

Agenda

City of Brookings
Common Council Meeting
Brookings City Hall Council Chambers
898 Elk Drive, Brookings Oregon
October 25, 2004 7:00 p.m.

- I. Call to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. Scheduled Public Appearances
 - A. Kathy Hafterson-report of Summer Recreation Program
- V. Oral Requests and Communications from the Audience
 - A. Committee and Liaison reports
 - 1. Council Liaisons
 - 2. Chamber of Commerce
 - B. Unscheduled
- VI. Public Hearing
 - A. Continuation 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 5]
 - B. Planning Commission File No. APP-3-04, an appeal of the Planning Commission's approval of a variance to allow a 5 foot side yard setback for a building on a flag lot within the R-1-6 (Single Family Residential 6,000 sq. ft. minimum lot size) Zone; Brian Woosley, applicant, Patrick and Susan Dodgen, appellant [page 7]
- VII. Staff Reports
 - A. Fire Department
 - 1. Open burning regulations [page 21]

- B. Community Development Department
 - 1. Award contract for street and parking lot boring at Wastewater Treatment Plant [page 23]
 - 2. Award contract for a mixing blower for 2 million gallon Biosolids tank [page 25]
- C. City Manager
 - 1. November - December City Council meeting dates [page 27]
 - 2. Fiber Optics Connection [page 29]
 - 3. Other

VIII. Consent Calendar

- A. Approval of Council Meeting Minutes
 - 1. Council Meeting Minutes of October 11, 2004 [page 39]

End Consent Calendar

IX. Ordinances/Resolutions/Final Orders

- A. Final Orders
 - 1. Final ORDER and Findings of Fact—In the matter of Planning Commission File No. MPD-1-04, a request for a Master Plan of Development; U.S. Borax, applicant [page 47]
- B. Ordinances
 - 1. Ordinance No. 04-O-565—In the matter of an Ordinance amending the Comprehensive Plan of the City of Brookings to incorporate the Lone Ranch Master Plan into Goal 14 as a separately bound document of the Plan [page 95]

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

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					October 1	2
					CTR Free Yard Debris Pick Up	Farmers Markets on Frontage Road 9:00am Litter Olympics 2004-Jan Williams-412-9499-City Hall Parking Lot
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 M 9:30am KURY Radio Community Focus Talk Show w/City 3:00pm CC-Leo 7:00pm CC-Planning Commssn	9:00am CC-Leo, Joe--Water testing 10:00am CC-Preconstruction 12:00pm Commity Agencies mtg 2:00pm CC-Bid 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	2:00pm CC-Downtown Subcommittee-Ed Wait	
10	11	12	13	14	15	16
	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) 1:30pm CC-Pre-construction meeting-Leo 6:00pm CC-ODOT-Mike Baker-541-957-3658	1:30pm CC-ARCView-Jim Relaford 2:30pm FH-Safety Committee-Kathy Dunn	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 M 9:30am KURY Radio Community Focus Talk Show w/City 10:00am FH-Surburban Fire 1:00pm CC-Larry Anderson- 7:00pm CC-Continuation of	9:30am CC-Ken Streaker-new sound system-469-7518 (Council Chambers) 10:00am CC Site Comm 2:00pm CC - Leo: Bruce Bros	8:15am CC-CmtyDevDpt Staff mtg/LLightle 10:00am CC- Site Plan Com Mtg/LauraLee Gray 2:00pm CC-CEP (Citizens for Emergency Preparedness): JRupert-469-7873		
24	25	26	27	28	29	30
	2:30pm CC-Joint meeting with School District, Red Cross Disaster team, City--Chief 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) 1:00pm CC-Asante meeting	8:00am CC-Installation of Sound System 5:00pm CC-Police Training-Jeff Johnson-251-0407	CC-hold for Installation of Sound Syste 8:15am CC-CmtyDevDpt Staff mtg/LLightle 10:00am CC- Site Plan Com Mtg/LauraLee Gray 7:00pm CC-Parks & Rec Comm/		
31						

City of Brookings
Events Calendar

November 2004

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

Sunday	Monday November 1	Tuesday 2	Wednesday 3	Thursday 4	Friday 5	Saturday 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)	2:00pm CC-EDC Downtown subcommittee meeting-	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 Walt, 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 Walt	8:00am City Hall CLOSED - Thanksgiving Holiday 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)				

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



Issue: Ransom Creek PUD appeal.

Background: The Planning Commission approved the application for 36 condominium units within six buildings on a 9.02 acre parcel at its August 3, 2004 meeting. This approval was appealed to the City Council.

At its meeting of September 27, 2004 the Council closed the public hearing for the appeal and left the record open for seven days for additional written testimony. No additional material was received within the seven days and thus there is no response from the applicant.

Please bring your materials concerning this case to the October 25, 2004 meeting.

