to be built in phases implemented in detailed development plans approved by the Planning Commission; located on the easterly side of Highway 101, approximately 4,500 feet (0.8 miles) north of Carpenterville Road and extending north to approximately the Cape Ferrelo overlook entrance; Assessor's Map 41-14 and Index, Tax Lots 2400, 2401, and a portion of 2402; U.S. Borax, applicant; Burton Weast, representative. Criteria used to evaluate this master plan can be found in Section

The public is invited to attend and participate in this public hearing. All persons wishing to address this matter will have an opportunity to do so in person at the hearing or by submitting written evidence to the Brookings City Planning Director at the address above. A copy of the staff report prepared for this case will be available for inspection, at no cost, and provided at reasonable cost, seven days prior to the hearing. All documents may be viewed or obtained at the Planning Department at Brookings City Hall or call John Bischoff at (541) 469-2163 ext. 237.

If special accommodations are needed for the physically challenged, contact Cathie Mahon at 469-2163 ext. 203 or TDD 469-3118.


John C. Bischoff, Planning Director

Memorandum



17355 SW Boones Ferry Rd.
Lake Oswego, OR 97035
Phone (503) 635-3618
Fax (503) 635-5395

To: John Bishof, City of Brookings

From: Genc Emre

Genc

Copies: Kristen Ballou, Otak
Marty Stiven, Western Advocates
Burton Weast, Western Advocates

Date: June 22, 2004

Subject: *Response to Civil Issues Regarding the Lone Ranch Master Plan*

The intent of this memo is to respond to the sanitary sewer comment from your recent review of the Lone Ranch Master Plan. In addition, we would like to clarify one of the responses to a water comment provided by Mary Stiven in her June 14, 2004 response memo. We would like to offer the following two responses:

Sanitary Sewer System

Issue: You have requested confirmation about the location of the sewer connect.

Response: According to the City of Brookings Report, *Water and Wastewater Facilities Plan to serve the Borax Development and Surrounding Areas*, dated November 2001, a new 12-inch pressure sewer will be constructed along HWY 101 from Parkview Drive north to the South boundary of the Lone Ranch site at Taylor Creek. This line will be constructed as part of a cost sharing effort between the City and the future developers of the sites listed in the report. The sewer system, as part of the Lone Ranch Master Plan, will connect to this new pressure sewer at Taylor Creek. This was confirmed with Dick Nored of HGE during a meeting on April 8, 2004.

Water

Issue: Where is the second reservoir proposed to be located?

Response: The previous response to this issue stated that the second reservoir will be located adjacent to the initial reservoir. We would like to clarify this response in that the second reservoir would likely be located in the same vicinity as the initial reservoir, however, it would be open to alternate locations should a more suitable place become available in the future.

Wetlands

Issue: Figure 4e of the Wetland Assessment.

Response: I have attached Figure 4e of the Wetland Assessment. Please attach it to the copies of the Appendix that you have in your office. I will be adding it to the copies that we have here which are reserved for distribution to the Planning Commission and the City Council.

Potential Hotel Site

Issue: If a hotel is proposed, the impacts ought to be considered regarding size and impact. The Traffic Impact Study would need to take this proposed use into account as well.

Response: Although the Illustrative site plan identifies a potential hotel site, it should be understood that the master plan approval, does not include approval of the hotel site. The land use legend on the Master Plan shows 160 multi-family units. The applicant was approached by a hotel developer regarding the potential for a hotel on Lone Ranch. During our preliminary investigation of the hotel feasibility, we requested DKS, the consulting traffic engineering firm, to assess the potential of the site to accommodate the traffic created by a 100 room hotel. We were told that the traffic anticipated to be created by a 100 room hotel would be similar to the traffic created by the 160 unit condominium project. Therefore, although a hotel is not specifically proposed as part of the master plan, we felt obligated to disclose it as a future option. We understand that the overriding criteria limiting future development is the proposed traffic impact. If in the future the plan were to accommodate a hotel, the impacts would have to be assessed during the DDP and if warranted an amendment to the master plan would be required.

Additional Goal 3 and 4 findings

Issue: You have requested additional findings regarding the impact of the proposed master plan on the surrounding properties that lie within the County's Farm Grazing Zoning District.

Response: The property to the north, east and south and the small parcels lying between Highway 101 and Lone Ranch are zoned Farm Grazing by Curry County. For the most part the creeks along the northern boundary (Lone Ranch Creek & Duley Creek) and the eastern boundary (Taylor Creek) form buffers from the Forest Grazing properties. The only areas that are proposed for development adjacent to the County properties are along the northeast boundaries of the site. Neighborhoods J and H are designed to accommodate lots along the site boundaries. These two neighborhoods will be evaluated for their potential impacts on the adjacent Forest Grazing properties.

Additional findings will be prepared and presented to the Planning Commission prior to the first evidentiary hearing and for use in your staff report.

KEY



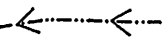


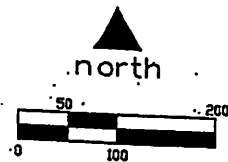
- ■ ■ ■ ■ SITE BOUNDARY
-  EXISTING WETLANDS
(Delineated and surveyed)
-  EXISTING WETLANDS
(Delineated and not-surveyed -
size and location is approximate)
-  EXISTING STREAMS
(Approx. locations, not delineated)
-  EXISTING STREAMS
(Delineated and surveyed)
-  SP7
- WESTERN LILIES (Surveyed by OTAK,
file received 5/13/03)
- SAMPLE PLOTS (Approx. locations)

FIGURE 4e

U.S. BORAX
LONE RANCH
CITY OF BROOKINGS, CURRY COUNTY, OREGON

EXISTING CONDITIONS

*Phone call from Mr. Bischoff
2PM 7/26/04 - on recorder
Picked up 3:15 PM 7/26/04*



RAEDEKE ASSOCIATES, INC.

5711 NORTHEAST 63RD ST.
(206) 525-8122

SEATTLE, WA 98115
FAX: (206) 526-2880

RAEDEKE ASSOCIATES PROJECT: 2003-014-003

DATE: 03-16-04

DRAWN BY: CJM

Base information provided by OTAK; files
contours.dwg, plan0128.dwg, and wetland.dwg
received 01-28-04

**City of Brookings
Planning Commission
Regular Meeting
July 1, 2003 7:00 p.m.**

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Planning Commission Chairperson Announcements
5. Minutes for Approval
 - 5.1 Minutes of special Planning Commission meeting of May 21, 2003
 - 5.2 Minutes of regular Planning Commission meeting of June 3, 2003
6. Final Orders
 - 6.1 In the matter of Planning Commission File No. **SUB-9-03**, a request for a subdivision to divide a 2.96 acre parcel of land into fourteen (14) lots, located at Hampton Lane; Assessor's Map 40-13-31 C, Tax Lots 601 and 603; R-1-6 (Single-family Residential, 6,000 square foot minimum lot size) zone; Kurt Kessler, applicant; Jim Capp, representative. The criteria used to decide this case is found in Section 176 of the Land Development Code. This is a quasi-judicial hearing and the Planning Commission will make a decision on this request.
7. Written Requests and Communications
 - 7.1 In the matter of Planning Commission File No. **SUB-1-03**, a request for final map approval for a subdivision identified as *West Cliff*, dividing a 1.04 acre parcel of land into 5 lots, located at Passley Road; zoned R-1-6 (Single-family Residential, 6,000 sq. ft. minimum lot size); Steve Calwalader dba Bayside Builders, applicant.
8. Public Hearings
 - 8.1 In the matter of Planning Commission File No. **CUP-7-03**, a request to construct a veterinary hospital, located at 842 Railroad Street; Assessor's Map 41-13-06 DB, tax Lot 1800; C-3 (General Commercial) zone; Jeffrey & Evonne Tribble, applicants. Criteria used to decide this case can be found in Section 140 of the Land Development Code. This is a quasi-judicial hearing and the Planning Commission will make a decision on this request.

Scenic
Cultural
Historical
Archaeological

? SUB

- 8.2 In the matter of Planning Commission File No. **CUP-8-03**, a request for a conditional use to create a dwelling group at 712 Second Street; Assessor's Map 41-13-06 BA, Tax Lot 1703; R-1-6 (Single-family Residential, 6,000 sq. ft. minimum lot size) zone; Skip Watwood, applicant; Richard Wilson, owner. The criteria used to decide this case is found Section 140 of the Land Development Code. This is a quasi-judicial hearing and the Planning Commission will make a decision on this request.
- 8.3 In the matter of Planning Commission File No. **LDC-3-03**, a request for to amend the Land Development Code, Ordinance 89-O-446, to add a new zoning district titled "Master Plan Development (M-PD) District and to amend the Comprehensive Plan to add provisions for a "Master Plan Development" designation. City Initiated. Provisions for the amendment of the Land Development Code and Comprehensive Plan can be found in Section 144, Amendments, of the Land Development Code. This is a legislative hearing. The Commission will send comments and their recommendation to City Council.
9. County Referrals
9.1
10. Unscheduled Public Appearances
11. Report of Citizen Advisory Committee
12. Messages and Papers from City Manager
13. Messages and Papers from the Mayor
14. Report from the Planning Director
15. Propositions and remarks from Commission Members
15.1
16. Adjournment

IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON

In the Matter of an Ordinance Amending)
Ordinance 89-0-446, An Ordinance)
Creating the Land Development Code to) Ordinance 03-O-446.PP
add Section 70 titled Master Plan)
Development (MPD) District.)

Sections:

- Section 1. Ordinance identified.
Section 2. Amendment to add Section 70..

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Ordinance No. 89-0-446, enacted April 10, 1989 entitled, the Land Development Code.

Section 2. Amendment to add Section 70 Ordinance No. 89-O-446, Section 70 is hereby added to read as follows:

Title Master Plan Development (MPD) District

Sections

- 70.010 Purpose
- 70.020 General Provisions
- 70.030 Allowed Uses
- 70.040 Master Plan of Development (MPoD) Review Procedures
- 70.050 Acceptance of Application
- 70.060 Staff Evaluation
- 70.070 Review Criteria
- 70.080 Action by Planning Commission
- 70.090 Action by the City Council
- 70.100 Notice of Decision
- 70.110 Effective Date and Assurance
- 70.120 Effective Period of Master Plan of Development (MPoD) Approval
- 70.130 Modification of a Master Plan of Development (MPoD)
- 70.140 Detailed Development Plan (DDP) Review Procedures
- 70.150 Acceptance of Application
- 70.160 Staff Evaluation
- 70.170 Review Criteria for Determining Compliance with Master Plan of Development (MPoD)
- 70.180 Action by the Planning Commission
- 70.190 Effective Date
- 70.200 Effective Period of Detailed Development Plan (DDP) Approval
- 70.210 Modification(s) of a Detailed Development Plan (DDP)
- 70.220 Determining Compliance

2. Existing land use map (typically a topographic map that extends at least 300 ft. beyond the site. The map includes existing building footprints and makes a distinction between single-family, multi-family, commercial and industrial uses, as well as other significant features such as roads, drainageways, parks, and schools);
3. Site plan(s) and other graphics drawn to scale and containing a sheet title, date, north arrow, and legend - placed in the same location on each sheet and containing the following:
 - (a) Existing site conditions including contours at intervals sufficient to indicate topographic conditions, watercourses, flood plains, and any unique natural features;
 - (b) Slope Analysis for any area containing or adjacent to a fault zone, sinkhole, unstable soils, steep slopes, high water table, or other geologic hazard.
 - (c) Boundary of the Proposed MPoD and any interior boundaries related to proposed development phases or land divisions;
 - (d) Land use areas identified as dedicated to residential use within the MPoD, shall be identified as such and indicating the type of residential use, the number of units within the area and resulting density.
 - (e) General location and size of areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semipublic uses;
 - (f) Existing and proposed general vehicle and pedestrian circulation system including bikeways, sidewalks, off-street parking areas, street standards, service areas, loading areas, and major points of access to public rights-of-way. Notations of proposed ownership (public or private) should be included where appropriate;
 - (g) Existing and proposed preliminary utility systems including sanitary sewer, storm sewer, drainageways, and water, where appropriate;
 - (h) Sufficient information on land areas within at least 150 ft of the subject property to indicate their relationships with the proposed development including land uses, lot lines, circulation systems, public facilities, and unique natural features of the landscape;
 - (i) Location of natural resource, historic and cultural resources as identified on adopted City and County inventories.
4. The City Planner may also require additional information to evaluate the proposal.

B. Narrative Requirements A written statement shall include the following information:

Deletions

ODOT Amendments

1. Graphic Requirements

A MPoD shall include the following information where applicable:

- a. Public Notice map including properties within 250 feet of the boundary of the MPoD.
- b. Existing land use map (typically a topographic map that extends at least 300 ft. beyond the site. The map includes existing building footprints and makes a distinction between single-family, multi-family, commercial and industrial uses, as well as other significant features such as roads, drainageways, parks, and schools);
- c. Site plan(s) and other graphics drawn to scale and containing a sheet title, date, north arrow, and legend - placed in the same location on each sheet and containing the following:
 - (1) Existing site conditions including contours at intervals sufficient to indicate topographic conditions, watercourses, flood plains, and any unique natural features;
 - (2) Slope Analysis for any area containing or adjacent to a fault zone, sinkhole, unstable soils, steep slopes, high water table, or other geologic hazard.
 - (3) Boundary of the Proposed MPoD and any interior boundaries related to proposed development phases or land divisions;
 - (4) Land use areas identified as dedicated to residential use within the MPoD, shall be identified as such and indicating the type of residential use, the number of units within the area and resulting density.
 - (5) General location and size of areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semipublic uses;
 - (6) Existing and proposed general vehicle and pedestrian circulation system including bikeways, sidewalks, off-street parking areas, street standards, service areas, loading areas, and major points of access to public rights-of-way. Notations of proposed ownership (public or private) should be included where appropriate;
 - (7) Existing and proposed preliminary utility systems including sanitary sewer, storm sewer, drainageways, and water; where appropriate;
 - (7) Sufficient information on land areas within at least 150 ft of the subject property to indicate their relationships with the proposed development including land uses, lot lines, circulation systems, public facilities, and unique natural features of the landscape;
 - (8) Location of natural resource, historic and cultural resources as identified on adopted City and County inventories *and by a surface survey.*
- d. ~~The City Planner may waive any of the above requirements when determined the information required by this section is unnecessary to properly evaluate the proposed~~

RAMIS CREW CORRIGAN & BACHRACH LLP

ATTORNEYS AT LAW
1727 NW HOYT STREET
PORTLAND, OREGON 97209
TELEPHONE (503) 222-4402
FAX (503) 243-2944
WWW.RCCB.COM

Timothy V. Ramis
sharonb@rccb.com

July 14, 2003

Brookings City Council
c/o John Bischoff, City Planner
City of Brookings
898 Elk Drive
Brookings, OR 97415

Re: Proposed Master Plan Ordinance, Zone Change, and Comprehensive Plan Amendment

Dear Council Members:

I write on behalf of U.S. Borax to express support for the proposed Master Plan Ordinance, Zone Change, and Comprehensive Plan amendment. The City needs to have a framework and standards to allow master plans, and the proposed Master Plan Ordinance provides appropriate provisions that will ensure that master plans provide for development consistent with the public interest while allowing the opportunity to develop large areas according to a cohesive plan.

The zone change for the property owned by U.S. Borax is needed to allow the development of the required master plan. Development of this property should be by a master plan to allow the City to review the overall concept plan and then more detailed plans as the area is developed. The proposed Comprehensive Plan amendment is needed to allow the Master Plan Ordinance to be adopted and implemented.

With this letter I am providing detailed comments demonstrating that the proposed amendments (the Master Plan ordinance, the zone change, and the Comprehensive Plan amendment) are consistent with applicable legal standards. The analysis also discusses adverse comments that have been made. If the Council wishes, it could adopt some or all of the comments as findings in support of its decision.

While on the whole the Master Plan Ordinance provides appropriate guidelines for development and implementation of master plans, there is one provision that is unnecessary and will create additional costs for developers without resulting in increased benefits. The Planning Commission added language to section 70.040A.1(8) requiring the submission of a surface archaeological study. State law (ORS 358.905 to 358.961) protects archaeological sites. ORS 358.920(1)(a) prohibits excavation of an archaeological site without a permit. Under these statutes, any time any archaeological object is found during excavation, grading or other development work, the development must stop until the extent of the archaeological site may be determined and a permit obtained. The state law provides adequate protection of archaeological sites and it is not necessary to require an archaeological survey for every planned development. Any development activity, whether as part of a master plan or otherwise, may encounter

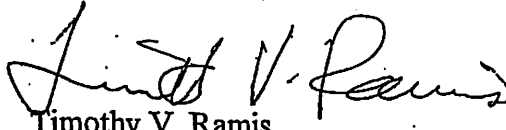
Received
7-14-03
AT Hearing
JP

Brookings City Council
July 14, 2003
Page 2

archaeological objects, and the state law is sufficient to protect archaeological sites. I therefore request that the language requiring submission of a surface archaeological survey be deleted.

Thank you for the opportunity to comment on the proposed master plan ordinance, comprehensive plan amendment, and zone change. I would also like to thank City staff for their hard work and professional approach in this matter and congratulate the City for its effort to have a public process that provided substantial opportunities for public input in development and consideration of these amendments.

Very truly yours,



Timothy V. Ramis

96370 Duley Creek Rd.
Brookings, OR 97415
Aug. 25, 2003

Ms. Karen Quigley
Executive Director
Legislative Commission on Indian Services
900 Court St., Room 167
Salem, OR 97301

Dear Ms. Quigley,

I am writing to you out of concern for probable cultural resources sites on property near Brookings. I live near the property, and am very familiar with it. I want to make sure that state Land Use Goal #5, which requires cultural resources surveys, is complied with, as well as ORS 358.905 and ORS 390.235 on cultural resources in the path of development. It is my understanding, checking with the State Historic Preservation Office, that no such surveys have as yet taken place.

The property in question is a 640-acre parcel owned by U.S. Borax, which was recently included in the Urban Growth Boundary expansion of Brookings, and annexed into the City approximately a year ago. The Borax property is entirely undeveloped, save for a power line corridor. It is nearly all forested, with some large, old trees. Both Duley Creek and Lone Ranch Creek run through this property, and empty into the ocean in Sam Boardman State Park, which is directly across Highway 101 from the property. Lone Ranch Creek has large shell middens at its mouth, and other large ones exist nearby on the beach.

U.S. Borax and the City are now working on plans for a major development on the property, including many hundred houses, a hotel, golf course and commercial center. The Borax property has just been rezoned to have Master Planning status apply to it. In the ordinance, the Brookings Planning Commission included a statement about cultural resources and the importance of recognizing them, but the City Council removed it.


I spoke with Elmer Jordan, whose grandmother was of the Chetco people, who are now a part of the Confederated Tribes of the Siletz. He stated that according to the oral history of the Chetco River people, there was a large *permanent* Native settlement of board houses, numbering at least forty houses, on what is now the Borax property. The other major permanent settlement was along the Chetco River. He stated that such a permanent site is the only way the shell middens at the mouth of Lone Ranch Creek, and other nearby nearby mounds, could be so large.

It is therefore likely that major archeological sites exist on the Borax property. It is well known that there are many ancient cultural sites at Indian Sands, about three miles north of Borax. The whole area was clearly heavily used by Native people, both ceremonially and for permanent settlement.

I hope that U.S. Borax and the City of Brookings, in conjunction with the Confederated Tribes of the Siletz, and other federally-recognized Tribes as appropriate, will work together to require a survey of the property before any development takes place, in order that no State law be broken concerning cultural resources. It is also imperative that Brookings and Curry County comply with State Land Use Goal #5, which *requires* cultural resources surveys.

I thank you for your consideration. Please contact me if you have any further questions.

Sincerely,

Catherine Wiley, 

cc:

James Hamrick

Dennis Griffin

Robert Kentta

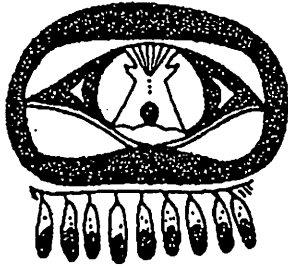
June Olson

Tom Younker and Don Ivy

Bob Hagbom, Mayor of Brookings

City of Brookings Planning Commission

Curry County Commission



LEGISLATIVE COMMISSION ON INDIAN SERVICES

167 State Capitol
Salem, Oregon 97310-1347
(503) 986-1067 • Fax (503) 986-1071

Executive Director: karen.m.quigley@state.or.us
Commission Assistant: gladine.g.ritter@state.or.us

September 17, 2003

Catherine Wiley
96370 Duley Creek Rd.
Brookings, Oregon 97415

Dear Ms. Wiley:

Thank you for your letter dated August 25, 2003 in which you raise concerns that the City of Brookings act in accordance with relevant state law regarding the protection of cultural resources. This office is involved in the state laws regarding the protection of Indian graves, funerary objects, objects of cultural patrimony and Indian sacred objects as well as the laws regarding archaeological permit applications. The role of this office, by statute, is to provide information as to the appropriate Tribes that must be contacted as part of the archaeological permit process and in the event of discovery of Indian human remains during any ground-disturbing activity on state public or private land in Oregon.

As you are probably aware, the State Land Conservation and Development Commission is involved with city and county periodic reviews and compliance with state land use goals—one of which, as you point out, deals with the protection of cultural resources (Goal 5). It is my understanding that the “trigger” for the inventory comes when the governing body is made aware of relevant information and must incorporate that information in its next periodic review. Cities and counties vary in the extent and completeness of their cultural resources inventory for a variety of reasons. In some cases Tribes are less willing to provide specific information about significant sites for fear of how that information may lead to looting; in other situations, cities and counties have yet to work out the discussion with appropriate Tribes about those sites and

other significant cultural resources. However, there are many cities and counties that have worked with Tribes and have gone a long way towards completion of their Goal 5 inventories.

Regardless of the status Goal 5 cultural resources inventories, the law requires compliance with Indian Graves protection and the protection of archaeological sites (found at ORS 97.740 et seq., ORS 358.905 et seq. and ORS 390 et seq.) By copy of this letter I am also providing you and the Mayor of Brookings, the City of Brookings Planning Commission and the Curry County Commission a copy of a summary sheet of these laws that has been sent in the past to the planning departments of all cities and counties in Oregon. This sheet was developed by the Legislative Commission on Indian Services and endorsed by the Parks & Recreation Department, the State Police and the Department of Land Conservation and Development as a "quick reminder" to cities and counties of these laws. I am hopeful that the City of Brookings, the City of Brookings Planning Commission, the Curry County Commission and others will find this helpful.

Thank you.

Sincerely,



Karen Quigley
Executive Director

cc: James Hamrick, SHPO, Parks & Rec, by e-mail w/o attchmt
Dennis Griffin, SHPO, Parks & Rec, by e-mail w/o attchmt
Robert Kentta, Siletz, by e-mail w/o attchmt
June Olson, Grand Ronde, by e-mail w/o attchmt
Tom Younker and Don Ivy, Coquille, by e-mail to Don Ivy w/o attchmt
Doug White, DLCD, by e-mail w/o attchmt
Bob Hagborn, Mayor of Brookings, by mail w/ attchmt
City of Brookings Planning Commission, by mail w/attchmt
Curry County Commission, by mail w/attchmt



Legislative Reminder

INDIAN GRAVES PROTECTION STATUTES

(ORS 97.740-.990)

PROTECTION OF ARCHEOLOGICAL SITES

(ORS 358.905-.955 AND ORS 390.235-.240)

**DO YOU AND YOUR STAFF KNOW
ABOUT STATE LAW ON
ARCHEOLOGY THAT APPLIES TO
LANDS WITHIN YOUR
JURISDICTION?**

Is your staff aware that, with very limited exceptions, it is illegal to disturb archeological sites or remove or alter certain archeological objects on state PUBLIC OR PRIVATE land unless this is done by an archeologist under a permit issued by the State Parks and Recreation Department?

Does your staff consider the possibility of the presence of archeological sites during review of construction permits?

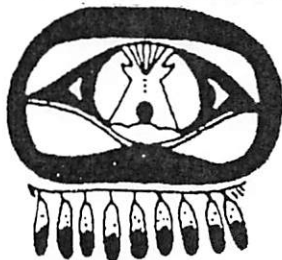
Are you aware that construction must be stopped immediately if an archeological site or burial is encountered during construction? (An expedited permit process is possible in this situation).

Is your staff aware of the procedures to follow if Native American human remains are found on lands within your jurisdiction?

Violation of the Indian Graves Protection Law is a Class C felony.



LEGISLATIVE COMMISSION



ON INDIAN SERVICES



22
OREGON DEPARTMENT OF LAND
CONSERVATION AND DEVELOPMENT

STEPS TO FOLLOW

If suspected Native American human remains are found:

FIRST, call the nearest office of the State Police; an initial determination must be made on whether or not the remains are part of a crime scene. ORS 146.505 requires the State Police to keep a file of unidentified human remains found within the State.

SECOND, If the remains are Native American, call the Legislative Commission on Indian Services at the State Capitol: 503-986-1067. State law says the appropriate Tribe(s) must be contacted—the Legislative Commission on Indian Services will tell you the appropriate Tribe(s) to contact.

