

Agenda

VAULT COPY

City of Brookings
Common Council Meeting
Brookings City Hall Council Chambers
898 Elk Drive, Brookings Oregon
September 27, 2004 7:00 p.m.

Before the regular Common Council meeting there will be a meeting of the Budget Committee beginning at 6:30 p.m. The Common Council meeting will begin at 7:00 p.m.

- I. Call to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. Ceremonies/Appointments/Announcements
 - A. Ceremonies
 - 1. Proclamation—Disability Employment Awareness Month [page 5]
 - 2. Proclamation—Fire Prevention Week [page 7]
 - 3. Acceptance of Certificate of Achievement for Excellence in Financial Reporting [page 9]
 - 4. Certificate of Appreciation to Randy Mitchem—5-Year Work Anniversary [page 11]
 - B. Announcements
- V. Public Hearing
 - A. In the matter of Planning Commission File No. APP-2-04, an appeal of the Planning Commission's approval of a Planned Unit Development to create 36 condominium units on a 9.09 acre parcel of land located at the northerly end of Timberline Drive; Assessor's Map 40-13-31CA, Tax Lot 900 zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) and Assessor's Map 40-13-31CD, Tax Lot 4900 zoned R-1-10 (Single Family Residential, 10,000 sq. ft. minimum lot size); Bruce Brothers, LLC, applicant, Debbie Hodges, appellant [page 13]
- VI. Oral Requests and Communications from the Audience
 - A. Committee and Liaison reports
 - 1. Council Liaisons
 - B. Unscheduled

VII. Staff Reports

A. Finance Department

1. Council Chambers sound system [page 277]

B. City Manager

1. Other

VIII. Consent Calendar

A. Approval of Council Meeting Minutes

1. Minutes of September 13, 2004, regular Council meeting [page 285]
End Consent Calendar

IX. Ordinances/Resolutions/Final Orders

A. Ordinances

1. Ordinance No. 04-O-555.A, an Ordinance amending Ordinance No. 04-O-555 an Ordinance granting Coos-Curry Electric a 20-year franchise for operation of an electric power distribution system in the City of Brookings. [page 291]

X. Remarks from Mayor and Councilors

A. Council

B. Mayor

XI. Adjournment

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	1	2	3	4	5	6	
10	11	12	13	14	15	16	7	8	9	10	11	12	13
17	18	19	20	21	22	23	14	15	16	17	18	19	20
24	25	26	27	28	29	30	21	22	23	24	25	26	27
31							28	29	30				

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 1:00pm CC-Parking Study-Ed Wait 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	9:00am CC-Leo, Joe-Water testing 10:00am CC-Preconstruction 12:00pm Connity Agencies mtg 2:00pm CC-Bld Opening-Cathie M 2:00pm FH-SafetyComMtg/ Kathy 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 a	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-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 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)	2:00pm CC-EDC subcommittee-Downtown Development meeting-Ed Wait 5:00pm CC-Police Training-Jeff Johnson-251-0407	8:15am CC-CmtyDevDpt Staff mtg/LLightle 10:00am CC- Site Plan Com Mtg/LauraLee Gray 7:00pm CC-Parks & Rec Comm/ LBlodgett		
31						

CC-Council Chambers
FH-Fire Hall

City of Brookings
Events Calendar

November 2004

November 2004						
S	M	T	W	T	F	S
7	1	2	3	4	5	6
14	8	9	10	11	12	13
21	15	16	17	18	19	20
28	22	23	24	25	26	27
	29	30				

December 2004						
S	M	T	W	T	F	S
5	6	7	1	2	3	4
12	13	14	8	9	10	11
19	20	21	15	16	17	18
26	27	28	22	23	24	25
			29	30	31	

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	November 1	2	3	4	5	6
	9:00am CC-Election drop box-Connie-247-3297 9:30am CC- VIPS/Volunteers in Police Service/Marvin Parker 7:00pm FH-FireTng/ChShrp (Fire Hall)	7:00am CC-election drop box-Connie 247-3297 8:30am CC-Investigator/Patrol Information Sharing Meeting-Barbara Palick 9:30am KURY Radio Community Focus Talk Show w/City Staff/Council (KURY 95.3) 7:00pm CC-Planning Commssn	12:00pm Comnity Agencies mtg (Chetco Sr.Center) 2:00pm CC-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		
7	8	9	10	11	12	13
	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)		8:00am City Hall CLOSED - Veterans Day Holiday 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		
14	15	16	17	18	19	20
	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 Palicki-X217 9:30am KURY Radio Community Focus Talk Show w/City Staff/Council (KURY 95.3) 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		
21	22	23	24	25	26	27
	7:00pm FH-FireTng/ChShrp (Fire Hall) 7:00pm CC-Council Mtg	9:30am KURY Radio Community Focus Talk Show w/City Staff/Council (KURY 95.3)	2:00pm CC-EDC subcommittee-Downtown Development meeting-Ed Wait	8:00am City Hall CLOSED - Thanksgiving Holiday 8:15am CC-CmtyDevDpt Staff mtg/LLightle 10:00am CC- Site Plan Com Mtg/LauraLee Gray 7:00pm CC-Parks & Rec Comm/ LBlodgett	8:00am City Hall CLOSED - Holiday	
28	29	30				
	7:00pm FH-FireTng/ChShrp (Fire Hall)	9:30am KURY Radio Community Focus Talk Show w/City Staff/Council (KURY 95.3)				

CC-Council Chambers
FH-Fire Hall

PROCLAMATION

WHEREAS, twenty percent of the population of the United States of American is comprised of people with disabilities; and

WHEREAS, current studies place unemployment among the country's people with disabilities at more than 70%; and

WHEREAS, the American with Disabilities Act provided civil rights protection for America's 49,000,000 persons with disabilities; and

WHEREAS, the Oregon Disabilities Commission has set the month of October as its annual observance of Disability Employment Awareness Month;

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

Disability Employment Awareness Month

And call upon the citizens of the city of Brookings to observe the month by learning about people with disabilities, their strengths, abilities, and the programs which serve their needs.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Brookings to be affixed this 27th day of October, 2004.




Bob Hagbom
Mayor

Proclamation

Whereas, Brookings Fire and Rescue responds to more than 150 fires a year; and

Whereas, Oregon fire departments respond to a fire every 2 seconds; and

Whereas, home fires claimed more lives in the United States than all other natural disasters combined; and

Whereas, smoke alarms have been proven an effective life-saver, having helped to cut the home fire death rate by one half since their introduction to the general public;

Therefore, I, Bob Hagbom, Mayor of the City of Brookings, do hereby proclaim the week of October 3-9, 2004, as

Fire Prevention Week

and call upon the people of Brookings and the surrounding area to remember the Fire Prevention 2004 reminder, "It's Fire Prevention Week: Test Your Smoke Alarms" and urge all citizens to heed advice to install and maintain smoke alarms.

In witness hereof, I hereunto set my hand this 27th day of September, 2004.




Bob Hagbom
Mayor



Government Finance Officers Association
203 N. LaSalle Street - Suite 2700
Chicago, IL 60601

Phone (312) 977-9700 Fax (312) 977-4806

05/28/2004

NEWS RELEASE

For Information contact:
Stephen Gauthier (312) 977-9700

(Chicago)--The Certificate of Achievement for Excellence in Financial Reporting has been awarded to **City of Brookings** by the Government Finance Officers Association of the United States and Canada (GFOA) for its comprehensive annual financial report (CAFR). The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

An Award of Financial Reporting Achievement has been awarded to the individual(s), department or agency designated by the government as primarily responsible for preparing the award-winning CAFR. This has been presented to:

Finance Department, City of Brookings

The CAFR has been judged by an impartial panel to meet the high standards of the program including demonstrating a constructive "spirit of full disclosure" to clearly communicate its financial story and motivate potential users and user groups to read the CAFR.

The GFOA is a nonprofit professional association serving approximately 15,000 government finance professionals with offices in Chicago, IL, and Washington, D.C.

Certificate of Appreciation

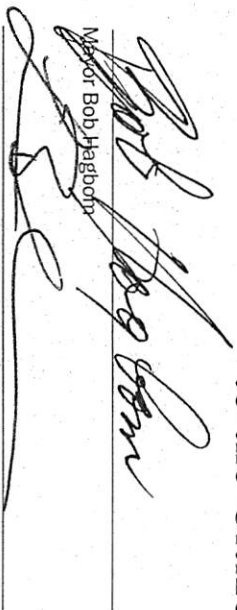
Awarded to

Randy Mitchem

for being a dedicated employee from September 1, 1999
Honored this 27th day of September, 2004

For 5 years of service
to the Citizens of the City of Brookings

Mayor Bob Hagborn



City Manager Leroy Blodgett



TO: Mayor and City Council
FROM: John Bischoff, Planning Director
THROUGH: Leroy Blodgett, City Manager
DATE: September 22, 2004



Issue: An appeal of the Planning Commission approval of a 36 unit condominium project Planned unit development (PUD) located at the north end of Timberline Dr.

Background: The subject project was heard by the Planning Commission on July 6 and August 3, 2004 and approved the project. The project consists of six 6 unit buildings and a recreation building on a 9.09 acre parcel of land accessed by a driveway that enters from the northerly terminus of Timberline Dr. in the Claron Glen Subdivision. The project is located on steep slopes along the southerly side of Ransom Creek and the buildings are to be located on a benched area of somewhat gentler slopes.

Opposition to the project at the Commission hearing was based on concerns for protection of Ransom Creek, geological issues, wetland issues, traffic issues and compatibility issues.

Recommendation: The Planning Commission approved the project based on the findings and conclusions addressed in the attached staff report and conditions of approval.

CITY OF BROOKINGS PLANNING COMMISSION
STAFF AGENDA REPORT

SUBJECT: Planned Unit Development
FILE NO: PUD-2-04
HEARING DATE: July 6, 2004

REPORT DATE: June 16, 2004
ITEM NO: 8.4

GENERAL INFORMATION

APPLICANT: Bruce Brothers LLC.

REPRESENTATIVE: Jim Capp.

REQUEST: A conditional use permit to establish a Planned Unit Development consisting of 36 dwelling units in the form of a condominium project on a parcel of land consisting of two tax lots of 8.76 acres (Tax Lot 900) and 0.33 acres (Tax Lot 4900).

TOTAL LAND AREA: 9.09± acres.

LOCATION: At the north end of Timberline Dr. at the intersection with Brooke Ln.

ASSESSOR'S NUMBER: 40-13-31CA, Tax Lot 900 and 40-13-31CD, Tax Lot 4900.

ZONING / COMPREHENSIVE PLAN INFORMATION

EXISTING: Tax Lot 900-R-1-10 (Single Family Residential, 10,000 sq. ft. minimum lot size); Tax Lot 4900-R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size)

PROPOSED: Same.

SURROUNDING: South-R-1-6; East-R-1-8 (Single Family Residential, 8,000 sq. ft. minimum lot size); West and North-County R-2 (Residential Two).

COMP. PLAN: Residential.

LAND USE INFORMATION

EXISTING: Vacant.

PROPOSED: 36 dwelling unit condominium project with private drive.

SURROUNDING: North and West-Vacant to lots around Parkview Dr. and Dodge Ave.; East-Vacant; South-Single family homes.

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 9.09± acre, irregular shaped, parcel of land consisting of two Tax Lots of 0.33 acres and 8.76± acres. The property fronts on the northerly terminus of Timberline Dr. at the intersection of Brooke Ln., with 75 feet of frontage on the west side of Timberline and 50 feet of frontage on the north end of the street. The east boundary starts at the northeast corner of Timberline Dr. and extends north for approximately 100 feet then turns east for 614.50 feet to the easterly most boundary. The easterly most boundary extends north 682 feet to Ransom Creek, which forms the northerly and westerly boundary of the site and is also the city limits. The southerly boundary leaves Ransom Creek, extending east for 194 feet then southerly for 72.59 feet then east again 192.81 feet back to Timberline Dr. The property is currently vacant but has a walking trail through the lower portion that was created when the subject property was in the ownership of developer of the Claron Glen Subdivision, which is adjoining on the south.

Ransom Creek curves from the northeast corner around to the southwest corner, forming the northerly and westerly boundary of the subject site. Topographically, the property slopes downward from the southerly boundary into the Ransom Creek drainage with slopes that range from 35% to places of 58% on the southerly portion of the site with areas of flatter benches. As it nears Ransom Creek the property drops more steeply in the northerly and westerly area along the creek bed. Two small drainages flow through the portion of the property that will be developed, one in the southerly part of the site and another in the north central area. A third drainage is located in the easterly portion of the property and is slightly larger than the other two. All of these drainages flow into Ransom Creek.

Tax Lot 4900, which is located adjacent to the west side of very end of Timberline Dr., is zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) and the remaining 8.76 acres northerly portion of the site is zoned R-1-10 (Single Family Residential, 10,000 sq. ft. minimum lot size). The area to the north of Ransom Creek is in the county's jurisdiction, zoned County R-2 (Residential Two), and is vacant except for the lots along Parkview Dr. and Dodge Ave. The area to the east is within the city limits, is vacant and zoned R-1-8 (Single Family Residential, 8,000 sq. ft. minimum lot size). The Claron Glen subdivision is located to the south of the proposed project and is zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size).

Timberline Dr. is a paved travel way within a 50-foot right-of-way with curb and gutter on both sides and sidewalk on the east side only. Brooke Ln. is a paved travel way within a fully improved 50 right-of-way. Water and sewer mains are located in Timberline and Brooke Ln.

PROPOSED PLANNED UNIT DEVELOPMENT

The applicant is requesting a permit to construct a Planned Unit Development (PUD) consisting of 36 dwelling units and a recreational building on the subject property. The project will consist of 6 residential buildings with 6 condominium units in each building. The property will be accessed from the end of Timberline Dr. with a 20 foot wide private driveway that follows the curve of the slope to the east behind the existing houses on Brooke Ln.

All of the residential buildings will be located on the down slope side of the driveway with two buildings located in the southwest corner of the property and the driveway will branch off and circle back to provide access for them. The remaining four buildings are grouped more in the

northerly portion of the site as shown on Exhibit 2. The recreational building will be located on the up slope at the easterly end of the private driveway.

Each of the residential buildings will be three stories high with two dwelling units on each floor. A garage structure with six single car garages will be located between the building and the driveway. Because of the sloping hillside, the pad elevation of the garage will be somewhat higher than that of the pad elevation for the residential building, with the difference ranging from 10 to 24 feet. When looking at the buildings from the driveway, this difference will cause the relation of the garage structure to the rest of the building to vary from building to building. See Exhibit 3. The garage will be connected to the residential building via an elevator and a stairway. Beside the garages, the driveway will have six parking bays containing a total of 35 parking spaces for a total of 71 defined parking spaces. The garage apron for all but two of the buildings can also be used for parking purposes.

A water main will be extended into the private driveway to provide service to each building. A sewer main will be constructed down slope from the buildings, allowing gravity flow to a pump station located below Bldg. 5 and pumped from there up to a main in the driveway and to the main in Timberline Dr. Drainage will be engineered and will flow to Ransom Creek.

The entire project, including the driveway, buildings and sewer lines and pump station will occupy only 19.5% of the total site, leaving 80.5% in open space.

A planned unit development is implemented through the approval of a conditional use permit but must meet the criteria set forth in Section 116, Planned Unit Development Approval, as well as the criteria of Section 140, Conditional Use Permits, of the Land Development Code. The provisions of Section 116 allow flexibility of the development standards that are set forth in the underlying zoning and in other areas of the Land Development Code, such as street width, the ability to cluster buildings, as in this application in the form of condominium units rather than detached single-family homes, although the overall density allowed by the zone cannot be exceeded. In return for this approval, the applicant must show that there is a benefit to the city for allowing the flexibility.

ANALYSIS

The criteria for a conditional use permit is as follows:

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

1. The proposal is in compliance with the Comprehensive Plan.
2. The site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this code.
3. The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use.

4. The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the commission shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and bulk of buildings, walls and fences, landscaping, screening, exterior lighting and signing.
5. In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complimentary to the surrounding area.

The criteria for a PUD is as follows:

In granting approval for a planned unit development, the Planning Commission shall seek to determine, based upon evidence, both factual and supportive provided by the applicant, that:

1. The applicant has, through investigation, planning and programming, demonstrated the soundness of his proposal and his ability to carry out the project as proposed, and that the construction shall begin within 12 months of the conclusion of any necessary actions by the city, or within such longer period of time as may be established by the Planning Commission.
2. The proposal conforms with the Comprehensive Plan and implementing measures of the city in terms of goals, policies, location and general development standards.
3. The project will assure benefits to the city and the general public in terms of need, convenience, service and appearance sufficient to justify any necessary exceptions to the regulations of the zoning district.
4. There are special physical conditions or objectives of development which the proposal will satisfy so that a departure from standard zoning district regulations can be warranted.
5. That the project will be compatible with adjacent developments and will not adversely affect the character of the area.
6. The project will satisfactorily take care of the traffic it generates, both on and off-site, by means of adequate off-street parking, access points, and additional street right-of-way improvements.
7. That the proposed utility and drainage facilities are adequate for the population densities and type of development proposed and will not create major problems or impacts outside the boundaries of the proposed development site.

The applicant's representative has presented an analysis with findings that starts by examining the proposed PUD in regard to each of criteria listed above and then continues to address the criteria for a conditional use permit. Besides findings addressing the criteria for the conditional use permit and PUD, the applicant must submit certain materials to support the analysis. In this case much of the required material is the same for both the use permit and PUD and the applicant has submitted all required material. In this report, staff will comment on each of the applicant's statements in regard to their validity, completeness by simply stating agreement or disagreement and, if necessary, may add to the statement. Please read the attached analysis and findings in relation to the staff comments below:

Analysis--Section 140, Conditional Use Permits--Part 1 of Applicant's Analysis

Criterion 1, Compliance with the Comprehensive Plan.

Goal 1, Citizen Involvement

Staff agrees with the applicant's analysis and finding.

Goal 2, To establish a land use planning framework.

Staff agrees with the applicant's analysis and finding.

Goals 3 and 4, Agriculture and Forestry

Staff agrees with the applicant's analysis and finding.

Goal 5, Conservation of open space, natural and scenic resources and historic areas.

Staff agrees with the applicant's analysis and finding. The proposed project preserves 80% of the site in a natural state including the riparian area along Ransom Creek, which will be virtually untouched. As will be shown later in this report this constitutes a benefit to the city that works toward one of the criteria for the PUD approval.

Goal 6, Maintenance and improvement of air, water and land resources.

Staff agrees with the applicant's analysis and finding. The applicant has contacted a team sponsored by the State Department of Land Conservation and Development, that works with developer on creating projects that handle storm water through a process called "Rain Storming", which uses combinations of open swales and conventional storm drainage systems, pervious pavement and other techniques to encourage percolation of water back into the ground and to cleanse the water in the process. Regardless if this program will work or be applied to this project, the applicant's statement is accurate.

Goal 7, Protection from natural disasters and hazards.

Staff agrees with the applicant's analysis and finding. Due to the slopes on the subject property, all development on the site will fall under the provisions of Section 100, Hazardous Building Site/Hillside Development Standards, of the Land Development Code, and a site specific geological study will be required prior to the construction of any building.

Goal 8, Recreation.

Staff agrees with the applicant's analysis and finding. The project also proposes a recreational building for the residents of the project.

Goal 9, Economy.

Staff agrees with the applicant's analysis and finding.

Goal 10, Housing.

Staff agrees with the applicant's analysis and finding. The proposed project provides a different type of housing than what would normally be provided on the subject property.

Goal 11, Provision of public services and facilities.

Staff agrees with the applicant's analysis and finding.

Goal 12, Transportation.

Staff agrees with the applicant's analysis and finding. Although the proposed project does not create a new street, Timberline Dr. is a standard 50-foot right-of-way with curb and

gutter on both sides and sidewalks on the east side. The reason sidewalks were not constructed along the northerly portion of west side of Timberline is due to the topography along that stretch drops directly from the right-of-way line and a sidewalk would create more of a hazard than benefit. Brooke Ln. is a fully improved standard street within a 50-foot right-of-way. The traffic added to Timberline Dr. and Brooke Ln. by the proposed project is equivalent to the traffic generated by development of single family lots under the R-1-10 Zone and will not create a significant impact on either street.

Goal 13, Conservation of Energy.

Staff agrees with the applicant's analysis and finding.

Goal 14, Urbanization.

Staff agrees with the applicant's analysis and finding.

Goal 15, Willamette Greenway.

This goal does not apply.

Goals 16, 17 and 18, Estuaries, Coastal Shorelands and Dunes and Beaches.

Staff agrees with the applicant's analysis and findings for these goals.

Criterion 2, Adequate Size And Shape.

Staff agrees with the applicant's analysis and finding.

Criterion 3, Relation of Streets.

Staff agrees with the applicant's analysis and finding. See discussion of Goal 12 above.

Criterion 4, Neighborhood Impact.

Staff agrees with the applicant's analysis and finding. If developed as a single lot subdivision, the result would be much greater clearing to the property, more pavement due to the requirement for a standard street and etc. Due to the topography of the site the roof line of all the buildings will be at or below the level of most of the lots within the Claron Glen Subdivision and thus will be visible and intrusive.

Criterion 5, Historic, Scenic Or Cultural Attributes.

Staff agrees with the applicant's analysis and finding.

Analysis--Section 116, Planned Unit Development--Part 2 of Applicant's Analysis

The first part of the applicant's analysis and findings address the purpose and general requirements of Section 116, which the applicant has met. The analysis and findings for the criteria for approval start with "Statement of The Criterion No. 6" on page 22 of the analysis document and are listed as "Standards for Approval."

Criterion 1, Applicant's ability to carry out the project.

Staff agrees with the applicant's analysis and finding.

Criterion 2, Conformance with city's Comprehensive Plan.

Staff agrees with the applicant's analysis and finding. See discussion of Comprehensive Plan goals under the criteria for the conditional use permit above.

Criterion 3. Benefits to the city.

Staff agrees with the applicant's analysis and finding. The use of a PUD on this property provides for the housing density allowed by the underlying zone, which would not be achievable if developed through a subdivision that provides for single-family homes on single lots due to the topography. Allowing the PUD permits the use of the land efficiently where it may not be feasible using standard development methods. The PUD also allows for a variety of housing types that would not otherwise be created by a standard subdivision and thus complies with the policies of Goal 10, Housing, which contains a policy to provide a variety of housing types.

Criterion 4. Physical conditions or objectives of development.

Staff agrees with the applicant's analysis and finding. When the subject parcel of land was annexed to the city, the R-1-10 was placed on the property due to the sloping topography. The topography is a physical constraint that prevents the property from being used to the extent allowed by the zone using a standard subdivision. The PUD allows the clustering of dwelling units as being proposed in the subject application and thus the ability to use the entire density allowed by the zone.

Criterion 5. Compatibility with adjoining property.

Staff agrees with the applicant's analysis and finding. See discussion of Criterion 4 under the criteria for the conditional use permit above.

Criterion 6. Traffic.

Staff agrees with the applicant's analysis and finding. See discussion of Goal 12 under Criterion 1 of the analysis for conditional use permits above.

Criterion 7. Drainage facilities.

Staff agrees with the applicant's analysis and finding. The applicant has demonstrated the drainage from the site can be engineered in a manner that will protect Ransom Creek and all downstream properties. Also see discussion under Goal 6 above.

The applicant's analysis and findings document has satisfactorily addressed all of the criteria required and provided the findings necessary to approve the proposed Planned Unit Development. Staff is satisfied that the applicant has met the requirements to allow a PUD on the subject property.

FINDINGS

1. The applicant is requesting a permit to establish a Planned Unit Development on a 9.09 acre parcel of land located at the north end of Timberline Dr. at the intersection with Brooke Ln.
2. Planned Unit Developments are implemented through Section 140, Conditional Use Permits and Section 116, Planned Unit Development Approval, of the Land Development Code.
3. The applicant has submitted all the materials required by Sections 140 and 116 of the Land Development Code.
4. The applicant has submitted a document addressing the criteria and findings for the criteria set forth for the approval of a conditional use permit and a planned unit development. The applicant's findings and conclusions are made a part of this document.

CONCLUSIONS

Staff has reviewed the applicant's analysis and findings document and has determined that they show that the proposed project meets the requirements for both a conditional use permit and a planned unit development.

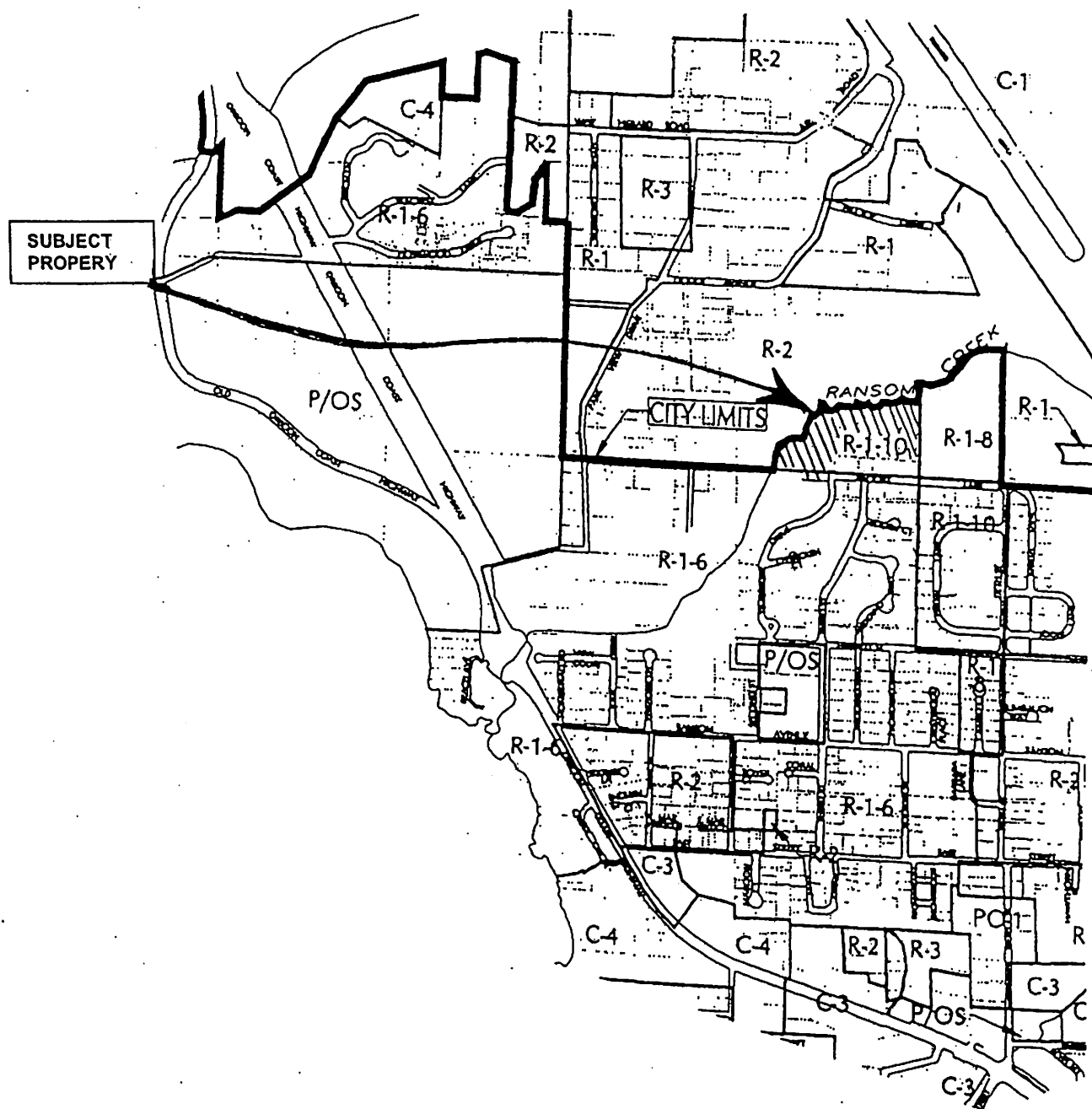
CONDITIONS OF APPROVAL

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

RECOMMENDATION

Staff recommends **APPROVAL** of Case File No. PUD-2-04, 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.



Applicant: Bruce Brothers

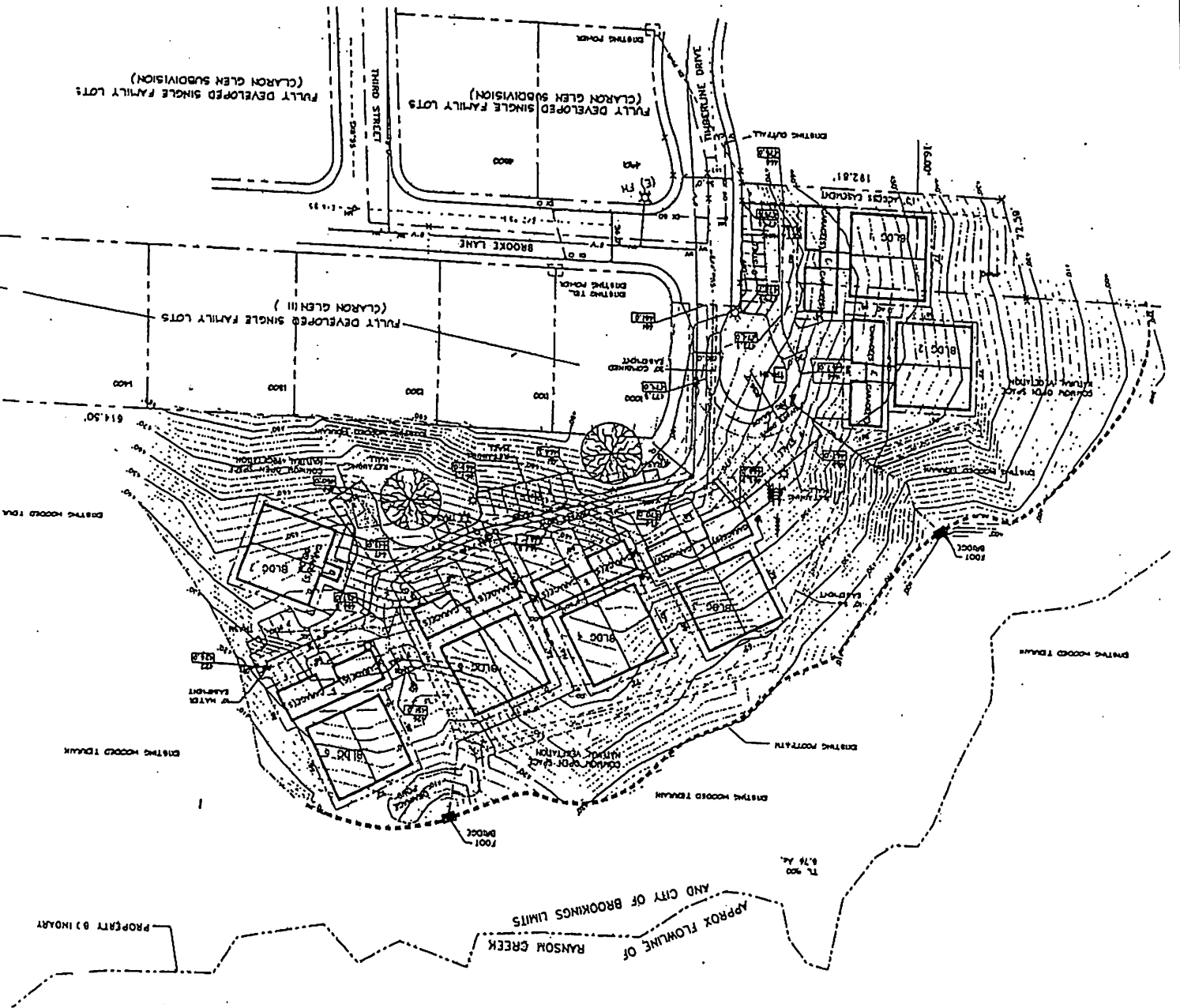
Assessor's No: 40-13-31 CA Tax Lot 900 & 40-13-31 CD Tax Lot 4900

Size: 9.09 Acres

Location: Timberline Drive and Brooke Lane- Ransom Creek

Zone: R-1-10 (Single-family Residential 10,000 square foot lot))





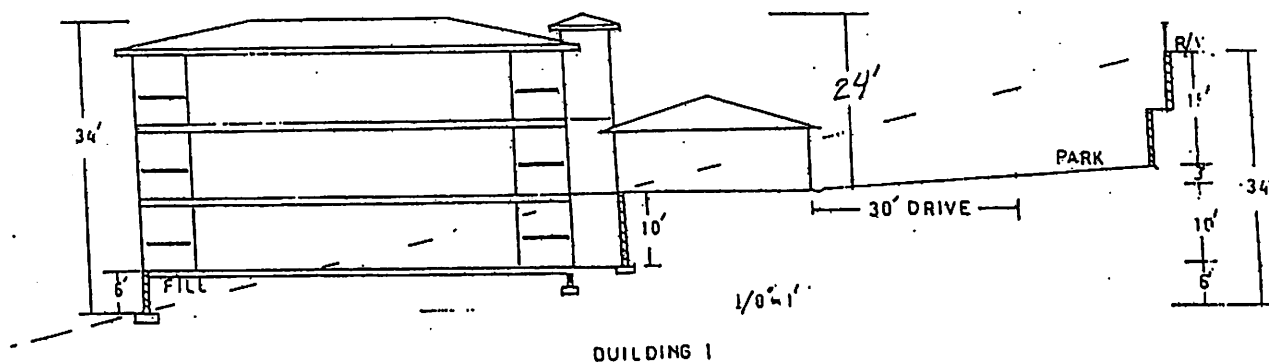
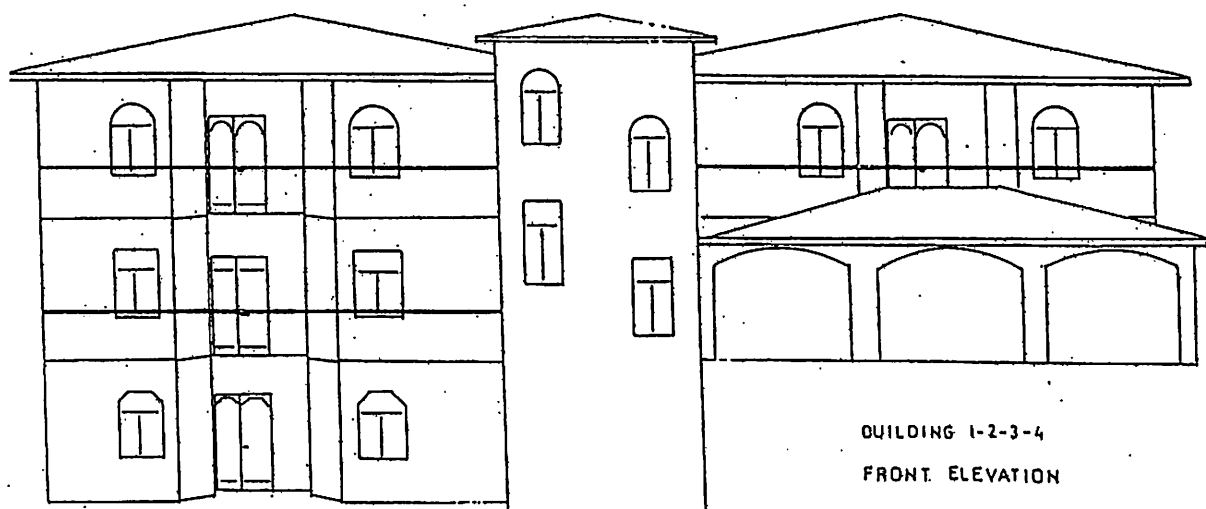
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Applicant: Bruce Brothers

Assessor's No: 40-13-31 CA Tax Lot 900 & 40-13-31 CD Tax Lot 4900

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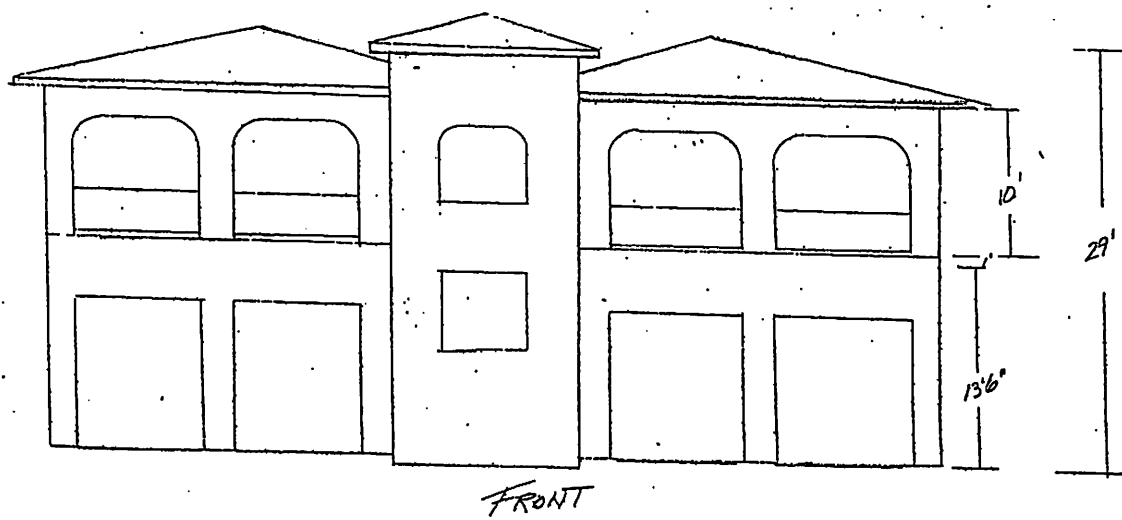
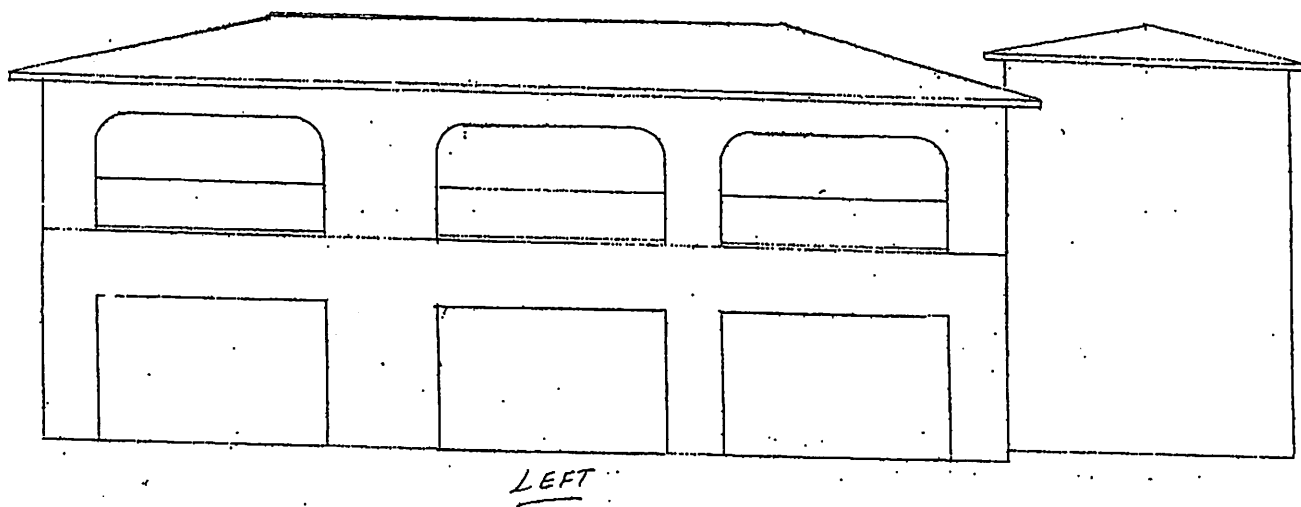
Location: Timberline Drive and Brooke Lane- Ransom Creek

Zone: R-1-10 (Single-family Residential 10,000 square foot lot))



Case No. PUD-2-04

Exhibit No. 4



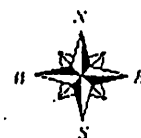
Applicant: Bruce Brothers

Assessor's No: 40-13-31 CA Tax Lot 900 & 40-13-31 CD Tax Lot 4900

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Zone: R-1-10 (Single-family Residential 10,000 square foot lot))

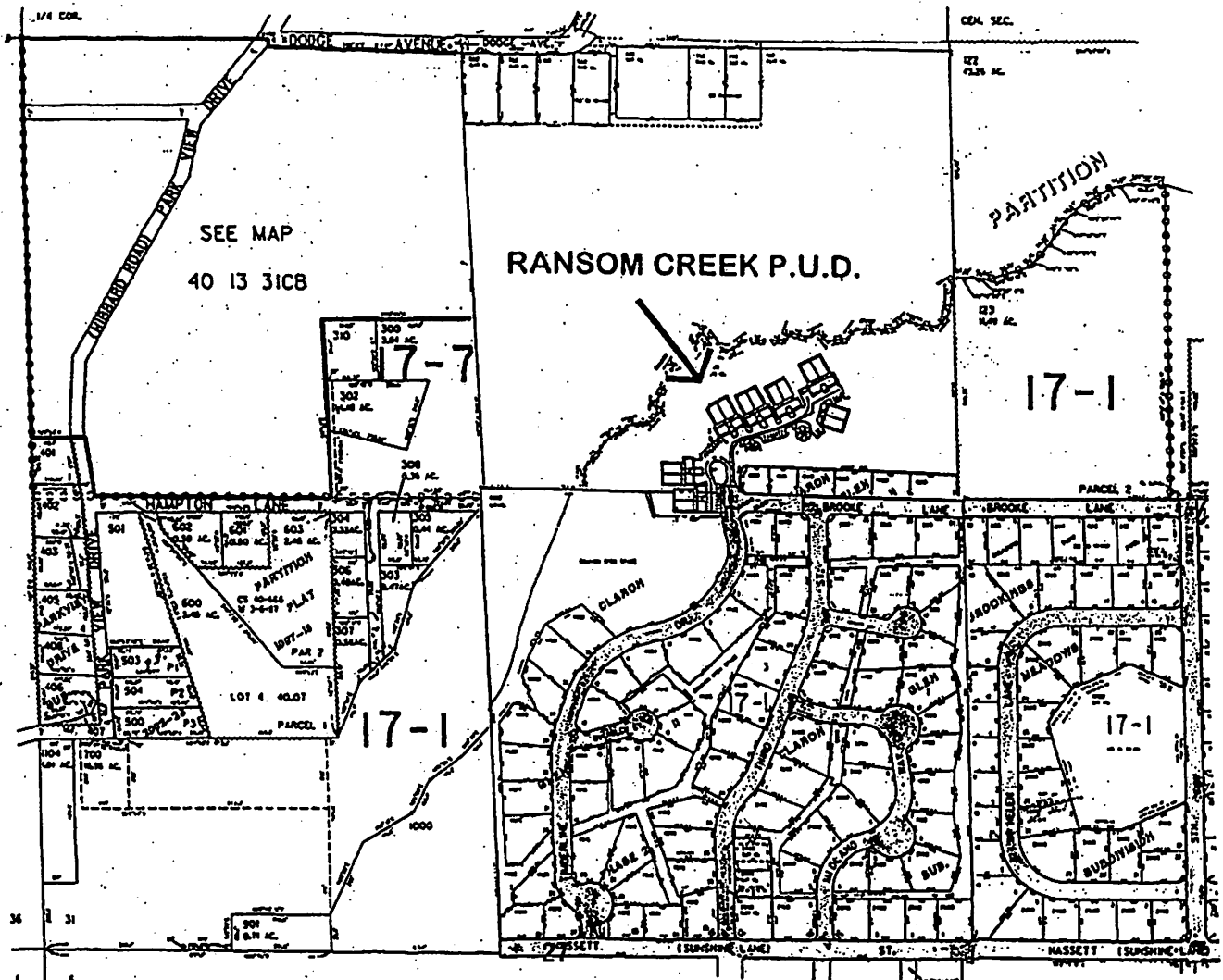


SUBMITTED TO: BROOKINGS, PLANNING COMMISSION

AGENTS: Planning & Zoning
Jim Capp,
Western Land Use Services, Inc.
P.O. Box 2937
Harbor, OR, 97415

Engineering & Design
Tim Bossard
T.J. Bossard, Inc.
133 N.W. "D" Street
Grants Pass, OR. 97526

SUBJECT PROPERTY: TL 900, M40-13-31CA & 4900, M40-13-3CD



FORMAT: Planning Director, Mr. Bischoff, advises findings in support of this proposed planned unit development must address the applicable criteria of Sections 140 and 116 of the City of Brookings Land Development Code. For the convenience of the Commission, we first quote each criteria the Code section and then set forth relevant facts addressing each in support of this application. This application contains Exhibits, in the form of maps, correspondence and other items as well as written findings which are offered as evidence in support of this application for Planned Unit Development.

VICINITY AND ZONING

Ransom Creek forms the northern boundary of the subject property, thus the name

Ransom Creek PUD.

Ransom Creek is also the City limit here.

Pacific Ocean

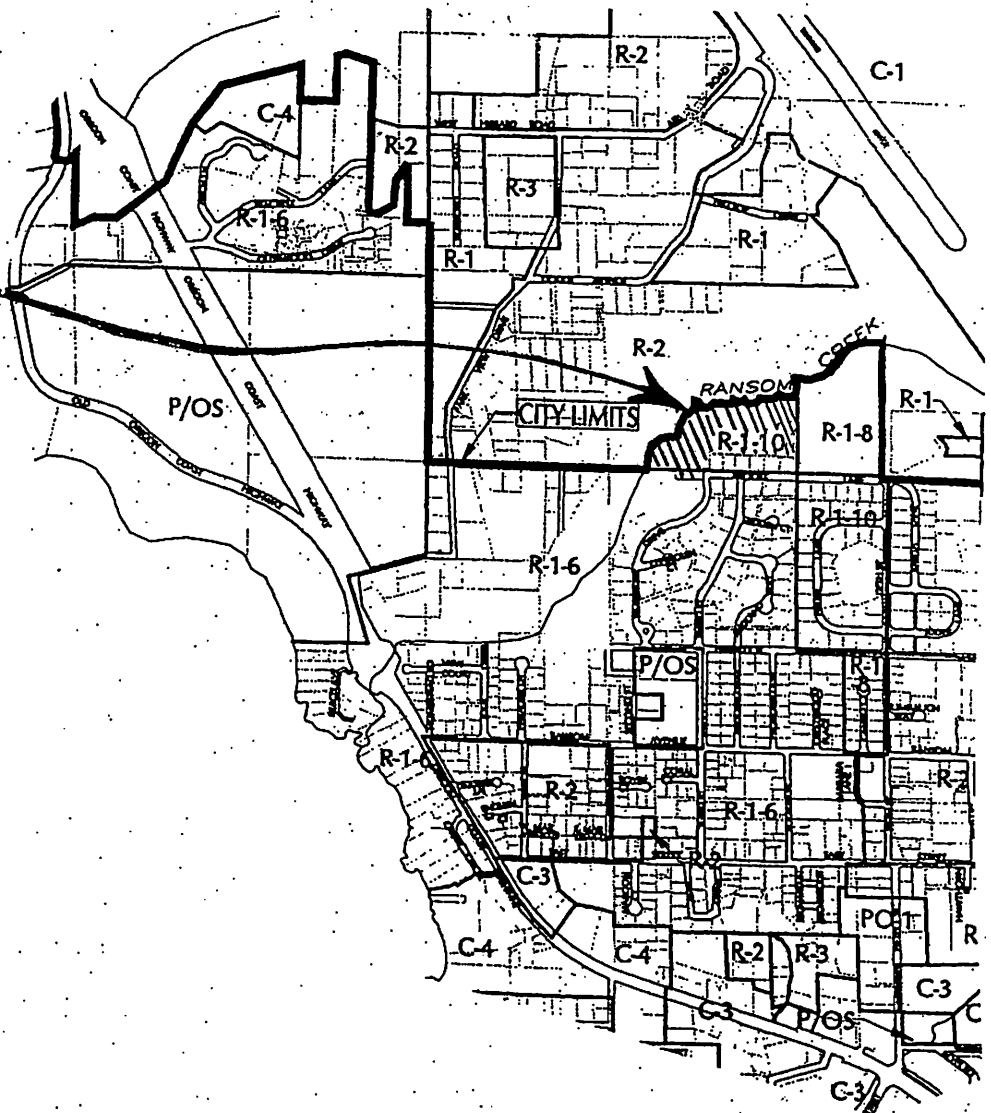


EXHIBIT LIST

1. Ransom Creek PUD, Preliminary Site Plan, prepared by T.J. Bossard, Inc., an Oregon registered civil and structural engineering firm, with land survey by Stuntzner Engineering and Forestry Oregon registered Professional Land Surveyors.

Note: This item is a separate document and is too large (24x36) to reprint here.

2. Geotechnical feasibility of constructing the proposed seven-building, 36-unit Ransom Creek Condominiums, Brookings Oregon, letter by Busch Geotechnical Consultants, May 19, 2004.
3. Condominium/Subdivision Guarantee, dated May 3, 2004, issued by First American Title Insurance Company of Oregon.

WARNING:

Notice: This application has been developed for the specific property identified herein and for the applicant listed. Use of this application or portions of this application for other property or persons, other than the owners of the subject property, without the written consent of Western Land Use Services is not authorized.

BROOKINGS DEVELOPMENT CODE

Criteria and Findings

Part 1 Conditional Use Permit, Section 140

1. Statement of the Criterion:

Sec 140.060 Burden of Proof. The specific findings made by the planning commission in granting a conditional use permit must be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the approval of the conditional use. If no evidence is produced concerning any of the findings listed in subsection C of Section 140.050, the application must be denied based upon improper or inadequate findings. All evidence produced must be recited in the findings for approval of any conditional use permit application.

a. Finding on this criterion:

This section is a statement of the applicants charge and does not require finding.

2. Statement of the Criterion:

Sec 140.050 C.1. The proposal is in compliance with the comprehensive plan.
Goal 1 Citizen Involvement

a. Finding on this criterion:

By its adoption of Goal 1 the City determined that requiring applicants to provide lists of neighborhood property owners is an appropriate method of providing for and stimulating citizen involvement and participation in the quasi-judicial land use hearing process. In this case the Land Development Code requires public hearing; the applicant must provide the names of property owners within the specified distance of the subject property; and, the City provides notice of the hearing to those property owners. Surrounding property owners are therefore made aware, first hand, of the process and are thereby given opportunity to become informed and participate in the City's decision making process regarding this proposed annexation. The requirement to provide names and addresses of owners of property within 250 feet has been met. We conclude this application is in compliance with Goal 1 and the Land Development Code requirement.

Figure 1 on the following page provides ownership information for all lots touched by or included within the 250 foot distance. This list was compiled from Curry County Assessment Department records of ownership of all property within that 250 feet distance of the subject.

Figure 1 Owners of Property Within 250'

DUDLEY E. MUNNS, TRUSTEE
PATRICIA MUNNS, TRUSTEE
PO BOX 1171
BROOKINGS, OR 97415

PAUL R. BUSTRUM
BETTY A. BUSTRUM
12333 NORINO DRIVE
WHITTIER, CA 90601

LUBOS PYTUK
ALENA PYTUK
1000 BROOKE LANE
BROOKINGS, OR 97415

EUGENE R. WELLENBROCK
JONATHAN WELLENBROCK
PO BOX 250
BROOKINGS, OR 97415

MILTON J. GOWMAN, TRUSTEE
BETTY L GOWMAN, TRUSTEE
96903 GOWMAN LANE
BROOKINGS, OR 97415

JOSEPH J. HODGES
DEBORAH L. HODGES
PO BOX 1780
BROOKINGS, OR 97415

JACK D. BARTON ETAL
MARCELLA COFFMAN, ETAL
965 THIRD STREET
BROOKINGS, OR 97415

JAMES F. BRUGGEMAN, JR.
MELODY BRUGGEMAN
971 TIMBERLINE DRIVE
BROOKINGS, OR 97415

GARY A. KLEIN
KAREN L. KLEIN
967 TIMBERLINE DRIVE
BROOKINGS, OR 97415

DARIAN L. MELLON
HEIDI M. MELLON
963 TIMBERLINE DRIVE
BROOKINGS, OR 97415

CLARON GLEN HOMEOWNERS
ASSOCIATION
PO BOX 413
BROOKINGS, OR 97415

2. Statement of the Criterion:

Goal 2: To establish a land use planning process framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions:

a. Finding on this criterion:

Goal 2 provides an overview of the process of land use planning. It is broad instruction given cities and counties by the State as to how the land use process is designed. It sets general parameters for making decisions. A local government comprehensive plan and implementing ordinances is developed and adopted in response to Goal 2 and other Statewide Goals. The Brookings Comprehensive Plan and Land Development Code were developed and adopted over a long period of time with input from all sectors of the community utilizing the parameters set out in Goal 2. From their adoption on local Comprehensive Plans and Zoning Ordinances provide the specifics of making individual land use decisions. A local zoning ordinance is developed and adopted in response to the local comprehensive plan. The zoning ordinance is the document which implements the decisions and policies affecting land use in the City as set forth in the Comprehensive Plan. Goal 2 does not

apply directly to this application because it set forth basic parameters under which applicable Land Development Code criteria were developed. Through decision making based on the criteria of the Land Development Code, the City will ensure goal 2 parameters are carried forth.

3. Statement of the Criterion:

Goal 3: To cooperate with the County in the preservation and maintenance of agricultural lands:

Goal 4: To support and cooperate with the County in its efforts to protect Forest Lands.

a. Finding on this criterion:

The subject property is not zoned as either agriculture or forest land. It lies within the City limits and is zoned as residential land under Brookings Land Development Code and Zoning Map. Goals 3 and 4 do not apply to this application.

4. Statement of the Criterion:

Goal 5: To conserve open space and protect natural and scenic resources and historic areas while providing for the orderly growth and development of the City.

Policy 1. It is the policy of the City of Brookings 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.

Policy 3. It is the policy of the City of Brookings to preserve forest and agricultural lands which serve as a valuable open space areas by focusing development within the City limits/ Urban Growth Boundary.

a. Finding on this criterion:

The Comprehensive Plan, Goal 5 Inventory does not identify any Goal 5 resources on the subject property. Additionally, policies 2 and 4 to Goal 5 do not apply because the subject property is not located within the Chetco River Estuary or the Harris Beach Bog. The subject property is within the City limits and is zoned Residential R-1-10. It is already dedicated to residential uses via Brookings Land Development Code. Goal 5 does not apply to this application.

It is worth noting however, that the concept of Condominium development, in the concept of this application of Planned Unit Development will provide open space (79% of the property will be common area) which will provide natural settings and maintain tree covered areas on the property for occupant enjoyment and use as outdoor area. Those areas are indicated on the site plan as "existing wooded terrain" and "common open space natural vegetation".

5. Statement of the Criterion:

"Goal 6: To maintain and improve the quality of the air (including the control of noise pollution), water and land resources of the Brookings area.

Policy 3. It is the policy of the City of Brookings to utilize programs to manage land conservation and development activities in a manner that reflects the desires of the community

6. Statement of the Criterion:

"Goal 7: To protect life and property from natural disasters and hazards...

Policy 2. When development is planned in areas of identified hazards, the developer will be required to show that property development will not be endangered by the hazard and that appropriate safeguards will be taken..."

a. Finding on this criterion:

The subject property is not located in an area of geologic hazard according to the Geologic Hazard Map of the Cape Ferrello Quadrangle Oregon, published in Bulletin 90 Land-Use Geology of Western Curry County, Oregon 1976. The geologic hazard of most concern throughout Curry County and the City of Brookings is that of Earthflow and Slump Topography. The nearest occurrence of slump topography indicated on that Geologic Hazard map is over a mile distant to the north on the north side of a rather large ridge beyond Black Mound; and, a very small area along the western edge of the Dawson Tract north of Harris Beach adjacent the ocean approximately one and a half miles distant to the west. It is notable no indication of earthflow and slump topography appears on that Geologic Hazard map anywhere in the neighborhood of the subject property. However, the topography at the site is hilly coastal terrain and Ransom Creek, which forms the north boundary of the property, has a deep steeply sloped terrain feature leading down to it.

b. Finding on this criterion:

Because the subject property has that steep and deep creek valley as a topographical feature, applicants arranged for geologic review by Busch Geotechnical Consultants. His letter of report, "Geotechnical feasibility of constructing the proposed seven-building, 36-unit Ransom Creek Condominiums, Brookings Oregon" is attached as **Exhibit 2**.

The report describes Preliminary Geologic Findings and indicates further analysis will be necessary. It also provides the following assessments:

"...6. In our in-house stability classification (Appendix III), the slopes within the development area are mostly Moderately Stable. Localized small Stable and Provisionally Stable areas are present, but improvements will avoid the provisionally Stable slope areas. The Moderately Stable slopes are subject to a soil creep hazard but are at Low risk of landsliding under static ("everyday") conditions or the dynamic ("earthquake-shaking") conditions of the area's design basis earthquake (or BDE). Some of the creekside slopes below the development area are Provisionally Stable, which means that they are a MODERATE to HIGH risk of experiencing some type of landslide within the near future (75 years). However, based on our work to date, and assuming the slopes remain forested, we believe that the risk is LOW that a slope failure originating near the creek would progress upslope into the development area.

"7. Based on our understanding that the developers and project engineer favor a low-impact development style that minimizes cuts and fills, the project is feasible from a geotechnical perspective. We anticipate that foundations for the condominiums and garages will vary from simple "standard" types to complex deep foundations consisting of reinforced cast-in-place piers, trade beams, and structural slabs.

"8. The existing soils and slope conditions pose acceptable levels of risk to the planned improvements. Furthermore, the required development activities, if done in conformance with

our forthcoming recommendations, will not increase the levels of risk associated with existing hazards.

These quotes from the geologic evaluation are intended to impart an overview of some of the hazards reviewed and recommendations given in the report. Further and more full understanding can be gained by review of the entire report.

The design of the proposed planned unit development condominiums includes construction and installation of a storm drain system. We conclude the proposed planned unit development subdivision will be in compliance with Goal 7 given reasonable application of safeguards indicated in Mr. Busch's report during building site selection and construction of development features and through implementation of building code requirements during construction of dwellings.

7. Statement of the Criterion:

Goal 8: To satisfy the recreational needs of the citizens of the Brookings area, State and visitors.

Policy 1. It is the policy of the City of Brookings to encourage better utilization of existing recreational facilities and to plan for and develop new recreational facilities and opportunities.

Policy 2. The City of Brookings encourages the development of neighborhood parks to be coordinated with future expansion of residential areas.

a. Finding on this criterion:

The many recreational facilities in the City are easily available. The Comprehensive Plan, Goal 8 Inventory identifies many recreational sites and facilities in Brookings and surrounding areas. With regard the Subject Property, notable among those identified are Harris Beach State Park and Bud Cross Park. Harris Park has open and wooded areas, rest area and Information Center, nature trails, sandy beaches and picnic areas and public restrooms. Bud Cross Park is located southerly a short quarter mile away within easy walking distance along City streets. This park contains the municipal swimming pool, restrooms, baseball and softball fields, two tennis courts and a paved basketball court. Further distant but within easy access by car Azalea Park is approximately 2 miles distant and can be accessed by traveling east along Ransom Avenue and connecting to Old County Road then south a few blocks. This park offers open and wooded areas, Play Town (play structures for kids), band shell, softball fields, nature trails, picnic areas and public restrooms. A visit to Azalea Park from the subject property does not require travel along busy Highway 101. Subdivision of the subject property within the City limits encourages coordination between those recreational facilities and this proposal because the subject lies in general vicinity of each. Development of additional residential area in proximity to these two, existing recreational facilities will assist the City to better utilize these facilities and coordinate the use of those facilities with future residential areas as proposed here. We conclude of the subject property would serve to encourage better utilization of existing recreational facilities. This proposed subdivision is in accord with Goal 8.

8. Statement of the Criterion:

Goal 9: To diversify and improve the economy of the Brookings area.

Policy 2. The City of Brookings will encourage the diversification of the City and the regional

economy. The City wishes to create new employment opportunities while sustaining and expanding existing economic sectors.

a. Finding on this criterion:

The findings provided under Goal 9 in the Comprehensive Plan indicate Brookings had a narrow economic base at the time the Plan was adopted. Finding one indicates as follows: *"The economic base in the Brookings area is relatively narrow and mostly dependent on the timber industry. The lumber and wood products industry accounts for over 60% of the basic jobs in the County, and there has been a continuing decline in timber harvested in the County since 1959. When interest rates are high, as is the case presently, money for the construction of new houses becomes relatively unavailable. This decrease in housing starts has a negative effect on lumbering activity in the area. As a result, Brookings can expect periods of time with high unemployment rates."*

Economic conditions change from time to time and they have changed since the Plan was written. Current and past economic data indicate interest rates have both risen and fallen since then. Times have changed but the concern stated in the Plan remains valid. Encouragement of housing starts can have a positive effect on lumbering activity in the Brookings area.

b. Finding on this criterion:

Needed residential development itself will not solve the problems of a narrow economic base for the local economy pointed out in Article 9 of the Plan. Policy 2 of that Comprehensive Plan Article comes closest of all to addressing any economic impacts of residential developments in such as proposed here. Where it indicates:

"The City of Brookings will encourage the diversification of the City and the regional economy..." Policy 2 sets out the import of even small area residential development. Developments such as proposed here, will provide employment opportunities for those in the local home building and infrastructure construction industry; and, provide a boost to the local market through increased need for construction and building materials. Economic spin offs will occur to other sectors of the local economy as well because increased spending by one sector manifests itself in increased spending by other economic sectors such as the service industries.

We conclude the proposed subdivision is in accord with Goal 9.

9. Statement of the Criterion:

Goal 10: Provision of varied housing which is safe, sanitary and adequate for all residents of the community.

Policy 1. City shall not unduly restrict land development thereby artificially inflating the cost of both new and existing housing, but rather provide land in suitable quantities and encourage the construction of new residential units to meet increased demand.

Policy 2. City shall provide for a variety of housing options and sites and plan for suitable locations. It is recognized the private sector will continue their leadership role in this function.

Policy 3. City shall advance where possible the evolution of safe and aesthetically pleasing residential neighborhoods that are efficiently integrated with business and commercial property, schools, parks, public facilities and other urban development.

a. Finding on this criterion:

Ransom Creek PUD will provide housing which is provide options to the normal neighborhood housing where one dwelling is located on one lot. Condominium life style is an alternative living situation which some prefer. The design of this proposal will provide clustered units and, at the same time reserve much of the openness and beauty of the site for enjoyment of the occupants. Trails and naturally wooded vistas will remain as 79% of the land area remains in common area.

The concept of Ransom Creek PUD will provide safe housing from a different perspective than we normally consider. Brookings and all of the southern Oregon coast is located on hilly coastal terrain whereon slopes are frequently steep and difficult to build upon. Lower portions of small stream drainages are commonly steep. As the geology report indicates, such is the case with the subject property. Ransom Creek forms the north boundary of the subject and the land surface immediately adjacent that creek is steep. The design concept inherent in this condominium project will place dwelling units on the less steep portions of the property and in the more stable sites. Thus the design concept will provide safe housing; and, will also allow the property to be utilized as it is planned and zoned to the density projected by the R-1-10 zoning district.

The subject property is located adjacent an existing paved street in a neighborhood where municipal services are available. Water, power, telephone, cable TV and etc. are located in the area and are in service to the many residences in neighboring subdivisions. Sewer and water service are both present and adjacent in Timberline Drive and Brooke Lane. The extension of sewer and water service will allow development as platted in a sanitary fashion. Because it is located in close proximity to recreational and commercial services of the community, this planned unit development will assist the City in attaining its goal to provide for a variety of housing which is safe, sanitary and adequate for all residents of the community. We conclude this proposed planned unit development is in compliance with Goal 10.

10. Statement of the Criterion:

Goal 11: To Plan and develop a timely, orderly and efficient arrangement of public facilities and services to provide a framework for urban and rural development.

Public Works:

A. Water treatment facilities will be maintained with the proper observation and planning to expand facilities on a timely basis to provide continued service to existing customers and projected growth.

B. Water distribution, pumping and storage construction will be constructed for new development by developers. The city council is presently reviewing methods of implementing a "pay as you go" development policy.

C. Wastewater treatment facility expansion programs will be funded through the most cost-effective methods utilizing all available federal, state and local funds.

D. All public works construction to serve newly developed areas will be on the "pay as you go" policy with developers designing and constructing new facilities in accordance with the city Standard Detail and Specifications adopted September, 1981

a. Finding on this criterion:

The city "Standard Detail and Specifications" quoted in the Plan have, over time since adoption of the Plan, been updated and amended. According to City staff the current document is referred to as "General Engineering Requirements and Standard Specifications" and was adopted in August 1988 and updated August 1998. Those standards are applied to all development and will be applied to development which may result from this application. The framework of public facilities and services is guided by implementation of those standards through the land use permit process, including building and plumbing permits. In conjunction with long term land use decisions already made through residential zoning having been placed on the subject property; engineering standards and zoning together provide the framework for urban development of this property. The property lies adjacent to existing municipal services and existing developed areas and neighborhoods within the City. Development of this property is a logical piece of growth along Ransom Creek in a direction where lands outside the existing City limit are included within the urban growth boundary and are slated for future urban growth and development. The project has been specifically designed to carefully consider and account for the following attributes and concerns:

- Keep development off of steep slopes immediately adjacent Ransom Creek
- Maintain the housing density projected by the R-1-10 zoning district
- Provide for and use of on site outdoor amenities for benefit of occupants.

This proposed Planned Unit Development is in accord with Goal 11.

11. Statement of the Criterion:

Goal 12 To provide and encourage a safe convenient and economic transportation system.

a. Finding on this criterion:

Goal 12 does not directly apply to this application and need not be specifically addressed here. Standards for design and construction of streets and roads to serve this proposed development are discussed in Part 2 of this application. Given approval of this request for planned unit development condominiums, development of the subject property, as discussed in Part 2 of this application, will be processed in accord with standards set out in the proposal as permitted under Land Development Code Section 116 criteria.