Recommendation: The Planning Commission approved the application on August 3, 2004.

Bruce Bros. Inc.
P.O. Box 61
Brookings, OR 97415
CCB # 108497 (541) 469-9210

RECEIVED
OCT 7 - 2004
CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

City of Brookings / City Council
c/o Planning/Building Department
898 Elk Drive
Brookings, OR 97415

October 7, 2004

APP-2-02

RE: Extension of Record- Ransom Creek PUD

Dear Cathy,

Pursuant to the City Council hearing concerning the appeal of the approval for this project, the record was to remain open as instructed by City Attorney Trew for 7 days to allow Ms. Hodges to submit a letter she stated was forthcoming from the AG's office. Yesterday, while at your office I inquired if any further documentation had been submitted regarding this matter. I was informed no additional material had been submitted prior to the deadline. Subsequently, the 7 day period provided to the applicant for a rebuttal response appears mute. By this letter, we believe the record to be closed with no item on the table to respond to. Other than this letter, we will not be submitting any further response.

Please contact our office immediately if any information contained herein is incorrect. Otherwise, please retain this letter for the file.

Thank you so much for your assistance with this matter.

Respectfully,



Richard Wise
Applicant

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



Issue: An appeal of the Planning Commissions approval of a variance to allow a 5 foot side yard setback for a building on a flag lot within the R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) Zone.

Background: This variance was the result of a staff error that allowed a garage building to be constructed within 5 feet of a property line on a flag lot. The Land Development Code requires a 10 foot setback on all sides when building on a flag lot. The Planning Commission reviewed and approved the request for a variance to mitigate the error. The neighbor adjoining the rear of the subject property is appealing the Commission's approval.

The staff report with more detail concerning this application is attached.

Recommendation: The Planning Commission approved the variance at its September 7, 2004 meeting.

CITY OF BROOKINGS PLANNING COMMISSION
STAFF AGENDA REPORT

SUBJECT: Variance
FILE NO: VAR-3-04
HEARING DATE: September 7, 2004

REPORT DATE: August 16, 2004
ITEM NO: 8.1

GENERAL INFORMATION

APPLICANT: Brian Woosley.
REPRESENTATIVE: None.
REQUEST: A variance to allow a side yard setback of 5 feet in lieu of the required 10 feet for a garage building.
TOTAL LAND AREA: 0.30 acres (13, 068 sq. ft.±).
LOCATION: On the north side of Easy St. approximately 240 feet west of Fifth St. More specifically, 912 Easy St.
ASSESSOR'S NUMBER: 41-13-6AB, Tax Lot 1500.

ZONING / COMPREHENSIVE PLAN INFORMATION

EXISTING: R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size)
PROPOSED: Same.
SURROUNDING: West and North-R-1-6; East-R-2 (Two Family Residential); directly South-R-3 (Multiple Family Residential) and then R-1-6 to the west.
COMP. PLAN: Residential.

LAND USE INFORMATION

EXISTING: Single family home and detached garage.
PROPOSED: Same with setback variance for garage.
SURROUNDING: Residential development appropriate for the underlying zone.
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 0.30 acre or 13,068 sq. ft.± flag lot located on the north side of Easy St. approximately 240 feet west of Fifth St. The property has 15 feet of frontage on Fifth St. and a westerly property line that extends 204.99 feet then jogs east for 5 feet and then north again for 80.81 feet. The northerly property line 90.06 feet and the easterly line is 112.50 feet then turns west for 80.06 feet then south again for 172.24 feet back to Easy St. The property contains a single family house and a partially constructed detached garage located in the northwesterly corner of the property. The subject lot was created in a minor partition approved in October 1998. A lot line adjustment in 1995 created the 5-foot jog in the westerly property line.

The property is zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) as is the area to the direct north and to the west. The area to the east is zoned R-2 (Two Family Residential) and includes the first tier of lots along the west side of Fifth St. and east. The area directly to the south is zoned R-3 (Multiple Family Residential) for the first lot in the southwest corner of Easy and Fifth Sts. and then R-1-6 to the west of that. Each surrounding area is developed according to the underlying zones.

Topographically the subject property has a slight downward slope from north to south except in the northwest corner, which is a high point that slopes into the lot on the south and east like a small knoll. Easy St. is a paved travel way within a 50 foot wide right-of-way with a curb and gutter on both sides and a sidewalk on the south side. Water and sewer service is available to the property.

PROPOSED VARIANCE

A little over two years ago the applicant obtained a building permit to construct the detached garage on the subject property. At that time the fact that the lot was a flag lot apparently was not noticed and the permit was approved allowing the setbacks to be five feet as for a non-flag lot. The required setback for construction on a flag lot is 10 feet on all sides with no additional requirement for building height. The garage is built into the knoll or bank in the northwest corner of the lot and at the northerly and westerly side of the structure the first 8 feet of the wall are only slightly (6 inches) above grade level. The structure has an attic storage area with side walls that extends 4 ½ feet above the first level and then a peaked roof. The garage will be 24 feet by 24 feet and the three lower level walls are poured concrete.