THIRD, call the State Historic Preservation Office (SHPO) at 503-378-4168 (ext. 232) for a list of archeological consultants (if needed). Only professional archeologists can apply for archeological permits. The State Historic Preservation Office (SHPO) maintains files on over 20,000 archeological sites in Oregon and sites on, or determined eligible for inclusion on, the National Register of Historic Places. Indian Tribes can also designate significant sites.

The appropriate Indian Tribe(s) must be notified by the person doing any archeological investigation and if a sacred object or object of cultural patrimony is found.

Excavating, injuring, destroying or altering an archeological site or removing archeological objects from Oregon public or private lands without a permit is a Class B misdemeanor.

Each Tribe can give you information about their interests and the areas of the State where they have concern and/or treaty rights.

The Legislative Commission on Indian Services (503-986-1067) can supply you a copy of their Oregon Directory of American Indian Resources, give you a list of Tribes recognized under State and Federal law and can provide a list of Tribal Cultural contacts.

GENERAL SERIES IN ANTHROPOLOGY



NUMBER 11

CHETCO ARCHAEOLOGY

A REPORT OF THE LONE RANCH CREEK SHELL MOUND
ON THE COAST OF SOUTHERN OREGON

By

JOEL V. BERREMAN

GEORGE BANTA PUBLISHING COMPANY
AGENT

MENASHA, WISCONSIN, U.S.A.

1944

24

Chetco Community Public Library
Brookings, Or

EXHIBIT I

RECEIVED

AUG 3 2004 CM

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

GOAL ONE COALITION

39625 Almen Drive
Lebanon, Oregon 97355
Phone: 541-258-6074
Fax: 541-258-6810
goal1@pacifier.com

August 3, 2004
Brookings Planning Commission
898 Elk Drive
Brookings, OR 97415

RE: Master Plan of Development for Lone Ranch (Borax)

AUTOTEXTLIST Dear Members of the Commission:

The Goal One Coalition (Coalition) is a nonprofit organization whose mission is to provide assistance and support to Oregonians in matters affecting their communities. The Coalition is appearing in these proceedings at the request of and on behalf itself, Oregon Shores Conservation Coalition, Citizens for Orderly Development, Pete Chasar, and Catherine Wiley.

The purpose of this letter is to provide additional comments regarding two issues relevant to the MPoD request: the presence of archeological sites on the subject property, and potential impacts on wetlands and on the federally endangered western lily (*Lilium occidentale*) that is found on the Borax property.

1. Archeological sites

In its letter of 7-27-04, the Coalition stated that there were indications that Native American archeological sites existed on the Borax property; that ORS 358.920 prohibits actions excavate, injure, destroy or alter an archaeological site or object without a permit issued by the Department of Parks and Recreation and without the concurrence of the appropriate Indian tribe; and that ORS 97.745 prohibits the removal, mutilation, defacement, injury to or destruction of any cairn, burial, human remains, funerary object, sacred object or object of cultural patrimony of any native Indian. Because no archeological survey of the Borax property has been completed, there is not evidence in the record to support a finding that the MPoD as proposed will or can be made to comply with the requirements of these statutory provisions.

A letter dated September 3, 2003 from Dennis Griffen, SHPO Archeologist, to the Brookings

City Council, copied to the Planning Commission, confirms the probable existence of an archeological site on the Borax property. Mr. Griffen points out that "a formal record of such a site in our office is not necessary in order to insure (sic) a site's protection – knowledge among area residents is sufficient." Mr. Griffen concludes:

"Given the knowledge of a Native village site within the Borax land development by members of the Confederated Tribes of the Siletz Tribe (e.g., Elmer Jordan), we strongly suggest that a professional cultural resource survey of the project area be completed prior to and land disturbing activities."

Mr. Griffen is correct, although his recommendation does not go far enough to ensure compliance with ORS 358.905 to 358.955, ORS 390.235 to 390.240 and ORS 97.740 to 97.760. The MPoD cannot be approved without finding that the MPoD does comply or can be made to comply with these statutory provisions. Such findings must be supported by substantial evidence in the record. There is no such evidence. No explanation of how the MPoD does or can be made to comply has been provided or is possible.

BDC 70.010 states that, "[a]s the MPD zone is implemented through an approved MPoD, * * * [c]ompliance with applicable plan goals and policies is deferred until the MPoD review." BDC 70.040.B.3 requires that the applicant submit a narrative explaining "how the project is in compliance with the applicable goals and policies of the Comprehensive Plan."

Plan Goal 5 Policy 1 provides:

"It is the policy of the City to protect natural and scenic resources by encouraging the conservation of ecologically and scientifically significant natural areas, scenic views and sites, historic areas, local energy sources, and mineral and aggregate resources."

The MPoD does not adequately address the requirements of the BDC and the Plan because it fails to explain how historic areas are conserved.

2. Wetlands and on the federally endangered western lily

A letter dated July 29, 2004 from Craig A. Tuss, Field Supervisor. U.S. Fish and Wildlife Service (FWS), to John Bischoff, Brookings Planning Director, states that the Endangered Species Act and the National Environmental Policy Act protect the endangered western lily (*Lilium occidentale*); and that the population at the Borax development site is not adequately mapped, assessed, and surveyed to provide sufficient avoidance in the MPoD. A cursory inspection by Service staff revealed many more specimens than the 46 documented by the applicant's survey. In addition, specimens were found outside of the areas delineated in the applicant's survey.

The Tuss letter notes that wetlands (and lily habitat) are intimately connected with, and largely a function of, the surrounding uplands, that wetlands are likely to be affected by modifications to the watershed, and that a detailed hydrological analysis is needed to assess potential

impacts. The letter further notes that the MPoD proposes to develop a detailed stormwater drainage plan at a later date. The letter concludes that approval of the MPoD is premature, since it does not take into account potential limitations needed to maintain the integrity of onsite wetlands and endangered species habitat; and that the final development plan may need to be altered substantially to accommodate the results of the hydrological analysis.

Review criteria of BDC 70.070 include:

"A. The proposed MPoD is consistent with the purposes identified in Section 70.010 and the intent of the MPD zone.

"D. The proposed MPoD will demonstrate that the plan respects the physical characteristics of the site."

Purposes identified in BDC 70.010 include:

"C. Preserve to the greatest extent possible existing landscape features and amenities, and utilize such features in a harmonious fashion."

BDC 70.010 states that, "[a]s the MPD zone is implemented through an approved MPoD, * *

* [c]ompliance with applicable plan goals and policies is deferred until the MPoD review."

BDC 70.040.B.3 requires that the applicant submit a narrative explaining "how the project is in compliance with the applicable goals and policies of the Comprehensive Plan."

Plan Goal 5 Policy 1 provides:

"It is the policy of the City to protect natural and scenic resources by encouraging the conservation of ecologically and scientifically significant natural areas, scenic views and sites, historic areas, local energy sources, and mineral and aggregate resources."

The MPoD does not adequately address the requirements of the BDC and the Plan because it fails to explain how ecologically and scientifically significant natural areas are conserved, fails to adequately respect the physical characteristics of the site, and fails to preserve to the greatest extent possible the wetlands and habitat of the western pond lily.

3. Federal legal issues raised by the proposed MPoD

Plan Goal 6 Policy 1 provides:

"It is the policy of the City to recognize and comply with State and Federal environmental quality statutes, rules, and standards."

A review of the MPoD reveals that the Borax development project implicates several serious environmental issues. To ensure compliance with federal statutes, a full analysis of the project's environmental impacts must be prepared.

a. Wetlands

Under § 404 of the Clean Water Act, the Army Corps of Engineers (ACOE) has regulatory authority over wetlands. 33 USC. § 1344 (2004). Pursuant to § 404, an individual must obtain a permit from the ACOE prior to the discharge of dredged or fill material into the waters of the United States. The ACOE has defined "waters of the United States" to include wetlands. 33 CFR. § 328.3. The ACOE further defines "wetlands" to mean "those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions."

Federal wetlands regulations establish a strong presumption against permitting the destruction of wetlands. 33 CFR. § 320.4(b); 40 CFR § 230.1(d). In determining whether to grant a § 404 permit, the ACOE must evaluate "the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest." 33 CFR. § 320.4. The regulations specify numerous elements to include in the analysis of the public interest, including "conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and, in general, the needs and welfare of the people." 33 CFR. § 320.4(a)(1). The ACOE's examination of the probable impacts must examine both the direct and indirect impacts resulting from a proposed project. For example, EPA regulations indicate that "when disruptions in flow and circulation patterns occur, apparently minor loss of wetland acreage may result in major losses through secondary impacts." 40 CFR. § 230.41. *See also* 33 CFR. § 320.4(b) (finding that minor piecemeal changes to wetlands can result in major impairment of wetland resource). To aid in its evaluation of the project's probable impacts on wetlands, the ACOE may be required to prepare an analysis of environmental impacts pursuant to the National Environmental Policy Act (NEPA). In particular, NEPA regulations specify that the federal permitting activities come under the scope of the Act's requirements. 40 CFR. § 1508.18(b)(4).

The proposed project requires the approval of the ACOE. The proposed project site contains a minimum of 28 acres of wetlands according to the Wetlands Assessment (WA) prepared by Borax consultant Raedeke Associates, Inc. (Raedeke). These 28 acres are interspersed throughout the development site, and the proposed project would result in a complete fragmentation of the existing ecosystem. While the MPoD seeks to downplay the impact of the project on wetlands, review of the project plans reveals that the wetlands system would be dramatically altered if the proposed project moves forward as designed. This conclusion is confirmed in the FWS letter of July 29, 2004.

The WA identifies direct impacts that include the fill of 0.55 acres of wetlands, the construction of road crossings over 400 lineal feet of streams, incursions into 8.78 acres of wetland and stream buffers, and a still undetermined impact from utility routing that would require stream and wetland crossing. More importantly, the WA reveals the significant indirect impacts that would result from the proposed development. First, the proposed

development would significantly change the area's hydrologic patterns and affect the volume and timing of water reaching the wetlands. The WA states that without mitigation the development would likely lead to a decrease in wetlands. Second, the development would lead to increased pollution and sedimentation that would result in the degradation of water quality within the wetlands. The destruction of natural soil retention by native vegetation and the major reduction in pervious surfaces would likely result in the loading of sediment and pollution into wetlands. Third, the planned project would negatively impact wetland and stream buffers that provide habitat for a variety of wildlife and plant species and provide water quality treatment, stormwater storage, and hydrologic support functions.

Because of the impacts to wetlands, Raedeke has advised Borax to consult with the ACOE. As Raedeke properly cautions, it is the ACOE that makes the final determination as to the scope of its jurisdiction. Prior to any construction activities, the ACOE would be required to determine for purposes of federal law what is the true impact of this project on the existing wetlands.

Approval of the MPoD requires that the governing body find that the requirements of federal law regarding wetlands are met or, alternatively, that the governing body find that compliance is feasible and impose conditions of approval that ensure compliance. Based on evidence currently in the record, such findings cannot be made.

b. Endangered species

In addition to the identified impacts to wetlands, the MPoD would potentially impact listed species under the Endangered Species Act (ESA). In a letter to the Brookings Planning Director, the FWS has indicated its concern regarding impact to the endangered western lily. In addition, the WA indicates that other species listed under the ESA, such as the marbled murrelet and the spotted owl, may also be impacted by the project. However, no surveying has been undertaken for these species.

Under § 7 of the ESA, federal agencies must "insure that any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification" of critical habitat. 16 USC § 1536(a)(2) (2004). To fulfill this requirement, the federal agencies must undertake consultation with the FWS regarding any action which is likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat. Furthermore, as an element of its § 404 public interest analysis, the ACOE is required to consult with the FWS "with a view to the conservation of wildlife resources by prevention of their direct and indirect loss and damage due to the activity proposed in a permit application." 33 CFR §§ 320.3(e), 320.4(c).

In its letter, the FWS states its concern that the MPoD has understated the population levels of western lily within the proposed project area. FWS staff has visited the project site, and its conclusion is that there is inadequate information to properly analyze how the western lily

would be impacted by the proposed development. In consequence, without a more in-depth analysis, there is inadequate data for the FWS to consult with the ACOE as to the project's impacts on wetland species. This lack of information is particularly significant in light of the importance of this location to the western lily's continued survival. Even assuming that the project has properly avoided any direct impact to lilies, there is still a strong possibility that the species would be indirectly impacted by the project. The FWS and the WA state that there will be indirect hydrological impacts to wetland species. Moreover, the WA states that the fragmentation of the ecosystem would increase the likelihood of invasive species. WA at 45.

Approval of the MPoD requires that the governing body find that the requirements of federal law regarding endangered species are met or, alternatively, that the governing body find that compliance is feasible and impose of conditions of approval that ensure compliance. Based on evidence currently in the record, such findings cannot be made.

c. Cultural resources

Section 106 of the National Historic Preservation Act (NHPA) requires that federal agencies undertake two actions prior to licensing or funding activities that may impact properties listed or eligible for listing on the National Register of Historic Places. 16 USC § 470(f) (2004); *see also* 36 CFR § 60.4 (establishing criteria for inclusion in National Register). First, the agency must take into account the effect of the project on the historic properties. Second, the agency must consult with the Advisory Council on Historic Preservation.

The responsible agency must undertake a section 106 review prior to approving a federal license or funding for a project. 33 CFR § 800(c). As much as possible the agency is encouraged to coordinate § 106 compliance with analysis under NEPA. 33 CFR § 800.8. The agency considering the licensing or funding of the project must consult with the State Historic Preservation Officer (SHPO) and identify any concerned parties that should have input. The agency and the officer must consider all written requests to participate in the process. 36 CFR § 800.3(f). If the agency determines that there are historic properties or if SHPO objects to a finding of no effect, the agency must notify all concerned parties and undertake an assessment of adverse effects. 36 CFR § 800.4(d). If adverse effects are identified, the agency must work with concerned parties and SHPO to minimize or mitigate the effects. 36 CFR 800.6(a).

ACOE regulations supplement the requirements of the NHPA by including in the § 404 public interest analysis a consideration of the cultural resources impacted by the project. 33 CFR § 320.4(e). The ACOE must include in its public notice of the permit application its current knowledge of the existence of historic properties. 33 CFR § 325, App. C, 4. Accordingly, NHPA and ACOE regulations require the ACOE to assess the impact of the project on the cultural resources identified to exist on the site.

Approval of the MPoD requires that the governing body find that the requirements of federal law regarding cultural resources are met or, alternatively, that the governing body find that

compliance is feasible and impose of conditions of approval that ensure compliance. Based on evidence currently in the record, such findings cannot be made.

CONCLUSION

For these additional reasons, the Planning Commission should recommend that this MPoD request be denied.

Respectfully submitted,

Jim Just
Executive Director

DIANA & PETER CHASAR

935 Marina Heights Road, Brookings, Oregon, 97415 • 541 469-2377 • pjc@chasar.com

EXHIBIT 2

August 3, 2004

Brookings Planning Commission
CITY OF BROOKINGS
898 Elk Drive
Brookings, OR 97415

RECEIVED
AUG 2 2004
CM
CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

Dear Chairman & Commissioners:

RE: MPD-1-04

First of all, thank you for granting an additional seven days to provide testimony for this application.

GOAL 5 — OPEN SPACES, SCENIC AND HISTORIC AREAS AND NATURAL RESOURCES

To support my July 27 assertion that the applicant's proposal to survey only buildable areas for archaeological and historical resources is inadequate, I offer these additional points:

- Archaeological and historical resources in undeveloped areas need to be protected, too. Development/construction is not the only activity that can damage or destroy archaeological resources. They can also be destroyed by vandalism, theft, foot traffic and other human activities bound to occur in open space in close proximity to 1,000 housing units.
- To protect all archaeological and historical resources, they must first be identified and cataloged. Ignoring the fact that cultural, archaeological and historical resources may exist in undeveloped areas of the property is not a protection plan. It is a plan that will lead to the eventual destruction of those resources. Only when all cultural, archaeological and historical resources are identified can effective protection strategies be created.

The recent discovery of a 10,000-year-old archaeological site — the oldest on the west coast — in Boardman State Park just a few miles from the property indicates the importance of surveying and protecting sites on this entire property, not just the areas to be developed. (See Exhibit A.)

GOAL 8 — RECREATIONAL NEEDS

To support my assertions of July 27 that the applicant's MPoD proposal will not adequately provide for the community's recreational needs using public open space, I offer this additional information:

- Exhibit B "General Guidelines for Access," a management document for the McDowell Sonoran Preserve, Scottsdale, Arizona.
- Exhibit C, a summary of my background in open space planning, design and management.

Now here is additional information to support my assertion that the MPoD does not meet the following planning goals.

GOAL 11—Public Facilities and Services To plan and develop a timely, orderly and efficient arrangement of public facilities and services...

The simple fact that the city's water line has to be extended one mile north from Carpenterville Road to reach the property is proof that this MPoD is neither timely, efficient nor orderly. On the contrary, this project is a classic example of leap-frog development. (See Exhibit D, map showing the dog-leg Highway 101 right-of-way annexation of this property.)

GOAL 12-Transportation To provide and encourage safe, convenient and economic transportation...

US Highway 101 is the project's only connection to Brookings. Indeed, this MPoD utilizes US Highway 101 to both get vehicles to the property and to provide connections between the property's southernmost neighborhood and its northernmost neighborhood. This lack of alternate routes is neither safe nor efficient, particularly since there is no way to reach the property if Highway 101 north of Brookings is blocked.

In addition, the MPoD does not provide for safe pedestrian access to Lone Ranch Beach Park or to the Coast Trail access point just north of Rainbow Rock. There should be below- or above-grade pedestrian crossings at both of these locations. Yet none are proposed in the MPoD.

Without these safe pedestrian crossing features, many residents of the project will feel compelled to drive across Highway 101 to reach the park and trail, reasoning that driving there is far less hazardous than crossing a high-speed highway on foot. (See Exhibit E, an excerpt from Scottsdale's Design Standards and Policies for Non-Paved Trails.)

GOAL 13-Energy Conservation To conserve energy...

Many of the points made in the section above, namely that this MPoD will create many unnecessary vehicle trips because it does not provide for safe pedestrian crossing zones at Lone Ranch Beach and Rainbow Rock, also apply here.

And, because there are no schools, churches, ball fields, libraries, etc. in the MPoD, residents will be forced to drive to Brookings to utilize these types of community facilities.

GOAL 14-Urbanization To minimize the expansion of the urban service area...

As designed -- with both a college campus and commercial zone in close proximity to Highway 101 -- the MPoD is in direct conflict with this goal. The current Brookings urban service area is three miles south of the MPoD's college/commercial zone.

I assert that the applicant's planned college/commercial area is de facto strip development, and that the precedent it sets will encourage more strip development in the three-mile gap between the project and the current Brookings urban service area.

LET THE BDC AND OTHER REGULATIONS BE YOUR GUIDE. During their rebuttal comments at the July 27 hearing, members of the applicant's team claimed that you were only being asked to approve "a magnitude of development."

There is far more than "a magnitude of development" at stake here. By approving variances requested by the applicant, you'll be impacting all future development in Brookings. If you approve greater building heights here, how can you refuse them to another developer in the future? If you allow streets without sidewalks here, how can refuse a similar request in the future?

Then there is the nagging issue of water supplies and sewer plant capacity. The UGB Joint Management Agreement and state planning goals require connections to both city water and city sewer for urban levels of development. Interim systems are allowed for rural development only.

Is there really enough water in the Chetco River for 1,000 new housing units plus the other projects that may be built in the next 15 years? What about the city's sewer plant capacity?

One final point: The commission is under no obligation to approve anything that does not conform to the Brookings Development Code, the UGB Joint Management Agreement or state's planning goals. Let those documents be your guide. Deny this application.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pete Chasar".

Pete Chasar

attachments

EXHIBIT A

NEWS

Archaeologists date oldest coastal site

Deposits are thought to be about 10,400 years old

By Erik Sorensen
Barometer Staff Writer

An archaeological site identified by OSU researchers as the oldest on the Oregon Coast dates back about 10,400 years.

Roberta Hall, Loren Davis, and Michele Punke were all on the team to investigate this known archeological site in Samuel Boardman State Park near Brookings, where the deposits are almost 2000 years older than those previously dated.

"What we tried to do was find some sediments that were in place and would be of the proper antiquity," said Punke, a PhD student in geography.

This site, known as an archeological site due to the lithic flakes in the region, was earlier dated by some University of Oregon scholars to be about 8,300 years old.

"Geologically, the sediment aligns below where [U of O] had taken their dates from, so we hoped that the date would be bracketed in between the 8,000 year and the 15,000 year," Punke said.

This site has been dated older than anything on the Washington Coast, and is comparable to sites along the California, British Colombia, and Alaska Coasts.

Punke did Geographical Information Systems modeling for this project, which allowed the team to investigate the landscape.

"My role is to try and understand the landscape better, including what it would have looked like in the past compared to what it looks like now, and also the offshore landscape," Punke said.

According to Punke, the next steps in the project are to apply for more funding with plans to investigate the surrounding area to see how far these 10,400-year-old deposits reach or if this aged area is inconsistent with the surrounding sediment.

Depending on what is found, botanical or microscopic work may be incorporated in the area.

This information is useful anthropologically in that it aids in understanding what routes may have been used for travel into the Americas.

According to Punke, the Coquille tribe in the region was very helpful in the investigation, giving advice, offering contacts and even sending a Global Positioning Systems person to help out. The tribe also gains from this, learning more about their ancestry.

"Everything that we find out can be shared with them, and it's a really great relationship that we are maintaining with the tribe," Punke said.

Erik Sorensen covers science for The Daily Barometer. He can be reached at baro.news@studentmedia.orst.edu.

ACCESS AREAS CRITERIA

ACCESS AREAS RATIONALE: The Subcommittee identified elements such as natural features, archeological sites, wildlife trails, and historical sites as being extremely important for preservation. In discussing the importance of each element and the special features of each, it became very apparent that to be meaningful the McDowell Sonoran Preserve had to be readily accessible by the majority of potential users. It is extremely important to avoid mistakes made by other cities when preserves are created without providing adequate access. Insufficient public access may result in unacceptable public pressure on private properties and poor appeal to the general public who will ultimately be asked to pay for the Preserve.

The general guidelines for access and more specific criteria for the four types of access are described below. In addition, recommendations on the general locations for the gateway, major community and minor community access areas are defined along with the reasons for the selected locations.

GENERAL GUIDELINES FOR ACCESS

Sufficient access areas should be identified to assure the desired level of public access in each quadrant of the planned Preserve.

Identified access areas should be widely publicized and should be designated on and coordinated with the Scottsdale General Plan and other policy documents.

Access areas and points should be located and planned in a manner that will best enhance appropriate public access.

Access areas and parking areas should be of sufficient size to accommodate the number of users that will be attracted to the facilities in each area of the Preserve; avoid the "Echo Canyon problem."

Access areas and the planned Preserve should be planned so that public open space lands will generally enhance adjacent private land values and respect the needs for privacy of local residents and limit encroachment upon adjacent private property.

Public access should be controlled in order to prevent the over use of sensitive areas and resources.

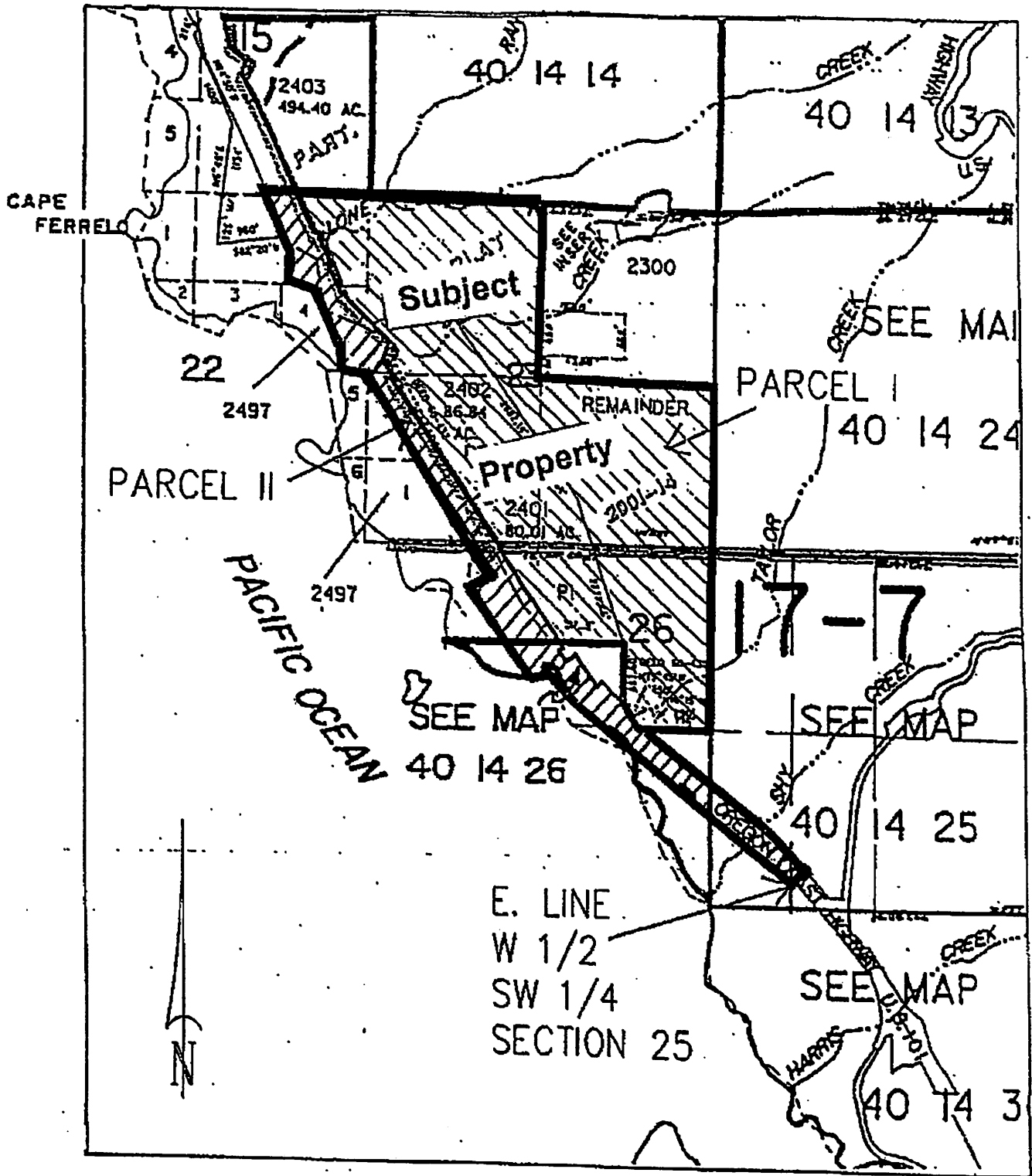
Four types of access are needed in addition to the existing County Park facilities; one gateway, a number of major and minor community access areas, and numerous local access points.