12. Statement of the Criterion:

Goal 13 To conserve energy.

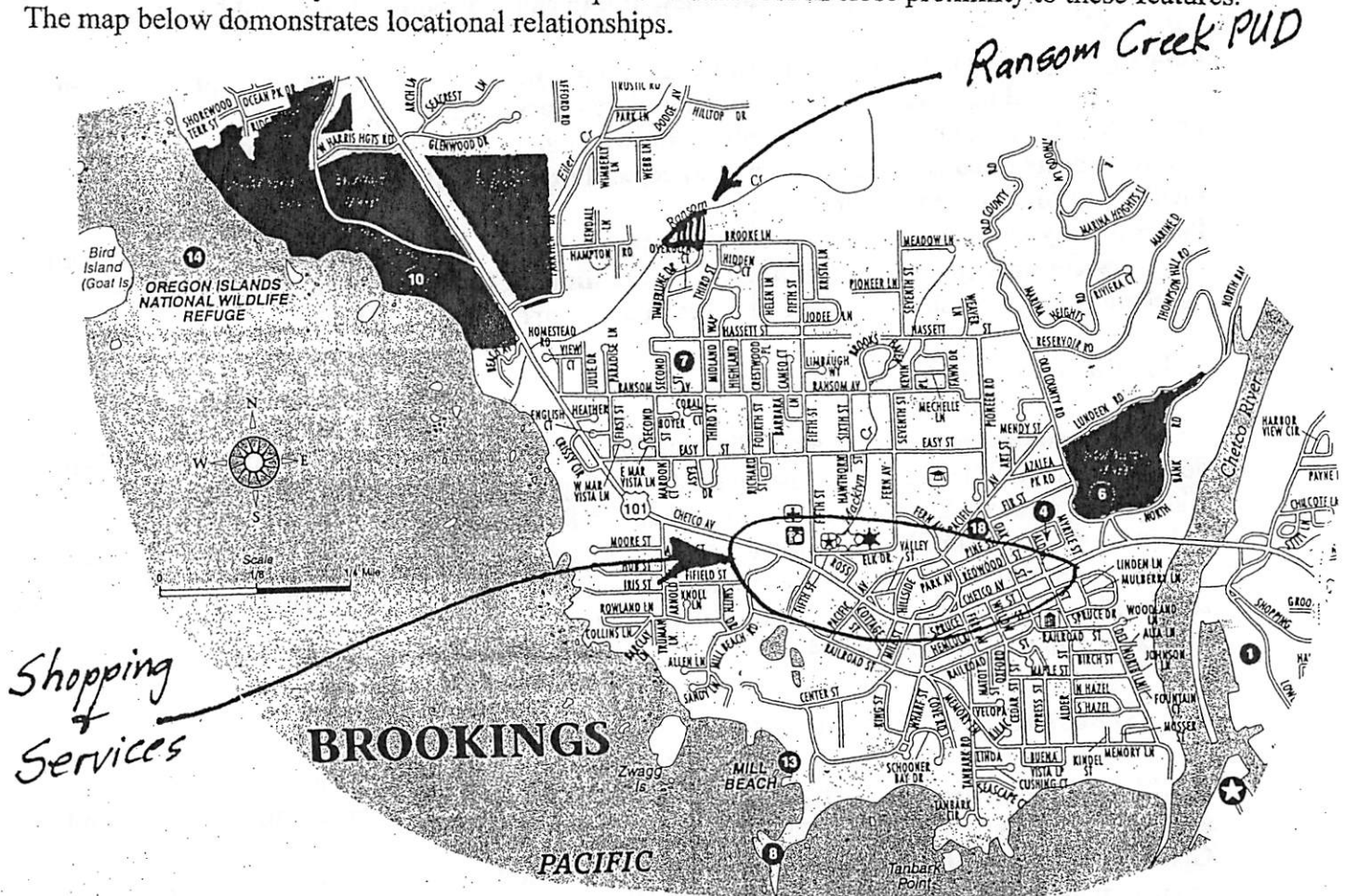
Policy 2. Brookings will encourage the infilling of undeveloped parcels of land within the City as well as the re-use of vacant land to the extent possible. The City will encourage land development practices which conserve energy as well as utilize renewable energy sources when-ever possible. The City desires high density development to be located adjacent to major shopping areas and along major transportation routes, as appropriate.

a. Finding on this criterion:

The subject property is undeveloped and lies adjacent to existing residentially developed property within the City. Therefore, approval of this application and construction of the PUD will

fulfill the City policy to encourage infilling of undeveloped parcels within the City.

The major shopping area of the City is located along the corridor of Highway 101. The subject property is slightly over one mile by paved street from the intersection of Highway 101 and Fifth Street which is the approximate center of commercial uses within the City. Such close proximity to the major shopping area and major transportation route places the subject in a position which will assist the City in its desire to develop residential uses in close proximity to these features. The map below demonstrates locational relationships.



b. Finding on this criterion:

The drive, or walk, from the subject to commercial uses in the vicinity of Highway 101 at City center would require only a few minutes to reach the traffic light at the intersection of Fifth Street and Highway 101. It is only a short commute distance to this major traffic route and in close proximity to shopping, governmental and professional services. This location tends to promote little travel in order for residents to reach and return from these services. The subject is within a few minutes of City parks and the public schools. All these locational factors will result in the desired situation whereby driving distances for normal family activities are kept short. Shorter travel distances between homes and schools, parks, government, professional and commercial services means less fuel consumed; less tire wear and etc. All of this translates into a development pattern which encourages less energy consumption than does scattered development. These factors will help bring about the desired savings of energy. Planned Unit Development Condominium on the subject property, at base zone density, is a development practice which will conserve energy.

13. Statement of the Criterion:

Goal 14 Urbanization to minimize the expansion of the urban service area outside of the city limits in order to provide for the efficient use of land, eliminate the unnecessary and uneconomical expansion of public facilities, and to conserve agricultural and forest lands outside of the City.

Policy 1. City shall maintain the livability of Brookings while providing appropriate land-use designation and adequate areas to accommodate expected growth.

Policy 2. City shall encourage the orderly outward growth of the community in order to maintain costs of construction, maintenance, and extension of streets, utilities and public facilities at the lowest level possible.

Policy 3. City shall annex lands that are contiguous to the City limits and continue to extend City services only to areas within the corporate limits. City shall continue to honor present agreement for provision of public services in areas presently outside the corporate limits.

a. Finding on this criterion:

The subject property is vacant; lies within the City limits; is zoned for Residential R-1-10 development; and, lies adjacent existing urban development, services and streets. The R-1-10 zone allows PUD as a conditional use. It is logical and in fact, as discussed above, a fulfillment of City Policy to encourage in-filling. Given approval of this application for Planned Unit Development Condominiums on the subject property, extension of City services to the subject will only occur "...to areas within the corporate limits..." of the City. We conclude subdivision of the subject property is in accord with policies of Goal 14.

14. Statement of the Criterion:

Goal 16 Estuarine Resources To recognize and protect the unique environmental, economic and social values of the Chetco River Estuary and its wetlands.

Goal To protect, maintain, and where appropriate restore or develop the long term environmental, economic, and social values, diversity and benefits of the Chetco River Estuary.

a. Finding on this criterion:

The Subject property is located slightly over two miles from the Chetco estuary. Runoff from precipitation received on the subject property will drain to the Pacific Ocean along natural drainage and storm drain system which runs southwesterly from the property within the natural drainage that is Ransom Creek or the City storm drain system. Therefore, development of the subject property will not significantly impact the Chetco estuary. Goal 16 does not apply to this application.

15. Statement of the Criterion:

Goal 17 Coastal Shorelands – and - Goal 18 Beaches and Dunes

a. Finding on this criterion:

The subject property is located one mile from any Ocean shoreland and on the north

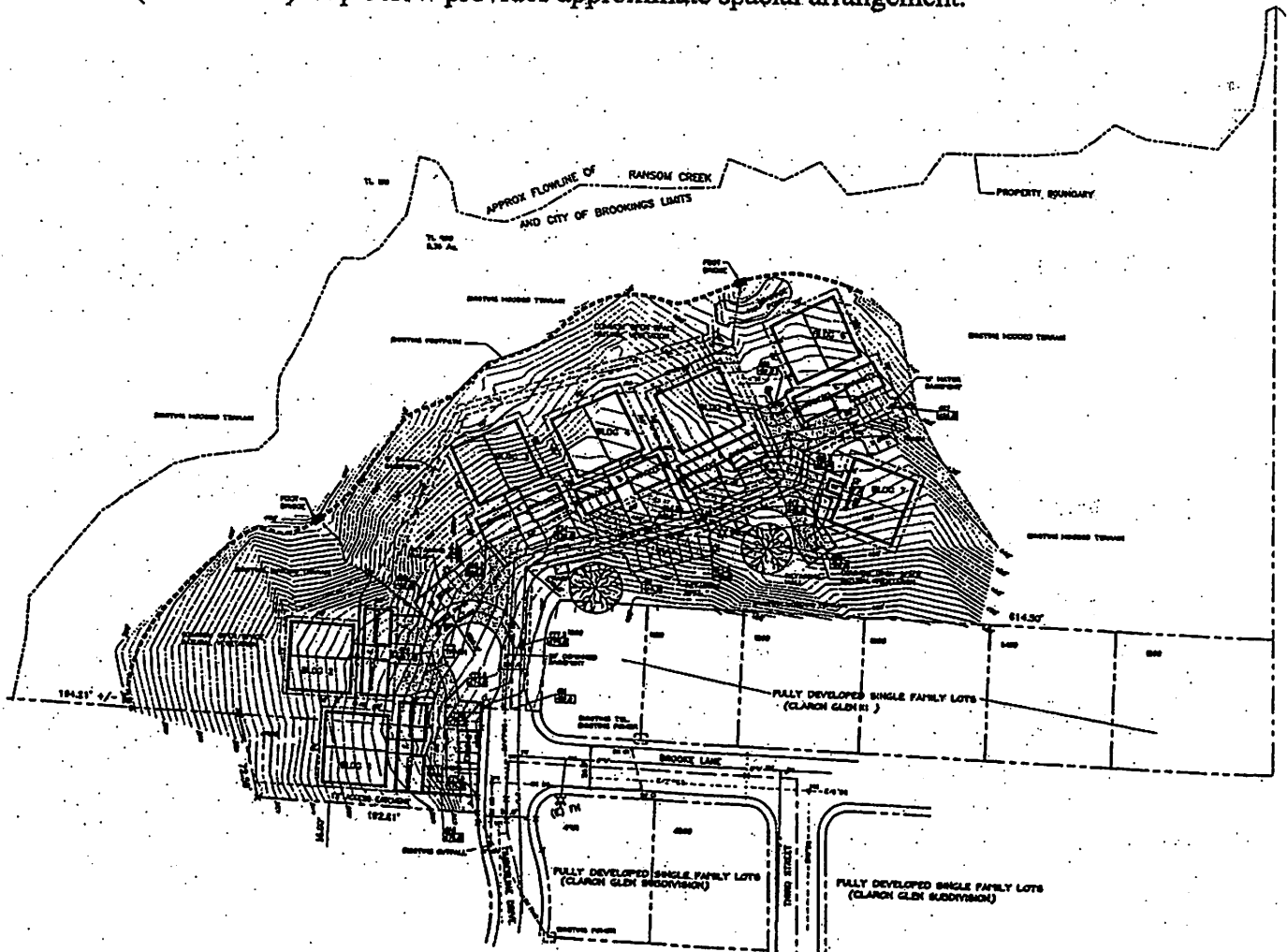
extremities of the City as demonstrated by maps included in this application. The City lies between the subject and the ocean shoreland and resources. Goal 17 does not apply to this application and is not addressed further. It is one mile distant from any Ocean beach or dune. That separation distance and intervening space is occupied by high density urban level development. Goal 18 does not apply to this application and is not addressed further.

16. Statement of the Criterion:

Sec 140.050 C.2. The site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this code.

a. Finding on this criterion:

The subject property is composed of Tax Lot 900 and 4900. Tax Lot 900 is 381,585 square feet in size according to the Preliminary Site Plan prepared by T.J. Bossard, Inc. Tax Lot 4900 is 0.33 acres according to the Assessor Map which equates to 14,374 square feet. The subject property is therefore 395,959 square feet in size. There are 36 condominium units proposed within 7 buildings with this development. Therefore, there will be an average of approximately 10,999 square feet of space within the development (common areas roads etc. included) to each dwelling unit. The reduced (not to scale) map below provides approximate spacial arrangement.



Section 20.060 outlines yard setback requirements of the Residential R-1 zones. It stipulates the yard requirements are: Front 20', Side 5' and Rear 15'. The nearest any building is to a side yard is the separate Garage structure to Building 1 which is located near south boundary of the subject property and which fronts on Timberline drive. That garage structure is thirteen feet (13') from the south property line. The south wall of Building 1 itself is approximately fifteen feet (15') from that line. The front wall of that same garage structure is 47' from the west right-of-way line of Timberline Drive. All other structures are separated from the nearest exterior boundary of the subject property by distances which exceed required setbacks. The proposed buildings are set back from the nearest property line as indicated below:

Building 2 garage to nearest property line is 133 feet.

Building 3 garage to nearest property line is 72 feet.

Building 4 garage to nearest property line is 76 feet.

Building 5 garage to nearest property line is 105 feet.

Building 6 garage to nearest property line is 170 feet.

Building 7 garage to nearest property line is 65 feet.

Ransom Creek forms the north and westerly boundary of the subject property. It is to the rear of all of the proposed buildings. The nearest any proposed structure is to that boundary is 95'. That setback exceeds the rear yard requirement by 80 feet. The nearest any proposed structure is to the east boundary is 308' which is the distance from building 7 to that boundary. That setback exceeds the required side or rear yard setback by a distance of 292 feet. We conclude all setback requirements are exceeded in this proposal.

Building envelopes account for 50,537 square feet of space which equates to thirteen percent (13%) of the lot area. Parking and Drive surfaces account for 30,713 square feet of space which equates to eight percent (8%) of the lot area. Open area of the subject property accounts for the remaining seventy nine percent (79%) of the subject property. All of the walls and fences, parking, loading, landscaping and other features are contained within the boundaries of the subject property within only a small portion of that open area. We conclude the subject property is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this code.

17. Statement of the Criterion:

Sec 140.050 C.3. The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use.

a. Finding on this criterion:

City of Brookings Transportation Systems Plan (TSP), identifies arterial/collector streets and it lists Easy Street as such a street in this neighborhood. Table 4-9, indicates Easy Street west of 5th Street is experiencing a volume to capacity ratio of 0.37 which translates to Level of Service rating "A". That means it is experiencing traffic levels at only 37 percent of its capacity. Level of Service "A" is the least impacted of six levels of service assigned to roads by traffic engineers. That means Easy Street is experiencing the best, least impacted, of the six levels of use which traffic engineers measure. TSP Table 4-3, on the following page, explains the six ratings.

TABLE 4-3
LEVEL OF SERVICE CRITERIA FOR ARTERIAL AND COLLECTOR STREETS

Service Level	Typical Traffic Flow Conditions
A	Relatively free flow of traffic with some stops at signalized or stop sign controlled intersections. Average speeds would be at least 30 miles per hour.
B	Stable traffic flow with slight delays at signalized or stop sign controlled intersections. Average speed would vary between 25 and 30 miles per hour.
C	Stable traffic flow with delays at signalized or stop sign controlled intersections. Delays are greater than at level B but still acceptable to the motorist. The average speeds would vary between 20 and 25 miles per hour.
D	Traffic flow would approach unstable operating conditions. Delays at signalized or stop sign controlled intersections would be tolerable and could include waiting through several signal cycles for some motorists. The average speed would vary between 15 and 20 miles per hour.
E	Traffic flow would be unstable with congestion and intolerable delays to motorists. The average speed would be approximately 10 to 15 miles per hour.
F	Traffic flow would be forced and jammed with stop and go operating conditions and intolerable delays. The average speed would be less than 10 miles per hour.

Source: Transportation Research Board, *Highway Capacity Manual*, Special Report 209. National Research Council, 1994.

b. Finding on this criterion:

City staff indicates traffic generation for this community is calculated on the basis of an assumed seven trips per day (7TPD) being generated by a dwelling. This proposal is for thirty six dwelling units and, using that recommended rate, the subject proposal would result in an added 252 trips per day. Table 5-17 of the TSP projects that Easy Street at that same location west of 5th Street will be operating at Level of Service "B" in the year 2017. This even after development such as proposed here has occurred. That Table indicates the road has a capacity of 6,000 trips per day and will be experiencing 4,100 trips per day in the year 2017. Table 5-17 indicates the resulting Volume to Capacity (V/C) Ratio will be 0.68 which is apparently calculated by dividing the number of trips (4,100) by the stated capacity (6,000). The calculation indicates Easy Street will be experiencing traffic at 68% of its capacity in the year 2017.

Using the same formula to calculate today's impact of this proposed development yields the following traffic information:

Per Table 4-9, current (1998) V/C ratio = 0.37; times 6,000 (capacity (does not change)) = 2,220 current level.

Adding 252 trips per day via this proposal results in:

2,220 current + 252 = 2,472 trips per day divided by 6,000 (capacity) = 0.41 V/C Ratio
Table 4-6 of the TSP indicates any impact under a Volume/Capacity Ratio of 0.60 equates to a Level of Service Ratio of "A". This proposal will result in a V/C Ratio of 0.41; or, 41% of capacity.

We conclude the site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use.

18. Statement of the Criterion:

Sec 140.050 C.4. The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination the commission shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and bulk of buildings, walls and fences, landscaping, screening, exterior lighting and signing.

a. Finding on this criterion:

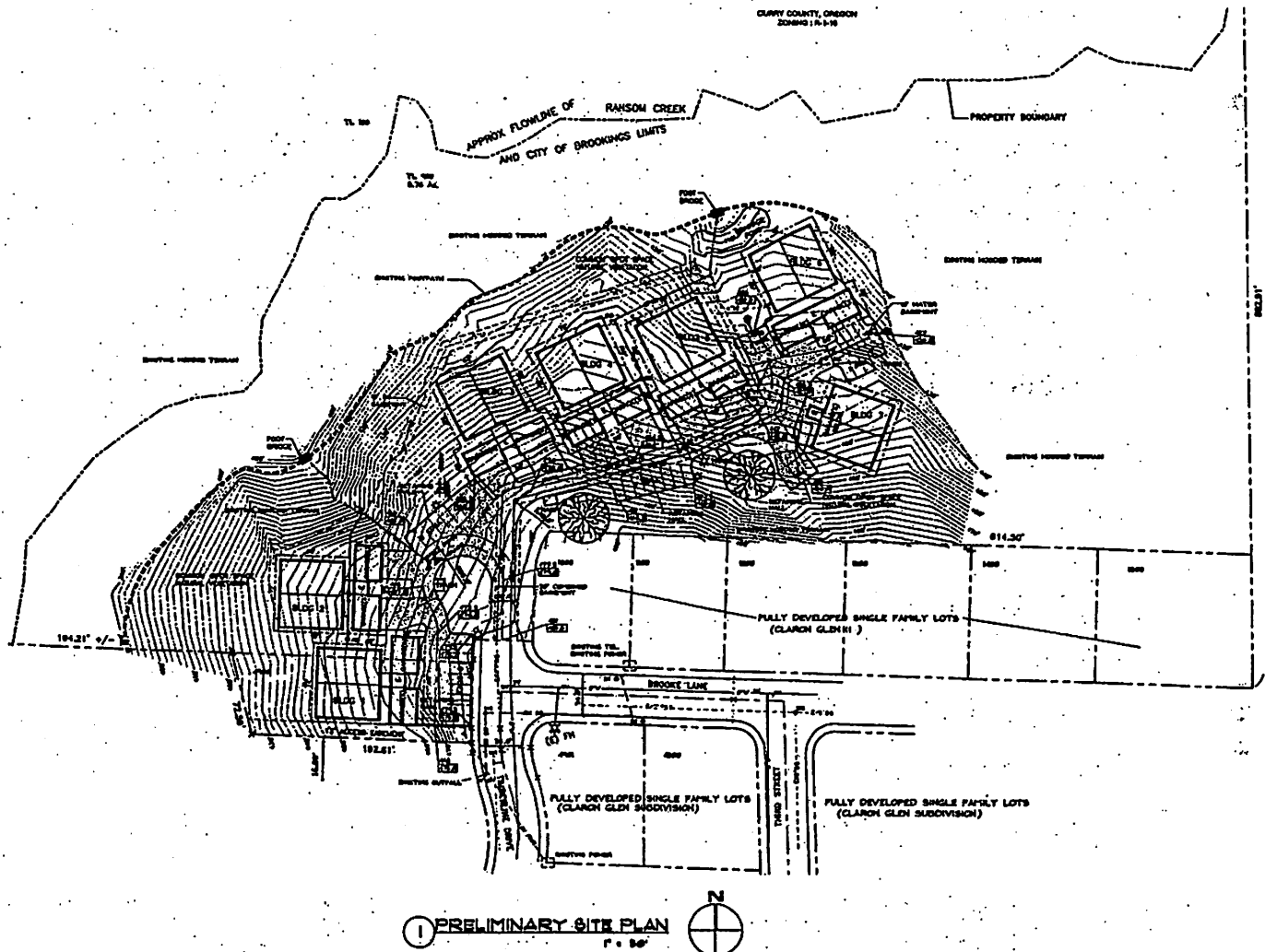
The total land area available zoned R-1-10 is approximately 9 acres. More precisely it is 395,959 square feet in size. As discussed above, building envelopes account for thirteen percent (13%) of the lot area and parking and drive surfaces account for eight percent (8%). All of the building envelope, parking and drive areas of the proposed development are contained on only 21% of the land area. Common and open area accounts for the remaining seventy nine percent (79%) of the subject property.

An important factor in consideration of having minimal adverse impact upon neighboring property is placement of proposed improvements. As discussed at Criterion 16 above, this proposed Planned Unit Development establishes setbacks which exceed those allowed by the R-1-10 zone. That discussion demonstrates with the least setback from other developed property to the south occurs at Building 1 which is 15' away and its garage is 10' away from that line. The zone allows 5' from that line. The other garages and buildings, at a minimum range from 65' to 133' from property lines common to other developed land. Those dimensions exceed required setbacks several times over and provide additional and improved buffer space for adjoining uses.

Ransom Creek forms the north and west boundary of the subject property. The Ransom Creek drainage is steeply sided in the area along and in close proximity to the creek. According to the geologist's (Busch Geotechnical) report there are locally less-stable toeslopes present along Ransom Creek. Where it discusses these creekside slopes, the report indicates "...assuming the slopes remain forested, we believe that the risk is low that a slope failure originating near the creek would progress upslope into the development area." This information has been a guiding factor in the site planning for the property. The design places development within areas up and away from the steep creekside slopes. It allows the creekside slopes to remain forested so as to maintain low risk as stated in the report.

Several other aspects of the proposal help minimize adverse impact to adjoining property. Applicant has marked Douglas fir and myrtle wood trees which are to remain. Garage units are located between the living unit buildings and Clarion Glen subdivision located to the east and south of the subject property. Living unit buildings will be located in an area of the subject property which is 30 feet to 40 feet (downslope from) below the adjacent dwellings along Brooke Lane and Timberline Drive. This downslope location will allow added sense of separation from the proposed buildings.

The locational arrangement on the site is seen on the reduced version of the site map shown below. (because this map is much reduced it is, as noted earlier above, not to scale).



We conclude the proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon.

19. Statement of the Criterion:

Sec 140.050 C.5. In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complimentary to the surrounding area.

a. Finding on this criterion:

There are no historic, scenic or cultural attributes listed in the inventories of the Comprehensive Plan for this neighborhood of the City. This criteria does not apply to this application.

Part 2. Section 116, Planned Unit Development

1. Statement of the Criterion:

Sec 116.010 Purpose. The purpose of planned unit development approval is to allow and to make possible greater variety and diversification in the relationships between buildings and open spaces in planned building groups, while ensuring compliance with the purposes and objectives of the various zoning district regulations and the intent and purpose of these land development sections. These provisions are intended to allow developers the freedom to design and construct projects whose objectives could be inhibited by strictly applying the provisions of this code, thereby providing more harmony with site conditions, aesthetics, economy and similar considerations than might otherwise be possible. The use of these provisions is dependent upon the submission of a complete and acceptable conceptual masterplan accompanied by satisfactory assurances it will be carried out. Such conceptual, preliminary masterplan shall conform to and be in compliance with the goals and objectives of the comprehensive plan.

a. Finding on this criterion:

This section is in large measure informative and instructive of the City's intent and an applicants charge and does not in those respects require finding.

The findings and conclusions which follow provide evidence this proposal will be in compliance with the purposes and objectives of the zoning district and requirements of applicable sections of the Land Development Code.

2. Statement of the Criterion:

Sec 116.030 General Requirements. A. A planned unit development application shall be for an area of not less than four (4) contiguous acres of residentially zoned property.

a. Finding on this criterion:

The subject property is 9.09 acres and is residentially planned and zoned. It is zoned Residential R-1-10. This criteria is met.

3. Statement of the Criterion:

Sec 116.030 General Requirements. B. No application shall be accepted for a use which will require a redesignation of the comprehensive plan map or a change of zoning district, unless said application is accompanied by and application for an amendment as set forth in section 144. Such planned development application shall not be used to justify or create unauthorized uses within the underlying zoning classification, or by excluding uses otherwise permitted therein.

a. Finding on this criterion:

Planned unit development is a use listed as a conditional use under Section 20.040.L. Of the Brookings Land Development Code. Therefore, this application does not require a redesignation of the comprehensive plan map or a change of zoning district and none is sought. Because this application is for a permitted use listed in the zone, this application is not used to justify or create unauthorized uses within the underlying zoning classification, or to exclude uses otherwise permitted therein. This application is in compliance with this criterion.

4. Statement of the Criterion:

Sec 116.030 General Requirements. C. Requirements pertaining to area, density, yards or similar dimensions, standards and criteria of the underlying zoning classification within which the proposed planned unit development is to be situated, shall be used as a guide in determining the proposal's compliance with the purposes and intent of the land development code.

a. Finding on this criterion:

This proposal is to construct 7 buildings to house 36 dwelling units clustered in an area area of the property near existing water and sewer facilities; and, near the intersection of Timberline Drive and Brooke Lane, the only access point for the subject property to a public right-of-way. The construction site is also governed by the topography of the site and be geologic review performed by engineering geologist's; all as indicated in foregoing discussions. The density requirement of the R-1-10 zone is a minimum of 10,000 square feet per dwelling unit. There are 36 condominium units proposed within 7 buildings with this development. Therefore, there will be an average of approximately 10,999 square feet of space within the development (common areas and drives etc. included) to each dwelling unit. This does not exceed the minimum square footage requirement of the underlying zone. Requirements pertaining to density, yards or similar dimensions, standards and criteria of the R-1-10 zone were utilized in the preliminary design submitted with this application and will be utilized to guide construction if preliminary approval is granted.

5. Statement of the Criterion:

Sec 116.030 General Requirements. D. No planned unit development shall be approved in any "R" district if the housing density of the proposed development will result in an intensity of land use greater than that permitted in the "R" district. For this purpose, maximum density is calculated by dividing the total gross area of the development by the minimum lot area per dwelling unit prescribed for the zone,

a. Finding on this criterion:

As stated above this proposed development will result in a dwelling unit density of 10,999 square feet per unit. This proposed density does not result in an intensity of land use greater than the 10,000 square feet minimum density of the R-1-10 zone.

6. Statement of the Criterion:

Sec 116.060 Standards for approval. In granting approval for a planned unit development, the planning commission shall seek to determine, based upon evidence, both factual and supportive provided by the applicant, that:

A. The applicant has, through investigation, planning and programming, demonstrated the soundness of his proposal and his ability to carry out the project as proposed, and that the construction shall begin within 12 months of the conclusion of any necessary actions by the city, or within such longer period of time as may be established by the planning commission.

a. Finding on this criterion:

Exhibit 3 to this application is a Condominium/Subdivision Guarantee. This document is strong indication the applicant has ability to carry out the proposed project. Bruce Brothers have constructed many projects within and around the City of Brookings in past years. This application together with attached documentation and Preliminary Site Plan, given the inherent expertise of involvement from professional land use planners, engineers and surveyors evidenced by them, serves as ample indication considerable thought and effort has been expended in the development of this proposal.

7. Statement of the Criterion:

Sec 116.060 Standards for approval... B. The proposal conforms with the comprehensive plan and implementing measures of the city in terms of goals, policies, location and general development standards.

a. Finding on this criterion:

The comprehensive plan designates the property as urban and located within the City limits. The property is zoned Residential R-1-10; and, this proposal conforms to allowable uses in that district which lists planned unit development as a permissible conditional use at Section 20.040.L.

b. Finding on this criterion:

Applicant's Engineer (Mr. Bossard) provides sewer system design which shows gravity flow 6" sewer line from the down hill sides of all buildings leading to a pumping station; then pressure flow up to the existing sewer system in Timberline Drive.

The project will connect to the existing eight inch (8") water main located in the intersection of Timberline Drive and Brooke Lane. The 8" line will be extended along the proposed street and serve all units. Because the construction area lies downhill from the City water main, auxiliary pumping equipment is not anticipated.

General development standards are contained in the city "Standard Detail and Specifications" document quoted in the Plan. That document has been updated and amended since adoption. According to City staff the current document is referred to as "General Engineering Requirements and Standard Specifications" and was adopted in August 1988 and updated August 1998. Those

applied to development proposed here. The framework of public facilities and services is guided by implementation of those standards through the land use permit process, including building and plumbing permits. In conjunction with long term land use decisions already made through residential zoning having been placed on the subject property; engineering standards and zoning together provide the framework for urban development of this property.

8. Statement of the Criterion:

Sec 116.060 Standards for approval... C. The project will assure benefits to the city and the general public in terms of need, convenience, service and appearance sufficient to justify any necessary exceptions to the regulations of the zoning district.

a. Finding on this criterion:

Benefit 1. The subject property is located within the Brookings City limits and is zoned for Residential use and density. As findings in this application demonstrate, this proposal is designed to fit within and is in response to the criteria of that zone. As stated above the density requirement of the zone is not violated. We conclude construction of projects and developments which adhere to and respond to the planned density and types of uses the City has planned for a given area, such as this project would accomplish, is a definite benefit to the City. This project would bring about residential use on a site planned and intended for that type of use. It would bring to fruition the City's policy and intention as stated in the Comprehensive Plan to urbanize the area and provide housing here.

Benefit 2. This project will allow the achievement of planned residential density in an area of the City which might not otherwise be achievable through the application of common subdivision techniques. The design of this project responds to the existing topography and evidence regarding potential geologic concerns provided through the assistance of geologists in determining how best to utilize the property for residential uses as planned and zoned.

Benefit 3. Inherent in this proposal is use of a common practice with planned unit developments; that of maintaining road systems in private ownership governed by CC&Rs which provide for maintenance and upkeep of the road systems. The benefit to the City and the general public is a great savings in long term maintenance costs to the City (thus the tax paying general public) by virtue of the City not having maintenance responsibility. This occurs in conjunction with the fact the City receives tax money's for the assessed value of individual properties. In a sense, the benefit to the City is two pronged; the City does not have to pay the cost of system maintenance while at the same time it receives property tax revenue for the development.

Benefit 4. The 20 foot wide road with 3 foot wide walking path on one side will have far less impermeable surface for any given length than will a 36 foot wide road with curb, gutter and 5 foot wide sidewalks on both sides. The former provides a total impermeable surface of 23 feet; the latter provides an impermeable surface 48 feet. This translates to a 52% savings in impermeable surface for any given road system length. The benefit to the City occurs in the form of less runoff water from the proposed 20 foot wide street than from the wider street. Added storm water from impermeable surfaces adds to the load on City piping systems and treatment facilities. It can also increase water damage to downstream facilities and therefore increase City maintenance costs for

pipings, culverts of other facilities which may be damaged by excess run-off during high rainfall events. Lessening impermeable surfaces of roads and sidewalks provides a definite benefit to the City by saving costs for treatment, maintenance and potential damage repair.

We conclude this proposal will assure benefits to the city and the general public in terms of need, convenience, service and appearance sufficient to justify any necessary exceptions to the regulations of the zoning district.

9. Statement of the Criterion:

Sec 116.060 Standards for approval... D. There are special physical conditions or objectives of development which the proposal will satisfy so that a departure from standard zoning district regulations can be warranted.

a. Finding on this criterion:

Objective of Development. Developer wishes to provide a residential setting which carries a private motif while being located within an urban environment and provides for its occupants a sense of openness as well as the condominium life style. This site is perfect for such an objective for the following reasons:

- Site is zoned minimum 10,000 square feet. This provides incentive to respond to work toward a design which will provide openness and allows for and even encourages common open space areas, nature trails, foot paths and other such desirable amenities.
- Site is located within a City and urban area. This location provides closeness to shopping, recreational facilities, emergency services and other urban niceties and cultural setting.
- Site is located adjacent City streets and urban levels of sewer and water service at the adjacent intersection of Timberline Drive and Brooke Lane.

Departure. 20 foot wide Road rather than 36 foot wide Road with curbs, gutters, sidewalks.

Physical conditions warranting this Departure:

- Topography of the site is steep in some areas where road building is unavoidable. Narrow roads require less cutting and fill and compaction on steeper slopes. Larger areas of cut and fill associated with ordinary street construction could potentially decrease land surface stability.
- Topography of the portions of the property immediately adjacent Ransom Creek is steep so as to preclude safe and efficient access across that terrain feature.
- Creekside areas along the Ransom Creek channel have been noted by the geologist to have toeslopes which are locally less stable; and, geologist recommends the area along Ransom Creek remain forested so as to continue stability of soils here.
- Lack of access to other than the intersection of Timberline Drive and Brooke Lane prohibits other than an internal, looped road with one major access point at that location. A PUD approach to development provides the ability to serve the planned density via a private street with turn arounds.

10. Statement of the Criterion:

Sec 116.060 Standards for approval... E. That the project will be compatible with adjacent developments and will not adversely affect the character of the area.

a. Finding on this criterion:

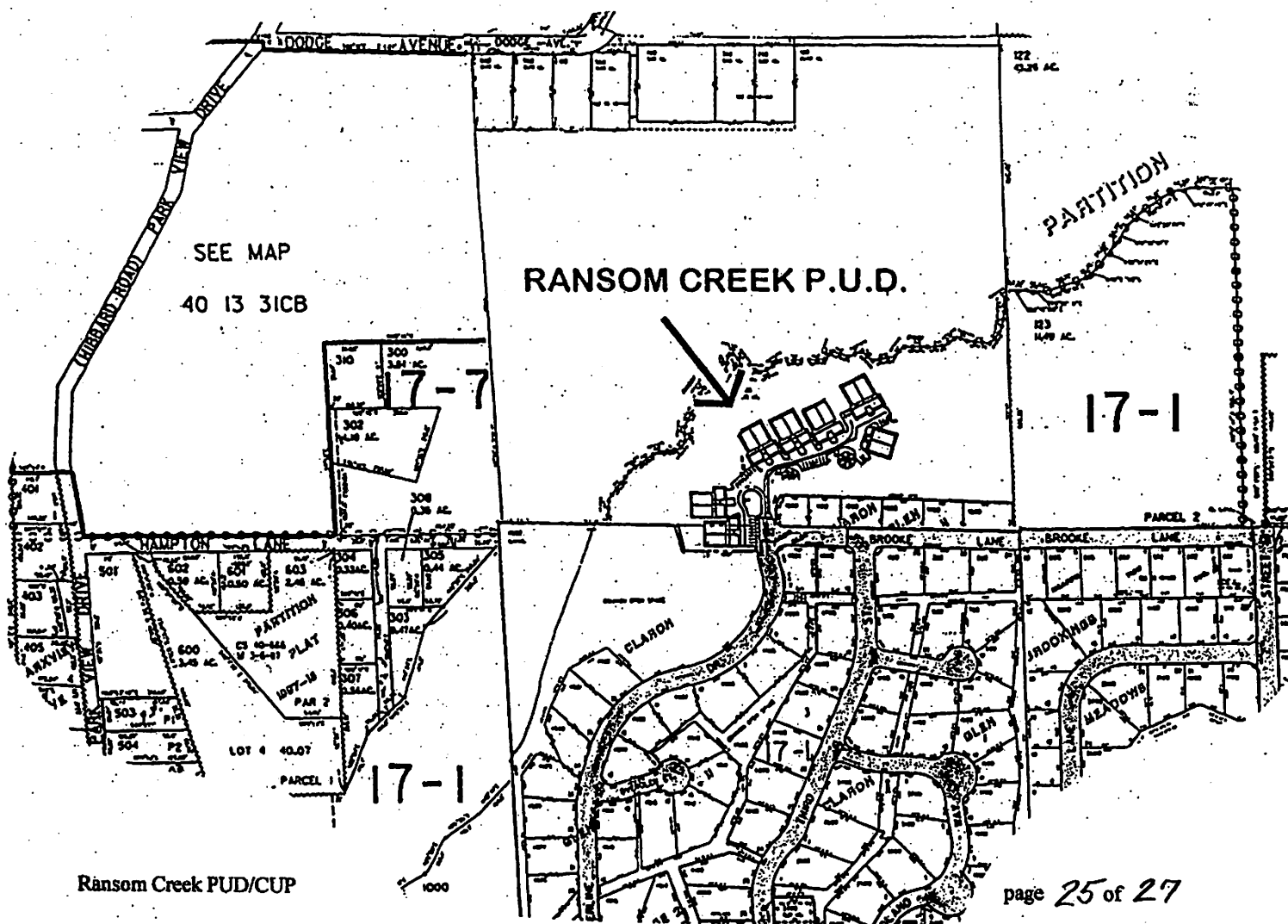
To the north and west lies Ransom Creek. This terrain feature is the City Limit as well as the north boundary of the subject property. Land across Ransom Creek lies outside the City, is vacant and of equally steep slope in its creekside areas as is the subject property.

To the east lies vacant land which is zoned R-1-8 and which borders the north side of Brooke Lane thereby having access from that City street.

To the south lies R-1-6 zoned land. That portion between Ransom Creek and Timberline Drive is vacant and the portion along and adjacent the north side of Brook Lane and south of Brook Lane exhibits a development pattern of residential subdivision.

The development pattern of the neighborhood just described is seen on the "Neighborhood Development and Road Pattern Map" on the following page. As discussed earlier, given the limitations of topography and geology at work on the subject property this proposed Planned Unit Development Condominium is probably the best and most practicable approach to reaching planned residential density on the site. All of the City zones in the area are residential. The character of the area will not be adversely affected because the proposed use is residential.

Neighborhood Development and Road Pattern Map



We conclude this project will be compatible with adjacent developments and will not adversely affect the character of the area.

11. Statement of the Criterion:

Sec 116.060 Standards for approval... F. The project will satisfactorily take care of the traffic it generates, both on and off-site, by means of adequate off-street parking, access points, and additional street right-of-way improvements.

a. Finding on this criterion:

The on-site traffic generated by this proposal is not great. The proposal includes a 22 foot wide paved, private street with average grade of 9%. Traffic generation for this community is calculated on the basis of an assumed seven trips per day (7TPD) being generated by a single dwelling unit. This proposal is for thirty six dwelling units and, using that recommended rate, the subject proposal would result in an added maximum 252 trips per day. Because this street is proposed as, and the topography demands, a single access with turnarounds, project engineer Bossard indicates a 22 foot wide street is more than adequate to handle that amount of traffic. We conclude the project will satisfactorily take care of the on-site traffic it generates.

b. Finding on this criterion:

The off-site impacts traffic generated by this proposal will be minor in that no change in level of service rating for the neighborhood collector will result. As the development pattern map on the previous page demonstrated, this proposal fits the existing development and City zoning pattern perfectly given the caveats of topography, adjacent street and geologic concern together with residential zoning. The neighborhood street system includes a collector, Ransom Avenue, which traverses the neighborhood east to west. This collector is inventoried and studied in the Transportation Systems Plan (TSP). As reported earlier in this application, Table 4-6 of the TSP indicates any impact under a Volume/Capacity Ratio of 0.60 equates to a Level of Service Rating of "A". This proposal will result in a V/C Ratio of 0.41; or, 41% of capacity. After construction and full occupancy of the proposed development Ransom Avenue will still be experiencing a Level of Service rating of "A" which is the best, least impacted, level of service. We conclude the project will satisfactorily take care of the off-site traffic it generates.

c. Finding on this criterion:

There are 36 single car garages for indoor parking of vehicles and 35 on-site paved parking spaces. Additionally the paved area of the project covers 30,712 square feet of surface. Therefore, as can be seen on the map, considerable paved surface in excess of the drive/street section is available for turnaround and other maneuvers. The drive/street length is approximately 500 feet. A 20 foot wide street surface 500 feet long has 10,000 square feet of surface area. Therefore there will be an additional 20,712 square feet of paving to accommodate parking and turning movements within the project. We conclude the project will satisfactorily take care of the traffic it generates, both on and off-site, by means of adequate off-street parking, access points, and additional street right-of-way improvements.

12. Statement of the Criterion:

Sec 116.060 General Requirements. G. That the proposed utility and drainage facilities are adequate for the population densities and type of development proposed and will not create major problems or impacts outside the boundaries of the proposed development site.

a. Finding on this criterion:

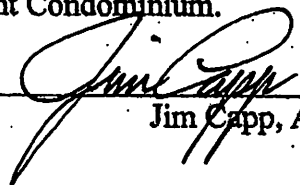
A development such as proposed here in accord with the minimum ten thousand square feet per dwelling unit criterion of the zone will produce less impact on urban services than a similar size property developed to more normal urban density of six thousand square foot lots. If the subject property were developed under the R-1-6 zoning district such as lies to the south, it would be permissible to develop perhaps 52 lots. The calculation would be as follows: $9.09 \text{ ac} \times 43560 = 395,959 - 79,192 \text{ (20\% for road \& utility)} = 316,767$ divided by 6000 = 52 dwellings. Comparison of sewage flow is another item to consider when attempting to measure impacts of one type of development within a neighborhood. Sewage flow from a four bedroom residential use is commonly accepted to average approximately 225 gallons per day with an accepted maximum flow from any single residence being 400 gallons per day. Those figures are the basis administrative rules for septic system design and installation governed by DEQ. Continuing with the comparison above; the flow from this proposed 36 dwelling unit use would be 8,100 gallons per day (36×225 average gallons per day = 8,100 gallons). The flow from a 9.09 acre parcel developed under the R-1-6 zone would be 11,700 gallons per day (average 225 ga. \times 52 = 11,700 gal/day).

Project Engineer, Bossard, indicates the facilities indicated on the Preliminary Site Plan are more than adequately sized to handle this load and in fact offer considerable additional capacity. The sewage flow from this proposed development is approximately only two thirds (2/3) of the flow were the same area to be developed under an R-1-6 zone which is commonly applied in the City. The load on drainage facilities is benefitted (reduced) similarly because of the limited number of dwellings as opposed to dwelling numbers allowable under normal City zoning. Given similar size dwellings in both comparisons; impermeable surfaces of dwellings would be equally less and runoff from the development again would be less than from standard residential development. We conclude proposed utility and drainage facilities are adequate for the population densities and type of development proposed and will not create major problems or impacts outside the boundaries of the proposed development site.

CONCLUSION:

As indicated herein this request has been demonstrated to be consistent with and to comply with provisions of the Brookings Land Development Code and Comprehensive Plan which regulate our proposed use. This Planned Unit Development Condominium will bring about the intent of the Comprehensive Plan and Zoning for this portion of the Brookings Community. Based upon the evidence, findings and conclusions contained in this application we request approval of this application for Planned Unit Development Condominium.

Respectfully submitted:



Jim Capp, Agent



May 19, 2004

BUSCH GEOTECHNICAL CONSULTANTS

Noah and Josh Bruce
Bruce Brothers, Inc.
P.O.B. 61
Brookings, Oregon 97415

**RE: Geotechnical feasibility of constructing the proposed seven-building,
36-unit Ransom Creek Condominiums, Brookings, Oregon**

Gentlemen:

Introduction

I am delivering this letter under the general terms of BGC Contract #04-036. The purpose of the letter is to provide a clear and unequivocal statement about the feasibility of constructing the proposed project, from a geotechnical perspective. In the near future, we will deliver a complete geotechnical report to document our work and the site conditions. The report will contain stability mapping, geologic cross-sections, soil logs, laboratory data on the foundation-bearing soils, background geologic and seismic information, references, appendices, and geotechnical recommendations to support the engineering design of earthworks, foundations, and water-control structures.

Prior to preparing this letter, BGC Principal Bob Busch, Ph.D., C.E.G., Staff Engineering Geologist Bryan Dussell, and Staff Geologist Beau Whitney collectively spent approximately 25 man-hours onsite investigating the geologic conditions. They:

- Inspected the site landforms (hillslopes, ridges, swales, etc.);
- Supervised the excavation of 12 back-hoe test pits, logged and photographed a wall in each pit, and collected bulk and undisturbed soil samples from the pits (for planned laboratory tests);
- Inspected the creekside slopes below the project site; and

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- Discussed conceptual details of the proposal with Pat Drury (Construction Project Manager); Andy George (Site Development Project Manager); Noah Bruce (Co-Developer); and Tim Bossard (Project Engineer).

The project will be constructed on gentle- to moderate-gradient, north- to west- aspect slopes on the south side of Ransom creek. On the project base map (Stunzner Engineering, 2004), the lower limit of the proposed development area is a nature trail (shown in gray on map). We understand that design first floor grade considerations will control details of the construction of the structures, and that the concept plan as shown on the Stunzner map will change.

Summary of Preliminary Geologic Findings

1. The bedrock at the site, where revealed in backhoe test pits and creek exposures, is variably weathered mudstone of the regional bedrock, the Dothan Formation. In this area of Brookings, the bedrock is a "melange" or mixture of rock types. Where undercut, surcharged, or permanently saturated in a high-relief setting, melange is intrinsically unstable. Because of these characteristics of melange, the development team is paying close attention to the site-specific geologic details.

2. In addition to bedrock, uplifted Pleistocene marine terrace sediments (technically, poorly consolidated rocks) are present in some areas of the site. These marine rocks are mainly well-sorted sandstones. They originally were deposited in beach and nearshore environments when the land was lower relative to sea level. The terrace sediments tend to occur in the higher-elevation portions of the project site as erosional remnants, and in low-elevation locations where ancient landslides (now dormant) down-dropped blocks of bedrock and the overlying marine rocks. Elsewhere on the site, the marine terrace sediments have been eroded away by geologic processes such as soil creep, piping, sapping, sheet wash, and landsliding. In general, Pleistocene marine terrace deposits are competent materials.

3. In most areas of the project site, colluvium overlies a parent rock. Colluvium is a soil that has moved to its present location by processes such as soil creep, sheet wash, and sapping. In general, the site soils are well-developed soils. The soils range from yellowish, orangish, and reddish, indicating oxidizing conditions, to grayish and bluish, indicating reducing conditions.



4. Reduced soils, headwall swales, and large-scale landforms indicate that the subsoils are wet seasonally over much of the site. It will be necessary to use engineered water-control structures (such as back-drains, subfoundation drains, and intercept drains) to mitigate the potential for water intrusion and damage at certain specific locations.

5. In the landform classification we use (Appendix II), slopes in the development area primarily are seepage slopes, creep slopes, and transportation slopes. Within the development area, all of these types of slopes have a LOW risk of landsliding (see Item 6). Locally less-stable toeslopes are present along Ransom Creek.

6. In our in-house stability classification (Appendix III), the slopes within the development area are mostly Moderately Stable. Localized small Stable and Provisionally Stable areas are present, but improvements will avoid the Provisionally Stable slope areas. The Moderately Stable slopes are subject to a soil creep hazard but are at LOW risk of landsliding under static ("everyday") conditions or the dynamic ("earthquake-shaking") conditions of the area's design basis earthquake (or DBE). Some of the creekside slopes below the development area are Provisionally Stable, which means that they are at MODERATE to HIGH risk of experiencing some type of landslide within the near future (75 years). However, based on our work to date, and assuming the slopes remain forested, we believe that the risk is LOW that a slope failure originating near the creek would progress upslope into the development area.

7. Based on our understanding that the developers and project engineer favor a low-impact development style that minimizes cuts and fills, the project is feasible from a geotechnical perspective. We anticipate that foundations for the condominiums and garages will vary from simple "standard" types to complex deep foundations consisting of reinforced cast-in-place piers, grade beams, and structural slabs.

8. The existing soils and slope conditions pose acceptable levels of risk to the planned improvements. Furthermore, the required development activities, if done in conformance with our forthcoming recommendations, will not increase the levels of risk associated with existing hazards.



9. Erosion- and sediment-control efforts using standard best management practices (BMPs) will be necessary during construction and as part of the long-term design for the project.

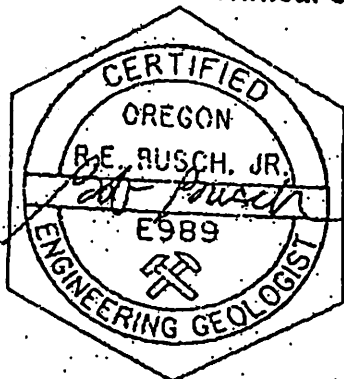
Closure and Authentication

Although we plan to do additional fieldwork, we do not expect that our work will alter the foregoing basic conclusions. We do expect the work to provide information that will support the final engineering design of improvements.

We thank you for hiring us to help with this project. If you have questions, please call.

Sincerely,

Busch Geotechnical Consultants.

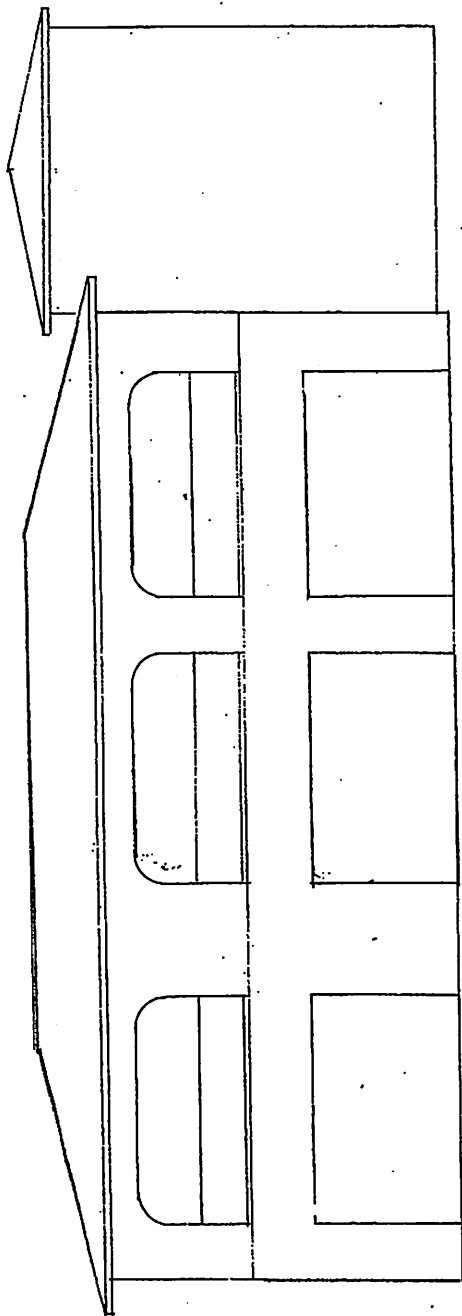


R. E. Busch, Jr., Ph.D.
C.E.G. #989

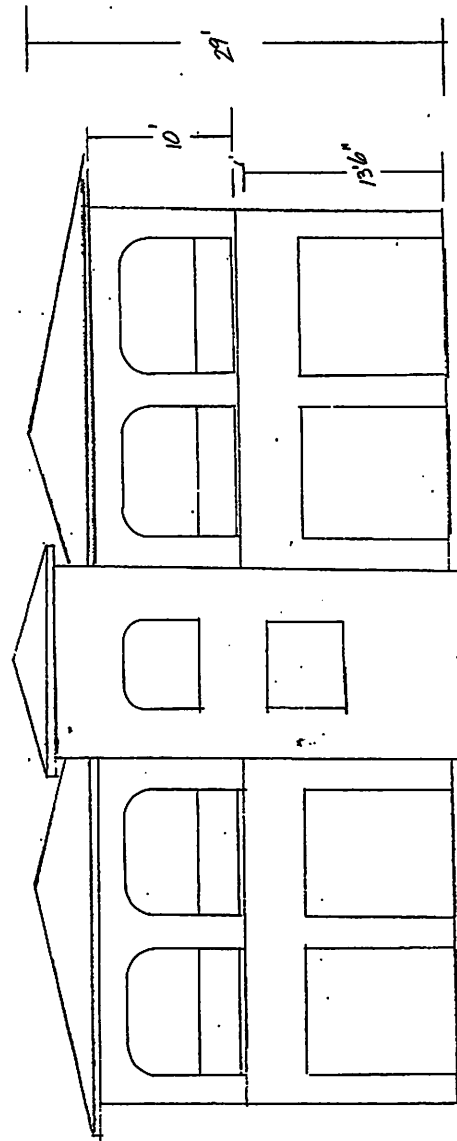
REB:azb

Attached: Appendices II, III, IV

cc: Bossard

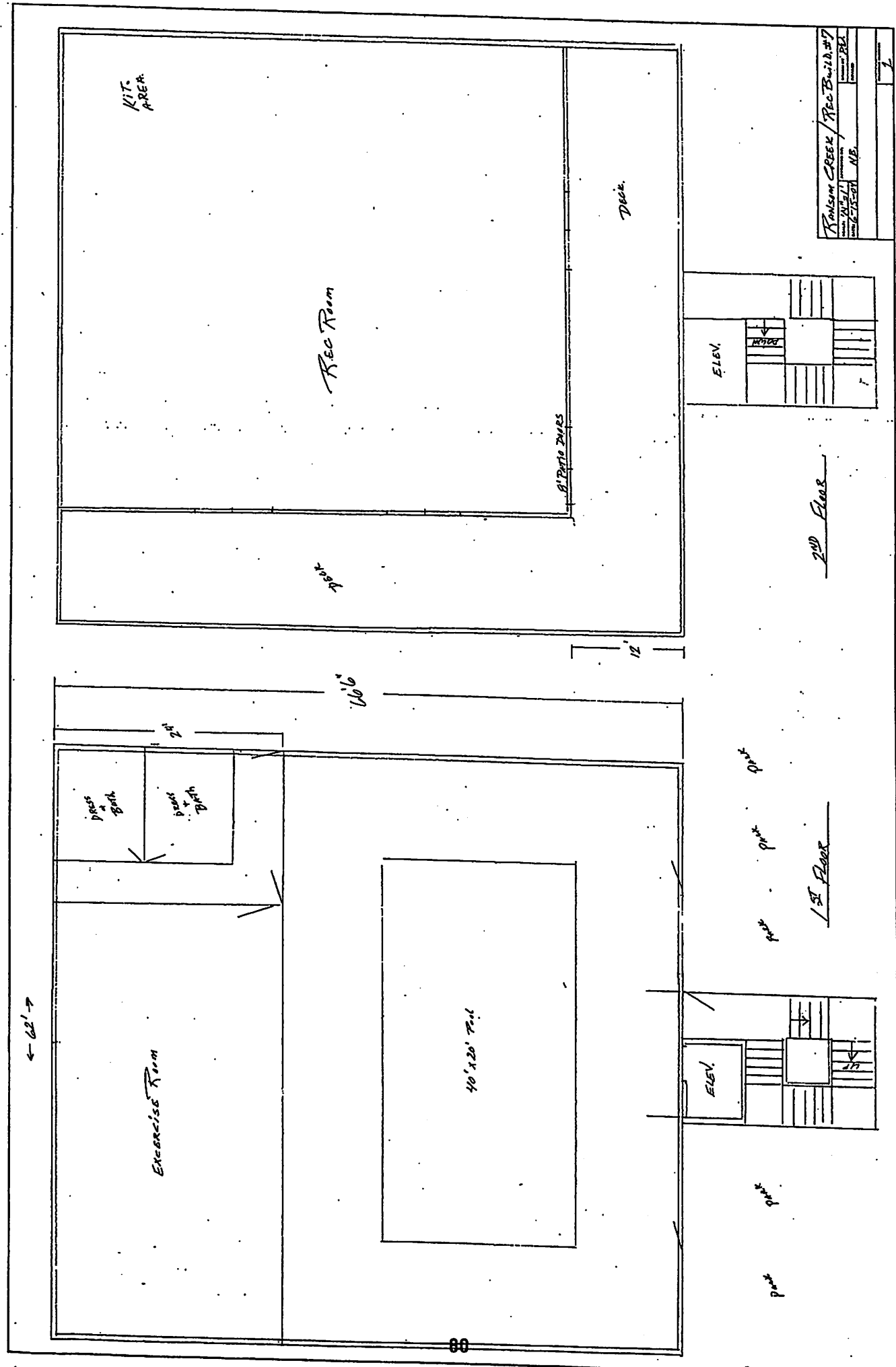


LEFT



FRONT

ELEVATIONS			
DATE	PROJECT NO.	SCALE	2



CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT/PLANNED UNIT DEVELOPMENT

PUD-2-04

July 6, 2004

General Conditions

1. Approval of this conditional use permit will expire one year from approval, unless the project comes under substantial construction and continues under construction. The Planning Commission may extend the permit for an additional one-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 140.110, Violation of Conditions, of the Land Development Code. The loss of your permit will result in the closure of your business.
3. All development shall meet the provisions of the R-1-10 (Single Family Residential, 10,000 sq. ft. minimum lot size) Zone and of Section 140, Planned Unit Development Approval, of the Land Development Code, or as otherwise authorized by this approval.
4. 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.
5. Prior to any grading or construction on the site, the provisions of Section 100, Hazardous Building Site/Hillside Development Standards, of the Land Development Code, shall be satisfied.
6. Prior to any building construction each building pad shall be examined by a licensed engineering geologist or licensed geologist working with a licensed engineer to determine the type of foundation required for each.
7. Each dwelling unit and the recreational building shall be provided with an internal fire sprinkler system.
8. The riparian area extending 50 feet horizontally from the mean high water line of Ransom Creek shall not be disturbed, in any manner except for a hiking trail or similar facility. Plans for all such facility must be submitted to the city for review and approval.
9. The applicant shall establish a homeowners association with appropriate bylaws and establish C, C, & Rs including for the maintenance of the project grounds, driveways, parking areas, residential building exteriors, recreation building, and association owned utilities; protection of the riparian area and Ransom Creek waterway. A copy of the C, C, & Rs shall be provided to the city.

Street Conditions

10. Construction plans for the driveway (street) must be reviewed and approved by the City Engineer prior to the start of any construction. The driveway (street) shall be constructed with a travel way of at least 20 feet of pavement.
11. A stop sign shall be place on Timberline Dr. or on Brooke Ln. at the intersection. The utimate location shall be determined by the city.

12. Either a gate or a "Not A Through Street" or "Private Street" sign shall be placed at the entrance to the project driveway. If a gate is used a coordinated access code shall be agreed upon with the City Fire Chief.

Sanitary Sewer and Storm Drainage Conditions

13. The applicant shall extend sewer service mains into the private driveway (street) and throughout the project as shown on the approved plot plan. Service laterals shall be extended to each building within the subdivision.
14. 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.
15. All sanitary sewer plans shall be approved by the City Engineer prior to any construction and all construction shall be carried out as approved by the City Engineer.
16. The location of all sewer laterals shall be appropriately marked on the curb in a permanent manner.
17. An easement shall be granted to the city over all sewer mains and pump stations that are to be owned by the city. The width of the easement shall be determined by the City Engineer.
18. Any portion of the sewer main and pump station that is outside of the driveway shall be provided with a drivable surface suitable to accommodate repair vehicles.
19. All storm drainage including roof drains from the subject property shall be collected and conveyed from the site in a manner that protects all down stream property and the water quality of Ransom Creek.
20. All storm drainage plans shall be approved by the City Engineer prior to any construction and all construction shall be carried out as approved by the City Engineer.
21. An easement shall be granted to the city over all detention ponds and storm drain systems. The width of the easement shall be determined by the City Engineer.
22. Construction of the drainage pond shall be by an licensed engineer working with a licensed geologist.

Water System Conditions

23. All lots within the subdivision shall be served by the city domestic water supply system.
24. The applicant shall extend water mains into the private driveway (street). Service laterals shall be extended to each building.
25. An easement shall be granted to the city over all water mains that are to be owned by the city. The width of the easement shall be determined by the City Engineer.
26. 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.
27. Water meters shall be clustered at common points to the extent possible.
28. All water system plans shall be approved by the City Engineer prior to construction and all construction shall be carried out as approved by the City Engineer.

29. A fire hydrant shall be located in the area shown on the approved plot plan or in a location determined by the City Fire Chief.

Parking and Landscaping Conditions

30. The applicant shall provide 72, on-site, marked parking spaces, including those within the garage, as shown on the approved plot plan, that comply with the provisions of Section 92, Off-Street Parking and Loading Regulations, of the Land Development Code.
31. All areas denuded during construction and not covered by buildings, driveway or other construction shall be landscaped with indigenous or draught resistant plants. Landscaped areas shall be maintained in a healthy and clean manner.
32. Prior to the issuance of an occupancy permit, all landscaping shall be installed in substantial conformance with the approved parking plan.
33. All outdoor lighting shall be directed and/or shielded so as to prevent light from falling directly on adjoining properties.
34. Trash bins shall be located on the site at locations shown on the approved plot plan and shall be accessible to the collection truck and enclosed by a 6 foot high sight obscuring fence.
35. All utility lines, including but not limited to, electric, communication, street lighting, and cable television shall be placed underground throughout the subdivision. This includes undergrounding of services from existing overhead utilities.
36. All utility easements shall be clearly defined as to their scope, purpose and term, preferably to be included within the restrictive covenants which are to be recorded with the subdivision plat.
37. All proposed easements shall be clearly shown in dashed lines on the condominium plat map to be recorded, including the size and locations as required by the affected utilities, public agencies and service companies.
38. The applicant shall coordinate the placement of mailboxes with the U. S. Postal Service. Mailboxes shall be placed in a manner that does not obstruct the sidewalk area.

Exhibits-PUD-2-04

Exh:	Date:	Name	Address	Correspondence
FOLLOWING EXHIBITS RECEIVED AT July 6, 2004 meeting:				
A.		Ed & Rocelle Henke	985 Brooke Lane	Letter at 7-6-04 mtg.
B.		Debbie Hodges	955 3 rd Street	8 pages
C -F		Jim Capp	P.O. Box 2937 Harbor, OR 97415	4 overhead exhibits
G		Big Map of site Plan		
H.		Craig Harper Rogue Valley Council of Govts.	P. O. Box 3275 Central Point, OR 97502	Storm Drainage Plan
I.		"	"	Bioretention cell Subgrade, Soil mixture
J.		"	"	
K.		West Coast Lines & Graphics	16289 Hwy. 101 Suite F Brookings, OR 97415	Front View 1
L.		"	"	Front View 2
M.		"	"	Rear View 1
N.		"	"	Right View
O.		"	"	Overview
P.		"	"	Floor Plan
RECEIVED 7 DAYS AFTER MEETING:				
Q.	7-12-04	Earle Keathley	905 3 rd Street	4 page letter
R.	7-12-04	Ed & Rochelle Henke	985 Brooke Lane	2 page letter
S.	7-14-04	Barbara Soderstrom	990 Hassett Street	2 page letter
T.	7-14-04	Mr. & Mrs. Drivon	942 Timberline Drive	1 page letter to State of OR-Robert Lobdell-Div. of State Land
U.	7-14-04	Mr. & Mrs. Drivon	942 Timberline Drive	1 page letter
V.	7-14-04	Bill Powers	922 Timberline Drive	2 page letter
W.	7-14-05	Bill Boynton	959 Timberline Drive	Land Conservation & Development

X-1	7-14-05	Debbie Hodges-submittal:	955 3 rd Street	8 page letter
X-2	"	"	DLCD OAR Chapter 660	2 page of section Wetlands Map
X3	"	"		
X-4	"	"	Oregon Goals & Guidelines	Goal 5: Natural Resources... 3 pages
X-5	"	"	Brookings Land Development Code	Section 100 5 pages of section
X-6	"	"	OR goals and Guideline	Goal 7 Natural Hazards 2 pages
X-7	"	"	Copy of Exh.2 from Planning Comm.	One page Proposal of PUD
X-8	"	"		Copies of Newspapers articles-one page
X-9	"	"	Brookings Land Development Code	Single-family R-1 District-6 pages
X10	"	"	Brookings Land Development Code- Section 80	Site plan approval 5 pages
X11	"	"	Brookings Ordinance	No. 64-0-178-traffic controls for public parks...
X12	"	"		
X12			70 th OR Bill #12-1999	13 pages
X13 Thru X39	"	"	Photos: exhibits X13 thru 38	3 pages-Wetland Reconnaissance Report
Y	7-23-04	Bruce Brothers Rebuttal	P.O. Box 61 Brookings, OR 97415	42 pages- letter + supplemental findings, HGE Letter, DEQ form, and misc.DEQ info-
Z	8-3-04	Submitted by Bruce Brothers:Wave Beach Grass Nursery-Wetland Consultant	P. O. Box 1190 Florence, OR 97439-0059	3 pages-Wetland Reconnaissance Report

Received at
Hearing 7-6-04
opponent A

Planning Commission

RE FILE NO. PUD-2-04

Written Testimony By Ed and Rocelle (Mickey) Henke, Residents of 985 Brooke Lane

We believe the original plan for development of the 9.09 acre parcel known as Ransom Creek was for (8) family dwellings/ (8) lots-- why now 36 condominium units? That's a 350% increase!

Was there any considerations given to the deleterious effects of siltation and water quality to Ransom Creek as the result of this development? Siltation is considered a form of pollution.

Has Ransom Creek been surveyed for the presence of anadromous salmonids? Specifically, Coastal Cutthroat trout? If present, their spawning habitat could be negatively impacted.

Brooke Lane has become a walking path, both the street and sidewalk including many elderly people, and babies being pushed along in strollers.