The applicant has removed 5 feet of the attic adjacent to the northerly property line, essentially causing the building to meet the required 10 foot setback from the rear or north boundary. The applicant is requesting a variance to allow the 5 foot setback from the westerly property line.

ANALYSIS

The Planning Commission must consider the following criteria when deciding on applications for a variance:

1. Exceptional or extraordinary conditions applying to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography or other circumstances over which the applicant has no control, and to which the applicant has not contributed.

2. The variance is necessary for the preservation of the property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity.
3. The authorization of the variance shall not be materially detrimental to the purpose of this code, be injurious to property in the same zone or vicinity in which the property is located or by otherwise detrimental to the objectives of any city development plan or policy.
4. The variance request is the minimum variance from the provisions and standards of this code, which will alleviate the hardship.

The following is staff's analysis of the proposed variance in relation to the criteria cited above.

Criterion 1, Exceptional Circumstance.

In this particular case the hardship or exceptional circumstance is the fact that when approved the lot was not recognized as being a flag lot and the building permit was issued with that 5 foot setbacks. Construction has been slow and the problem was not brought to light until the trusses were placed on the roof. Since this was a staff oversight, it is a circumstance that is beyond the applicant's control.

Criterion 2, Preservation of A Property Right.

The preservation of a property right fall into the same category as the exceptional circumstance. This was an oversight that allowed the building to be constructed with wrong setbacks; to cause the building to be removed and rebuilt would a disruption of the applicant's property. If the lot were not a flag lot, the garage in question could be located with the existing 5 foot setback. The adjoining neighbor on the west has no problem with the requested variance.

Criterion 3, Affect On City Ordinances.

Since this was an oversight of staff, granting the ordinance will not have a detrimental impact on the various city ordinances.

Criterion 4, Minimum Variance.

The requested 5 foot variance is the minimum variance that will resolve the situation.

FINDINGS

1. The applicant is requesting a variance to allow a detached garage to be located on a flag lot with a 5 foot side yard setback.
2. Section 112, Rear Yard Development of the Land Development Code, requires buildings on a flag lot to have a minimum setback of 10 feet from all property lines.
3. The applicant received a building permit for the garage in June of 2002. At that time the fact that the lot was a flag lot was not recognized when the building permit application was reviewed.
4. In a non-flag lot in the R-1-6 Zone the side yard setback for the garage would be 5 feet.

5. Construction of the garage has been slow and the oversight of the improper side yard was not discovered until the roof trusses were put in place.
6. Three of the lower walls are poured concrete and two sides are substantially below grade.

CONCLUSIONS

1. The hardship or extraordinary circumstance in this case is the fact that an oversight occurred in the review of the building permit, allowing the improper setback. This is a circumstance that is beyond the applicant's control and he proceeded to start construction with the knowledge that the permit was approved.
2. To make the applicant remove the building would be a hardship in the disruption of the property and thus a loss of a property right to construct a garage in which the applicant believed had been properly approved. Since it was an oversight on the part of staff, granting the variance would not have an adverse impact on city ordinance since it is not setting precedence. The requested 5 foot variance is the minimum that will resolve the issue.

RECOMMENDATION

Staff recommends **APPROVAL** of Case File No. VAR-3-04, 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.

Our appeal to VAR-3-04 is based on the following reasons:

1. The building in question is illegal. It is not in compliance with the rear lot (flag lot) R1 zoning requirements which require 10 foot setbacks for rear and sides.
2. The building is in its present illegal position due to the admitted errors of the City Planner, City Building Inspector and City Manager.
3. The decision of the Planning Commission was reached based on faulty findings, therefore leading to the following faulty conclusions:
 - a. *The minimum R1 setback for a side yard would be 5 feet under other circumstances.* This is true for the side. However, under those same circumstances the rear set back would be 15 feet (an additional 5 feet from the 10 feet required for a flag lot). See finding #4 in the Commission's report.
 - b. *The problem was not discovered until the roof trusses were in place.* This is false. I spoke to Laura Lee Gray over one year ago before any wooden structure was built. She assured me that the building was legal. See finding #5.
 - c. *John Bischoff told the Commission that the rear structure is only 6 inches above grade so that the part that is underground is inconsequential and does not violate the 10 foot setback even though it is within 6 feet of the property line.* This is false. The concrete structure is above grade from between 1 foot to as much as 8 feet on one side. Also the apparent "below grade" effect is achieved in part by back filling with gravel that is supported by the side and back fences to a depth anywhere from 6 inches to two feet. See finding #6.
4. Other options were available to Mr. Woosley before completing his building but apparently he chose to proceed before his variance was completed. According to John Bischoff this was done with the full approval of the City Manager, Leroy Blodgett. Yet, according to the Brookings Development Code 164.010, Mr. Woosley's permit is void because it was illegally granted. 164.010 also states that it is the duty of the City Manager to enforce this code.
5. The hardship incurred for us is a loss of aesthetic and financial value to our home. This can be offset against the builder's financial hardship.