EXHIBIT C -

PETE CHASAR'S EXPERIENCE IN OPEN SPACE PLANNING, DESIGN AND MANAGEMENT

- Former Board member of Mountaineers, Inc., a volunteer group dedicated to maintenance, trail building and re-vegetation within the Phoenix Mountains Preserve.
- Founding member and former chair of the McDowell Sonoran Land Trust, a non-profit group instrumental in the creation of the McDowell Sonoran Preserve.
- Former member of Scottsdale's McDowell Mountains Task Force, as well as committee member of the McDowell Sonoran Preserve Commission, which created and now manages the McDowell Sonoran Preserve, a public open space of at least 20,000 acres.
- Currently Coast Watch Volunteer for Oregon Coast Trail as well as a volunteer trail builder.
- Author of *Desert Spring*, an unpublished book with three chapters devoted to open space preservation issues.

EXHIBIT D



The minimum width of a trail crossing a bridge is 8'. The outside edge of the bridge must be lined with minimum 4.5' tall solid concrete barrier. Bridges passing over streets must have a chain link fence mounted along the upper surface of the concrete barrier extending to a height of 10'. The upper few feet of the fence should curve inward at a 2' radius. A 10' height clearance must be permitted for equestrians. A minimum 4.5' tall concrete barrier must also separate the trail from the roadway. The grade of the bridge crossing and approaches must not exceed 12%. The surface must be broom-finished concrete to provide slip resistance. Drains must be provided if the cross slope is less than 2%. Drains must be flush with the concrete surface and slip resistant.

3. Underpasses (Figure 7.3-20)

These structures, used to provide passage for trail users under roadways, are typically constructed of pre-cast concrete box culverts. Other varieties of culverts are acceptable provided they meet the required dimensions, and allow footing that is appropriate for all types of trail users. The width of a trail traveling through an underpass should not be less than 12'. Vertical clearance is an important concern, particularly for equestrian trail users. The minimum vertical clearance is 9' at a distance of 4' from the centerline, and 11' at a distance of 3' from the centerline. Natural or electric lighting should be installed for safety. Sight distances approaching and exiting the underpass must be adequate as to not create a safety hazard. Underpass design shall not allow for the accumulation of nuisance water on the trail. If water does not drain from the underpass by gravity flow, a pump system must be provided to remove the water. The surface of the underpass should be slip resistant.

4. At-Grade Crossings

An at-grade crossing occurs where a trail passes across the surface of a roadway. Safety of trail users is the primary concern when planning at-grade trail crossings. Ideal locations for such crossings occur in areas with light amounts of traffic that have existing stop signs, traffic lights, or pedestrian crossings. At-grade crossings should be located as close to roadway intersections as possible. Motorists expect to see pedestrians crossing roads at intersections as opposed to along stretches of road with no intersections. Crossings should be on level grades where both trail users and motorists have long sight distances. Additional safety precautions include installing pedestrian activated traffic signals, signs warning motorists of the trail crossing, and signs warning the trail users of the road crossing. Curb cuts should be installed to provide access to people in wheelchairs. Equestrians and bicyclists may be encouraged to dismount before crossing. Trails should cross driveways at a distance far enough from the main road to provide motorists turning into the driveway, and trail users crossing the driveway adequate sight distances.

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EXHIBIT K

AUG - 3 2004

CITY OF BROOKINGS

CFOD Borax testimony 8/3/04

Additions to Yvonne Maitland's testimony July 27th

Sewer:

Page 34 of the Master Plan. Costs of offsite improvement will be shared by the city and developers based on proportionate benefits to each.

In a memorandum dated June 22, 2004 to John Bishof (*miss spelt*) a new 12-inch pressure sewer will be constructed along Highway 101...

This line will be constructed as part of a cost sharing effort between the city and the future developers of the site. Future developers do not include Borax. At the Master Plan Hearing I understood Borax would cost share offsite sewer lines. Will Borax provide 50% of SDC's? Have any federal or state grants been procured or promised to Borax and the City at this time?

Slopes & Hazards:

CFOD is again requesting to see a large scale topographical map of the entire Borax property. We are disappointed that the Planning Commission has not made that request, and that the Planning Department has not provided them with a map, as it is the largest development in the history of Curry County and the City of Brookings. It is important to see the entire layout of the housing units in relationship to the overall topography of slopes, hazards, streams and wetlands.

Page 12: ...Otak conducted a topographical survey and mapped the site in 21 foot contours. CFOD notes that the above was corrected to 2-foot contours.

Pages 6 & 7 of Hart Crowser April 19, 2004 Report. *One area of concern occurs on the proposed SOCC site. The West facing hillside above the creek contains very steep irregular topography with contorted trees and fresh scarp traces.*

This particular area and the areas along the major drainages will require fairly detailed mapping to determine the severity and extent of the potentially unstable areas.

Disturbing these areas can activate or reactivate ground movement if quality constructions procedures are not followed. This statement can also apply to moderate slopes.

Who will enforce all this development? There is no fulltime Enforcement Officer in Curry County or the City of Brookings. Some builders are known for cutting corners. Perhaps now is the time for the city to employ an Enforcement Officer for this massive development as well as future developments in the UGB.

CFOD is against the use of standard design deviations or wholesale variances as requested by Borax.

Reservoirs & Streams:

Borax is to develop an onsite water system. Two ground water wells have been proposed, and phase one will have no effect on the Chetco River. A 500,000 gallon reservoir will be built by Borax for fire flow storage. Phase two; a storage reservoir of 610,000 gallons or larger, is to be constructed on Borax's property and paid for by the city. What is the cost to the city?

Brookings water distribution system is overextended in the higher elevation portions of the service area and it is not capable of providing water for fire fighting. The current reservoirs are not sufficient and require nearly 3 million more gallons of storage. (see PFP)
The surface water is overutilized making development of additional surface water sources illegal. (PFP - W. & H. Pacific Inc.) CFOD would like this addressed by Borax and the city.

At the Borax Master Plan Hearing, reference was made to a test well producing 100-gallons per minute, and the statement was made, "The aquifer is there... there are pockets of aquifers" and a "hit and miss" situation. Question: Is Borax referring to an actual aquifer or a perched water table which can be easily depleted? There is a difference.
Has OWRD made any comments on the Borax plan?

Water Velocity

Has Borax been asked to provide baseline data on any of the three major streams?

There are many smaller streams and intermittent streams that traverse the property. These are waters of the United States and require that the Army Corps of Engineers and the Division of State Lands be involved at the onset. Question: Has Borax presented their plans to either or both agencies? Also their plans show road crossings in wetlands and streams

How many unnamed and intermittent streams, are there on the property? CFOD would like to see all the streams delineated on a topographical map.

In the technical appendix page 41, 4.3 City of Brookings section 96-"Riparian Corridor Protection" has been proposed for adoption by the city counsel as part of the Land Development Code. It appears the city has been remiss in not formally adopting wetland and stream protection.

Yvonne Maitland

Yvonne Maitland



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Roseburg Field Office
2900 NW Stewart Parkway
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AUG 2 2004

Reply To: 8330.04402(04)
TS: 04-3371
Filename: BoraxDevelopment.doc
Log #: 1-15-04-TA-0440
X-Ref: 03-1642

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT
JULY 29, 2004
E-MAIL COPY RECEIVED
7-29-04 6:00 PM

John Bischoff
Brookings Planning Director
Brookings Department of Public Services
898 Elk Drive
Brookings, Oregon 97415

Subject: Comments on Borax Development Draft Master Plan for the City of Brookings
(1-15-04-TA-0440)

Dear Mr. Bischoff:

The U.S. Fish and Wildlife Service (Service) has reviewed the above referenced Draft Master Plan (DMP) for a 553-acre development north of Brookings, Oregon dated May 4, 2004 and received in this office July 2, 2004. Our review of the proposed plan is based on the materials you have provided, public meetings attended July 15, 2003 and September 30, 2003, and site visits July 15, 2003, and July 16, 2004. These comments have been prepared under the authority of and in accordance with the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*), the Endangered Species Act (16 U.S.C. 1531 *et seq.*), as amended (1973), and are consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347).

Overview

The Service is concerned that a federally endangered western lily (*Lilium occidentale*) (lily) population at the Borax Development site is not adequately mapped, assessed, and surveyed to provide sufficient avoidance in the DMP. Observations from site visits on July 15, 2003 and July 16, 2004 to the Borax Development site by Service staff are not consistent with DMP lily estimates. Site surveys and analysis of the plant as described in the DMP appear insufficient to develop a complete hydrologic analysis, wetland buffer, or street and housing plan.

Additionally, the DMP hydrologic analysis does not include assessment of function and value for lily survival. Buffers require the incorporation of a more meaningful hydrologic analysis and lily distribution. Wetlands that are occupied by lilies should have priority for wider buffers to preserve population viability.

Comments

Western lily

The lily population on the Borax property is one of only three known populations within the Recovery Area 4 (Brookings to Rainbow Rock area), as designated in the Final Recovery Plan (USFWS 1998). A fourth population located in the City of Brookings was extirpated in about 1995 as a result of illegal filling and development. The recovery plan calls for at least four stable populations within Recovery Area 4, each containing at least 1,000 flowering plants, in order to consider downlisting of this species.

The DMP states on page 13: "Because of minimal impact to wetlands and absence of development within the power line easements, minimal impact to the western lily is expected." However, this statement largely ignores many basic ecological processes, and the data necessary to support this statement is not provided.

The Service does not agree with lily mapping or population numbers in the DMP. The DMP indicates that 46 lily plants were documented on the property, 39 of which were located within 50 feet of the utility corridor. The methods used for the lily survey, including habitat inspected, intensity of inspection, and time spent for the survey are not described in the DMP or Technical Appendix. Based on discussions between Service and Raedeke Associates, Inc. (consultant) staff on July 13, 2003, a visual inspection for flowering individuals of the lily was conducted in some or most (not all) of the wetland habitats across the project area. The consultant observed the lily within 7 of the 43 wetlands delineated on the property. These wetlands comprise some 18 acres out of the entire 28 acres of wetlands delineated. Approximate locations for the lily encountered were mapped in the Technical Appendix. One lily was encountered outside the delineated wetland habitat.

On July 16, 2004, David Imper, Service Ecologist, inspected the vicinity of wetlands WL-20, WL22, WL24, WL25 and WL25A in the central portion of the property near the utility corridor. An informal lily inventory in WL22 observed a total of 10 reproductive plants and 24 juvenile or seedling plants. A similar inventory of WL25A and habitat separating it from WL25 (not delineated as wetland) yielded 8 reproductive plants and 44 juvenile or seedling plants. Together these 2 wetlands totaling 0.21 acres or approximately 1 percent of the delineated wetland areas in which the lily was encountered contained 18 reproductive lilies and a total of 86 lilies. A brief inspection of a portion of WL25 yielded 10 more reproductive individuals and 18 juveniles or seedlings, and a brief walk west within the upper portion of WL20 yielded 21 reproductive plants and 7 juveniles, most of which occurred far west of the utility corridor. Another lily site has been known for many years in the lower portion of WL20 near Highway 101. That colony contained more than 40 plants in 1994. That site was not relocated or reported in preparation of the DMP.

For comparison, the largest known lily population in Oregon in 2003 contained 198 reproductive plants and a total 469 plants. Based on the limited informal survey by Service staff on July 16, 2004, the 142 plants observed are expected to account for the lily population throughout the Borax property to easily exceed 1,000 plants, making it the largest population in Oregon and the second or third largest population known. A comprehensive lily survey has not yet been conducted on the site. Therefore, we do not yet know the array of habitats occupied, or the total distribution and abundance of the plant at the site.

The statement on page 45 of the Technical Appendix "The wetlands, buffers and other retained open space areas...contain all the known occurrences of the western lily on site" is misleading because an adequate survey has not been conducted.

The DMP does not assess the importance of the resident population of lily in the context of the overall distribution of this species. As a result, the DMP does not provide the information necessary to assess whether the development described in the DMP constitutes a significant impact or jeopardy to the species overall.

Much of the lily occurs well away from the utility corridor, and in the lower portion of the onsite wetlands, highly vulnerable to development of surrounding uplands. The lily may and does occur in habitat not delineated as wetlands on the site. It is not mentioned in DMP that lilies may occur outside wetland boundaries.

Hydrologic Analysis

Wetlands (and lily habitat) are intimately connected with, and largely a function of the surrounding uplands. Hydrological changes in the watershed can have severe impacts on the quality and composition of a wetland. Based on the development proposed on all sides of the onsite wetlands and lily habitat, there is reason to believe that changes in site hydrology as proposed will have significant impacts on the lily, even if its habitat is not directly affected.

The hydrological assessment on page 43 of the Technical Appendix states that "those wetlands dependant on surface water runoff for their hydrology are most likely to be affected by a reduction or alteration in timing of flow from the surrounding wetlands." The Service anticipates that both the timing and quantity of surface and subsurface are important factors in maintaining the quality of these wetlands and lily habitat. The potential impacts of proposed modifications to this watershed, including channelization and loss of sheet runoff, changes in water quality, and an increase or decrease in runoff volumes, may constitute a significant threat to the lily and wetland habitats. Altered hydrology may either impact the lily directly or indirectly through stimulation of competing species and habitat conversion. The potential impacts will need to be addressed through a detailed hydrological analysis prior to approval of a final development plan.

Potential Hydrological Impacts on Wetlands and Western Lilies

The DMP indicates that a detailed stormwater and drainage plan will be developed at a later date. It is the Service's opinion that the drainage and stormwater plan and hydrological analysis should be developed prior to the DMP. The DMP is premature, since it does not take into account potential limitations needed to maintain the integrity of onsite wetlands and endangered species habitat. As a result, the final development plan may need to be altered substantially to accommodate the results of the hydrological analysis.

Consistency with Brookings Development Code

The Service is concerned that the DMP may not be consistent with the Brookings Development Code, as stated in Item 3 of Section A (Consistency with purpose and intent of the master plan zone) on page 40 of the DMP, which states: "preserves existing landscape features and amenities in a harmonious manner." As proposed, there is a high risk that the diverse and unique wetlands onsite will decline as a result of fragmentation, altered hydrology, loss of upland support functions, and general residential impacts. The site supports a rare wetland type, distinguished not only by the high presence of the lily, but its high species diversity and unique plant

assemblage. This site also includes the southernmost extent of Blacklock soils, a wetland soil, and the southernmost stand of Blacklock scrub vegetation, more common farther north.

Delineated Wetland Boundaries (Technical Appendix: Wetland Delineation)

The consultant appears to have thoroughly defined most of the onsite wetlands. However, the Service's brief site inspection on July 16, 2004, raised concerns about the accuracy of the wetland boundaries presented in the DMP and Technical Appendix, particularly in the vicinity of the Blacklock series soils in the central portion of the property. As a result, the Service requests to assist with field verification of the wetland boundaries by the U.S. Army Corps of Engineers.

Assessment of Wetland Function (Technical Appendix: Wetland Delineation)

While the ranking of wetland function was a minor element in the wetland characterization process for this project, it should be pointed out that the method used to rate function does not recognize species diversity or support for endangered species in the ranking, factors which arguably should be taken into account in any wetland functional assessment. For example, wetlands WL12 and WL13 were generally ranked moderately low, even though they have relatively high species diversity and support the lily. The fact that WL20 is large, supports a large lily population, and supports a diverse and unique assemblage of species, including the sundew (*Drosera rotundifolia*), and several species considered rare and endangered in nearby California (e.g., Arctic starflower [*Trientalis arctica*] and great burnett [*Sanguisorba officinalis*] to name a few) it is perhaps the most important wetland on the property. These are factors which should be taken into account in determining the acceptable risk of development, and establishing buffers around the wetlands. For example, high quality wetlands such as WL20 should be allocated the greatest buffer distance and more active protections such as fencing to preclude pedestrian and domestic animal use.

The Brookings Marsh, which until 1990 was a very diverse marsh similar to wetlands at the Borax property, and once supported one of the largest lily populations in Oregon, provides an example of the critical nature of buffer size. Illicit ditching, filling and development within and surrounding the marsh in the early 1990's, without a setback buffer, soon led to the extirpation of the lily from the site. The unique features of this marsh and the lily were lost both through direct impacts and indirect impacts from "edge affects" associated with the surrounding development (trails, exotic species, garbage dumping, pedestrian and animal use, etc.).

Recommendations

Our recommendations with regard to potential impacts on the lily are as follows:

- The Service recommends additional detailed lily surveys. The results of those studies may warrant significant reconfiguration of the site plan, particularly in areas west of the utility alignment, where proposed development is in close proximity to lily habitat and wetlands.
- The Service recommends the DMP provide information describing the lily survey protocol used to identify and locate lily populations.
- The Service recommends the drainage/stormwater plan and hydrological analysis be developed prior to future development planning.

- The Service recommends the wetland functional assessment be revised to include information regarding occurrence of western lily and other species of concern, and/or their habitats.
- The Service recommends buffers designated for delineated wetlands in the DMP reflect the respective function and value for each wetland impacted by the proposed project.
- The Service recommends vegetation management techniques which promote lily habitat be included in the DMP (e.g., brush/weed control, fire, and grazing).

Thank you for the opportunity to comment on this draft management plan. If you have further questions or require technical assistance please contact Dave Imper at 707-825-5112 or Sam Friedman at 541-957-3478 or me at 541-957-3470.

Sincerely,



Craig A. Tuss
Field Supervisor

cc: Teena Monical, Army Corps of Engineers, Eugene, OR (e)
Lisa Grudzinski, Army Corps of Engineers, Coos Bay, OR (e)
Bob Lobdell, Oregon Division of State Lands, Salem, OR (e)
Clayton Barber, Oregon Department of Fish and Wildlife, Gold Beach, OR (e)
Robert Meinke, Oregon Department of Agriculture, Salem, OR (e)
John Raasch, Oregon Department of Transportation, Roseburg, OR (e)
Ken Phippen, NOAA-Fisheries, Roseburg, OR (e)
Fred Seavey, USFWS-Newport, Newport, OR (e)
David Imper, USFWS-Arcata, Arcata, CA (e)
Andy Robinson, USFWS-OWFO, Portland, OR (e)
Office Files, USFWS-OWFO, Portland, OR (e)

References

U.S. Fish and Wildlife Service. 1998. Recovery Plan for the Endangered Western Lily (*Lilium occidentale*). Portland, Oregon. 82 pp.



United States Department of the Interior



FISH AND WILDLIFE SERVICE

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Reply To: 8330.04402(04)
TS: 04-3371

Filename: BoraxDevelopmentII.doc
Log #: 1-15-04-TA-0440
X-Ref: 03-1642

August 3, 2004

John Bischoff
Brookings Planning Director
Brookings Department of Public Services
898 Elk Drive
Brookings, Oregon 97415

Subject: Additional Comments on Borax Master Plan of Development Application for the City of Brookings (1-15-04-TA-0440)

Dear Mr. Bischoff:

The U.S. Fish and Wildlife Service (Service) previously provided comments for the above referenced Master Plan of Development (MPD) for a proposed 553-acre development north of Brookings, Oregon in a letter signed July 29, 2004 (1-15-04-TA-0440). These comments are provided to revise and clarify our July 29, 2004 comments and provide additional recommendations.

Comments

- Our previous comments referred to the MPD as a draft master plan. We are sorry for the confusion and understand the document presents current information regarding the proposed project.
- The Service did not receive a copy of the MPD until July 2, 2004, although it was made available to the public on May 4, 2004. Staff from this office and the Service's Arcata Fish and Wildlife Office in Arcata, California attended meetings, to offer assistance and recommendations in the early stages of the MPD, as documented in our July 29, 2004 letter regarding this proposed project. We are troubled by the difficulty experienced in obtaining a review copy of the MPD, and hope to have closer coordination in the future.
- As documented in minutes from the September 30, 2003 meeting, and on page 46 of the wetland assessment in the Technical Appendix to the MPD, protocol surveys for northern spotted owl (owl) and marbled murrelet (murrelet) were conducted in 2004. We point

out the protocol for murrelet surveys calls for two full years of monitoring. This means surveys will have to continue into 2005.

Results of the owl and murrelet surveys are not presented in the MPD, but may have a bearing on the final design of the proposed project. It is our understanding that cultural resources surveys are also ongoing; however details regarding those surveys are not included in the MPD.

- The Service is concerned the current MPD does not provide the decision makers with the appropriate information regarding these issues. We are greatly concerned the approval of an incomplete MPD may lead to poor decisions regarding this proposed project, delay the necessary project permits and associated agency reviews; which could unduly lengthen the planning, design and implementation schedule for this proposed project.

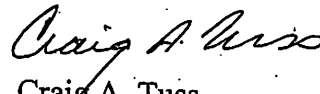
Recommendations

In addition to July 29, 2004 recommendations, we offer the following:

- The Service recommends the MPD incorporate results from all ongoing assessments.
- The Service recommends a final decision regarding the MPD be postponed until results of the ongoing assessments can be incorporated into the MPD.
- The Service offers staff to provide technical assistance to the project proponents to achieve a more efficient design, permit, and project implementation schedule.

Thank you for the opportunity to comment on the MPD. If you have further questions or require technical assistance please contact Dave Imper at 707-825-5112 or Sam Friedman at 541-957-3478 or me at 541-957-3470.

Sincerely,



Craig A. Tuss
Field Supervisor

cc: Teena Monical, Army Corps of Engineers, Eugene, OR (e)
Lisa Grudzinski, Army Corps of Engineers, Coos Bay, OR (e)
Bob Lobdell, Oregon Division of State Lands, Salem, OR (e)
Clayton Barber, Oregon Department of Fish and Wildlife, Gold Beach, OR (e)
Robert Meinke, Oregon Department of Agriculture, Salem, OR (e)
John Raasch, Oregon Department of Transportation, Roseburg, OR (e)
Ken Phippen, NOAA-Fisheries, Roseburg, OR (e)
Fred Seavey, USFWS-Newport, Newport, OR (e)
David Imper, USFWS-Arcata, Arcata, CA (e)
Andy Robinson, USFWS-OWFO, Portland, OR (e)
Office Files, USFWS-OWFO, Portland, OR (e)



Western Advocates Incorporated

22400 Salamo Road, Suite 201 ♦ West Linn, Oregon 97068
toll free: 800-796-0028 ♦ phone: 503-650-1181 ♦ fax: 503-650-3668

August 11, 2004

VIA FACSIMILE AND ELECTRONIC MAIL

Chair, Brookings Planning Commission
898 Elk Drive
Brookings, OR 97415

RE: Lone Ranch Master Plan of Development

Dear Chair Collis,

On behalf of our client, U.S. Borax, we appreciate the opportunity to address the written comments submitted to the Planning Commission by August 3, 2004.

This letter and its three enclosures constitutes the applicant's final written argument submitted prior the close of the open record on August 10, 2004 at 5:00 PM. This letter responds to the following documents submitted by opponents prior to the close of the first open record on August 3, 2004 at 5:00 PM.

1. Letter from Catherine J. Wiley, undated;
2. Letter from Goal One Coalition, dated August 3, 2004 with corrected page dated August 4, 2004;
3. Letter from Diana and Peter Chasar, dated August 3, 2004;
4. Letter from CFOD received August 3, 2004;
5. United States Department of the Interior, Fish and Wildlife Service, dated July 29, 2004;
6. United States Department of the Interior, Fish and Wildlife Service, dated August 3, 2004;

The attached responses address the issues raised, and we believe provide adequate rationale and evidence for the Planning Commission to recommend approval of the project to the City Council.

We also ask the Planning Commission to consider that all written and oral presentations must be tested against the requirements of the Master Plan Ordinance as outlined in the Brookings Development Code Section 70.070. The Planning Commission will have the opportunity to review each and every phase when specific development is proposed. The fact that this application is for a master plan has created confusion to almost everyone in the process, including government as well as private interests. Despite numerous statements on the part of the City and ourselves, there are still those who believe approval of the conceptual plan constitutes approval of development. In fact, development approval occurred when the property was placed inside the urban growth boundary. The decision now, beginning with the Master Plan, is what type and kind of development.