This is deer habitat and they are in our yard almost on a daily basis. The type of car traffic that would result from such a development would create "avenues" out of Brooke Lane, Timberline and 3rd street. The deer and the cars would create a hazard we basically don't have now.

Condominiums are an intrusion on our single family dwellings as they are more of an apartment building complex and changes the entire character of the neighborhood. We bought and built here to be in a residential type setting, not one that has a commercial look to it.

If the city allows this project to go forward, we strongly recommend that the following considerations be given your utmost attention:

An adequate fire road be constructed that will allow the new residents a quick and easy escape route.

Additional high-pole street lights be placed on 3rd, Brooke Lane, and Timberline-The latter two are both raceways.

Speed signs should be posted on all (3) streets.

Ransom Creek should be monitored for water quality prior and subsequent to development.

The developer accepts liability, and or, posts a bond in the event the remaining one or more large trees topple on homes located on the North/East side of Brooke Lane-A heavy duty wind in combo with heavy rain could possibly uproot these large remaining trees.

Respectfully Submitted



Ed Henke



Rocelle (Mickey) Henke
July 5, 2004

July 6, 2004

City of Brookings Planning Commission:

My name is Debbie Hodges. I live at 955 3rd St.. I am a member and homeowner of the Glen Clarion subdivision.

I am opposed to the Bruce Bros. Condominium project, FILE NO: PUD-2-04 for the following reasons but not limited to:

1). It is quoted in the Planning Division permit applications that to qualify for a planned Unit Development permit the property to be developed must be five acres in size or greater... Tax lot 4900 is only 0.33 acres. Exhibit No.2 map clearly shows "two" buildings to be built on Tax lot 4900. This is against Land Use Regulations. I have included a copy of the Land Use Permit Applications for the City of Brookings.

2). The Exhibit No. 2 map shows "seven" buildings to be built.

Is this also not against Land Use Requirements?

3). I have had inadequate time to produce City, County or State regulations protecting Creeks from intrusion of building, culverts, or fluids of any kind entering into a Creek because of the inadequate time I was notified of this hearing and the 4th of July holiday. My sources in Salem though assure me that they will produce them. There is talk that the

Bruce Brothers are planning on putting in culverts or some another innate object source into Ransom Creek.

Is this true and correct?

Steve with the Fish and Wildlife Department in Gold beach told me that Creeks are highly protected and cannot be disturbed. No run off of any source is allowed to enter into a Creek.

4). It is stated on page #3 that Drainage will be engineered and will flow to Ransom Creek. Ransom Creek is the home to many game fish. My son and his buddies were pulling out Brown Trout and Brook Trout from Ransom Creek just three years ago. Some of the smaller fish may have even been baby steelhead. The article in our local newspaper, The Pilot stated that there is an unidentifiable bacterium on our beaches. Is this unidentifiable bacterium from polluted Creeks? My concern is that this multi dwelling project will pollute these fish and wildlife habitat. My other concern is if pollution increases the bacteria running onto our beaches what will it do to Tourism and Travel for our community? Why would the city want to chance pollution in Ransom Creek? I believe DEQ needs to be alerted of this drainage plan.

5). All rainwater must be picked up by the sewer system. What is our regions capacity?
Is it going to overflow and exceed the capacity of our existing sewer system?
What happens if this project pollutes Ransom Creek?

6). Geologically, how stable is the earth? Could it even withstand such a development?

What do the reports say? Is the City of Brookings going to guarantee NO SLIDES?

What happens if this multi dwelling project does slide? Is the City willing to accept and pay the fines DEQ will levy on the City?

8). Glen Clarion homeowners' subdivision is a single-family residential dwelling. All other developments around Bruce Brothers property are single-family residential dwellings. We do not want a High-density development in a Low-density region.

8). A multi dwelling housing project will decrease the values of Glen Clarion subdivision making it harder to sell our homes. Who would want to buy a home with such a large multi dwelling project in your back yard? Would you?

People would just assume build a new home in a quiet, Less density residential area.

Where are the Geological reports that deal with the issues I have discussed? More importantly where are the Geological test results that have been Approved by the Fish & Wildlife Department and the Wetlands Department.

9). The average American family owns 2/5 cars. That means there will be 90 or more cars living at this multi dwelling, which means 180 and probably more cars would be using our streets. This will endanger the lives of our community children playing at Bud

Cross Park; all of the baseball games, skate park, tennis and basketball. Bud Cross Park is a big part of community children lives.

Is the City of Brookings willing to take responsibility for the traffic hazards that will occur with such an extreme traffic increase?

During baseball games and park usage 3rd Street becomes a tight squeeze. The street is already narrow. If there is on coming traffic it is impossible to pass. You must stop and let the oncoming traffic pass before you can get around the parked cars on 3rd Street.

Driving on 3rd Street from Easy Street is my main route to and from home. I can guarantee this would also be a favorite of multi dwelling residents, especially if they are driving teenagers or children being taken to the park by their parents.

3rd Street intern off sets the traffic on Ransom leading to the city pool. Small children and teenagers alike are walking and riding their bikes to the city pool. There are no sidewalks to protect these children. The children are usually so excited to get to the city pool that they are walking in the middle of the streets, running and riding their bikes not paying NO attention to traffic. Parents cannot be with their children 24 X 7.

What is the City of Brookings proposal plans for this traffic hazard?

10). The original City Planners of Brookings who Originally zoned the land to be a "Single Family Residential" zone was because they knew that this was the "Best" usage of the land. It is still true for today; the best usage of the land is for "Single Family Residential" zoning only.

If these facts and concerns are not addressed in the appropriate matter then the money wishes of the Bruce Brothers are more important than the safety of our Community here in Brookings.

I want my testimony to be part of the record.

I am requesting that the written record be left open for "seven" business days.

Are you willing to accept the risks that by approving this project in its present configuration will pose on the citizens and taxpayers of Brookings Oregon?

Land Use Permit Applications in the City of Brookings

vacated street is deeded to the owner of each adjoining lot. Both the Planning Commission and the City Council review street vacations. The Planning Commission hears requests for a street vacation and makes a recommendation to the City Council, which makes the final decision.

- **SUBDIVISION**

A subdivision is the division of a large parcel of land, called a parent parcel, into four or more parcels. Depending on the size of the project, existing improvements and the design of the project, a subdivision may or may not include construction of new streets, water and sewer mains, storm water facilities, lighting and signage. Existing streets that front on a parent parcel being divided, and all new streets within a subdivision are required to be improved according to city standards. The Planning Commission decides subdivision applications.

- **MAJOR PARTITION**

A major partition is the division of a parcel of land creating three or less parcels which includes the creation of a road or street. It includes the extension of an existing street or creating a new street to serve one or more of the new lots. Existing streets that front on a parent parcel being divided, and all new streets within a major partition, are required to be improved according to city standards. A major partition may require the extension of water and sewer mains and storm water drainage facilities. The Planning Commission decides a major partition application.

- **MINOR PARTITION**

A minor partition is the division of a parcel of land into no more than three lots. It does not require a new street to access any of the new lots. A minor partition may, however, require the extension of water and sewer mains and storm water drainage facilities depending on the design and location of the project. Decisions on minor partition applications are made by the Planning Commission.

- **PLANNED UNIT DEVELOPMENT**

A Planned Unit Development (PUD) is a land use activity that allows a certain amount of flexibility in the design of the development property. For example a PUD could allow clustering of houses, condominium projects or flexibility in subdivision design in the Single-Family and Two-Family Residential Zones. To qualify for a Planned Unit Development permit the property to be developed must be five acres in size or greater and must meet criteria that is specified in the city's Land Development Code. The Planning Commission makes decisions on Planned Unit Development applications.

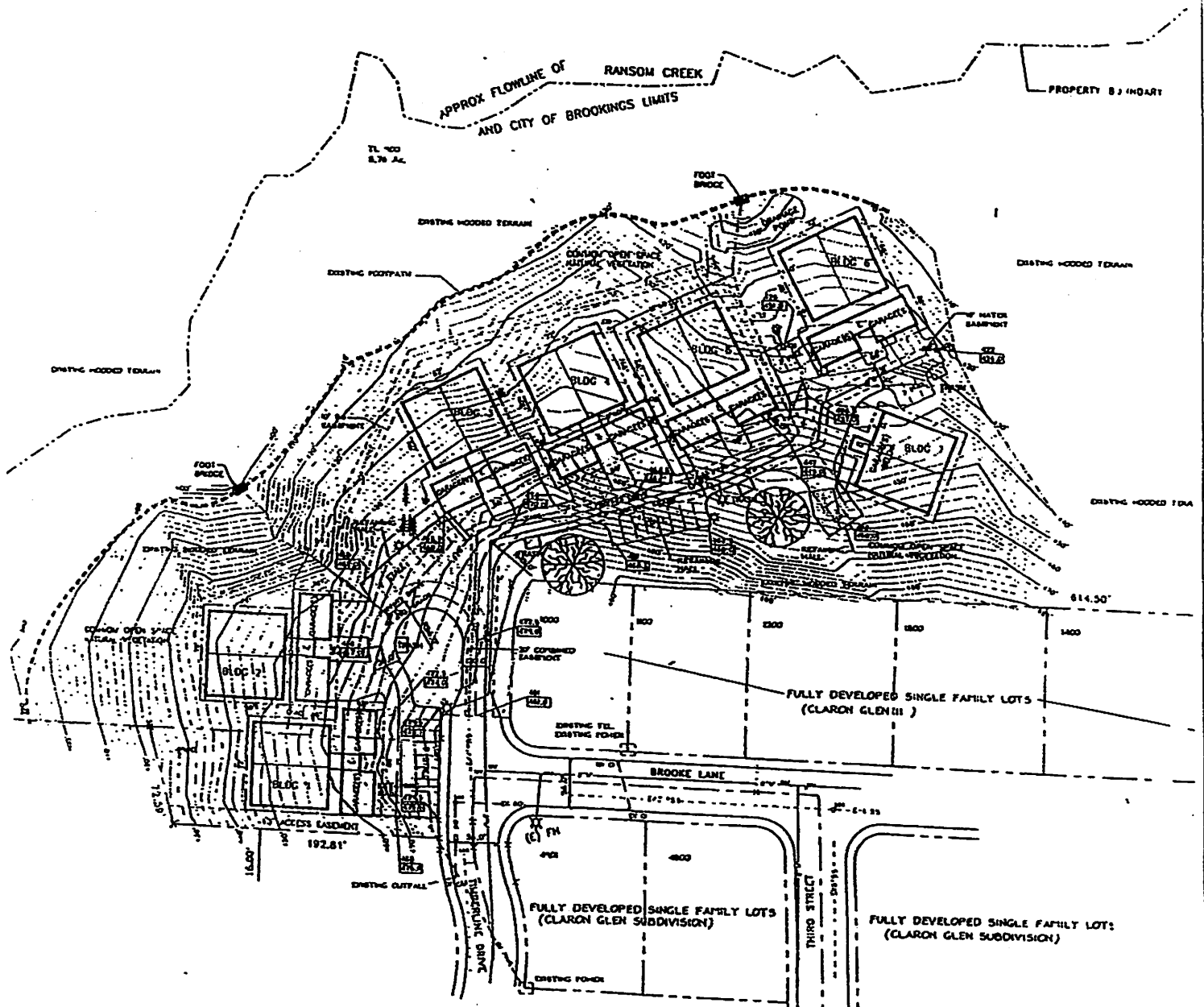
- **CONDITIONAL USE PERMIT**

Each land use zone, such as the R-1 or C-3 Zone, allows certain uses that are considered *permitted*. These uses do not need approval from either the Planning Commission or the City Council. Each land use zone also has a list of uses that are considered *conditional*. *Conditional* uses may be allowed but are reviewed to ensure that they are compatible with existing and other permitted uses in the zone. Any adverse impact they would have on an area is considered. The Planning Commission decides the appropriateness of each requested conditional use.

1.7

Case No. PUD-2-04

Exhibit No. 2



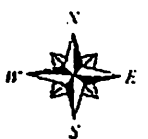
Applicant: Bruce Brothers

Assessor's No: 40-13-31 CA Tax Lot 900 & 40-13-31 CD Tax Lot 4900

Size: 9.09 Acres

Location: Timberline Drive and Brooke Lane- Ransom Creek

Zone: R-1-10 (Single-family Residential 10,000 square foot lot))



#4.)

northerly portion of the site as shown on Exhibit 2. The recreational building will be located on the up slope at the easterly end of the private driveway.

Each of the residential buildings will be three stories high with two dwelling units on each floor. A garage structure with six single car garages will be located between the building and the driveway. Because of the sloping hillside, the pad elevation of the garage will be somewhat higher than that of the pad elevation for the residential building, with the difference ranging from 10 to 24 feet. When looking at the buildings from the driveway, this difference will cause the relation of the garage structure to the rest of the building to vary from building to building. See Exhibit 3. The garage will be connected to the residential building via an elevator and a stairway. Beside the garages, the driveway will have six parking bays containing a total of 35 parking spaces for a total of 71 defined parking spaces. The garage apron for all but two of the buildings can also be used for parking purposes.

A water main will be extended into the private driveway to provide service to each building. A sewer main will be constructed down slope from the buildings, allowing gravity flow to a pump station located below Bldg. 5 and pumped from there up to a main in the driveway and to the main in Timberline Dr. Drainage will be engineered and will flow to Ransom Creek.

The entire project, including the driveway, buildings and sewer lines and pump station will occupy only 19.5% of the total site, leaving 80.5% in open space.

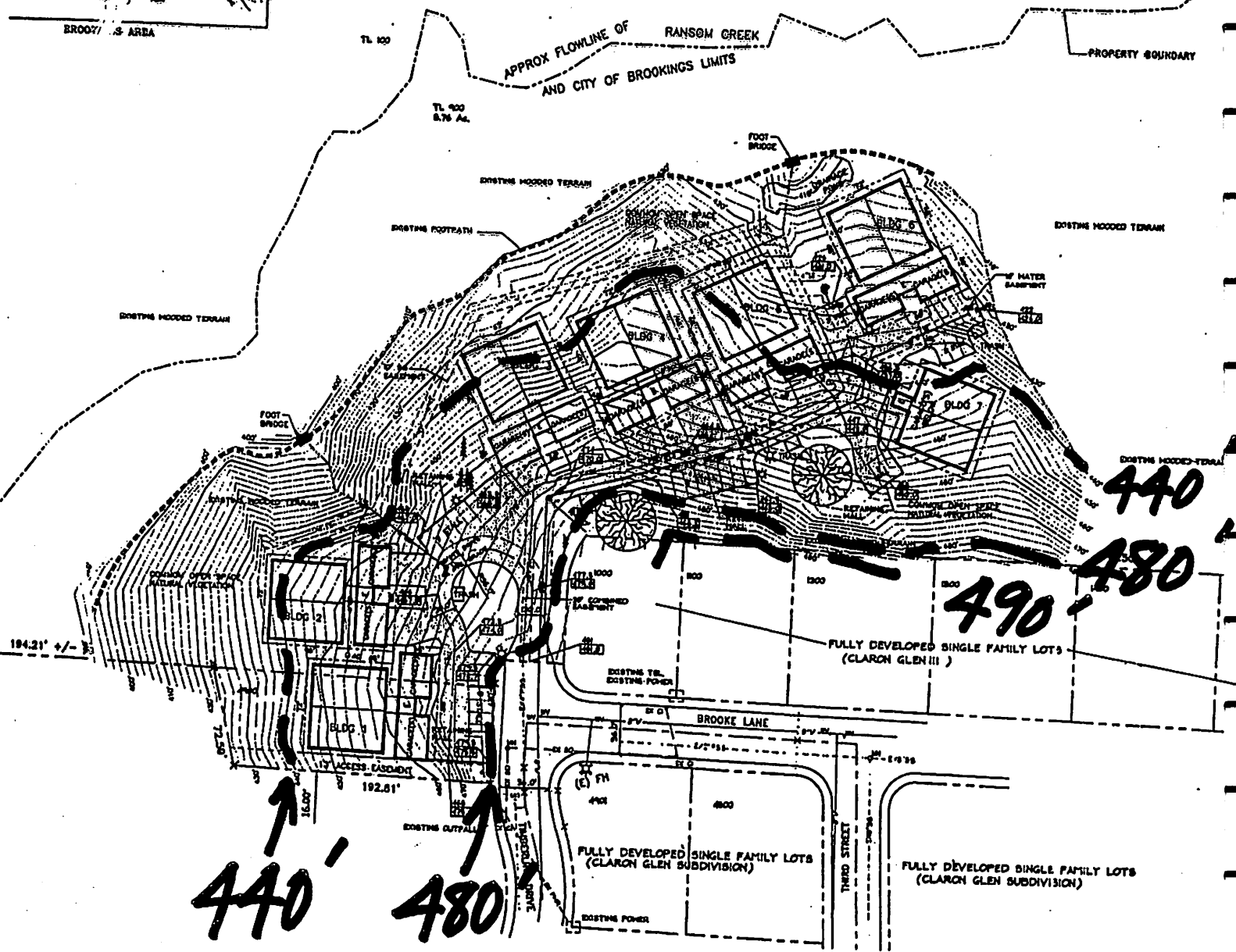
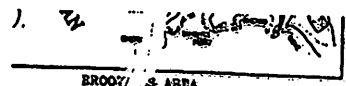
A planned unit development is implemented through the approval of a conditional use permit but must meet the criteria set forth in Section 116, Planned Unit Development Approval, as well as the criteria of Section 140, Conditional Use Permits, of the Land Development Code. The provisions of Section 116 allow flexibility of the development standards that are set forth in the underlying zoning and in other areas of the Land Development Code, such as street width, the ability to cluster buildings, as in this application in the form of condominium units rather than detached single-family homes, although the overall density allowed by the zone cannot be exceeded. In return for this approval, the applicant must show that there is a benefit to the city for allowing the flexibility.

ANALYSIS

The criteria for a conditional use permit is as follows:

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

1. The proposal is in compliance with the Comprehensive Plan.
2. The site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this code.
3. The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use.

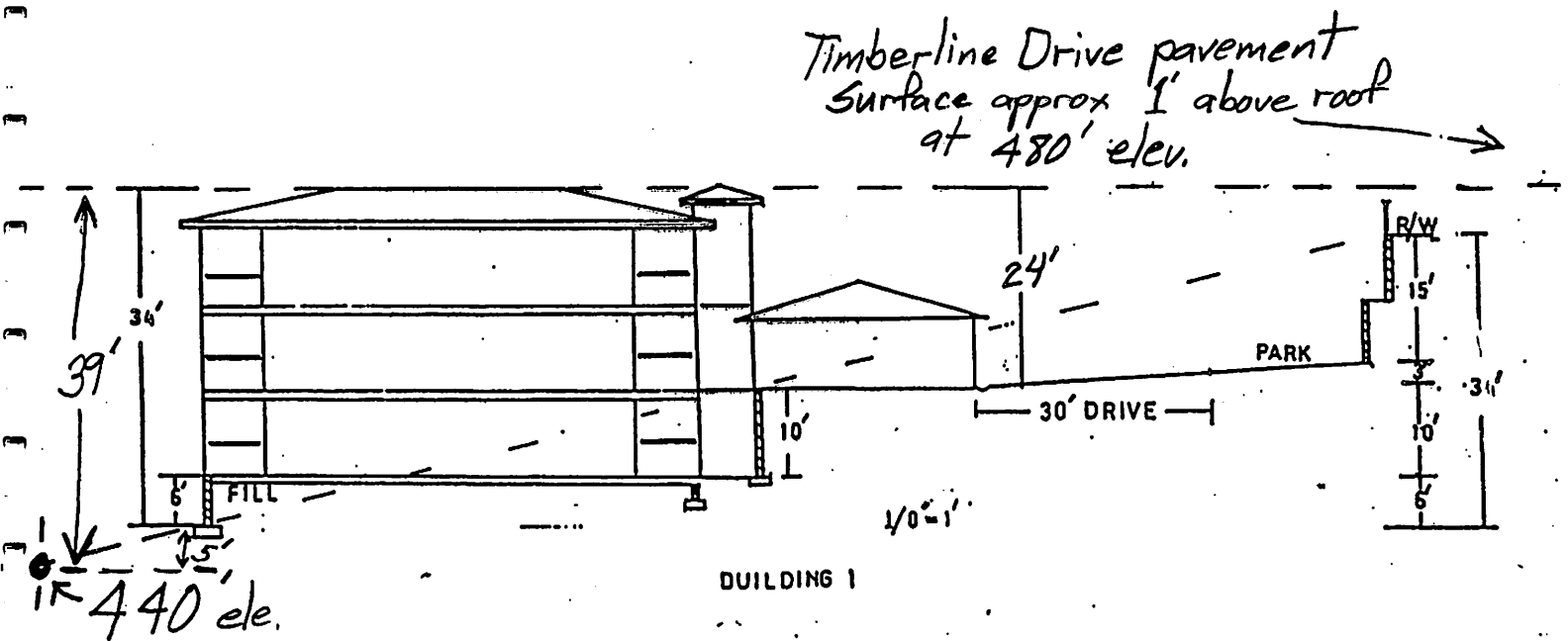


① PRELIMINARY SITE PLAN

1" = 50'

Contour = 2'





Section 20.060 outlines yard setback requirements of the Residential R-1 zones. It stipulates the yard requirements are: Front 20'; Side 5' and Rear 15'. The nearest any building is to a side yard is the separate Garage structure to Building 1 which is located near south boundary of the subject property and which fronts on Timberline drive. That garage structure is thirteen feet (13') from the south property line. The south wall of Building 1 itself is approximately fifteen feet (15') from that line. The front wall of that same garage structure is 47' from the west right-of-way line of Timberline Drive. All other structures are separated from the nearest exterior boundary of the subject property by distances which exceed required setbacks. The proposed buildings are set back from the nearest property line as indicated below:

Building 2 garage to nearest property line is 133 feet.

Building 3 garage to nearest property line is 72 feet.

Building 4 garage to nearest property line is 76 feet.

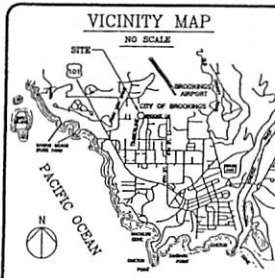
Building 5 garage to nearest property line is 105 feet.

Building 6 garage to nearest property line is 170 feet.

Building 7 garage to nearest property line is 65 feet.

Ransom Creek forms the north and westerly boundary of the subject property. It is to the rear of all of the proposed buildings. The nearest any proposed structure is to that boundary is 95'. That setback exceeds the rear yard requirement by 80 feet. The nearest any proposed structure is to the east boundary is 308' which is the distance from building 7 to that boundary. That setback exceeds the required side or rear yard setback by a distance of 292 feet. We conclude all setback requirements are exceeded in this proposal.

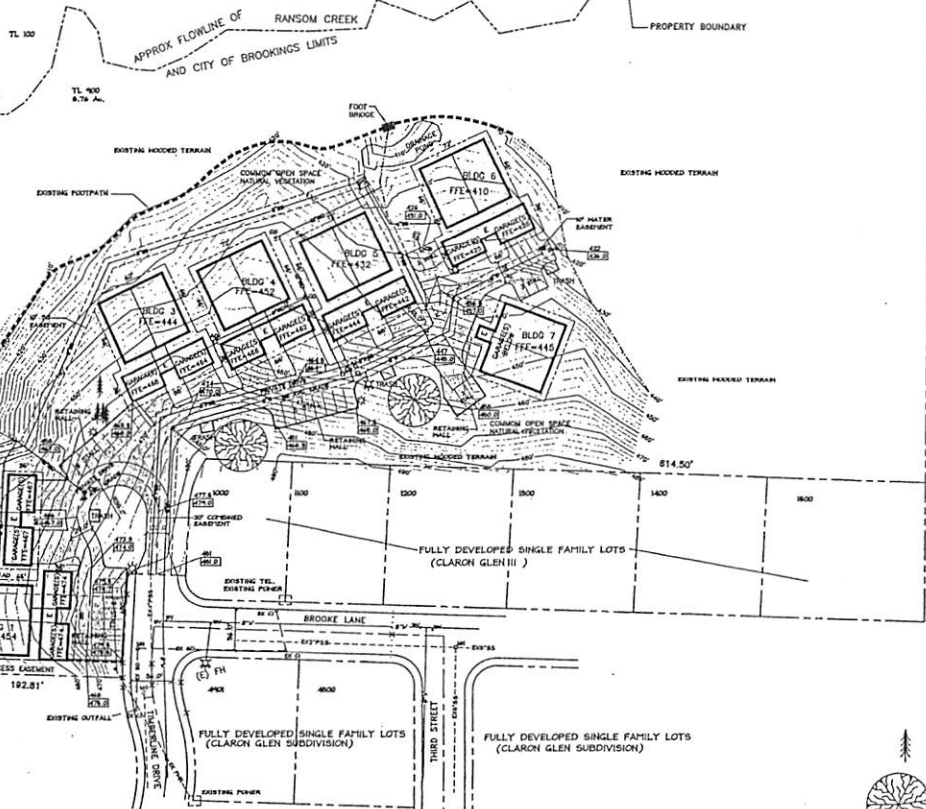
Building envelopes account for 50,537 square feet of space which equates to thirteen percent (13%) of the lot area. Parking and Drive surfaces account for 30,713 square feet of space which equates to eight percent (8%) of the lot area. Open area of the subject property accounts for the remaining seventy percent (79%) of the subject property. All of the walls and fences, parking, loading, landscaping and other features are contained within the boundaries of the subject property within only a small portion of that open area. We conclude the subject property is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this code.



RANSOM CREEK - P.U.D.

ADJOINING CLARON GLENN II
SUBDIVISION PER PLAT 1992-68

LOCATED IN
NE1/4 OF THE SW1/4, SECTION 43, T40S, R13W, W4E
TAX LOT 900
CURRY COUNTY, OREGON
ZONING: R-1-15



RANSOM CREEK

BUILDING PAD EXCAVATION TABLE

BUILDING	F.F.E.	PAD ELEVATION	GARAGE F.F.E.	GARAGE PAD F.F.E.
1	454.0'	452.5'	474.0'	472.5'
2	447.0'	445.5'	467.0'	465.5'
3	444.0'	442.5'	460.0' / 464.0'	466.5' / 462.5'
4	452.0'	450.5'	464.0' / 462.0'	464.5' / 460.5'
5	432.0'	430.5'	444.0' / 442.0'	442.5' / 440.5'
6	410.0'	408.5'	425.0'	423.5'
7	445.0'	443.5'	445.0'	443.5'

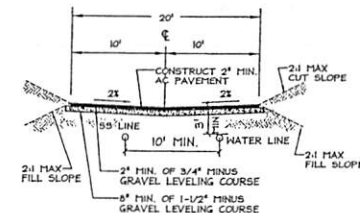
1 PRELIMINARY SITE PLAN

1" = 50'

CLIENT:
BRUCE BROTHERS
P.O. BOX 61
BROOKINGS, OR 97415
(541) 661-1544

ENGINEER:
T.J. BOSSARD, INC.
103 NW 10th STREET
GRANTS PASS, OR 97526
(541) 474-5774
FAX (541) 471-6084

SURVEYOR:
STANTZKE ENGINEERS
AND FORESTRY, L.L.C.
47024 SHOPPING CENTER AVE.
BROOKINGS, OR 97415
(541) 464-5324
FAX (541) 464-0760



NOTES:
1) ACTUAL BASE REQUIREMENTS TO BE DETERMINED BY ENGINEER.

2 TYPICAL DRIVE SECTION (PRIVATE)

NO SCALE

BUILDING TABULATION

BUILDING #	FOOTPRINT (SQ. FT.)	GARAGES (SQ. FT.)	TOTAL (SQ. FT.)
1	5534	1450	5404
2	5534	1450	5404
3	5534	1450	5404
4	5534	1450	5404
5	5534	1450	5404
6	5534	1450	5404
7	5702	—	5702
TOTAL	24406	11,700	36,606

CONDOMINIUM UNITS 36
SINGLE GARAGES 36
ON-SITE PARKING SPACES 95

SITE DATA

TOTAL LOT AREA - 301,505 SQ. FT. (6.96 AC)

BUILDINGS	ENVELOPE AREA (SQ. FT.)
1	7,266
2	7,266
3	7,266
4	7,266
5	7,266
6	7,266
7	5,122
TOTAL	50,531

BUILDING ENVELOPES 50,531 SQ. FT. 16% LOT COVERAGE
PAVING / DRIVE 30,712 SQ. FT. 10% LOT COVERAGE
OPEN AREA - 300,936 SQ. FT. 74% LOT COVERAGE

DWELLING UNITS PER ACRE: 36 UNITS / 6.96 AC. = 4.12 PER ACRE

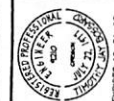
MAX DWELLING UNITS - 301,505 - 33,712 = 350,273 SQ. FT. (NET USABLE AREA)
350,273 SQ. FT. / 6,000 SQ. FT. (MIN. LOT) = 58

LEGEND

- D FIR MARKED BY CLIENT (NOT TO BE REMOVED)
- MYRTLE WOOD TREE MARKED BY CLIENT (NOT TO BE REMOVED)
- EXISTING NATURE TRAIL
- STREET LAMP
- FIRE HYDRANT
- EXISTING GRADE
- PROPOSED GRADE
- FLOW LINE OF SEASONAL PROPERTY DRAINAGE
- FLOW LINE OF SEASONAL DRAINAGE CREEK
- EXISTING SAN. SEWER LINE
- EXISTING STORM DRAIN LINE
- EXISTING WATER LINE
- EXISTING POWER
- PROPOSED PRESSURE SANITARY SEWER
- PROPOSED SANITARY SEWER
- PROPOSED WATER LINE
- PROPOSED STORM DRAIN

REVISIONS
PAD TABLE

T.J. BOSSARD, INC.
Civil & Structural Engineering
103 NW 10th Street
GRANTS PASS, OR 97526
TEL: (541) 474-5774
FAX: (541) 471-6084



RANSOM CREEK P.U.D.
PRELIMINARY SITE PLAN

EXHIBIT G

DRAWN BY: J.V.
CHECKED BY:
DATE: 05/21/04
SCALE: AS NOTED
CADD FILE: SPRING
JOB NO.: 02-093

1 SHEET
of 1

NOT FOR CONSTRUCTION

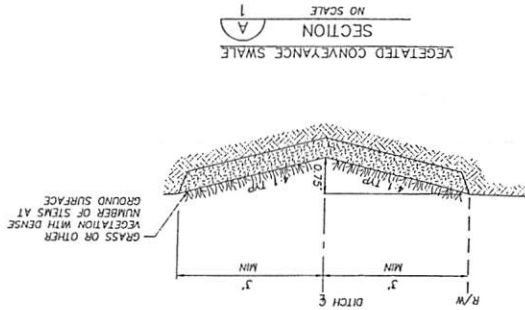
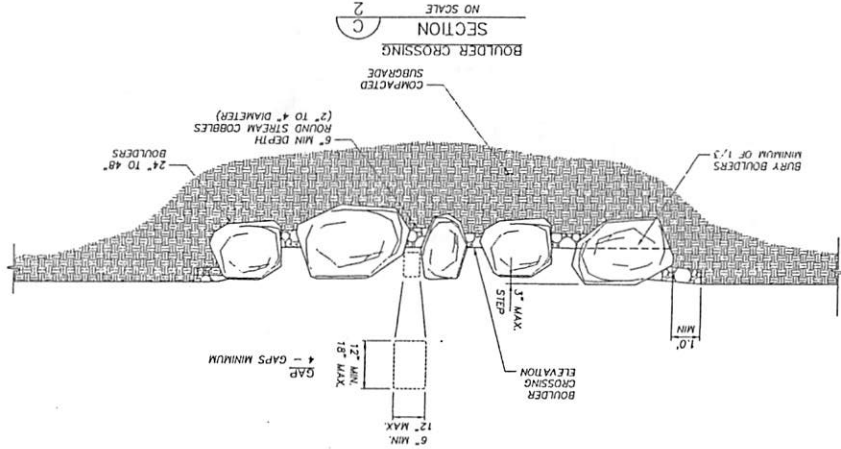
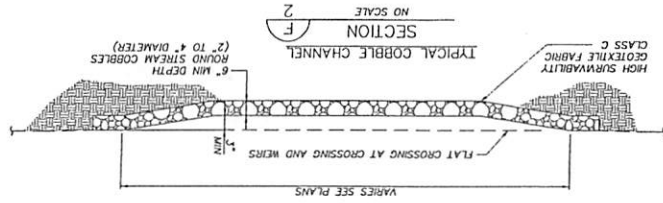
A photograph of a metal scale plate. At the top, there is a ruler with markings from 0 to 10. Below the ruler, the text "ONE INCH AT FULL SCALE" is printed. Below that, the text "IF NOT, SCALE ACCURACY" is printed. At the bottom, the text "KAL 100011921015-02" is printed. The plate is mounted on a wall.

DATE				
TIME				
LOCATION				
REMARKS				
BY				

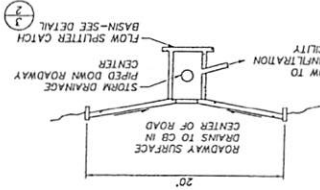
Diagram of a catch basin with a 1:1 slope. Labels include: DO NOT HOT "TOP" SOIL WITHIN 2' OF FLOW CONTROL STRUCTURE, CATCH BASIN TYPE 1, SO OUT, SIZE AND MATERIAL PER PLAN, SO OUT, SEE PROFILES, RIM EL. PER PLAN, 1" FREE BOARD, OR APPROVED EQ., FURNISH & BEHAVE GRATE OR SLOUGH, FOUNDRY TYPE SLAG & SAND, 1:1, and 10' MIN. TO TOP.

[illegible][illegible]

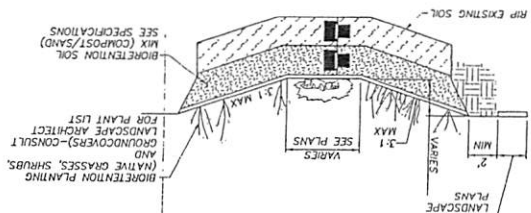
DATE	JUNE 2004
PROJECT	RAVENS CREEK PUD
CLIENT	RAVENS CREEK PUD
DESIGNER	RAVENS CREEK PUD
SCALE	AS SHOWN
DATE	JUNE 2004
PROJECT	RAVENS CREEK PUD
CLIENT	RAVENS CREEK PUD
DESIGNER	RAVENS CREEK PUD
SCALE	AS SHOWN
DATE	JUNE 2004
PROJECT	RAVENS CREEK PUD
CLIENT	RAVENS CREEK PUD
DESIGNER	RAVENS CREEK PUD
SCALE	AS SHOWN



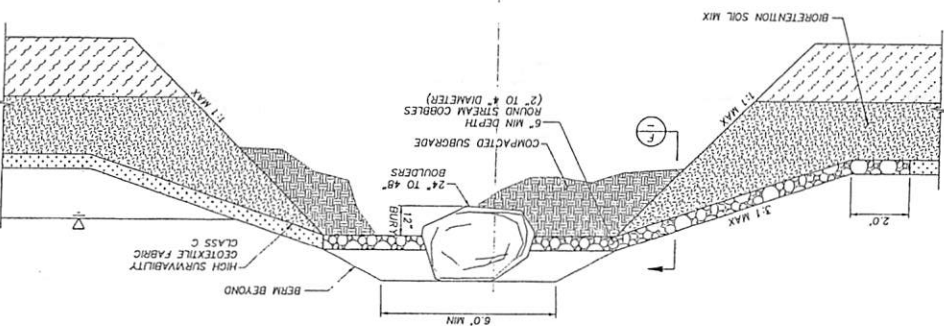
SECTION G
TYPICAL ROADWAY
NO SCALE



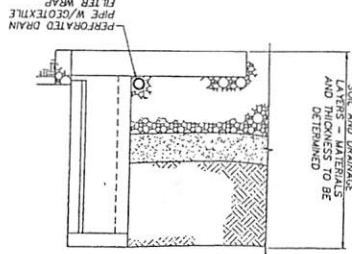
SECTION D
BIORETENTION CELL
NO SCALE



SECTION B
BOULDER CROSSING
NO SCALE



SECTION E
RETAINING WALL DRAIN LOCATIONS
NO SCALE



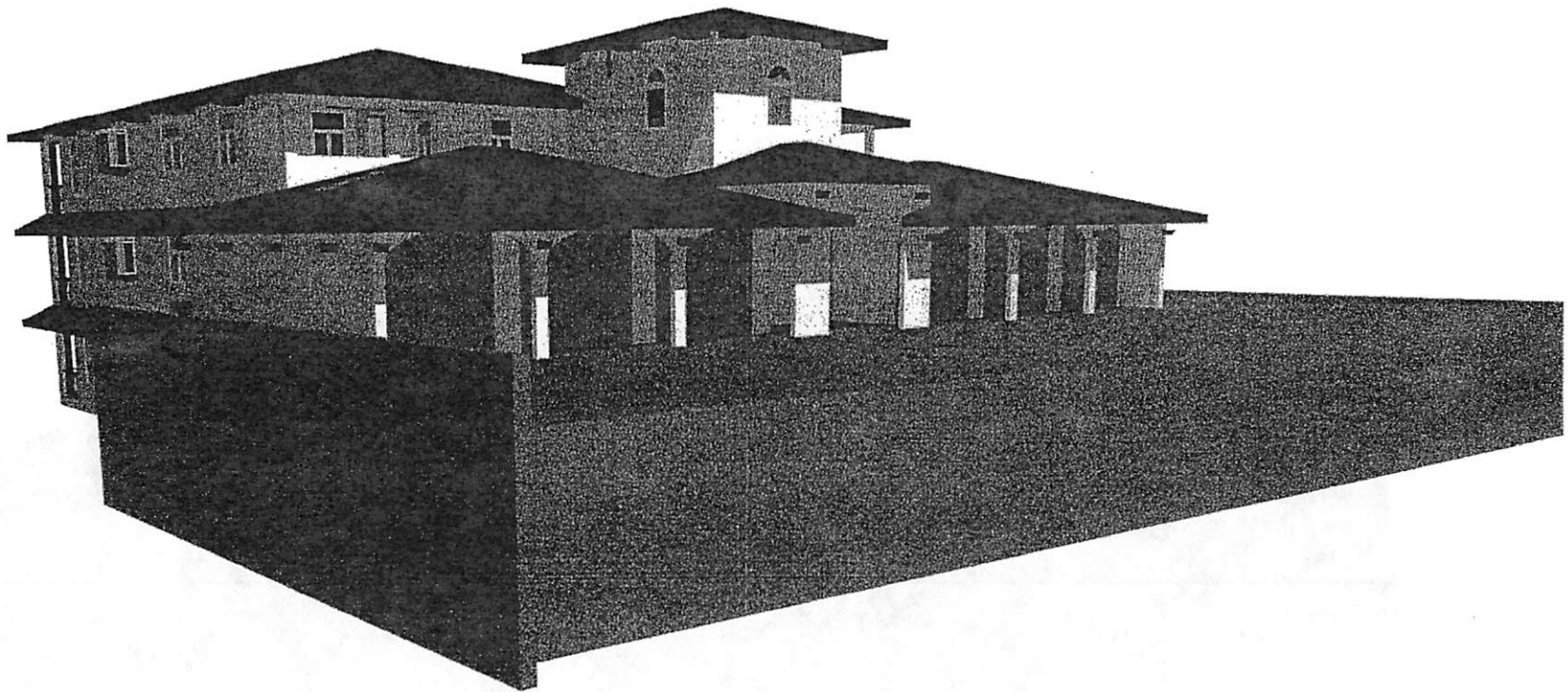
SECTIONS

NOT FOR CONSTRUCTION

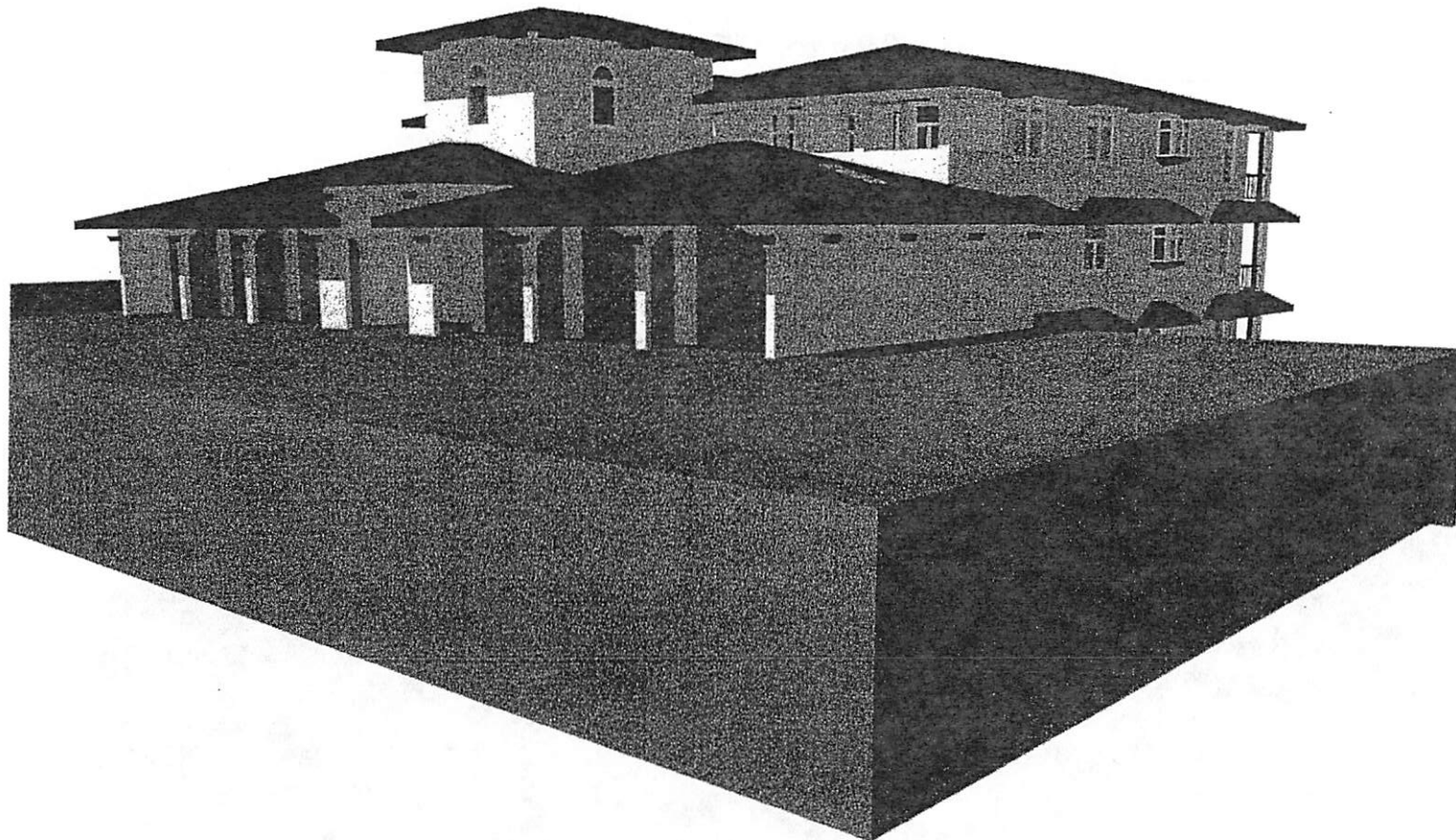
3

EXHIBIT J

PROJECT EXHIBIT J



Front View 1



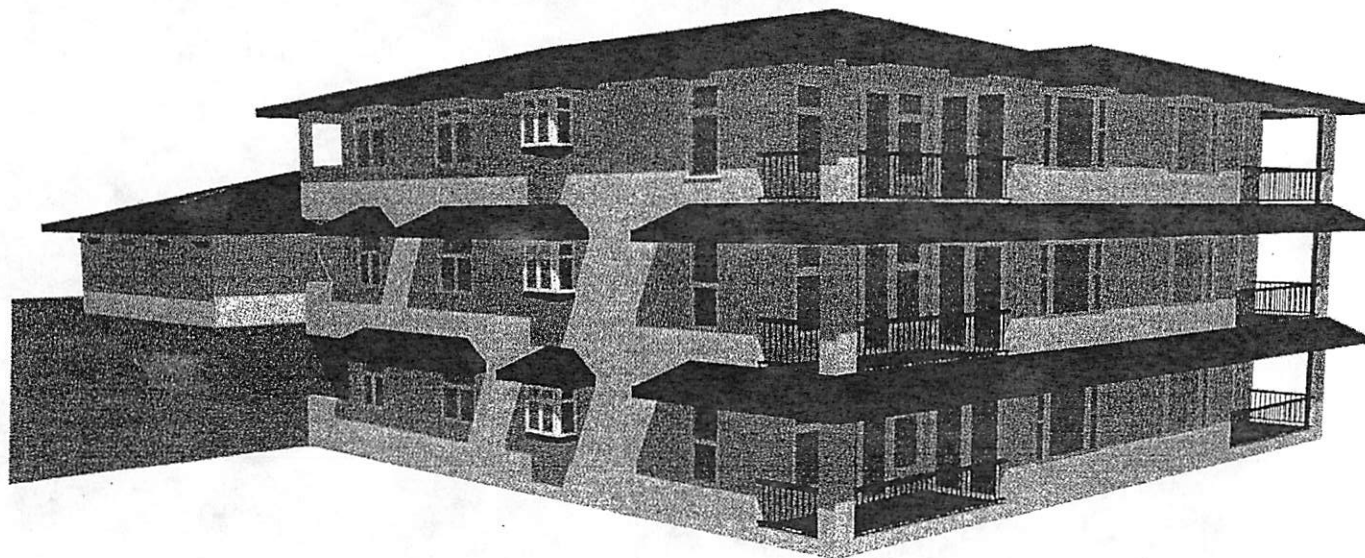
Front View 2

West Coast Lines & Graphics
16289 Hwy. 101 S. Suite F
Brookings, OR 97415
541. 469. 7785 print@westcoastlines.com

Ransom Creek P.U.D.

Brookings, OR 97415
04 JUNE

EXHIBIT **3**



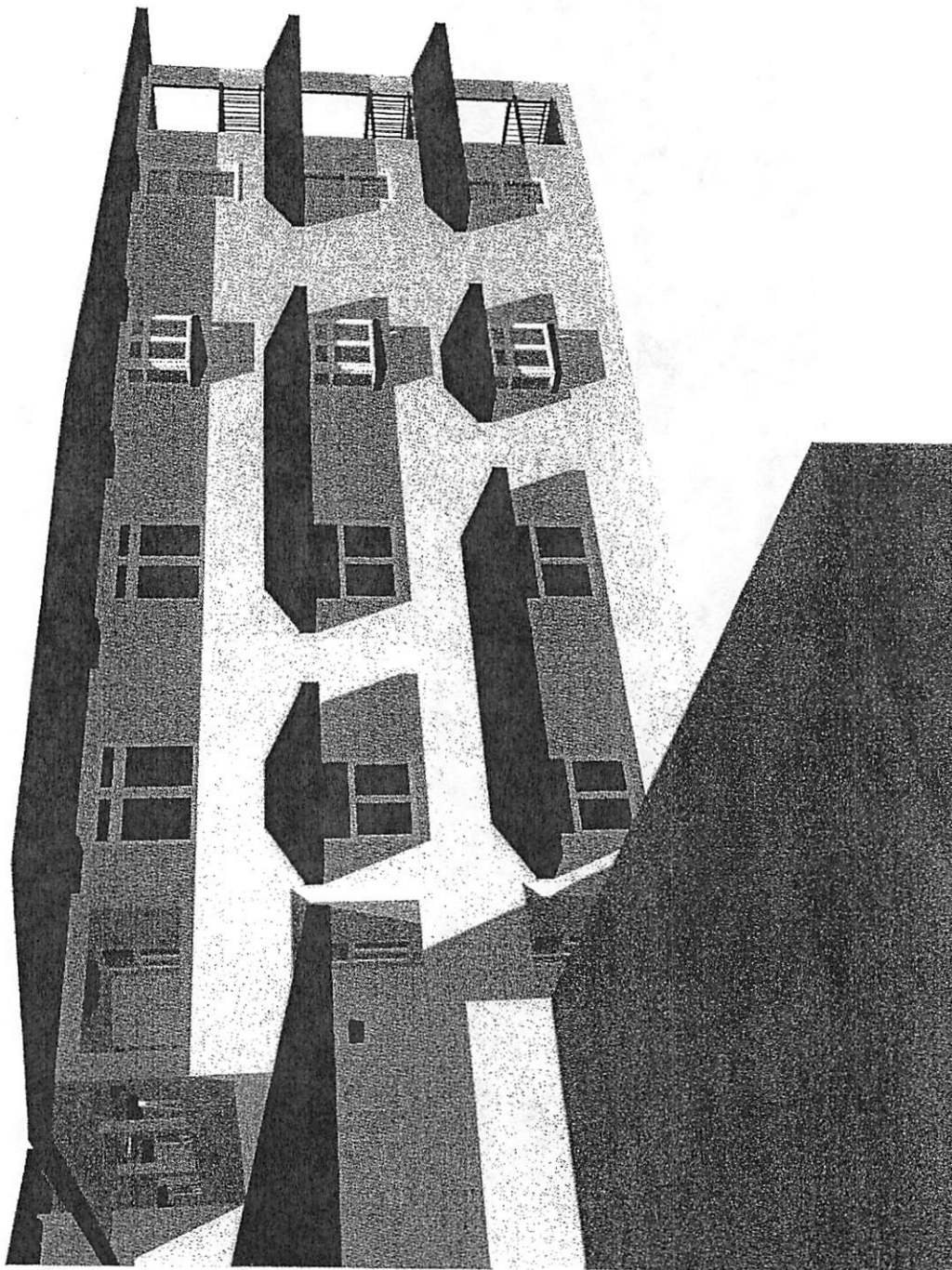
Rear View 1

West Coast Lines & Graphics
16289 Hwy. 101 S. Suite F
Brookings, OR 97415
541 . 469 . 7785 print@westcoastlines.com

Ransom Creek P.U.D.

Brookings, OR 97415
04 JUNE

EXHIBIT M



Right View 1

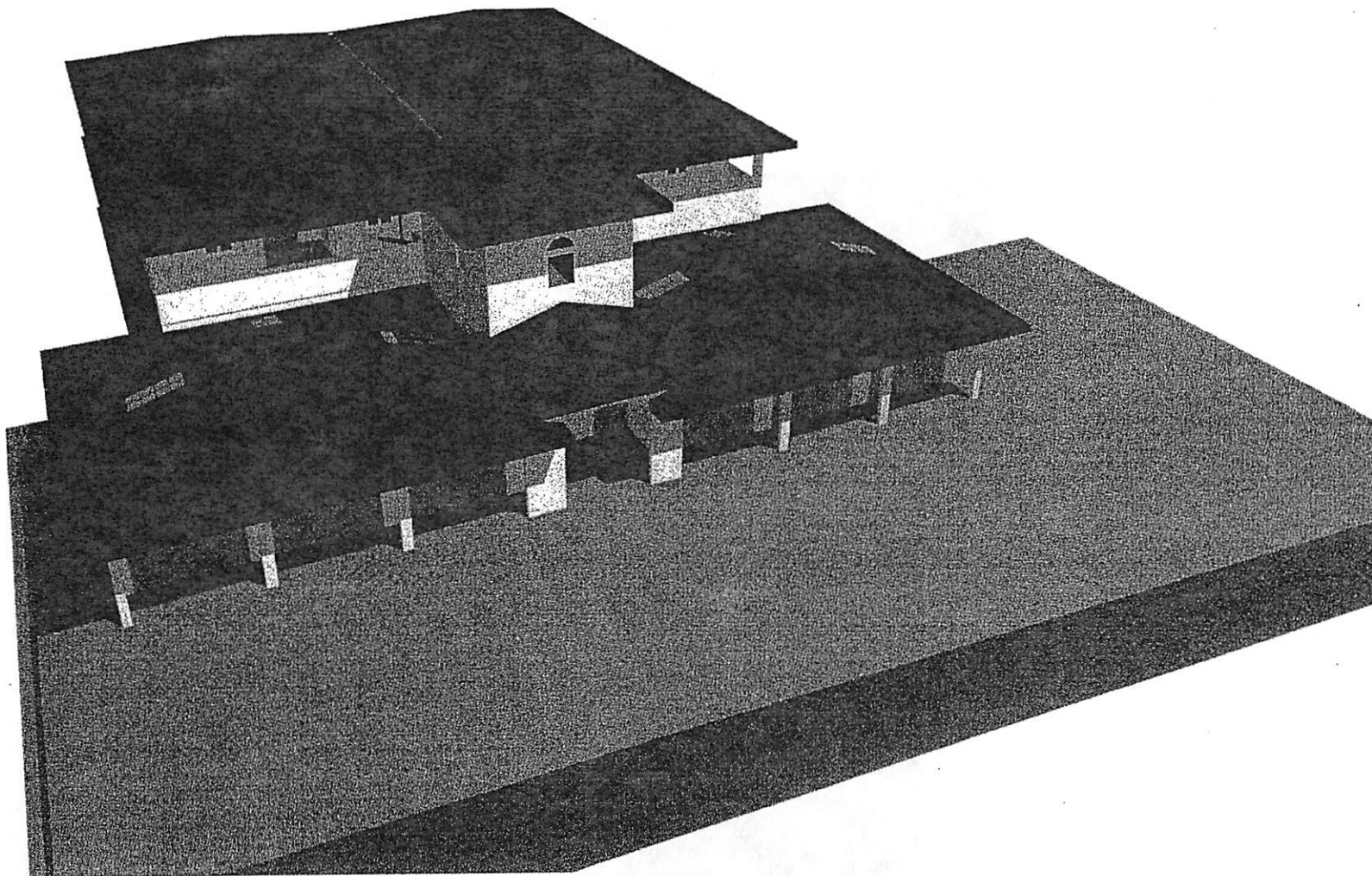
West Coast Lines & Graphics
 16239 Hwy. 101 S. Suite F
 Brookings, OR 97415
 541.469.7785 print@westcoastlines.com

Ransom Creek P.U.D.

Brookings, OR 97415
 04 JUNE

5

EXHIBIT *N*



Overview 1

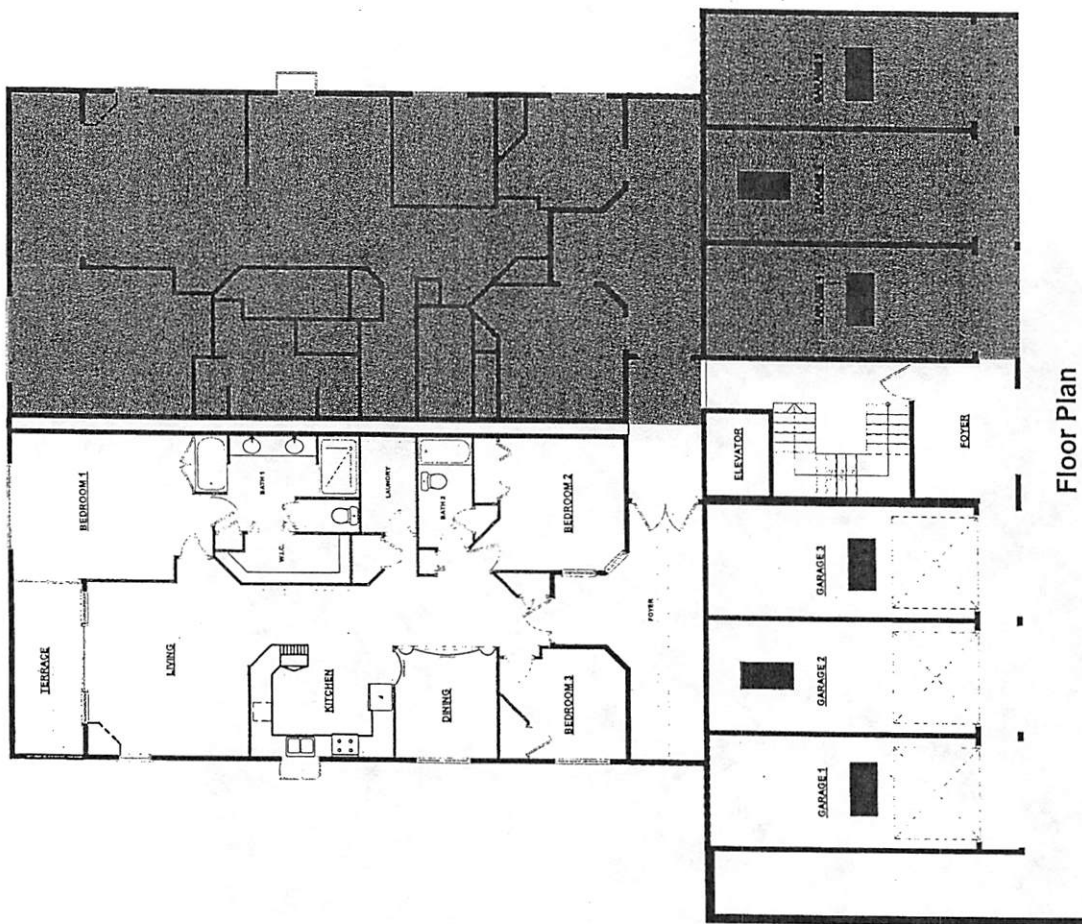
West Coast Lines & Graphics
16289 Hwy. 101 S. Suite F
Brookings, OR 97415
541.469.7785 print@westcoastlines.com

Ransom Creek P.U.D.

Brookings, OR 97415
04 JUNE

6

EXHIBIT *Q*



Floor Plan

Ransom Creek P.U.D.

Brookings, OR 97415
04 JUNE

West Coast Lines & Graphics
16289 Hwy. 101 S. Suite F
Brookings, OR 97415
541.469.7785 print@westcoastlines.com

EXHIBIT A

Earle Keathley

905 3rd Street
Brookings, OR 97415
541-412-1305
earle@conwtec.com

OPPOSITION
EXHIBIT Q

July 12, 2004

Mr. John C. Bischoff
Brookings City Planning Director
898 Elk Drive
Brookings, OR 97415

RECEIVED
JUL 12 2004
CITY OF BROOKINGS
COMMUNITY DEVELOPMENT CM

Dear Mr. Bischoff:

I spoke at the Planning Commission meeting on Tuesday, July 6, 2004 regarding the matter of File No. **PUD-2-04**, an 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 40-13-31 CA, Tax Lot 900; R-1-6 (Single-family residential, 6,000 square foot minimum lot size), and 40-13-31 CD, Tax Lot 4900; R-1-10 (Single-family residential, 10,000 square foot minimum lot size zone; Bruce Brothers applicants, Jim Capp representative.

This letter provides my additional testimony which we were allowed to provide in writing within 7 days.

Prior to the above mentioned meeting, I obtained a copy of the City of Brookings Planning Commission *Staff Agenda Report* dated June 16, 2004 regarding PUD-2-04.

My comments at the meeting and additional comments in this letter are based on that report.

It is my understanding that this planned unit development must meet the criteria set forth in Section 116, Planned Unit Development Approval, as well as the criteria of Section 140, Conditional Use Permits, of the Land Development Code. The *Staff Agenda Report* provides an analysis of the applicant's proposal which addresses these criteria and generally agrees with the applicant's findings. I disagree with many of those findings and believe the applicants must be denied a conditional use permit.

To avoid repeating large portions of the applicant's proposal, I will refer page numbers in their 27 page document titled *Findings in Support of Conditional Use Permit for a Planned Unit Development* that was attached to the *Staff Agenda Report*.

On page 4, under Goal 1: Citizen Involvement: I believe the spirit of this criterion is violated here because of the location. Since this new development is at the North End of the Claron Glen Subdivision, and the only streets in and out pass through the subdivision, all of the individual homeowner's in the subdivision should have been notified. The 250 feet requirement for notices to be sent may work well in a densely populated area, but these two lots are at the end of a previous development, and down in a steep ravine, so that only a few homeowner's who fell in the 250 foot limit were notified. Sending the notice to the Homeowner's Association does not meet the criteria on notifying property owners. The Home Owner's Association has no obligation to inform homeowners of events occurring outside the Claron Glen subdivision.

On page 6, under Goal 5, Policy 1: Protection of natural resources and scenic areas: The applicants claim there are no Goal 5 resources on the property, but their own maps prove otherwise. Ransom Creek is certainly a natural resource that flows the year around and provides fishing experiences for neighborhood children. The trail that appears on their map, and is mentioned in the Background Information of the *Staff Agenda Report*, provides access to the creek and a pleasant forest experience for many people in the area. This trail should be kept open for the use of all citizens in the area.

Under this same goal is mentioned that "79% of the property will be common area which will provide natural settings and maintain tree covered areas." This does not say that 79% of the trees will remain on the property. As it appears now, more than 21% of the property has been cleared of trees and shrubbery. This is an extremely hazardous condition that needs to be addresses before the next rains come.

On page 8, under Goal 7, Policy 2b: To protect life and property from natural disasters and hazards The applicant says, "Because the subject property has that steep and deep creek valley as a topographical feature, applicants arranged for a geologic review by Busch Geotechnical Consultants." In the following explanatory paragraph, the applicants describe the geologic report as Preliminary and indicate that further analysis is necessary. In stating the assessments from that report, they include "However, based on our work to date, and assuming the slopes remain forested, we believe that the risk is LOW that a slope failure originating near the creek would progress upslope into the developed area." As I stated above, many trees from the slope have already been removed and the process is not complete as yet. Also there is no accounting for the trees once the project is turned over to a homeowner's association.

On page 10, Goal 10, Policies 1 through 3: Provision of varied housing which is safe, sanitary and adequate for all residents of the community: On page 11, at the bottom of the first paragraph under a; the applicant says, "Trails and naturally wooded vistas will remain as 79% of the land area remains in common area. By "common area" the applicant refers to space available to the PUD residents only. This clearly violates Goal 10 and Policies 1 through 3 which apply to the "residents of the whole community" and not just to the PUD.

On page 14, Goal 17 Coastal Shore Lands – and - Goal 18 Beaches and Dunes: The applicant states that the planned development is located one mile from any ocean shore land and on the north extremities of the city. And, further states that Goal 17 does not apply. This planned development is in a ravine on the banks of Ransom Creek which flows into the Pacific Ocean less than 3/4 mile from the building sight. The intervening space is not occupied by high density urban level development. Following the line of the creek, there are very few homes due to the steep banks.

On page 16, Sec 140.050 C.3, Vehicular Traffic: Under a, the applicant refers to the Brookings Transportation Systems Plan and applies a Level of Service rating of "A" for Easy Street. The Service Levels provided in a table on the next page clearly show that an "A" rating could not apply to Easy street since the maximum speed is posted at 25 miles per hour. The "A" rating requires at least 30 miles per hour. The Service Level that applies cannot be above a "C" due to the speed rating. I do not know what this does to their finding, but I bet it is not improved.

On page 24, Sec 116.060 Standards for approval: D. There are special physical conditions or objectives of development which the proposal will satisfy so that departure from standard zoning district regulations can be warranted. In the last paragraph of this finding the applicant says, "Lack of access to other than the intersection of Timberline Drive and Brooke Lane prohibits other than an internal, looped road with one major access point at that location." By looking at the map they provide on page 25 it seems Brooke Lane is very closely aligned with Hampton Lane on the other side of Ransom Creek. By bridging Ransom Creek the two lanes could be joined to provide another entrance/exit, which would be a great improvement to safety in the area and will certainly help with Standards for approval E that the project will be compatible with adjacent developments and will not adversely affect the character of the area. Also, the proposed road is not "looped," but is sharply curved and comes to a dead end in two locations making it almost impossible to get large vehicles such as fire trucks, moving vans, and RVs in and out of the area.

On page 26, Sec 116.060, Standards for approval: F: This standard refers to on and off-site traffic, off-street parking, access points, and additional street right-of-way improvements. Under a, this paragraph refers to a 22 foot wide paved, private street. This same street is only 20 feet wide on page 25 and also just below under c. In a previous area on parking the applicant states that the apron area in front of the garages would be used for additional parking. Those apron areas are where the landscaper said they

would use a new permeable material that would let water seep through into the ground. If the water seeps through, what happens to the oil, etc. that accumulates under the cars? Does it end up in our water supply or in the ocean? Also, if the water seeps through what happens when the ground underneath becomes saturated? We may not want to use this "new material" on these steep slopes until it has been tested more thoroughly.

On page 26, Under b: The applicant uses Ransom Avenue as a neighborhood collector with a Service Rating of "A" stating it is the best rating. Note that on page 16 East Street had this distinction, however; neither street qualifies for an "A" Service Rating. They are both posted for a maximum speed of 25 miles per hour. A Service Rating of "A" requires an average speed of at least 30 miles per hour. Also, Ransom Avenue is quite steep near 5th Street. No one approaches 5th street from the west at any where near 25 miles per hour. Once again, a Service Rating of "C" is the best they can get and based on average speed. Ransom Street would be closer to Service Rating of "E."

On page 26, under c: The applicant mentions 36 single car garages and 35 on-site parking places. The open parking spaces are on the aprons in front of the garages. He states that "considerable paved surface in excess of the drive/street section is available for turnaround and other maneuvers." Further along it says, "Therefore there will be an additional 20,712 square feet of paving to accommodate parking and turning movement with the project." It appears that the parking and maneuvering space takes up all the space for turnaround. What happens with emergency vehicles such as fire, police and ambulance that must all get there, sometimes all at once, to save a life?

In addition to the previous comments, I want to include some comments on the report by BUSCH Geotechnical Consultants that was attached to the contractor's proposal. BUSCH calls their report *Geotechnical Feasibility of Constructing the Proposed Seven-building, 36-unit Ransom Creek Condominiums, Brookings, Oregon*.

In the first paragraph of the introduction to the geologic report, second sentence, the report says, "In the near future, we will deliver a complete geotechnical report to document our work and the site conditions. The report will contain stability mapping, geologic cross-sections, soil logs, laboratory data on the foundation bearing soils, background geologic and seismic information, references, appendices, and geotechnical recommendations to support the engineering design of earthworks, foundations, and water-control structures."

Please note that this "complete geotechnical report" was not yet provided to the builder, however; the builder has removed an astonishing quantity of trees and shrubbery from the property and has almost completely leveled and denuded the proposed building site without knowing what damage that may cause to Ransom Creek or the surrounding area.

On page 2 of the Geologic report, a heading states that it is a Summary of Geologic Findings. Please note under number 1, second paragraph, it says "in this area of Brookings, the bedrock is a "mélange" or mixture of rock types. Where undercut, surcharged, or permanently saturated in a high-relief setting, mélange is intrinsically unstable."

On page 3 of the Geologic report, under item 5, the last sentence says locally less-stable toeslopes are present along Ransom Creek.

On page 3 of the Geologic report, under item 6, this whole item is a real worry, but the last sentence is the worst. "However based on our work to date, and assuming the slopes remain forested, we believe that the risk is LOW that a slope failure originating near the creek would progress upslope into the developed area."

On page 3 of the Geologic report, under item 8, the second paragraph reads, "Furthermore, the required development activities, if done in conformance with our forthcoming recommendations, will not increase the levels of risk associated with exiting hazards. At the time of this report the recommendations were still forthcoming. If they were available at the time of the meeting, why were

July 12, 2004

they not provided for review? Also, what might the report contain that the applicants do not want the public to know?

On page 4 of the Geologic report, under item 9, says erosion and sediment-control efforts using BMPs will be necessary during construction and as part of the long term design for the project. This indicates that there are erosion and sediment-control problems with the site now and will be in the future regardless of measures taken for control. This is not good news.

There is no place in the preliminary geologic report where BUSCH says it will return to the site for further testing. We must assume their testing at the site is complete and only laboratory testing and report preparation remain to be done. I recall representative, Jim Capp, saying in rebuttal that additional on site testing was planned.

To protect the city from lawsuits resulting from geologic events, the city must, at the applicant's expense, hire an independent geologic appraiser to verify the BUSCH final report and to instruct our inspectors of what to look for in approving the building process. All expenses for correcting a landslide or other hazardous situation will fall on the Brookings city tax payers because the applicant can always declare bankruptcy and avoid the expense.

In light of the provisions of Section 100, Hazardous Building Site/Hillside Development Standards, of the land development code and the general condition that those standards be met before grading and construction on the site, a conditional use permit should be denied to the Bruce Brothers. Furthermore, they should be required to comply with the erosion and sediment-control using BMPs and provide a bond to cover any consequential damages.

Sincerely,


Earle Keathley

To: Brookings Planning Commission
From: Ed and Rocelle Henke
Subject: File No. PUD-2-04
Date: July 9, 2004

OPPOSITE
EXHIBIT R
RECEIVED
JUL 12 2004
CITY OF BROOKINGS
COMMUNITY DEVELOPMENT CM

Attention: John C. Bischoff, Planning Director

One of our Brookings neighbors advised that our submission of July 5th was entered into the permanent record, and as such entitled us to an additional 7 days for any further comments. This person also indicated that our comments regarding Ransom Creek as a Salmonid habitat was worthy of additional discussion. The following is a supplement to ours of July 5th:

Steve Major, Fisheries Biologist, ODFW, Gold Beach called me regarding personal efforts made at two other DFG locations, to discuss our interests in the welfare of Ransom Creek Salmonid habitat. He was very congenial and patient with my questions of concern.

Steve advised that Ransom Creek, was in fact, habitat for an isolated population of Coastal Cutthroat Trout (*Oncorhynchus clarki clarki*)

I questioned if they were not the anadromous form and he advised they were resident CTT and had no access to the sea.

I asked if studies had been made on the fish to scientifically determine that they were not anadromous and he advised that they hadn't. Also, he was sure there was a natural barrier blocking their emigration/migration to/from the sea. If, in fact, they are an isolated population, then I personally feel they are an invaluable public trust asset worthy of full protective measures.

Steve advised that the Brookings Planning Commission was basically in full control of the development process and would provide all the necessary legal requirements for such a project.

The main issue raised here is the maintenance of water quality in Ransom Creek that would be adversely affected by diversion and siltation.

The drainageways discharging their flows into Ransom Creek and their remaining riparian corridors need to consist of 50-75 feet buffers on both sides to comply with the legal requirements. A significant drainageway discharging its flows into Ransom Creek coming in from the N/E side needs such protection as well as for Ransom Creek proper-also, for any additional smaller drainageways leading into Ransom Creek.

1 of 2

Again, prior and subsequent monitoring for water quality maintenance of Ransom Creek is all essential.

Thank you for allowing us to submit additional comments regarding our perceived specific requirements for such a project.

Respectfully Submitted


Ed Henke


Rocelle Henke

RECEIVED
JUL 14 2004

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

July 9, 2004

Robert Lobdell
Division of State Lands
State of Oregon

FAX #503-378-4844

We are residents of Brookings, Oregon, living at 942 Timberline Drive (Map 40-13-31CD, tax lot 4931 (R26877)).

This letter is addressed to your department as we feel there is a project taking place in our neighborhood that is in violation of Oregon's Statewide Planning Goals and Guidelines, specifically Nos. 5, 6, 7 & 16.

The project is identified as file No. PUD-2-04 Planning Dept., City of Brookings, OR. Application for 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 40-13-31 CA, Tax Lot 900; R-1-6 (Single Family Residential, 6,000 square foot minimum lot size) and 40-13-31CD, Tax Lot 4900; R-1-10 (Single family residential, 10,000 square foot minimum lot size) zone; Bruce Brothers, applicants, Jim Capp, representative.

Bruce Bros. have already timbered the land and have done extensive grading, all done prior to approval and permits from the City of Brookings. This seems to be their practice as evidenced by past incidences in other developments.

It has been brought to our attention that testing done revealed that 3 feet down they ran into water. They have covered up this fact with fill.

We live in an upscale subdivision where many homeowners have experienced water problems under their homes which occurred after construction. They were never told prior to purchase/construction that there are underground springs in this whole area that are disturbed by construction (even construction outside the immediate area). We experienced this very problem with the discovery of 9" of water under our home 2 years after completion of construction. The City inspector told us of this fact at the time of this incident. This very inspector was contacted prior to the purchase of our lot along with input from the City Planning director. We were advised that there were no problems with this lot and they would make no requirements for construction. We were concerned due to the fact that our lot was a cut 4± feet below our neighbor's lot. As a precaution we had a French drain put in by our contractor along that side of the property. Construction of our residence up to the framing stage was done while we were out of state.

After our incident, we discovered that many neighbors in this subdivision had similar problems.

Now they are considering approval of a condominium project in this neighborhood of single family homes without taking into consideration the aforementioned impact and problems as well as the traffic impact on these residents with upwards of 200 or more cars on Brooke Lane and Timberline Drive, all feeding to a narrow 2 lane street to reach downtown Brookings (a street without sidewalks for several blocks).

We feel that the name "Ransom Creek" should be enough to get your attention along with the natural underground springs which would be disturbed and cause future devastating problems.

The City Fathers are only thinking of the tax revenue and not thinking of the present tax payers' interests.

Thank you for your attention to this matter as we are concerned residents of this city in Oregon.

Mr. & Mrs. Donald Drivon

July 12, 2004

City of Brookings
Planning Commission
898 Elk Drive
Brookings, OR 97415

RE: PUD-2-04

Attention: Bob Gilmore, Randy Gorman, Ted Freeman, Jr., Bill Stewart, James Collis, Bruce Nishioka, Bill Dundom, John Bischoff

Gentlemen:

As a resident of Claron Glen Subdivision and residing at 942 Timberline Drive, Brookings, OR, I strongly oppose PUD-2-04 "Ransom Creek" and ask that you deny Bruce Brothers's application for the numerous reasons listed and covered in this letter.

As you know, this is an upscale neighborhood comprised of individual homes occupied mostly by retired seniors who want to live in a safe, quiet and peaceful environment. Allowing the high-density units as proposed would strip this area of its very attractiveness and value that the homeowners have acquired. These units will turn into rental units and, as you know, renters do not respect such properties even though there is a "homeowners' association" proposed. It is already a fact that Bruce Brothers intends to retain a certain number of units as rentals. No specifics of the CC&R's or proposed rentals were ever mentioned at the Planning Commission hearing on July 6th.

This is not the area for this type of development. Let's keep such developments along the highway corridor and closer to town. The subject property should be developed in the manner for which it was originally intended to be—an area of individual homes! Why allow the devaluation of everyone's property that they have worked so hard to obtain. Tasteful planning spoiled by greed of developers and lack of concern of the city fathers.

Impact from traffic of 72 cars or more numerous times each day. Traffic at a speed that will not be controlled, impairing the safety of senior citizens walking on the streets, people walking their dogs and children playing in and about the streets. YES! Timberline or Brooke Lane can handle the proposed traffic, but not the residents and their SAFETY!

What do you think the hazards of all the additional cars will be to the children going to the swimming pool, the skatepark, the basketball and tennis courts? Not to mention the many games that attract children and people of all ages at the ball park. The streets of Hassett, Third, Ransom and Timberline are already impacted by Bud Cross Park. Have you no regard for the safety of these people, as the 210 plus trips a day on these narrow streets that all lead to Fifth Street which is now barely adequate to carry traffic to downtown. Not to mention the fact that there are doctors' offices on each side of Fifth Street with people turning to enter and leave these offices as well as Ray's Food Place. And of course we have the Fire Department, City Hall and a bank right there less than 100 feet from the Hwy. 101 intersection.

Now let's address the pollution in another way. Commercial landscaping and fertilization and equipment use for maintenance will pollute the fish and wildlife habitat in and around Ransom Creek, as well as erosion of the land into the creek during construction and continuing thereafter during our heavy rains. The natural stability of the land will forever be changed with disturbing the underground springs that are prevalent in this area. Take a closer look at goals 5, 6, 7 & 16 of Oregon's Statewide Planning Goals and Guidelines.

Let's protect the fish and wildlife. Let's protect the safety of the residents of this area. Let's protect the property values in this area. Deny the Bruce Brothers's application.

Also attached is a copy of a letter to Robert Lobdell for further information.

Thank you,

Mr. Donald Drivon
942 Timberline Drive
Brookings, OR

OPPOSED
EXHIBIT 4

RECEIVED

JUL 14 2004

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

July 11, 2004

RECEIVED

JUL 14 2004

Mr. John Bischoff
Planning commissioner
Brookings City Hall
898 Elk Drive
Brookings, Or. 97415

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

Re: Ransom Creek Project. Assessor's map 40-13-31 CA, Tax Lot 900; R-1-6 (Single-family, 6000 Square foot minimums lot size) zone; and 40-13-31 CD, Tax Lot 4900; R-1-10 (Single-family Residential, 10,000 square foot minimums lot size zone; Bruce Brothers, applicants.

Mr. Bischoff and commissioners,

We understand that all the necessary permits were not obtained before starting to work on this property, cutting down trees and leveling and grading the area. Where is the ecology impact report on the wetlands and Ransom Creek as it is a fish bearing stream. Was the fish & game notified? Was a permit obtained before cutting all the trees? These trees were invaluable to the watershed. Was the water district notified? We heard no such reports. Have any provisions been made for extreme rain that the landscaping cannot handle or the pollution running into Ransom Creek. They made no provisions for catch basins for heavy rains. I would like to know who is going to be responsible for the continual flow of the sewer in times of power outages. Is it the city's responsibility? If so, is there a generator that automatically kicks in and who is going to be responsible for the maintenance. Should this fail and an overflow happens and goes into the creek who will be responsible for the law suit.

We are addressing the wetlands situation. How can you build anything on ground that has shown to have water just 3 feet below the surface. It is a fact that this was uncovered by the soils engineer. We feel this site has been covered up. . It has been our experience that these kinds of sights are not buildable. With 1,000 new homes to be built at Lone Ranch why try to build on dangerous slopes that present so many problems.

If this project goes through they should emphasize that the foot paths be kept open on Ransom Creek for public use as part of the recreation application. This path has always been open and used by the public.

The buildings as designed do not resemble anything in our area and should be re-designed to blend with the existing homes.

Another issue is the narrow streets of one way in and one way out when there is not a problem of putting in standard streets except for the builders to cut their expenses by cutting corners with narrow streets. Mr. Capp talked about this project having open space. The only space left open is unbuildable. Therefore everything is crammed into

a small area.

Now we come to the serious problem of traffic concerns which we were not allowed to elaborate during testimony. Timberline Dr. has 15 children with 2 more moving in. The end of Timberline has been barricaded at the park so it doesn't continue through to 2nd street because the residents living on that short street didn't want the traffic, so the traffic must turn and proceed up Hassett Street where it is already compacted with all the athletics and activities at Bud Cross Park. The excess parking along Third Street and added traffic is already dangerous. We cannot handle an excess of 75 or more cars going in and out on the average of 7 trips per family a day. A survey by the government states the average family owns 2.5 cars. It's unconscionable to endanger the lives of so many children already living on one street. This project does not meet the standards of compatibility with the area and will absolutely affect the character of a quiet residential and I might add, one of Brookings nicer developments of homes Mr. Capp talked about Easy and Ransom streets being able to handle the traffic and nothing about Brooke Lane and Timberline Drive and Third or Fifth streets that will bear the brunt of the traffic. There is no impact on Easy and Ransom as they are 3 and 4 blocks away from our area. I would ask that all on the planning commission drive up to the area and then you cannot help but know what I'm talking about.

I know Brookings needs growth and I'm not against growth but building should be compatible with the surrounding areas and the impact should be taken into account because it directly involves the lives of the local residents. Some contract builders have no concerns regarding the impacts I've mentioned above. We look to you to protect us from these kinds of people. I do not believe the Bruce Brothers or their representatives are bringing forth all the true facts.

I feel some on this board of planning commissioners are biased due to the very nature of their businesses, and later could directly benefit from this project. It was also interesting to note that some were falling asleep and our time to give testimony was cut short. We or any group should have had the courtesy of being given a time when all can be heard or postpone some of your agenda to a better time.

Thank you,

A handwritten signature in cursive script, appearing to read "Bill Powers".

Bill Powers
922 Timberline Dr.,
Brookings, Or. 97415



TO: City of Brookings Planning Commission re: PUD-2-04

Please consider the noted subjects prior to your decision.

General Conditions

4. 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. **No such sign exists as of 7-13-04.**

General Conditions:

Sanitary Sewer and Storm Drainage Conditions

15. The sanitary sewer system connection will be made on Timberline Drive and will require a pump to bring sewage to that level. During prolonged power failures which do happen in this area will there be a generator on line to prevent any backup of the sewage? Any such backup could possibly have an adverse effect on Ransom Creek and its immediate beach frontage.*

Statement of the Criterion:

Goal 17 Coastal Shorelands – and – Goal 18 Beaches and Dunes

The statement is made the subject property is located one mile from any ocean shoreland, however it is less than one mile to the mouth of Ransom Creek, and any pollution of the creek could adversely effect the beach area..

Mr. Bob Lobdell of the Department of State Lands has asked ODFW and other state agencies to further determine the impact of the developers' proposals on the immediate area. Mr. Steve Major of ODFW feels the area under present development does contain some disturbed wetlands.

The original plat map of the Claron Glen Phase 3 shows designated wetlands in the proposed development area.

Statement of the Criterion:

Sec, 140.050 C.3. The site for the proposed use relates to street and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use.

In addition to the criteria listed have there been any recent on-site studies counting vehicular traffic already using the aforementioned streets? It would assuage some of the skepticism felt by present homeowners in the affected area to see more than the formulae and tables are alleging.

Final Order and Findings of Fact

2. D. Regarding the minimal adverse impact on adjoining properties even though the formula of 7 vehicular trips/household/day ($7 \times 36 = 252$) for the surrounding streets carrying this traffic could severely impact large portions of the adjoining properties

3. E The project is not compatible with the adjacent developments which does adversely affect the character of the area. They are all single family homes with a price range from \$275,000 to \$550,000.

*This is a very important part of the development, and it would be very helpful if the entire system is approved by the appropriate agencies prior to final approval by the Commission.

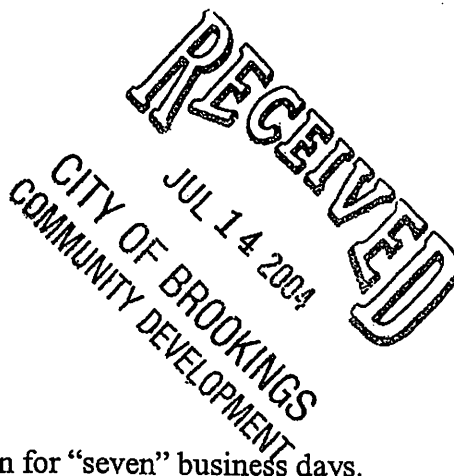
Thank you,

A handwritten signature in black ink, appearing to read "Bill Boynton", with a stylized flourish at the end.

Bill Boynton
959 Timberline Drive

July 13, 2004

To: Brookings Planning Commissioners
City Hall, Brookings, OR 97415
From: Debbie Hodges
Subject: File NO: PUD 2-04.



OPPOSED
EXHIBIT X-1

Dear Gentlemen,

Thank you for the written report to be open for "seven" business days.

I would like to first address our former Governor Tom McCall, a forefather to the planning commission since 1969, he said, "The pristine environment of our Oregon Coast is what will keep attracting economical growth, not Coastal Condomania"... "There is a shameful threat to our environment and in the quality of our life; the despoiling of our land". "The steady scatteration of unimaginative dislocated urban development is introducing cancerous cells of unmentionable ugliness into our rural landscape whose accumulative affect threatens to turn the state of scenic excitement into a land of aesthetic boredom". "We must Plan now so as not to Repent later". Governor Tom McCall saw and knew what uncontrolled building projects would do to our beautiful state. In 1973, Governor McCall addressed the Oregon Legislature, asking them for comprehensive planning laws in order to protect Oregon from "Coastal Condomania" and other effects of poorly managed growth. Oregon once was the leading state in our nation for protecting our lands and developing in a strategic manner with The Planning Commission. I hope and pray that this is the goal of the present Planning Commission. Remember gentlemen, you are my Planning Commission also, not just the builders.

It is the state's costal planning Goals 16, 17 and 18 that have protected some coastal lakes, dunes and wetlands. It is Goals 3 and 4 and parallel state land use laws that have slowed down the spread of 'rural sprawl' into the river bottom farmland and the forests that rise inland.

Recently, with the return of population growth to much of the coast, people have come to recognize that Oregon's magnificent coastline is being confronted by a tide of sprawl of a magnitude and scope which it has never experienced before and which is revealing the weakness in city and county land use plans.

Coastal developments are being approved beside, around and on coastal lakes, wetlands and dunes, threatening the shrinking of natural areas on the coast. The local land use plans and regulations have become too weak and have been further weakened by piecemeal amendments and changes to state land use laws over the past two decades. They now include far too much land for development, with little in the way of protection for natural and scenic resources.

The City of Brookings does not have a citywide implemented Wetlands and Riparian Buffers. I have confirmed this with Dave Perry with the Oregon Coastal Program for The Department of Land Conservation & Development. Our City of Brookings must and needs to implement Goal #5: Natural Resources, Scenic and Historic Areas, and Open Spaces.

I hereby request that The City of Brookings implement a Wetlands and Riparian Buffer Land Use Plan; from the Department of Land Conservation and Development; OAR Chapter 660; Division 015; State-Wide Planning Goals and Guidelines, 660-015-0000; #1 Through #14

- (1) #1 – Citizen Involvement;
- (2) #2 – Land Use Planning;
- (3) #3 – Agricultural Lands;
- (4) #4 – Forest Lands;
- (5) #5 – Natural Resources, Scenic and Historic Areas, and Open Spaces;
- (6) #6 – Air, Water, and Land Resources Quality;
- (7) #7 – Areas Subject to Natural Disasters and Hazards;
- (8) #8 – Recreational Needs;
- (9) #9 – Economy of the State;
- (10) #10 – Housing;
- (11) #11 – Public Facilities and Services;
- (12) #12 – Transportation
- (13) #13 – Energy conservation; and
- (14) #14 – Urbanization

and; 660-015-0010 State-Wide Planning goals and Guidelines #16 Through #19

- (1) #16 C Estuarine Resources;
- (2) #17 C Coastal Shore lands;
- (3) #18 C Beaches and Dunes; and;
- (4) #19 C Ocean Resources

(Please see Enclosure #1) Dave Perry of the Department of Land Conservation and Development said that the State- Wide Planning Goals and Guidelines #1 Through #19 can be implemented by the City before approving this project if that be the Planning Commissions intent. Goals are the Basis of all Land Use Regulations.

We must protect our natural resources, the quality of our environment from shrinking.

Ransom Creek that fronts the Bruce Bros. proposed project is full of game fish; Brown trout, Brook trout and possibly baby steelhead. I know this first hand as my family and I have seen the fish. I am waiting for the proposed study on the fish habitat in Ransom Creek from the Department of Fish and Wildlife. Steve Mayur, with The Department of Fish and Wildlife met with me on 7/12/04.

Richard Wise, the office manager for Bruce Bros. told me the night of 7/6/04 that the Bruce Bros. propose to put culverts into Ransom creek and digging out large swimming holes for the fish habitat. Again, this is against Land Use Planning and Fish & Wildlife.

The city cannot give a permit to do this destruction to our Natural Environment and Wildlife habitat. I spoke to Dave Perry about this concern. Bruce Bros. representatives did not address my question with rebuttal on 7/6/04, which leads me to believe that Richard Wise meant what he said about doing the disturbance to Ransom Creek. To sustain the most important qualities of Curry County we must protect the natural features of the area. The abundance of wildlife in the county is important to conserve. To improve fish habitat and water quality we must preserve riparian areas along our streams and estuaries.

The grossly amount of digging the Bruce Bros. will be doing for their proposed project will cause sediment slides into Ransom Creek and unsettling of the soils. The proposed recreational building is drafted up to be built through the creek that flows down the ravine into Ransom Creek.

When the Bruce Bros. did the logging of the project site did they cause logs to fall into the Riparian areas and Wetlands? This needs to be checked out.

I have enclosed with this report a copy of the plat map (Enclosure #2), drafted by South Coast Lumber indicating the Wetlands located on the Bruce Bros. Property. Pictures of these wetlands were taken by Steve Mayur with the Fish and Wildlife Department from Claron Glen properties with the property owners present.

By the State Administrative Rule the city is required to do a periodic review of the Land Use Planning. What was the date when this review was last done? Dave Perry can confirm the time period this review must be done. This review must be done before this proposed project could be approved.

Goal #5 protects Riparian and Wetlands (Enclosure #3) with setbacks. The proposed sites for some of the buildings on the Bruce Bros. Project are not 50 feet from the Riparian Areas, Wetlands and Creeks as duly noted on Enclosure #2 but right on top of or within the protected 50 feet of the Riparian Buffers (Enclosure #6). This cannot be allowed according to our State Ordinances. There are two creeks that flow through the Bruce Bros. Property into Ransom Creek feeding Ransom Creek. During the winter seasons these creeks flow loudly through the wetlands. It is duly noted that there are several Wetlands in the Timberline development with several creeks in the Timberline development entering into Ransom Creek.

The soil engineer dug three holes three feet deep that filled with water. This is another indicator of wetlands. My question is then why was topsoil brought in and dumped on top of the soil testing sites?

There has been an awful lot of work done on this proposed project site; "clear cutting", grading, many trucks of topsoil for which the residents have watched being brought in including myself. Large trucks running over and over wetland areas. Trees cut from the Wetlands.

Did Bruce Bros. Obtain a permit from The Department of Land & Forestry for clear cutting? Steve Mayur from the Department of Fish & Wildlife asked me this question.

Did they obtain a permit for grading? Section 100.040 of the Brookings Development code states that a site study must be done prior to issuance of a building or grading permit in areas containing or adjacent to unstable soils, steep slopes or other geologic hazards.

Bob Lobdell from The State Lands Department said that the Bruce Bros. did not obtain a Wetlands permit.

The City of Brookings must require a Geo Technical Report of the soil(s) of the proposed building project.

There is great concern with the Bruce Bros. building on a 52% slant hillside. The combination of the horrendous hillside slant and wetlands makes me question a violation to the "Hazardous Building Site Protection Hillside Development Standards"; Section 100 of the Brookings Development Code (Enclosure #4). How does the Bruce Bros. propose to control dust, mud, water runoff, soil erosion or sediment deposition during construction (100.010 – Purpose). The Bruce Bros. did not answer this question the Planning Commissioners asked during the Public Hearing 7/6/04. Was a plan site to answer these questions even available for the 7/6/04 Public Hearing? The purpose of the Section 100 "Hazardous Building Site Protection Hillside Development Standards" is to reduce building site hazards and threats to life and property created by flooding, landslides, weak foundation soils and other hazards as may be identified by the City of Brookings or other agencies. This section is intended to advance the above purpose to protect life and property.

In accordance to Section 100.050 of the Brookings Development Code (A). it states that No property shall be disturbed, excavated, filled or developed within the city so as to cause slides of mud, soil, rock, vegetative material or any erosional or depositional material to be pushed onto, deposited upon or gravitated to the property of another. 5). The destruction to the Wetlands will be hazardous to Claron Glen subdivisions' Wetlands and Riparian areas.

Oregon's Statewide Planning Goals and Guidelines – GOAL #7: AREAS SUBJECT TO NATURAL HAZARDS. To protect people and property from natural hazards. A. NATURAL HAZARD PLANNING (Enclosure #5)

- 1). Local governments shall adopt comprehensive plans (inventories, policies and implementing measures) to reduce risk to people and property from natural hazards.
- 2). Natural hazards for purposes of this goal are: floods (coastal and riverine), landslides, earthquakes and related hazards, tsunamis, coastal erosion, and wildfires. Local governments may identify and plan for other natural hazards.

City of Brookings must implement "Oregon's Statewide Planning Goals and Guidelines" for our community's protection.

I would also like to include Senate Bill 12; SECTION #1 THROUGH SECTION #10 (Enclosure #11)

The Bruce Bros. were grossly negligent in not presenting to the Public Hearing 7/6/04 Geo Technical studies of the soil, Wetlands, hazardous hillsides, Riparian areas, Ransom Creek, creeks entering into Ransom Creek, Habitat, Natural Occurrences and Transportation Study's beyond two blocks of the proposed entrance into their project.

What studies have the Bruce Bros. done in the event of an earthquake, Tsumni, a horrendous rainstorm that would cause flooding, fire that could get out of control, landslide and coastal erosion?

There must be a drainage plan to control water runoff during construction. There was no drainage plan for viewing at the 7/6/04 Public Hearing. On the third page of the City of Brookings Planning Commission Staff Agenda Report it clearly states in the second paragraph "Drainage will be engineered and will flow to Ransom Creek". This is against the Department of Land Conservation and Development OAR Chapter 660; Division 015; State-Wide Planning Goals and Guidelines. A recent article in our local newspaper, The Pilot, Ingwerson said that it is too early to try and draw any conclusions yet that the bacterium is not in fact coming from the creeks. (Enclosure #7). My concern that a multi dwelling project of 36 units that will consist mostly of rentals (Richard Wise informed me 7/6/04 at the Public Hearing that Bruce Bros. intends on retaining many of the units for rental purposes) will pollute the fish and wildlife habitat. Whereas, single-family residential homes would enjoy and respect the natural environment and would protect the quality of the wildlife.

Multi Rental dwellings as what the Bruce Bros. proposed project will consist mostly of have they're place in a community but not smack in the middle of single residential home dwellings. Anyone can understand why the Bruce Bros. will have to retain many of the units for rentals because people retiring with money are not going to want to sink their hard earned money into living down in a ravine hole.

I again would like to address to the City of Brookings Planning director and Planning Commission if the Bruce Bros. can build "seven" buildings on 8.76 acres?

The Brookings Development Code #20.070 Maximum building height. No structure shall be over 30 feet in height. See Enclosure #8.

Brookings Development Code 20.110 Dwelling groups A. 1. All residential buildings shall be single family. That should mean single homes. Not "three" story condominiums/apartments.

Brookings Development Code 20.110.C - C. Access. Every building containing a dwelling in the group shall be within 60 feet of an access roadway having a curb to curb section of at least 20 feet in width providing vehicular access from a public street.

Brookings Development Code 20.110.C - **D. Neighborhood character.** The development of dwelling groups shall respect the character of both the neighborhood in which it is located and the properties adjacent to said dwelling group. Emphasis shall be placed on retention of neighborhood character and privacy of adjacent properties when reviewing dwelling groups. - The character of the proposed project is totally NOT in character with the homes of Claron Glen subdivision. Building an intrusive 3 level Multi-family housing dwelling in the center of single-family dwellings is NOT in the character of the neighborhood. Group dwelling rentals in the center of single-family dwellings is NOT in the character of the neighborhood. The noise from multi-family dwellings is a NEGATIVE impact on the Environment and against the character of the neighborhood. The small town rural atmosphere is an important feature of the character of our neighborhood.

Brookings Development Code 80.030 **Application.** 9. Grading and slopes where they affect relationship of the buildings and drainage. 10. Indications of the height of buildings and structures. 11. Indication of the proposed use of buildings shown on the site. We did not see the above 3 mentioned on the site plan on 7/6/04. See Enclosure #9

Brookings Development Code 80.030 **Improvement Standards.** A. For multiple-family residential development an area equal to at least 50% percent of the gross floor area or living facilities shall be devoted to usable open space recreation areas. Was this requirement met on the site plan?

20.110.C **E.** All dwelling groups shall be subject to the review and approval of the site plan committee, as provided in Section 80

Brookings Development Code; Section 80; Site Plan Approval: 80.010 **Purpose** The purpose of site plan approval is to establish a review process insuring that new development is in compliance with the objectives and requirements of the Land Development Code in those zoning districts where inappropriate development may cause a conflict between existing or future uses in the same or adjoining zoning district by creating unhealthful or unsafe conditions and thereby adversely affecting the public health, safety and welfare. - **The safety would be an issue!** The increased traffic of 270 vehicles per day (government has established 2.5 vehicles per household; times 3 trips per day) will cause a traffic and health hazard due to the narrow streets. Please refer to the Enclosed traffic pictures. Please drive on 3rd St. in front of Bud Cross Park. You will find that driving on 3rd St. heading for town you will have to stop for oncoming traffic because you cannot get around the parked cars on 3rd St. and safely proceed with oncoming traffic. A study needs to be done on all the affected streets 4 blocks from the proposed project entry site. **Thursday, July 15, 2004 the Department of Transportation will be calling me for a meeting regarding the above issues.**

Brookings Development Code; Section 116; **Planned Unit Development Approval: 116.060 Standards for Approval - C.** The project will assure benefits to the city and the general public in terms of need, convenience, service and appearance sufficient to justify

any necessary exceptions to the regulations of the zoning district. E. That the project will be compatible with adjacent developments and will not adversely affect the character of the area. F. The project will satisfactorily take care of the traffic it generates, both on and off-site, by means of adequate off-street parking, access points, and additional street right-of-way improvements. G. That the proposed utility and drainage facilities are adequate for the population densities and type of development proposed and will not create major problems or impacts outside the boundaries of the proposed development site. – What will be the benefits to the city from an intrusive 3 story multi dwelling building in a single family residence? What need does our community have for this type of structure that is out of character with our neighborhood? Again, the appearance is NOT character of this neighborhood. What justification is there to allow a PUD in our neighborhood?? The proposed project is not compatible with our neighborhood developments and such an intrusive development will definitely hinder the character of our area.

Continued building must be compatible with the quality and environment of our coastal town. With the Quality of our neighborhood the proposed Bruce Bros. project would not fit well in our area. Land Use Goals and Density's need to be planned in the right areas, Claron Glen Subdivision is not the correct area for this type of development. Every city must plan and design for proper, organized Land Use. Density building can be done in a quality manner but not in an area where hazards and wildlife habitat and Riparian areas and Wetlands are at stake. The current proposal for the design of the proposed project is not even compatible with anything in the surrounding Single- Family Residential area. The design is likened to a sore thumb. My family and I just got back last weekend from vacationing in the Bend, Oregon area. We traveled through Sunriver, Bend and Sisters and did not come upon any "three"-story multi housing developments. Bend now has over a population of 63,000 with many professional well paying jobs. Brookings does not. So if a tourism county such as Bend, Sunriver and Sisters has not allowed a three-story multi dwelling in their Quality Environment then why would the City of Brookings allow it? The City of Brookings cannot even compare to what Bend has to offer for tourism, economic growth, activities, etc. Again, Planning Commissioners, our community needs Land Development designs and goals to keep Brookings Oregon the land in which we love. Let's not make a mistake and we "Repent" later. There is no time like the present to plan with "Our communities Aesthetics" in mind.

The following departments could not meet with me until tomorrow because of their schedules: Lee Sparks with ODOT.

Please note that I have been working with John Gasik of the DEQ regarding the Bruce Bros. proposed project.

Ordinance No. 64-0-178 AN ORDINANCE AMENDING ORD.61-0-157, ADOPTED BY THE COUNCIL AND APPROVED BY THE MAYOR ON JANUARY 10, 1961 TO PROVIDE CERTAIN TRAFFIC CONTROLS FOR PUBLIC PARKS AND PARKING LOTS, AND DELCARING AN EMERGENCY (Enclosure # 10)

Who will be responsible for the safety and well being of our community children playing on, around or going to Bud Cross Park and the City Pool??

Today 7/14/04 I spoke with Bob Lobdell of The Department of State Lands; he has been out sick for two days and is in Medford today to deliberate violations. I told Bob that I would mail him the plot plan (Enclosure #2) along with a copy of the proposed building locations(Enclosure #6) so that he could see for himself the relation of the wetlands verses the proposed building sites.

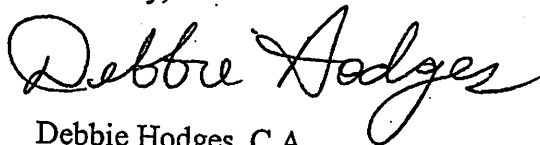
I admired Governor Tom McCall for the man he was when I was a young girl living next door to him and now as an adult I admire Tom for what he believed in with all of his heart and fought for with all of his might.

Thank you for your time.

I would appreciate a response in writing to my questions and concerns addressed in my report.

Thank you for your time.

Sincerely,



Debbie Hodges, C.A.

Enclosures: 11

Picture Enclosures

dh

- 27-RA

RECEIVED
JUL 14 2004
CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

ENCLOSURE #1

OPPONENT
EXHIBIT X-2

Department of Land Conservation and Development
OAR Chapter 660

DIVISION 015

STATE-WIDE PLANNING GOALS AND GUIDELINES

(Please Note: OAR 660-015-0010(4) amended 12/01/00 and effective 01/30/01)

660-015-0000

State-Wide Planning Goals and Guidelines #1 Through #14

- (1) #1 - Citizen Involvement;
- (2) #2 - Land Use Planning;
- (3) #3 - Agricultural Lands;
- (4) #4 - Forest Lands;
- (5) #5 - Natural Resources, Scenic and Historic Areas, and Open Spaces;
- (6) #6 - Air, Water, and Land Resources Quality;
- (7) #7 - Areas Subject to Natural Disasters and Hazards;
- (8) #8 - Recreational Needs;
- (9) #9 - Economy of the State;
- (10) #10 - Housing;
- (11) #11 - Public Facilities and Services;
- (12) #12 - Transportation;
- (13) #13 - Energy Conservation; and
- (14) #14 - Urbanization.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 183, ORS 197 & ORS 215

Stats. Implemented: ORS 197.010, ORS 197.013, ORS 197.015, ORS 197.040, ORS 197.045, ORS 197.225, ORS 197.230, ORS 197.235, ORS 197.240 & ORS 197.245

Hist.: LCDC 1, f. 12-31-74, ef. 1-25-75; Renumbered from 660-010-0060; LCDC 6-1980, f. & ef. 9-15-80; LCDC 10-1983, f. & ef. 12-30-83; LCDC 5-1984, f. & ef. 10-19-84; LCDC 2-1988, f. & cert. ef. 3-31-88; LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 5-1992, f. 8-21-92, cert. ef. 8-7-93; LCDC 2-1994, f. & cert. ef. 3-1-94; LCDC 4-1994, f. & cert. ef. 3-18-94; LCDC 8-1994, f. & cert. ef. 12-5-94; LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96; LCDD 4-1998, f. & cert. ef. 7-28-98; LCDC 8-2000, f. 10-3-00, cert. ef. 10-4-00

660-015-0005

State-Wide Planning Goal and Guideline #15

#15 C Willamette Greenway.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 183 & ORS 197

Stats. Implemented: ORS 197.010, ORS 197.013, ORS 197.015, ORS 197.040, ORS 197.045, ORS 197.225, ORS 197.230, ORS 197.235, ORS 197.240, ORS 197.245, ORS 390.010 - ORS 390.220 & ORS 390.310 - ORS 390.368

Hist.: LCDC 6, f. & ef. 12-24-75; LCDC 8-1980, f. & ef. 12-17-80; LCDC 2-1988, f. & cert. ef. 3-31-88

660-015-0010

~~State-Wide Planning Goals and Guidelines #16 Through #19~~

~~Coastal State-Wide Planning Goals~~

~~(1) #16 c Estuarine Resources~~

~~(2) #17 c Coastal Shorelands~~

(3) #18 c Beaches and Dunes; and;

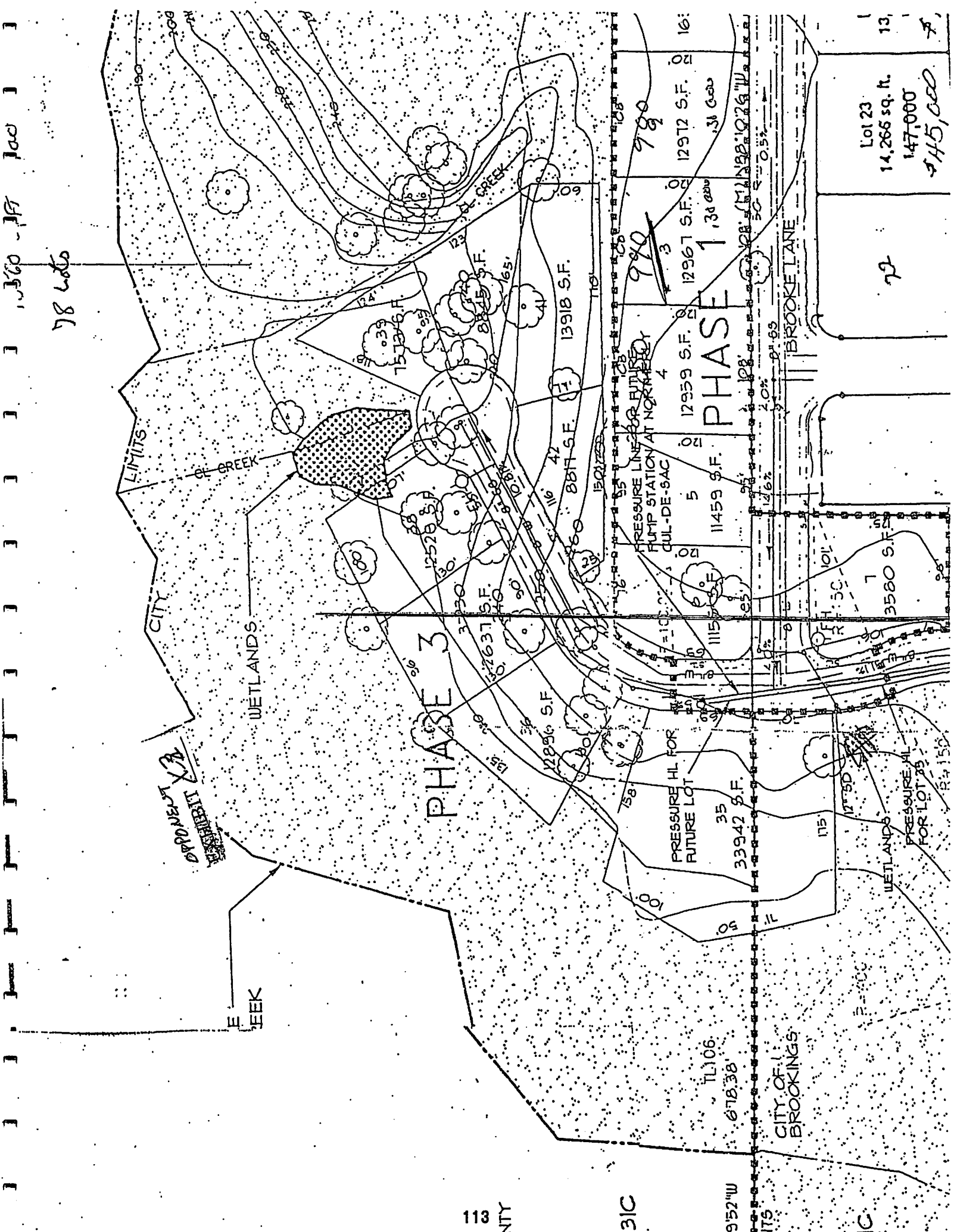
~~(4) #19 c Ocean Resources~~

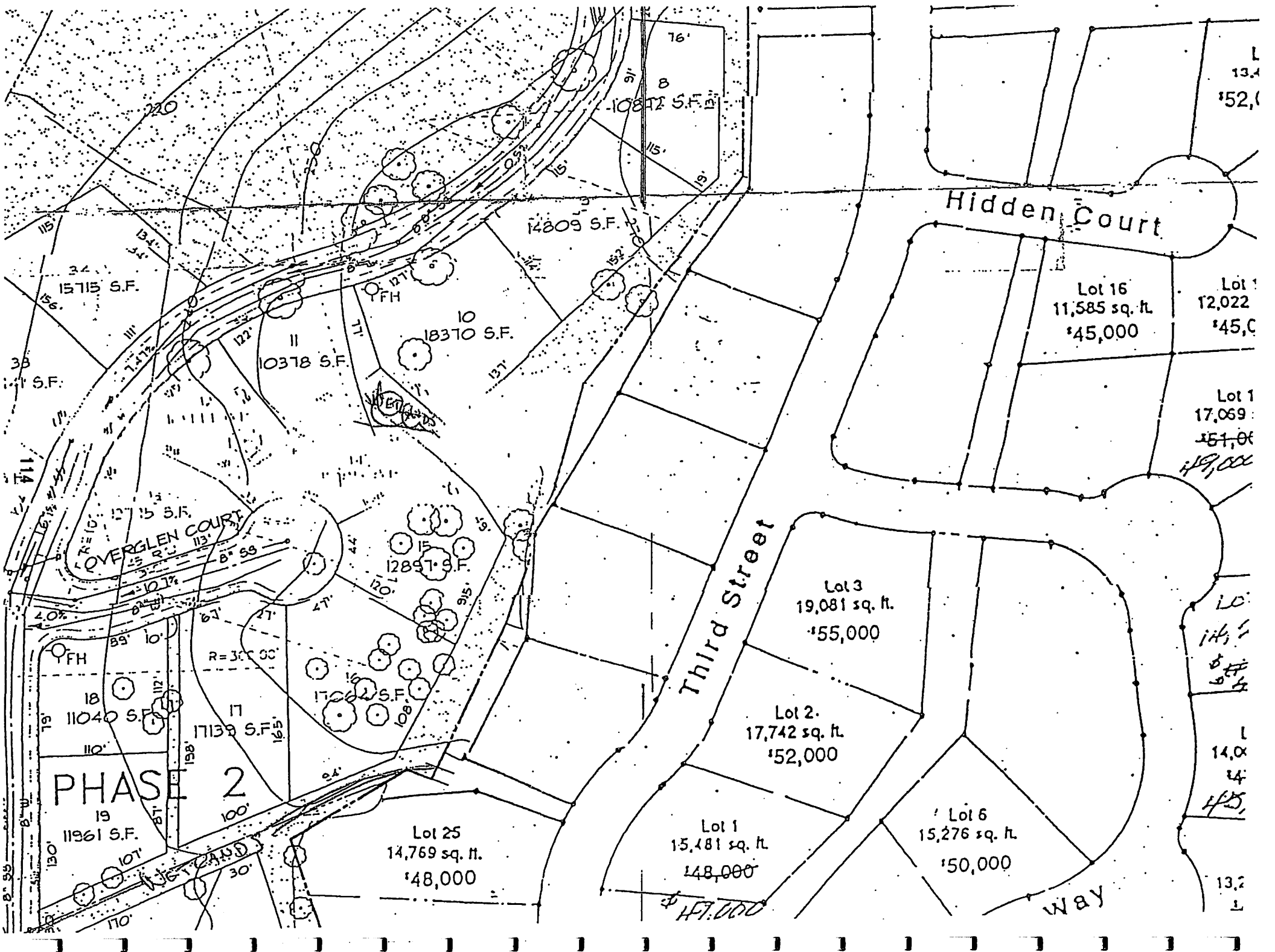
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Hist.: LCDC 10, f. & ef. 6-7-77; LCDC 6-1984, f. & ef. 10-19-84; LCDC 2-1988, f. & cert. ef. 3-31-88; LCDC 8-1999, f. & cert. ef. 8-20-99; LCDC 2-2001, f. & cert. ef. 1-30-01





Hidden Court

Third Street

OVERGLEN COURT

way

PHAS 2

WETLAND

Lot 16
11,585 sq. ft.
\$45,000

Lot 1
12,022
\$45,000

Lot 1
17,069
\$51,000
\$49,000

Lot 3
19,081 sq. ft.
\$55,000

Lot 2
17,742 sq. ft.
\$52,000

Lot 1
15,481 sq. ft.
\$48,000
\$47,000

Lot 6
15,276 sq. ft.
\$50,000

Lot 25
14,769 sq. ft.
\$48,000

Lot 17
17,139 S.F.
\$45,000

Lot 15
12,857 S.F.
\$45,000

Lot 10
18,370 S.F.
\$45,000

Lot 11
10,378 S.F.
\$45,000

Lot 34
15,715 S.F.
\$45,000

Lot 18
11,040 S.F.
\$45,000

Lot 19
11,961 S.F.
\$45,000

OPPOSITE
EXHIBIT X-4

Oregon's Statewide Planning Goals & Guidelines

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

OAR 660-015-0000(5)

(Please Note: Amendments Effective 08/30/96)

To protect natural resources and conserve scenic and historic areas and open spaces.

Local governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations. These resources promote a healthy environment and natural landscape that contributes to Oregon's livability.

The following resources shall be inventoried:

- a. Riparian corridors, including water and riparian areas and fish habitat;
- b. Wetlands;
- c. Wildlife Habitat;
- d. Federal Wild and Scenic Rivers;
- e. State Scenic Waterways;
- f. Groundwater Resources;
- g. Approved Oregon Recreation Trails;
- h. Natural Areas;
- i. Wilderness Areas;
- j. Mineral and Aggregate Resources;
- k. Energy sources;
- l. Cultural areas.

Local governments and state agencies are encouraged to maintain

current inventories of the following resources:

- a. Historic Resources;
- b. Open Space;
- c. Scenic Views and Sites.

Following procedures, standards, and definitions contained in commission rules, local governments shall determine significant sites for inventoried resources and develop programs to achieve the goal.

GUIDELINES FOR GOAL 5

A. PLANNING

1. The need for open space in the planning area should be determined, and standards developed for the amount, distribution, and type of open space.

2. Criteria should be developed and utilized to determine what uses are consistent with open space values and to evaluate the effect of converting open space lands to inconsistent uses. The maintenance and development of open space in urban areas should be encouraged.

3. Natural resources and required sites for the generation of energy (i.e. natural gas, oil, coal, hydro, geothermal, uranium, solar and others) should be conserved and protected;

reservoir sites should be identified and protected against irreversible loss.

4. Plans providing for open space, scenic and historic areas and natural resources should consider as a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.

5. The National Register of Historic Places and the recommendations of the State Advisory Committee on Historic Preservation should be utilized in designating historic sites.

6. In conjunction with the inventory of mineral and aggregate resources, sites for removal and processing of such resources should be identified and protected.

7. As a general rule, plans should prohibit outdoor advertising signs except in commercial or industrial zones. Plans should not provide for the reclassification of land for the purpose of accommodating an outdoor advertising sign. The term "outdoor advertising sign" has the meaning set forth in ORS 377.710(23).

B. IMPLEMENTATION

1. Development should be planned and directed so as to conserve the needed amount of open space.

2. The conservation of both renewable and non-renewable natural resources and physical limitations of the land should be used as the basis for determining the quantity, quality, location, rate and type of growth in the planning area.

3. The efficient consumption of energy should be considered when utilizing natural resources.

4. Fish and wildlife areas and habitats should be protected and managed in accordance with the Oregon Wildlife Commission's fish and wildlife management plans.

5. Stream flow and water levels should be protected and managed at a level adequate for fish, wildlife, pollution abatement, recreation, aesthetics and agriculture.

6. Significant natural areas that are historically, ecologically or scientifically unique, outstanding or important, including those identified by the State Natural Area Preserves Advisory Committee, should be inventoried and evaluated. Plans should provide for the preservation of natural areas consistent with an inventory of scientific, educational, ecological, and recreational needs for significant natural areas.

7. Local, regional and state governments should be encouraged to investigate and utilize fee acquisition, easements, cluster developments, preferential assessment, development rights acquisition and similar techniques to implement this goal.

8. State and federal agencies should develop statewide natural resource, open space, scenic and historic area plans and provide technical assistance to local and regional agencies. State and federal plans should be reviewed and coordinated with local and regional plans.

9. Areas identified as having non-renewable mineral and aggregate resources should be planned for interim,

transitional and "second use" utilization
as well as for the primary use.

100.010

BROOKINGS DEVELOPMENT CODE

100.020.C

Section 100

HAZARDOUS BUILDING SITE PROTECTION
HILLSIDE DEVELOPMENT STANDARDS

Sections:

- 100.010 Purpose.
- 100.020 Review by City Manager or Planning Commission.
- 100.030 Partitions and Subdivisions (as amended by Ordinance 99-O-446.FF, effective June 9, 1999)
- 100.040 Site study authorization.
- 100.050 Site preparation.
- 100.060 Enforcement.
- 100.070 Final maps.

100.010

Purpose:

A The purpose of this section is to reduce building site hazards and threats to life and property created by flooding, landslides, weak foundation soils and other hazards as may be identified by the City of Brookings or other agencies. This section is intended to advance the above purpose to protect life and property.

1. By requiring the study of such areas by a qualified person prior to construction.

2 By requiring special construction techniques to control dust, mud, water runoff, soil erosion or sediment deposition during construction.

3. By establishing mechanisms for enforcement to insure compliance with this code. (Section 100.010.A, as amended by Ordinance No. 99-O-446.FF, effective June 9, 1999)

B. The policies and standards of this section are based upon the data contained in the Comprehensive Plan document and other technical information.

100.020 Review by City Manager or Planning Commission.

A. The City Manager or a qualified designee, shall review all planning permit requests for conformance with the standards and criteria of this section.

B. The City Manager or a qualified designee shall review requests for building permits or grading permits, and the Planning Commission shall review land use applications proposed within areas identified as having average slopes of greater than 15% grade.

C. The City Manager or a qualified designee may refer matters to the Planning Commission which require the use of standards. (Section 100.020.C as amended by Ordinance 99-O-446.FF, effective June 9, 1999)

- D. The Planning Commission may approve, approve with conditions or require changes or deny the proposal based upon the criteria or standards listed in Sections 100.030, 100.040 and 100.050. Planning Commission decisions may be appealed to the City Council as provided in Section 156.

100.030 Partitions and subdivisions. When dividing land within the SR-20 and SR-40 zones or when dividing other land with slopes of greater than 15%, a geological report prepared by a certified engineering geologist or a civil engineer registered in the State of Oregon consulting with a certified engineering geologist, shall be required.

- A. The geological report shall contain the following information:
1. The stability of the slopes and their suitability for the proposed type of construction in relation to the size of lot proposed, including all existing and proposed new streets.
 2. The need for engineered foundations or for site specific studies to determine if engineered foundations are necessary.
 3. Any other information pertaining to the suitability of the site in relation to the proposed use.
- B. On lands that contain slopes of greater than 15%, all lots will be of the minimum lot size allowed by underlying zone, except larger lots may be required if the geological survey of the property requires a larger lot to avoid hazardous areas or other conditions. (Section 100.030 as amended in its entirety by Ordinance 95-O-446.FF, effective June 9, 1999.)

100.040 Site study authorization.

- A. The City Manager or a qualified designee may require a site study by a certified engineering geologist, civil engineer registered in the State of Oregon and/or other qualified person prior to issuance of a building or grading permit or the approval of a partition plat, subdivision plat, or conditional use permit, in areas containing or adjacent to a fault zone, sinkhole, ~~unstable soils~~, ~~steep slopes~~, high water table, ~~or other geologic hazard~~. Site studies may also be required for construction or excavation in areas of steep slope, where, in the opinion of the City Manager or a qualified designee, there is a potential hazard to the proposed structure(s) or to any adjacent property.
(Section 100.040.A as amended by Ordinance 99-O-446.FF, effective June 9, 1999)
- B. Site specific studies may be required by the City Manager or a qualified designee, or the Planning Commission for construction or development of

property containing weak or unstable foundation soils or other geologic factors as determined by the soils or geology engineering geology report. Site reports shall include bearing capacity of the soil, soil stability, pertinent geological formations, adequacy and method of drainage facilities, and soil compaction and other requirements necessary for stability prior to construction. Location and characteristics of weak foundation soils and geologic formations shall be updated as information becomes available.

100.050 Site preparation

A. No property shall be disturbed, excavated, filled or developed within the city so as to cause slides of mud, soil, rock, vegetative material or any erosional or depositional material to be pushed onto, deposited upon or gravitated to the property of another.

B. Prior to any site preparation on an existing lot, or on an approved but unrecorded minor or major partition or subdivision, on slopes greater than 15% grade, the applicant shall submit grading plans prepared by an Oregon licensed civil engineer showing the following information for approval of the City Engineer:

1. All cut and fill slopes associated with new or improved roads, driveways and building pads and methods of fill compaction.
2. All utility grading including the placement of electrical, television and telephone cables.
3. Areas of the site to be denuded of vegetation cover.
4. Mitigation measures including erosion control, permanent planting and an implementation time table. The implementation time table shall be approved by the City Engineer and/or City Manager in regard to the season(s) in which construction will occur.
5. A drainage plan to control water runoff during construction.

C. All vegetation removal and grading on an existing lot, or on an approved but unrecorded minor or major partition or subdivision on slopes greater than 15% grade shall be carried out as per approved grading plans and under the supervision of the project engineer.

D. Erosion and sedimentation caused by storm water runoff shall be minimized by employing the following measures, or substitute measures deemed acceptable by the City Manager or a qualified designee:

1. Only the minimal removal of vegetation cover, particularly tree cover, necessary for building placement or access, shall be done. Removal of

trees and brush for view enhancement can be a part of the grading plan if such an action does not increase the potential hazard and/or mitigation can be applied. The city shall observe this in the development of streets and building pads.

2. Temporary measures for controlling runoff, such as berms, holding ponds, terraces and ditches shall be used as required, particularly in areas having slopes of 15% or greater.
 3. Exposed areas shall be mulched and kept covered during construction to eliminate dust, mud, erosion or sedimentation, and shall be planted in permanent cover within thirty (30) days or as per the approved grading plan of Section 100.050.B.
- E. For a structure, driveway, parking area or other impervious surfaces in areas of 15% slope and greater, the release rate and sedimentation of storm water shall be controlled by the use of retention facilities as specified by the project engineer and approved by the City Engineer or other qualified designee. The storm drain facilities shall be designed for storms having a 25-year recurrence frequency. Storm water shall be directed into drainage with capacity to be calculated in accordance with the City's Comprehensive Plan for Storm Drainage Development, so as not to flood adjacent or downstream property.
- F. In all areas of the city, the City Manager or a qualified designee may require culverts or other drainage facilities, designed in accordance with the City's Comprehensive Plan for Storm Drainage Development, be installed as a condition of construction.
- G. Developments which abut the coastal bluffs or coastal shoreland boundary, or direct surface water runoff over the bluffs or boundary will require special impact mitigation measures.
- H. Filling of lowlands shall be done only where it is determined that the fill will not cause flooding or damage to adjacent properties and where adequate drainage facilities are installed.

100.060 Enforcement

- A. The construction, location, development or use of land or structures, contrary to the provisions of this section, ordinance or permit, or in violation of any conditions or limitations approved pursuant to this ordinance, is an unlawful public nuisance.
- B. In addition to other remedies set forth in Section 164, and other remedies provided by ordinance or under state law, the city may institute appropriate action or proceedings to prevent, restrain, correct, abate or remove the unlawful location, erection, construction, development, maintenance, repair, alteration, occupancy or use of land or structures.

- C. If the City Manager determines that a violation of this section has occurred, the city shall notify the owner of the land and the developer, general agent, architect, builder, contractor or other person or entity who has participated in committing the violation, to cease all further development until such time as the violation has been remedied. If development continues in disregard of notice from the city, the City may seek an injunction to stop further development until the violation has been remedied.
- D. If the City Manager determines that a violation has occurred, the City shall give written notice to the owner of the land, and the developer, general agent, architect, builder, contractor, or other person or entity who has participated in committing the violation, that a violation has occurred and that the violation must be remedied within a time specified. The amount of time to remedy the violation shall depend upon the nature of the violation, the circumstance then existing and whether an emergency exists. Noncompliance within the time set by the city will cause the city to take remedial steps to cure the violation and charge the costs, fees and expenses of such remedial action to the owner of the land. This shall include any expenses, costs and fees paid by the City to third persons for labor and materials to remedy the violation. Charges made under this subsection shall be a lien against the real property on which the violation arises and the City Recorder is authorized to enter the amount of such charges immediately in the docket of city liens.
- E. The owner of the land, and the developer, general agent, architect, builder, contractor or other person or entity who takes part in any violation of this ordinance, shall be guilty of a violation of this ordinance and shall be subject upon conviction to a fine of not more than \$200. Each day under which a violation exists shall be considered a separate offense.
- F. The remedies set forth in this section are cumulative and not exhaustive of all remedies the City may exercise to prevent, correct or abate a violation under this section.

100.070 Final subdivision maps. In the case of a land use activity that requires the recordation of a final map such as a minor partition, major partition or subdivision, recordation of the map will not be allowed until the city is satisfied that the provisions of this section and other applicable provisions of the Land Development Code have been met. Evidence of compliance must be included within the application for final map approval and submitted thirty days prior to the expected hearing date.

[Section 100 as amended in its entirety by Ordinance No. 94-O-446.V, effective August 9, 1994]

OFFICE
EXHIBIT X-6

Adopted September 28, 2001
Effective June 1, 2002

Oregon's Statewide Planning Goals and Guidelines

GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

A. NATURAL HAZARD PLANNING

1. Local governments shall adopt comprehensive plans (inventories, policies and implementing measures) to reduce risk to people and property from natural hazards.

2. Natural hazards for purposes of this goal are: floods (coastal and riverine), landslides,¹ earthquakes and related hazards, tsunamis, coastal erosion, and wildfires. Local governments may identify and plan for other natural hazards.

B. RESPONSE TO NEW HAZARD INFORMATION

1. New hazard inventory information provided by federal and state agencies shall be reviewed by the Department in consultation with affected state and local government representatives.

2. After such consultation, the Department shall notify local governments if the new hazard information requires a local response.

3. Local governments shall respond to new inventory information on natural hazards within 36 months after being notified by the Department of Land Conservation and Development, unless extended by the Department.

C. IMPLEMENTATION

Upon receiving notice from the Department, a local government shall:

1. Evaluate the risk to people and

property based on the new inventory information and an assessment of:

a. the frequency, severity and location of the hazard;

b. the effects of the hazard on existing and future development;

c. the potential for development in the hazard area to increase the frequency and severity of the hazard; and

d. the types and intensities of land uses to be allowed in the hazard area.

2. Allow an opportunity for citizen review and comment on the new inventory information and the results of the evaluation and incorporate such information into the comprehensive plan, as necessary.

3. Adopt or amend, as necessary, based on the evaluation of risk, plan policies and implementing measures consistent with the following principles:

a. avoiding development in hazard areas where the risk to people and property cannot be mitigated; and

b. prohibiting the siting of essential facilities, major structures, hazardous facilities and special occupancy structures, as defined in the state building code (ORS 455.447(1) (a)(b)(c) and (e)), in identified hazard areas, where the risk to public safety cannot be mitigated, unless an essential facility is needed within a hazard area in order to provide essential emergency response services in a timely manner.²

4. Local governments will be deemed to comply with Goal 7 for coastal and riverine flood hazards by adopting and

¹ For "rapidly moving landslides," the requirements of ORS 195.250-195.275 (1999 edition) apply.

² For purposes of constructing essential facilities, and special occupancy structures in tsunami inundation zones, the requirements of the state building code - ORS 455.446 and 455.447 (1999 edition) and OAR chapter 632, division 5 apply.

implementing local floodplain regulations that meet the minimum National Flood Insurance Program (NFIP) requirements.

D. COORDINATION

1. In accordance with ORS 197.180 and Goal 2, state agencies shall coordinate their natural hazard plans and programs with local governments and provide local governments with hazard inventory information and technical assistance including development of model ordinances and risk evaluation methodologies.

2. Local governments and state agencies shall follow such procedures, standards and definitions as may be contained in statewide planning goals and commission rules in developing programs to achieve this goal.

GUIDELINES

A. PLANNING

1. In adopting plan policies and implementing measures to protect people and property from natural hazards, local governments should consider:

- a. the benefits of maintaining natural hazard areas as open space, recreation and other low density uses;
- b. the beneficial effects that natural hazards can have on natural resources and the environment; and
- c. the effects of development and mitigation measures in identified hazard areas on the management of natural resources.

2. Local governments should coordinate their land use plans and decisions with emergency preparedness, response, recovery and mitigation programs.

B. IMPLEMENTATION

1. Local governments should give special attention to emergency access when considering development in identified hazard areas.

2. Local governments should consider programs to manage stormwater runoff as a means to help address flood and landslide hazards.

3. Local governments should consider nonregulatory approaches to help implement this goal, including but not limited to:

- a. providing financial incentives and disincentives;
- b. providing public information and education materials;
- c. establishing or making use of existing programs to retrofit, relocate, or acquire existing dwellings and structures at risk from natural disasters.

4. When reviewing development requests in high hazard areas, local governments should require site-specific reports, appropriate for the level and type of hazard (e.g., hydrologic reports, geotechnical reports or other scientific or engineering reports) prepared by a licensed professional. Such reports should evaluate the risk to the site as well as the risk the proposed development may pose to other properties.

5. Local governments should consider measures that exceed the National Flood Insurance Program (NFIP) such as:

- a. limiting placement of fill in floodplains;
- b. prohibiting the storage of hazardous materials in floodplains or providing for safe storage of such materials; and
- c. elevating structures to a level higher than that required by the NFIP and the state building code.

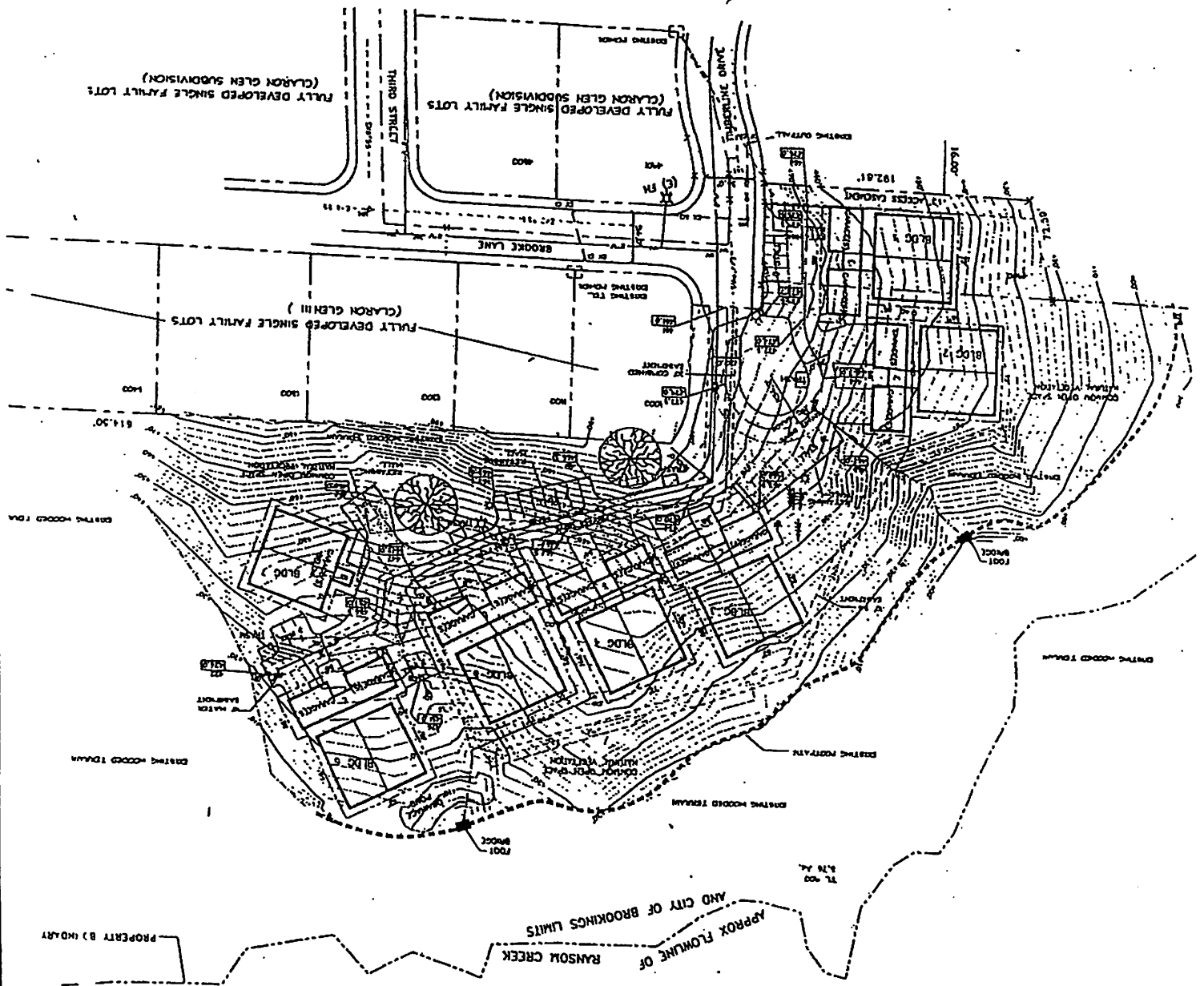
Flood insurance policy holders may be eligible for reduced insurance rates through the NFIP's Community Rating System Program when local governments adopt these and other flood protection measures.