We appreciate the consideration of the Commission.

Burton Weast



Project Manager for
U.S. Borax

Enclosures:

1. Memo from Marty Stiven, Western Advocates Incorporated, dated August 10, 2004
2. Memo from Timothy V. Ramis and Gary Firestone, Ramis Crew Corrigan and Bachrach, dated August 10, 2004
3. Letter from Christopher W. Wright, Raedeke Associates, Inc., dated August 9, 2004.



Western Advocates Incorporated

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MEMORANDUM

TO: Burton Weast

FROM: Marty Stiven

DATE: August 10, 2004

SUBJECT: Deviations from
City Development Standards

RECEIVED
CITY OF BROOKINGS
AUG 11 2004
COMMUNITY DEVELOPMENT

Two of the letters that were submitted during the first open record period which ended on August 3 identified issues associated with the development standards requested for Lone Ranch. Catherine J. Wiley and Diana and Peter Chasar both address the proposed development standards. This memorandum responds to the issue raised in their comments.

Lone Ranch Development Standards

Section 70.020 of the Brookings Development Code (BDC), states that an applicant for MPoD approval may propose one or more alternative development standards for all or any specific areas within the plan boundaries, which supersede corresponding development regulations or standards otherwise applicable to the project area through existing regulations. In the case of Lone Ranch, alternative standards have been proposed for single family lot size, height, width and building coverage. In addition, the building height for commercial buildings has been increased by 5 feet and compact parking is proposed in commercial areas. As the Brookings Development Code has no standards for attached single family attached homes, standards have been proposed for this housing type. Finally, alternative street standards have been proposed in accordance with Department of Land Conservation and Development model standards.

The Master Planning Process

Lone Ranch is the first project to be reviewed under the City's new Ordinance 03-O-446.PP. It is understandable that the first applicant to apply for approval of the first master plan under the new standards will have to address issues that have not been considered by the city in the past. As was described by the city during the it's adoption last year, the areas annexed into the Brookings Urban Growth Boundary are required to be master planned. At the time of the UGB expansion, the city had no process for approving master plans, and therefore, they created a master planning ordinance which identified the process and review criteria.

The Master Plan Development ordinance was modeled after the successful master planning ordinance in Corvallis and LCDC's model ordinance. Many projects have been reviewed throughout the state using similar ordinances. The intention of the approval

process is that large scale developments should be reviewed in a two tier process – the Master Plan of Development (MPoD) and the Detailed Development Plan (DDP), both reviews conducted by the Planning Commission with public hearings. The MPoD is an overall conceptual plan for the site. In and of itself, no construction is allowed simply on the basis of the MPoD approval. Instead, prior to construction, a DDP must be approved for each phase. One of the requirements for review of the DDP is a statement addressing compatibility of proposed development to adjacent land uses relating to such items as architectural character, building type, and height of proposed structures.

Therefore, in accordance with the ordinance, alternative development standards are proposed for Lone Ranch. It is not intended that these minimum standards be applied for every lot or in every phase, but rather, approval of the standards allows for their use, where the situation is appropriate. For instance, one of the street sections proposed for use, does not accommodate on-street parking. Even if the street standard is approved by the City during the master plan stage, its actual application will be reviewed again by the Planning Commission during review of the Detailed Development Plan. In other words, if a DDP is submitted showing the street with no on-street parking provided, the city could ensure that off-street parking is accommodated either by a parking lot serving the land use, or some other means. The same applies to reduced lot size. The master plan request allows for up to 10% of the total number of single family lots to be reduced from 6,000 square feet to a minimum size of 5,000 square feet. However, at the time of DDP review, the city will be able to examine the appropriateness of the reduced lot size, based on the developments impact on adjacent land uses. If the lots are considered to be too small to be compatible with adjacent development, they may not be approved. Therefore, approving the alternative development standards does not give blanket approval for their use without further planning commission review.

Finally, it should be stressed that these standards were proposed in response to the needs expressed to Western Advocates by developers who have been involved in similar projects. The standards will allow for flexibility in order to accommodate unique natural features such as the existence of western lilies, wetlands and stream corridors. Unlike a less constrained site, it is anticipated that several street sections will be able to accommodate homes on only one side of the street. This is a very expensive design for the development but may be necessary where slopes, wetlands or plant habitat, preclude homes on two sides of the street. To off-set this constraint as well as the significant amount of open space, (67%), the applicant is requesting flexibility in street widths, lot sizes and other standards. The standards have been reviewed and agreed to by city staff include the Fire Chief, the consulting City Engineer and the planning staff during the development of the master plan.

Public Notice

Ms. Wiley claims that the variances in the proposed Master Plan presented the Planning Commission constituted "major variances and thus required a minimum of twenty days for prior review.

As stated earlier, "an applicant for MPoD approval may propose one or more alternative development standards for all or any specific areas within the plan boundaries, which supersede corresponding development regulations or standards otherwise applicable to the project area through existing regulations. Therefore, Ms. Wiley is incorrect in that the alternative development standards requested in the master plan do not constitute a major variance. However, the public notice was provided to property owners by the City on July 2, 2004 and published in The Pilot for the July 27th public hearing on July 3, in excess of the 10 day requirement as identified in section 84.040(B) of the Brookings Development Code.

Building Heights

Mr. Chasar's letter of August 3, 2004, asks that if the Planning Commission approves greater building heights at Lone Ranch, how can they refuse them to another developer in the future. In order to approve alternative building standards in other projects, an applicant would either apply for a master plan approval, or for a variance through the city's variance process, at which time, the city would weigh each request on its own merits. As allowed for in the development code, the alternative standards are unique to master planned communities. Approval of the Lone Ranch development standards will not set a precedent for alternative building heights at other locations.

RAMIS
CREW
CORRIGAN &
BACHRACH, LLP

ATTORNEYS AT LAW

1727 N.W. Hoyt Street
Portland, Oregon 97209

(503) 222-4402

Fax: (503) 243-2944

MEMORANDUM

To: Burton Weast
From: Timothy V. Ramis, Gary Firestone
Date: August 10, 2004
Re: Cultural/Archaeological Survey on Lone Ranch Site

EXHIBIT M-3
RECEIVED
AUG 11 2004 CM
CITY OF BUCKINGHAM
COMMUNITY DEVELOPMENT

BACKGROUND

Some of the opponents of the proposed Master Plan of Development for the Lone Ranch site have made various arguments regarding the possible presence of cultural resources on the Lone Ranch site. This memorandum discusses the applicable legal standards in the context of the facts of the MPoD application.

SUMMARY

State statutes protect cultural resources and the statutes are sufficient to ensure protection for any cultural resource that may be located on the Lone Ranch site. The evidence in the record shows that a cultural resource survey (on-site inspection) has been performed but that the report based on that survey has not been completed. The report will be submitted to the appropriate state agency when complete.

DISCUSSION

Response to Goal One Coalition

Goal One Coalition submitted a letter dated August 3, 2004 (received by the City on August 2, 2004), that because no archaeological survey has been completed, there is no evidence in the record to support a finding that the MPoD can be made to comply with the requirements of ORS 358.920 and ORS 97.945, which protect archaeological sites and native burial sites and objects.

Goal One Coalition's argument is legally flawed. Compliance with the cited statutes is not an applicable criterion in the approval of the MPoD. The requirement to comply with the statutes is based on the statutes themselves, not on an applicable approval criterion. Therefore, there is no requirement to find in the MPoD approval process that the statutes can and will be complied with. The statutes must be complied with independent of any local land use regulation. Arguing that there is no evidence that these statutes, which impose criminal penalties, will be complied with is like arguing that

Memorandum Re: Cultural/Archaeological Survey on Lone Ranch Site
Page 2

there is no evidence that a structure will be built in compliance with applicable building codes. It is not a relevant issue at this stage in the proceedings.

However, even if feasibility of compliance with the statutes is required, the record does contain evidence to support the conclusion that development consistent with the MPoD would not violate the statutes. Timothy V. Ramis and Burton Weast testified that a professional archaeological survey has been performed and that the information from that survey is that development can occur consistent with the MPoD without disturbing protected cultural sites.

It is important to note that information on archaeological sites needs to be maintained confidential in order to protect those sites. See ORS 192.501(11) (Provides that information regarding archaeological sites is exempt from disclosure under public records law). When the report based on the survey is completed, it will be submitted to the State Historic Preservation Officer, the Commission on Indian Services, and/or the appropriate Indian tribe, depending on the contents of the report.

The statutes cited by Goal One Coalition are self-executing. They apply regardless of any action the City might take to approve or deny the application. The statutes require the reporting of any archaeological site that may be discovered during the course of excavation, regardless of whether the area has had a cultural resources survey. The statutes also require work to be stopped immediately on discovery of cultural resources. The statutes, which provide criminal penalties, are sufficient to ensure compliance.

One feature of the MPoD is that it contains flexibility concerning actual development. While it lays out the basic outline of the development, it does not tie any development to specific locations that cannot be adjusted to protect cultural resources that may be discovered in the survey or during excavation. Goal One Coalition is wrong when it argues that there is no evidence that the MPoD can be made to comply with the statutory provisions. The flexibility provided by the MPoD is there to protect all resources, both natural and cultural.

The Goal One Coalition letter also refers to the September 3, 2003 letter from Dennis Griffen, SHPO Archaeologist, that suggested that "a professional cultural resource survey of the project area be completed prior to any land disturbing activities." Goal One Coalition argues that Mr. Griffen's letter does not go far enough, but Mr. Griffen's letter is consistent with applicable law. Nothing in the statutes impose any requirements in a land use proceeding - they just prohibit intentional excavation of a known archaeological site and prohibit excavation once a cultural resource is discovered.

Goal One Coalition argues that the MPoD does not comply with Comprehensive Plan Goal 5, Policy 1, which provides:

Memorandum Re: Cultural/Archaeological Survey on Lone Ranch Site
Page 3

It is the policy of the City to protect natural and scenic resources by encouraging the conservation of ecologically and scientifically significant natural areas, scenic views and sites, historic areas, local energy sources, and mineral and aggregate resources.

This goal policy requires the City to encourage conservation of historic resources. Even assuming that "historic resources" and "cultural resources" are the same thing,¹ the policy only requires that the City encourage conservation. The proposed conditions include two conditions consistent with and in furtherance of this goal policy. First, proposed Condition 12 requires compliance with ORS 358.905 to 358.955, ORS 390.235 to 390.240 and ORS 97.740 to 97.760. Second, proposed Condition 14 requires that each detailed development plan must include a cultural survey for the area to be developed. These conditions are sufficient to comply with the policy. They will ensure that a cultural survey is prepared before any construction and that even if the cultural survey misses something, that the resource will be protected if any cultural resources are discovered during excavation.

Response to Peter Chasar

Peter Chasar, in a letter dated August 3, 2004, argues that protection of only construction areas is insufficient to protect possible archaeological resources and that a survey of the entire site is needed. Mr. Chasar does not cite to any relevant legal requirement that the entire site be surveyed. Furthermore, his argument misconstrues the scope of the surveys that are required by proposed Condition 14. Condition 14 requires a survey for each detailed development plan. A detailed development plan is required for each phase of development, and a phase of development is not limited to just the buildings, but also includes all development within the phase, including roads and paths. The survey will necessarily include all areas in close proximity to any anticipated development. The surveys will therefore cover the areas where human activity is likely to occur. Areas remote from any development (including trails as development) are not likely to be subject to human activities that are likely to affect archaeological resources.

Response to Catherine J. Wiley

In a memo received by the City on August 2, 2004, Catharine Wiley argues that "state laws mandate protection of Indian graves and archaeological sites. The statutes refer to above do provide protection for such sites, but they do not mandate that the City provide any additional protection. They are self-executing and do not depend on or anticipate City action for enforcement.

¹Goal 5 treats cultural resources and historic resources as two separate categories.

Memorandum Re: Cultural/Archaeological Survey on Lone Ranch Site
Page 4

Ms. Wiley also argues that Goal 5 mandates protection. Goal 5 does adopt a policy of protecting cultural resources and the City is required to act in compliance with Goal 5. Goal 5's requirement of an inventory of cultural resources is a requirement imposed on the City, not on individual property owners.

The proposed conditions would ensure that the decision is consistent with Goal 5. As discussed above, those conditions require a cultural survey before any development activities take place and also require compliance with the state laws protecting cultural resources.

Ms. Wiley's discussion of the process that led to a change in the Master Plan regulations is incomplete. Ms. Wiley does correctly state that Borax's attorney recommended removal of language proposed by the Planning Commission relating to a surface survey. However, after that letter, Borax provided further explanation to the City Council that it wanted alternate language that would have required surveys, but the Council decided not to include any such language at the time of the adoption of the Master Planning Ordinance.

Ms. Wiley also argues that foot and bicycle paths can impact areas with cultural resources. Foot and bicycle paths are part of the detailed development plans and the cultural surveys will be required to consider foot and bicycle path areas as well as roads, buildings and other development.

08/10/2004 07:57

2065262888

PAGE 02

EXHIBIT M-4

RA

August 9, 2004

Ms. Marty Stiven
Western Advocates
22400 Salamo Road, Suite 201
West Linn, OR 97068

RECEIVED
AUG 11 2004
CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

Re: Lone Ranch -- Response to Comments
(RAI # 2003-014-003)

Dear Marty,

This letter report provides the Raedeke Associates, Inc. response to comments on the Master Planned Development application for the Lone Ranch development in Brookings Oregon. These responses are specific to comments received in our office on August 5 and 6, 2004. Our responses are based on site visits in 2003 and 2004, site plans prepared by Otak, and telephone conversations with resource agency staff.

Goal One Coalition letter dated August 3, 2004 (Exhibit I:

The letter restates comments from the U.S. Fish and Wildlife Service letter of July 29, 2004. The concern is that western lily has not been adequately mapped on the Lone Ranch site.

Raedeke Associates, Inc. clearly states in the Wetlands Assessment Technical Appendix (Section 2.3.2 page 5) to the Master Plan application that the lily locations and numbers shown on the figures are of mature reproducing (flowering) individuals. No attempt to quantify all lily plants on the site was made nor is it appropriate at this time. The U.S. Fish and Wildlife Service has the responsibility and authority to review projects that have the potential to "take" threatened and endangered species. At the time that specific development proposals are submitted, the U.S. Fish and Wildlife Service, as well as the U.S. Army Corps of Engineers will need to review applications for wetland impacts and determine if the project has the potential to negatively effect endangered species. The master plan does not grant authority or permission to affect sensitive areas or allow for development of the site to commence.

The Goal One Coalition letter goes on to parrot the U.S. Fish and Wildlife Service request for a detailed hydrologic analysis to assess potential impact to lily habitat. A detailed hydrologic analysis is not possible at this time. Determinations of the change in hydrology to the retained wetlands requires site specific plans, detailing the amount and location of new impervious surfaces, outlining the location and volume of any stormwater control facilities, and identification of the criteria that indicates a significant change in site hydrology. These details are appropriately developed, and submitted to the agencies for review when site specific development permits are sought. Inclusion of these studies in the master Plan application is premature.

RAEDEKE ASSOCIATES, INC
Seattle, WA 98115

5711 Northeast 63rd St.

(206) 525-8122

Ms. Marty Stiven
August 9, 2004
Page 2

The Goal One Coalition letter states that the proposed MPoD fails to preserve the greatest extent possible of wetlands and lily habitat. As stated in the Wetland Assessment Technical Appendix, less than 2 percent of the wetland habitat on the property would be affected by the proposed development, retaining 98 percent of the wetland habitat on site as well as 100 percent of the habitat areas for the western lily. The proposal does preserve the greatest extent of wetland habitat practicable while allowing for development of the property.

Goal One Coalition correctly points out that U.S. Army Corps of Engineers approval is required to fill wetlands, as is stated in Section 4.1, page 41 of the Wetland Assessment Report. Goal One Coalition states that the proposed development would result in complete fragmentation of the existing ecosystem. The MPoD proposes to retain over 98 percent of on-site wetlands, preserve over 60 percent of the site as open space, develop with streets narrower than the City's current standard, and establish building lots smaller than those generally required. These features of the master plan are intended to have as little impact on the existing ecosystem as possible, the proposed development will have less effect on the natural environment of the site than if the site were developed under existing standards and codes.

Goal One Coalition expresses concern about potential habitat for federally listed species other than western lily on the property. As stated in the Wetland Assessment technical Appendix, (Section 5.2.3, page 47) protocol habitat surveys for marbled murrelets and spotted owls were conducted after publication of the report. Habitat surveys have been completed for the 2004 nesting and breeding seasons, no evidence of use of the property by spotted owls or marbled murrelets has been detected.

CFOD letter dated August 3, 2004:

The letter expresses a desire to see all streams on the property delineated on a topographic map. Figures 4a through 4g and Figures 5a through 5g of the Wetland Assessment Technical Appendix depict all streams on the property on the topographic base available at the time the document was published.

U.S. Fish and Wildlife Service letters dated July 29, 2004 and August 3, 2004:

The U.S. Fish and Wildlife Service has made specific recommendations in their letters regarding the Master Plan. The first recommendation is that additional lily surveys be conducted. The applicant agrees that additional lily surveys would be required at the time of site specific development applications. Alterations of the site that have the potential to take western lily will be clearly documented at the time of application to the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service.

Ms. Marty Stiven
August 9, 2004
Page 3

The U.S. Fish and Wildlife Service also recommends that lily survey protocols be provided to the U.S. Fish and Wildlife Service. The protocols used to search specific portions of the site subject to U.S. Fish and Wildlife Service jurisdiction will be developed in cooperation with the U.S. Fish and Wildlife Service.

The U.S. Fish and Wildlife Service recommends that hydrologic analysis be conducted prior to site planning. As stated previously, detailed hydrologic analysis is not possible at this time. Determinations of the change in hydrology to the retained wetlands requires site specific plans, detailing the amount and location of new impervious surfaces, outlining the location and volume of any stormwater control facilities, and identification of the criteria that indicates a significant change in site hydrology.

The U.S. Fish and Wildlife Service recommends that the wetland functional assessment be revised to include consideration of the western lily. The wetland functional assessment methodology used for this project is accepted and approved by the resource agencies with the authority and responsibility to regulate activities in wetlands.

The U.S. Fish and Wildlife Service recommends that buffer widths proposed by the project be linked to the wetland functional assessment. Buffers proposed for the project reflect the standards required by the agencies with the responsibility and authority to regulate wetlands and their buffers.

The U.S. Fish and Wildlife Service recommends that vegetation management techniques that promote western lily habitat be included in the MPoD. Specific management recommendations for the western lily are appropriately contained within any federal permits issued for the project. These recommendations likely would be a condition of the Wetland Alteration permit to be prepared by the U.S. Army Corps of Engineers and the Oregon Division of State Lands. The U.S. Fish and Wildlife Service has the responsibility of reviewing and commenting on that permit.

CONCLUSIONS

The proposed Master Plan Development for the Lone Ranch development has taken into account the potential natural resource impacts of the plan. The Master Plan will not result in unmitigatable impacts to wetlands or wildlife habitat. Site specific development plans would need to be developed and appropriate permits acquired prior to any impacts to wetlands, wildlife or endangered plant species on the property.

LIMITATIONS

We have prepared this letter for the exclusive use of Western Advocates, and their consultants. No other person or agency may rely upon the information, analysis, or conclusions contained herein without permission from them.

The determination of ecological system classifications, functions, values, and boundaries is an inexact science, and different individuals and agencies may reach different

Ms. Marty Stiven
August 9, 2004
Page 4

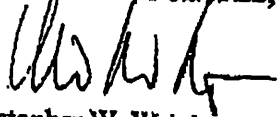
conclusions. With regard to wetlands, the final determination of their boundaries for regulatory purposes is the responsibility of the various agencies that regulate development activities in wetlands. We cannot guarantee the outcome of such determinations. Therefore, the conclusions of this report should be reviewed by the appropriate regulatory agencies.

We warrant that the work performed conforms to standards generally accepted in our field, and was prepared substantially in accordance with then-current technical guidelines and criteria. The conclusions of this report represent the results of our analysis of the information provided by the project proponent and their consultants, together with information gathered in the course of the study. No other warranty, expressed or implied, is made.

Thank you for the opportunity to prepare this material for you. If you have any questions or comments please do not hesitate to contact me

Sincerely,

RAEDER ASSOCIATES, INC.



Christopher W. Wright
Soil and Wetland Scientist

August 18, 2004

received
8-18-04
LDB

EXHIBIT *N*

To:
John Bishoff
Mayor Bob Hagbom
City Council Members

This is about the Borax Master Plan, specifically about the well on the property.

Oregon law requires that a water right must be obtained and permit issued from the State Watermaster before a well may be used. Even though the Borax property has a good well, unless a right to use the well is obtained and permit issued, it is as if that well does not exist.

Until the right is obtained and a permit issued for the Borax Development, the entire part of the master plan that refers to the well is moot. To date, the Borax Development has not applied for their water right.

I conferred with the State Watermaster in Coos Bay this morning and he confirmed that my assumptions are correct. Further, he advised me that when this particular permit is applied for, the application will be scrutinized due to the large volume of water involved.

Therefore, it would be prudent to add a 'subject to' clause to the master plan acknowledging this fact, thereby protecting taxpayers from unanticipated future costs that might occur if our water availability projections turn out to be flawed or otherwise fall short.

Sincerely yours,

Pat Sherman
303 Truman Lane
Brookings, OR 97415





Oregon

Theodore R. Kulongoski, Governor

EXHIBIT 2

Parks and Recreation Department
Heritage Conservation Division
725 Summer St. NE, Suite C
Salem, OR 97301-1271
(503) 986-0707
FAX (503) 986-0793
www.hcd.state.or.us

16 August 2004

City of Brookings
City Council
898 Elk Drive
Brookings OR 97415

RECEIVED
AUG 18 2004

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

Re: Proposed development of Borax property

Dear City Council:

Numerous individuals and agencies have recently contacted our office regarding a proposed land rezoning and development decision currently being addressed by your city. The case under review deals with property once part of a Borax mine, located north of Brookings. Concerns have been raised regarding the potential effect of the proposed development on existing cultural resources, in addition to the expedited review process that some feel is not permitting ample time to review potential concerns with the proposed action. Our office is aware that an initial cultural resource survey of the Borax property has been completed but that apparently the City of Brookings has been told that the results of the survey could not be shared with them due to security concerns. Due to apparent misunderstandings regarding the disclosure of cultural information, I have contacted the archaeologist responsible for the recent cultural resource survey to clarify any concerns that may exist over any future land use decisions.

While a final report has not yet arrived at our office regarding the results of the completed cultural resource survey, Mr. Thomas Churchill (personal communication 12 August 2004) of *Archaeological Frontiers* related to me that a survey of the property has indeed been completed and a draft report of his findings is almost complete. Preliminary findings from his survey have apparently been shared with the landowners some time ago. Mr. Churchill stated that his company completed a survey of approximately 320 acres of the 360-acre property with only about 40 acres of wetlands not surveyed due to his inability to traverse these lands. Survey results were greatly hampered by poor visibility, which was usually less than 5%. Cultural resources discovered include three prehistoric sites, seven prehistoric isolated finds, and three historic isolated finds. Due to poor surface visibility, Mr. Churchill felt that it is highly likely that all of the isolated finds represent sites and that further subsurface probing should be conducted to determine their true nature. The identified cultural resources were found scattered throughout the Borax property. A few of the locales were said to be in areas that will not be impacted by the proposed development, however, the majority of the locales, if found to be significant, will be negatively affected. Mr. Churchill has recommended that further testing of these areas to determine significance to the National Register of Historic Places be completed. Our office supports this recommendation.

Concern over the proposed development of the Borax property centers around known ethnohistoric, oral historic, ethnographic, and archaeological information that supports long term continued use of the Borax property. Known information on the area includes: ethnohistoric documents describing extensive use of the area and the existence of subsistence related features within the project area; Chetco oral historic accounts of a large Native village with many house pits located on the property; ethnographic documents show the Jedediah Smith Historic Trail crossing a portion of the property; and archaeological data confirms the close proximity of the Lone Pine village site, a large village site located due west of the project area, and the large number of archaeological sites that have been identified on the property to date (one of which has been previously disturbed from a water well testing operation). Given the general poor visibility found throughout the property, Mr. Churchill believes that there is a high potential for additional cultural sites to be located within the proposed Borax property and has suggested to the landowners that subsurface testing be conducted to determine the presence or absence of buried cultural resources. This potential is reflected in the absence of the identification of any of the subsistence related features during the current survey reported in ethnographic documents to have been on the property (i.e., elk pits used to trap animals during seasonal wildlife drives). While our office commends Mr. Churchill's recommendation for additional testing, state law does not require that subsurface probing be conducted in areas where no cultural resources were earlier identified, prior to development activities. However, if cultural material is encountered during future ground disturbing activities, all activities must stop immediately until a professional archaeologist can assess the discovery. Probing prior to development is generally a preferred method since the discovery of cultural resources through early probing will alleviate later negative impacts to large-scale construction efforts resulting in a shutdown of activities and a loss of project funds.

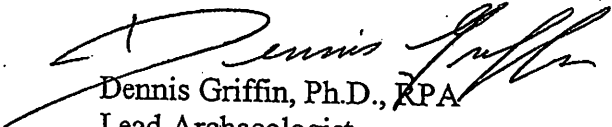
The issue of disclosure of cultural resource information centers on the desire to protect site-specific locational information so that looting activities do not result from the disclosure. Looting of archaeological sites throughout Oregon appears to be on the rise over the past five years and it is true that specific locations of information are generally restricted. General information on the existence and type of cultural resources found within an area, however, is not restricted. It is difficult to see how your office can make a balanced decision on future planning efforts without first being able to obtain sufficient information in which to judge potential impacts of those decisions. I hope that sufficient information regarding cultural resources within the proposed development area will soon be released to you so that you can complete your review.

In summary, numerous cultural resources have been identified on the Borax property and it appears likely that additional resources exist. Whether these resources are of sufficient quality and integrity to be eligible to the National Register, thus requiring protection or mitigation efforts under current state law (ORS 358.905-955, ORS 97.740-760, ORS 390.235 [OAR 736-051-0090]), are not known. Additional information is needed to be able to make this assessment. It is recommended that future land development activities within the proposed Borax property should: 1) determine the significance of all identified cultural resources and avoid or mitigate for potential impacts to those resources found to

be significant to the National Register of Historic Places; or 2) seek to avoid all areas of known cultural resources; and 3) probe areas of high probability and low visibility prior to development or have an archaeological monitor on hand during ground disturbing activities to insure that previously unknown cultural resources are not impacted.

Our office hopes to receive a copy of Archaeological Frontiers' cultural resource report for the project area in the near future. If additional information is identified at this time, I will be sure and forward this information to your office. If you have any questions regarding the above assessment or would like additional information from our office, please feel free to contact me at your convenience.

Sincerely,



Dennis Griffin, Ph.D., RPA
Lead Archaeologist
(503) 986-0674
dennis.griffin@state.or.us

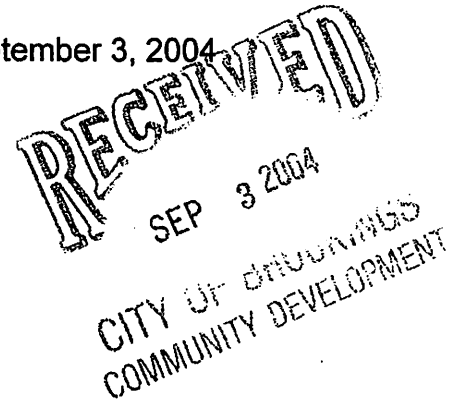
cc. Robert Kentta, Confederated Tribes of Siletz
Don Ivy, Coquille Tribe
Thomas Churchill, Archaeological Frontiers
James Hamrick, Heritage Conservation District
Roper Roper, SHPO

Exhibit: P

PO Box 1104
Brookings, OR 97415

September 3, 2004

Brookings City Council
Elk Drive
Brookings, OR 97415



Subject: Lone Ranch at Brookings Master Plan

Dear Council Members,

We are writing this letter of support for the Lone Ranch at Brookings Master Plan scheduled to go before the Brookings City Council on September 13, 2004. We urge the City Council to approve this master plan.

The Borax Corporation has provided the City of Brookings with the most thoroughly researched plan ever presented to the City Council. They have been exceptionally professional in working with city planning staff as they worked through a new master planning process. They have meticulously followed the regulations, addressing issues and requesting variance when deemed necessary. It has been a learning process for all concerned, but the end product is an outstanding plan for a major development that allows for a variety of housing levels and seriously addresses environmental issues. The approval process for this project has established very high standards for other large development projects that are sure to follow.

The development of community pods within the larger development wisely utilizes the buildable space and will avoid the appearance of tract houses so common in large developments. The reduced lot size and multi family housing allows for low cost housing, yet provides a feel of openness and will take advantage of the grand vistas the property affords. While we are not privy to plans for the housing construction, we believe the same diligence will be applied to the functionality and esthetics of home construction that is evident in the master plan.

The Borax Corporation has owned this property for over 100 years and has been considering development plans for nearly 20 years, so this is not a hastily planned development. Borax has generously donated property between Highway 101 and the beach to the Oregon State Parks and now has donated 10 acres for the campus of Southwestern Oregon Community College.

The college is essential for the future development of Brookings and Curry County. By providing advanced educational opportunities and vocational

training, the college will provide the training essential for the economic development of the region. Any delays in approving the project only postpones the day when the new college will be open for business.

We would urge that the City Council approve the master plan, so that plans can go forward for the construction of the college campus and for the initial Lone Ranch community cluster.

Sincerely,

 
Donald R. & Cherie J. Mitchell



Oregon

Theodore R. Kulongoski, Governor

Exhibit Q

Parks and Recreation Department
Heritage Conservation Division
725 Summer St. NE, Suite C
Salem, OR 97301-1271
(503) 986-0707
FAX (503) 986-0793
www.hcd.state.or.us

27 August 2004

City of Brookings
City Council
898 Elk Drive
Brookings OR 97415

received
9-2-04

LDB.
Admin Office

Re: Proposed development of Borax property

Dear City Council:

On 25 August, 2004, I met with representatives from US Borax and Western Advocates Inc. to discuss the current Lone Ranch Master Plan proposal being considered by your office. This meeting came about as a result of my recent letter to your office that attempted to inform your council of the general results of an archaeological survey that had been conducted by Archaeological Frontiers for the above property. In discussing the Master Plan, I want to be clear in stating that our office has no problem with the proposed development. We find that cultural resource issues have been considered during the early planning stages of the development and that flexibility exists to address any concerns that might arise later when a detailed development plan is designed and an actual study of potential effects can be made.

Our recent meeting provided me with the first opportunity to review the proposed Lone Ranch development plan and to understand its history and design schedule. Having reviewed the Lone Ranch's Master Plan of Development, City Ordinance 03-OI-446.PP and the Condition of Approval that had been previously approved by the City of Brookings Planning Commission¹, our office finds that we are in agreement with US Borax that cultural resource concerns are assured adequate protection during the project's early development process.

My letter of 16 August was not in conflict with the Lone Ranch proposed plan but was meant to provide archaeological information to your council where I had been informed it was lacking due to a previous misunderstanding regarding security concerns for identified cultural resources. In truth, our office was not aware of what the proposed plan for the development was; only that a development plan was being considered and that a cultural resource survey had been requested to assist future planning efforts but whose results were not being shared; a prime example where misunderstandings can occur.

The current discussion regarding the Master Plan for the Lone Ranch development does not involve any site-specific planning areas that would be in conflict with any cultural resources that exist on the property. Flexibility in design and sufficient land in which to

¹ "All development shall comply with the state regulations regarding cultural resources, specifically, ORS 358-905 to 358.955, ORS 390.235 to 390.240 and ORS 97.740 to 97.760 to the extent applicable."

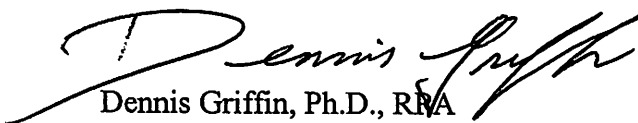


allow modification of later structural placement in cases of future conflicts appear to have been foreseen and built into the existing ordinance and plan. Potential conflicts with cultural resources located within the Lone Ranch property, and steps needed to avoid or mitigate any adverse effects that may occur during future stages of development will not be known until US Borax drafts a detailed development plan for review. This next stage in the development plan calls for such a discussion, which is currently proposed for 2005. At that time the archaeological survey report will have been completed and its results able to be taken into consideration.

I regret any misunderstanding my letter may have caused your office in reviewing the current Lone Ranch Master Plan. My concern in writing was that I had been informed that your office believed that it needed information that it was not being permitted and I had hoped by contacting you I could clarify the basic results of the completed survey while informing you of the restrictions to site-specific resource locations in order to protect them from vandalism and destruction. US Borax should not disclose to the city or any other agencies any site-specific locations of cultural resources identified by the archaeological survey. This information is exempt from the Freedom of Information Act. However, assurances that all such sites will be evaluated and either avoided or mitigated under later development proposals should be shared with your council, which is what has been agreed upon under existing project conditions.

We look forward to hearing from US Borax during the next stage of the proposed development and working with them to insure that all significant cultural sites are protected. If you have any questions regarding the above assessment or would like additional information from our office, please feel free to contact me at your convenience.

Sincerely,



Dennis Griffin, Ph.D., RPA
Lead Archaeologist
(503) 986-0674
dennis.griffin@state.or.us

cc. Robert Kentta, Confederated Tribes of Siletz
Don Ivy, Coquille Tribe
Timothy Ramis, US Borax
Burton Weast, Western Advocates Inc.
Thomas Churchill, Archaeological Frontiers
James Hamrick, Heritage Conservation Division
Roper Roper, SHPO

TO: Mayor and City Council
FROM: John Bischoff, Planning Director
THROUGH: Leroy Blodgett, City Manager
DATE: August 19, 2004



Issue: A request for a Comprehensive Plan change from Industrial to Commercial and a change of zone from I-P (Industrial Park) to C-3 (General Commercial), on four parcels of land located on the east side of Pacific Ave. between Cottage St. on the north and Railroad Ave. on the south.

Background: This request consists of four tax lots, one with frontage on both Railroad Ave. and Pacific Ave., which is the largest (24,800± sq. ft.), another with frontage on Pacific Ave. and Cottage St. (16,633± sq. ft.), a third with frontage only on Cottage St. (4,700± sq. ft.) and the last lot is behind or adjacent to the southerly side of the one on Cottage (4,300± sq. ft.). The largest lot contains a building with at least 6 units that although is in the I-P Zone, are primarily used commercial purposes. The lot at the corner of Pacific and Cottage is a restaurant. The building fronting Cottage contains a small house and the lot behind it is a paved parking lot for the building on the larger lot.

The Planning Commission Staff Report is attached.

Recommendation: The Planning Commission and staff recommend approval of the Comprehensive Plan change and zone change.

CITY OF BROOKINGS PLANNING COMMISSION
STAFF AGENDA REPORT

SUBJECT: Comprehensive Plan/Zone Change
FILE NO: CPZ-3-04
HEARING DATE: August 3, 2004

REPORT DATE: July 23, 2004
ITEM NO: 8.4

GENERAL INFORMATION

APPLICANT: William Sewell/ George & Letty Lee .

REPRESENTATIVE: James Reynolds

REQUEST: A Comprehensive Plan change from Industrial to Commercial and a zone change from I-P (Industrial Park) to C-3 (General Commercial) on four (4) adjacent parcels of land for a total of 1.13 acres.

TOTAL LAND AREA: 1.13 acres.

LOCATION: Adjacent to Pacific Ave. between Cottage and Railroad Streets.

ASSESSOR'S NUMBER: 41-13-6DB; Tax Lot 2700 and 41-13-06DA; Tax Lots 1700, 1900, 1901.

ZONING / COMPREHENSIVE PLAN INFORMATION

EXISTING: I-P (Industrial Park).

PROPOSED: C-3 (General Commercial)

SURROUNDING: South—C-3; East— I-P; West—C-3 and I-P; North — C-3.

COMP. PLAN: Industrial.

LAND USE INFORMATION

EXISTING: Office Building, Restaurant, Retail Store, Single Family Residence.

PROPOSED: Use to remain the same.

SURROUNDING: South—Commercial uses and plywood mill; West—Commercial and industrial uses; East—Residential and Humane Society; North—Parking lot.

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

BACKGROUND INFORMATION

The subject property is four (4) parcels in two (2) ownerships totaling 1.13 acres of level ground adjacent to Pacific Ave. Dragon Gate Restaurant, a retail store and a dwelling are located on the corner of Pacific Ave and Cottage St. They front on Cottage St. for a distance of approximately 173.87 feet. Behind the restaurant and fronting on Pacific Ave. is a commercial building complex. The frontage of these properties on Pacific Ave. is approximately 441.32 feet. There is approximately 98.1 feet of frontage on Railroad St. This development is shown on **Exhibit 2**.

The property is currently zoned I-P (Industrial Park) as is the area to the east and west. Some of the area adjacent on the west is also zoned C-3 (General Commercial). On the north is located a parking lot used by the restaurant and zoned C-3. South of the subject property are various commercial uses zoned C-3.

Railroad St. is a paved travel way within a 70-foot right-of-way. There is sidewalk, curb and gutter adjacent to the subject property on Railroad St. Pacific St. is a paved travel way within a 60 ft. right-of-way, which has curbs, gutters and sidewalks adjacent to the subject property. Cottage St. has a paved travel way within a 40-foot right-of-way. In front of the restaurant there are sidewalk, curbs and gutters. There are none in front of the retail store or the dwelling. Water and sewer service is available to the subject site.

Zoning on the subject property was changed from the old C-5 (General Commercial at that time) Zone to the current I-P Zone in February 1993 as a part of the process to create more industrial land within the city. When the building on Pacific Ave. was built it started as a two bay industrial building and ended up with as many as six units. The owner then would lease them to commercial uses without informing the new tenant that they should check with the city or that the zoning was for industrial uses. The city approved several conditional uses to allow the tenants to use space they had leased. In 1996 the owner of the property attempted to change the zone on the subject property plus two additional lots from the I-P to the C-3 Zone. The request was denied at that time, because there was still hope to use the building for the intended industrial uses and the fact that, two of the lots included held no particular commercial use and the old houses on them could be converted to industrial use. The lots subject to this change contain two commercial establishments that existed prior to the change to I-P, the newer building, on Pacific, that never was used as a particular industrial use, a parking lot used for the newer building and an older house that is located between Cottage St. and the lot with the parking lot. The parking lot behind the house was built to provide additional parking for the newer building due to the fact that most of the uses were more commercial in nature and required more parking, and is accessed from Cottage St. and use primarily for employee parking.

PROPOSED ZONE CHANGE

The applicant is requesting a Comprehensive Plan change from the Industrial designation to a Commercial designation and a zone change from the existing I-P (Industrial Park) Zone to the C-3 (General Commercial) Zone. The intended use of the structures, at this time, will remain the same. The reason the lot with the existing house is subject to this request is because it separates the lot with the parking area from Cottage St. would make a confusing situation if it remained in the I-P Zone. The reason for the requested zone change is to place the established uses in a more compatible zone.

ANALYSIS

The Land Development Code does not contain specific criteria to be considered when deciding a change of zone. However, in the process of making such a decision the Commission must consider the different uses allowed as permitted in the requested new zone and the compatibility of those uses with, and the impact they may have on, existing uses in the surrounding area. The Commission must also consider how the requested change affects the goals and policies of the City's Comprehensive Plan. The requested zone change presents three areas that must be analyzed - compatibility with existing uses, traffic impact on existing streets and consistency with the goals and policies of the Comprehensive Plan. The following is staff's analysis.

Compatibility.

The change from industrial uses to commercial uses should not generate any particular compatibility issues because the entire surrounding area is a mixture of industrial and commercial uses. The existing uses will not change and the nature of the uses will not change to any extent over time as shown by the past uses that went into the building on Pacific Ave. that were more commercial in nature than industrial.

Traffic Impacts.

Again as the existing uses will not change and any future use will be commercial in nature the traffic generated will not be significantly different than what is currently generated. The surrounding street system will not be particularly impacted by the proposed zone change.

Comprehensive Plan.

The primary issue with the Comprehensive Plan policies is the balance of commercial, industrial and residential land within the city and its urban growth boundary. In the Brookings urban growth boundary there is slightly more industrial land than the growth projections indicate are needed and slightly less commercial land, thus this change tends to even the balance. Although a similar request was denied in 1996, it is staff's opinion that to try to force industrial uses into a building that is essentially commercial is not feasible and thus the zone change should be approved. The two existing commercial uses, the restaurant and the retail store will become conforming uses and the house on the adjoining lot will remain a pre-existing non-conforming use. The proposed change generates no particular conflict with the goals and policies of the Comprehensive Plan.

FINDINGS

1. The applicant is requesting a Comprehensive Plan change from the existing Industrial designation to the Commercial designation and a zone change from I-P (Industrial Park) to C-3 (General Commercial) on a 1.13 acre parcel of land consisting of 4 contiguous tax lots.
2. The property to the north of the subject property is zoned C-3. The property to the east between Cottage St. and Railroad Ave. is zoned I-P. The area south of Railroad St. is zoned C-3 along the street and M-2 (General Manufacturing) behind that and the area west of Pacific is zoned both C-3 and I-P.
3. Tax Lot 2700 fronts on Pacific Ave. and Railroad St. and contains a building with multiple units that contain primarily commercial uses. Tax Lot 1700 fronts on Pacific Ave. and Cottage St. and contains a restaurant and retail store. Tax Lot 1901 contains an old house and fronts on

Cottage St. Tax Lot 1900 is located behind Tax Lot 1901, is accessed from Cottage St., and is a parking lot for the commercial building on Tax Lot 2700.

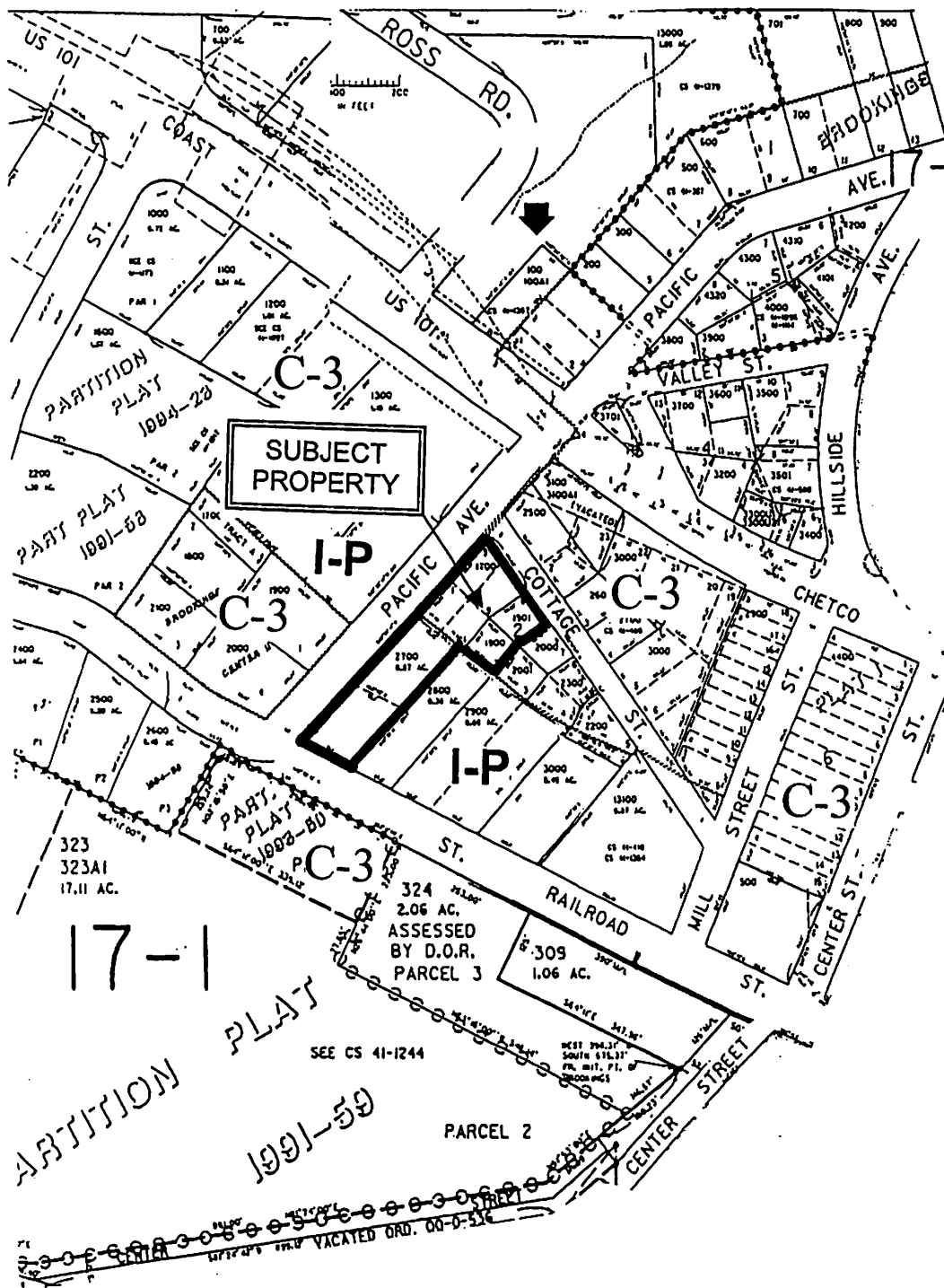
4. Railroad St. is a paved travel way within a right-of-way that is 70 feet wide on the west side of the intersection with Mill St. and 60 feet on the east side of Mill St.
5. Railroad St. is a considered alternative for mitigation of projected traffic congestion in the future and thus may become the southbound leg of Highway 101.
6. Cottage St. is a paved travel way within a 40-foot right-of-way with curb, gutter and sidewalk adjacent to the restaurant but not the retail store or the house.
7. Pacific Ave. is a paved travel way within a 60-foot wide right-of-way with curb, gutter and sidewalk adjacent to the subject property.
8. All of the subject properties are served by public water and sewer.

CONCLUSIONS

1. The proposed Comprehensive Plan and zone change is compatible with the existing uses within the surrounding area, which are a mixture of commercial and light industrial uses. The uses in all of the buildings except the existing house are essentially commercial in nature and are permitted uses in the C-3 Zone. The existing house is currently a non-conforming use and because it is existing, will become a permitted use in the C-3 Zone.
2. The proposed change will help correct the slight imbalance in the ratio between industrially zoned land and commercially zoned land within the city and its urban growth boundary. The proposed change will not generate and particular conflict with the goals and policies of the Comprehensive Plan.

RECOMMENDATION

Staff supports a recommendation of **APPROVAL** of Case File No. CPZ-3-04, to the City Council based on the findings and conclusions stated in the staff report.



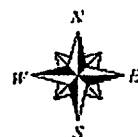
Applicant: William Sewell/ George and Letty Lee

Assessor's No: 41-13-6DB; TL 2700/ 41-13-6DA; TL 1700,1900, 1901

Size: Approximately 1.13 Total Acres

Location: 769 and 777 Cottage St./ 340 Pacific Ave.

Zone: IP (Industrial Park District)





Reynolds
Real Estate
SERVICES INC

January 25, 2004

**John Bischoff
City Planning Director
City of Brookings**

Zone Change; Tax Lot 2700, Map 41-13-6DB

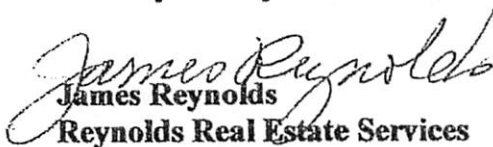
Subsequent to a discussion with you, Bill and Olivia Sewell and myself, agent for the Sewells, I am requesting that the site committee give a preliminary review for a zone change for the subject property from IP to C3.

This will make the existing use of the building on this property more in conformity with zoning.

To provide additional off street parking spaces, the Sewells are proposing to purchase Tax Lots 901 & 902 Map 41-13-6DA. We plan to contact the owners of the Dragon Gate Restaurant and include them in this change if they wish.

If this zoning change seems feasible we will submit a formal application.

Thank you for your consideration,


**James Reynolds
Reynolds Real Estate Services**

Attach: Tax Map

**cc: Bill and Olivia Sewell
William and Judith Lea
Melba Spotswood**

STATEMENT FOR ZONE CHANGE APPLICATION

The change of zone will make existing use of the properties more in conformity with zoning and is in line with a recent change approved by the Planning Commission (see Pilot article attached.)

A letter dated January 25, 2004, (attached) requested a preliminary review by the Site Committee. No objections were reported.



MEMO

Date: September 9, 2004

To: Mayor and City Council

From: Leo Llightle, Community Development Director

Subject: Authorization for awarding the contract for improvements to Fifth and Elk Street Project to John D. Rapraeger Inc.

Background: The Community Development Department Advertised the Fifth and Elk Street Project for Street and Sidewalk improvements. The low bidder was John Rapraeger Inc in the amount of \$51,246.25. The lone bid was competitive with other project and therefore we are recommending awarding the project.

Sufficient funds are in the budget for this project.

Staff recommends: that the City Council award the project bid for Fifth and Elk Street Project to John Rapraeger D. Inc in the amount of \$51,246.25.

CC: File

CITY OF BROOKINGS



MEMO

Date: September 9, 2004

To: Mayor and City Council

From: Leo Llightle, Community Development Director

Subject: Authorization for awarding the contract for improvements to Chetco Avenue Water improvements Phase II Schedule C.

Background: The Community Development Department advertised the Chetco Avenue Sanitary Sewer and Water Distribution Improvements Phase II projects Schedules "A", "B", "B" Alternate and "C". We only received two bids for the Schedule "C". Schedule "C" is the waterline portion of the project from Pacific to Fern.

The two bidders were B & B Excavation and Mc Lennan Contractors. The Low bidder was Mc Lennan Contractors in the amount of \$158,109.35. Sufficient funds are in the budget for this project.

We are re bidding the other schedules.

Staff recommends: that the City Council award the project bid for Chetco Avenue Water Improvements Schedule "C" to Mc Lennan Contractors in the amount of \$158109.35

CC: File

TO: Mayor and City Council
FROM: John Bischoff, Planning Director
THROUGH: Leroy Blodgett, City Manager
DATE: September 7, 2004



Issue: Street dedication deed.