Enclosure #6

APPENDIX K-7
EXHIBIT

Case No. PUD-2-04

Exhibit No. 2



Applicant: Bruce Brothers

Assessor's No: 40-13-31 CA Tax Lot 900 & 40-13-31 CD Tax Lot 4900

Size: 9.09 Acres

Location: Timberline Drive and Brooke Lane- Ransom Creek

Zone: R-1-10 (Single-family Residential 10,000 square foot lot)

APPENDIX
EXHIBIT X-8

City testing local creeks for possible contamination

By ANDREA BARKAN
Pilot Staff Writer

City of Brookings officials tested local creeks four times in May and June to determine whether they were the source of high fecal bacteria counts in water at Mill and Harris State Park beaches.

Leo Lightle, community development director, and Joe Ingwerson, chief waste water treatment plant operator, called test results preliminary, saying they will have to wait until winter storms for conclusive information.

"Preliminary results are showing the creeks entering beaches are doing fine, but

when they cross the beach they're picking it up," Ingwerson said.

June 8 tests of Macklyn Creek showed that the water contained 80 colony forming units (CFU) of fecal bacteria just before it crossed the sand, headed toward the ocean.

After Macklyn Creek water crossed the beach, just before it made contact with sea water, its fecal bacteria count was 175 CFU.

The federal Environmental Protection Agency defines a safe standard for fecal bacteria to be no more than 158 CFU per 100 milliliters of marine water.

See Tests, Page 2A

Tests: Previous warnings spur city into action

Continued from Page 1A

In November 2003, water at Mill Beach had its highest fecal bacteria count — 444 CFU — which spurred Oregon Department of Human Services to issue a health

warning for the water.

The warning was lifted in May, when tests revealed the water had less than 10 CFU of bacteria.

Macklyn Creek tests on June 22 revealed a bacteria count of 87 CFU before it crossed sand, and 267 CFU after crossing.

Health advisories were also posted for water at Harris Beach, where officials discovered 1,010 CFU in February. The advisory was lifted June 18, after test results at three Harris Beach sites indicated bacteria levels were less than 10 CFU.

City officials found a similar pattern in Harris Creek water. Tests from June 16 show the count at 24 CFU just before it hit beach sand. After crossing, that rose to 278 CFU.

Ingwerson said the jump could be explained by bird feces that accumulates on the sand.

"The creek water isn't the problem," Ingwerson said. "As it crosses (sand), then it picks up."

Still, Ingwerson said, "It's too early to try and draw any conclusions yet."

He and Lightle expect

the first winter storms to bring higher bacteria counts and more opportunity to pin down their sources.

"We feel by the tests we're doing we'll be able to say where it's coming from," Lightle said.

They have not yet decided how frequently they will test the creeks during the summer. It may be monthly.

"We need to see some (higher) numbers in the streams," Lightle said. "At the point we start seeing that, we'll (go) to weekly tests."

20.010

BROOKINGS DEVELOPMENT CODE

20.020.C

APPENDIX
EXHIBIT X-9

Section 20

SINGLE-FAMILY RESIDENTIAL (R-1) DISTRICT

Sections:

- 20.010 Purpose.
- 20.020 Permitted uses.
- 20.030 Accessory uses.
- 20.040 Conditional uses.
- 20.050 Minimum lot area.
- 20.060 Lot width, lot coverage and yard requirements.
- 20.070 Maximum building height.
- 20.080 Signs.
- 20.090 Parking.
- 20.100 Manufactured housing requirements.
- 20.110 Dwelling groups.
- 20.120 Other required conditions.

20.010 Purpose. To promote and encourage a suitable environment for family living and to protect and stabilize the residential characteristics of the district. The R-1 district is intended to provide for single-family residential homes at urban standards.

20.020 Permitted uses. The following uses are permitted:

- A. Single-family dwellings.
- B. Rear lot development in accordance with Section 112.
- C. Subject to the requirements of Section 20.100, a manufactured home as defined by ORS 446.003, provided, however, nothing in this subsection abrogates a recorded restrictive covenant which may prohibit the placement of a manufactured home on a given lot. The city has no obligation to identify, investigate or enforce any such restrictive covenant. [Section 20.020.C as added by Ordinance No. 94-O-446.T, effective May 10, 1994]

20.030 **Accessory uses.** The following uses are permitted:

- A. Rooming and boarding of not more than two (2) persons.
- B. Guest houses, not rented or otherwise conducted as a business.
- C. Home occupations, subject to the provisions of Section 104.
- D. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use.

20.040 **Conditional uses.** The following conditional uses may be permitted subject to a conditional use permit:

- A. Recreation uses and facilities, including country clubs, golf courses, swimming clubs, but not including such intensive commercial recreation uses as a golf driving range, race track or amusement park.
- B. Churches, subject to Section 124.100.
- C. Hospitals, rest, nursing and convalescent homes, subject to Section 124.100.
- D. Public, private and parochial schools, including nursery schools, kindergarten and day nurseries, but not including a business, dancing, trade, technical or similar school, subject to Section 124.010.
- E. Governmental structures or uses including parks and recreation facilities, fire stations, libraries, museums, but not including storage or repair yards, warehouses or similar uses.
- F. Riding instructions and academies, subject to Section 124.070.
- G. Mortuaries and crematories in conjunction with a mortuary subject to Section 124.090.G. Mortuaries and crematories in conjunction with a mortuary subject to Section 124.090. [As amended by Ordinance No. 93-O-446.L, effective February 9, 1993]

- H. Cemeteries and such used within cemeteries as mortuaries, crematories, mausoleums, and columbariums provided that no mortuary or crematorium is within 100 feet of a boundary street, or where no street borders the cemetery, within 200 feet of a lot in a residential district. All of these uses are subject to Section 124.090. [As amended by Ordinance No. 93-O-446.L, effective February 9, 1993]
- I. Excavation and removal of sand, gravel, stone, soil or other earth products, subject to Section 124.020 (commercial excavations).
- J. Public and quasi-public halls, lodges and clubs, occupying an area of not less than five (5) acres developed to park-like recreational purposes of such nature as to enhance family living in the vicinity, subject to Section 124.120.
- K. The keeping of horses, cattle, sheep and other livestock provided that no animals shall be kept on a lot less than three (3) acres in area, nor more than two (2) head may be kept on the first three (3) acres; however, one (1) additional animal may be kept for each acre over three (3) acres, and all animals must be confined to an area on the property and said area of confinement shall not be located closer than 125 feet to a dwelling on any contiguous property; and barns, stables and other buildings and structures to house livestock shall not be located closer than 50 feet to any property line. [As amended by Ordinance No. 98-O-446.DD, effective September 9, 1998]
- L. Planned unit developments subject to provisions of Section 116.
- M. Deleted by Ordinance No. 91-O-446.D, effective May 8, 1991]
- N. Utility substations or pumping stations with no equipment storage.
- O. Bed and breakfast facilities, subject to the provisions of Section 124.140. [Subsection O. as added by Ordinance No. 91-O-446.D, effective May 8, 1991]
- P. Dwelling groups in accordance with Section 20.110. [Subsection P. as amended by Ordinance No. 95-O-446.X, effective February 21, 1995]
- Q. Signs appurtenant to any conditional use and which do not comply with Section 20.080.

R. Short-term rentals pursuant to the provisions of Section 124.170. [Subsection R. as added by Ordinance No. 01-O-446.MM, effective January 17, 2002]

20.050 **Minimum lot area.** Minimum lot areas in the R-1 zone may be 6,000, 8,000 or 12,000 square feet, depending upon site, public service and neighborhood characteristics.

20.060 **Lot width, lot coverage and yard requirements.**

<u>Zone</u>	<u>Lot Width</u>	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>	<u>Maximum Lot Coverage</u>
R-1-6	60'	20'	5'	15'	40%
R-1-8	70'	20'	5'	15'	40%
R-1-10	80'	20'	5'	15'	40%
R-1-12	90'	20'	5'	15'	40%

provided however, that side yards abutting a street shall be a minimum of 15 feet in width; and provided that the side or rear yard shall be increased by one-half foot for each foot by which the building height exceeds 15 feet. [As amended by Ordinance No. 90-O-446.B, effective September 11, 1990]

20.070 **Maximum building height.** No structure shall be over 30 feet in height, except as provided in Section 132.030. [As amended by Ordinance No. 98-O-446.DD, effective September 9, 1998]

20.080 **Signs.** Signs shall be permitted in accordance with Section 88.

20.090 **Parking.** Off-street parking shall be provided in accordance with Section 92.

20.100 **Manufactured housing requirements.**

- A. The manufactured home shall be multi-sectional and inclose a space of not less than 1,000 square feet.
- B. The manufactured home shall be placed on an excavated and back-filled foundation and shall be enclosed at the perimeter such that the manufactured home is located so that no more than 12 inches of the enclosing material is exposed above grade. Where the manufactured home is placed upon a building site having a sloped grade, no more than 12 inches of the enclosing material shall be exposed on the uphill side of the home. If the manufactured home is placed on a basement, the twelve inch limitation will not apply.

- C. The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.
- D. The manufactured home shall have exterior siding and roofing which in color, material and appearance similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.
- E. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 445.010.
- F. The manufactured home shall have a garage or carport constructed of like materials.

[Section 20.100 added by Ordinance No. 91-O-446.D., effective May 8, 1991]

20.110. Dwelling groups. Dwelling groups shall be allowed on lots that can not otherwise be divided and are less than 4 acres in size, subject to the following standards:

A. Density. The number of dwelling units allowed shall be established by dividing the total lot area by the minimum lot area of the underlying zone.

1. All residential buildings shall be single family.

2. Buildings may be clustered on the lot.

B. Setbacks. The distance between any principal buildings and the property line shall be not less than established in Section 20.060. The minimum distance between residential buildings shall be twice the minimum side yard setback that would be required for the tallest building on the lot; provided, however, that in no case shall the distance be less than 10 feet. This requirement shall also apply to portions of the same building separated from each other by a court or other open space. An inner court providing access to double row dwelling groups shall be a minimum of 20 feet in width. [Subsection B, as amended by Ordinance No. 95-O-446.X, effective February 21, 1995]

C. Access. Every building containing a dwelling in the group shall be within 60 feet of an access roadway having a curb to curb section of at least 20 feet in width providing vehicular access from a public street. [As amended by Ordinance No. 89-O-454]

D. Neighborhood character. The development of dwelling groups shall respect the character of both the neighborhood in which it is located and the properties adjacent to said dwelling group. Emphasis shall be placed on retention of neighborhood character and privacy of adjacent properties when reviewing dwelling groups.

E. All dwelling groups shall be subject to the review and approval of the site plan committee, as provided in Section 80.

20.120 Other required conditions.

A. Site plan approval required as provided in Section 80.

B. No residential structure shall be located within the ocean coastal shorelands boundary nor the Chetco Estuary shorelands boundary as defined in the Comprehensive Plan.

80.010

BROOKINGS DEVELOPMENT CODE

80.030.A

Section 80
SITE PLAN APPROVALSections:

- 80.010 Purpose.
- 80.020 Site plan committee.
- 80.030 Application.
- 80.040 Improvement standards.
- 80.050 Action of site plan committee.
- 80.060 Appeal.
- 80.070 Revisions.
- 80.080 Issuance of building permits.

80.010 Purpose. The purpose of site plan approval is to establish a review process insuring that new development is in compliance with the objectives and requirements of the Land Development Code in those zoning districts where inappropriate development may cause a conflict between existing or future uses in the same or adjoining zoning district by creating unhealthful or unsafe conditions and thereby adversely affecting the public health, safety and welfare.

80.020 Site plan committee. There is hereby created a site plan committee consisting of the City Manager, Community Development Director, City Engineer, Planning Director, Building Official, or their designees, to carry out the duties set forth in this section. This committee shall have the authority to approve, disapprove or to approve with conditions, the site plans for all proposed new buildings or structures, or the expansion of existing structures in those zoning districts where site plan approval is required. This committee shall also have the authority to review land use applications for completeness pursuant to the submittal requirements of the pertinent section of this code, and to schedule such applications for hearing. In the review of plans, the site plan committee shall be governed by the purpose and objectives set forth in this section. [As amended by Ordinance No. 93-O-446.N, effective April 20, 1993]

80.030 Application.

- A. Before any building permit and/or development permit shall be issued in any zoning district subject to site plan approval, a site plan for total parcel or development site shall be prepared and submitted to the city, together with the appropriate application form and filing fee established by resolution of the City Council. The site plan shall be drawn to scale and shall indicate the following:
1. Dimensions and orientation of the parcel.
 2. Locations of buildings and structures, both existing and proposed.
 3. Location and layout of off-street parking and loading facilities.
 4. Location of points of entry and exit for motor vehicles, and internal circulation pattern.

5. Location of walls and fences and indication of their height and materials of their construction.
 6. Indications of exterior lighting standards and devices.
 7. Location and size of exterior signs and outdoor advertising.
 8. Location of required landscaping.
 9. Grading and slopes where they affect relationship of the buildings and drainage.
 10. Indications of the height of buildings and structures.
 11. Indication of the proposed use of buildings shown on the site.
 12. Any other architectural or engineering data as may be required to permit necessary findings that the provisions of this section are complied with.
 13. Where an attachment or minor addition to an existing building or structure is proposed, the site plan shall indicate the relationship of said proposal to the existing development but need not include other data required in subsections 1 through 12 of Section 80.030.A.
- B. Within seven (7) working days from the date of submission, the Building Official or Planning Director shall present the application to the Site Plan Committee for determination. The Site Plan Committee shall have ten (10) working days to approve the application or clear it for hearing, determine that more information is needed to complete the application, or deny the application on the grounds that it is inconsistent with the Land Development Code or Comprehensive Plan. Such determination will be made in writing to the applicant if the application is denied or found to be incomplete. If found to be incomplete, the applicant will also be informed as to what additional material is required. Upon clearance from the Site Plan Committee a building permit will be issued or, if required, the application will be scheduled for the next available Planning Commission hearing. [As amended by Ordinance No. 93-O-446.N, effective April 20, 1993]

80.040 Improvement standards. The site plan committee in its review of projects subject to the provisions of this section shall apply the following standards and requirements in addition to those listed in Section 172 of this code, where applicable, for site improvements to new developments or expansion of existing developments.

- A. For multiple-family residential development an area equal to at least 50% percent of the gross floor area or living facilities shall be devoted to usable open space recreation areas.

- B. Sight-obscuring landscaping or a landscaped berm, wall or fence shall be placed along a property line where appropriate, and around an ~~unsightly area~~ such as a trash or equipment enclosure or storage area, or an industrial or heavy commercial activity.
- C. Except for portions required for off-street parking, loading or traffic maneuvering, a required setback yard area abutting a street and an open area between the property line and the roadway in the street right-of-way shall be landscaped.
- D. All landscaping shall be maintained by means of an underground irrigation system or other approved alternative.
- E. An access way to an off-street parking area shall be improved from the public roadway to the parking area to a minimum width of 20 feet.
- F. Proposed development in any zone, except the Public Open Space Zone, subject to the provisions of Section 80, which fronts upon an unimproved street shall either be required to improve same to city standards by the installation of curb, gutter pavement and sidewalk on the side abutting the said development, plus 12 feet of pavement beyond the center line, or the owner shall support a future street improvement by executing a deferred improvement agreement which shall run with the land. The City Council, with recommendations from the Site Plan Committee, will determine the extent of needed off-site improvements in regard to the nature of off-site improvements in the Public Open Space Zone on a case by case basis. [As amended by Ordinance No. 93-O-446.P, effective August 10, 1993]
- G. Provide for the undergrounding of utility service lines and facilities.
- H. Provide for the improvement of an existing dedicated alley way which is intended to be used for egress and ingress, or backup space of off-street parking for the development.
- I. Make provision for screening the visibility of roof, wall or ground mounted mechanical equipment and devices, in addition to propane tanks.
- J. Dedicate public street right-of-way, a pedestrian way, or an easement for utilities, a waterway or slope protection.
- K. Provide for the installation of sidewalks.
- L. Requirements for landscaping location and material shall not interfere with solar access which the applicant desires for a building included in the development proposal. Landscaping shall not interfere with solar access to adjacent property.

80.050 Action of the site plan committee. Within ten (10) days after the submission of a complete site plan, the site plan committee shall approve, approve with conditions, or disapprove the site plan. Failure to render a decision within the ten (10) day period shall be deemed approval of the plan as submitted. In approving the plan, the committee shall find that all provisions of this development code are complied with and that all buildings and facilities, access points, parking and loading facilities, signs, lighting, and walls or fences are so arranged that traffic congestion is avoided, and pedestrian and vehicular safety and welfare are protected, and that there will be no adverse effect on surrounding property. The decision of the committee shall be final unless appealed to the Planning Commission.

80.060 Appeals. The applicant or any interested person may appeal a decision of the site plan committee to the Planning Commission in the form prescribed by the city. Such appeal shall be filed with the City Manager or his designee within five (5) days of the decision of the site plan committee. The appeal shall be placed on the agenda of the Planning Commission at their next regular meeting after the date of the filing of the appeal, unless such meeting is within ten (10) days of the receipt of the request, in which case the matter shall be placed on the agenda for the regular meeting next following. The Planning Commission shall review the site plan and shall approve, approve with conditions, or disapprove the plan based upon the considerations listed in Sections 80.040 and 80.050. The Planning Commission shall decide on the appeal within 30 days of the filing, and said filing shall suspend any building permit until the commission has decided the appeal.

80.070 Revisions. Revisions made by the applicant to an approved site plan shall be made pursuant to the procedures set forth in this section. Where required site plan approval has been granted, it shall be unlawful for any person to cause or permit the proposed construction, alteration, improvement or use in any manner except in complete and strict compliance with the approved site plan.

80.080 Issuance of building permits.

- A. If all the required improvements as specified in the conditions of approval of the site plan committee have not been satisfactorily completed prior to issuance of a building permit, as a condition of such issuance, the developer shall enter into a written agreement with the city, specifying all improvements as required by the committee pursuant to Section 80, and a time period within which said improvements shall be completed. The developer shall also warrant the materials and workmanship of said improvements in good condition and repair for an additional period of one year from date of satisfactory completion and notification of same by the city. The agreement shall be approved by the committee and signed by the City Manager or his designee on behalf of the city.
- B. The improvement agreement pursuant to Section 80.080.A shall additionally provide the following:

1. Should the developer/owner fail to complete the listed improvements within the specified time period and/or in accordance with the terms of the agreement, ~~the city may complete the same and recover full cost and expense thereof from the developer/owner.~~
 2. Reimbursement to the city for all costs of inspection by the City Engineer of all improvements.
 3. Indemnification of the city, its mayor and council members, officers, boards, commissioners and employees from claims of any nature arising or resulting from the performance of any acts required by the city to be done in accordance therewith.
 4. Agreement by the city to accept streets, storm drains, sanitary sewer lines and easements in which they are located at such time as the developer/owner has fully complied with all the terms and conditions of the agreement and has satisfactorily completed the one year warranty period.
- C. The developer/owner shall file with the improvement agreement, to secure full and faithful performance thereof, one, or a combination of the following:
1. A surety bond executed by a surety company authorized to transact business in the state of Oregon.
 2. Cash.
 3. An irrevocable standby letter of credit.

Enclosure #10
OFFICE
EXHIBIT III

6-178

BROOKINGS ORDINANCES

6-178

ORDINANCE NO. 64-O-178

~~AN ORDINANCE AMENDING ORD. 61-O-157, ADOPTED BY THE~~
COUNCIL AND APPROVED BY THE MAYOR ON JANUARY 10, 1961
TO PROVIDE CERTAIN TRAFFIC CONTROLS FOR PUBLIC PARKS
AND PARKING LOTS, AND DECLARING AN EMERGENCY. [07/15/64]

[See Ordinance No. 61-O-157, Section 64 for amendments.]

[See Ordinance No. 64-O-178 in its entirety in original ordinance books.]

Enclosure #11

OPPOSED
EXHIBIT 12

70th OREGON LEGISLATIVE ASSEMBLY--1999 Regular Session

NOTE: Matter within { + braces and plus signs + } in an amended section is new. Matter within { - braces and minus signs - } is existing law to be omitted. New sections are within { + braces and plus signs + } .

LC 1451

Senate Bill 12

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with presession filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Joint Interim Task Force on Landslides and Public Safety)

SUMMARY

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

Establishes policy for protection of public from landslide hazards. Directs agencies to implement specific responsibilities related to protecting public from landslides. Appropriates moneys to State Forestry Department to implement responsibilities of department related to landslides.

A BILL FOR AN ACT

~~Relating to protection of public from landslide hazards; creating~~
new provisions; amending ORS 215.130, 527.630, 527.710 and 527.714 and section 8, chapter 565, Oregon Laws 1997; and appropriating money.

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

SECTION 1. { + As used in sections 2 to 4 of this 1999 Act, '
~~landslide' means any detached mass of soil, rock or debris that~~

is of sufficient size to cause damage and that moves down a slope or a stream channel. + }

SECTION 2. { + The Legislative Assembly declares that it is the policy of the State of Oregon that each property owner and highway user and federal, state and local governments share the responsibility of making sound decisions regarding their activities that may affect landslide hazards and the associated risks of property damage, personal injury and damage to natural resources. + }

SECTION 3. { + The Legislative Assembly finds that:

(1) Many locations in Oregon are subject to naturally occurring landslide hazards, and some human activities may accelerate the incidence or increase the adverse effects of those hazards.

(2) Rapidly moving landslides present the greatest risk to human life, and persons living in or traveling through areas prone to rapidly moving landslides are at increased risk of serious injury.

(3) While some risk from rapidly moving landslides can be mitigated through proper siting and construction techniques, sites that are vulnerable to impact from rapidly moving landslides are generally unsuitable for permanent habitation.

(4) Activities that require sound decisions to mitigate landslide hazards and risks include but are not limited to:

(a) Siting, constructing or occupying houses or other structures in areas prone to rapidly moving landslides;

(b) Conducting land management activities that may adversely alter the susceptibility of land to landslides; and

(c) Operating motor vehicles in areas known to be subject to rapidly moving landslides. + }

SECTION 4. { + (1) The following state agencies shall implement the following specific responsibilities to protect the public from landslides:

(a) The Land Conservation and Development Commission shall adopt rules requiring local governments to amend their comprehensive plans and land use regulations to:

(A) Identify areas subject to landslide hazards; and

(B) Regulate the approval and siting of dwellings and other development in identified high hazard landslide areas.

(b) The Department of Transportation shall provide warnings to motorists when the department is notified that known high hazard

landslide areas on state highways are most vulnerable to rapidly moving landslides.

(c) ~~The State Department of Geology and Mineral Industries shall identify and map landslide hazard locations and provide technical assistance to local governments to facilitate the use and application of this information so that local governments may determine the nature and severity of landslide hazards.~~

(d) Consistent with its authority under ORS 455.030, the Department of Consumer and Business Services shall amend the state building code as necessary to require building practices that minimize the risks to or vulnerability of buildings from landslides. ~~The state building code shall require geotechnical reports to be prepared for building sites located in known high hazard landslide areas.~~

(e) The State Forestry Department shall regulate forest operations to reduce public safety risks from rapidly moving landslides and review proposed residential construction activity on and adjacent to forestlands in known high hazard landslide areas.

(f) The Office of Emergency Management of the Department of State Police shall coordinate state resources for rapid and effective response to landslide-related emergencies.

(2) Consistent with ORS 401.015, local governments shall exercise all available authority to protect the public during emergencies. + }

SECTION 5. ORS 215.130 is amended to read:

215.130. (1) Any legislative ordinance relating to land use planning or zoning shall be a local law within the meaning of, and subject to, ORS 250.155 to 250.235.

(2) An ordinance designed to carry out a county comprehensive plan and a county comprehensive plan shall apply to:

(a) The area within the county also within the boundaries of a city as a result of extending the boundaries of the city or creating a new city unless, or until the city has by ordinance or other provision provided otherwise; and

(b) The area within the county also within the boundaries of a city if the governing body of such city adopts an ordinance declaring the area within its boundaries subject to the county's land use planning and regulatory ordinances, officers and procedures and the county governing body consents to the

conferral of jurisdiction.

(3) An area within the jurisdiction of city land use planning and regulatory provisions that is withdrawn from the city or an area within a city that disincorporates shall remain subject to such plans and regulations which shall be administered by the county until the county provides otherwise.

(4) County ordinances designed to implement a county comprehensive plan shall apply to publicly owned property.

(5) The lawful use of any building, structure or land at the time of the enactment or amendment of any zoning ordinance or regulation may be continued. Alteration of any such use may be permitted subject to subsection (9) of this section. Alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. Except as provided in ORS 215.215, a county shall not place conditions upon the continuation or alteration of a use described under this subsection when necessary to comply with state or local health or safety requirements, or to maintain in good repair the existing structures associated with the use. A change of ownership or occupancy shall be permitted.

(6) Restoration or replacement of any use described in subsection (5) of this section may be permitted when the restoration is made necessary by fire, other casualty or natural disaster { + , including wildfire, flood or landslide + }. Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster. { + If restoration or replacement is necessary due to a natural disaster, restoration or replacement shall be done in a way that mitigates the natural disaster risk. The proposal for restoration or replacement shall describe how county rules, regulations, ordinances and siting standards have been applied to reduce loss from the natural disaster risk. Restoration or replacement may be allowed on any part of the same lot or parcel that is safe from natural disaster risk. + }

(7) Any use described in subsection (5) of this section may not be resumed after a period of interruption or abandonment unless the resumed use conforms with the requirements of zoning ordinances or regulations applicable at the time of the proposed resumption.

(8) Any proposal for the verification or alteration of a use

under subsection (5) of this section, except an alteration necessary to comply with a lawful requirement, for the restoration or replacement of a use under subsection (6) of this section or for the resumption of a use under subsection (7) of this section shall be subject to the provisions of ORS 215.416. An initial decision by the county or its designate on a proposal for the alteration of a use described in subsection (5) of this section shall be made as an administrative decision without public hearing in the manner provided in ORS 215.416 (11).

(9) As used in this section, 'alteration' of a nonconforming use includes:

(a) A change in the use of no greater adverse impact to the neighborhood; and

(b) A change in the structure or physical improvements of no greater adverse impact to the neighborhood.

(10) A local government may adopt standards and procedures to implement the provisions of this section. The standards and procedures may include but are not limited to the following:

(a) For purposes of verification of a use under subsection (5) of this section, a county may adopt procedures that allow an applicant for verification to prove the existence, continuity, nature and extent of the use only for the 10-year period immediately preceding the date of application. Evidence proving the existence, continuity, nature and extent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, lawfully existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of application;

(b) Establishing criteria to determine when a use has been interrupted or abandoned under subsection (7) of this section; or

(c) Conditioning approval of the alteration of a use in a manner calculated to ensure mitigation of adverse impacts as described in subsection (9) of this section.

SECTION 6. ORS 527.630 is amended to read:

527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base and other social and economic benefits, by helping to maintain forest tree species, soil, air and water resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the public policy of the State of Oregon to encourage economically efficient forest

practices that { - assure - } { + ensure + } the continuous growing and harvesting of forest tree species and the maintenance of forestland for such purposes as the leading use on privately owned land, consistent with sound management of soil, air, water, fish and wildlife resources and scenic resources within visually sensitive corridors as provided in ORS 527.755 { - that assures - } { + and to ensure + } the continuous benefits of those resources for future generations of Oregonians.

(2) It is recognized that operations on forestland are already subject to other laws and to regulations of other agencies which deal primarily with consequences of such operations rather than the manner in which operations are conducted. It is further recognized that it is essential to avoid uncertainty and confusion in enforcement and implementation of such laws and regulations and in planning and carrying out operations on forestlands.

(3) To encourage forest practices implementing the policy of ORS 527.610 to 527.770 and 527.990 and 527.992, it is declared to be in the public interest to vest in the State Board of Forestry exclusive authority to develop and enforce statewide and regional rules pursuant to ORS 527.710 and to coordinate with other state agencies and local governments which are concerned with the forest environment.

(4) { + In order to address public safety and scenic considerations, the board:

(a) Shall adopt and enforce forest practice rules to protect public safety in accordance with ORS 527.710 (11).

(b) + } { - The board - } May adopt and enforce rules addressing scenic considerations only in accordance with ORS 527.755.

(5) The State of Oregon should provide a stable regulatory environment to encourage investment in private forestlands.

SECTION 7. ORS 527.710 is amended to read:

527.710. (1) In carrying out the purposes of ORS 527.610 to 527.770, 527.990 (1) and 527.992, the State Board of Forestry shall adopt, in accordance with applicable provisions of ORS 183.310 to 183.550, rules to be administered by the State Forester establishing standards for forest practices in each region or subregion.

(2) The rules shall { - assure - } { + ensure + } the

continuous growing and harvesting of forest tree species. Consistent with ORS 527.630, the rules shall provide for the overall maintenance of the following resources:

- (a) Air quality;
- ~~(b) Water resources, including but not limited to sources of domestic drinking water;~~
- ~~(c) Soil productivity; and~~
- ~~(d) Fish and wildlife.~~

(3)(a) In addition to its rulemaking responsibilities under subsection (2) of this section, the board shall collect and analyze the best available information and establish inventories of the following resource sites needing protection:

(A) Threatened and endangered fish and wildlife species identified on lists that are adopted, by rule, by the State Fish and Wildlife Commission or are federally listed under the Endangered Species Act of 1973 as amended;

~~(B) Sensitive bird-nesting, roosting and watering sites;~~

(C) Biological sites that are ecologically and scientifically significant; and

~~(D) Significant wetlands.~~

(b) The board shall determine whether forest practices would conflict with resource sites in the inventories required by paragraph (a) of this subsection. If the board determines that one or more forest practices would conflict with resource sites in the inventory, the board shall consider the consequences of the conflicting uses and determine appropriate levels of protection.

(c) Based upon the analysis required by paragraph (b) of this subsection, and consistent with the policies of ORS 527.630, the board shall adopt rules appropriate to protect resource sites in the inventories required by paragraph (a) of this subsection.

(4) Before adopting rules under subsection (1) of this section, the board shall consult with other agencies of this state or any of its political subdivisions that have functions with respect to the purposes specified in ORS 527.630 or programs affected by forest operations. Agencies and programs subject to consultation under this subsection include, but are not limited to:

~~(a) Air and water pollution programs administered by the Department of Environmental Quality under ORS chapters 468A and 468B and ORS 477.013 and 477.515 to 477.532;~~

(b) Mining operation programs administered by the Department of Geology and Mineral Industries under ORS 516.010 to 516.130 and ORS chapter 517;

~~(c) Game fish and wildlife, commercial fishing, licensing, wildlife and bird refuge and fish habitat improvement tax incentive programs administered by the State Department of Fish and Wildlife under ORS 272.060, 315.134, 501.005 to 501.540, and ORS chapters 496, 498, 506 and 509.~~

(d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs administered by the State Parks and Recreation Department under ORS 358.475 to 358.565, 390.310 to 390.368, 390.805 to 390.925, 390.950 to 390.989 and 390.121;

(e) The programs administered by the Columbia River Gorge Commission under Public Law 99-663 and ORS 196.110 and 196.150;

(f) Removal and fill, natural heritage conservation and natural heritage conservation tax incentive programs administered by the State Land Board and the Division of State Lands under ORS 196.800 to 196.900, 273.553 to 273.591, 307.550, 307.560 and 541.700 to 541.990;

(g) Federal Safe Drinking Water Act programs administered by the Health Division under ORS 448.273 to 448.990;

(h) Natural heritage conservation programs administered by the Natural Heritage Advisory Council under ORS 273.553 to 273.591, 307.550 and 307.560;

(i) Open space land tax incentive programs administered by cities and counties under ORS 308.740 to 308.790;

(j) Water resources programs administered by the Water Resources Department under ORS 536.220 to 536.540; and

(k) Pesticide control programs administered by the State Department of Agriculture under ORS chapter 634.

(5) In carrying out the provisions of subsection (4) of this section, the board shall consider and accommodate the rules and programs of other agencies to the extent deemed by the board to be appropriate and consistent with the purposes of ORS 527.630.

(6) The board shall adopt rules to meet the purposes of another agency's regulatory program where it is the intent of the board to administer the other agency's program on forestland and where the other agency concurs by rule. An operation performed in compliance with the board's rules shall be deemed to comply with the other agency's program.

(7)(a) The board may enter into cooperative agreements or contracts necessary in carrying out the purposes specified in ORS 527.630, including but not limited to stewardship agreements as described in ORS 527.662.

(b) The State Forestry Department shall enter into agreements with appropriate state agencies for joint monitoring of the effectiveness of forest practice rules in protecting forest resources and water quality.

(8) If based upon the analysis required in section 15 (2)(f), chapter 919, Oregon Laws 1991, and as the results become available, the board determines that additional rules are necessary to protect forest resources pursuant to ORS 527.630, the board shall adopt forest practice rules that reduce to the degree practicable the adverse impacts of cumulative effects of forest practices on air and water quality, soil productivity, fish and wildlife resources and watersheds. Such rules shall include a process for determining areas where adverse impacts from cumulative effects have occurred or are likely to occur, and may require that a written plan be submitted for harvests in such areas.

~~(9)(a) The State Forester, in cooperation with the State Department of Fish and Wildlife, shall identify streams for which restoration of habitat would be environmentally beneficial. The State Forester shall select as a priority those streams where restoration efforts will provide the greatest benefits to fish and wildlife, and to streambank and streambed stability.~~

(b) For those streams identified in paragraph (a) of this subsection, the State Forester shall encourage landowners to enter into cooperative agreements with appropriate state agencies for conduct of restoration activities.

~~(c) The board, in consultation with appropriate state agencies, shall study and identify methods for restoring or enhancing fish and wildlife populations through restoration and rehabilitation of sites beneficial to fish and wildlife.~~

(d) The board shall adopt rules to implement the findings of this subsection.

(10) The board shall adopt rules that provide the State Forester with authority to condition the approval of plans required under ORS 527.670 (2) and (3) when the State Forester makes a determination that there is evidence of a potential

threat to resources protected under this section by controlling method, timing and extent of harvest when the forester determines such limitations are necessary to achieve the objectives of ORS 527.630.

{ + (11) In addition to its responsibilities under subsections (1) to (3) of this section, the board shall adopt ~~rules to reduce public safety risks caused by rapidly moving landslides~~ directly related to forest practices. The rules shall consider the exposure of the public to these safety risks and shall include appropriate practices designed to reduce the occurrence, timing or effects of rapidly moving landslides. As used in this subsection, ' landslide' has the meaning given that term in section 1 of this 1999 Act. + }

SECTION 8. Section 8, chapter 565, Oregon Laws 1997, is amended to read:

{ + Sec. 8. + } { + (1) + } Sections { - 1 - } { + 3 + } to 6 { + , chapter 565, Oregon Laws 1997, + } { - of this Act - } are repealed on January 1, 2000. { +

(2) Sections 1 and 2, chapter 565, Oregon Laws 1997, are repealed when the State Forestry Department formally adopts permanent rules implementing section 4 of this 1999 Act and the amendments to ORS 527.630 and 527.710 by sections 6 and 7 of this 1999 Act, or on January 1, 2000, whichever is later. + }

SECTION 9. { + (1) Notwithstanding any other provision of law, in addition to any other amounts appropriated to the State Forestry Department, for the biennium beginning July 1, 1999, there is appropriated out of the General Fund \$___ to the State Forestry Department for the purpose of carrying out the responsibilities of the State Forestry Department under section 4 of this 1999 Act and the amendments to ORS 527.630 and 527.710 by sections 6 and 7 of this 1999 Act.

(2) Notwithstanding any other provision of law, in addition to any other amounts appropriated to the Land Conservation and Development Commission, for the biennium beginning July 1, 1999, there is appropriated out of the General Fund \$___ to the Land Conservation and Development Commission for the purpose of carrying out the responsibilities of the Land Conservation and Development Commission under section 4 of this 1999 Act.

(3) Notwithstanding any other provision of law, in addition to

appropriated to the Department of
for the biennium beginning July 1, 1999, there is
of the General Fund \$____ to the Department of
for the purpose of carrying out the
of the Department of Transportation under
1999 Act.

Along any other provision of law, in addition to
is appropriated to the State Department of Geology
for the biennium beginning July 1, 1999,
dted out of the General Fund \$____ to the State
ology and Mineral Industries for the purpose of
responsibilities of the State Department of
eral Industries under section 4 of this 1999 Act.

Along any other provision of law, in addition to
is appropriated to the Department of Consumer and
for the biennium beginning July 1, 1999, there
of the General Fund \$____ to the Department of
usiness Services for the purpose of carrying out
of the Department of Consumer and Business
ction 4 of this 1999 Act. + }

ORS 527.714 is amended to read:

rulemaking authority of the State Board of
ORS 527.610 to 527.770 consists generally of the
of rules:

to implement administration, procedures or
ORS 527.610 to 527.770 that support but do not
standards of forest practices.

ed to provide definitions or procedures for
where the standards are set in statute.

to implement the provisions of ORS 527.710
(9) { +, + } { - and - } (10) { + and
broad discretion to the board and that set
est practices not specifically addressed in

considering the adoption of a rule, and prior to the
pursuant to ORS 183.335, the board shall
type of rule described in subsection (1) of this
considered.

l determines that a proposed rule is of the type
ction (1)(a) or (b) of this section, or if the

proposed rule is designed only to clarify the meaning of rules already adopted or to make minor adjustments to rules already adopted that are of the type described in subsection (1)(c) of this section, rulemaking may proceed in accordance with ORS 183.325 to 183.410 and is not subject to the provisions of this section.

(4) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, and the proposed rule would change the standards for forest practices, the board shall describe in its rule the purpose of the rule and the level of protection that is desired.

(5) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, including a proposed amendment to an existing rule not qualifying under subsection (3) of this section, and the proposed rule would provide new or increased standards for forest practices, the board may adopt such a rule only after determining that the following facts exist and standards are met:

(a) If forest practices continue to be conducted under existing regulations, there is monitoring or research evidence that documents that degradation of resources maintained under ORS 527.710 (2) or (3) is likely;

(b) If the resource to be protected is a wildlife species, the scientific or biological status of a species or resource site to be protected by the proposed rule has been documented using best available information;

(c) The proposed rule reflects available scientific information, the results of relevant monitoring and, as appropriate, adequate field evaluation at representative locations in Oregon;

(d) The objectives of the proposed rule are clearly defined, and the restrictions placed on forest practices as a result of adoption of the proposed rule:

(A) Are to prevent harm or provide benefits to the resource or resource site for which protection is sought; and

(B) Are directly related to the objective of the proposed rule and substantially advance its purpose;

(e) The availability, effectiveness and feasibility of alternatives to the proposed rule, including nonregulatory alternatives, were considered, and the alternative chosen is the

least burdensome to landowners and timber owners, in the aggregate, while still achieving the desired level of protection; and

(f) The benefits to the resource that would be achieved by adopting the rule are in proportion to the degree that existing practices of the landowners and timber owners, in the aggregate, are contributing to the overall resource concern that the proposed rule is intended to address.

(6) Nothing in subsection (5) of this section:

(a) Requires the board to call witnesses;

(b) Requires the board to allow cross-examination of witnesses;

(c) Restricts ex parte communications with the board or requires the board to place statements of such communications on the record;

(d) Requires verbatim transcripts of records of proceedings; or

(e) Requires depositions, discovery or subpoenas.

(7) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, and the proposed rule would require new or increased standards for forest practices, as part of or in addition to the economic and fiscal impact statement required by ORS 183.335 (2)(b)(E), the board shall, prior to the close of the public comment period, prepare and make available to the public a comprehensive analysis of the economic impact of the proposed rule. The analysis shall include, but is not limited to:

(a) An estimate of the potential change in timber harvest as a result of the rule;

(b) An estimate of the overall statewide economic impact, including a change in output, employment and income;

(c) An estimate of the total economic impact on the forest products industry and common school and county forest trust land revenues, both regionally and statewide; and

(d) Information derived from consultation with potentially affected landowners and timber owners and an assessment of the economic impact of the proposed rule under a wide variety of circumstances, including varying ownership sizes and the geographic location and terrain of a diverse subset of potentially affected forestland parcels.

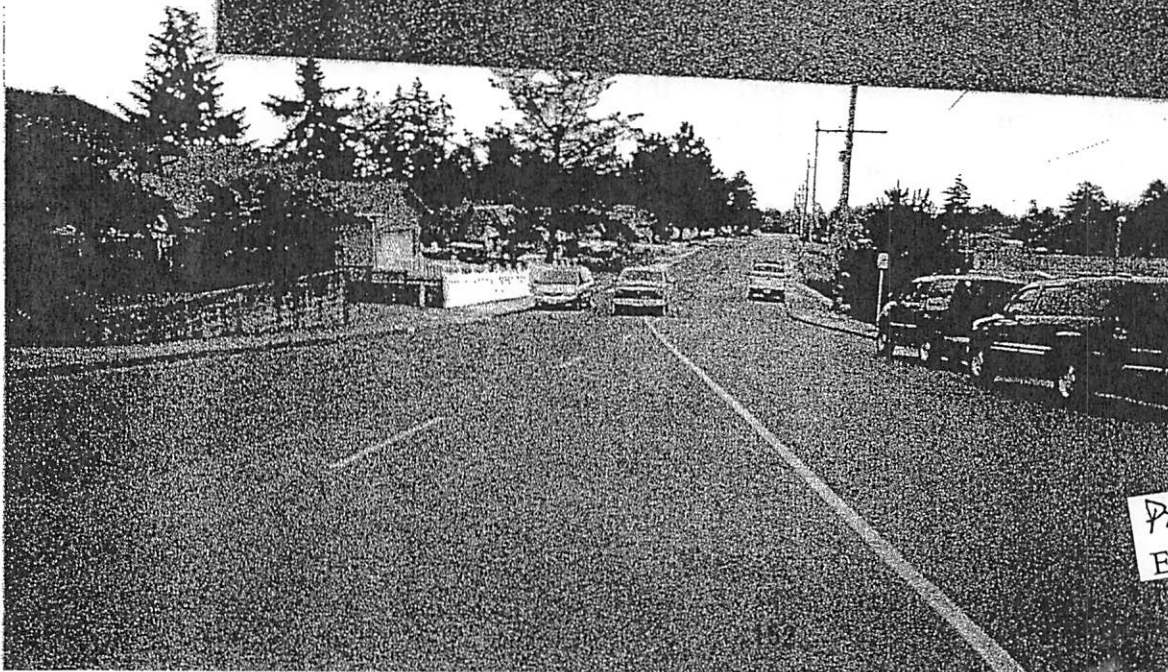
(8) The provisions of this section do not apply to temporary rules adopted by the board.



PROPOSER
EXHIBIT X13



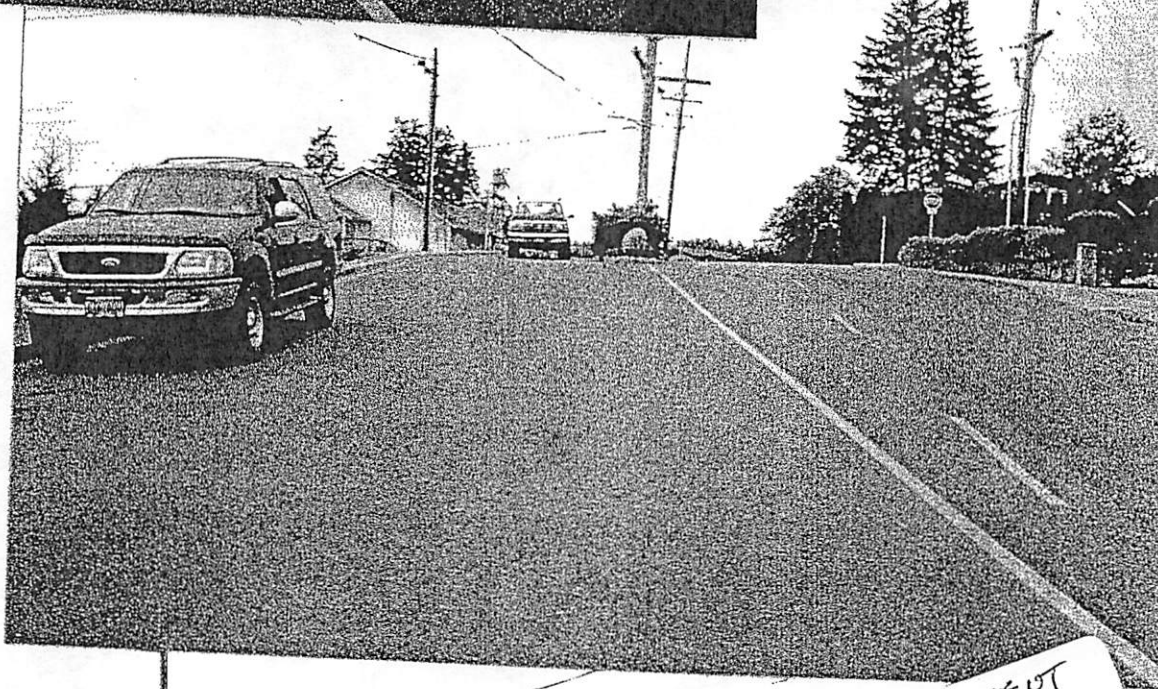
EXHIBIT X14



PROPOSER
EXHIBIT X15



PROPOSED
EXHIBIT X16



PROPOSED
EXHIBIT X17

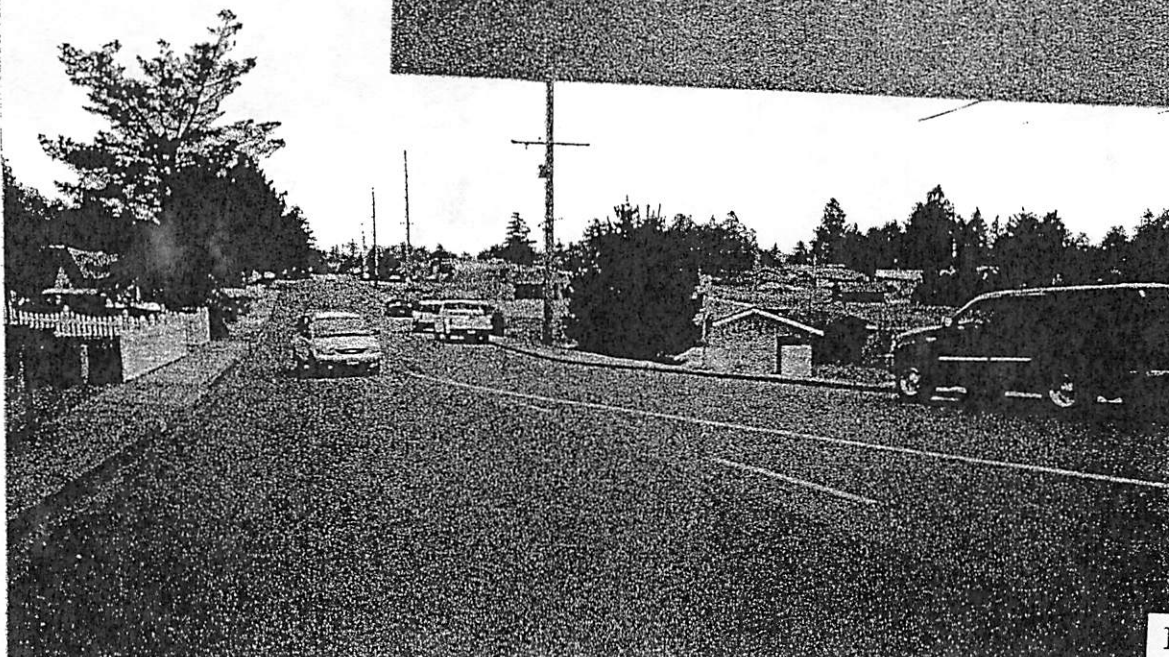
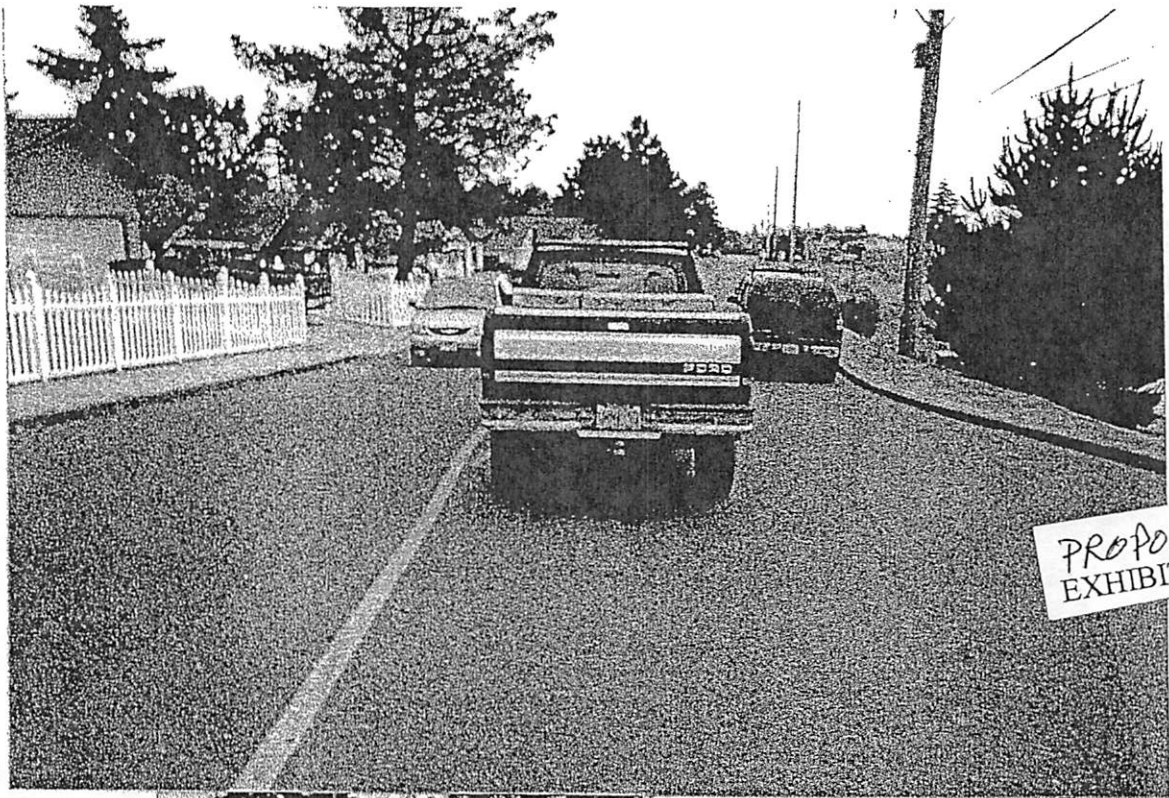


EXHIBIT X18





PROPOSENT
EXHIBIT X22



PROPOSENT
EXHIBIT X23



PROPOSENT
EXHIBIT X24



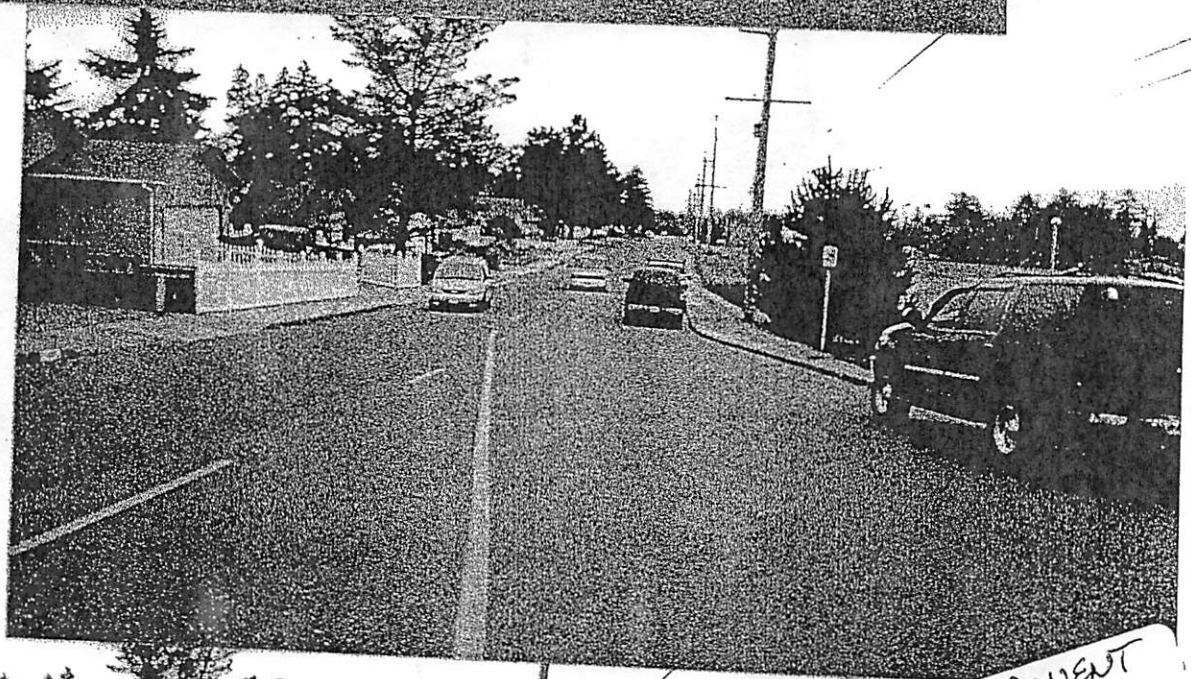
PROPOWENT
EXHIBIT X25



PROPOWENT
EXHIBIT X26

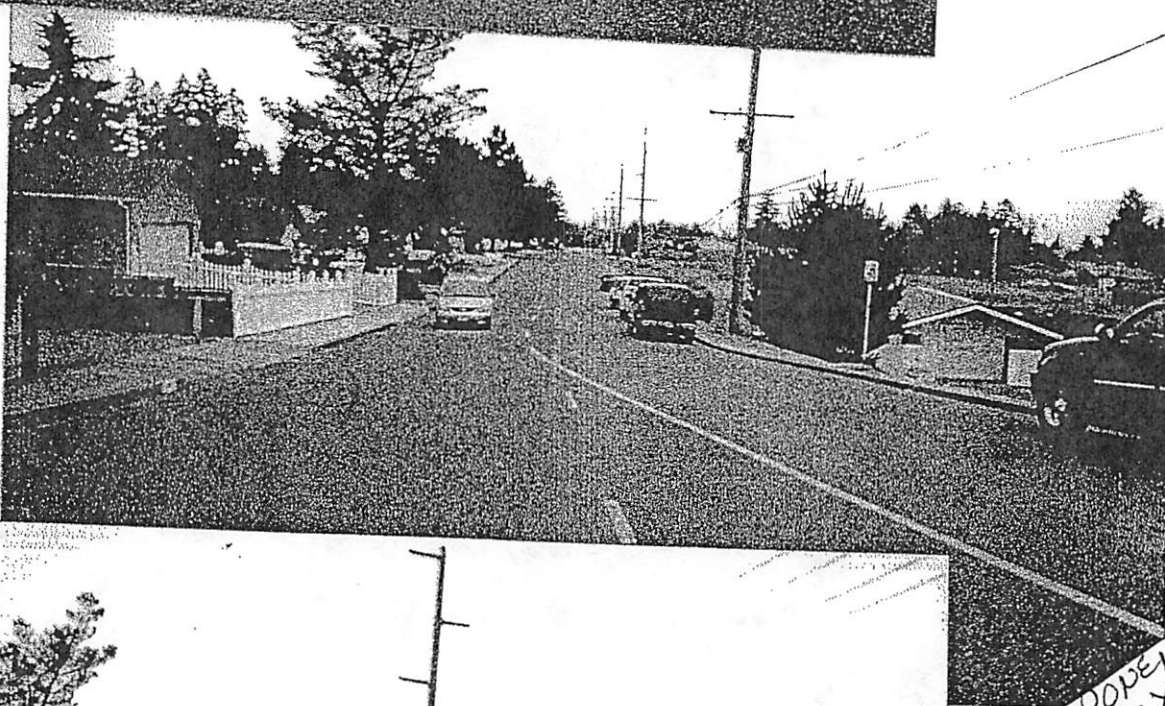


PROPOWENT
EXHIBIT X27





PROPOONENT
EXHIBIT X31



PROPOONENT
EXHIBIT X32



PROPOONENT
EXHIBIT X33



PROPOONENT
EXHIBIT X34



PROPOONENT
EXHIBIT X35



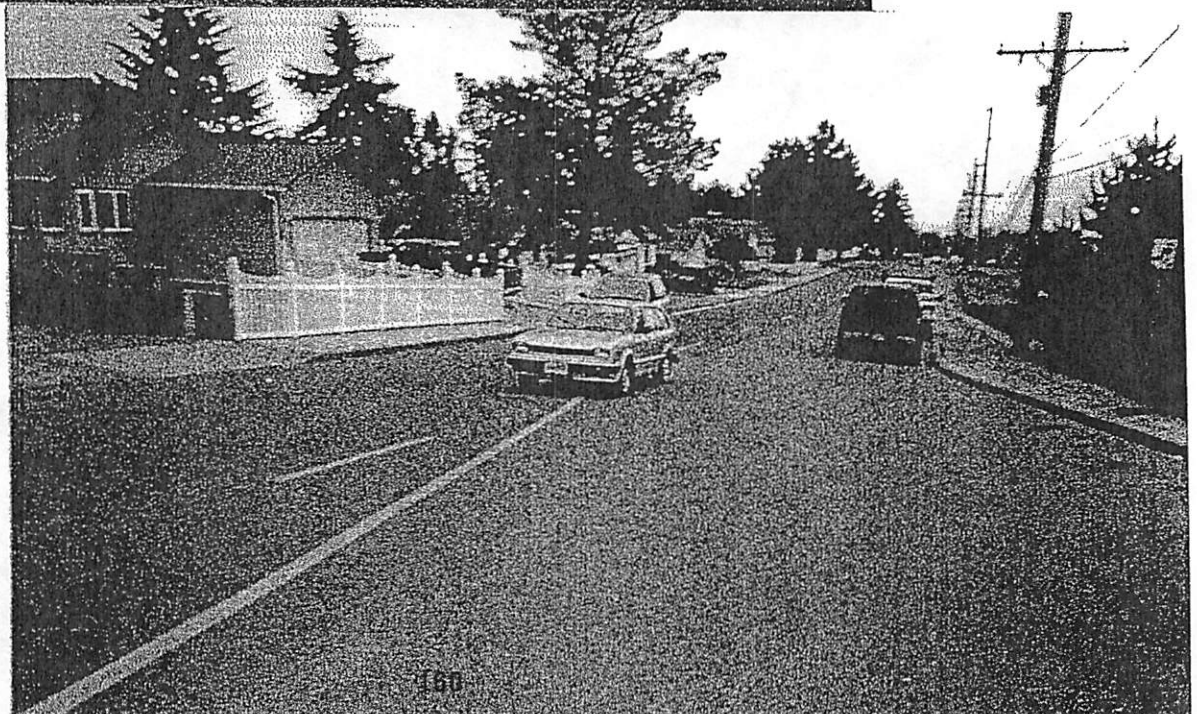
PROPOONENT
EXHIBIT X36



PROPONEE
EXHIBIT X37



PROPONEE
EXHIBIT X38



Bruce Bros. Inc.
P.O. Box 61
Brookings, OR 97415
CCB # 108497 (541) 469-9210

EXHIBIT X
RECEIVED
JUL 23 2004
CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

City of Brookings
Planning Department
c/o Director John Bishoff
898 Elk Dr.
Brookings, OR 97415

July 22, 2004

RE: File No. PUD-02-04

Members of the Planning Commission;

This letter and attachments contain our response to the written statements submitted in opposition to the Ransom Creek PUD project. The response is subject to our objection that the materials submitted are untimely and should have been submitted by July 6th. The opponent's materials are not rebuttals but objections that should have been submitted prior, to be addressed at the hearing. In general, our review and summation of the documents submitted only reiterates the statements made during the open debate concerning the review in front of the Commission. With regard to the legal questions that may be raised by specific items, we have included an additional response from the Project Attorney Mr. John Babin, who is more qualified to address the legal specifics, and comments from the Project Engineer Tim Bossard addressing design and engineering concerns.

Our company has worked with the planning department staff and has included many of the suggestions and recommendations and incorporated these ideas into the design and final planning for the project. The Bruce Bros. have sought out and brought on board assistance on this project. The landscape architectural firm of KenKairnSager and the Rogue Valley Counsel of Government have assisted in implementing innovative concepts and designs for handling storm water runoff and preservation of the natural elements surrounding Ransom Creek. Every effort has been made to consider into the design concept, structural design and locations that would try and minimize the exposure to surrounding neighbors. The city's Planning Director, in addition to recommending approval, also commented that he was "very encouraged, because the planned unit development is a much more efficient use of the land," and applauded the effort that has gone into the planning of this project, in an interview this week with the Pilot. In a July 1 letter reviewing the Erosion Control Plan for the project, the City's Engineer, Richard Nored comments that "the plan is well prepared." Bruce Bros. has followed all of the applicable statutes and procedures of record and in force and has followed and incorporated these guidelines in developing the plan presented to the Commission.

We understand the desires and concerns expressed by some in opposition, but wish the Commission to recognize that there will be opposition to ANY development of any kind. Primarily, those who wish to continue their own use and enjoyment of what is private property, and continue to use the hiking trails that are adjacent to Ransom Creek. As our plan indicates, we have no planned development beyond the existing walking trails between the existing path and the creek, and have setback construction so as to preserve as much as possible the natural

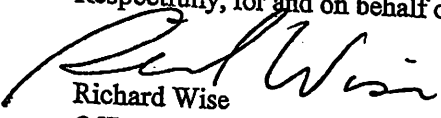
character of the existing area. Replanting of a variety of local trees has been incorporated in the landscape design, and an overall commitment to preserving as much of the present environment has been accomplished by the Bruce Bros. A preliminary landscape plan design was provided to the Commission for review and discussion at the hearing and presented as part of the overall presentation. Bruce Bros. management and design staff, working together with the planning department, formulated by mutual agreement that one of the potential conditions of approval to be in effect should be the requirement that any future changes in the overall landscape plan that the homeowners association may contemplate shall require prior approval from the City prior to any changes becoming effective and modifying the CC & R's that are in force. This condition can be included in the By-Laws of the Association.

In direct response to the references of a conversation that occurred between Richard Wise and Ms. Hodges the evening of the hearing. The comment by Ms. Hodges is wholly incorrect, a statement was made to her that she should closely listen to the presentation of the architectural designer regarding the handling of water runoff, that indeed one of the identified concerns that was recognized and calculated for is the seasonal rate of flow of the creek and runoff into the pools that could increase the flow rate would be mitigated to maintain the flow rate and not disturb the natural fish habitat already existing there. Further comment was made that erosion control measures would be the first steps implemented prior to development on the property to further protect the existing habitat, in addition to being in compliance with standard NPDES General Storm Water Discharge regulations. Further, we would reject the general assumption made by Ms. Hodges that occupants that may be renting or leasing a residence at Ransom Creek (or Claron Glen) will or would pollute the fish and wildlife habitat any more or less than a single family residential occupant. All members of our community are equally responsible to respect, preserve and maintain the natural beauty of the city and coast. We are all so fortunate to reside in such a beautiful place.

With regard to the traffic concerns surrounding traffic at Bud Cross Park raised both in writing and in oral presentation to the Commission, traffic safety should be an issue of concern, but this testimony centers around the traffic at Bud Cross Park. While in agreement that perhaps an on-site parking lot within the park or no parking signs should be posted along streets immediately adjacent to the park, as to improve visibility of children entering to or exiting from the park, while a legitimate concern, it is outside the scope of the developer to make such suggestions for a location over a half mile away from the development, nor required by development code.

Bruce Bros. urges the Commission to follow the recommendations of the staff and approve this development plan and would like to further express our thanks and appreciation for the time and effort our volunteer Commissioners devote to thoroughly and capably reviewing our proposal for development.

Respectfully, for and on behalf of the Applicant,


Richard Wise
Office Manager
Bruce Bros.



T. J. BOSSARD, INC.
CIVIL & STRUCTURAL ENGINEERING

July 23, 2004

John Bischoff
City of Brookings
Via Facsimile Only to: 541-469-3650

Re: Ransom Creek PUD, Brookings, Oregon

Dear Mr. Bischoff:

With reference to the letter dated July 12, 2004 from Earl Keathley, our office has been requested by the Developer to respond to some of the comments from that letter.

On Page Two, the opponent expressed concern over the lack of a "looped" road. This layout has been approved by the City staff and has been presumably reviewed by the City Engineer. Adequate turnaround facilities have been designed in order to assure proper maneuvering of emergency vehicles. Looping this road across the drainage swale would cause significant impact to the riparian habitat and therefore this sensitive area was avoided.

On Page Three, the opponent refers to a "new permeable material". This material was suggested by the consultants from Parametrix, and will not necessarily be used in the final design until the performance standards of this system have been thoroughly verified.

Finally on page Three, the opponent has expressed concerns over additional off-street parking spaces. Our design will allow for such spaces and at all times will preserve a 20-foot roadway clear of obstructions in order to accommodate two-way traffic and the passage of emergency vehicles in accordance with City standards.

The opponent has expressed much concern about the geologic report and slope stability. The project will be built in accordance with a complete engineering design which will be based upon a thorough geologic report as produced by Busch Geotechnical Consultants. Both the geotechnical report and the construction drawings will be submitted to the City Engineer for his final approval. The sediment and erosion control measures will be approved by the Oregon Department of Environmental Quality (DEQ) prior to any construction taking place.

The above comments, together with those submitted by the Developer, are intended to address the concerns of the opponent as expressed in the July 12, 2004 letter. If you have any questions or comments, please do not hesitate to call.

Very truly yours,



T. J. Bossard, P.E.

cc: Bruce Bros, Inc.
133 N.W. "O" ST. GRANTS PASS, OREGON, 97526 / 541 479 5774 / FAX 541 471 6084
tjbinc@internetcds.com

BEFORE THE PLANNING COMMISSION

CITY OF BROOKINGS

In the Matter of the Application of)
Bruce Brothers, LLC, for a)
Planned Unit development -)
Timberline Drive and Brooke Lane -)
Ransom Creek)

FILE NO. PUD-2-04

SUPPLEMENTAL FINDINGS

The following are proposed Findings submitted by the Applicant, Bruce Brothers, LLC, responsive to materials submitted by opponents to the project after the hearing dated on July 6, 2004.

As a preliminary matter it is noted that the Applicants have objected to the material of the opponents submitted after July 6, 2004, since it goes beyond rebuttal. The opponents had sufficient time to submit written objections to the Planning Commission before the hearing on July 6, 2004. Proper notices were mailed to adjoining property owners and notice was published in the newspaper. By allowing the opponents to submit the material after the hearing date on July 6, 2004, the applicants have not had sufficient time to respond to the material and have been denied their due process rights.

Proposed Findings:

1. Request has been made that the Planning Commission adopt and/or implement a wetlands and riparian buffer land use plan and apply it to this application. This criteria was not identified by the Planning Commission as criteria for the application, and for good reason. The criteria has not been adopted by the Planning Commission and is not part of the comprehensive plan for the Brookings Land Development. To adopt the criteria now would represent a piecemeal approach to land use planning and may have unintended consequences on land use development in the City of Brookings

and surrounding areas. For instance, such applied principles may have unintended consequences on the Borax development north of the City of Brookings.

2. Water runoff problems will be adequately addressed and controlled by the NPDES permit. The Applicant is currently in possession of an NPDES permit and the construction is proceeding in compliance with this permit. The water runoff will be controlled by compliance with NPDES permit.

3. Concerns expressed in the Hodges letter dated July 13, and the Keathley letter dated July 12, are adequately addressed by Condition No. 5 requiring compliance with Section 100 prior to any grading or construction and Condition No. 6 requiring examination of each building pad by a licensed engineering geologist or licensed geologist prior to any building construction.

4. The dwelling group criteria contained in BLDC Section 20 is not applicable because the Applicant has not applied for a dwelling group but has instead applied for a planned unit development.

5. The criterion Section 80 of the BLDC is not applicable because the site plan review has already occurred and we are currently engaged in a quasi land use hearing before the Brookings Planning Commission, rather than the site plan review committee.

6. Concerns expressed at the geological review conducted by Busch Geotechnical Consultants is affected by improper assumption. The report stated that, "Assuming the area remains forested . . ." However, the geological review was conducted on or about May 19, 2004 (see Busch Geotechnical Consultants report, Exhibit 2 to the Findings). Any falling of trees on the property was done prior to May 19, 2004. Trees were stacked on site and later removed. Only brush clearing and removal of fallen trees will be performed in the future development of this site.

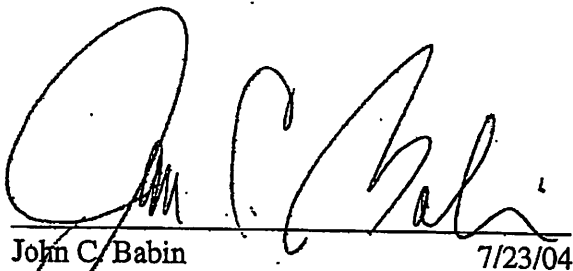
7. The suggestion that Brooke Lane should be connected to Hampton Lane on the opposite

side of Ransom Creek from this development is not well taken. The Applicant's finding that access to the site had no other location than the intersection of Timberline Drive and Brook Lane is correct. There is no access to the north, west or east by any other streets or roads. Connecting Brook Lane to Hampton Road would adversely affect the character of the neighborhood by significantly increasing the traffic to this neighborhood. Connecting Hampton Road to Brooke Lane could increase traffic flow from all residents now using Parkview Drive as a collector street.

8. Reference to the twenty-foot-wide road on Page 24 of the Findings refers to the criteria for a departure road. The twenty feet refers to the standard. The actual road is twenty-two feet, which is two feet wider than the required standard.

These proposed Findings have been submitted by the Applicant and adopted and approved by the Planning Commission, except as otherwise specifically stated.

DATED:



John C. Babin 7/23/04

Proposed Findings submitted by:
John C. Babin,
Attorney for Bruce Brothers, LLC, Applicant

Chairman, Brookings Planning Commission



ARCHITECTS
ENGINEERS
SURVEYORS
PLANNERS

375 PARK AVE
COOS BAY,
OREGON
97420

541.269.1166
FAX 541.269.1833
general@hgei.com

Richard D. Nored, P.E.
Joseph A. Slack, A.I.A.
Russ Dodge, PLS
Stephen R. Cox

July 1, 2004

City of Brookings
898 Elk Drive
Brookings, OR 97415

Attn: Leo Lightle
Community Development Director

Re: Erosion Control Plan
Ransom Creek Condominiums
Bruce Bros. Inc.
Project # 01.30

Dear Leo:

We have reviewed an erosion control plan submitted by T.J. Bossard, Inc., for the Ransom Creek Condominiums. In general, this plan is well prepared, and provides details that will be required for erosion control, as a portion of requirements under Section 100 of the Brookings Land Development Code. Concerns that need to be addressed under Section 100 and for this erosion control plan appear as follows:

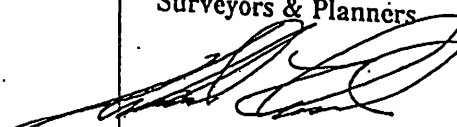
1. Construction slopes shall be no steeper than 1-1/2 to 1 for cut slopes.
2. All requirements of Section 100 shall be met prior to construction on the site. Requirements for erosion control appear adequate by this submittal, but remaining requirements of Section 100 must be provided.
3. The Brookings Water System Master Plan provides for a main waterline extension across this property, and extending along the power company easement along an alignment to connect with Hampton Lane. Provisions for utilities should incorporate this main line extension through the property being developed, on an East-West alignment.

We are enclosing two copies of the submittal for erosion control. Please file one with your records, and return one copy to the developer with a copy of this letter of conditional approval.

We appreciate the continuing opportunity to be of assistance to the City of Brookings. If you have any questions or concerns, please contact me.

Very truly yours,

HGE INC., Architects, Engineers,
Surveyors & Planners


Richard D. Nored, P.E.
President

- c. LeRoy Blodgett, City Manager
John Bischoff, Planning Director
John Cowan, Public Works Supervisor
Laura Lee Gray, Building Official

Department of Environmental Quality
LAND USE COMPATIBILITY STATEMENT (LUCS)



State of Oregon
 Department of
 Environmental
 Quality

WHAT IS A LUCS? The Land Use Compatibility Statement is the process used by the DEQ to determine whether DEQ permits and other approvals affecting land use are consistent with local government comprehensive plans.

WHY IS A LUCS REQUIRED? Oregon law requires state agency activities that impact land use be consistent with local comprehensive plans. DEQ Division 18 administrative rules identify agency activities or programs that significantly affect land use. These programs must have a process for determining local plan consistency.

WHEN IS A LUCS REQUIRED? A LUCS is required for nearly all DEQ permits, some general permits, and certain approvals of plans or related activities that affect land use. These activities are listed in this form. A single LUCS can be used if more than one DEQ permit/approval is being applied for concurrently.

A permit modification requires a LUCS when any of the following applies:

1. physical expansion on the property or proposed use of additional land;
2. a significant increase in discharges to water;
3. a relocation of an outfall outside of the source property; or
4. any physical change or change of operation of an air pollutant source that results in a net significant emission rate increase as defined in OAR 340-200-0020.

A permit renewal requires a LUCS if one has not previously been submitted, or if any of the above four permit modification factors apply.

HOW TO COMPLETE A LUCS:

Step	Who Does It	What Happens
1	Applicant	Completes Section 1 of the LUCS and submits it to the appropriate city or county planning office.
2	City or County Planning Office	Determines if the business or facility meets all local planning requirements, and returns to the applicant the signed and dated LUCS form <u>with findings of fact for any local reviews or necessary planning approvals.</u>
3	Applicant	Includes the completed LUCS with <u>findings of fact</u> with the DEQ permit or approval submittal application to the DEQ.

WHERE TO GET HELP: Questions about the LUCS process can be directed to the region staff responsible for processing the permit or approval. Headquarters and regional offices may also be reached using DEQ's toll-free telephone number 1-800-452-4011.

SECTION 1 - TO BE FILLED OUT BY APPLICANT (may be filled in electronically using Tab key to move to each field)

1. Applicant Name: <u>Bruce Bros., Inc.</u>		Contact Person: <u>T.J. Bossard, Inc.</u>
Location Address: <u>Timberline Drive & Brooke Lane</u>		Mailing Address: <u>133 NW D Street</u>
City, State Zip: <u>Brookings, OR 97415</u>		City, State Zip: <u>Grants Pass, OR 97526</u>
Telephone: <u>(541) 661-1544</u>	Tax Account No: _____	Tax Lot No: <u>900</u>
Township: <u>40S</u>	Range: <u>13W</u>	Section: <u>31</u>
Latitude: <u>42 04' 03"N</u>	Longitude: <u>124 17' 21"W</u>	

Use the DEQ Location Finder (<http://deq12.deq.state.or.us/website/findloc>) to determine latitude/longitude.

2. Describe the type of business or facility and services or products provided:
Ransom Creek Residential Planned Unit Development

3. Check the type of DEQ permit(s) or approval(s) being applied for at this time.

- | | | |
|---|---|--|
| <input type="checkbox"/> Air Notice of Construction | <input type="checkbox"/> Pollution Control Bond Request | <input type="checkbox"/> Clean Water State Revolving Fund Loan Request |
| <input type="checkbox"/> Air Discharge Permit (<i>excludes portable facility permits</i>) | <input type="checkbox"/> Solid Waste Compost Registration - Permit | <input type="checkbox"/> Water Quality NPDES/WPCF Permit (<i>for onsite construction-installation permits use DEQ's Onsite LUCS form</i>) |
| <input type="checkbox"/> Title V Air Permit | <input type="checkbox"/> Solid Waste Letter Authorization Permit | <input type="checkbox"/> Wastewater/Sewer Construction Plan/Specifications (<i>includes review of changes that require use of new land</i>) |
| <input type="checkbox"/> Parking/Traffic Circulation Plan | <input type="checkbox"/> Solid Waste Material Recovery Facility Permit | <input checked="" type="checkbox"/> Water Quality Storm Water General Permit |
| <input type="checkbox"/> Air Indirect Source Permit | <input type="checkbox"/> Solid Waste Transfer Station Permit | <input type="checkbox"/> Other Water Quality General Permit (<i>Generals: 600 (if mobile), 700, 1200CA, 1500, 1700 (if mobile) are exempted</i>) |
| <input type="checkbox"/> Solid Waste Disposal Permit | <input type="checkbox"/> Solid Waste - Waste Tire Storage Permit | <input type="checkbox"/> Federal Permit - Water Quality 401 Certification |
| <input type="checkbox"/> Solid Waste Treatment Permit | <input type="checkbox"/> Hazardous Waste/PCB Storage/Treatment/Discharge Permit | |

4. This application is for: ☐ permit renewal ☒ new permit ☐ permit modification ☐ other _____

SECTION 2 - TO BE FILLED OUT BY CITY OR COUNTY PLANNING OFFICIAL

5. The facility proposal is located: ☒ inside city limits ☐ inside UGB ☐ outside UGB
6. Name of the city or county that has land use jurisdiction (*the legal entity responsible for land use decisions for the subject property or land use*): CITY OF BROOKINGS
7. Does the business or facility comply with all applicable local land use requirements?
☒ YES; attach findings to support the affirmative compliance decision (*as required by Oregon Administrative Rules (OAR) 660, Division 31*).
☐ NO; attach findings for noncompliance, and identify requirements the applicant must comply with before LUCS compatibility can be determined.
8. Planning Official Signature: JOHN BISCHOFF Title: PLANNING DIRECTOR
 Print Name: John Bischoff Telephone No.: (541) 469 2163 Date: 7-6-04
 *Planning Official Signature: _____ Title: EX237
 Print Name: _____ Telephone No.: _____ Date: _____
 (*If necessary, depending upon city/county agreement on jurisdiction outside city limits but within UGB.)

Please Note: A LUCS approval cannot be accepted by DEQ until all local requirements have been met. Written findings of fact for all local decisions addressed under Item No. 7 above must be attached to the LUCS.

CULTURAL RESOURCES PROTECTION LAWS: Applicants involved in ground-disturbing activities should be aware of federal and state cultural resources protection laws. ORS 358.920 prohibits the excavation, injury, destruction, or alteration of an archeological site or object, or removal of archeological objects from public and private lands without an archeological permit issued by the State Historic Preservation Office. 16 USC 470, Section 106, National Historic Preservation Act of 1966 requires a federal agency, prior to any undertaking, to take into account the effect of the undertaking that is included on or eligible for inclusion in the National Register. For further information, contact the State Historic Preservation Office at 503-378-4168, extension 232.



Oregon

Theodore R. Kulongoski, Governor

Department of Environmental Quality
Western Region - Salem Office
750 Front St. NE, Ste. 120
Salem, OR 97301-1039
(503) 378-8240
(503) 378-3684 TTY

July 16, 2004

Noah Bruce
Bruce Bros., Inc.
PO Box 61
Brookings, OR 97415-0007

RE: NPDES General Storm Water Discharge Permit No. 1200-C
File Number: 113150
EPA Number: ORR10-8879
Site Location: Ransom Creek Condominiums, Timberline Dr./Brooke Lane, Brookings
Curry County

Dear Mr. Bruce:

We have received your application for assignment to the National Pollutant Discharge Elimination System (NPDES) General Storm Water 1200-C Permit, the required application fees, and the Erosion Control Plan for your planned construction activities. We have completed our review of the application and your assignment to the enclosed permit is now effective. Please review the permit in its entirety and take special note that you do need to have the controls identified in your Erosion Control Plan in place prior to starting any earth moving or excavation activities.

The permit prohibits significant amounts of sediments from leaving the construction site and requires that erosion control measures be inspected regularly by the permittee. Because of staffing levels, we are unable to make individual on-site inspections to review the Erosion Control Plans that are submitted with every application. However, in order to not delay your construction activities, the Department is accepting and conditionally approving your plans contingent upon you providing additional controls as needed in the event sediment runoff occurs from your property. This permit does not authorize excavation or fill in state waterways, including wetlands, and does not replace the requirement for receiving authorization to do this type of work under Section 404 of the Clean Water Act.

When you have completed your construction project and wish the permit assignment to be cancelled, please send the termination form you received with your application packet to me at the above address. Please be aware that you will be billed an annual compliance fee in June of each year unless we have received your request for cancellation of your permit assignment prior to that time.

Should you have any technical questions, please contact Ruben Kretzschmar in our Coos Bay Office at (541) 269-2721, extension 23. For administrative or fee questions contact me at (503) 378-8240 extension 247.

Sincerely,


Jennifer Claussen
Water Quality Permit Coordinator
Western Region - Salem Office

Enclosure

cc: Ruben Kretzschmar, DEQ - Coos Bay Office



State of Oregon
Department of
Environmental
Quality

NOTICE OF TERMINATION

for NPDES General Permit to Discharge Storm Water Associated with
Construction Activity

Use this form to end permit coverage once all soil disturbance activities have been completed and final stabilization of exposed soils has occurred. Please print in ink or type.

I. Permittee

Legal Name	Phone No.	II. Legally Authorized Representative (Person completing this form if different from Permittee)	
Company		Name	Phone No.
Mailing Address		Company	
City	State	Mailing Address	
	Zip Code	City	State
Facility/File ID (located on face page of permit)			Zip Code
		Title	

III. Site Location/Address

Site Name			
Street Address (or Location Description)			
Section	Township	Range	
City (or nearest City)	Zip Code		
County			

IV. Status of Construction Activity

- ☐ All soil disturbance activities by the permittee have been completed.
- ☐ The site has undergone final stabilization of all exposed soils through vegetation or other measures and all storm water discharges from construction activities that are authorized by this permit are eliminated.
- ☐ All temporary erosion and sediment controls have been removed and properly disposed.

Certification (Please read the certification statement carefully before signing.)

I certify under penalty of law that all storm water discharges associated with construction activity from this site that are authorized by this NPDES general permit have been eliminated. By submitting this Notice of Termination, I understand that I am no longer authorized to discharge storm water associated with construction activity under this general permit, and that discharging pollutants to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that submittal of this Notice of Termination does not release a permittee from liability for any violations of this permit or the Clean Water Act.

Signature of Legally Authorized Representative

Date

Name of Legally Authorized Representative (Type or Print)
DEQ/WQ/SWM-RLN-00246.doc (5/02)



State of Oregon
Department of
Environmental
Quality

Instructions for Completing the Notice of Termination Form for NPDES General Permit to Discharge Storm Water Associated with Construction Activity

This Notice of Termination Form is for a permittee that currently is assigned coverage under the State of Oregon NPDES General Permit for the discharge of storm water associated with construction activity. Use this form to end permit coverage once all soil disturbance activities have been completed and final stabilization of exposed soils has occurred. Please print in ink or type.

- I. Permittee
Complete as indicated. The permittee is the name of the company or person as it appears upon the permit. Only the permittee or the permittee's legally authorized representative has authority to terminate permit coverage.
Note: If you are not the current permittee but should be, you need to transfer the permit. Please use the Transfer of Ownership form at <http://www.deq.state.or.us/wq/wqpermit/PmtTfrAppl.pdf> or contact DEQ at one of the offices listed below.
- II. Legally Authorized Representative
Complete as indicated if different than the Permittee. This is the person that is completing the form and certifying that soil disturbance activities have been completed and final stabilization of exposed soils has occurred.
- III. Site Address/ Location
Complete as indicated. If a street address is not yet available, enter a description of the location, including township, section, and range. Also provide the city (or nearest city) and county for the construction site.
- IV. Construction Activity
Check the "box" to indicate that all storm water discharges associated with construction activity have been eliminated, final stabilization of the site is complete, and temporary erosion and sediment control measures have been properly disposed.
- Certification
This statement should be read carefully by the permittee, owner or legally authorized representative. The person signing this form must print or type their name for clarity then sign and date the document on the lines provided.
- Form Submittal & For More Information
Submit this form to the appropriate regional office. There is no fee required for this action. If you have any questions, please contact one of the regional offices listed below.

DEQ Northwest Region
2020 SW 4th Ave., Suite 400
Portland, OR 97201-4987
(503) 229-5263 or 1-800-452-4011

DEQ Western Region
750 Front St. NE, Suite 120
Salem, OR 97301-1039
(503) 378-8240 or 1-800-349-7677

DEQ Eastern Region
700 SE Emigrant, Suite 330
Pendleton, OR 97801
(541) 276-4063 or 1-800-452-4011

**GENERAL PERMIT
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
STORM WATER DISCHARGE PERMIT**

Oregon Department of Environmental Quality
811 SW Sixth Avenue, Portland, 97204, (503) 229-5279
Issued pursuant to ORS 468B.050 and The Federal Clean Water Act

ASSIGNED TO:
File Number: 113150

Assigned 7/16/2004
Curry County
ORR10-8879

Bruce Bros. Inc.
PO Box 61
Brookings, OR 97415-0007

LLID: 1243022420609
River Mile: 0.8473

Site Location: Ransom Creek Condominiums, Timberline
Dr./Brooke Lane, Brookings

SOURCES COVERED BY THIS PERMIT:

Construction activities including clearing, grading, excavation, and stockpiling activities that will result in the disturbance of five or more acres. Also included are activities that disturb a total of five or more acres if part of a larger common plan of development.

Effective December 1, 2002 the previously described construction activities will include land disturbance of one acre or more, and will also include activities that disturb a total of one or more acres if part of a larger common plan of development. Two waivers from this permit can apply at projects of one to five acres where the operator certifies that a site has a rainfall erosivity factor less than five or when an approved total maximum daily load or equivalent analysis determines that allocations for construction activities for the pollutants of concern are not needed to protect water quality. [40 CRF 122.26 (b)(15)(i)(A)(B)]

This permit does not authorize in-water or riparian work. These activities are regulated by the Oregon Division of State Lands, US Army Corp of Engineers, and/or the DEQ Section 401 certification program.


Michael T. Llewellyn, Administrator
Water Quality Division

2/20/2001
Date

PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify, or operate erosion and sediment control measures, and storm water treatment and control facilities, and to discharge storm water to public waters in conformance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

		Page
Schedule A	- Limitations and Controls for Storm Water Discharges	2
Schedule B	- Minimum Monitoring Requirements	8
Schedule C	- Compliance Schedule	10
Schedule D	- Special Conditions	11
Schedule F	- General Conditions	12

Unless specifically authorized by this permit, by another NPDES or WPCF permit, or by Oregon Administrative Rule, any other direct or indirect discharge to waters of the state is prohibited, including discharges to an underground injection control system.

SCHEDULE A
LIMITATIONS AND CONTROLS FOR STORM WATER DISCHARGES

1. Performance Limitations. An Erosion and Sediment Control Plan (ESCP) shall be developed and implemented to prevent the discharge of significant amounts of sediment to surface waters. The following conditions describe significant amounts of sediment and shall be prevented from occurring.

a. Earth slides or mud flows that leave the construction site and are likely to discharge to surface waters.

b. Evidence of concentrated flows* of water causing erosion when such flows are not filtered or settled to remove sediment prior to leaving the construction site and are likely to discharge to surface waters. Evidence includes the presence of rills, rivulets or channels.

c. Turbid flows* of water that are not filtered or settled to remove turbidity prior to leaving the construction site and are likely to discharge to surface waters.

d. Deposits of sediment at the construction site in areas that drain to unprotected storm water inlets or catch basins that discharge to surface waters. Inlets and catch basins with failing sediment controls due to lack of maintenance or inadequate design will be considered unprotected.

e. Deposits of sediment from the construction site on public or private streets outside of the permitted construction activity that are likely to discharge to surface waters.

f. Deposits of sediment from the construction site on any adjacent property outside of the permitted construction activity that are likely to discharge to surface waters.

* Flow to storm water inlets or catch basins located on the site will be considered "leaving the site" if there are no sediment control structures designed for expected construction flows downstream of the inlets or catch basins that are under the permittee's control.

2. Erosion and Sediment Control Plan Preparation and Submittal. The permittee shall ensure that a comprehensive ESCP is prepared and implemented for the construction activity regulated by this permit.

a. For construction activities disturbing 20 or more acres, the ESCP shall be prepared and stamped by an Oregon Registered Professional Engineer, Oregon Registered Landscape Architect, or Certified Professional in Erosion and Sediment Control (Soil and Water Conservation Society).
b. If engineered facilities such as sedimentation basins or diversion structures for erosion and sediment control are required, the ESCP shall be prepared and stamped by an Oregon Registered Professional Engineer.

c. The ESCP shall be submitted to the Department of Environmental Quality (Department) and/or its authorized agent (Agent) for approval. An ESCP approved prior to February 15, 2001 is not required to be resubmitted to the Department or its Agent.

d. Prior to beginning clearing, grading, excavation, or construction, the ESCP shall be approved by the Department or its Agent. If the Department has not commented on the ESCP within 30 days of receipt, the ESCP shall be approved by default. If the ESCP is required to be submitted to the

Department's Agent, the permittee shall follow the schedule set forth by the Agent. The Department or its Agent's approval of the ESCP does not constitute compliance with this permit. The permittee shall be responsible for complying with all permit conditions.

- e. A copy of the ESCP shall be retained on-site and made available to the Department, its Agent, or the local municipality upon request. During inactive periods of greater than seven (7) consecutive calendar days, the ESCP shall be retained by the permittee.
 - f. The Department or its Agent may request modifications to the ESCP at any time if the ESCP is ineffective at preventing the discharge of significant amounts of sediment and turbidity to surface waters.
 - g. The ESCP shall include any procedures necessary to meet local erosion and sediment control requirements or storm water management requirements.
 - h. If possible, during the period of October through May, construction activities should avoid or minimize excavation and bare ground activities. If the operator chooses to continue land disturbance activities within this period, additional wet weather requirements (refer to A.3.d) are required in the ESCP. Specifically, if construction activity occurs during the winter season where slopes are greater than five (5) percent and the soils have medium to high erosion potential additional erosion controls will be required.
 - i. The following non-storm water discharges are allowed as long as they are identified in the ESCP and all necessary controls are implemented to minimize sediment transport. These include: firefighting activity, hydrant flushing and potable waterline flushing (refer to DEQ guidance), air conditioning condensate, dewatering activities of uncontaminated groundwater or spring water, and uncontaminated foundation or footer drain water.
3. **Erosion and Sediment Control Plan Requirements** The ESCP shall, at a minimum, include the following elements.
- a. **Site Description** A description of the following:
 - i. Nature of the construction activity, including a proposed timetable for major activities.
 - ii. Estimates of the total area of the permitted site and the area of the site that is expected to undergo clearing, grading and/or excavation.
 - iii. Nature of the fill material to be used, the insitu soils, and the erosion potential of such soils.
 - iv. Names of the receiving water(s) for storm water runoff.
 - b. **Site Map** Indicating the following: (Note: In order to provide all the required information, a general location map in addition to the site map is required.)
 - i. Areas of total development
 - ii. Drainage patterns
 - iii. Areas of total soil disturbance (including, but not limited to, showing cut and fill areas and pre and post development elevation contours)
 - iv. Areas used for the storage of soils or wastes
 - v. Areas where vegetative practices are to be implemented. Include type of vegetation seed mix.
 - vi. Location of all erosion and sediment control measures or structures
 - vii. Location of impervious structures after construction is completed. Include buildings, roads, parking lots, outdoor storage areas, etc., if any.
 - viii. Springs, wetlands and other surface waters located on-site

- ix. Boundaries of the 100-year flood plain if determined
 - x. Location of storm drainage outfalls to receiving water(s) if applicable
 - xi. Location of drinking water wells and underground injection controls
 - xii. Details of sediment and erosion controls
 - xiii. Details of detention ponds, storm drain piping, inflow and outflow details
- c. Required Controls and Practices The following controls and practices are required:
- i. Each site shall have graveled, paved, or constructed entrances, exits and parking areas, prior to beginning any other work, to reduce the tracking of sediment onto public or private roads.
 - ii. All unpaved roads located on-site shall be graveled. Other effective erosion and sediment control measures either on the road or down gradient may be used in place of graveling.
 - iii. When trucking saturated soils from the site, either water-tight trucks shall be used or loads shall be drained on-site until dripping has been reduced to minimize spillage on roads.
 - iv. A description of procedures that describe controls to prevent the discharge of all wash water from concrete trucks.
 - v. A description of procedures for correct installation or use of all erosion and sediment control measures.
 - vi. A description of procedures for prompt maintenance or repair of erosion and sediment control measures utilized on-site (refer to A.4).
- d. Additional Controls and Practices Additional controls and practices shall be developed that are appropriate for the site. At a minimum the following shall be considered:
- i. A description of clearing and grading practices, including a schedule of implementation, that will minimize the area of exposed soil throughout the life of the project. Whenever practicable, clearing and grading shall be done in a phased manner to prevent exposed inactive areas from becoming a source of erosion.
 - ii. A description of vegetative erosion control practices, including a schedule of implementation, designed to preserve existing vegetation where practicable and re-vegetate open areas when practicable after grading or construction.

In developing vegetative erosion control practices, at a minimum the following shall be considered: temporary seeding, permanent seeding, mulching, sod stabilization, vegetative buffer strips, and protection of trees with protective construction fences.
 - iii. A description of additional erosion control practices, including a schedule of implementation, designed to protect exposed areas and prevent soil from being eroded by storm water.

In developing additional erosion control practices, at a minimum the following shall be considered: mulching with straw or other vegetation, use of erosion control blankets, and application of soil tackifiers.
 - iv. A description of sediment control practices, including a schedule of implementation, that will be used to divert flows from exposed soil, store flows to allow for sedimentation, filter flows, or otherwise reduce soil laden runoff. All temporary sediment control practices shall not be removed until permanent vegetation or other cover of exposed areas is established.

In developing sediment control practices, at a minimum the following shall be considered: use of silt fences, earth dikes, brush barriers, drainage swales, check dams, subsurface drains, pipe slope drains, rock outlet protection, sediment traps, and temporary or permanent sedimentation basins.

- v. A description of erosion and sediment control practices that will be used to prevent stockpiles from becoming a source of erosion. Stockpiles located away from the construction activity but still under the control of the permittee shall also be protected to prevent significant amounts of sediment from discharging to surface waters. At the end of each workday the soil stockpiles must be stabilized or covered.

In developing these practices, at a minimum the following shall be considered: diversion of uncontaminated flows around stockpiles, use of cover over stockpiles, and installation of silt fences around stockpiles.

- vi. A description of the best management practices that will be used to prevent or minimize storm water from being exposed to pollutants from spills, cleaning and maintenance activities, and waste handling activities. These pollutants include fuel, hydraulic fluid, and other oils from vehicles and machinery, as well as debris, leftover paints, solvents, and glues from construction operations. The reuse and recycling of construction wastes should be promoted.

In developing these practices, at a minimum the following shall be considered: written spill prevention and response procedures; employee training on spill prevention and proper disposal procedures; regular maintenance schedule for vehicles and machinery; and covered storage areas for waste and supplies.

4. **Maintenance Requirements** The following maintenance activities shall be implemented.

- a. Significant amounts of sediment that leave the site shall be cleaned up within 24 hours and placed back on the site or properly disposed. Any in-stream clean up of sediment shall be performed according to Oregon Division of State Lands' required timeframe.
- b. Under no conditions shall sediment intentionally be washed into storm sewers or drainageways unless it is captured by a BMP before entering receiving waters.
- c. For a filter fence, the trapped sediment shall be removed before it reaches one third of the above ground fence height.
- d. For catch basin protection, cleaning must occur when design capacity has been reduced by fifty percent.
- e. For a sediment basin, removal of trapped sediments shall occur when design capacity has been reduced by fifty percent.
- f. All erosion and sediment controls not in the direct path of work shall be installed before any land disturbance.
- g. If fertilizers are used to establish vegetation, the application rates shall follow manufacturer's guidelines and the application shall be done in such a way to minimize nutrient-laden runoff to receiving waters.

- h. If construction activities cease for thirty (30) days or more, the entire site must be stabilized, using vegetation or a heavy mulch layer, temporary seeding, or another method that does not require germination to control erosion.
- i. Any use of toxic or other hazardous materials shall include proper storage, application, and disposal.
- j. The permittee shall manage abandoned hazardous wastes, used oils, contaminated soils or other toxic substances discovered during construction activities in a manner approved by the Department.
- k. If a storm water treatment system for construction activities is employed, an operation and maintenance plan shall be submitted to the Department for approval.

5. Additional Requirements

- a. **Water Quality Standards:**
The ultimate goal for permittees is to comply with water quality standards in OAR 340-41. In instances where a storm water discharge adversely impacts water quality, the Department may require the facility to implement additional management practices, apply for an individual permit, or take other appropriate action.
- b. **Turbidity (Nephelometric Turbidity Units, NTU) Water Quality Standard:**
No more than a ten percent cumulative increase in natural stream turbidities shall be allowed, as measured relative to a control point immediately upstream of the turbidity causing activity. However, limited duration activities necessary to address an emergency or to accommodate essential dredging, construction or other legitimate activities and which cause the standard to be exceeded may be authorized provided all practicable turbidity control techniques have been applied and one of the following has been granted:
 - (A) **Emergency activities:** Approval coordinated by DEQ with the Department of Fish and Wildlife under conditions they may prescribe to accommodate response to emergencies or to protect public health and welfare;
 - (B) **Dredging, Construction or other Legitimate Activities:** Permit or certification authorized under terms of Section 401 or 404 (Permits and Licenses, Federal Water Pollution Control Act) or OAR 141-085-0100 et seq. (Removal and Fill Permits, Division of State Lands), with limitations and conditions governing the activity set forth in the permit or certificate.

[see OAR 340-041-(basin)(2)(c)]
- c. **Water Quality Limited Streams:**
The Department may establish additional controls on construction activities that discharge storm water runoff to water quality limited streams if Total Maximum Daily Loads are established and construction activities are determined to be a significant contributor to these loads. The Department may also require application for individual permit or develop a watershed-based general permit for the activity.

6. **Required Actions Prior to Termination of the Permit** The following actions shall be completed before permit coverage is terminated.
- a. There is no potential for discharge of a significant amount of construction related sediment to surface waters.
 - b. All elements of the ESCP have been completed.
 - c. Construction materials, waste, and temporary erosion and sediment controls have been removed and disposed of properly. This includes any sediment that was being retained by the temporary erosion and sediment controls.
 - d. All disturbed areas of the site must be stabilized.
 - e. Submittal of DEQ Notice of Termination Form.

SCHEDULE B MINIMUM MONITORING REQUIREMENTS

All Sites

1. A person with knowledge and experience in construction storm water controls and management practices shall conduct the inspections. The ESCP shall identify the person(s) and/or title of the personnel that will conduct the inspections and provide a contact phone number for such person(s).

Active Sites

2. Frequency of inspections shall be daily during storm water runoff or snowmelt runoff and at least once every seven (7) calendar days and within 24 hours after any storm event of greater than 0.5 inches of rain per 24-hour period.

Inactive Sites

3. During inactive periods of greater than seven (7) consecutive calendar days, inspections shall only be required once every two (2) weeks.

4. Prior to discontinuing activities at the site, any exposed area shall be stabilized to prevent erosion, etc.) or establishing adequate vegetative cover.

5. When a site is inaccessible due to adverse weather conditions, inspections shall not be required. Adverse weather condition shall be recorded on the inspection sheet.

6. Prior to leaving an inactive site or in anticipation of site inaccessibility, existing erosion and sediment control measures shall be inspected to ensure that they are in working order. Any necessary maintenance or repair shall be made prior to leaving the site.

Written Records

7. All visual inspections must document the following information:
 - a. Inspection date, inspector's name, weather conditions, and rainfall amount for past 24 hours (inches). (Rainfall information can be obtained from the nearest weather recording station.)
 - b. List observations of all BMPs: erosion and sediment controls, chemical and waste controls, locations where vehicles enter and exit the site, status of areas that employ temporary or final stabilization control, soil stockpile area, and nonstormwater controls.
 - c. At representative discharge location(s) from the construction site conduct observation and document the quality of the discharge for any turbidity, color, sheen, or floating materials. If possible, in the receiving stream, observe and record color and turbidity or clarity upstream and downstream within 30 feet of the discharge from the site. For example, a sheen or floating material could be noted as present/absent, if observation is yes, it could indicate concern about a possible spill and/or leakage from vehicles or materials storage. For turbidity and color an observation would describe any apparent color and the clarity of the discharge, and any apparent difference in comparison with the receiving stream.

- d. If significant amounts of sediment are leaving the property, briefly explain the corrective measures taken to reduce the discharge and/or clean it up and describe efforts to prevent future releases. The ESCP shall be amended accordingly.
- e. If a site is inaccessible due to inclement weather the inspection shall include observations at a relevant discharge point or downstream location, if practical.
- 8. All inspection records for an active site shall be kept on-site or be maintained with the permittee, and shall made available to the Department, its Agent, or local municipality upon request.
- 9. A written record of inspections for an inactive site shall be maintained with the permittee and made available to the Department, its Agent, or local municipality upon request.
- 10. Retention of all inspection records shall be for a period of one year from project completion.

**SCHEDULE C
COMPLIANCE SCHEDULE**

1. Registration of Underground Injection Systems (40 CFR 144 and OAR 340-044). The permittee shall submit to DEQ a registration form if construction activities include disposal of storm water or other wastewater discharges to an injection system. These types of disposal systems are classified under the Underground Injection Control Program as a Class V well, require registration, and must meet Division 44 standards.
 - a. A new permittee shall register any applicable underground treatment systems prior to the construction of a new facility.
 - b. For facilities covered by the previous 1200-C permit, the registration form is due within thirty (30) days after receipt of this new 1200-C permit.

**SCHEDULE D
SPECIAL CONDITIONS**

1. Issuance of this permit does not relieve the permittee from all other permitting and licensing requirements. Prior to beginning construction activities, all other necessary approvals shall be obtained.
2. The permit will remain in effect after the expiration date or until another permit is issued if the permittee has paid all fees and has filed a renewal application.
3. Any permittee that does not want to be covered or limited by this general permit may make application for an individual NPDES permit in accordance with the procedures in OAR 340-45-030.
4. Permit Specific Definitions:

Best Management Practices (BMPs) Schedules of activities, prohibitions of practices, maintenance procedures, and other physical, structural and/or managerial practices to prevent or reduce the pollution of waters of the state. BMPs include treatment systems, erosion and sediment control, source control, and operating procedures and practices to control: site runoff, spillage or leaks, and waste disposal.

Dewatering The removal and disposal of surface water or groundwater for purposes of preparing a site for construction.

Erosion The movement of soil particles resulting from the tracking, flow or pressure from storm water or wind.

Grade Construction activity that causes the disturbance of the earth. This shall include but not be limited to any excavating, filling, stockpiling of earth materials, grubbing, root mat or topsoil disturbance, or any combination of them.

Hazardous Materials As defined in 40 CFR 302 Designation, Reportable Quantities, and Notification. Available on the web at <http://www.epa.gov>.

Phasing Clearing a parcel of land in distinct phases, with the stabilization of each phase before clearing of the next phase; including soil stockpiling.

Stabilization The completion of all soil disturbance activities at the site and the establishment of a permanent vegetative cover, or equivalent permanent stabilization measures (such as riprap, gabions, geotextiles, or bioengineering methods) that will prevent erosion.

Start of Construction The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, excavation, and filling; installation of streets and walkways; erection of temporary forms; and installation of accessory buildings such as garages.

Storm Water Storm water runoff, snow melt runoff, and surface runoff associated with a storm event.

Turbidity An expression of the optical property of a sample which causes light to be scattered and absorbed rather than transmitted in a straight line through the sample. It is caused by the presence of suspended matter in a liquid.

SCHEDULE F
NPDES GENERAL CONDITIONS

SECTION A. STANDARD CONDITIONS

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of Oregon Revised Statutes (ORS) 468B.025 and is grounds for enforcement action; for permit termination, suspension, or modification; or for denial of a permit renewal application.

2. Penalties for Water Pollution and Permit Condition Violations

Oregon Law (ORS 468.140) allows the Director to impose civil penalties up to \$10,000 per day for violation of a term, condition, or requirement of a permit.

Under ORS 468.943, unlawful water pollution, if committed by a person with criminal negligence, is punishable by a fine of up to \$25,000 or by imprisonment for not more than one year, or by both. Each day on which a violation occurs or continues is a separately punishable offense.

Under ORS 468.946, a person who knowingly discharges, places or causes to be placed any waste into the waters of the state or in a location where the waste is likely to escape into the waters of the state, is subject to a Class B felony punishable by a fine not to exceed \$200,000 and up to 10 years in prison.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. In addition, upon request of the Department, the permittee shall correct any adverse impact on the environment or human health resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

4. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and have the permit renewed. The application shall be submitted at least 180 days before the expiration date of this permit.

The Director may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date.

5. Permit Actions

This permit may be modified, suspended, revoked and reissued, or terminated for cause including, but not limited to, the following:

- a. Violation of any term, condition, or requirement of this permit, a rule, or a statute;
- b. Obtaining this permit by misrepresentation or failure to disclose fully all material facts; or
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

The filing of a request by the permittee for a permit modification or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. Toxic Pollutants

The permittee shall comply with any applicable effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

7. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege.

8. Permit References

Except for effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants and standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act, all rules and statutes referred to in this permit are those in effect on the date this permit is issued.

SECTION B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary

facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Duty to Halt or Reduce Activity
For industrial or commercial facilities, upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary, to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced or lost. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
3. Bypass of Treatment Facilities
 - a. Definitions
 - (1) "Bypass" means intentional diversion of waste streams from any portion of the treatment facility. The term "bypass" does not include nonuse of singular or multiple units or processes of a treatment works when the nonuse is insignificant to the quality and/or quantity of the effluent produced by the treatment works. The term "bypass" does not apply if the diversion does not cause effluent limitations to be exceeded, provided the diversion is to allow essential maintenance to assure efficient operation.
 - (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities or treatment processes which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
 - b. Prohibition of bypass.
 - (1) Bypass is prohibited unless:
 - (a) Bypass was necessary to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the periods of equipment downtime or preventative maintenance; and
 - (c) The permittee submitted notices and requests as required under General Condition B.3.c.
 - (2) The Director may approve an anticipated bypass, after considering its adverse effects and any alternatives to bypassing, when the Director determines that it will meet the three conditions listed above in General Condition B.3.b.(1).
 - c. Notice and request for bypass.
 - (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior written notice, if possible at least ten days before the date of the bypass.
 - (2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in General Condition D.5.
4. Upset
 - a. Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operation error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
 - b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of General Condition B.4.c are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
 - c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (2) The permitted facility was at the time being properly operated;
 - (3) The permittee submitted notice of the upset as required in General Condition D.5, hereof (24-hour notice); and
 - (4) The permittee complied with any remedial measures required under General Condition A.3 hereof.
 - d. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.
5. Treatment of Single Operational Event
For purposes of this permit, A Single Operational Event which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation. A single operational event is an exceptional

incident which causes simultaneous, unintentional, unknowing (not the result of a knowing act or omission), temporary noncompliance with more than one Clean Water Act effluent discharge pollutant parameter. A single operational event does not include Clean Water Act violations involving discharge without a NPDES permit or noncompliance to the extent caused by improperly designed or inadequate treatment facilities. Each day of a single operational event is a violation.

6. Overflows from Wastewater Conveyance Systems and Associated Pump Stations

a. Definitions

- (1) "Overflow" means the diversion and discharge of waste streams from any portion of the wastewater conveyance system including pump stations, through a designed overflow device or structure, other than discharges to the wastewater treatment facility.
- (2) "Severe property damage" means substantial physical damage to property, damage to the conveyance system or pump station which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of an overflow.
- (3) "Uncontrolled overflow" means the diversion of waste streams other than through a designed overflow device or structure, for example to overflowing manholes or overflowing into residences, commercial establishments, or industries that may be connected to a conveyance system.

b. Prohibition of overflows. Overflows are prohibited unless:

- (1) Overflows were unavoidable to prevent an uncontrolled overflow, loss of life, personal injury, or severe property damage;
- (2) There were no feasible alternatives to the overflows, such as the use of auxiliary pumping or conveyance systems, or maximization of conveyance system storage; and
- (3) The overflows are the result of an upset as defined in General Condition B.4. and meeting all requirements of this condition.

c. Uncontrolled overflows are prohibited where wastewater is likely to escape or be carried into the waters of the State by any means.

d. Reporting required. Unless otherwise specified in writing by the Department, all overflows and uncontrolled overflows must be reported orally to the Department within 24 hours from the time the permittee becomes aware of the overflow. Reporting procedures are described in more detail in General Condition D.5.

7. Public Notification of Effluent Violation or Overflow

If effluent limitations specified in this permit are exceeded or an overflow occurs, upon request by the Department, the permittee shall take such steps as are necessary to alert the public about the extent and nature of the discharge. Such steps may include, but are not limited to, posting of the river at access points and other places, news releases, and paid announcements on radio and television.

8. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in such a manner as to prevent any pollutant from such materials from entering public waters, causing nuisance conditions, or creating a public health hazard.

SECTION C. MONITORING AND RECORDS

1. Inspection and Entry

The permittee shall allow the Director, or an authorized representative upon the presentation of credentials to:

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by state law, any substances or parameters at any location.

SECTION D. REPORTING REQUIREMENTS

1. Planned Changes

The permittee shall comply with Oregon Administrative Rules (OAR) 340, Division 52, "Review of Plans and Specifications". Except where exempted under OAR 340-52, no construction, installation, or modification involving disposal systems, treatment works, sewerage systems, or common sewers shall be commenced until the plans and specifications are submitted to and approved by the Department. The permittee shall give notice to the Department as soon as possible of any planned physical alternations or additions to the permitted facility.

2. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. Transfers

This permit may be transferred to a new permittee provided the transferee acquires a property interest in the permitted activity and agrees in writing to fully comply with all the terms and conditions of the permit and the rules of the Commission. No permit shall be transferred to a third party without prior written approval from the Director. The permittee shall notify the Department when a transfer of property interest takes place.

4. Compliance Schedule

Reports of compliance or noncompliance with, or any progress reports on interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date. Any reports of noncompliance shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirements.

5. Twenty-Four Hour Reporting

The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally (by telephone) within 24 hours, unless otherwise specified in this permit, from the time the permittee becomes aware of the circumstances. During normal business hours, the Department's Regional office shall be called. Outside of normal business hours, the Department shall be contacted at 1-800-452-0311 (Oregon Emergency Response System).

A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. If the permittee is establishing an affirmative defense of upset or bypass to any offense under ORS 468.922 to 468.946, and in which case if the original reporting notice was oral, delivered written notice must be made to the Department or other agency with regulatory jurisdiction within 4 (four) calendar days. The written submission shall contain:

- A description of the noncompliance and its cause;
- The period of noncompliance, including exact dates and times;
- The estimated time noncompliance is expected to continue if it has not been corrected;
- Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and
- Public notification steps taken, pursuant to General Condition B.7.

The following shall be included as information which must be reported within 24 hours under this paragraph:

- Any unanticipated bypass which exceeds any effluent limitation in this permit.
- Any upset which exceeds any effluent limitation in this permit.
- Violation of maximum daily discharge limitation for any of the pollutants listed by the Director in this permit.

The Department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

6. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under General Condition D.4 or D.5, at the time monitoring reports are submitted. The reports shall contain:

- A description of the noncompliance and its cause;
- The period of noncompliance, including exact dates and times;
- The estimated time noncompliance is expected to continue if it has not been corrected; and
- Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

7. Duty to Provide Information

The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.

Other Information: When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Department, it shall promptly submit such facts or information.

8. Signatory Requirements

All applications, reports or information submitted to the Department shall be signed and certified in accordance with 40 CFR 122.22.

9. Falsification of Reports

Under ORS 468.953, any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, is subject to a Class C felony punishable by a fine not to exceed \$100,000 per violation and up to 5 years in prison.

10. Changes to Indirect Dischargers - [Applicable to Publicly Owned Treatment Works (POTW) only]
The permittee must provide adequate notice to the Department of the following:
- Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of the Clean Water Act if it were directly discharging those pollutants and;
 - Any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
 - For the purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the POTW; and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
11. Changes to Discharges of Toxic Pollutant - [Applicable to existing manufacturing, commercial, mining, and silvicultural dischargers only]
The permittee must notify the Department as soon as they know or have reason to believe of the following:
- That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - One hundred micrograms per liter (100 g/l);
 - Two hundred micrograms per liter (200 g/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 g/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
 - The level established by the Department in accordance with 40 CFR 122.44(f).
 - That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - Five hundred micrograms per liter (500 g/l);
 - One milligram per liter (1 mg/l) for antimony;
 - Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
 - The level established by the Department in accordance with 40 CFR 122.44(f).

SECTION E. DEFINITIONS

- BOD means five-day biochemical oxygen demand.
- TSS means total suspended solids.
- mg/l means milligrams per liter.
- kg means kilograms.
- m³/d means cubic meters per day.
- MGD means million gallons per day.
- Composite sample means a sample formed by collecting and mixing discrete samples taken periodically and based on time or flow.
- FC means fecal coliform bacteria.
- Technology based permit effluent limitations means technology-based treatment requirements as defined in 40 CFR 125.3, and concentration and mass load effluent limitations that are based on minimum design criteria specified in OAR 340-41.
- CBOD means five day carbonaceous biochemical oxygen demand.
- Grab sample means an individual discrete sample collected over a period of time not to exceed 15 minutes.
- Quarter means January through March, April through June, July through September, or October through December.
- Month means calendar month.
- Week means a calendar week of Sunday through Saturday.
- Total residual chlorine means combined chlorine forms plus free residual chlorine.
- The term "bacteria" includes but is not limited to fecal coliform bacteria, total coliform bacteria, and E. coli bacteria.
- POTW means a publicly owned treatment works.

Department of Forestry / Department of Revenue
Notification number: 2004-740-60621 [74027971]

* REPRINT
* Edited *

Attached is the processed information from the Notification of Operation and/or Application for Permits.
Please review this information and retain for future reference.

- [X] - Notice is given to the State Forester that an operation will be conducted on the lands described herein (ORS 527.670).
- [X] - A permit to operate power driven machinery is issued for the lands described herein (ORS 477.625)
- [X] - A notice is given to the State Forester and the Department of Revenue of the intent to harvest timber (ORS 321.550).
- Unit 1-manidotry written plan for operations within 100' of type f stream.

I. WHERE TIMBER HARVESTING IS PART OF THE PROPOSED OPERATION:

- A. NOTICE TO TIMBER OWNER: Party owning the harvested timber at the point it is first measured is shown in the section marked TIMBER OWNER and is responsible for payment of Oregon timber taxes.
- B. NOTICE TO LAND OWNER: Party shown in the section marked LAND OWNER is responsible for reforestation of the site if so required.

District: Coos
Office: Coos Bay
County: Curry
WOSTOT:

Received by ODF on April 16, 2004 by mail

15 DAY WAITING PERIOD REQUIRED

**** Waiver Requested ****

II. WRITTEN PLANS:

- [] - A WRITTEN PLAN may be required before certain activities can commence on the Operation.

A WRITTEN PLAN may be required for the situations indicated by an [X] below. A WRITTEN PLAN must be submitted or a WRITTEN WAIVER must be obtained from the State Forester before any portion of the operation may commence.

- [] - Within 100 feet of a large lake or Type F or Type D stream. (OAR 629-605-170(1)(a))
- [] - Within 300 feet of a wildlife resource site listed in the 1984 ODF/ODFW Cooperative Agreement. (OAR 629-605-170(1)(b))
- [] - Within 300 feet of any resource identified in the Divisions 645 or 665 of the administrative rules. (OAR 629-605-170(1)(c))
- [] - Within 300 feet of a state or federally listed threatened or endangered wildlife resource site. (OAR 629-605-170(1)(d))

Please contact the Oregon Department of Forestry forester named on the Unit Information sheet for further information on requirements that may be necessary to meet before any activity/operation begins.

Signed by Chris Schaefer - representing the Operator.

Noah Bruce
Bruce Bros. Inc.
PO Box 61
Brookings, OR 97415

(Land owner)

***** NOTICE *****
The State Forester has determined that the following items requiring your attention are located within or adjacent to your operation area:

[X] - Concerns [] - Resources [X] - Water

See Unit Information on subsequent pages for details.

Operator:

Curry Cutting & Logging
1201 Iris St
Brookings, OR 97415
Phone: (541) 469-4154

Land owner:

Noah Bruce
Bruce Bros. Inc.
PO Box 61
Brookings, OR 97415
Phone: (541) 469-0475

Timber owner:

Noah Bruce
Bruce Bros. Inc.
PO Box 61
Brookings, OR 97415
Phone: (541) 469-0475

Marvin D. Brown
State Forester

Michael E. Robison
District Forester

Department of Forestry

Notification: 04-60621 [74027971]

Unit: 2

Status: Active

Forest Practices Forester: Tod Haren

Phone number: (541) 267-4136

Start date: 5/15/2004

End date: 6/15/2004

Site conditions: No Protected Waters within 100 ft
Slope of 0% to 35%
No mass soil movement

FP = L

FPA = L

Acres: 8

Feet:

Estimated harvest: 10 MBF

Activity: Clear cut Clearing for Land Use

Methods: Ground

Sc	Twp	Rge	Government lot	N E				N W				S W				S E				Harv tax	Reg use
				n	n	s	s	n	n	s	s	n	n	s	s	n	n	s	s		
04	41S	13W		e	w	w	e	e	w	w	e	e	w	w	e	e	w	w	e		CS4

Special Concerns

Code Description

Comment

UGB Within Urban Growth Boundary

Water Concern Information

Description

Classification

Fish House Creek

N str-sm

Rule

Department of Forestry

Notification: 04-60621 [74027971]

Unit: 3

Status: Active

Forest Practices Forester: Tod Haren

Phone number: (541) 267-4136

Start date: 4/18/2004

End date: 5/01/2004

Site conditions: No Protected Waters within 100 ft

Slope of 0% to 35%

No mass soil movement

FP = L

FPA = L

Acres: 12

Feet:

Estimated harvest: 500 MBF

Activity: Clear cut Clearing for Land Use

Methods: Ground

Sc	Twp	Rge	Government lot	N E				N W				S W				S E				Harv tax	Reg use
				n	n	s	s	n	n	s	s	n	n	s	s	n	n	s	s		
				e	w	w	e	e	w	w	e	e	w	w	e	e	w	w	e		
32	40S	13W												X							CS4

Special Concerns

Code Description

Comment

UGB Within Urban Growth Boundary

Important Reforestation Information

Based on information which was filed to obtain the Notification of Operation covering the lands described above, it appears that wildlife tree retention may be required and that reforestation of the cutover forest lands may be necessary. Because harvesting is indicated on the Notification, tree stocking on these lands may be reduced to the point that planting will be required within two years following harvest completion. If the residual stocking level is reduced below levels described in the rules the land owner will be required to adequately restock this land. For more information contact the Ore. Dept. of Forestry Forester at the number shown.

Important Utility Information

If you are conducting timber harvesting or road construction within 100 feet of overhead or underground utility lines call the Oregon Utility Notification Center at (800) 332-2344 and request that the owner of the line be notified. For your protection record the call number they issue you here and save for your records. Call number _____ Date _____

Department of Forestry

Notification: 04-60621 [74027971]

Unit: 1

Status: Active

Forest Practices Forester: Tod Haren

Phone number: (541) 267-4136

Start date: 4/18/2004

End date: 5/01/2004

Site conditions: Lake or Stream within 100 ft
Slope of 0% to 35%
No mass soil movement

FP = L

FPA = M

Acres: 8

Feet:

Estimated harvest: 20 MBF

Activity: Clear cut Clearing for Land Use

Methods: Ground

Sc	Twp	Rge	Government lot	N E				N W				S W				S E				Harv tax	Reg use
				n e	n w	s w	s e	n e	n w	s w	s e	n e	n w	s w	s e	n e	n w	s w	s e		
31	40S	13W										X									CS4

Special Concerns

Code Description

Comment

UGB Within Urban Growth Boundary

Water Concern Information

Description

Classification

Ransom Cr

F str-1g

Rule

REFERENCE #7

LANDOWNER WRITTEN PLAN TO BE EXEMPTED FROM THE FOREST PRACTICE
REFORESTATION REQUIREMENTS FOR THE PURPOSE OF DEVELOPING
FORESTLAND FOR A NON-FOREST USE



LANDOWNER INFORMATION

Name: BRUCE BROS. INC.
Address: P.O. Box 61
Brookings, OR 97415
City, State, Zip Code: CCB # 108497 (541) 469-0475
Phone Number: _____

OPERATION INFORMATION (ATTACH MAP)

Notification number: 2004-740-60621 Unit Number: _____
County: Curry

Legal description of land involved in use change: (40-13-31 CA T/L 900)

Minimum Acreage necessary for land use change: _____

Planned operation start date: _____

Estimated operation completion date: _____

Description of planned development: within UGB (exempt)
harvest for commercial resale

I acknowledge as landowner that the information provided above is correct. I also acknowledge that the progress towards development for the non-forest land use will be started within 12 months of the completion of harvest and completed and continuously maintained for the new use within 24 months of the completion unless an extension in time is granted by the State Forester due to circumstances beyond my control. To remain exempt from the reforestation requirements, the land will be continuously maintained in the new use until at least six calendar years following the completion of the operation.

Ned Bruce
Landowner Signature

4/22/04
Date

COUNTY PLANNING DEPARTMENT ACKNOWLEDGEMENT

As an authorized representative of the _____ County planning department, I verify that the above mentioned landowner has informed the department of the operation designated by notification number 2004-740-60621, which proposes development of forestland for use not compatible with forest tree cover. The proposed development is authorized under local land use and zoning ordinances and all necessary land use and construction permits and approvals have been obtained by the landowner (or will be obtained by the following date: _____).

Signature

Print Name

Title

Date

COUNTY ASSESSOR ACKNOWLEDGEMENT

As an authorized representative of the _____ County Assessor, I verify that the above mentioned landowner has informed the Assessor of the proposed development of forestland for a use not compatible with forest tree cover.

Signature

Print Name

Title

Date

APPROVAL FOR EXEMPTION FROM REFORESTATION REQUIREMENTS

Based on the information provided by the landowner, and the acknowledgements of the county planning department and county assessor, this written plan is approved. Reforestation is not required on the following portions of the operation area of notification number _____

_____ Unit _____
totaling _____ acres.

State Forester's Representative
Signature

Print Name

Date

Statute Reference: ORS 527.760

Administrative Rule Reference: OAR 629-610-090

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STEWARDSHIP IN FORESTRY

Oregon Department of Forestry Forest Activity Inspection Report

Date: 04/16/04
Notification / Unit No.: TBA
Sale or Job Name: Bruce Brothers Developments
FPF Name/No.: Tod Haren / #50

Operator: Chris Schaefer

Landowner: Bruce Bros. Cons.

Timber Owner: LO

FIRE PREVENTION

REQUIRED OK THIS DATE ☐ Slash Hazard Inspection ☐ Not Active This Date

- ☐ Fire Tools: Number of workers in operations: _____
- ☐ Power Saws: Number in Operation: _____ Number Checked _____
- ☐ Spark Arrestors / Exhaust Systems
- ☐ Shovels and Fire Extinguishers
- ☐ Trucks: Number in Operation: _____ Number Checked _____
- ☐ Exhaust Systems
- ☐ Tools and Fire Extinguishers
- ☐ Other Power Driven Machinery and Engines:
- ☐ Spark Arrestors / Exhaust Systems
- ☐ Debris Accumulation Removed
- ☐ Fire Extinguishers
- ☐ Cable Logging Systems:
- ☐ Cable lines clear
- ☐ Blocks cleared Number checked: _____
- ☐ Shovels and water at blocks
- ☐ Water Supply / Pump / Hose / Nozzle
- ☐ Fire Watch Hours after operation: _____
- ☐ Alternate methods or equipment, as described below are approved for use
- ☐ Other:
- ☐ Other:
- ☐ IFPL Waiver, as described below, is approved
- ☐ Order: For the items described below, you are hereby ordered to cease violation of ORS Chapter 477. Your Permit to Use Fire or Power Driven Machinery is suspended for these items until compliance is restored.

FOREST PRACTICES

- ☐ Pre-Operation Inspection ☐ Active or Post-Operation Inspection ☐ Complaint Investigation ☒ Waiver of 15 Day Waiting Period
- Prior Approval / Written Plans
- ☐ Prior Approval Granted: Applicable rule(s) _____

Written Plan Action: ☐ Required ☐ Approved ☐ Approval Denied

Written plan rule(s): _____

Written plan resources: _____

RECOMMENDATIONS

Written below are recommendations. The inspecting Forest Practices Forester recommends these actions to prevent an unsatisfactory condition which may result in a violation of the Forest Practices Act. These recommendations pertain to the following rules:

This unsatisfactory condition(s) pertain to rule(s) or statute(s):

- ☐ Written Plans ☐ Chemicals ☐ Water Protection
- ☐ Reforestation ☐ Road Construction ☐ Other
- ☐ Slash ☐ Harvesting

WRITTEN STATEMENT OF UNSATISFACTORY CONDITION

This operation is not in compliance with the Forest Practices Act. Further enforcement action will begin if damage occurs or if you do not comply with the instructions written below by this compliance date:

This unsatisfactory condition(s) pertain to rule(s) or statute(s):

- ☐ Written Plans ☐ Chemicals ☐ Water Protection
- ☐ Reforestation ☐ Road Construction ☐ Other
- ☐ Slash ☐ Harvesting

ORS/OAR(s)

ADDITIONAL INFORMATION ON ITEMS CHECKED ABOVE:

The fifteen day waiting period is waived for operations outside of 100' from Type F Streams.

Page 1 of 1

THIS REPORT INDICATES THE CONDITIONS FOUND AT THE TIME OF INSPECTION FOR THOSE ITEMS CHECKED OR NOTED ABOVE. IT DOES NOT IMPLY THAT ALL PARTS OF THE OPERATION WERE INSPECTED NOR DOES IT INDICATE ITEMS NOT CHECKED ARE APPROVED.

Noah Bruce
Bruce Brothers Construction
PO Box 61
Brookings, OR 97415

Landowner / Operator / FPF / Data / District

Signed

Received By

Date

☒ Copies Mailed

04/16/04

Tod Haren

State Forester's Representative

Date

4/16/04

Date



STEWARDSHIP IN FORESTRY

Oregon Department of Forestry
Forest Activity Inspection ReportDate: 04/16/04
Notification / Unit No.: TBA
Sale or Job Name: Bruce Brothers
Developments
PF Name/No.: Tod Haren / #50

Operator: Chris Schaefer

Landowner: Bruce Bros. Cons.

Timber Owner: LO

FIRE PREVENTION

REQUIRED OK THIS DATE ☐ Slash Hazard Inspection ☐ Not Active This Date☐ Fire Tools: Number of workers in operations:☐ Power Saws: Number in Operation: _____ Number Checked☐ Spark Arrestors / Exhaust Systems☐ Shovels and Fire Extinguishers☐ Trucks: Number in Operation: _____ Number Checked☐ Exhaust Systems☐ Tools and Fire Extinguishers☐ Other Power Driven Machinery and Engines:☐ Spark Arrestors / Exhaust Systems☐ Debris Accumulation Removed☐ Fire Extinguishers☐ Cable Logging Systems:☐ Cable lines clear☐ Blocks cleared, Number checked:☐ Shovels and water at blocks☐ Water Supply / Pump / Hose / Nozzle☐ Fire Watch Hours after operation:☐ Alternate methods or equipment, as described below are approved for use☐ Other:☐ Other:☐ IFPL Waiver, as described below, is approved☐ Order: For the items described below, you are hereby ordered to cease violation of ORS Chapter 477. Your Permit to Use Fire or Power Driven Machinery is suspended for these items until compliance is restored.

FOREST PRACTICES

☐ Pre-Operation Inspection ☐ Active or Post-Operation Inspection ☐ Complaint Investigation Valver of 15 Day Waiting Period

Prior Approval / Written Plans

☐ Prior Approval Granted: Applicable rule(s)Written Plan Action: ☐ Required ☐ Approved ☐ Approval Denied

Written plan rule(s): _____

Written plan resources: _____

☐ RECOMMENDATIONS

Written below are recommendations. The inspecting Forest Practices Forester recommends these actions to prevent an unsatisfactory condition which may result in a violation of the Forest Practices Act. These recommendations pertain to the following rules:

This unsatisfactory condition(s) pertain to rule(s) or statute(s):

☐ Written Plans ☐ Chemicals ☐ Water Protection
☐ Reforestation ☐ Road Construction ☐ Other
☐ Slash ☐ Harvesting☒ WRITTEN STATEMENT OF UNSATISFACTORY CONDITION

This operation is not in compliance with the Forest Practices Act. Further enforcement action will begin if damage occurs or if you do not comply with the instructions written below by this compliance date:

This unsatisfactory condition(s) pertain to rule(s) or statute(s):

☐ Written Plans ☐ Chemicals ☐ Water Protection
☐ Reforestation ☐ Road Construction ☒ Other Notification
☐ Slash ☐ Harvesting

ORS/OAR(s): 629-605-150

ADDITIONAL INFORMATION ON ITEMS CHECKED ABOVE:

The Oregon Forest Practices Act requires that notification must be submitted to the Department of Forestry 15 days prior to forest operations. You have failed to meet this requirement by conducting an operation prior to notifying the State Forester (ODF). As no protected resources were damaged as a result of your actions, this written statement serves as a warning for future reference.

In the future to avoid citation and civil penalties, please submit a notification to ODF before conducting an operation.

In addition, if a protected resource site is within or adjacent to your operation, a written plan may be required. Written plans are subject to a public review and comment period of 21 days. Upon Notification, the State Forester's representative will notify you if a protected resource will be affected by your proposed operations and whether or not a written plan will be required. For more information you may contact me at (541) 267-1752, or obtain a copy of the Forest Practices Act.

THIS REPORT INDICATES THE CONDITIONS FOUND AT THE TIME OF INSPECTION FOR THOSE ITEMS CHECKED OR NOTED ABOVE. IT DOES NOT IMPLY THAT ALL PARTS OF THE OPERATION WERE INSPECTED NOR DOES IT INDICATE ITEMS NOT CHECKED ARE APPROVED.

Noah Bruce
Bruce Brothers Inc.
PO Box 61
Brookings, OR 97415

Landowner / Operator / FPF / Data / District

Signed

Received By

Date

☒ Copies Mailed

04/16/04

Tod Haren

State Forester's Representative

Date

4/16/04

Date

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Oregon Department of Forestry
Forest Activity Inspection Report

Date: 04/16/04
Notification / Unit No.: TBA
Sale or Job Name: Bruce Bros Development
FPF Name/No.: Tod Haren / #50
Timber Owner: Bruce Bros Inc

FOREST PRACTICES

☐ Pre-Operation ☐ Active or Post-Operation ☐ Inspection

☐ Prior Approval / Written Plans ☐ Operation Inspection ☐ Complaint ☐ Waiver of 15 Day Waiting Period

☐ Prior Approval Granted: Applicable rule(s):

RECOMMENDATIONS

Written Plan Action: ☐ Required ☐ Approved ☐ Denied

Written plan rule(s):

Written plan resources:

WRITTEN STATEMENT OF UNSATISFACTORY CONDITION

This operation is not in compliance with the Forest Practices Act. Further enforcement action will begin if damage occurs or if you do not comply with the instructions written below by this compliance date:

This unsatisfactory condition(s) pertain to rule(s) or statute(s):

☐ Written Plans ☐ Road Construction ☐ Harvesting ☐ Slash ☐ Reforestation ☐ Chemicals ☐ Water Protection ☐ Other

ORS/OAR(s)

ADDITIONAL INFORMATION ON ITEMS CHECKED ABOVE:

The Oregon Forest Practices Act requires ALL forested land to be reforested within 2 years following harvest activities that result in a post harvest stocking below the minimum level assigned to each site productivity class. These planted trees must also be free to grow 6 years after harvest. The Forest Practices Act allows Landowners to be exempted from the reforestation requirements on the minimum acreage necessary for an approved land use change. The landowner must provide documentation that shows the future land use is incompatible with forest cover, and that the land is appropriately zoned and assessed for the proposed land use. This documentation must be provided prior to commencing land use change activities.