Background: Development of two lots that are currently only easement accessed is being proposed. Staff has informed the applicant that to accomplish the proposed development, a new cul-de-sac street must be dedicated to provide formal access to the property. The applicant has submitted a dedication deed to the city for the new street right-of-way and is requesting that the deed be accepted and recorded. The applicant is proposing to name the new street Lucky Lane, however, the Land Development Code requires the Planning Commission to approve all new street names. This will be taken to the Commission at its October meeting if the deed is accepted and recorded. The proposed street is located on the north side of Highway 101 at the west side of the Westward Motel and the Laundromat.

Recommendation: Acceptance of the deed with instructions to staff to have it recorded.



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.: ACCOM (KP)
Date: August 16, 2004

THIS SPACE RESERVED FOR RECORDER'S USE

DEDICATION DEED

JERRY L. NORMAN AND JANET J. NORMAN, RICHARD R. WILSON, TRUSTEE of the WILSON FAMILY TRUST u.a.d. 4-7-03, GEORGE B. WATWOOD III, REBECCA S. WATWOOD, and DOROTHY L. DECK, Grantor, grants, conveys, warrants and dedicates to **CITY OF BROOKINGS, a municipal corporation of the State of Oregon**, 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 **\$NONE** -. (Here comply with requirements of ORS 93.030)


Dated this _____ day of _____, 20____.

**APPROVED AND ACCEPTED BY THE CITY OF
BROOKINGS, a municipal corporation of the State
of Oregon, by Bob Hagbom, Mayor**

APN:


Bargain and Sale Deed
- continued

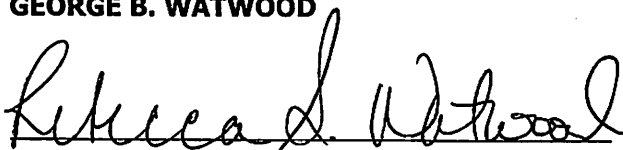
File No.: kimaccomm ()
Date: 08/16/2004



JERRY L. NORMAN


JANET J. NORMAN


RICHARD R. WILSON, TRUSTEE


GEORGE B. WATWOOD


REBECCA S. WATWOOD


DOROTHY L. DECK

STATE OF Oregon)
County of Curry)ss.
)

This instrument was acknowledged before me on this _____ day of _____, 20____
by John Bischoff as Planning Director of City of Brookings, on behalf of the said City.

Notary Public for Oregon
My commission expires:

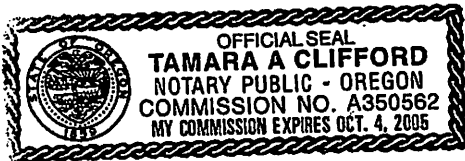
APN:

Bargain and Sale Deed
- continued

File No.: kimaccomm ()
Date: 08/16/2004

STATE OF Oregon)
)ss.
County of Curry)

This instrument was acknowledged before me on this 27th day of August, 2004
by **Jerry L. Norman.**

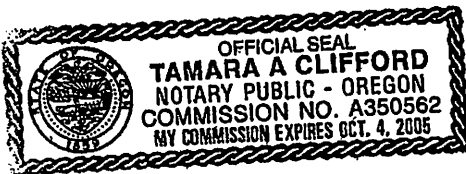


Tamara A. Clifford

Notary Public for Oregon
My commission expires: Oct. 4, 2005

STATE OF Oregon)
)ss.
County of Curry)

This instrument was acknowledged before me on this 27th day of August, 2004
by **Janet J. Norman.**



Tamara A. Clifford

Notary Public for Oregon
My commission expires: Oct. 4, 2005

STATE OF Oregon)
)ss.
County of Curry)

This instrument was acknowledged before me on this 31st day of August, 2004
by **Richard R. Wilson, Trustee of the Wilson Family Trust u.a.d. 4-7-03.**



Judith Gallagher

Notary Public for Oregon
My commission expires: 10/24/05

APN:

Bargain and Sale Deed
- continued

File No.: kimaccomm ()
Date: 08/16/2004

STATE OF Oregon)
)ss.
County of Curry)

This instrument was acknowledged before me on this 31st day of AUGUST, 20 04
by **George B. Watwood**.



Judith Gallagher
Notary Public for Oregon
My commission expires: 10/24/05

STATE OF Oregon)
)ss.
County of Curry)

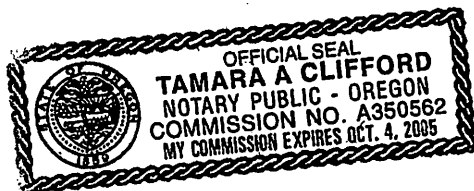
This instrument was acknowledged before me on this 1st day of September, 20 04
by **Rebecca S. Watwood**.



Judith Gallagher
Notary Public for Oregon
My commission expires:

STATE OF Oregon)
)ss.
County of Curry)

This instrument was acknowledged before me on this 27th day of August, 20 04
by **Dorothy L. Deck**.



Tamara A. Clifford
Notary Public for Oregon
My commission expires: Oct. 4, 2005

EXHIBIT A

A strip of land for public road and utility purposes lying in the Southeast Quarter of the Northwest Quarter of 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 5/8" iron rebar described as North 494.7 feet and West 549.7 feet from the Interior Quarter Corner of said Section 6;

thence North $72^{\circ}54'00''$ West 30.42 to a 5/8" iron rebar at the TRUE POINT OF BEGINNING;

thence along a curve concave to the Southwest, the radius point of which bears West 20.00 feet, through a central angle of $49^{\circ}06'15''$, an arc length of 17.14 feet;

thence along a reverse curve to the right, the radius point of which bears North $40^{\circ}49'56''$ East 45.00 feet, through a central angle of $272^{\circ}13'26''$, an arc length of 213.80 feet;

thence along a reverse curve concave Southeasterly, the radius point of which bears South $46^{\circ}56'38''$ East 20.00 feet, through a central angle of $44^{\circ}23'16''$, an arc length of 15.49 feet;

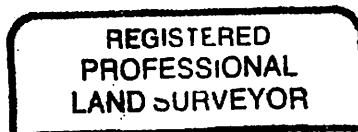
thence South 13.26 feet;

thence North $89^{\circ}59'23''$ West 6.00 feet;

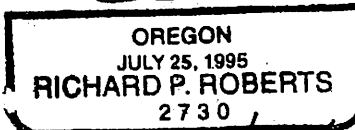
thence South 204.59 feet, more or less, to a point on the Northerly right of way line of U.S. Highway 101;

thence Northwesterly along said right of way line to a point that bears South from the POINT OF BEGINNING;

thence North 200.00 feet, more or less, to the POINT OF BEGINNING.



A handwritten signature in cursive script, appearing to read "R. Roberts", written over a horizontal line.



Exp. Date 12/31/04

TL 2000

TL 2300

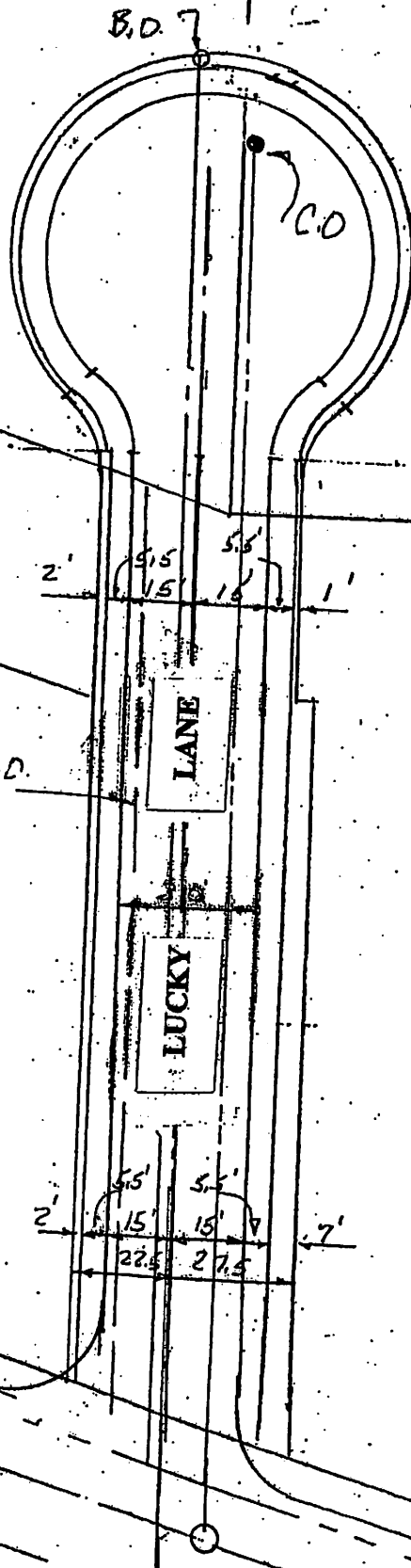
TL2001

EX. 12" S.D.

TL 2201

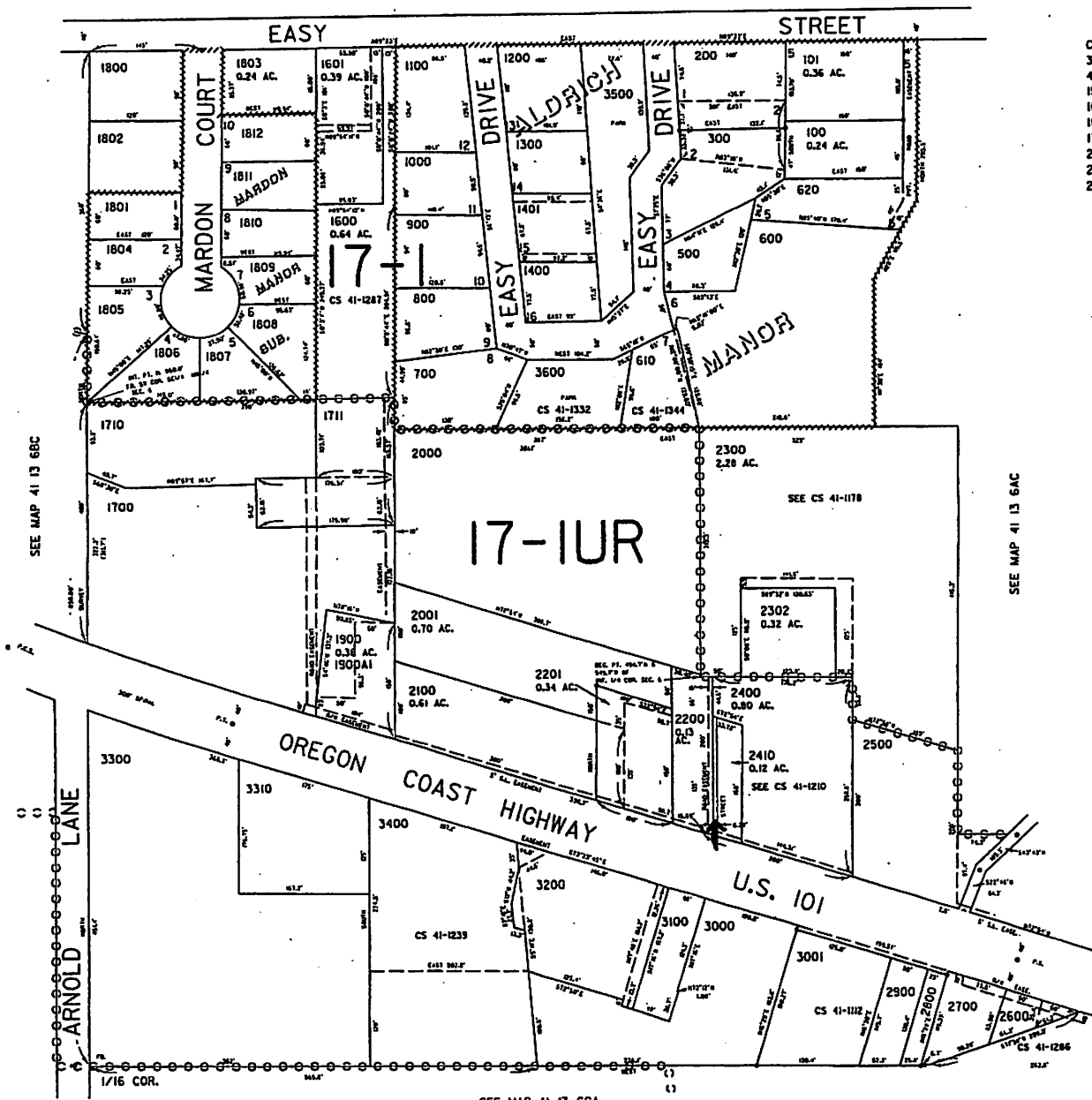
TL 2400

CHETCO AVENUE



SEE MAP 41 13 6BA

REPORT OF THE



CANCELLED NO.
301
400
1500
1602
1603
1701
2002
2101
2301

CEN. SEC

Revised
2/11/2003, DBJ
41 13 6BD
BROOKINGS

Contract

CCB #11294

Master Pools by EMERALD SWIMMING POOLS of Oregon, Inc.
1885 Hwy. 99 N., Eugene, OR 97402 ~ 541-688-1090 ~ 800-452-6372
Fax 541-688-4572



Date: September 9, 2004

Proposal City of Brookings
Submitted to: Attn: Jeannie Nelson
898 Elk Drive
Brookings, OR 97415
(541) 469-4711
(541) 469-3650 fax

We hereby submit specifications and estimates for: **Resurface Pool and Tile Replacement**

RESURFACE Pool with Pooltite Plus:

To drain Pool, remove any voids or blisters, sandblast pool surface, then resurface with Pooltite Plus.
Pooltite Plus is a factory blended plaster product that carries a 5 year warranty.

Cost: \$ 63,600.00

Strip and Replace Existing Racing Lanes, Targets and Gutter Lip Tile

Cost: \$ 28,500.00

To remove and replace 40' of 6 X 6 tile behind gutter and install an expansion joint

Change Sand and Gravel in HRL-78 Filter (to be done with replaster)

Cost: \$ 2,100.00

Install 8" Stainless Steel Hair and Lint Pot; Install Customer's 6" Butterfly Valves (3),
and (1) 2 1/2" Vacuum Ball Valve with Sch. 40 PVC Pipe and Fittings

Cost: \$ 3,900.00

SANDBLASTING STATEMENT

Emerald Swimming Pools uses only a true sandblasting method incorporating a trailer mounted diesel powered air compressor and an 800 lb. capacity sand hopper with a 1" diameter sandblast nozzle. This is the only proper method for preparing a pool surface for new plaster. Acid washing & hydroblasting methods inhibit plaster adhesion.

Terms: 1/2 down; remainder at completion.

I hereby acknowledge that I am requesting this material and/or labor.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimates. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

In event payments herein specified are not paid, Emerald Swimming Pools of Oregon, Inc. may discontinue work until entire balance has been paid and then complete the work. In the event of any default herein by the owner, the owner hereby agrees to allow the Contractor or his assigns to enter upon the premises described hereinbefore at any time thereafter and remove any and all items of equipment or material furnished by the Contractor in accordance with the terms of this agreement.

If Contractor engages an attorney for collection, the Customer promises and agrees to pay to the Contractor's reasonable attorney's fees and collection cost even though no civil action is filed thereon; however, if a civil action or foreclosure of a Contractor's construction lien is filed then, in that event, the Customer agrees to pay the amount of attorney's fees and court costs which may be fixed by the Court or courts in which such suit or action, including any appeal thereon, is tried, heard, or decided in regard to any such civil action or foreclosure of any construction lien. The Customer and the Contractor hereby agree that at the option of the Contractor, the venue of any such civil action may be laid in Lane County, Oregon.

Note: This proposal may be withdrawn by us if not accepted within 90 days.

You are hereby authorized to furnish all material, equipment and labor required to complete the work described in the above proposal, for which the undersigned agrees to pay the amount stated in said proposal and according to the terms therefore.

Emerald Swimming Pools of OR, Inc.

Date

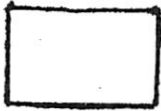
Customer Authorization Signature

Date

PREPARED BY:



AREAS S



GROUND

..... BROOD

----- URBAN

BROOKINGS
AND SURROUNDING

**CITY OF BROOKINGS
COMMON COUNCIL MEETING MINUTES
City Hall Council Chambers
898 Elk Drive, Brookings, OR 97415
August 23, 2004 7:00 p.m.**

I. Call to Order

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

II. Pledge of Allegiance

Led by Dave Gordon

III. Roll Call

Council Present: Mayor Bob Hagbom, Council President Rick Dentino, Councilors Frances Johns Kern, and Craig Mickelson, a quorum present.

Council Absent: Larry Anderson

Staff Present:

City Manager Leroy Blodgett, Community Development Director Leo Lightle, Pool Supervisor Jeanne Nelson, Police Lt. John Bishop and Administrative Secretary Linda Barker

Media Present: Curry Coastal Pilot Reporter Brian Bullock

Other:

Chamber of Commerce Executive Director Les Cohen, and approximately eight other citizens

IV. Ceremonies/Appointments/Announcements

Mayor Hagbom asked for a brief moment of silence for Lorraine Williams who passed away August 16. He said her services held August 21, were beautiful and well attended.

A. Ceremonies

1. Certificate of Appreciation to Lt. John Bishop-Police Department-10 Year Work Anniversary

Mayor Hagbom presented a certificate of appreciation to Lt. John Bishop who has been with the City of Brookings Police Department for ten years. Bishop's family was with him and helped him accept the certificate. Bishop thanked the Council for the honor and thanked members of law enforcement for attending the meeting. He said under the direction of City Manager Blodgett and Chief Wallace the Police Department has shown great strides

in last three years. He said law enforcement is changing daily and he appreciates the support of the Council.

B. Announcements
None

V. Oral Requests and Communications from the Audience

A. Committee and Liaison reports

1. Chamber of Commerce

Chamber President Les Cohen reported he and Dave Gordon had attended an inaugural meeting of the Southwestern Oregon Coalition. Cohen said the business leaders of five southern counties will explore 7 or 8 specific issues related to southern area and prepare a white paper to deliver at the Economic Summit to be held in Portland in December. They should have one more meeting before the summit.

2. Council Liaisons

Councilor Dentino attended the monthly Chamber Forum, worked an AMF concert in Azalea Park, covered the Port of Brookings Harbor Commissioners meeting, went to the School District/law enforcement breakfast meeting, attended ODOT's project development team meeting and filed for the November election.

Councilor Johns Kern attended the Chamber Forum.

B. Unscheduled
None

VI. Staff Reports

A. Community Development Department

1. Purchase of Pickup Truck using State of Oregon purchasing contract

Community Development Director Lightle asked to purchase a 2005 ¾ ton pickup using a State of Oregon purchasing program which allows municipalities to get products at state bid prices. The pickup will be used by Public Works.

Councilor Dentino asked about the delivery fee of \$200, if that would be waived if we picked up the truck in Salem. Lightle said unless there would be schools in the area that workers would be attending the fee would be less than wages for two workers to drive to Salem and drive both pickups to Brookings.

Concerns about whether the pickup would need air conditioning were also discussed. Air conditioning was shown as a deduct from

the price. Lightle said Public Works staff had chosen to eliminate that as the truck would be used for short local trips.

Councilor Johns Kern moved, a second followed, and the Council voted unanimously to authorize the purchase of a Chevrolet Silverado 2500 regular cab work truck for \$16,050.82 through the supplier to the State of Oregon purchasing program.

B. City Manager

1. Swimming Pool Improvements

City Manager Blodgett said discussions have gone on in the past years about resurfacing the swimming pools. There are fears that we may not be able to open the pool next spring if the resurfacing is not done now. The City has received one estimate for \$98,000 to resurfacing, replacing the lane, target and gutter tile and change the media in the filter. He said there is \$51,662 in the budget for this project and there are unallocated funds that could also be used. Because of the time element and the fact there are few companies that do this type of work, he asked for staff to be able to obtain firm quotes for the project instead of going through the formal bid process. Quotes would be brought to the Council at the September 13 meeting.

Pool Supervisor Nelson said that while the pool has been resurfaced only twice in the 26 year she has been with the City, resurfacing usually lasts about 8 to 10 years. She said she had contacted two companies and only Emerald Pool had responded.

Nelson added there are some other repairs to piping that must be done before next season. These will cost between three and four thousand dollars. She said one pipe is leaking now and she just hopes it holds together until this year's season is over.

Councilor Mickelson moved, a second followed, and the Council voted unanimously to direct staff to obtain quotes from qualified companies for resurfacing the swimming pool for consideration at the next regular City Council meeting

2. 306 Grant Agreement for Chetco Point Park Improvements

City Manager Blodgett said the City was successful in obtaining a \$50,000 grant for improvements to Chetco Point Park. The City will provide matching funds. To receive the funds the Mayor must sign the grant agreement.

Councilor Dentino moved, a second followed, and the Council voted unanimously to accept the 306 Grant Agreement for the Chetco Point Park Improvements and authorize Mayor Hagbom to sign the agreement.

3. *Other*

City Manager Blodgett briefed the Council on a littler pick-up event that is scheduled for October 2. The City will provide dumpster space and garbage bags. Various area officials will be challenged to form teams and see who can pick up the most litter.

Blodgett said the Saturday Market is more successful that ever anticipated and parking and traffic control in the area is coming together.

He reminded everyone of the Salmon Derby to be held September 3, 4 and 5. Last year there were a total of 113 participants. So far over 100 registrations are in for this year.

The hosptial project is continuing. Meetings are scheduled with Asante.

He said staff is working on revisions to the Hillside Ordinance and exploring ways to better enforce it.

The City's new telephone system will be installed next week with staff training on Thursday, August 26. For the first time the wastewater treatment plant and public works shops will be on the same system as City Hall.

The City Hall roofing project is out to bid with a closing date of August 28.

Mayor Hagbom complimented the City Manager and staff for its work on the hillside ordinance.

VII. Consent

A. *Approval of Council Meeting Minutes*

1. *Minutes of August 9, 2004, regular Council meeting*

B. *Brookings Elks Lodge request to serve alcoholic beverages at annual picnic-Azalea Park-October 3, 2004.*

End Consent Calendar

Councilor Johns Kern moved, a second followed, and the Council voted to approve the Consent Calendar as printed.

City Manager Blodgett reminded everyone of the City Volunteer/Employee Picnic, August 28.

VIII. Remarks from Mayor and Councilors

A. Council

Councilor Mickelson complimented staff and Clay/Crow for the wonderful possibilities for a new City Hall in the future. He said the floor plan is outstanding.

B. Mayor

Mayor Hagbom said our short meetings are just about over. The next three or four months will be busy. City Manager Blodgett said the City and Borax's master plan are in just about every major newspaper in the state.

X. Adjournment

At 7:35 p.m., Mayor Hagbom moved to adjourn and the Council unanimously agreed by voice vote.

Respectfully submitted:

Bob Hagbom
Mayor

ATTEST by City Recorder this ____ day of _____, 2004.

Paul Hughes
Finance Director/City Recorder

MINUTES
BROOKINGS PARKS AND RECREATION COMMISSION
City of Brookings 898 Elk Drive, Brookings
June 24, 2004

Call to Order

Chair Boynton called the meeting to order at 7:00 p.m. Commissioner Farmer led the pledge of allegiance.

Roll Call

Commissioners Present: Dave Gordon, April Gothard, Bill Boynton, Dori Blodgett, and Daryn Farmer.

Commissioners Absent: Tony Parrish, and Pat Sherman.

Ex Officio Commissioner: Paul Cleary.

Staff Present: City Manager Blodgett, Councilor Frances Johns Kern; Dave Lentz, Parks Foreman-Public Works, and Cathie Mahon, Secretary.

Media: Brian Bullock for *The Pilot*.

Minutes

Commissioner Dori Blodgett made a motion to approve the minutes from the May 27, 2004, meeting. The Commission voted unanimously to approve the minutes as written.

PUBLIC APPEARANCES

Charles Cone, President of the Brookings-Harbor Soccer League (BHSL) submitted an 8-page report outlining the history of the league, the ages and levels of the soccer players, and the Fall schedule for the games.

He discussed the conflict between the baseball schedule end of season tournaments, overlapping into the start of the soccer schedule. He pointed out he knew at the beginning of the year that the baseball leagues had reserved the time for their tournaments, but the tournament schedule was overlapping into the week-end when soccer was to begin their season. He posed to the commissioners to resolve the problem and questioned if the tournament dates could be changed so the soccer players could start on schedule.

After some discussion, Commissioner Gordon commented on the calendar dates for both baseball and soccer, and questioned if the baseball tournament could shuffled their date and play over Labor Day. Commissioner Dori Blodgett pointed out the fields are reserved in case the Brookings-Harbor softball teams are in the play-offs; at this time, it can not be determined if there will even be a tournament. Commissioner Farmer responded he was a softball player and would entertain playing on Sunday. Commissioner Gothard responded she did not agree, that her family members who participate in softball, would not participate on a Sunday.

City Manager Blodgett commented it is evident our city needs more playing fields. He proposed a meeting for the '05 season between the leaders of each sport; Barbara Glazebrook for Adult Softball, and Mr. Cone for soccer, so conflict does not come up again. It was agreed the solution was a valid one, but it does not resolve the present problem. Dave Lentz stated there is a better than 50-50 chance there will not be a tournament, but the Tuesday through Saturday times remain reserved in case tournaments are played here.

Charles Cone discussed the process involved with preparing the sports field. He explained it takes hours plus numerous members to stripe the fields, set up the posts, and put up the net. He summarized his proposal: he would like Adult Baseball to have their playoffs September 6th, 7th, 8th, and 9th. They would prepare the soccer fields on Friday, September 10th, to be ready for the teams to begin on Saturday, September 11th.