If you intend to use any portion of the land encompassed by this Notification of Operation for a purpose that is incompatible with forest tree cover, please complete the enclosed form and return it to our office. Please contact me if you have any questions. (541) 267-1752

THIS REPORT INDICATES THE CONDITIONS FOUND AT THE TIME OF INSPECTION FOR THOSE ITEMS CHECKED OR NOTED ABOVE. IT DOES NOT IMPLY THAT ALL PARTS OF THE OPERATION WERE INSPECTED NOR DOES IT INDICATE ITEMS NOT CHECKED ARE APPROVED.

Signed: _____ Received By: _____
Date: 04/16/04
Copies Mailed: ☐
State Foresters Representative: Tod Haren
Date: 4/16/04

FIRE PREVENTION

Operator: Chris Schaefer
Landowner: Bruce Bros Inc

REQUIRED OK THIS DATE ☐ This Date ☐ Not Active ☐ Slash Hazard ☐ Inspection

Fire Tools: Number of workers in operations: _____
Power Saws: Number in Operation: _____
Spark Arrestors / Exhaust Systems: _____
Shovels and Fire Extinguishers: _____
Trucks: Number in Operation: _____
Exhaust Systems: _____
Tools and Fire Extinguishers: _____
Other Power-Driven Machinery and Engines: _____
Spark Arrestors / Exhaust Systems: _____
Debris Accumulation Removed: _____
Fire Extinguishers: _____

☐ Cable Logging Systems: _____
☐ Cable lines clear: _____
☐ Blocks cleared: _____
☐ Shovels and water at blocks: _____
☐ Water Supply / Pump / Hose / Nozzle: _____
☐ Fire Watch: _____
☐ Alternate methods or equipment, as described below are approved for use: _____
☐ Other: _____
☐ Other: _____
☐ IFPL Waiver, as described below, is approved: _____
☐ Order: For the items described below, you are hereby ordered to cease violation of ORS Chapter 477. Your Permit to Use Fire or Power Driven Machinery is suspended for these items until compliance is restored.

Noah Bruce
Bruce Brothers Inc.
PO Box 61
Brookings, OR 97415

Landowner / Operator / FPF / Data / District

COUNTY PLANNING DEPARTMENT ACKNOWLEDGEMENT

As an authorized representative of the BROOKINGS CITY County planning department, I verify that the above mentioned landowner has informed the department of the operation designated by notification number 2004-740-60621, which proposes development of forestland for use not compatible with forest tree cover. The proposed development is authorized under local land use and zoning ordinances and all necessary land use and construction permits and approvals have been obtained by the landowner (or will be obtained by the following date: _____).

Signature

JOHN BISCHOFF
Print Name

Title

Planning Director

4-22-04
Date

COUNTY ASSESSOR ACKNOWLEDGEMENT

As an authorized representative of the _____ County Assessor, I verify that the above mentioned landowner has informed the Assessor of the proposed development of forestland for a use not compatible with forest tree cover.

Signature

Print Name

Title

Date

APPROVAL FOR EXEMPTION FROM REFORESTATION REQUIREMENTS

Based on the information provided by the landowner, and the acknowledgements of the county planning department and county assessor, this written plan is approved. Reforestation is not required on the following portions of the operation area of notification number _____

Unit _____
totaling _____ acres.

State Forester's Representative
Signature

Print Name

Date

Statute Reference: ORS 527.760

Administrative Rule Reference: OAR 629-610-090



T. J. BOSSARD
CIVIL & STRUCTURAL ENGINEERING

RECEIVED
JUL 23 2004
CITY OF BROOKINGS

July 23, 2004

John Bischoff
City of Brookings
Via Facsimile Only to: 541-469-3650

Re: Ransom Creek PUD, Brookings, Oregon

Dear Mr. Bischoff:

With reference to the letter dated July 12, 2004 from Earl Keathley, our office has been requested by the Developer to respond to some of the comments from that letter.

On Page Two, the opponent expressed concern over the lack of a "looped" road. This layout has been approved by the City staff and has been presumably reviewed by the City Engineer. Adequate turnaround facilities have been designed in order to assure proper maneuvering of emergency vehicles. Looping this road across the drainage swale would cause significant impact to the riparian habitat and therefore this sensitive area was avoided.

On Page Three, the opponent refers to a "new permeable material". This material was suggested by the consultants from Parametrix, and will not necessarily be used in the final design until the performance standards of this system have been thoroughly verified.

Finally on page Three, the opponent has expressed concerns over additional off-street parking spaces. Our design will allow for such spaces and at all times will preserve a 20-foot roadway clear of obstructions in order to accommodate two-way traffic and the passage of emergency vehicles in accordance with City standards.

The opponent has expressed much concern about the geologic report and slope stability. The project will be built in accordance with a complete engineering design which will be based upon a thorough geologic report as produced by Busch Geotechnical Consultants. Both the geotechnical report and the construction drawings will be submitted to the City Engineer for his final approval. The sediment and erosion control measures will be approved by the Oregon Department of Environmental Quality (DEQ) prior to any construction taking place.

The above comments, together with those submitted by the Developer, are intended to address the concerns of the opponent as expressed in the July 12, 2004 letter. If you have any questions or comments, please do not hesitate to call.

Very truly yours,

T. J. Bossard, P.E.

EXHIBITS FOR APP-2-04

APP-2-04			
Exhibit:	Date:	From:	Correspondence
A	8-5-04	Debbie Hodges	Letter to Planning Dept.
B	8-6-04	Debbie Hodges	2 page letter to John Bischoff + 2 page photos of "grading & wetlands violations taken 8-5-04
C	8-9-04	Wilbur Ternuik, Wetland Consultant, Wave Beach Grass Nursery to Noah Bruce	Letter plus 2 pages of Ransom Creek Project
D	8-9-04	HGE, City Engineer, letter to J. Bischoff	Letter regarding Temporary Drilling Pads and roads
E	8-13-04	Debbie Hodges	2 page letter responding to HGE Letter
The following exhibits were submitted with the appeal application by Debbie Hodges on August 17, 2004			
F	8-17-04	Letter	7 pages
G		Section 100-Hazardous Bldg. Site Protection	5
H		Goal 5 Natural Resources, etc	3
I		Map-Drainage	1
J		Goal 6 Air, Water, Land Quality	2
K		Goal 7	2
L		Req's & application procedures for complying with Goal 5	5 pages

M	8-27-04	Letter from Ruben Kretzschmar, DEQ (Department Environment Quality)	2 page letter referencing Notice of Compliance Permit # 11351
N	8-27-04	Letter from Ruben Kretzschmar, DEQ (Department Environment Quality)	2 page letter referencing Notice of Compliance Permit # 11350
The following letters were received from residents in the Timberline-Brooke neighborhood in response to the Ransom Creek proposal:			
O	8-31-04	Susan Roughen 1020 Brooke Lane	2 page letter
P	9-13-04	Don Drivon 942 Timberline	2 page letter
Q	9-14-04	Del & Shirley Peixoto 975 Brooke Lane	1 page letter
R	9-15-04	Ed & Rocelle Henke 985 Brooke Lane	2 page letter
S	9-17-04	Mr. & Mrs. Bowman P. O. Box 1687	1 page letter
T	9-17-04	June Brandau 924 Hidden Court	1 page letter
U	9-17-04	Nacia Martin 935 Hidden Court	1 page letter
V	9-17-04	Sharon Barauskas 921 Midland Way	1 page letter
W	9-17-04	Barbara Soderstrom 990 Hassett Street	1 page letter
X	9-17-04	Gabriel and Maria Anaya 922 Third Street	1 page letter
Y	9-17-04	Audrey Devitt 990 Brooke Lane	1 page letter
Z	9-17-04	Thomas and Lauri Zierner 909 Timberline	1 page letter
AA	9-17-04	Lavonne Beaudette 928 Third Street	1 page letter
BB	9-17-04	Tracy Sabon 925 Third Street	1 page letter
CC	9-17-04	Bill Boynton 959 Timberline Drive	2 page letter
DD	9-21-04	Paul Bustrum 1010 Brooke Lane	3 page letter

August 5, 2004

Planning Department
City of Brookings

Attn: Code Compliance

This is a formal complaint for Grading and Wetland violations against Bruce Bros. L.L.C.

Today and yesterday I along with other residents of Claron Glen witnessed several pieces of equipment working on Bruce Bros. property located at the intersection of Timberline and Brooke, tax lot 900. I myself personally saw equipment digging out the wall behind the lots located on Brooke Lane. The trees, bushes and ground were then put into a large pile behind the equipment operator. Trees with their roots still connected were being pulled out and thrown into the pile to then be shredded of all evidence.

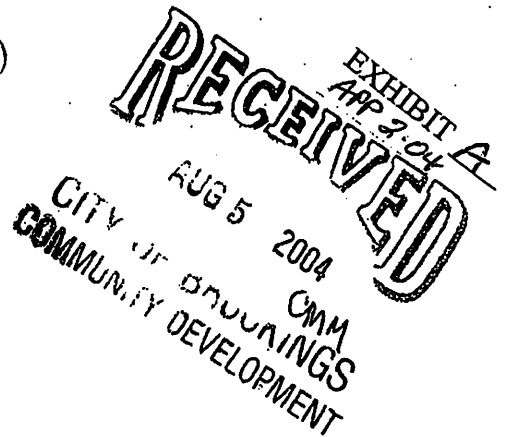
I took many digital pictures with my camera beginning at 1:15pm to approximately 3:15pm from a resident's lot. I was then approached by Noah Bruce so I left the lot I was taking pictures from.

On August 3rd the Planning Commissioners ended the deliberation with the motion that Condition number #39 which states, "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 an 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".

It was stated any construction on the site by the Planning Commissioners. Bruce Bros. is in violation to the "Condition" laid out by the Planning Commissioners and is in violation of grading and Wetlands.

Debbie Hodges

dh



August 6, 2004

RECEIVED
AUG 6 2004

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

Planning Director
John Bischoff
City of Brookings
City Hall, Brookings, 97415

RECEIVED
AUG 5 2004

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

EXHIBIT B
APP-2-04

In speaking with you on the phone this morning, I have not received satisfaction to a very serious matter regarding my request that Bruce Bros. be cited for violations today for grading and wetlands destruction. You told me last night at 5:00pm and again today that Bruce Bros. does not have a grading plan or a grading permit. I witnessed yesterday, taking many digital pictures throughout the afternoon and evening, pictures of trees with roots connected, stumps with roots connected being ripped out of the ground with heavy equipment. They were then put into a pile and then shredded into a shredding machine. This shredder was shredding evidence of the grading that went on.

John, when you told me last night at 5:00pm "We, miss-interpreted the compliance code, I have called the Bruce Bros. to tell them to stop removing anymore stumps. The Bruce Bros. does not have a "Grading Plan". Your statement tells me you are interpreting removing stumps out of the ground as grading. Conditions of Approval, #39 states, "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 an 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. (Added by the Planning Commission, August 3, 2004). Conditions of Approval #39 states that grading at this time, especially without a grading permit is in violation to the Conditions of Approval #39.

Conditions of Approval, #2 states, "The conditions stated herein are mandatory and must be completed. Failure to comply with any condition will result in the review and possible revocation of your permit pursuant to Section 140.110, Violation of Conditions, of the Land Development Code. The loss of your permit will result in the closure of your business". These violations have caused the proposed Bruce Bros. project to be reviewed and or possible revocation of their permit. I expect that you will follow through accordingly with the stipulations of the General Conditions.

In the Conditions of Approval, #4 states, "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. John, you agreed with me today that the Bruce Bros. is in violation of this Conditions of Approval, #4. I expect that you will handle this violation in accordance to the Conditions of Approval stated in Condition #2 and site the Bruce Bros. for violating Conditions of Approval #4 also.

PAGE #2

I am enclosing two pictures I took yesterday with my digital camera that were blown up by a professional photographer, showing tree roots being ripped out of the ground. I have many more pictures of the grading available upon request. I am also including two pictures of water rising up out of black rich wetlands soil and pooling on top of the surface. These designated wetlands are clearly distinguished on the wetlands plot map from South Coast Lumber included in my 19 page written report read by the Planning Commissioners for the 8/3/04 city hall meeting.

Violation to Oregon's Statewide Planning Goals & Guideline #5: Natural Resources, Scenic and Historic Areas, and Open Spaces are an extremely serious matter. John, you told me yesterday 8/5/04 that the City of Brookings implements all 19 Goals of the Planning Goals & Guidelines. I hope your intensions are to follow through with the protection and guidelines of Goal #5 and cite the Bruce Bros. accordingly.

I will expect in writing your actions to these violations.

Sincerely,



Debbie Hodges

Dh

2 enclosures

cc: Leroy Blodgett
City Council

Grading & Wetlands Violations

Location: Lot 900, Intersection Timberline & Brooke

Date: 5 August 2004



Grading & Wetlands Violations

Location: Tax Lot 900, intersection of Timberline & Brooke

Date: 5 Aug 2004



WAVE BEACH GRASS NURSERY

EXHIBIT C
APP-204
Received
08/11/04
CM

WETLAND BEACHES & DUNES CONSULTANTS
WILBUR E. TERNYIK
MATTHEW J. TERNYIK

WETLAND DELINEATIONS
DUNE MANAGEMENT
SITE INVESTIGATIONS
MITIGATION DESIGN
PLANT MATERIALS

August 9, 2004

Noah Bruce
Bruce Brothers, Inc.
P.O. Box 61
Brookings, OR 97415-0007

P.O. BOX 1190
FLORENCE, OR
97439-0059

PH. 541-997-2401
FX. 541-997-6039

ONL #168093

Re: Need for installation of erosion control measures of your site in Brookings, Oregon. Location: Ransom Creek Condominiums, Timberline/Brooke Lane, Brookings, Curry County.

Dear Noah:

As you and I discussed over the phone today (8/9/04) we are only one month or less from possible heavy rainstorms. In the attached photos, including one taken just above the jurisdictional wetland (Photo 1-E), I identified and flagged showing exposed hillside soils. I fully understand the city's concerns giving the level of your opponent's efforts. However it is our professional opinion that your proposed erosion barriers should be installed as soon as possible.

As noted in your letter of July 16, 2004 from the Department of Environmental Quality you have official permission to install those needed barriers. This permit approval gives you the right to install the necessary 1,200 feet. Timing is critical; some minor land grating may be necessary. Installing these erosion barriers now is the best protection for the PFM/SS wetland and Ransom Creek below. Further investigation of your opponent's claim of additional wetlands can wait, but the erosion barriers need to go in now.

Sincerely,



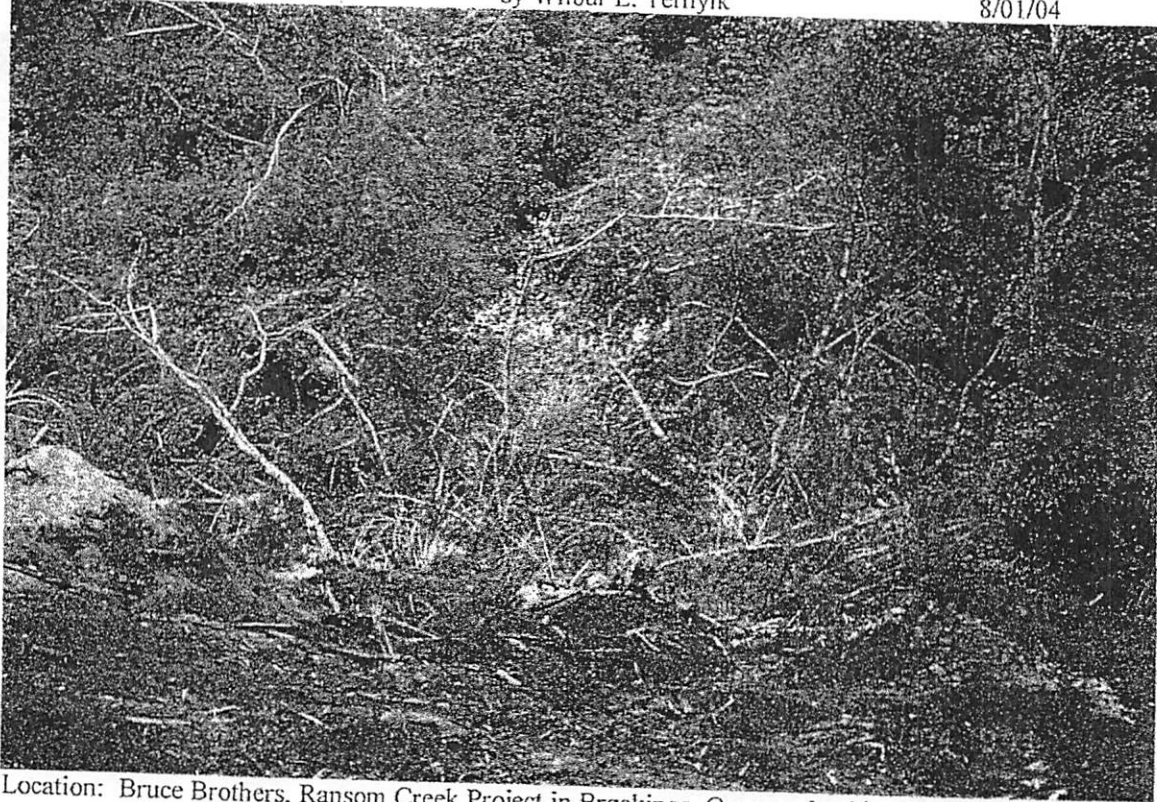
Wilbur E. Ternyik
Wetland Consultant

WET/jt

Photo 1-E

by Wilbur E. Ternyik

8/01/04



Location: Bruce Brothers, Ransom Creek Project in Brookings, Oregon. Looking north from cleared land into the PEM/SS identified wetland. Needs erosion control barriers **as soon as possible**.

Photo 2-E

by Wilbur E. Ternyik

8/01/04



Location: Ransom Creek Project, Timberline Drive and Brooke Lane. Looking west across cleared land above Ransom Creek. Bare soil needs final grading, seeding and erosion control barriers as approved by Department of Environmental Quality.



Location: Bruce Brothers, Ransom Creek Project in Brookings, Oregon. Looking east towards east drainage channel. Note recently disturbed soil area. Needs erosion control barriers and seeding before fall rain sets in.



ARCHITECTS
ENGINEERS
SURVEYORS
PLANNERS

375 PARK AVE
COOS BAY,
OREGON
97420

541.269.1166
FAX 541.269.1833
general@hge1.com

Richard D. Nored, P.E.
Joseph A. Slack, A.I.A.
Russ Dodge, PLS
Stephen R. Cox

August 9, 2004

City of Brookings
898 Elk Drive
Brookings, OR 97415

Attn: John Bischoff
Planning Director

Re: Temporary Drilling Pads and Roads
Ransom Creek Condominiums
Bruce Bros. Inc.
Project # 01.30

Dear John:

We have reviewed a proposal by Busch Geotechnical Consultants for construction of temporary access roads to facilitate geotechnical drilling and sampling on the Ransom Creek Condominium project being developed by Bruce Bros., Inc. The plan is to create a minimum level of disturbance for existing native vegetation and topography, and to install temporary roads and pads that will allow for access to the site for drill vehicles.

The plans call for constructing temporary roads on existing access road alignments or within areas that subsequently will be developed. Existing slopes are gentle to low in the areas where drilling will occur, excavation heights will be low, and embankments will be thin. All roads and pads will be covered with a minimum of 2" of crushed gravel, which should minimize erosion through the winter. Silt fences will need to be provided on the downslope edge of all pads and roads, and all embankment and excavation slopes will require hydromulching before rains occur.

Plans for creating temporary roads and drilling pads appear adequate, and we recommend that approval be granted for construction of these temporary facilities

We appreciate the continuing opportunity to be of assistance to the City of Brookings. If you have any questions or concerns, please contact me.

Very truly yours,

HGE INC., Architects, Engineers,
Surveyors & Planners

Richard D. Nored, P.E.
President

c. Leo Lightle, Community Development Director
LeRoy Blodgett, City Manager
John Cowan, Public Works Supervisor
Laura Lee Gray, Building Official

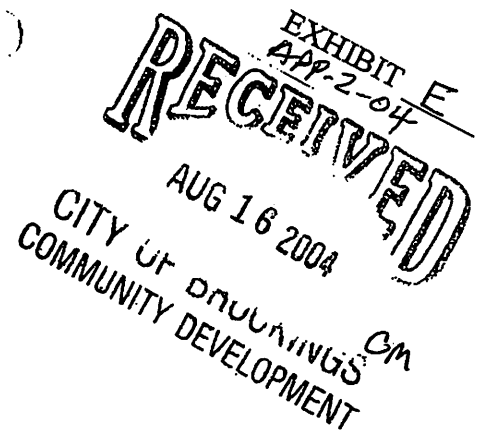
EXHIBIT D
APP-2-04

RECEIVED
AUG 9 2004
CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

August 13, 2004

Planning Department
898 Elk Drive
Brookings, OR 97415

Attn: John Bischoff
LeRoy Blodgett



Dear Sirs,

I am addressing the letter sent to you by Richard D. Nored, P.E. dated August 9, 2004. Is this letter from Richard D. Nored, P.E. the Bruce Bros. defense against my request of citing for the many violations? Let's go through their letter:

1). Again I will quote to you Condition #39 of The Conditions of Approval Conditional Use Permit/Planned Unit Development PUD-2-04 dated July 6, 2004 states, "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 an 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. (Added by the Planning Commission, August 3, 2004).

This means that there is not to be any construction of any kind on the Bruce Bros. property! In the Brookings Development Code Definitions the word "Construct" is as follows; To build, form, or devise by fitting parts together systematically. For the purposes of this code the word construct shall also include the preparation of a site for building by the clearing of brush and grading of land for roads, driveways, utilities and foundations. (As added by Ordinance No. 94-0-446.V, effective August 9, 1994) Clear cutting, grading, pulling up root systems, cutting down trees and destroying wetlands constitutes CONSTRUCTION OF EVERY KIND! The Bruce Bros. is not constructing temporary access roads they down right wiped out every vegetation of every kind including running over wetlands and destroying them! John you told me over the phone on August 5, 2004 that the Bruce Bros. did not have a "Grading Plan" or "Grading Permit". Gentlemen I ask you again how you can allow such disobedience! I have digital pictures of every day's events violating all rules, regulations and conditions. How can Richard Nored use the terminology in his first paragraph by stating, "the plan is to create a minimum level of disturbance for existing native vegetation and topography"? If he considers wiping out all vegetation and trees a minimum level, what does he constitute as maximum?

At 5:00pm on August 5th, John Bischoff called me at work and stated to me on the phone, "Debbie I called the Bruce Bros. and told them that they could not remove any more of the stumps. We miss interpreted the Comprehension Codes: They do not have a Grading Plan". I then commented, "John if you are telling me that the Bruce Bros. do not have a Grading Plan does this mean they do not have a Grading Permit either"? John said, "No they do not".

What is it going to take for the City of Brookings to be up holding, law-abiding leaders? We are not paying our tax dollars for the City of Brookings to close their eyes to such disobedience to our documented City of Brookings laws, regulations, codes, statues and decisions made by the Planning Commissioners.

By Federal law it is forbidden to touch wetlands. Bruce Bros. has done more than touch the wetlands, but destroy the wetlands. Though the Bruce Bros. have been trying to cover up the existence of wetlands, I have all destruction on discs and cd's. I remind you to look at the wetlands map I provided you given to our residents by South Coast Lumber. Compare our wetlands map to the Bruce Bros. proposed building project. It shows that they're buildings are designated to go right on top of the wetlands. Bruce Bros. brought in several truckloads of fill dirt and gravel for which they dumped right on top of the wetlands. The Bruce Bros. even cut more trees out and removed more stumps last week (I have it on camera).

Doesn't the decree and ruling of the Conditions set by the Planning Commission count for anything? What is it about the Planning Commissioners Condition #39 that the City of Brookings does not understand?

When are you going to uphold the law? When are you going to cite the Bruce Bros. for the many violations?

How do you expect our youth of Brookings to be upholding abiding citizens when their town leaders are not?

If the City of Brookings does not follow through with the Planning Commissioners decision isn't the City of Brookings in violation as well?

The laws state that the Bruce Bros. has to put the land back the way it was, timbered and thickly wooded.

Sincerely,



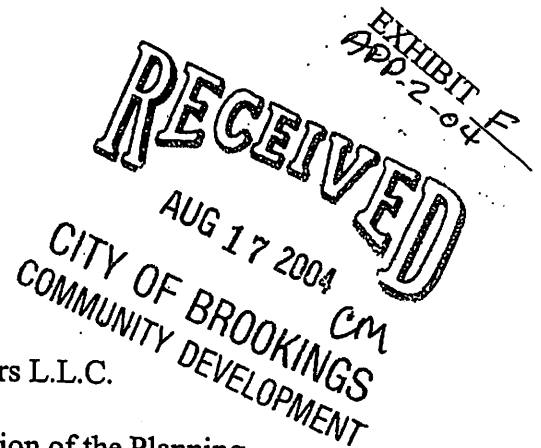
Debbie Hodges, C.A.

Cc Leo Lightle, Community Director
 John Cowan, Public Works Supervisor
 Laura Lee Gray, Building Official
 Planning Commissioners
 Bob Lobdell, State Lands Division
 John Gasik, DEQ
 Steve Mazur, Fish & Wildlife
 Dave Perry, Department of Land Conservation & Development

August 17, 2004

City Council
898 Elk Drive
Brookings, OR 97415

RE: Appeal to the proposed File No: PUD 02-04 Bruce Brothers L.L.C.



This is a written request to the City Council appealing the decision of the Planning Commission for the above-proposed Planned Unit Development.

City Council, the following are reasons for an appeal but not limited to:

*Bruce Brothers L.L.C. proposed multi-family housing apartment rentals/ownership project to be built next to a single-family residential neighborhood consisting of single-family homes only

1). The proposed project by the Bruce Brothers to build a high density multi-family dwelling on a 52% slope in a low density, single family residential neighborhood is dangerous to human, animal and fish life. It is conflicting with the Brookings Development Code Section 100 Hazardous Building Site Protection Hillside Development Standards. 100.010 Purpose A. The purpose of this section is to reduce building site hazards and threats to life and property created by flooding, landslides, weak foundation solids and other hazards as may be identified by the City of Brookings, or other agencies. This section is intended to advance the above purpose to protect life and property.

2). Bruce Brothers have violated Brookings Development Code 100.050 Site Preparation A). No property shall be disturbed, excavated, filled or developed within the city so as to cause slides of mud, soil, rock, vegetative material or any erosional or depositional material to be pushed onto, deposited upon or gravitated to the property of another.

B). Prior to any site preparation on an existing lot, or on an approved but unrecorded minor or major partition or subdivision, on slopes greater than 15% grade, the applicant shall submit grading plans prepared by an Oregon licensed civil engineer showing the following information for approval of the City Engineer: **Please see attached for the remainder of this Development code and guidelines for site preparation.** The Bruce Brothers did no preparation to protect from a landslide occurring and settling down into Ransom Creek, home to many game fish when they did the clear cutting, grading and destruction to the wetlands.

Brookings Development Code 100.060 Enforcement states, A). "The construction, location, development or use of land or structures, contrary to the provisions of this section, ordinance or permit, or in violation of any conditions or limitations approved

Page #2

pursuant to this ordinance, is an unlawful public nuisance. Please see attached for the remainder of this Development code.

3). Proposed building project is not compatible with the character of Claron Glen subdivision and surrounding neighborhood and will adversely affect the character of the neighborhood. **Brookings Development Code 116.060 E.** states, "The project will be compatible with adjacent developments and will not adversely affect the character of the area". A multi family dwelling and the fact that Bruce Bros. intend on renting out most of the apartments as rentals does not constitute being in the character of Claron Glen subdivision and the surrounding neighborhood. **Brookings Development Code 20.110.D** states, "Neighborhood character. The development of dwelling groups shall respect the character of both the neighborhood in which it is located and the properties adjacent to said dwelling group. Emphasis shall be placed on retention of neighborhood character and privacy of adjacent properties when reviewing dwelling groups". A multi-family dwelling group of apartments and apartment rentals does not respect the character of Claron Glen subdivision and the surrounding neighborhood. Claron Glen subdivision and surrounding neighborhood is a single-family residential areas consisting of single-family residential homes, not multifamily rentals. Bruce Brothers proposed project is in conflict with the surrounding neighborhoods.

4). Proposed building height is conflicting with the **Brookings Development Code 8.010** that states, "The average of the vertical distance measured from the highest peak of the roof to the finished grade at the center of all four sides of the building (Amended by Ordinance No. 03-0-446.SS, effective January 21, 2004) and 20.070 states, "Maximum building height. No structure shall be over 30 feet in height". The proposed building height is too high.

5). The intersection of Timberline and Brooke is not along a high capacity transportation corridor. It is approximately 2 miles from Hwy 101. **"Oregon's Statewide Planning Goals & Guidelines; Goal #13 A. Planning 4."** Land use planning should, to the maximum extent possible, combine increasing density gradients along high capacity transportation corridors to achieve greater energy efficiency. The proposed project will be built down in a hole on a 52% grade slope with only one entrance/exit, behind a single- family residential neighborhood consisting of residential homes only that is located approximately 2 miles from Hwy 101.

6). A multiple-family residential (Apartments/Condominiums) should be a zone R-3 not a R-1

7). Bud Cross Park has no sidewalks to protect the youth from such drastic, extreme, radical, traffic increase that the Bruce Brothers proposed project will cause.

8). The Bruce Brothers did not implement **Goal #5 of the Oregon's Statewide Planning Goals & Guidelines** when they began illegally grading and destroying wetlands without a wetlands permit, without a grading plan and without a grading permit. The wetlands

Page #3

are clearly designated on the wetlands plot map provided by South Coast Lumber to the Claron Glen residents. Goal #5 protects Riparian corridors, including water and riparian areas and fish habitat (Please see enclosure for complete description of Goal #5). Bruce Brothers destroyed the wetlands on the proposed project, endangering the changing of the natural springs in the Claron Glen subdivision that has already continued to be a problem for drainage beneath several homes in Claron Glen. Disturbing the wetlands/springs and creeks is an Environmental Hazard! Destroying the wetlands endangers the lives of all the animals that have been living in the wetlands including the owls that have now disappeared since Bruce Brothers began their grading, clear cutting and removing of all vegetation. The game fish in Ransom Creek are now in danger. Ransom Creek is home to many game fish including brook trout, brown trout and possibly baby steelhead. Please see the enclosure for complete detail of Goal #5

9). Governor Tom McCall began the Planning Commission in 1960 to protect Oregon's coasts from coastal mania and wetlands destruction. City of Brookings is failing to keep in accordance with the guidelines Governor Tom McCall put into place for the state of Oregon.

10). Bruce Brothers project plan map designates the drainage pond to be right next to Ransom Creek. This is in contrast with **Goal #5**. Federal law protects Riparian areas in that no construction is allowed within 50 feet of Riparian areas. Federal law protects Riparian areas in that no drainage of any fluid or sediment from building projects is allowed to drain into or seep into Ransom Creek. This is also in conflict with the **Conditions of Approval Condition Use Permit/Planned Unit Development #8**. It states, "The riparian area extending 50 feet horizontally from the mean high water line of Ransom Creek shall not be disturbed, in any manner except for a hiking trail or similar facility. Plans for all such facility must be submitted to the city for review and approval. The Riparian area cannot be disturbed.

11). There has been no drainage plan/project in detail description for the proposed project made available for the public to view.

12). The Bruce Brothers are in violation of **#4, Conditions of Approval Conditional Use Permit/Planned Unit Development**. It states, "Prior to any construction or grading on 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.

13). The intersection of 3rd and Hassett; the street is not 20 feet wide because of the telephone pole and lines in the center of 3rd St.. 3rd street is not conducive to handle an additional 250 cars per day. This is the intersection directly next to the skate park at Bud Cross Park. It would become one of the main traveled streets for the proposed Bruce Brothers project for access to the city park. The Brookings Development Code states that

Page #4

all streets must be 20 feet wide. 3rd street would be in conflict with this Development Code.

- 14). Bruce Brothers are in violation of **#39 of the Conditions of Approval Conditional Use Permit/Planned Unit Development dated July 6, 2004.** It states, "Prior to any construction on the site including grading, the applicant shall, with a qualified expert, investigate the wetland identified in a survey complete4d by an 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. (Added by the Planning Commission, August 3, 2004) The Planning Commission set forth this condition that the wetlands were to be furthered studied and take all steps necessary to abide by all applicable laws. The Bruce Brothers began construction work the 4th of August, the day following the decision of the Planning Commission ignoring the condition set forth.
- 15). Bruce Brothers is in violation of **#2 of the Conditions of Approval Conditional Use Permit/Planned Unit Development.** It states, "The conditions stated herein are mandatory and must be completed. Failure to comply with any condition will result in the review and possible revocation of your permit pursuant to Section 140.110, Violation of Conditions, of the Land Development Code. The loss of your permit will result in the closure of your business".
- 16). The City of Brookings has not carried out citing the Bruce Brothers for all of the violations.
- 17). The results from the soil engineer for the Bruce Brothers proposed project has been ignored. The soil engineer's test holes completely filled up with water proving wetlands to be present on the property.
- 18). Bruce Brothers completely cleared several acres striping the wetlands, cutting timber and removing all vegetation to bring in several dump truck loads of fill dirt and several truck loads of gravel to put in roads. They are in violation of Oregon's Statewide Planning Goals and Guidelines, Brookings Development Codes, Conditions of Approval Conditional Use Permit/Planned Unit Development PUD-2-04 dated July 6, 2004, City of Brookings Ordinances. City of Brookings has failed to comply with the regulations of citing, reviewing Bruce Brothers project for possible revocation of they're permit and following through with any and all violations that have been listed in this request for an appeal and my letters dated August 5th, August 6th and August 13th to the City of Brookings as well as my 19 page presentation to Planning Commission dated July 13th, 2004.
- 19). The original plan for Phase #3 of Claron Glen was for 8 single- family residences. Claron Glen subdivision requests that the original plan be re-instated.
- 20). The impact of 8 houses verses 36 apartments will definitely be devastating to Claron Glen subdivision and the surrounding neighborhood.

21). There has been no response with a plan as to how the Bruce Brothers propose to follow Goal #6, AIR, WATER AND LAND RESOURCES QUALITY AND GOAL #7, AREAS SUBJECT TO NATURAL HAZARDS. Please see enclosures for Goal #6 and Goal #7.

22). According to the "Land Conservation and Development Department" Division 16 there are Requirements and Application Procedures for Complying With Statewide Goal #5. Bruce Brothers has not made this available to the public. Please see the enclosures for these instructions to be followed protecting Goal #5

23). Approval of the application and the issuance of any development permits would be in violation of Brookings Land Development Code (BLDC) Section 4.040, Lands in Violation. Section 4.040 states, "The City Manager or his designee shall not issue a development permit for the partitioning, subdivision, development, or use of land that has been previously divided in violation of state or local codes then in effect, or divided in violation of this code subsequent to its adoption, or otherwise developed in violation of this code, regardless of whether the permit applicant created the violation, unless the violation can be rectified as part of the proposed development in a manner provided by this code.

24). The applicant has not adequately addressed and established compliance with the standards of approval governing Planned Unit Development identified in BLDC Section 116.060(A)(-G). BLDC Section 116.060(A)(-G) standards for approval states, "In granting approval for a planned unit development, the Planning Commission shall seek to determine, based upon evidence, both factual and supportive provided by the applicant, that:

- A. The applicant has, through investigation, planning and programming, demonstrated the soundness of his proposal and his ability to carry out the project as proposed, and that the construction shall begin within 12 months of the conclusion of any necessary actions by the city, or within such longer period of time as may be established by the Planning Commission.
- B. The proposal conforms with the Comprehensive Plan and implementing measures of the city in terms of goals, policies, location and general development standards.
- C. The project will assure benefits to the city and the general public in terms of need, convenience, service and appearance sufficient to justify any necessary exceptions to the regulations of the zoning district.
- D. There are special physical conditions or objectives of development which the proposal will satisfy so that a departure from standard zoning district regulations can be warranted.
- E. That the project will be compatible with adjacent developments and will not adversely affect the character of the area.
- F. The project will satisfactorily take care of the traffic it generates, both on and off-site, by means of adequate off-street parking, access points, and additional street right-of-way improvements.

G. That the proposed utility and drainage facilities are adequate for the population densities and type of development proposed and will not create major problems or impacts outside the boundaries of the proposed development site.

25). The applicant has not provided evidence sufficient to support the findings necessary to grant a conditional use, as required by BLDC Section 140.050(C) (1)-(4).

BLDC 140.050 C 1 – 4 **Action by the Planning Commission;** states,

A). Within 60 days after the filing of the application, a public hearing shall be held and the commission shall render its decision. The decision of the Planning commission shall be final unless appealed to the City Council.

B). The Planning Commission may approve, approve with conditions or disapprove the conditional use permit application by the entry of a Planning Commission order, in open meeting, by the majority of its members in attendance, which order shall describe the basis for the decision and state the specific circumstances, findings of fact and evidence presented requiring the application of conditions to the approval.

C). Findings of fact. In order to grant any conditional use, the Planning commission must find based upon evidence, both factual and supportive, provided by the applicant, that:

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

26). The application does not comply with the following Comprehensive Plan (Plan) policies:

Goal 5 Policy 1

Goal 6 Policy 1

Goal 6 Policy 4

Goal 7 Policy 1

Page #7

Goal 7 Policy 2

Respectfully,

A handwritten signature in cursive script that reads "Debbie Hodges". The signature is written in black ink and is positioned to the right of the word "Respectfully,".

Debbie Hodges
955 3rd St.
PO Box 17889
Brookings, OR 97415

Enclosures: 6

100.010

BROOKINGS DEVELOPMENT CODE

Section 100
HAZARDOUS BUILDING SITE PROTECTION
HILLSIDE DEVELOPMENT STANDARDS

Sections:

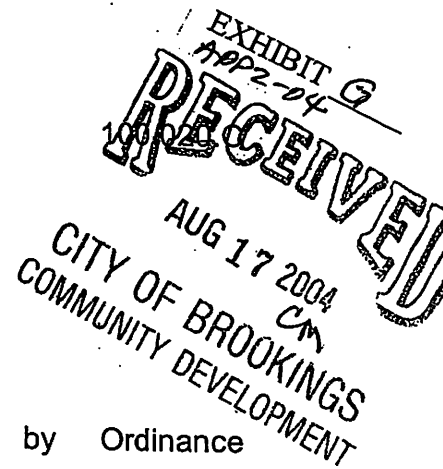
- 100.010 Purpose.
- 100.020 Review by City Manager or Planning Commission.
- 100.030 Partitions and Subdivisions (as amended by Ordinance 99-O-446.FF, effective June 9, 1999)
- 100.040 Site study authorization.
- 100.050 Site preparation.
- 100.060 Enforcement.
- 100.070 Final maps.

100.010 Purpose.

- A. The purpose of this section is to reduce building site hazards and threats to life and property created by flooding, landslides, weak foundation soils and other hazards as may be identified by the City of Brookings or other agencies. This section is intended to advance the above purpose to protect life and property:
 - 1. By requiring the study of such areas by a qualified person prior to construction.
 - 2. By requiring special construction techniques to control dust, mud, water runoff, soil erosion or sediment deposition during construction.
 - 3. By establishing mechanisms for enforcement to insure compliance with this code. (Section 100.010.A, as amended by Ordinance No. 99-O-446.FF, effective June 9, 1999)
- B. The policies and standards of this section are based upon the data contained in the Comprehensive Plan document and other technical information.

100.020 Review by City Manager or Planning Commission.

- A. The City Manager or a qualified designee, shall review all planning permit requests for conformance with the standards and criteria of this section.
- B. The City Manager or a qualified designee shall review requests for building permits or grading permits, and the Planning Commission shall review land use applications proposed within areas identified as having average slopes of greater than 15% grade.
- C. The City Manager or a qualified designee may refer matters to the Planning Commission which require the use of standards. (Section 100.020.C as amended by Ordinance 99-O-446.FF, effective June 9, 1999)



- D. The Planning Commission may approve, approve with conditions or require changes or deny the proposal based upon the criteria or standards listed in Sections 100.030, 100.040 and 100.050. Planning Commission decisions may be appealed to the City Council as provided in Section 156.

100.030 Partitions and subdivisions. When dividing land within the SR-20 and SR-40 zones or when dividing other land with slopes of greater than 15%, a geological report prepared by a certified engineering geologist or a civil engineer registered in the State of Oregon consulting with a certified engineering geologist, shall be required.

- A. The geological report shall contain the following information:
1. The stability of the slopes and their suitability for the proposed type of construction in relation to the size of lot proposed, including all existing and proposed new streets.
 2. The need for engineered foundations or for site specific studies to determine if engineered foundations are necessary.
 3. Any other information pertaining to the suitability of the site in relation to the proposed use.
- B. On lands that contain slopes of greater than 15%, all lots will be of the minimum lot size allowed by underlying zone, except larger lots may be required if the geological survey of the property requires a larger lot to avoid hazardous areas or other conditions. (Section 100.030 as amended in its entirety by Ordinance 95-O-446.FF, effective June 9, 1999.)

100.040 Site study authorization.

- A. The City Manager or a qualified designee may require a site study by a certified engineering geologist, civil engineer registered in the State of Oregon and/or other qualified person prior to issuance of a building or grading permit or the approval of a partition plat, subdivision plat, or conditional use permit, in areas containing or adjacent to a fault zone, sinkhole, unstable soils, steep slopes, high water table, or other geologic hazard. Site studies may also be required for construction or excavation in areas of steep slope, where, in the opinion of the City Manager or a qualified designee, there is a potential hazard to the proposed structure(s) or to any adjacent property.
(Section 100.040.A as amended by Ordinance 99-O-446.FF, effective June 9, 1999)
- B. Site specific studies may be required by the City Manager or a qualified designee, or the Planning Commission for construction or development of

property containing weak or unstable foundation soils or other geologic factors as determined by the soils or geology engineering geology report. Site reports shall include bearing capacity of the soil, soil stability, pertinent geological formations, adequacy and method of drainage facilities, and soil compaction and other requirements necessary for stability prior to construction. Location and characteristics of weak foundation soils and geologic formations shall be updated as information becomes available.

100.050 Site preparation

- A. No property shall be disturbed, excavated, filled or developed within the city so as to cause slides of mud, soil, rock, vegetative material or any erosional or depositional material to be pushed onto, deposited upon or gravitated to the property of another.
- B. Prior to any site preparation on an existing lot, or on an approved but unrecorded minor or major partition or subdivision, on slopes greater than 15% grade, the applicant shall submit grading plans prepared by an Oregon licensed civil engineer showing the following information for approval of the City Engineer:
 - 1. All cut and fill slopes associated with new or improved roads, driveways and building pads and methods of fill compaction.
 - 2. All utility grading including the placement of electrical, television and telephone cables.
 - 3. Areas of the site to be denuded of vegetation cover.
 - 4. Mitigation measures including erosion control, permanent planting and an implementation time table. The implementation time table shall be approved by the City Engineer and/or City Manager in regard to the season(s) in which construction will occur.
 - 5. A drainage plan to control water runoff during construction.
- C. All vegetation removal and grading on an existing lot, or on an approved but unrecorded minor or major partition or subdivision on slopes greater than 15% grade shall be carried out as per approved grading plans and under the supervision of the project engineer.
- D. Erosion and sedimentation caused by storm water runoff shall be minimized by employing the following measures, or substitute measures deemed acceptable by the City Manager or a qualified designee:
 - 1. Only the minimal removal of vegetation cover, particularly tree cover, necessary for building placement or access, shall be done. Removal of

trees and brush for view enhancement can be a part of the grading plan if such an action does not increase the potential hazard and/or mitigation can be applied. The city shall observe this in the development of streets and building pads.

2. Temporary measures for controlling runoff, such as berms, holding ponds, terraces and ditches shall be used as required, particularly in areas having slopes of 15% or greater.
 3. Exposed areas shall be mulched and kept covered during construction to eliminate dust, mud, erosion or sedimentation, and shall be planted in permanent cover within thirty (30) days or as per the approved grading plan of Section 100.050.B.
- E. For a structure, driveway, parking area or other impervious surfaces in areas of 15% slope and greater, the release rate and sedimentation of storm water shall be controlled by the use of retention facilities as specified by the project engineer and approved by the City Engineer or other qualified designee. The storm drain facilities shall be designed for storms having a 25-year recurrence frequency. Storm water shall be directed into drainage with capacity to be calculated in accordance with the City's Comprehensive Plan for Storm Drainage Development, so as not to flood adjacent or downstream property.
- F. In all areas of the city, the City Manager or a qualified designee may require culverts or other drainage facilities, designed in accordance with the City's Comprehensive Plan for Storm Drainage Development, be installed as a condition of construction.
- G. Developments which abut the coastal bluffs or coastal shoreland boundary, or direct surface water runoff over the bluffs or boundary will require special impact mitigation measures.
- H. Filling of lowlands shall be done only where it is determined that the fill will not cause flooding or damage to adjacent properties and where adequate drainage facilities are installed.

100.060 Enforcement

- A. The construction, location, development or use of land or structures, contrary to the provisions of this section, ordinance or permit, or in violation of any conditions or limitations approved pursuant to this ordinance, is an unlawful public nuisance.
- B. In addition to other remedies set forth in Section 164, and other remedies provided by ordinance or under state law, the city may institute appropriate action or proceedings to prevent, restrain, correct, abate or remove the unlawful location, erection, construction, development, maintenance, repair, alteration, occupancy or use of land or structures.

- C. If the City Manager determines that a violation of this section has occurred, the city shall notify the owner of the land and the developer, general agent, architect, builder, contractor or other person or entity who has participated in committing the violation, to cease all further development until such time as the violation has been remedied. If development continues in disregard of notice from the city, the City may seek an injunction to stop further development until the violation has been remedied.
- D. If the City Manager determines that a violation has occurred, the City shall give written notice to the owner of the land, and the developer, general agent, architect, builder, contractor, or other person or entity who has participated in committing the violation, that a violation has occurred and that the violation must be remedied within a time specified. The amount of time to remedy the violation shall depend upon the nature of the violation, the circumstance then existing and whether an emergency exists. Noncompliance within the time set by the city will cause the city to take remedial steps to cure the violation and charge the costs, fees and expenses of such remedial action to the owner of the land. This shall include any expenses, costs and fees paid by the City to third persons for labor and materials to remedy the violation. Charges made under this subsection shall be a lien against the real property on which the violation arises and the City Recorder is authorized to enter the amount of such charges immediately in the docket of city liens.
- E. The owner of the land, and the developer, general agent, architect, builder, contractor or other person or entity who takes part in any violation of this ordinance, shall be guilty of a violation of this ordinance and shall be subject upon conviction to a fine of not more than \$200. Each day under which a violation exists shall be considered a separate offense.
- F. The remedies set forth in this section are cumulative and not exhaustive of all remedies the City may exercise to prevent, correct or abate a violation under this section.

100.070 Final subdivision maps. In the case of a land use activity that requires the recordation of a final map such as a minor partition, major partition or subdivision, recordation of the map will not be allowed until the city is satisfied that the provisions of this section and other applicable provisions of the Land Development Code have been met. Evidence of compliance must be included within the application for final map approval and submitted thirty days prior to the expected hearing date.

[Section 100 as amended in its entirety by Ordinance No. 94-O-446.V, effective August 9, 1994]

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CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

~~Oregon's Statewide Planning Goals & Guidelines~~

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

OAR 660-015-0000(5)

(Please Note: Amendments Effective 08/30/96)

To protect natural resources and conserve scenic and historic areas and open spaces.

Local governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations. These resources promote a healthy environment and natural landscape that contributes to Oregon's livability.

The following resources shall be inventoried:

- a. Riparian corridors, including water and riparian areas and fish habitat;
- b. Wetlands;
- c. Wildlife Habitat;
- d. Federal Wild and Scenic

Rivers;

- e. State Scenic Waterways;
- f. Groundwater Resources;
- g. Approved Oregon Recreation

Trails;

- h. Natural Areas;
- i. Wilderness Areas;
- j. Mineral and Aggregate

Resources;

- k. Energy sources;
- l. Cultural areas.

Local governments and state agencies are encouraged to maintain

current inventories of the following resources:

- a. Historic Resources;
- b. Open Space;
- c. Scenic Views and Sites.

Following procedures, standards, and definitions contained in commission rules, local governments shall determine significant sites for inventoried resources and develop programs to achieve the goal.

GUIDELINES FOR GOAL 5

A. PLANNING

1. The need for open space in the planning area should be determined, and standards developed for the amount, distribution, and type of open space.

2. Criteria should be developed and utilized to determine what uses are consistent with open space values and to evaluate the effect of converting open space lands to inconsistent uses. The maintenance and development of open space in urban areas should be encouraged.

3. Natural resources and required sites for the generation of energy (i.e. natural gas, oil, coal, hydro, geothermal, uranium, solar and others) should be conserved and protected;

reservoir sites should be identified and protected against irreversible loss.

4. Plans providing for open space, scenic and historic areas and natural resources should consider as a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.

5. The National Register of Historic Places and the recommendations of the State Advisory Committee on Historic Preservation should be utilized in designating historic sites.

6. In conjunction with the inventory of mineral and aggregate resources, sites for removal and processing of such resources should be identified and protected.

7. As a general rule, plans should prohibit outdoor advertising signs except in commercial or industrial zones. Plans should not provide for the reclassification of land for the purpose of accommodating an outdoor advertising sign. The term "outdoor advertising sign" has the meaning set forth in ORS 377.710(23).

B. IMPLEMENTATION

1. Development should be planned and directed so as to conserve the needed amount of open space.

2. The conservation of both renewable and non-renewable natural resources and physical limitations of the land should be used as the basis for determining the quantity, quality, location, rate and type of growth in the planning area.

3. The efficient consumption of energy should be considered when utilizing natural resources.

4. Fish and wildlife areas and habitats should be protected and managed in accordance with the Oregon Wildlife Commission's fish and wildlife management plans.

5. Stream flow and water levels should be protected and managed at a level adequate for fish, wildlife, pollution abatement, recreation, aesthetics and agriculture.

6. Significant natural areas that are historically, ecologically or scientifically unique, outstanding or important, including those identified by the State Natural Area Preserves Advisory Committee, should be inventoried and evaluated. Plans should provide for the preservation of natural areas consistent with an inventory of scientific, educational, ecological, and recreational needs for significant natural areas.

7. Local, regional and state governments should be encouraged to investigate and utilize fee acquisition, easements, cluster developments, preferential assessment, development rights acquisition and similar techniques to implement this goal.

8. State and federal agencies should develop statewide natural resource, open space, scenic and historic area plans and provide technical assistance to local and regional agencies. State and federal plans should be reviewed and coordinated with local and regional plans.

9. Areas identified as having non-renewable mineral and aggregate resources should be planned for interim,

transitional and "second use" utilization
as well as for the primary use.

TAX LOT 900
CURRY COUNTY, OREGON
ZONING : R-1-10

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CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

OF RANSOM CREEK

AND CITY OF BROOKINGS LIMITS

PROPERTY BOUNDARY

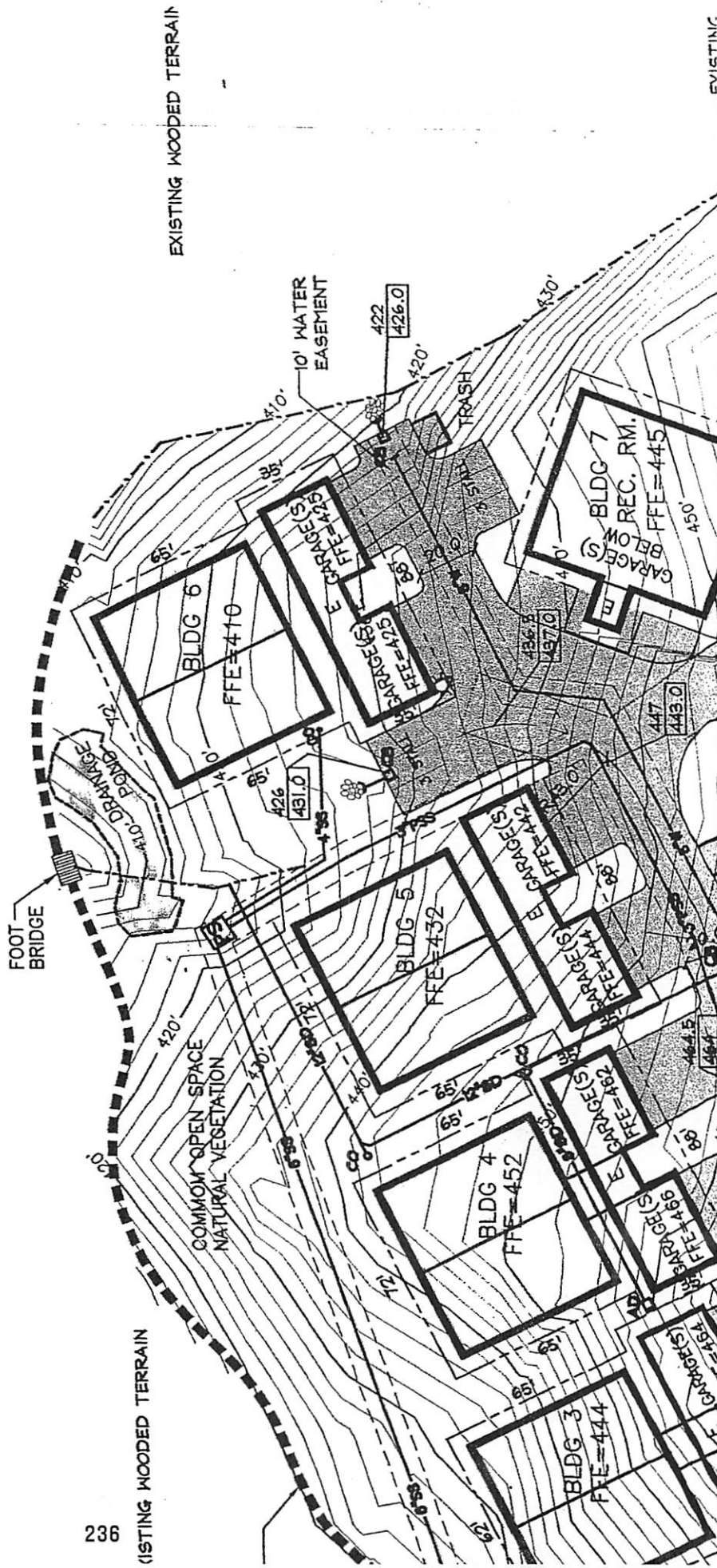


EXHIBIT J
APP-2-04

Oregon's Statewide Planning Goals & Guidelines

GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY

OAR 660-015-0000(6)

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CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

To maintain and improve the quality of the air, water and land resources of the state.

All waste and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality statutes, rules and standards. With respect to the air, water and land resources of the applicable air sheds and river basins described or included in state environmental quality statutes, rules, standards and implementation plans, such discharges shall not (1) exceed the carrying capacity of such resources, considering long range needs; (2) degrade such resources; or (3) threaten the availability of such resources.

Waste and Process Discharges -- refers to solid waste, thermal, noise, atmospheric or water pollutants, contaminants, or products therefrom. Included here also are indirect sources of air pollution which result in emissions of air contaminants for which the state has established standards.

GUIDELINES

A. PLANNING

1. Plans should designate alternative areas suitable for use in controlling pollution including but not limited to waste water treatment plants,

solid waste disposal sites and sludge disposal sites.

2. Plans should designate areas for urban and rural residential use only where approvable sewage disposal alternatives have been clearly identified in such plans.

3. Plans should buffer and separate those land uses which create or lead to conflicting requirements and impacts upon the air, water and land resources.

4. Plans which provide for the maintenance and improvement of air, land and water resources of the planning area should consider as a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.

5. All plans and programs affecting waste and process discharges should be coordinated within the applicable air sheds and river basins described or included in state environmental quality statutes, rules, standards and implementation plan.

6. Plans of state agencies before they are adopted should be coordinated with and reviewed by local agencies with respect to the impact of these plans on the air, water and land resources in the planning area.

7. In all air quality maintenance areas, plans should be based on applicable state rules for reducing indirect pollution and be sufficiently comprehensive to include major transportation, industrial, institutional, commercial recreational and governmental developments and facilities.

B. IMPLEMENTATION

1. Plans should take into account methods and devices for implementing this goal, including but not limited to the following:

- (1) tax incentives and disincentives,
- (2) land use controls and ordinances,
- (3) multiple-use and joint development practices,
- (4) capital facility programming,
- (5) fee and less-than-fee acquisition techniques, and
- (6) enforcement of local health and safety ordinances.

2. A management program that details the respective implementation roles and responsibilities for carrying out this goal in the planning area should be established in the comprehensive plan.

3. Programs should manage land conservation and development activities in a manner that accurately reflects the community's desires for a quality environment and a healthy economy and is consistent with state environmental quality statutes, rules, standards and implementation plans.

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CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

Adopted September 28, 2001
Effective June 1, 2002

EXHIBIT K
APP-2-04

Oregon's Statewide Planning Goals and Guidelines GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

A. NATURAL HAZARD PLANNING

1. Local governments shall adopt comprehensive plans (inventories, policies and implementing measures) to reduce risk to people and property from natural hazards.

2. Natural hazards for purposes of this goal are: floods (coastal and riverine), landslides,¹ earthquakes and related hazards, tsunamis, coastal erosion, and wildfires. Local governments may identify and plan for other natural hazards.

B. RESPONSE TO NEW HAZARD INFORMATION

1. New hazard inventory information provided by federal and state agencies shall be reviewed by the Department in consultation with affected state and local government representatives.

2. After such consultation, the Department shall notify local governments if the new hazard information requires a local response.

3. Local governments shall respond to new inventory information on natural hazards within 36 months after being notified by the Department of Land Conservation and Development, unless extended by the Department.

C. IMPLEMENTATION

Upon receiving notice from the Department, a local government shall:

1. Evaluate the risk to people and

property based on the new inventory information and an assessment of:

a. the frequency, severity and location of the hazard;

b. the effects of the hazard on existing and future development;

c. the potential for development in the hazard area to increase the frequency and severity of the hazard; and

d. the types and intensities of land uses to be allowed in the hazard area.

2. Allow an opportunity for citizen review and comment on the new inventory information and the results of the evaluation and incorporate such information into the comprehensive plan, as necessary.

3. Adopt or amend, as necessary, based on the evaluation of risk, plan policies and implementing measures consistent with the following principles:

a. avoiding development in hazard areas where the risk to people and property cannot be mitigated; and

b. prohibiting the siting of essential facilities, major structures, hazardous facilities and special occupancy structures, as defined in the state building code (ORS 455.447(1) (a)(b)(c) and (e)), in identified hazard areas, where the risk to public safety cannot be mitigated, unless an essential facility is needed within a hazard area in order to provide essential emergency response services in a timely manner.²

4. Local governments will be deemed to comply with Goal 7 for coastal and riverine flood hazards by adopting and

¹ For "rapidly moving landslides," the requirements of ORS 195.250-195.275 (1999 edition) apply.

² For purposes of constructing essential facilities, and special occupancy structures in tsunami inundation zones, the requirements of the state building code - ORS 455.446 and 455.447 (1999 edition) and OAR chapter 632, division 5 apply.

implementing local floodplain regulations that meet the minimum National Flood Insurance Program (NFIP) requirements.

D. COORDINATION

1. In accordance with ORS 197.180 and Goal 2, state agencies shall coordinate their natural hazard plans and programs with local governments and provide local governments with hazard inventory information and technical assistance including development of model ordinances and risk evaluation methodologies.

2. Local governments and state agencies shall follow such procedures, standards and definitions as may be contained in statewide planning goals and commission rules in developing programs to achieve this goal.

GUIDELINES

A. PLANNING

1. In adopting plan policies and implementing measures to protect people and property from natural hazards, local governments should consider:

a. the benefits of maintaining natural hazard areas as open space, recreation and other low density uses;

b. the beneficial effects that natural hazards can have on natural resources and the environment; and

c. the effects of development and mitigation measures in identified hazard areas on the management of natural resources.

2. Local governments should coordinate their land use plans and decisions with emergency preparedness, response, recovery and mitigation programs.

B. IMPLEMENTATION

1. Local governments should give special attention to emergency access when considering development in identified hazard areas.

2. Local governments should consider programs to manage stormwater runoff as a means to help address flood and landslide hazards.

3. Local governments should consider nonregulatory approaches to help implement this goal, including but not limited to:

a. providing financial incentives and disincentives;

b. providing public information and education materials;

c. establishing or making use of existing programs to retrofit, relocate, or acquire existing dwellings and structures at risk from natural disasters.

4. When reviewing development requests in high hazard areas, local governments should require site-specific reports, appropriate for the level and type of hazard (e.g., hydrologic reports, geotechnical reports or other scientific or engineering reports) prepared by a licensed professional. Such reports should evaluate the risk to the site as well as the risk the proposed development may pose to other properties.

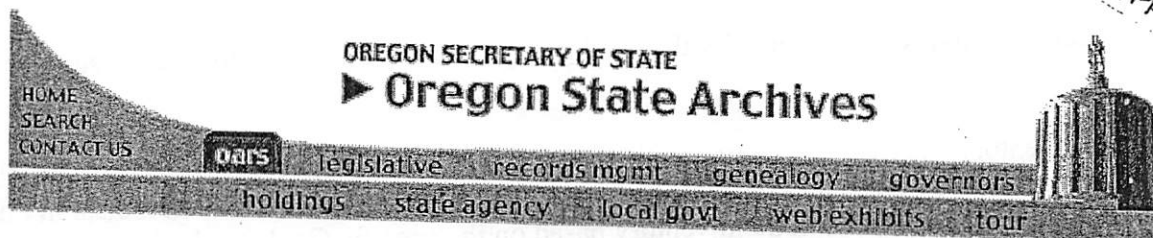
5. Local governments should consider measures that exceed the National Flood Insurance Program (NFIP) such as:

a. limiting placement of fill in floodplains;

b. prohibiting the storage of hazardous materials in floodplains or providing for safe storage of such materials; and

c. elevating structures to a level higher than that required by the NFIP and the state building code.

Flood insurance policy holders may be eligible for reduced insurance rates through the NFIP's Community Rating System Program when local governments adopt these and other flood protection measures.



The Oregon Administrative Rules contain OARs filed through July 15, 2004

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

DIVISION 16

REQUIREMENTS AND APPLICATION PROCEDURES FOR COMPLYING WITH STATEWIDE GOAL 5

60-016-0000

Inventory Goal 5 Resources

(1) The inventory process for Statewide Planning Goal 5 begins with the collection of available data from as many sources as possible including experts in the field, local citizens and landowners. The local government then analyzes and refines the data and determines whether there is sufficient information on the location, quality and quantity of each resource site to properly complete the Goal 5 process. This analysis also includes whether a particular natural area is "ecologically and scientifically significant", or an open space area is "needed", or a scenic area is "outstanding", as outlined in the Goal. Based on the evidence and local government's analysis of those data, the local government then determines which resource sites are of significance and includes those sites on the final plan inventory.

(2) A "valid" inventory of a Goal 5 resource under subsection (5)(c) of this rule must include a determination of the location, quality, and quantity of each of the resource sites. Some Goal 5 resources (e.g., natural areas, historic sites, mineral and aggregate sites, scenic waterways) are more site-specific than others (e.g., groundwater, energy sources). For site-specific resources, determination of *location* must include a description or map of the boundaries of the resource site and of the impact area to be affected, if different. For non-site-specific resources, determination must be as specific as possible.

(3) The determination of *quality* requires some consideration of the resource site's relative value, as compared to other samples of the same resource in at least the jurisdiction itself. A determination of *quantity* requires consideration of the relative abundance of the resource (of any given quality). The level of detail that is provided will depend on how much information is available or "obtainable".

(4) The inventory completed at the local level, including options in subsections (5)(a), (b), and (c) of this rule, will be adequate for Goal compliance unless it can be shown to be based on inaccurate data, or does not adequately address location, quality or quantity. The issue of adequacy may be raised by the Department or objectors, but final determination is made by the Commission or the Land Use Board of Appeals as provided by law.

(5) Based on data collected, analyzed and refined by the local government, as outlined above, a jurisdiction has three basic options:

(a) Do Not Include on Inventory: Based on information that is available on location, quality and quantity, the local government might determine that a particular resource site is not important enough to warrant inclusion on the plan inventory, or is not required to be included in the inventory based on the specific Goal standards. No further action need be taken with regard to these sites. The local government is not required to justify in its comprehensive plan a decision not to include a particular site in the plan inventory unless challenged by the Department, objectors or the Commission based upon contradictory information;

(b) Delay Goal 5 Process: When some information is available, indicating the possible existence of a resource site, but that information is not adequate to identify with particularity the location, quality and quantity of the resource site, the local government should only include the site on the comprehensive plan inventory as a special category. The local government must express its intent relative to the resource site through a plan policy to address that resource site and proceed through the Goal 5 process in the future. The plan should include a time-frame for this review. Special implementing measures are not appropriate or required for Goal 5 compliance purposes until adequate information is available to enable further review and adoption of such measures. The statement in the plan commits the local government to address the resource site through the Goal 5 process in the post-acknowledgment period. Such future actions could require a plan amendment;

(c) Include on Plan Inventory: When information is available on location, quality and quantity, and the local government has determined a site to be significant or important as a result of the data collection and analysis process, the local government must include the site on its plan inventory and indicate the location, quality and quantity of the resource site (see above). Items included on this inventory must proceed through the remainder of the Goal 5 process.

Stat. Auth.: ORS 183 & ORS 197

Stats. Implemented: ORS 197.040

Hist.: LCD 5-1981(Temp), f. & ef. 5-8-81; LCD 7-1981, f. & ef. 6-29-81; LCDC 3-1990, f. & cert. ef. 6-6-90

660-016-0005

Identify Conflicting Uses

(1) It is the responsibility of local government to identify conflicts with inventoried Goal 5 resource sites. This is done primarily by examining the uses allowed in broad zoning districts established by the jurisdiction (e.g., forest and agricultural zones). A conflicting use is one which, if allowed, could negatively impact a Goal 5 resource site. Where conflicting uses have been identified, Goal 5 resource sites may impact those uses. These impacts must be considered in analyzing the economic, social, environmental and energy (ESEE) consequences:

(2) Preserve the Resource Site: If there are no conflicting uses for an identified resource site, the jurisdiction must adopt policies and ordinance provisions, as appropriate, which ensure preservation of the resource site.

(3) Determine the Economic, Social, Environmental, and Energy Consequences: If conflicting uses are identified, the economic, social, environmental and energy consequences of the conflicting uses must be determined. Both the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences. The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate, at this stage of the process. A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain why decisions are made for specific sites.

Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 197.040

Hist.: LCD 5-1981(Temp), f. & ef. 5-8-81; LCD 7-1981, f. & ef. 6-29-81; LCDD 3-2004, f. & cert. ef. 5-7-04

660-016-0010

Develop Program to Achieve the Goal

Based on the determination of the economic, social, environmental and energy consequences, a jurisdiction must "develop a program to achieve the Goal." Assuming there is adequate information on the location, quality, and quantity of the resource site as well as on the nature of the conflicting use and ESEE consequences, a jurisdiction is expected to "resolve" conflicts with specific sites in any of the following three ways listed below. Compliance with Goal 5 shall also be based on the plan's overall ability to protect and conserve each Goal 5 resource. The issue of adequacy of the overall program adopted or of decisions made under sections (1), (2), and (3) of this rule may be raised by the Department or objectors, but final determination is made by the Commission, pursuant to usual procedures:

1) Protect the Resource Site: Based on the analysis of the ESEE consequences, a jurisdiction may determine that the resource site is of such importance, relative to the conflicting uses, and the ESEE consequences of allowing conflicting uses are so great that the resource site should be protected and all conflicting uses prohibited on the site and possibly within the impact area identified in OAR 660-016-0000(5)(c). Reasons which support this decision must be presented in the comprehensive plan, and plan and zone designations must be consistent with this decision.

2) Allow Conflicting Uses Fully: Based on the analysis of ESEE consequences and other Statewide Goals, a jurisdiction may determine that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. This approach may be used when the conflicting use for a particular site is of sufficient importance, relative to the resource site. Reasons which support this decision must be presented in the comprehensive plan, and plan and zone designations must be consistent with this decision.

3) Limit Conflicting Uses: Based on the analysis of ESEE consequences, a jurisdiction may determine that both the resource site and the conflicting use are important relative to each other, and that the ESEE consequences should be balanced so as to allow the conflicting use but in a limited way so as to protect the resource site to some desired extent. To implement this decision, the jurisdiction must designate with certainty what uses and activities are allowed fully, what uses and activities are not allowed at all and which uses are allowed conditionally, and what specific standards or limitations are placed on the permitted and conditional uses and activities for each resource site. Whatever mechanisms are used, they must be specific enough so that affected property owners are able to determine what uses and activities are allowed, not allowed, or allowed conditionally and under what clear and objective conditions or standards. Reasons which support this decision must be presented in the comprehensive plan, and plan and zone designations must be consistent with this decision.

Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 197.040

Hist.: LCD 5-1981(Temp), f. & ef. 5-8-81; LCD 7-1981, f. & ef. 6-29-81; LCDD 3-2004, f. & cert. ef. 5-7-04

660-016-0015

Post-Acknowledgment Period

(1) All data, findings, and decisions made by a local government prior to acknowledgment may be reviewed by that local government in its periodic update process. This includes decisions made as a result of OAR 660-016-0000(5)(a), 660-016-0005(1), and 660-016-0010. Any changes, additions, or deletions would be made as a plan amendment, again following all Goal 5 steps.

(2) If the local government has included in its plan items under OAR 660-016-0000(5)(b), the local government has committed itself to take certain actions within a certain time frame in the post-acknowledgment period. Within those stated time frames, the local government must address the issue as stated in its plan, and treat the action as a plan amendment.

Stat. Auth.: ORS 183 & ORS 197

Stats. Implemented: ORS 197.040

Hist.: LCD 5-1981(Temp), f. & ef. 5-8-81; LCD 7-1981, f. & ef. 6-29-81

660-016-0020

Landowner Involvement

(1) The development of inventory data, identification of conflicting uses and adoption of implementing measures must, under Statewide Planning Goals 1 and 2, provide opportunities for citizen involvement and agency coordination. In addition, the adoption of regulations or plan provisions carries with it basic legal notice requirements. (County or city legal counsel can advise the planning department and governing body of these requirements.) Depending upon the type of action involved, the form and method of landowner notification will vary. State statutes and local charter provisions contain basic notice requirements. Because of the nature of the Goal 5 process as outlined in this paper it is important to provide for notification and involvement of landowners, including public agencies, at the earliest possible opportunity. This will likely avoid problems or disagreements later in the process and improve the local decision-making process in the development of the plan and implementing measures.

(2) As the Goal 5 process progresses and more specificity about the nature of resources, identified conflicting uses, ESEE consequences and implementing measures is known, notice and involvement of affected parties will become more meaningful. Such notice and landowner involvement, although not identified as a Goal 5 requirement is in the opinion of the Commission, imperative.

Stat. Auth.: ORS 183 & ORS 197

Stats. Implemented: ORS 197.040

Hist.: LCD 5-1981(Temp), f. & ef. 5-8-81; LCD 7-1981, f. & ef. 6-29-81

660-016-0030

Mineral and Aggregate Resources

(1) When planning for and regulating the development of aggregate resources, local governments shall address ORS 517.750 to 517.900 and OAR Chapter 632, Divisions 1 and 30.

(2) Local governments shall coordinate with the State Department of Geology and Mineral Industries to ensure that requirements for the reclamation of surface mines are incorporated into programs to achieve the Goal developed in accordance with OAR 660-016-0010.

(3) Local governments shall establish procedures designed to ensure that comprehensive plan provisions, land use regulations, and land use permits necessary to authorize mineral and aggregate development are coordinated with the State Department of Geology and Mineral Industries. Local governments shall amend comprehensive plans and land

Use regulations, as necessary, no later than January 1, 1993.

(4) The provisions of this rule shall be effective immediately.

Stat. Auth.: ORS 183 & ORS 197

Stats. Implemented: ORS 197.040

Hist.: LCDC 3-1992, f. & cert. ef. 6-10-92

The official copy of an Oregon Administrative Rule is contained in the Administrative Order filed at the Archives Division, 800 Summer St. NE, Salem, Oregon 97310. Any discrepancies with the published version are satisfied in favor of the Administrative Order. The Oregon Administrative Rules and the Oregon Bulletin are copyrighted by the Oregon Secretary of State. Terms and Conditions of Use

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Oregon

Theodore Kulongoski, Governor

EXHIBIT M
APP-2-04

Department of Environmental Quality
Western Region Coos Bay Office
340 N Front Street
Coos Bay, OR 97420
(541) 269-2721
FAX (541) 269-7984

Bruce Bros. Inc.
Attention: Noah Bruce
P.O. Box 61
Brookings, OR 97415

August 27, 2004

RE: WQ-Curry
Bruce Bros. Inc.
Pacific Terrace Subdivision
NPDES 1200C Permit, #113151
Notice of Noncompliance
ENF-WQ-WR/CB- 2004-070

RECEIVED
AUG 31 2004
CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

On August 20, 2004, I met with Andy George of Bruce Bros. at the Pacific Terrace Subdivision Development site in the City of Brookings. The purpose was to follow-up on issuance of the 1200C permit.

The site has had the covering vegetation removed, roads developed but not graveled. No erosion controls have been installed although there are hay bales and straw wattles in storage near the entrance of this development. A seep has been dug out and partially piped into the old drainage channel.

This letter is to serve as a Notice of Noncompliance (NON) for the following National Pollutant Discharge Elimination System (NPDES) 1200-C permit issued for this development:

1. Schedule A, condition 4(f) states: "The following maintenance activities shall be implemented, (f) All erosion and sediment controls not in the direct path of work shall be installed before any land disturbance."
This site has been cleared and no erosion controls are in place to protect the stream and other tributaries.
2. Schedule A, condition 3(c)(i) states; "The following controls and practices are required; (i) Each site shall have graveled, paved or constructed entrances, exits and parking areas, prior to beginning any other work, to reduce the tracking of sediment onto public or private roads. The main entrance was found to be bare soil and sediment was being tracked onto and down the Old Coast Highway.
3. Schedule A, condition 3(c)(ii) states, "All unpaved roads located on-site shall be graveled. Other effective erosion and sediment control measures either on the road or down gradient may be used in place of graveling." None of the construction roads were graveled or controlled.
4. ORS 468B.025 states, "Except as provided in ORS 468B.050, no person shall cause.... or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means." By not placing gravel at the main entrance, soil has been tracked off the property and is

Bruce Bros. Inc
August 24, 2004
Page 2 of 2

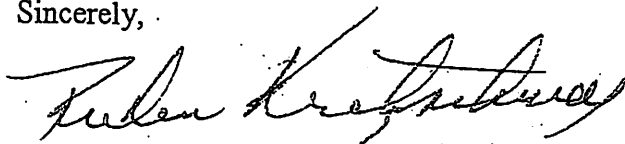
entering a storm drain located directly in front of the entrance. This catch basin needs to have a sediment sock or other sediment control installed and maintained.

Also, please be aware that under condition 4(h), if construction activities cease for 20 days or more, the entire site must be stabilized using vegetation or heavy mulch layer, temporary seeding or another method that does not require germination to control erosion.

The above violations are a Class II violation of your permit. Oregon Administrative Rule 340-012-0041(2)(c) provides that a permittee shall not receive more than three NONs for Class II violations of the same permit within a thirty-six (36) month period without being issued a more formal enforcement action. The Department requests your cooperation in ensuring that this violation does not recur.

We look forward to the installation of all erosion controls as outlined in your Erosion Control Plan to prevent any sediment discharge from this site. If you have any questions concerning this NON, please call me at 541-269-2721, ext. 23.

Sincerely,



Ruben Kretzschmar, NRS

Cc: Jon Gasik, Medford
John Bischoff, City of Brookings



Oregon

Theodore Kulungoski, Governor

EXHIBIT *N*
APP-2-04
Department of Environmental Quality
Western Region Coos Bay Office
340 N Front Street
Coos Bay, OR 97420
(541) 269-2721
FAX (541) 269-7984

Bruce Bros. Inc.
Attention: Noah Bruce
P.O. Box 61
Brookings, OR 97415

August 27, 2004

RE: WQ-Curry
Bruce Bros. Inc.
Ransom Creek Condominiums
NPDES 1200C Permit, #113150
Notice of Noncompliance
ENF-WQ-WR/CB- 2004-069

RECEIVED
AUG 31 2004
CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

On August 20, 2004, I met with Andy George of Bruce Bros. at the Ransom Creek Development site in the City of Brookings. The purpose was to follow-up on a complaint received concerning this development.

The site has had the covering vegetation removed, roads developed and graveled and gravel pads in place for soil boring sites. A small wetland (seep/spring) had been cleared and grubbed out. A thin layer of wood mulch has been applied but bare areas were also evident. This is an excellent use of waste woody debris instead of open burning, however, much more mulch is required at this site. No other erosion controls were in place although there are hay bales and sediment fencing materials in storage at the entrance of this development. Clearing was within 20 feet of the north boundary tributary.

This letter is to serve as a Notice of Noncompliance (NON) for the following National Pollutant Discharge Elimination System (NPDES) 1200-C permit issued for this development:

1. Schedule A, condition 4(f) states: "The following maintenance activities shall be implemented, (f) All erosion and sediment controls not in the direct path of work shall be installed before any land disturbance."

This site has been cleared and no erosion controls are in place to protect the stream and other tributaries.

Also, please be aware that under condition 4(h), if construction activities cease for 20 days or more, the entire site must be stabilized using vegetation or heavy mulch layer, temporary seeding or another method that does not require germination to control erosion.

The above violation is a Class II violation of your permit. Oregon Administrative Rule 340-012-0041(2)(c) provides that a permittee shall not receive more than three NONs for Class II violations of the same permit within a thirty-six (36) month period without being

Bruce Bros. Inc
August 24, 2004
Page 2 of 2

issued a more formal enforcement action. The Department requests your cooperation in ensuring that this violation does not recur.

We look forward to the installation of all erosion controls as outlined in your Erosion Control Plan to prevent any sediment discharge from this site. If you have any questions concerning this NON, please call me at 541-269-2721, ext. 23.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Ruben Kretzschmar', written in dark ink.

Ruben Kretzschmar, NRS

Cc: Jon Gasik, Medford
John Bischoff, City of Brookings
Debbie Hodges, PO Box 1760, Brookings, OR

Susan Roughen
1020 Brooke Lane
Brookings, Oregon 97415
August 30, 2004

EXHIBIT *Q*
received
8-31-04

*City of Brookings
DOB*

Brookings City Council
John Bischoff, Planning Director
Brookings, Oregon 97415

Dear City Council members and Mr. Bischoff:

I am writing in regards to PUD Ransom Creek. I request that this written testimony be made part of the written records of the meeting of 9/27/04.

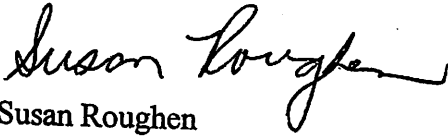
I object to the approval of PUD Ransom Creek because of the adverse effects it will have on the surrounding neighborhood. The Brookings Development Code should be a protection for the citizens of Brookings, and the proposed PUD Ransom Creek violates important sections of the code. In section 116.060 C Standards for Approval the code states "The project will assure benefits to the city and the general public in terms of need, convenience, service and appearance sufficient to justify any necessary exceptions to the regulations of the zoning district." This has clearly not been validated by fact and evidence. This project will not benefit the general public; in fact it will take away from the need and convenience of many. Jim Capp, representative for the Bruce Brothers, made it clear at the July 6, 2004 public hearing that this development is private property, and that homeowners in the surrounding neighborhood would be denied their previous access to the Ransom Creek trail.

Section E of 116.060 states that the project will be compatible with adjacent neighborhoods, and will not adversely affect the character of the neighborhood. The surrounding neighborhood of Clarion Glen is made up of single family homes built on large lots. The character of this neighborhood is one of quiet serenity and spaciousness surrounded by natural beauty. This character is made possible by a low density of homes and very little traffic. With the building of 36 condominium units, the character of the neighborhood will be gone. The number of cars that will be coming in and out of the extremely narrow driveway leading into this development, which is in violation of 116.060 F because the access points are far from adequate, will cause congestion which is clearly not compatible with the character of the neighborhood.

Section 140.050-C4 (Action by the Planning Commission) makes clear that new development will have minimal adverse impact upon adjoining properties. The narrow driveway leading into this development of 36 condominiums is inadequate and will result in an increase of noise and traffic that will be far beyond "minimal" in its adverse affect on surrounding properties. In addition, the homes that had views of the forest and ocean will now also be viewing an over abundance of garages, buildings, cars, parking spaces and trash containers. This driveway is a safety issue as well. In case of a fire, the driveway would not be adequate for a timely evacuation of residents.

I hope the objections made by the citizens of Brookings who will be directly affected by PUD Ransom Creek will be objectively evaluated and taken into consideration in making a decision on this appeal. I also ask that careful thought be given to the negative impact this development would have on the city of Brookings as a whole. By allowing this type of planned unit development, a precedent will be set. The existing building code, which is written in part to protect the character of the city as a whole, contains the evidence to support the appeal of the Planning Commission's decision to approve PUD Ransom Creek.

Sincerely,


Susan Roughen

September 13, 2004

City of Brookings
898 Elk Drive
Brookings, OR

ATTN: All City Council Members
Planning Director

EXHIBIT P
RECEIVED
SEP 13 2004
CM
CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

Gentlemen:

Being a resident of Timberline Drive, I am strongly opposed to PUD-2-04 "Ransom Creek" as proposed by Bruce Bros. LLC.

Claron Glen Subdivision and adjacent areas are comprised of upscale individual homes occupied mostly by retired people who want to live in a quiet, peaceful environment. The high density of this proposed development would strip this area of all of these values. This is not the area for this type of development. These condominium units will turn into nothing but rentals. Let's keep this type of housing along the highway corridor and closer to town.

The existing quiet residential streets would be subject to heavy traffic of 200 or more car trips per day. The speed of this vehicular traffic will not be able to be controlled, thus impairing the safety of our residents walking on the street, walking their dogs, and children playing and riding their bikes. There is a new family with four small children that have moved into the area. They ride their bikes up and down Timberline and it will be just a matter of time before a tragedy will occur. Time for that is sure to be shortened by the traffic increase from the condominium development.

Beside the traffic increase, there will be a problem with vehicles parked on Brooke Lane and Timberline because of the lack of parking spaces within the development. It is not unusual that there are 2 to 3 vehicles per family. The proposed development only provides for one covered and one uncovered space per unit.

I am not opposed to growth and development, but let's keep any development in this area as it was proposed by the original developer of Claron Glen—Phase 3 which was to have 8 single family homes. I wonder how the Bruce Bros. would feel if someone intruded on their upscale neighborhood at the "Point"—like we are being subjected to.

I am shocked that the City Planning Department was not able to clearly see the negative impact of this project. It is a building plan that will seriously damage the integrity of this neighborhood. The Commission totally ignored the input of our residents as though it was already determined and pre-approved. Even the City Planning Director had a "salesman"-type attitude as he presented it to the Commission.

This is also the time I would like to state that I feel that Commissioner Freeman had no right to vote on this matter. Of course, he was a yes vote. Is it not a fact that according to the State Code of Ethics and also the City's Code that a Planning Commissioner who would benefit from a project or has a direct personal interest in a project cannot be allowed to vote?! Not long after the July 6th Planning meeting, I witnessed at the project site the office manager for Bruce Bros. sporting a Freeman Rock T-shirt and also Freeman Rock trucks delivering gravel to the site. Yes, of course Mr. Freeman voted in favor of the project.

It is also a fact that Bruce Bros. have a reputation of ignoring and turning their heads away from codes and guidelines and just going ahead and doing what they want and thinking that they will be able to bulldoze their way through.

At this time I would like to draw the Council's attention back to all of the Bruce Bros. violations that Debbie Hodges presented to the Planning Department through her letters; copies of which you all should have received and had time to review.

Is it not better to consider the concerns of the residents of an affected area BEFORE making decisions that would be detrimental to this area. Once the density is here and precedence is set, you cannot go back. Let's not make a mess out of one of Brookings's finest individual single home areas.

I ask that this letter be made a part of the written record of the City Council Meeting on 9/27/04.

Thank you,

A handwritten signature in black ink, appearing to read "Don Drivon", written in a cursive style.

Don Drivon
942 Timberline Drive
Brookings, OR 97415

RECEIVED

9-13-04

SEP 14 2004

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

To:
City of Brookings Council
898 Elk Drive
Brookings, Or. 97415

Attn: Brookings City Planning Director - ~~Meeting~~ - 9-27-04

In Reference to: File # PUD-2-04
Ransom Creek
36 Condominium Units

In response to this matter as a newly and concerned home owner on Brook Lane we do not feel this project is in order with the compatibility of the neighborhood.

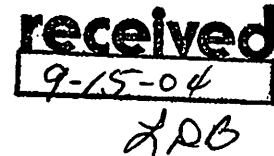
We were informed at time of buying our home nothing would be built around the adjoining neighborhood except for a total of 5 new single family dwelling homes in that area, for this is what it is zoned for, not condominiums. Condos should be off to one side, for example Rainbow Rock Condos off of Hwy 101 - Perfect spot.

Another concern is the Traffic & Parking around. Figure 2 car per unit with single car garage could lead to parking off of Brook Lane & Timberline Drive.

I believe it to violate all the codes in this area. Please reconsider.

Sincerely, Del & Shirley Peipols
945 Brook Lane

Ed and Rocelle Henke
985 Brooke Lane
Brookings OR 97415
412-3309



September 11, 2004

Brookings City Council
898 Elk Drive
Brookings OR 97415

SUBJECT: File No. PUD-2-04

Honorable Council Members:

Our home is 985 Brooke Lane, approximately 100 yards from this project now under review by the City Council. We purchased our lot in 1996. At the time of purchase, a plot plan encompassing the Claron Glen Development identified eight lots on the north/east perimeter that this project now encompasses. The proposed rezoning and development of these 9.09 acres has now been referenced by the Planning Department as PUD-2-04. We were recently advised that it never actually became a part of Claron Glen, as no lot-clearing had taken place. Obviously it was too costly, etc. for the original owner/developer of this property—the worst was left for last.

As a result of our analysis of the Claron Glen Development, we assumed that it was, and would be, solely a residential type neighborhood, with many of our neighbors being retired folks like ourselves—not a semi-commercial (and transitory), three-story dwelling neighborhood.

Living in southern Oregon going on 18 years now, we moved from heavily populated urban areas to small community life similar to where we grew up.

Being an avid fisherman and hunter, I started frequenting the far north coast of California in 1950, and began fly fishing (and other) the Chetco River in 1972. At that time there were only the Chandler boys (three), Frank Cozzalio, and a grouchy old guy by the name of Marvin who were fly fishing the lower river. I tutored Norris, at the time the owner of the Brookings theater, about how to fish a fly in the Snug Harbor Hole. Using my fly rod, he hooked five salmon one afternoon and landed three. There's now up to 100 anchored boats in the Morris and Tide Rock Holes. The absolute fact is that soon Brookings will be looking like every other heavily populated urban area in Oregon and elsewhere.

One of the amenities that attracted us to buying and living in Claren Glen was the fairly well maintained "trail" that started/ended at Brooke and Timberline, and extended all the way down to the power lines. You crossed five small wooden bridges, all having seasonal drainage into Ransom Creek below, with some being perennial. Located on

the north/east end of this proposed development was the most major drainageway—a perennial drainageway that I judge to be $1 \pm$ cfs in late fall, draining directly into Ransom Creek, which has been identified as a salmonid habitat. My dog Sasseé and I walked down the entire trail almost daily and observed a lot of wild creatures: deer, black snakes, very small rabbits, quail, raptors, etc. In some spots it was like a botanical garden, with plants having leaves approximately one foot wide. Today, there's a "no trespassing" sign at the trailhead.

The local Department of Fish and Wildlife biologist at Gold Beach confirmed my thoughts on salmonid habitat in Ransom Creek by advising me that Ransom Creek was a current cold-water habitat for coastal cutthroat trout (*Oncorhynchus clarki clarki*). He indicated that he thought they had no access to the sea (because natural, etc. impediments existed). If he is right about no access to/from the sea, then they are a resident, isolated historical population deserving major protection. If anadromous (with access to/from the sea), they are still an invaluable, threatened species and a public trust asset most worthy of exceptional protection. Local young neighborhood boys have caught "trout" out of Ransom Creek.

It is incumbent upon all of us to ensure water quality maintenance so that future generations have the same opportunity to share in the same in-stream values that we and our ancestors have enjoyed. The major drainageway way on the north/east end of this proposed development should have 50-75 foot riparian buffer strips maintained on both sides, as well as on Ransom Creek, to comply with public policy decisions. Siltation of Ransom Creek could devastate the population of native cutthroat trout and other. Again, the maintenance of water quality in Ransom Creek (and all other waterways) is all essential, and everyone's responsibility.

Personal visual examination, and other evaluations made, indicate this entire area is considered to be "wetlands," which from a public policy standpoint flags this area for special consideration and attention when considering the possibility of denuding the natural landscape. Does this builder/developer have special expertise and previous experience in building on top of such soil, slope, and landscape? The Ransom Creek resource and the future buyers and renters of the condominiums should be fully protected from all potential hazards, both short-term and long-term, from any deleterious impacts resulting from such a "wetlands" project. Developers should be totally responsible if at some future date negative impacts should occur.

A concentration of three-story condos, 36 units in toto, will most certainly have a sizeable neighborhood and infrastructure impact:

- $72 \pm$ cars/vehicles traveling up and down Timberline, Brooke Lane, and 3rd Street, potentially on a daily basis—and a daily school-type atmosphere exists, they'll have to pass on 3rd Street.
- There will obviously be $72 \pm$ people living on this once eight-lot development, or $9 \pm$ people per lot.

A common concern of many of those commenting is that they want to be reassured that the rules of law/public policy decisions are all fully implemented. There are obviously some economic benefits to the community for such a project, but those of us who feel that some of our values are being put to the test, and potentially compromised, want to leave this issue fully assured that such concerns are objectively addressed: that the rules of law will prevail and that all mitigation measures will be fully adhered to and implemented, for both the short-term and the long-term.

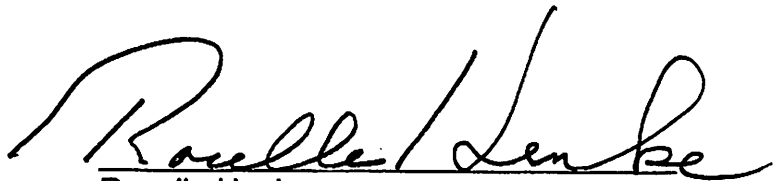
We have all confidence that the Brookings City Council members will use wise and prudent judgment and take the high road in satisfying the concerns of all who choose to express their thoughts and values.

Thank you for allowing us to comment.

Respectfully submitted,



Ed Henke
Historical Researcher –
Steelhead, Salmon, Native Resident Trout



Rocelle Henke

CITY OF BROOKINGS
Att: City Council
Planning Commission

Subject: P.U.D. 2-04

EXHIBIT 5
APP 2-04
received
9-17-04
JRB

As a resident of Claron Glen I feel it is imperative that I voice my opinion regarding the rezoning of the area north of Timberline and Brooke Lane.

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Remember, the voters and the taxpayers are watching!

James C Bowman
Nina Bowman



Mr. & Mrs. James C. Bowman
PO Box 1687
Brookings, OR 97415

CITY OF BROOKINGS
Att: City Council
Planning Commission

June

EXHIBIT 7

received
9-17-04
205

Subject: P.U.D. 2-04

As a resident of Claron Glen I feel it is imperative that I voice my opinion regarding the rezoning of the area north of Timberline and Brooke Lane.

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Jane E Brandau
924 Hidden Court
Brookings, Or. 97415

(BRANDAU)

CITY OF BROOKINGS
Att: City Council
Planning Commission

received
9-17-04

EXHIBIT 4

Subject: P.U.D. 2-04

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Kacie Martin
935 Nelson Court
Brookings, OR 97415
469-9358

CITY OF BROOKINGS
Att: City Council
Planning Commission

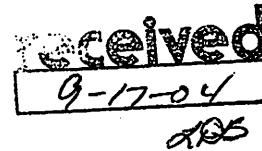


EXHIBIT V

Subject: P.U.D. 2-04

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Sharon Barauskas
921 Midland Way
Brookings, OR 97415

CITY OF BROOKINGS
Att: City Council
Planning Commission

received
9-17-04
203

EXHIBIT W
972-04

Subject: P.U.D. 2-04

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Barbara Söderstrom
990 Hassett St
Brookings OR 97415

CITY OF BROOKINGS
Att: City Council
Planning Commission

Anaya

EXHIBIT X

received
9-17-04

Subject: P.U.D. 2-04

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Gabriel Anaya
Maria Anaya
922 3rd ST
Brookings Or.

ANAYA

CITY OF BROOKINGS
Att: City Council
Planning Commission

Audrey

EXHIBIT Y

received
9-17-04
JLB

Subject: P.U.D. 2-04

As a resident of Claron Glen I feel it is imperative that I voice my opinion regarding the rezoning of the area north of Timberline and Brooke Lane.

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Audrey B. Hewitt
990 Brooke Lane
Brookings, OR 97415

CITY OF BROOKINGS
Att: City Council
Planning Commission

received
9-17-04

EXHIBIT 2

Subject: P.U.D. 2-04

DOB

As a resident of Claron Glen I feel it is imperative that I voice my opinion regarding the rezoning of the area north of Timberline and Brooke Lane.

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Thomas + Lauri Ziemer

909 Timberline

Brookings, OR

469-3541

CITY OF BROOKINGS
Att: City Council
Planning Commission

received
9-17-04

EXHIBIT AA

Subject: P.U.D. 2-04

ARB

As a resident of Claron Glen I feel it is imperative that I voice my opinion regarding the rezoning of the area north of Timberline and Brooke Lane.

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Luanne Beaudette
928 3RD STREET
BROOKINGS, OR 94716

BEAUDETTE

CITY OF BROOKINGS
Att: City Council
Planning Commission

received
9-17-04
LDB

EXHIBIT 03

Subject: P.U.D. 2-04

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Let this letter, written testimony, be part of the written records of the meeting of 9-27-04.

Sincerely -

Tracy L. Sabon

9-16-04

TO: City Council of Brookings, OR re: PUD-2-04

Please consider the noted subjects prior to your decision.

General Conditions:

Sanitary Sewer and Storm Drainage Conditions

15. The sanitary sewer system connection will be made on Timberline Drive and will require a pump to bring sewage to that level. During prolonged power failures which do happen in this area will there be a generator on line to prevent any backup of the sewage? Any such backup could possibly have an adverse effect on Ransom Creek and its immediate beach frontage.*

Statement of the Criterion:

Goal 17 Coastal Shorelands – and – Goal 18 Beaches and Dunes

The statement is made the subject property is located one mile from any ocean shoreland, however it is less than one mile to the mouth of Ransom Creek, and any pollution of the creek could adversely effect the beach area. During deliberations of the Planning Commission Commissioner Collis stated since any possible pollution problems passed adjacent to existing homes and crossed Hwy 101 this is a mute point. Any pollution no matter where it comes from is still pollution.

Mr. Bob Lobdell of the Department of State Lands has asked ODFW and other state agencies to further determine the impact of the developers' proposals on the immediate area. Mr. Steve Major of ODFW feels the area under present development does contain some disturbed wetlands. The original plat map of the Claron Glen Phase 3 shows designated wetlands in the proposed development area.

Statement of the Criterion:

Sec, 140.050 C.3. The site for the proposed use relates to street and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use. In addition to the criteria listed have there been any recent on-site studies counting vehicular traffic already using the aforementioned streets? It would assuage some of the skepticism felt by present homeowners in the affected area to see more than the formulae and tables are alleging.



Final Order and Findings of Fact

2. D. Regarding the minimal adverse impact on adjoining properties even though the formula of 7 vehicular trips/household/day ($7 \times 36 = 252$) for the surrounding streets carrying this traffic could severely impact large portions of the adjoining properties

3. E The project is not compatible with the adjacent developments which does adversely affect the character of the area. They are all single family homes with a price range from \$275,000 to \$550,000.

Planning Director John Bischoff stated at the August 3 Planning Commission meeting that there is adequate room for fire trucks to turn around at the bottom of the driveway in the development, however it is my understanding during site meetings this was not viable.

*This is a very important part of the development, and it would be very helpful if the entire system is approved by the appropriate agencies prior to final approval by the Commission.

Thank you,

A handwritten signature in cursive script, appearing to read "Bill Boynton".

Bill Boynton
959 Timberline Drive



September 17th, 2004

Good afternoon,

"First-things-first"...I would like to express my thanks to each of you for your service to our fair community and for the work that you do to oversee and care for the our city. Brookings is a very special place and part of the reason is your service. So, as an owner of property on Brooke Lane, I am sending you this note of sincere thanks to each of you.

I regret that I will be unable to attend our council meeting on September 27th, 2004. Shortly, my son will be shipped to Kosovo and I have chosen to spend this time with him. I am sorry that I could not be with you. Please accept this note as a substitute for my appearance and make it a part of your written record for the evening.

I am interested and excited about the proposed Ransom Creek development. I have reviewed a number of projects that the Bruce Brother's have built, I spoke briefly with Mr. Noah Bruce and I have done a cursory review of the plans. I am sure that they will work to develop a project that is befitting the neighborhood and will serve our community.

Nonetheless, having reviewed the plans and spoken by phone with Assistant Planner, Diane Snow, I have a very deep and sincere concern over the project design for parking which could have a very negative impact on the neighborhood. Yet, even more important than the effect of this individual project is the long term consequence in our community of operating with an unrealistic and outdated code requirement for the minimum number of parking spaces per unit.

The current Brookings Development Code (92.040 A 2) requirement for minimum parking for any new development is 1.5 spaces per unit, yet:

- According to the 1990 US Census the average vehicles per household was 1.7, and
- in the "News", a 2002 document from the Bureau of Labor Statistics, the United States Department of Labor, (http://stats.bls.gov/ro3/fax_9325.htm), Table 1, indicates that the West, (Oregon) has an average of 2.0 vehicles per household.

Source	Parking or vehicles per unit	Estimated guest parking provision	Spaces needed per unit	Needed for 36 Units	Ransom Creek Proposal	+/-
2002 United States Department of Labor	2.0	(x .25)	2.5	90	71	(19)
1989 Brookings Code	1.5	0	1.5	48	71	23

"Whooooah...hold the horses!" Did I read that correctly?

The difference between reality and our Development Code requirement is 42 vehicle/spaces!

If my projections are correct our neighborhood(s) will suffer the consequences of the lack of available parking.

Well, shucks.

I am trying to project myself into your moccasins and the neighborhoods. For what it's worth, here is my review:

From the perspective of the City (Planners/Commissioners/Council)...

1. The minimum space requirement is woefully inadequate.
(In the words of Diane Snow, Assistant Planner, "...yes, I agree...this is something we need to look into.")
2. Nonetheless, the developer has met the minimum code requirements.
3. Therefore, *on this issue* the development should be approved.
4. And, the council and planning department should move swiftly to review and change the outdated, (1989), minimum parking expectations.

From the perspective of the neighborhood residents...

1. So, just what will happen to the overflow of vehicles at Ransom Creek?
 - Maybe they'll all gather together each evening in Fred Meyer's parking lot and car-pool home.
 - Or, maybe they'll all park at City Hall and call a cab.
 - Or, more likely, the extra cars will park on the nearby streets, Timberline and Brooke Lane...every night, every weekend and every holiday, for sure.

Looks like the Planning Department, the Planning Commission, the Council and, for sure, the immediate neighborhood is in a pickle.

I have considered this issue from the perspective of the developer/builder, the city and the neighborhood. I feel:

- the builder/developer should not be penalized for the outdated/inadequate code,
- the city should approve *on this issue* and work to correct the code shortcomings, and
- neither should the neighborhood be penalized for the outdated code expectations.

Once again, I do appreciate your work and the work of the city planning department as you address this problem. And, too, I appreciate the concerns of our neighborhood over the overflow parking. Further, I believe that their concerns should be respected and answered with a workable solution.

Therefore, in an attempt to find a workable solution to the concerns of the neighborhood, I would propose that the adjacent streets, Timberline and Brooke Lane, be posted, "Permit Parking Only" or "Restricted Parking, 2 hours." Thus, the concern of the immediate neighborhood could be assuaged by preventing long term, overflow parking.

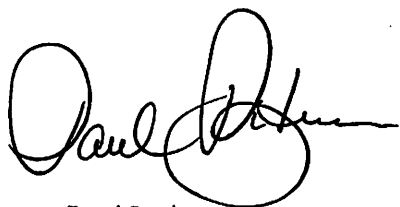
Clearly, the neighborhood should not be penalized for the inadequate parking provision requirements, nor should we let a Ransom Creek design flaw become a neighborhood problem. Let the design shortcomings stay within the development.

Many thanks for your listening to my thoughts.

If I can be of any help, please call at (541) 661-4304.

All the best to you.

Regards,

A handwritten signature in black ink, appearing to read "Paul Bustrum". The signature is stylized with large, flowing loops and a long horizontal stroke extending to the right.

Paul Bustrum

CITY OF BROOKINGS



STAFF REPORT

Date: September 20, 2004

To: Mayor Hagbom and City Council

Through: City Manager Leroy Blodgett

From: Paul Hughes, Finance Director

Subject: Council Chambers Sound System

BACKGROUND

The City of Brookings Fiscal Year 2004/05 budget includes funds to upgrade the sound system in the council chambers. The biggest issue with the current system is the inability of home viewers to hear the televised meetings. We received quotes from two local vendors on a new system which will improve the broadcast sound. Both vendors are recommending replacement of the sound mixer, microphone configuration, speakers and the addition of a DVD recorder. Both vendors also made some recommendations that the City could do on its own including, add more acoustical tile in the room and possibly hang some type of fabric material along the front of the council desk.

The quote from Diamond Communication includes equipment at \$6,509 and labor at \$1,150 for a total of \$7,659. The quote from Tim Patterson includes equipment at \$6,780 and labor at \$1,000 for a total of \$7,780. Both quotes are below the budgeted amount of \$10,000.

RECOMMENDATION

Staff recommends acceptance of the quote from Diamond Communications of \$7,659 to upgrade the sound system in the City Hall Council Chambers.



PO Box 1355
Brookings, OR 97415

August 11, 2004

Paul Hughes
Finance Director/City Recorder

I would like to thank you for giving my company the opportunity to bid on the new sound system for the counsel chambers. Enclosed you will find my bid which I believe is comprehensive and competitive.

1-Shure, SCM810 automatic eight channel mixer \$1700, 7-Shure MX418 gooseneck condenser desktop microphone (\$400) \$2800, 2-JBL Pro Series EON15 G2 self-powered Speakers each (\$500) \$1000.

Labor \$1000

Total Bid of \$6500.00

A few acoustical recommendations for the absorption of reflected sound waves;

1. carpet or drape fabric in front of counsel desk.
2. Fabric, drapes or hanging banner.
3. acoustical tile over brick.

Sincerely,

Kenneth Streacker

P.O. Box 1355 | BROOKINGS, OR | 97415
PHONE : 541-469-7518 | FAX : 541-412-7929
EMAIL : ken@diamondtelecom.com
www.diamondtelecom.com



PO Box 1355
Brookings, OR 97415

August 11, 2004

Paul Hughes
Finance Director/City Recorder

I would like to thank you for giving my company the opportunity to bid on the new sound system for the counsel chambers. Enclosed you will find my bid which I believe is comprehensive and competitive.

For recording and archival purposes of City Consol Chamber meetings, we are submitting the following bid.

1- Panasonic, DMR-T3040 DVD Recorder/Player, DV Input, 40 GB Hard Drive - Records to DVD-RAM and DVD-R Discs. Price \$859.00

Miscellaneous component wires and accessories \$150.00

Set-up and Labor \$150.00

Total Bid of \$1,159.00

Sincerely,

Kenneth Streacker

P.O. Box 1355 | BROOKINGS, OR | 97415
PHONE : 541-469-7518 | FAX : 541-412-7929
EMAIL : ken@diamondtelecom.com
www.diamondtelecom.com

Tim Patterson
PO Box 82
Brookings, OR 97415

September 9, 2004

Linda Barker
City of Brookings
Brookings, OR 97415

Dear Linda,

Re: Sound System, major Issues.

Issue: Eliminate feedback.

Solution: Mute various microphones when not in use, better control over the various input and output levels, especially the room speakers.

- Purchase new "power speakers" or relocate the current speakers.
- Purchase the Shure AMS-8100 automatic mixer and AMS microphones.
- It would be nice, although a bit difficult, to add acoustical wall materials in order to reduce the echo in the room.

Issue: DVD recording.

Solution: Purchase Panasonic T-3040 real time recorder.

Issue: Backup video and audio recording.

Solution: Purchase VHS video and audio and cassette recorder for audio.

Issue: Final audio signal level and video quality of DVD-VHS-Charter.

Solution: Purchase a new mixer, audio-video amps, and a compressor in order to better control the audio and video signal level.

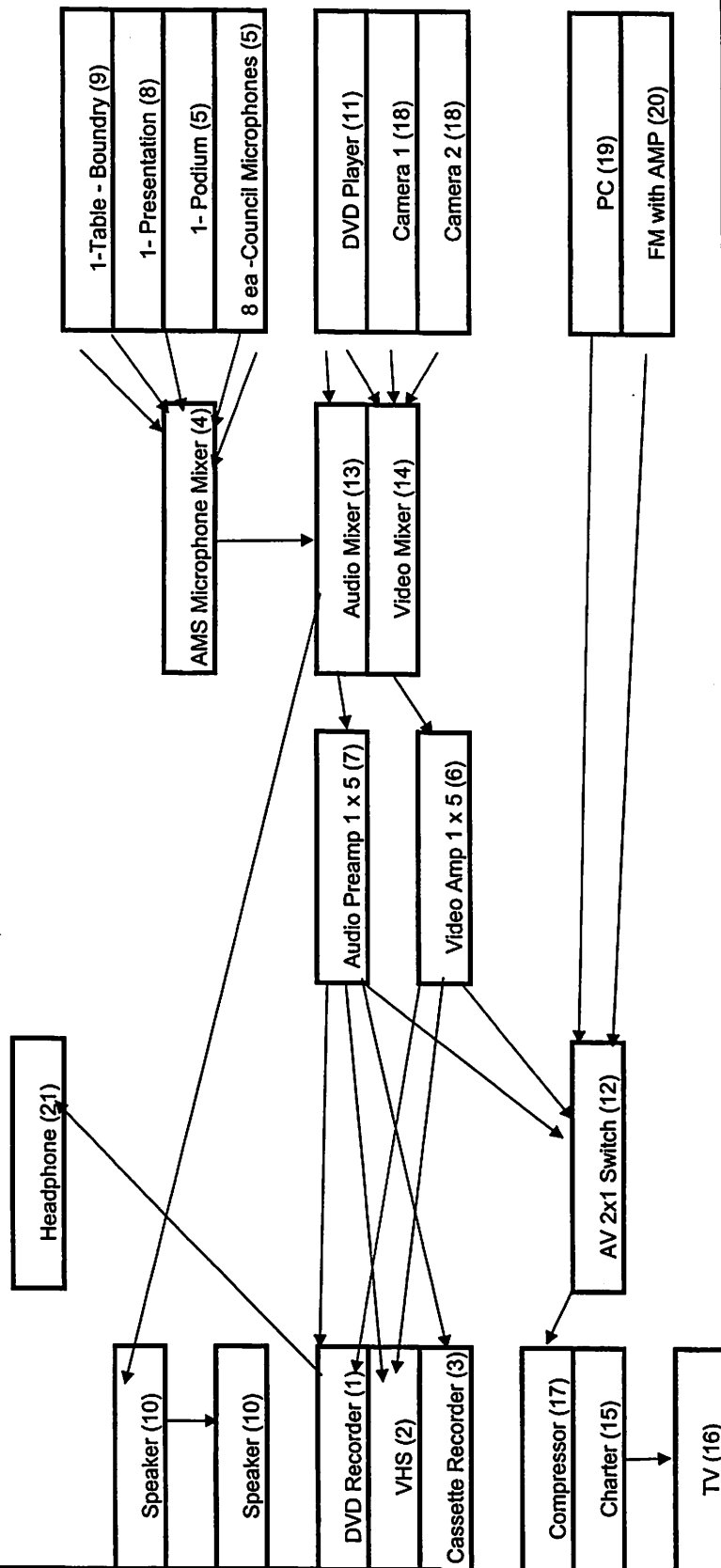
Note: While a replacement of the current system will result in a greatly improved system, the current system should be adequate. That is, there is likely some repairable issue with the current system. However, the benefits of the AMS microphone system are enough to warrant its installation even if nothing else is done.

Other: The AMS mixer handles eight mics per unit, in order not to add \$1460 to the price, I have provided that the additional mics would be handled by the Behringer mixer. This will result in some compromises and should be discussed.

Financial: City directly purchases equipment in order to have direct control over warranties. Consulting and installation fee \$1000.

Sincerely,

Brookings Council Chambers



Item #	Model	Web	Price	Each	Total
1	Panasonic T-3040	http://shopping.yahoo.com/p:Panasonic DMR-T3040 DVD Recorder:1991329862:page=details	860.00	1	860.00
2	VHS Svideo Pro	http://www.bhphotovideo.com/bnh/controller/home?A=details&index=Y&kw=PAAG3200&is=REG&Q=&O=productlist&sku=271429	309.00	1	309.00
3	Cassette Recorder Duel	http://www.bhphotovideo.com/bnh/controller/home?O=productlist&A=details&Q=&sku=75908&is=REG	319.00	1	319.00
4	Shure AMS 8100 Mixer	http://www.shure.com/mixers/installed/ams/default.asp	1460.00	1	1460.00
5	Shure AMS 24	http://www.shure.com/mixers/installed/ams/default.asp	254.00	1	254.00
6	Video Amp Horita	http://www.tecnec.com/Product.asp?baseItem=VDA%2D50&cat=VIDEOEQUIP&subcat=&prodClass=VIDEODA&mfg=Horita&search=0&off=	209.00	1	209.00
7	Audio Amp	http://www.avtoolbox.com/k105a.shtml	159.00	1	159.00
8	Shure LX13/18 Remote	http://www.shure.com/wireless/lx/default.asp	590.00	1	590.00
9	Shure ams-22 Boundry	http://www.shure.com/mixers/installed/ams/default.asp	224.00	8	1792.00
10	Speakers Powered	http://www.zzounds.com/item--FOS6301BEAV	150.00	2	300.00
11	DVD Player	Cheap Sony	60.00	1	60.00
12	AV Switch 4 x 1	http://www.avtoolbox.com/avt5144.shtml	99.00	1	99.00
13	Audio Mixer Behringer	http://www.zotzdigital.com/item.php?cid=6&pid=1015	169.00	1	169.00
14	Video Mixer	Use existing	0.00	1	0.00
15	Cable Connection	Use Charter	0.00	1	0.00
16	TV	Use existing	0.00	1	0.00
17	Compressor Alesis 3630	http://www.sweetwater.com/store/detail/3630	100.00	1	100.00
18	Video Cameras	Use existing	0.00	1	0.00
19	PC	Use existing	0.00	1	0.00
20	FM players	Use existing	0.00	1	0.00
21	Sennheiser Headphone HD 280	http://www.bhphotovideo.com/bnh/controller/home?O=productlist&A=details&Q=&sku=240764&is=REG	100.00	1	100.00
Totals					6780.00

**CITY OF BROOKINGS
COMMON COUNCIL MEETING MINUTES
City Hall Council Chambers
898 Elk Drive, Brookings, OR 97415
September 13, 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 Ex Officio Councilor Wes Enos

III. Roll Call

Council Present: Mayor Bob Hagbom, Council President Rick Dentino, Councilors Frances Johns Kern, Craig Mickelson, and Larry Anderson, Ex Officio Councilor Wes Enos, a quorum present.

Council Absent: None

Staff Present:

City Manager Leroy Blodgett, City Attorney John Trew, Community Development Director Leo Lightle, City Planner John Bischoff, Pool Supervisor Jeanne Nelson, and Administrative Secretary Linda Barker.

Media Present: Curry Coastal Pilot Reporter Brian Bullock

Other:

Chamber of Commerce President Les Cohen and approximately 60 other citizens

IV. Ceremonies/Appointments/Announcements

A. Ceremonies

1. Proclamation—Fall Clean-up Time in Brookings-Harbor

Pete Smart accepted a proclamation declaring the months of September and October as Fall Clean Up Time in Brookings Harbor.

2. Proclamation—National Emblem Club Week

Six members of the Emblem Club accepted a proclamation declaring the week of September 12 through 18 as National Emblem Club Week.

B. Announcements

1. Yard of the Month/Most Improved Property for September

Winners for September Yard of the Month were Cathleen and Robert Wollam at 317 Birch Street. LaDonna and Dave Osburn were awarded the Most Improved Property honor for September. These are the last awards for this season.

V. Oral Requests and Communications from the Audience

A. Committee and Liaison reports

1. Chamber of Commerce

2. Council Liaisons

In interest of time Chamber President Les Cohen and the Councilors asked that their reports be made at the next meeting. Mayor Hagbom accepted this offer.

- B. *Unscheduled*
None

VI. **Staff Reports**

A. *Community Development Department*

1. *Approval of bids for Fifth Street Intersection with Elk Drive*

Community Development Director Lightle said the City advertised for bids for Fifth and Elk Streets sidewalk and street improvements. The low, and only, bidder was John Rapraeger in the amount of \$51,246.25.

Councilor Anderson moved, a second followed, and the Council voted unanimously to award the Fifth and Elk Streets sidewalk and street improvement project to John D. Rapraeger, Inc. in the amount of \$51,246.25.

2. *Approval of bids for Chetco Avenue Water Distribution Project, Schedule C*

Community Development Director Lightle reviewed the bid process for the Chetco Avenue Sanitary Sewer and Water Distribution Improvements Part II projects Schedules A, B, B alternate, and C. He said two bids were received on Schedule C, the waterline portion of the project from Pacific to Fern avenues. The low bidder was McLennan Contractors in the amount of \$158,109.35. He added the City will be re-advertising the other schedules.

Councilor Dentino moved, a second followed, and the Council voted unanimously to award the Chetco Avenue Water Distribution Project, Schedule C to McLennan Contractors in the amount of \$158,109.35.

3. *Acceptance of dedication deed for right-of-way for construction of Lucky Lane*

Community Development Director Lightle asked the Council to accept a dedication deed for street right-of-way on a new proposed street located on the north side of Highway 101 (Chetco Avenue) at the west side of the Westward Motel and the Econo-Wash Laundromat. Lightle said that although the grantors had given the street a name, Lucky Lane, this had not been approved by the Planning Commission as the City's ordinance states and this will have to be done.

Councilor Dentino moved, a second followed, and the Council voted unanimously to accept the dedication deed for right-of-way for a proposed new street located on the north side of Highway 101 (Chetco Avenue) at the west side of the Westward Motel and the Econo-Wash Laundromat. Grantors are Jerry and Janet Norman; Richard Wilson, George and Rebecca Watwood and Dorothy Deck.

B. **City Manager**

1. *Swimming Pool Improvements*

Pool Supervisor Jeanne Nelson explained that the proposed contract with Emerald Pools, Eugene Oregon, is for basically the same work as was done at the last pool resurfacing, but a lot more items are included in the current proposal for the same money.

Councilor Mickelson moved, a second followed, and the Council voted unanimously to award a contract to Emerald Swimming Pools of Oregon, Inc., for resurfacing and tile replacement for the Brookings Swimming Pool in the amount of \$98,100.

2. *Other*
None

VII. Public Hearing

Mayor Hagbom introduced the public hearing section of the agenda. City Attorney Trew read rules and procedures into the record saying the rules apply to both hearings to be heard at this meeting.

- A. *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.*

Mayor Hagbom opened the public hearing at 7:21 p.m. No Councilor declared ex parte contact, personal bias or interest. There was no objection raised to the jurisdiction of the Council to hear the matter.

Planning Director Bischoff presented the staff report, recommending approval to the City Council from both staff and the Planning Commission.

Testifying before the Council on the matter was:

Jim Reynolds	15780 Pelican Bay Drive	applicant
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There were no questions to the applicant from the Council. No one spoke as proponent, opponent or as an interested party or public agency. The hearing was closed to public testimony at 7:31 p.m.

Councilor Dentino moved, a second followed and the Council voted unanimously to approve Planning Commission File No. CPZ-3-04 and to direct staff to prepare a Final ORDER and Finding of Fact and an Ordinance to amend the Comprehensive Plan.

- B. *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 Ferrello 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*

Mayor Hagbom opened the public hearing at 7:34 p.m. Councilor Mickelson declared he attended the Planning Commission meeting as Council liaison when this file was heard. No other Councilor had ex parte contact. No councilor declared personal bias or interest. There was no opposition to the jurisdiction of the Council to hear the matter. Mayor Hagbom read hearing procedures into the record.

Planning Director Bischoff presented the staff report. During his report there was a brief recess when staff was notified the audio portion of the televised hearing was not going out. After adjustments to the system the meeting reconvened at 7:46 p.m. Bischoff said the Planning Commission recommended approval of the master plan with the conditions that were printed and included in the Council packet.

U. S. Borax representative Burton Weast introduced his technical team of Dennis Boyle, U. S. Borax; Steve Dixon, OTAK; Chris Wright, Raedeke Associates, Inc.; Bob Vaught, OTAK; Scott Mansur, DKS Associates; Marty Stiven, Western Advocates; and Tim Ramos, legal counsel. Weast gave a PowerPoint presentation overview of the project and his technical team addressed specific concerns. Council asked questions of the presenters.

Testifying in support of the application were:

Steve Kridelbaugh, President SWOCC	1980 Newmark	Coos Bay OR
Chuck Schlumberger	17741 Hwy 101	Brookings OR
Peggy Goergen, Associate Dean SWOCC	PO Box 2506	Harbor, OR
Les Cohen, President, Brookings-Harbor Chamber of Commerce	PO Box 940	Brookings OR
Don Mitchell	423 Buena Vista Loop	Brookings OR
Ron Wimberley	PO Box 3000F	Harbor OR

The meeting recessed at 9:35 p.m. and reconvened at 9:47 p.m.

Testifying in opposition to the proposal were:

Catherine Wiley	96370 Duley Creek	Brookings OR
Bischoff requested a point of order on whether artifacts Wiley presented during her testimony should be held as exhibits. Wiley said a picture of the artifacts could be taken but she was not leaving them. City Attorney Trew said the exhibits had not been offered.		
Judy Kaplan	PO Box 4187	Brookings OR
Kaplan read a letter from Yvonne Maitland who was out of town.		
Pete Chasar	935 Marina Heights	Brookings OR
Chasar requested seven days to provide information.		
Bill Smith	820 Highland Avenue	Brookings OR
Pat Russell, League of Women Voters	PO Box 1174	Brookings OR
Richard Brooks	PO Box 174	Smith River CA
Karen Clark	311 Winchuck River Road	Brookings OR
In response to statements made by Clark, for the record, Councilors Dentino, Anderson and Mickelson said they have not received any campaign funds from Borax.		
Brock Richards	250 North Indian Road	Smith River CA

Testifying as Interested Parties were:

Lucie LaBonte 98645 Agness Road

Gold Beach OR

David Imper, U. S. Fish and Wildlife Service

1655 Heindon Road

Arcata CA

Bill Dundom

PO Box 1502

Brookings OR

The applicant offered rebuttal and staff said they had no further comments.

Mayor Hagbom asked if any participant requested the opportunity for additional time to submit written testimony. Chasar and Imper each requested seven additional days. Hagbom closed the hearing to public testimony at 10:59 p.m. The record will be held open until September 20 to allow Chasar and Imper to submit additional written testimony. The applicant will have seven days to respond. Applicant deadline is September 27 and the Council will deliberate the issue on October 11. The public hearing was recessed until 7:00 p.m., October 11.

VIII. Consent Calendar

- A. *Approval of Council Meeting Minutes*
 - 1. *Minutes of August 23, 2004, regular Council meeting*
 - B. *Acceptance of Parks and Recreation Commission Minutes*
 - 1. *Minutes of June 24, 2004, regular Commission meeting*
 - C. *Acceptance of Planning Commission Minutes*
 - 1. *Minutes of July 27, 2004, special Commission meeting*
 - 2. *Minutes of August 3, 2004, regular Commission meeting*
 - D. *Approval of Vouchers for month of August, 2004, (\$639,459.92)*
- End Consent Calendar*

Councilor Mickelson moved, a second followed, and the Council voted unanimously to approve the Consent Calendar as published.

IX. Ordinances/Resolutions/Final Orders

- A. *Final Orders*
 - 1. *In the matter of Planning Commission File No. CPZ-3-04; application for a zone change; William Sewell/George and Letty Lee, applicants.*

Councilor Anderson moved, a second followed, and the Council voted unanimously to approve the Final ORDER and Findings of Fact for Planning Commission File No. CPZ-3-04, 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.

- B. *Ordinances*
 - 1. *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)*

City Manager Blodgett read Ordinance No. 04-O-564 in its entirety.

Councilor Dentino moved, a second followed, and the Council voted unanimously to allow the second reading of Ordinance No. 04-O-564 to be by title only.

City Manager Blodgett read Ordinance No. 04-O-564 by title only.

Councilor Mickelson moved, a second followed, and the Council voted unanimously to adopt 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 Pak) to C-3 (General Commercial).

X. Remarks from Mayor and Councilors

- A. *Council*
None
- B. *Mayor*
None

XI. Adjournment

Mayor Hagbom moved to adjourn at 11:08 p.m. With no further business before it, the Council adjourned the meeting.

Respectfully submitted:

Bob Hagbom
Mayor

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

Paul Hughes
Finance Director/City Recorder

CITY OF BROOKINGS



STAFF REPORT

Date: September 23, 2004
To: Mayor Hagbom & City Councilors
From: Leroy Blodgett, City Manager
Subject: Electric Franchise Amendment

REPORT

Included in the council packet is letter written to Coos Curry Electric requesting an amendment to the Electric Franchise Ordinance Agreement. The purpose of the request is to update the Ordinance to the current level of street lights and population including the 9 street lights added on the Dot Martin Bridge. Coos Curry Electric had agreed to pay for the power and maintenance of the 9 lights on the bridge, however, there was never any formal agreement to do so. The proposed amendment resolves that and other issues.

Coos Curry Electric staff has reviewed and agreed to the proposed amendment.

STAFF RECOMMENDATION

Approve the proposed Ordinance amendment.

CITY OF BROOKINGS



September 13, 2004

Mr. Lauren Porsch
District Manager
Coo-Curry Electric Cooperative, Inc.
P.O. Box 819
Brookings, OR 97415

FILE COPY

Re: Franchise Agreement Amendment

Dear Mr. Porsch:

In December, 2002 the City of Brookings and Coos-Curry Electric Cooperative entered into the attached 20-year Franchise Agreement. Since that time population has changed and street lights added, plus 9 new street lights on the Dot Martin Bridge which crosses the Chetco River.

Section 12 of the Agreement allows for renegotiation of the franchise. Due to the population street light changes the City is requesting renegotiation of Section 4 of the agreement. Since 2002 the certified population has increased from 5680 to 5765. There are currently 270 street lights, up from 266, not including the 9 lights on the bridge on the Franchise.

The new language proposed by the City is as follows:

Section 4. Cooperative to furnish street lights without charge. In consideration of the granting of said franchise, the Cooperative shall furnish the City, without charge, 270 street lights plus 9 street lights on the Dot Martin Bridge, with wattage not to exceed 200 watts, including installation, maintenance, replacement of bulbs, and electric energy for operation of same. It is understood that more than this number of street lights may now be in operation within the City; and the remaining lights and all additional lights installed hereinafter in excess of 279 shall be upon the customary contractual basis; provided however, that the said 279 lights are furnished based on a theoretical population of the City of 5765 persons, then and at the time, the Cooperative shall furnish one additional light as the City may designate for each increase of 21 persons over said theoretical population of 5765 persons.

Please let me know if this language is acceptable. If so, I will have an amending ordinance prepared for City Council consideration at their regular scheduled meeting on September 27, 2004.

Sincerely,

Leroy Blodgett
City Manager

**IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON**

In the Matter of an Ordinance amending)	
Ordinance No. 02-O-555, an Ordinance)	
granting a 20-year franchise to Coos-Curry)	
Electric Cooperative, Inc. for the operation of)	
an electric power transmission distribution)	
system within the City of Brookings;)	Ordinance No. 04-O-555.A
prescribing the terms, conditions and manner)	
of the acceptance of such franchise; repealing)	
Ordinance No. 83-O-368.)	
)	

Sections:

Section 1	Title
Section 2	Adoption

The City of Brookings ordains as follows:

- Section 1. Title This Ordinance shall be known as Ordinance No. 04-O-555.A, amending the Ordinance of the electric power transmission distribution system franchise between the City of Brookings, Oregon and Coos-Curry Electric Cooperative, Inc.
- Section 2. Adoption: Section 4 of Ordinance No. 02-O-555 is hereby amended to read:
- Section 4. Cooperative to furnish street lights without charge. In consideration of the granting of said franchise, the Cooperative shall furnish the City, without charge, 270 street lights plus 9 street lights on the Dot Martin Bridge, with wattage not to exceed 200 watts, including installation, maintenance, replacement of bulbs, and electric energy for operation of same. It is understood that more than this number of street lights may now be in operation within the City; and the remaining lights and all additional lights installed hereinafter in excess of 279 shall be upon the customary contractual basis; provided however, that the said 279 lights are furnished based on a theoretical population of the city of 5,765 persons, then and at the time, the Cooperative shall furnish one additional light as the City may designate for each increase of 21 persons over said theoretical population of 5,765 persons.

First Reading: _____

Second Reading: _____

Passage: _____

Effective Date: _____

Signed by me in authentication of its passage ____ this ____ day of
September, 2004.

Bob Hagbom
MAYOR

ATTEST:

Paul Hughes
City Finance Director/Recorder

BUILDING DEPARTMENT ACTIVITIES SUMMARY

For the Month of: **August 2004**

No.	Building	Permit Fee	Plan Check Fee	Surcharge	SDF's	Value Current Month	No. to Date	Total to Date	No. Last Yr	Total Last Year
2	Single Family Dwelling	\$1,526.00	\$991.90	\$106.82	\$15,758.00	\$482,713.00	31	\$6,843,955.00	29	\$5,453,939.00
5	Single Family Addition	\$516.50	\$335.75	\$36.16	\$0.00	\$68,331.00	25	\$593,968.00	23	\$598,698.64
2	Single Family Garage-Carport	\$179.00	\$116.36	\$12.53	\$0.00	\$21,922.00	9	\$200,850.00	11	\$121,094.20
0	Two Family Residential	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	5	\$1,739,900.00	4	\$1,263,965.00
0	Multi-Family Residential Apts	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	1	\$0.00	0	\$0.00
0	Commercial New	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	1	\$124,416.13	9	\$1,722,126.00
1	Commercial Addition-Change	\$269.50	\$175.18	\$18.87	\$0.00	\$47,000.00	12	\$226,464.00	12	\$342,634.00
0	Churches	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	3	\$439,000.00	1	\$5,000.00
0	School Repair-Addition	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	3	\$10,542,307.00
0	Building Removal	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	2	\$0.00	1	\$0.00
6	Misc.-Retaining Wall-Fence	\$914.50	\$594.44	\$64.02	\$0.00	\$184,280.00	8	\$192,430.00	1	\$10,900.00
16	Total Building Permits	\$3,405.50	\$2,213.63	\$238.40	\$15,758.00	\$784,246.00	97	\$10,360,983.13	94	\$20,060,663.84
7	Mechanical Permits	\$144.25	N/A	\$10.10	N/A	N/A	77	N/A	62	N/A
3	Plumbing Permits	\$190.40	N/A	\$13.33	\$6,700.00	N/A	37	N/A	39	N/A
0	Mfg Home Install - Permit Fee	\$0.00	N/A	\$0.00	N/A	N/A	1	N/A	0	N/A
0	Mfg Home Install - Administrative Fee	\$0.00	N/A	N/A	N/A	N/A	1	N/A	0	N/A
26	TOTAL PERMITS	\$3,740.15	\$2,213.63	\$261.83	\$22,458.00	N/A	213	N/A	195	N/A
	Total Year to Date Calculated Fees	\$41,179.07	\$28,653.15	\$2,910.46	\$315,844.00					
	2003 YTD Calculated Fees	\$65,667.35	\$52,863.35	\$4,596.72	\$171,461.00					

URBAN RENEWAL DISTRICT - BUILDING DEPARTMENT ACTIVITIES SUMMARY

For the Month of: August 2004

No.	Building	Permit Fee	Plan Check Fee	Surcharge	SDF's	Value Current Month	No. to Date	Total to Date	No. Last Yr	Total Last Year
0	Single Family Dwelling	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	2	\$706,336.00	4	\$1,500,229.00
0	Single Family Addition	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	2	\$17,288.00	0	\$0.00
0	Single Family Garage-Carport	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	1	\$33,510.00	1	\$7,140.00
0	Two Family Residential	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	1	\$264,636.00	0	\$0.00
0	Multi-Family Residential Apts	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	0	\$0.00
0	Commercial New	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	1	\$124,416.13	4	\$202,663.00
0	Commercial Addition-Change	\$269.50	\$175.18	\$18.87	\$0.00	\$47,000.00	9	\$110,564.00	11	\$604,913.00
0	Churches	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	2	\$439,000.00	0	\$0.00
0	School Repair-Addition	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	0	\$0.00
0	School Removal	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	0	\$0.00
1	Building Repair-Addition	\$328.00	\$213.20	\$22.86	\$0.00	\$65,000.00	1	\$65,000.00	0	\$0.00
1	Misc.-Retaining Wall-Fence	\$328.00	\$213.20	\$22.86	\$0.00	\$65,000.00	1	\$65,000.00	0	\$0.00
2	Total Building Permits	\$597.50	\$388.38	\$41.83	\$0.00	\$112,000.00	19	\$1,760,750.13	20	\$2,314,945.00
0	Mechanical Permits	\$0.00	N/A	\$0.00	N/A	N/A	8	N/A	7	N/A
0	Plumbing Permits	\$0.00	N/A	\$0.00	N/A	N/A	3	N/A	5	N/A
0	Mfg Home Install - Permit Fee	\$0.00	N/A	\$0.00	N/A	N/A	0	N/A	0	N/A
0	Mfg Home Install - Administrative Fee	\$0.00	N/A	N/A	N/A	N/A	0	N/A	0	N/A
2	TOTAL PERMITS	\$597.50	\$388.38	\$41.83	\$0.00	\$112,000.00	30	\$1,760,750.13	32	\$2,314,945.00
	Total Year to Date Calculated Fees	\$6,542.55	\$4,566.31	\$457.98	\$44,284.00					
	2003 YTD Calculated Fees	\$8,204.85	\$5,396.66	\$574.34	\$19,639.24					