Commissioner Farmer moved, if softball teams are in the softball playoff, tournaments originally scheduled for Saturday, September 11th, be moved to Sunday, September 12th. Commissioner Gordon seconded the motion and the motion passed unanimously. Cone thanked the Commission for helping resolve the issue.

Tennis:

Jack Hawkins, tennis pro, spoke on his continued interest in building tennis courts at Stout Park. His rough estimate for the courts, dome cover, a building to house equipment and restrooms, was between \$300,000 and \$350,000. He emphasized the community must step up with raising money for the project. Hawkins stated he is available and willing to help a committee with his expertise but without community support, he would be "whistling in the dark".

Chair Boynton questioned if grants were available for tennis projects. Hawkins responded he was not familiar with any. He stated a viable solution would be if 300 people contributed \$1000 each, the goal would be met for the project.

City Manager Blodgett reported he reviewed the *Palm May Stout* deed restrictions. In the document it states "no buildings other than a Community Hall shall be built...with the exception of rest room facilities." He recommended the next step would be putting together a business plan including expenditures and maintenance of the courts.

Lentz posed the question, would it be cheaper to upgrade the current courts at Bud Cross Park. He stated the lights are good, the courts would have to be re-surfaced because they are over 10 years old, and the fence is in disrepair. Hawkins responded that was a good plan, but felt the community needed more courts, especially to train and have tournaments. He added the location (Stout Park) is a perfect location because it is so close to the schools, plus he said having a nice facility would be a tourist attraction. Chair Boynton concluded the discussion questioning if City Council would give their stamp of approval. Commissioner Farmer stated we (the commission) could approve use of Stout Park for tennis courts providing the document (Ms. Stout's deed) allows it, and assuming the funds are raised.

COMMITTEE REPORTS

Chetco Park: Chair Boynton reported he had guests visit the park and they were very impressed with it.

Bud Cross Park and Softball Fields:

Commissioner Gordon reported he visited the fields and found a couple areas of concern particularly the divots in the center field which need to be filled in. The stair project at the Azalea Park on Lundeen Street started this week. He stated it has been well-organized by Quincy Coons; the 15 stairs have been formed, rebar placed, and Tidewater will be providing the cement. The third concern is the weeds are really high at the Bud Cross outfield area. Lentz said he would make a note to have the area mowed.

Commissioner Gothard remarked the fields are very dry and dusty. Lentz commented he would do a quick water spray over them.

Kidtown: Commissioner Dori Blodgett reported the park simply sparkles.

Easy Manor Park: Commissioner Gothard reported she observed people using the park for picnics and barbeques.

Pool: Gothard reported it is busy this time of year.

Richard Park:

City Manager Blodgett reported the City is currently getting an appraisal for the property and possibly putting the property up for bid. It is zoned residential and could be split into 2 lots. When the value is established, the process of how to sell it will be decided.

STAFF ANNOUNCEMENTS/CONCERNS/FOLLOW-UP

Financial Report: No discussion.

Commissioner and Staff Comments:

Commissioner Dori Blodgett reported the Performing Arts Center will be closing due to lack of funding. A benefactor is needed to continue using the present location. At this time, it will close in December when the present lease expires.

With no further business before the Commission, Commissioner Gordon moved the meeting be adjourned at 8:35 p.m.

Respectfully submitted,



Cathie Mahon
Recording Secretary

Approved by the Parks and Recreation Commission

08/26/04 (date)

MINUTES
BROOKINGS PLANNING COMMISSION
SPECIAL MEETING
July 27, 2004

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

Commissioners Present:

Jim Collis	Bob Gilmore
Bill Dundom	Ted Freeman
Randy Gorman	Bruce Nishioka
Bill Smith	

Staff Present:

John Bischoff, Planning Director
Dianne Snow, Assistant Planner
Cathie Mahon, Community Development Secretary

Media:

Curry Coastal Pilot reporters, Brian Bullock and Scott Graves

Other:

City Manager Blodgett
Community Development Director Lightle
Councilor Mickelson
Approximately 65 citizens in the audience.

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

1. By a 7-0 vote (motion: Commissioner Freeman) the Planning Commission approved a request for final map of File No. **SUB-3-04**, a subdivision to be known as *Sherwood Forest*, to divide a 1.78 acre parcel of land into four lots and the extension of Arch Lane; Assessor's Map 40-14-36 a, Tax Lots 400 and 401; R-2 (Multi-family Residential) zone; Kurt Kessler, applicant.

THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION IN THE PUBLIC HEARINGS

1. By a 7-0 vote (motion: Commissioner Freeman) the Planning Commission voted to continue File No. **MPD-1-04**, a request for approval of a Master Plan of Development on a 553-acre parcel; consisting of 1,000 dwelling units of various types, a 2.43 acre commercial site, and a 10-acre college campus, to be built in phases implemented in detailed development plans approved by the Planning Commission; located of the easterly side of Highway 101, approximately 0.8 miles north of Carpenterville Road and extending north to approximately the Cape Ferrelo overlook entrance; Assessor's Map 41-14 and Index, Tax Lots 2400, 2401, and a portion of 2402; U.S. Borax, applicant; Burton Weast, representative.

The motion for continuance was granted to allow those participants present at the meeting to submit additional written testimony within seven (7) days from the meeting date. The applicant, U.S. Borax, would be allowed 7 additional days from that date to respond to the submittals.

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 comments regarding the request from the following Borax representatives:

Dennis Boyle, U.S. Borax	26877 Tourney Road	Valencia, CA 91355
Burton Weast, Western Advocates Inc.	22400 Salamo Rd. Ste.201	West Linn, OR 97068
Steve Dixon, Otak, Inc.	17355 SW Boones Ferry Road	Lake Oswego, OR 97035
Chris Wright, Raedeke Associates	5711 NE 63 rd Street	Seattle, WA. 98115
Genc Emre, Otak, Inc.	17355 SW Boones Ferry	Lake Oswego, OR 97068
Scott Mansur, DKS Associates	1400 SW 5 th Ave., Ste.500	Portland, OR 97201
Marty Stiven, Western Adv.Inc.	22400 Salamo Road Ste. 201	West Linn, OR 97068

A short recess was declared at 9: 00 p.m. The meeting reconvened at 9:06 p.m.

The following people testified after the presentation:

Steve Kridelbauch, SWOCC, Pres.	1988 Newmark Avenue	Coos Bay, OR 97420
Catherine Wiley	96370 Duley Creek	Brookings,OR 97415
Pete Chasar	935 Marina Heights Road	Brookings, OR 97415
Yvonne Maitland	15676 Oceanview Road	Brookings, OR 97415
Judy Caplan	441 Buena Vista Loop	Brookings,OR 97415
Al Collinet	225 Alder Street	Brookings, OR 97415
Joe Knapp	96134 Foxglove Way	Brookings, OR 97415
Toni Mefford	17744 Highway 101 North	Brookings, OR 97415
Revelle Nelson	P. O. Box 7530	Brookings, OR 97415
Stuart Ehrenreich	97666 N. Bank Chetco River Rd. #144	Brookings, OR
Lucie LaBonte	P. O. Box 1521	Gold Beach, OR 97444

A short recess was declared at 11:08. The meeting reconvened at 11:15 with the same members present.

PLANNING DIRECTOR COMMENTS:

Planner John Bischoff recapped the procedure for continuance of a public meeting. He explained those present at the meeting could submit additional testimony, emphasizing "written testimony" within 7 days from the hearing, which would be August 3, 2004. The applicant, U.S. Borax/Western Advocates, would have 7 days from that date to submit a response, which would be August 10, 2004.

ADJOURNMENT:

With no further business before the Planning Commission, the meeting adjourned at 11:30 p.m.

MINUTES
BROOKINGS PLANNING COMMISSION
SPECIAL MEETING – CONTINUED FROM July 27, 2004
August 17, 2004

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

Commissioners Present:

Jim Collis	Bob Gilmore
Bill Dundom	Ted Freeman
Randy Gorman	Bruce Nishioka
Bill Smith	

Staff Present:

John Bischoff, Planning Director
Dianne Snow, Assistant Planner
Cathie Mahon, Community Development Secretary

Media:

Curry Coastal Pilot reporters, Brian Bullock and Scott Graves

Other:

Approximately 40 citizens in the audience.

THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION IN THE CONTINUED PUBLIC HEARINGS

1. By a 4-3 vote (motion: Councilor Freeman; Commissioners Collis, Freeman, Dundom, and Gilmore voted in the affirmative; Commissioners Smith, Nishioka, and Gorman in opposition) the Planning Commission will send a favorable recommendation to City Council regarding File No. **MPD-01-04**, a request of a Master Plan of Development on a 553-acre parcel; consisting of 1,000 dwelling units of various types, a 2.43 acre commercial site, and a 10-acre college campus, to be built in phases implemented in detailed development plans approved by the Planning Commission; located of the easterly side of Highway 101, approximately 0.8 miles north of Carpenterville Road and extending north to approximately the Cape Ferrelo overlook entrance; Assessor's Map 41-14 and Index, Tax Lots 2400, 2401, and a portion of 2402; U.S. Borax, applicant; Burton Weast, representative.

The motion was amended to include acceptance of conditions by City staff and:

- *The applicant shall consult with all applicable state and federal agencies to develop measures to protect the existing wetlands and the associated western lily.*
- *The project water system shall be developed to connect to he existing city system and allow reverse flows.*
- *The applicant shall support any future effort to reestablish the ability for fish passage under Highway 101 for Lone Ranch Creek, Ram Creek and Taylor Creek. 'support' mean that the applicant shall not oppose such efforts.*

UNSCHEDULED PUBLIC APPEARANCES

None.

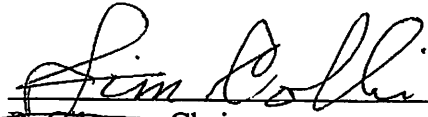
PROPOSITIONS AND COMMISSIONERS COMMENTS:

ADJOURNMENT

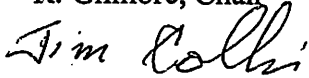
With no further business before the Planning Commission, the meeting adjourned at 9: 12 p.m.

Respectfully submitted,

BROOKINGS PLANNING COMMISSION



R. Gilmore, Chair



MINUTES
BROOKINGS PLANNING COMMISSION
Regular Meeting
August 3, 2004

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

Commissioners Present:

Jim Collis Ted Freeman
Bill Dundom Bill Smith
Randy Gorman

Commissioners Absent:

Bruce Nishioka and Bob Gilmore

Staff Present:

John Bischoff, Planning Director
Dianne Snow, Assistant Planner
Cathie Mahon, Community Development Secretary

Media:

Curry Coastal Pilot reporter, Brian Bullock

Other:

Approximately 20 citizens in the audience.

CHAIRPERSON ANNOUNCEMENTS

Vice-Chair Collis announced the cancellation of three cases from the agenda: Item 8.2-File No. SUB-4-02/MC-1-04 and county referral items 9.2 and 9.3: File No.CR-S-0403, and File No.CR-S-0404.

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

1. By a 5-0 vote (motion: Commissioner Gorman) the Planning Commission approved a request for a minor change to adjust the required setback for a driveway approach to Lot #3 of the *Spindrift Subdivision*; located at the corner of Pacific Heights and Dawson Road; Assessor's Map 40-14-36 BB, Tax Lot 5000; R-1-6 (Single-family Residential) zone; File No. SUB-2-02/MC-1-04; Gary Cooper, applicant for GLC Construction; Waid & Barbara Woodruff, property owners.
2. By a 5-0 vote (motion: Commissioner Freeman) the Planning Commission approved the final map for a 5-lot subdivision, known as *Lilybrook Subdivision*; located at Fourth and Ransom Streets; Assessor's Map 41-13-06AB, Tax Lot 1200; R-2 (Two-family Residential) zone; File No. SUB-6-03; Cari Early, applicant, Roberts & Associates, representative.

THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION IN THE PUBLIC HEARINGS

1. Continuation of File No. **PUD-2-03** from the July 6, 2004 Public Hearing: By a 3-2 vote (motion: Commissioner Freeman; Commissioners Freeman, Dundom, and Collis voted in the affirmative; Commissioners Gorman and Freeman voted in opposition) the Planning Commission approved the application for a Planned Unit Development to be known as *Ransom Creek*, to divide a 9.09 acre parcel into 36 condominium units; located at the intersection of Brooke Lane and Timberline Drive; Assessor's Map 40-13-31CA, Tax Lot 900; R-1-6 (Single-family, 6,000 square foot minimum lot size) zone; and 40-13-31CD, Tax Lot 4900; R-1-10 (Single-family Residential, 10,000 square foot minimum lot size) zone; Bruce Brothers LLC, applicant; Jim Capp, representative.

No additional testimony was allowed as the public hearing was closed at the July 6, 2004, meeting and only written testimony was entered into the record.

The motion was amended to include the following condition to the Conditions of Approval:

- *Prior to any construction on the site including grading, the applicant shall, with a qualified expert, investigate the wetland identified in a survey completed by a previous owner and shown on Exhibit X-3 of the record. If a wetland is identified, the applicant shall take all steps necessary to abide by all applicable laws.*
2. By a 3-2 vote (motion: Commissioner Freeman; Commissioners Freeman, Dundom, and Collis voted in the affirmative; Commissioners Gorman, and Smith voted in opposition) the Planning Commission approved the amended Final ORDER and Findings of Fact for File No. **PUD-2-04**.
 3. By a 5-0 vote (motion: Commissioner Gorman) the Planning Commission approved a request for a minor partition to divide a 2.02 acre parcel into 3 lots; located at 16960 Parkview Drive; Assessor's Map 40-13-31CB, Tax Lot 801; R-1-6 (Single-family Residential, 6,000 square foot minimum lots size) zone; Benjamin Murray, applicant; Roberts & Associates, representative; File No. **M3-6-04**.

The motion was amended to include the following condition:

- a. *Power poles within the sidewalk area are to be relocated, if authorized by Coos Curry Electric Cooperative, Inc.*

Commissioners Gorman, Smith, and Collis 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 comments regarding the request from the following:
Benjamin Murray P. O. Box 665 Brookings, OR 97415

4. By a 5-0 vote (Motion: Commissioner Gorman) the Planning Commission approved the amended Final ORDER and Findings of Fact for File No. **M3-5-04**.

5. By a 5-0 vote (Motion: Commissioner Smith) the Planning Commission will send a recommendation to City Council to approve the request for a zone change from I-P (Industrial) to C-3 (General Commercial), located at 340 Pacific Avenue, 769 and 777 Cottage Street; Assessor's Map 41-13-06DB, Tax Lot 2700 and 41-13-06DA, Tax Lots 1700, 1900, and 1901; William Sewell, applicant; James Reynolds, representative; File No. **CPZ-3-04**.

All the commissioners declared ex parte having visited the area and familiarity with the restaurant at the subject properties. There was no challenge from the audience as to the jurisdiction of the Commission to hear the request.

This action was taken following questions and comments regarding the request from the following:
James Reynolds P. O. Box 7067 Brookings, OR 97415

6. By a 4-1 vote (Motion: Commissioner Dundom; Commissioners Freeman, Collis, Smith and Dundom voted in the affirmative; Commissioner Gorman in opposition) the Planning Commission approved the request for a minor partition to divide a .55 acre parcel into 2 lots; located at 1013 Seventh Street; Assessor's Map 40-13-31DD, Tax Lot 2400; R-1-6 (Single-family Residential, 6,000 minimum lots size) zone; Gomer & Shirley Rettke, applicant; Roberts & Associates, representative; File No. **M3-6-04**.

Commissioner Gorman 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 comments regarding the requests from the following:
Rich Roberts, Roberts & Associates P. O. Box 2791 Harbor, OR. 97415

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

7. By a 4-1 vote (Motion: Commissioner Dundom; Commissioners Freeman, Collis, Smith and Dundom voted in the affirmative; Commissioner Gorman in opposition), the Planning Commission approved the Final ORDER and Findings of Fact for File No. **M3-6-04**.

THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION ON COUNTY REFERRALS

1. By a 5-0 vote (Motion: Commissioner Dundom) the Planning Commission will send a favorable recommendation to Curry County in the matter of File No. **CR-P-0405**, a request for a partition of a 1.25 acre parcel into two parcels; located at 16643 Crown Terrace; Assessor's Map 41-13-04BB, Tax Lot 2900; R-3 (Residential) county zone; John and Jennifer Donnelly, applicants.

UNSCHEDULED PUBLIC APPEARANCES

None.

PROPOSITIONS AND COMMISSIONERS COMMENTS

None.

PLANNING DIRECTOR COMMENTS:

Planning Director Bischoff discussed the issue of lengthy meetings such as those recently experienced with one ending at midnight and another at 2 a.m. One of the solutions would be, if staff had a full and lengthy agenda, to advise the chairman of a time to end the hearing, and determine a date for the second part of the agenda. The suggested proposal is to end public hearings at 10:30 p.m. and have a second meeting with any carry-over cases and issues.

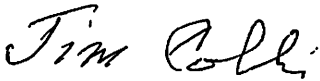
ADJOURNMENT:

With no further business before the Planning Commission, the meeting adjourned at 10:02 p.m.

Respectfully submitted,

BROOKINGS PLANNING COMMISSION


~~R. Gilmore, Chairperson~~



Per	Date	Check No	Vendor No	Payee	Check GL Acct	Amount
08/04	08/16/2004	49395	831	VOID - National Rifle Association	10-00-2005	495.00 -M
08/04	08/05/2004	49688	100	Anchor Lock & Key	10-00-2005	49.00
08/04	08/05/2004	49689	150	Any Time Coffee Service	10-00-2005	30.20
08/04	08/05/2004	49690	2846	Barbara L Lutsock	10-00-2005	10.75
08/04	08/05/2004	49691	138	Becco, Inc	10-00-2005	57.90
08/04	08/05/2004	49692	687	Ben-Ko-Matic Brush Company	10-00-2005	294.76
08/04	08/05/2004	49693	148	B-H Chamber of Commerce	10-00-2005	4,110.69
08/04	08/05/2004	49694	110	Brookings Auto Parts	10-00-2005	31.50
08/04	08/05/2004	49695	313	Brookings Vol Firefighters	10-00-2005	2,083.33
08/04	08/05/2004	49696	2364	C&S Fire-Safe Services	10-00-2005	345.50
08/04	08/05/2004	49697	370	CCIS	10-00-2005	115,441.07
08/04	08/05/2004	49698	1840	Chetco Federal Credit Union	10-00-2005	3,330.00
08/04	08/05/2004	49699	336	Chris Wallace	10-00-2005	115.90
08/04	08/05/2004	49700	822	Coast Auto Center	10-00-2005	220.78
08/04	08/05/2004	49701	2542	Crystal Fresh Bottled Water	10-00-2005	125.00
08/04	08/05/2004	49702	259	Da-Tone Rock Products	10-00-2005	68.34
08/04	08/05/2004	49703	284	Day-Wireless Systems	10-00-2005	990.50
08/04	08/05/2004	49704	316	Donald & Roberta Chandler	10-00-2005	548.00
08/04	08/05/2004	49705	749	Emerald Pool & Patio	10-00-2005	34.34
08/04	08/05/2004	49706	153	Ferrellgas	10-00-2005	2,884.48
08/04	08/05/2004	49707	2844	Harley Hurst	10-00-2005	53.34
08/04	08/05/2004	49708	186	Hennick's Hardware	10-00-2005	3,214.20
08/04	08/05/2004	49709	1082	Hilary Thompson	10-00-2005	28.88
08/04	08/05/2004	49710	2748	J & A Handy Crafts	10-00-2005	179.88
08/04	08/05/2004	49711	2841	Jeff & Kandi Legg	10-00-2005	40.94
08/04	08/05/2004	49712	2849	Jim Relaford	10-00-2005	1.40
08/04	08/05/2004	49713	2842	Joella Artega	10-00-2005	2.97
08/04	08/05/2004	49714	2216	John Rapreager Inc	10-00-2005	182,960.28
08/04	08/05/2004	49715	2843	Joseph J Cascia	10-00-2005	15.00
08/04	08/05/2004	49716	2847	Kathi Tullis	10-00-2005	5.97
08/04	08/05/2004	49717	2801	Keith's Sporting Goods	10-00-2005	5,930.80
08/04	08/05/2004	49718		Information Only Check	10-00-2005	.00 V
08/04	08/05/2004	49719		Information Only Check	10-00-2005	.00 V
08/04	08/05/2004	49720		Information Only Check	10-00-2005	.00 V
08/04	08/05/2004	49721	162	Kerr Hardware	10-00-2005	474.01
08/04	08/05/2004	49722	2848	Kimberley Parton	10-00-2005	6.28
08/04	08/05/2004	49723	386	Lab Safety Supply Inc	10-00-2005	41.30
08/04	08/05/2004	49724	2598	Larry Garcia	10-00-2005	35.34
08/04	08/05/2004	49725	2826	LCOG/OPI	10-00-2005	230.00
08/04	08/05/2004	49726	2850	Lindi Frye	10-00-2005	5.21
08/04	08/05/2004	49727	763	Mark Hargrove	10-00-2005	1.28
08/04	08/05/2004	49728	1890	Marvin Parker	10-00-2005	44.00
08/04	08/05/2004	49729	155	Mory's	10-00-2005	27.35
08/04	08/05/2004	49730	2283	NW Technical Internet Service	10-00-2005	21.95
08/04	08/05/2004	49731	426	Oregon Apparatus Repair	10-00-2005	3,081.17
08/04	08/05/2004	49732	177	Oregon Medical Laboratories	10-00-2005	22.35
08/04	08/05/2004	49733	322	Postmaster	10-00-2005	586.00
08/04	08/05/2004	49734		Information Only Check	10-00-2005	.00 V
08/04	08/05/2004	49735	1193	PRN Data Services, Inc	10-00-2005	7,007.56
08/04	08/05/2004	49736	1029	Purchase Power	10-00-2005	1,019.00
08/04	08/05/2004	49737	187	Quality Fast Lube & Oil	10-00-2005	58.00
08/04	08/05/2004	49738	199	Richard Harper	10-00-2005	300.00
08/04	08/05/2004	49739	2616	Skip Watwood	10-00-2005	22.84
08/04	08/05/2004	49740	2845	Steve Amarant	10-00-2005	49.48
08/04	08/05/2004	49741	2254	Sunny Wheatley	10-00-2005	164.00
08/04	08/05/2004	49742	142	Tidewater Contractors Inc	10-00-2005	411.54
08/04	08/05/2004	49743	179	Trew, Cyphers & Meynink	10-00-2005	903.00

M = Manual Check, V = Void Check

Per	Date	Check No	Vendor No	Payee	Check GL Acct	Amount
08/04	08/05/2004	49744	2541	U.S. Bank	10-00-2005	425.00
08/04	08/05/2004	49745	990	United Parcel Service	10-00-2005	35.85
08/04	08/05/2004	49746	157	Viking Office Products	10-00-2005	60.88
08/04	08/10/2004	49747	2767	Hooper, Englund & Weil, LLP	10-00-2005	281.61
08/04	08/10/2004	49748	910	OR Department of Justice	10-00-2005	115.38
08/04	08/10/2004	49749	1132	OR Department of Justice	10-00-2005	322.15
08/04	08/10/2004	49750	1742	OR Department of Justice	10-00-2005	307.93
08/04	08/10/2004	49751	2386	OR Department of Justice	10-00-2005	203.08
08/04	08/10/2004	49752	205	PERS Retirement	10-00-2005	12,192.27
08/04	08/12/2004	49753	2856	Ag-Gressor One	10-00-2005	37,000.00
08/04	08/12/2004	49754	167	American Sigma	10-00-2005	101.70
08/04	08/12/2004	49755	342	Applied Industrial Technology	10-00-2005	166.03
08/04	08/12/2004	49756	1745	Coastal Paper & Supply, Inc	10-00-2005	35.95
08/04	08/12/2004	49757	183	Colvin Oil Company	10-00-2005	2,199.70
08/04	08/12/2004	49758	182	Coos-Curry Electric	10-00-2005	2,070.48
08/04	08/12/2004	49759	1801	Cop Shop Etc	10-00-2005	131.00
08/04	08/12/2004	49760	151	Curry Coastal Pilot	10-00-2005	403.90
08/04	08/12/2004	49761	173	Curry Equipment Company	10-00-2005	83.70
08/04	08/12/2004	49762	2058	Curry General Hospital	10-00-2005	50.00
08/04	08/12/2004	49763	195	Curry Transfer & Recycling	10-00-2005	553.02
08/04	08/12/2004	49764		Information Only Check	10-00-2005	.00 V
08/04	08/12/2004	49765	166	Dan's Auto & Marine Electric	10-00-2005	393.77
08/04	08/12/2004	49766	284	Day-Wireless Systems	10-00-2005	1,003.00
08/04	08/12/2004	49767	575	DELL Computer Corp	10-00-2005	146.00
08/04	08/12/2004	49768	2854	DHS - Drinking Water Program	10-00-2005	250.00
08/04	08/12/2004	49769	2838	Ferguson Pump Division	10-00-2005	1,203.23
08/04	08/12/2004	49770	105	First Impressions	10-00-2005	255.09
08/04	08/12/2004	49771	113	Fred Meyer	10-00-2005	48.62
08/04	08/12/2004	49772	1856	Helmets R US	10-00-2005	1,884.45
08/04	08/12/2004	49773	131	HGE, Inc	10-00-2005	47,094.91
08/04	08/12/2004	49774	328	Les Schwab Tire Company	10-00-2005	841.11
08/04	08/12/2004	49775	1890	Marvin Parker	10-00-2005	99.99
08/04	08/12/2004	49776	2853	Matt Taylor	10-00-2005	50.00
08/04	08/12/2004	49777	1739	McCoys LawLine	10-00-2005	3,390.00
08/04	08/12/2004	49778	334	North Coast Electric	10-00-2005	176.46
08/04	08/12/2004	49779	2839	North Star Chemical	10-00-2005	4,233.50
08/04	08/12/2004	49780	2025	Numberg Scientific	10-00-2005	157.80
08/04	08/12/2004	49781	279	One Call Concepts, Inc	10-00-2005	37.80
08/04	08/12/2004	49782	1940	OR Chapter 31, I.A.A.I.	10-00-2005	20.00
08/04	08/12/2004	49783	375	OR Department of Revenue	10-00-2005	20.60
08/04	08/12/2004	49784	449	Oregon Mayors Association	10-00-2005	17.00
08/04	08/12/2004	49785	1359	Pacific Coast Audio	10-00-2005	80.00
08/04	08/12/2004	49786	252	Paramount Pest Control	10-00-2005	35.00
08/04	08/12/2004	49787	2774	Parkson Corporation	10-00-2005	1,466.91
08/04	08/12/2004	49788	293	Petty Cash	10-00-2005	109.54
08/04	08/12/2004	49789	187	Quality Fast Lube & Oil	10-00-2005	58.00
08/04	08/12/2004	49790	207	Quill Corporation	10-00-2005	416.78
08/04	08/12/2004	49791	180	Ray's Food Place	10-00-2005	109.63
08/04	08/12/2004	49792	2859	Robert Miller	10-00-2005	29.36
08/04	08/12/2004	49793	169	Roto Rooter	10-00-2005	146.20
08/04	08/12/2004	49794	1482	Seagull Software Systems Inc	10-00-2005	280.50
08/04	08/12/2004	49795	2858	Sunni Smrtz	10-00-2005	45.00
08/04	08/12/2004	49796	161	United Communications Inc	10-00-2005	342.54
08/04	08/12/2004	49797	136	United Pipe & Supply Co Inc	10-00-2005	319.52
08/04	08/12/2004	49798	991	Verizon Northwest	10-00-2005	1,820.41
08/04	08/12/2004	49799	861	Village Express Mail Center	10-00-2005	22.59
08/04	08/12/2004	49800	670	Western Equipment Distributors	10-00-2005	92.45

M = Manual Check, V = Void Check

Per	Date	Check No	Vendor No	Payee	Check GL Acct	Amount
08/04	08/12/2004	49801	2857	Wild Rivers Motor Lodge	10-00-2005	181.00
08/04	08/19/2004	49802	167	American Sigma	10-00-2005	154.70
08/04	08/19/2004	49803	174	Barbara Palicki	10-00-2005	273.37
08/04	08/19/2004	49804	416	Brookings Lock & Safe Co	10-00-2005	50.00
08/04	08/19/2004	49805	2190	City of Hillsboro	10-00-2005	968.91
08/04	08/19/2004	49806	2185	Collegiate Pacific	10-00-2005	479.66
08/04	08/19/2004	49807	182	Coos-Curry Electric	10-00-2005	2,828.32
08/04	08/19/2004	49808	2869	Department of State Lands	10-00-2005	6.50
08/04	08/19/2004	49809	2867	E Troop Family Program	10-00-2005	100.00
08/04	08/19/2004	49810	749	Emerald Pool & Patio	10-00-2005	18.49
08/04	08/19/2004	49811	153	Ferrellgas	10-00-2005	177.93
08/04	08/19/2004	49812	198	Grants Pass Water Lab	10-00-2005	160.00
08/04	08/19/2004	49813	2062	Harbor Sanitary District	10-00-2005	6,700.00
08/04	08/19/2004	49814	1699	Imagistics	10-00-2005	428.98
08/04	08/19/2004	49815	168	J.L. Darling Corporation	10-00-2005	298.96
08/04	08/19/2004	49816	799	Jim Hargrove	10-00-2005	90.00
08/04	08/19/2004	49817	2865	Justyn Hafterson	10-00-2005	300.00
08/04	08/19/2004	49818	2861	Lesan & Finneran	10-00-2005	486.00
08/04	08/19/2004	49819	2864	Martin Glazebrook	10-00-2005	75.00
08/04	08/19/2004	49820	2791	Michelle Short	10-00-2005	88.00
08/04	08/19/2004	49821	283	Muffler & More	10-00-2005	196.00
08/04	08/19/2004	49822	2051	National Waterworks, Inc	10-00-2005	206.76
08/04	08/19/2004	49823	979	Northwest Regional Magazines	10-00-2005	18.95
08/04	08/19/2004	49824	852	PaperDirect	10-00-2005	47.93
08/04	08/19/2004	49825	2868	Parnell Enterprises	10-00-2005	10.00
08/04	08/19/2004	49826	866	Pitney Bowes	10-00-2005	402.00
08/04	08/19/2004	49827	207	Quill Corporation	10-00-2005	21.92
08/04	08/19/2004	49828	2810	Shelli Hafterson	10-00-2005	150.00
08/04	08/19/2004	49829	2871	Sprint	10-00-2005	2,232.00
08/04	08/19/2004	49830	380	Stadelman Electric	10-00-2005	135.80
08/04	08/19/2004	49831	2862	Teresa Sielsch - CPWTC #114	10-00-2005	500.00
08/04	08/19/2004	49832	2840	The Dyer Partnership	10-00-2005	4,271.00
08/04	08/19/2004	49833	2586	TMG	10-00-2005	212.56
08/04	08/19/2004	49834	2870	Unicom	10-00-2005	20,233.00
08/04	08/19/2004	49835	136	United Pipe & Supply Co Inc	10-00-2005	576.40
08/04	08/19/2004	49836	1196	USF Reddaway	10-00-2005	134.42
08/04	08/19/2004	49837	2863	Verizon NW	10-00-2005	16.85
08/04	08/19/2004	49838		Information Only Check	10-00-2005	.00 V
08/04	08/19/2004	49839		Information Only Check	10-00-2005	.00 V
08/04	08/19/2004	49840	157	Viking Office Products	10-00-2005	434.40
08/04	08/19/2004	49841	861	Village Express Mail Center	10-00-2005	11.73
08/04	08/19/2004	49842	269	WW Grainger	10-00-2005	26.75
08/04	08/19/2004	49843	145	EBS Trust	10-00-2005	56.00
08/04	08/25/2004	49844	1881	AFLAC	10-00-2005	414.26
08/04	08/25/2004	49845	2767	Hooper, Englund & Weil, LLP	10-00-2005	281.71
08/04	08/25/2004	49846	910	OR Department of Justice	10-00-2005	115.38
08/04	08/25/2004	49847	1132	OR Department of Justice	10-00-2005	322.15
08/04	08/25/2004	49848	1742	OR Department of Justice	10-00-2005	307.93
08/04	08/25/2004	49849	2366	OR Department of Justice	10-00-2005	203.08
08/04	08/25/2004	49850	144	OR Teamster Employers Trust	10-00-2005	10,543.80
08/04	08/25/2004	49851	189	OR Teamster Employers Trust	10-00-2005	23,196.36
08/04	08/25/2004	49852	205	PERS Retirement	10-00-2005	12,170.45
08/04	08/25/2004	49853	214	Regence Life & Health Ins	10-00-2005	254.40
08/04	08/26/2004	49854	1284	Allied Electronics, Inc	10-00-2005	110.16
08/04	08/26/2004	49855	496	APSCO	10-00-2005	56.46
08/04	08/26/2004	49856	2828	Best Western New Oregon	10-00-2005	129.28
08/04	08/26/2004	49857	200	Bob Hagbom	10-00-2005	294.23

M = Manual Check, V = Void Check

Check Register - Summary Report
 GL Posting Period(s): 08/04 - 08/04
 Check Issue Date(s): 08/01/2004 - 08/31/2004

Per	Date	Check No	Vendor No	Payee	Check GL Acct	Amount
08/04	08/26/2004	49858	183	Colvin Oil Company	10-00-2005	2,014.03
08/04	08/26/2004	49859	182	Coos-Curry Electric	10-00-2005	14,514.92
08/04	08/26/2004	49860	888	CRS	10-00-2005	925.00
08/04	08/26/2004	49861	497	Curry County Computer Services	10-00-2005	50.00
08/04	08/26/2004	49862	284	Day-Wireless Systems	10-00-2005	442.50
08/04	08/26/2004	49863	371	DEQ Business Office	10-00-2005	6,060.00
08/04	08/26/2004	49864	2827	Dianne Snow	10-00-2005	74.00
08/04	08/26/2004	49865	2117	Edge Wireless	10-00-2005	123.58
08/04	08/26/2004	49866	2045	Flint Trading	10-00-2005	2,707.96
08/04	08/26/2004	49867	113	Fred Meyer	10-00-2005	106.19
08/04	08/26/2004	49868	2873	Fred Pryor Seminars	10-00-2005	195.00
08/04	08/26/2004	49869	139	Harbor Logging Supply	10-00-2005	177.53
08/04	08/26/2004	49870	2841	Jeff & Kandi Legg	10-00-2005	8.48
08/04	08/26/2004	49871	2876	John A Shortal	10-00-2005	2.14
08/04	08/26/2004	49872	2877	Kathleen Korb	10-00-2005	28.62
08/04	08/26/2004	49873	262	Kim Hunnicutt Court Reporting	10-00-2005	14.00
08/04	08/26/2004	49874	2299	KLB Global Enterprises	10-00-2005	413.13
08/04	08/26/2004	49875	328	Les Schwab Tire Company	10-00-2005	20.00
08/04	08/26/2004	49876	1890	Marvin Parker	10-00-2005	50.83
08/04	08/26/2004	49877	2813	MJR Properties	10-00-2005	45.00
08/04	08/26/2004	49878	2051	National Waterworks, Inc	10-00-2005	359.86
08/04	08/26/2004	49879	2351	Perrine Industrial Elect Inc	10-00-2005	2,108.37
08/04	08/26/2004	49880	207	Quill Corporation	10-00-2005	92.91
08/04	08/26/2004	49881	1989	Red Lion Medford	10-00-2005	59.00
08/04	08/26/2004	49882	2878	Reginald W Dewar	10-00-2005	51.83
08/04	08/26/2004	49883	1300	Richard R Wilson	10-00-2005	7.45
08/04	08/26/2004	49884	169	Roto Rooter	10-00-2005	46,636.44
08/04	08/26/2004	49885	2875	Spothen Inc	10-00-2005	460.00
08/04	08/26/2004	49886	380	Stadelman Electric	10-00-2005	280.00
08/04	08/26/2004	49887	2577	SuppliesUSA.com, Inc	10-00-2005	493.31
08/04	08/26/2004	49888	156	That Special Touch Florist	10-00-2005	50.00
08/04	08/26/2004	49889	2586	TMG	10-00-2005	1,585.14
08/04	08/26/2004	49890	430	TSR Corporation	10-00-2005	3,825.00
08/04	08/26/2004	49891	2328	Vicki Bailey	10-00-2005	44.00
08/04	08/26/2004	49892	157	Viking Office Products	10-00-2005	53.46
08/04	08/26/2004	49893	2855	Waste Tech Inc	10-00-2005	520.00
08/04	08/26/2004	49894	686	Worlton Auto Body	10-00-2005	936.50
08/04	08/26/2004	49895	269	WW Grainger	10-00-2005	1,033.32
08/04	08/26/2004	49896	253	Xerox Corporation	10-00-2005	70.73
Totals:						<u>639,459.92</u>

BEFORE THE PLANNING COMMISSION
CITY OF BROOKINGS, COUNTY OF CURRY
STATE OF OREGON

In the matter of Planning Commission File No. MPD-1-04; a request for a Master Plan of Development; U.S. Borax, applicant.) Final ORDER) and Findings of) Fact))
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ORDER approving an application for a Master Plan of Development to establish 540 single family detached homes, 150 single family attached homes (townhouses), a 2.43 acre convenience commercial area, and a 10 acre college campus site on a 553 acre parcel of land located on the east side of Highway 101 approximately 0.80 miles north of Carpenterville Rd.; Assessor's Map 40-14 & Index, Tax Lot 2400, 2401, 2402; zoned MPD (Master Plan Development).

WHEREAS:

1. The Planning Commission duly accepted the application filed in accordance with the Brookings Land Development Code pursuant to Section 70 Master Plan Development; and
2. Such application is required to show evidence that all of the following criteria have been met:
 - A. Promote flexibility in design and permit diversification in location of structures;
 - B. Promote efficient use of land and energy and facilitate a more economical arrangement of buildings, circulation systems, land uses, and utilities;
 - C. Preserve to the greatest extent possible existing landscape features and amenities, and utilize such features in a harmonious fashion;
 - D. Provide for more usable and suitably located recreation facilities and other public and common facilities than would otherwise be provided under conventional land development procedures;
 - E. Combine and coordinate architectural styles, building forms and building relationships within the Planned Development;
 - F. Provide the applicant with reasonable assurance of ultimate approval before expenditure of complete design monies, while providing the City with assurances that the project will retain the character envisioned at the time of approval;
 - G. Promote and encourage energy conservation; and
 - H. Provide greater compatibility with surrounding land uses than what may occur with a conventional project.

3. The Brookings Planning Commission duly set this matter upon the agenda of a public meeting and considered the above described application with the public hearing a matter of record of the Planning Commission meeting of July 27, 2004 and August 18, 2004; and

4. At the conclusion of said public hearing, after consideration and discussion of testimony and evidence presented in the public hearing, the Planning Commission, upon a motion duly seconded, accepted the Staff Agenda Report and recommended that the City Council approved the request, and

5. The Brookings City Council duly considered the above described application in a public hearing at a regularly scheduled public meeting held on September 13, 2004, and is a matter of record; and

6. At the conclusion of said public hearing, after consideration and discussion of testimony and evidence presented in the public hearing, the City Council, upon a motion duly seconded, accepted the Planning Commissions recommendation; and

THEREFORE, LET IT BE HEREBY ORDERED that the application for a Master Plan Development on the subject parcel is approved. This approval is supported by the following findings and conclusions:

FINDINGS

1. The applicant has submitted a Master Plan of Development pursuant to Section 70, Master Plan Development District, of the Land Development Code, for development of 553 acres of land within the city limits.
2. The property is zoned Master Plan Development and is designated as Master Plan Area by the Comprehensive Plan.
3. The applicant has submitted findings addressing the criteria set forth by the Master Plan Development Zone for the approval of a Master Plan of Development. The applicant's findings are attached to and made a part of this document.
4. The applicant has completed a Transportation Impact Study (TIS) addressing traffic impacts on Highway 101 that will be generated by the proposed project.
5. The TIS indicates that three intersections, Highway 101/Carpenterville Rd., Highway 101/Fifth St., and the main entrance to the proposed project will be impacted by the proposed development.
6. Improvement to the Carpenterville Rd. and Fifth St. intersections are addressed in the city's adopted Transportation System Plan (TSP).
7. Because the extent of development on the subject site was not known at the time the TSP was adopted, project generated improvements were not included.
8. The TIS submitted by the applicant has provided improvement options for the main entrance to the project site, which will be implemented as required and with necessary Oregon Department of Transportation Access Permits.

CONCLUSIONS

1. The materials and findings submitted by the applicant have adequately met the requirements of Section 70, Master Plan Development District, of the Land Development Code.
2. At the time of the adoption of the city's Transportation System Plan, detailed analysis of the proposed Lone Ranch project was deferred. Now that development has been proposed, the TSP will be amended prior to approval of the first Detailed Development Plan, to include the planned improvement identified in the TIS. Because the overall traffic generation from the proposed master plan application is less than that envisioned for the site in the TSP, and because the required improvements can be accommodated during the acquisition of access permits, the Lone Ranch project is consistent with the Transportation Planning Rule.

CONDITIONS OF APPROVAL

The conditions of approval are attached to this document and are made apart thereof.

LET IT FURTHER BE OF RECORD that the Planning Commission approved the requested Master Plan of Development.

Dated this 13th day of September 2004.

Bob Hagbom, Mayor

ATTEST:

John C. Bischoff, Planning Director

**BEFORE THE PLANNING COMMISSION
CITY OF BROOKINGS, COUNTY OF CURRY
STATE OF OREGON**

In the matter of Planning Commission File No.) **Final ORDER**
CPZ-3-04; application for a Zone Change; William) **and Findings of**
Sewell/ George & Letty Lee, applicant.) **Fact**
)

ORDER approving an application for a zone change from I-P (Industrial Park) on 1.13 acres consisting of 4 Tax Lots located on the east side of Pacific Ave. between Railroad St. on the south and Cottage St on the north; Assessor's Map -13-6DB; Tax Lot 2700 and 41-13-06DA; Tax Lots 1700, 1900, 1901.

1. The Planning Commission duly accepted the application filed in accordance with Section 144, Amendments, of the Land Development Code; and,

2. The Brookings Planning Commission duly considered the above described application on the agenda of its regularly scheduled public hearing on August 3, 2004; and

3. Recommendations were presented by the Planning Director in the form of a written Staff Agenda Report dated July 23, 2004, and by oral presentation, and evidence and testimony was presented by the applicant and the public at the public hearing; and,

4. At the conclusion of said public hearing, after consideration and discussion of testimony and evidence presented in the public hearing, the Planning Commission, upon a motion duly seconded, accepted the Staff Agenda Report and recommended that the City Council approved the request, and

5. The Brookings City Council duly considered the above described application in a public hearing at a regularly scheduled public meeting held on September 13, 2004, and is a matter of record; and

6. At the conclusion of said public hearing, after consideration and discussion of testimony and evidence presented in the public hearing, the City Council, upon a motion duly seconded, accepted the Planning Commissions recommendation; and

THEREFORE, LET IT BE HEREBY ORDERED that the application for an amendment on the subject parcel is approved. This approval is supported by the following findings and conclusions:

FINDINGS

1. The applicant is requesting a Comprehensive Plan change from the existing Industrial designation to the Commercial designation and a zone change from I-P (Industrial Park) to C-3 (General Commercial) on a 1.13 acre parcel of land consisting of 4 contiguous tax lots.
2. The property to the north of the subject property is zoned C-3. The property to the east between Cottage St. and Railroad Ave. is zoned I-P. The area south of Railroad St. is zoned C-3 along the street and M-2 (General Manufacturing) behind that and the area west of Pacific is zoned both C-3 and I-P.

3. Tax Lot 2700 fronts on Pacific Ave. and Railroad St. and contains a building with multiple units that contain primarily commercial uses. Tax Lot 1700 fronts on Pacific Ave. and Cottage St. and contains a restaurant and retail store. Tax Lot 1901 contains an old house and fronts on Cottage St. Tax Lot 1900 is located behind Tax Lot 1901, is accessed from Cottage St., and is a parking lot for the commercial building on Tax Lot 2700.
4. Railroad St. is a paved travel way within a right-of-way that is 70 feet wide on the west side of the intersection with Mill St. and 60 feet on the east side of Mill St.
5. Railroad St. is a considered alternative for mitigation of projected traffic congestion in the future and thus may become the southbound leg of Highway 101.
6. Cottage St. is a paved travel way within a 40-foot right-of-way with curb, gutter and sidewalk adjacent to the restaurant but not the retail store or the house.
7. Pacific Ave. is a paved travel way within a 60-foot wide right-of-way with curb, gutter and sidewalk adjacent to the subject property.
8. All of the subject properties are served by public water and sewer.

CONCLUSIONS

1. The proposed Comprehensive Plan and zone change is compatible with the existing uses within the surrounding area, which are a mixture of commercial and light industrial uses. The uses in all of the buildings except the existing house are essentially commercial in nature and are permitted uses in the C-3 Zone. The existing house is currently a non-conforming use and because it is existing, will become a permitted use in the C-3 Zone.
2. The proposed change will help correct the slight imbalance in the ratio between industrially zoned land and commercially zoned land within the city and its urban growth boundary. The proposed change will not generate and particular conflict with the goals and policies of the Comprehensive Plan.

Dated this 13th day of September, 2004.

Bob Hagbom, Mayor

ATTEST:

John C. Bischoff, Planning Director

**IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON**

**In the Matter of an Ordinance amending the
Comprehensive Plan of the City of Brookings to
incorporate the Lone Ranch Master Plan into
Goal 14 as a separately bound document of the
Plan.**

)
)
) **ORDINANCE No. 04-O-565**
)
)

Sections:

Introduction.
Section 1. Comprehensive Plan to add the Lone Ranch Master Plan document

WHEREAS, the Brookings City Council, at its regularly scheduled meeting of September 13, 2004, did conduct a public hearing on this matter, during which hearing testimony and evidence was presented by the applicant's representative, interested parties and recommendations were received from the City Planning Commission and presented by the Planning Director; and

WHEREAS, at the conclusion of said public hearing, after consideration and discussion, the Brookings City Council, upon a motion duly seconded, did vote in the majority to adopt the Lone Ranch Master Plan, identified as Exhibit 1, as a separately bound document of the city's Comprehensive Plan.

The city of Brookings ordains as follows:

Section 1. Amendment to Goal 14 of the Comprehensive Plan

Goal 14 of the comprehensive plan is hereby amended to read as follows:

Implementation

7. Brookings recognizes the Lone Ranch Master Plan and has adopted it as a separately bound document of this Comprehensive Plan.

First Reading: _____

Second Reading: _____

Passage: _____

Effective Date: _____

Signed by me in authentication of its passage this _____ day of _____, 2004.

ATTEST:

Bob Hagbom, Mayor

Paul Hughes, Finance Director/Recorder

**IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON**

**AN ORDINANCE AMENDING THE
COMPREHENSIVE PLAN DESIGNATION
ON 4 PARCELS OF LAND LOCATED ON
PACIFIC AVE. AND COTTAGE ST. FROM
INDUSTRIAL TO COMMERCIAL AND
THE ZONING FROM I-P (INDUSTRIAL
PARK) TO C-3 (GENERAL COMMERCIAL)**

ORDINANCE NO. 04-O-564

Sections:

Introduction.

Section 1. Comprehensive Plan designation to Commercial.

Section 2. Zoning Map amendment to General Commercial.

WHEREAS, a public hearing was held on August 3, 2004 before the Brookings Planning Commission for the purpose of considering a request for a Comprehensive Plan change from a Industrial designation to an Commercial designation and a zone change from I-P (Industrial Park) to C-3 (General Commercial) on 4 parcels of land totaling 1.13 acres, located on Pacific Ave. and Cottage St; (identified as Assessor's Map No. 41-13-6DB; Tax Lot 2700 and 41-13-06DA; Tax Lots 1700, 1900, 1901).

WHEREAS, following closure of the public hearing after considerable evidence and testimony was presented by proponents and opponents, the Planning Commission directed the Planning Director to prepare a recommendation, with findings, to the City Council, for approval of the request; and

WHEREAS, the Brookings City Council, at its regularly scheduled meeting of September 13, 2004 did conduct a public hearing on this matter, during which hearing considerable testimony and evidence was presented by the applicant's representative, interested parties and recommendations were received from and presented by the Planning Director; and

WHEREAS, at the conclusion of said public hearing, after consideration and discussion, the Brookings City Council, upon a motion duly seconded, did vote in the majority to grant the applicant's request and instructed staff to prepare a Final Order to that effect;

The city of Brookings ordains as follows:

Section 1. Amendment to the Comprehensive Plan to designate property Commercial. The Comprehensive Plan of the City of Brookings is amended to show that the following described property is designated as Commercial.

Section 2. Amendment to the Zoning Map to designate property C-3 (General Commercial) The Zoning Map of the City of Brookings is amended to show that the following described property is zoned C-3 (General Commercial).

(See Attachment A and B)

First Reading: _____
Second Reading: _____
Passage: _____
Effective Date: _____

Signed by me in authentication of its passage this _____ day of _____ 2004

Bob Hagbom, Mayor

ATTEST:

Paul Hughes, Finance Director/Recorder

EXHIBIT "A"
Ordinance 04-O-564

Real property in the County of Curry, State of Oregon, described as follows:

A tract of land in the Northwest Quarter of the Southeast Quarter of Section 6, Township 41 South, Range 13 West, Willamette Meridian, City of Brookings, Curry County, Oregon, described as follows:

Commencing at a found concrete monument at the Initial Point of the recorded Plat No. 1 Brookings(1920); thence North $85^{\circ}22'27''$ West 852.80 feet to a 5/8 inch iron rod on the Easterly right-of-way of Pacific Avenue, said point being the true point of beginning; thence departing said Easterly right-of-way South $50^{\circ}40'00''$ East 94.79 feet to a 5/8 inch iron rod; thence South $42^{\circ}35'00''$ West 252.67 feet to a 5/8 inch iron rod on the Northerly right-of-way of Railroad Street; thence along said Northerly right-of-way North $62^{\circ}38'00''$ West 98.10 feet to a 5/8 inch iron rod on the Northerly right-of-way of Railroad Street said point also being on the Easterly right-of-way of Pacific Avenue; thence departing said Northerly right-of-way and running along said Easterly right-of-way North $42^{\circ}35'14''$ East 273.04 feet to the true point of beginning.