We humbly request the consideration of these points in regards to our appeal.

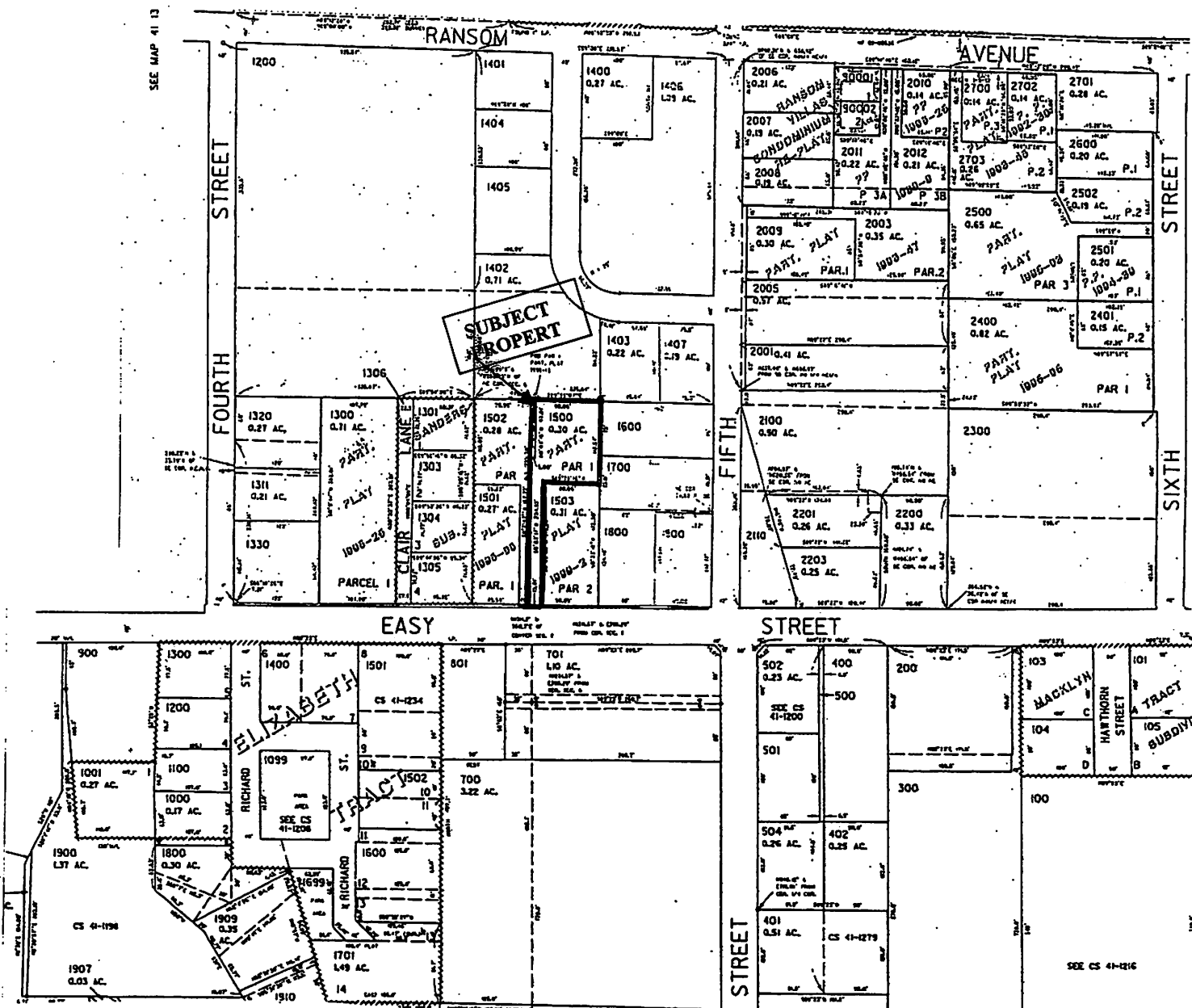
Sincerely,



Patrick & Susan Dodgen

09/22/04

RECEIVED
CITY OF BROOKINGS
COMMUNITY DEVELOPMENT
SEP 22 2004



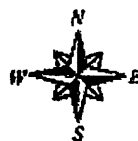
Applicant: Brian Woosley

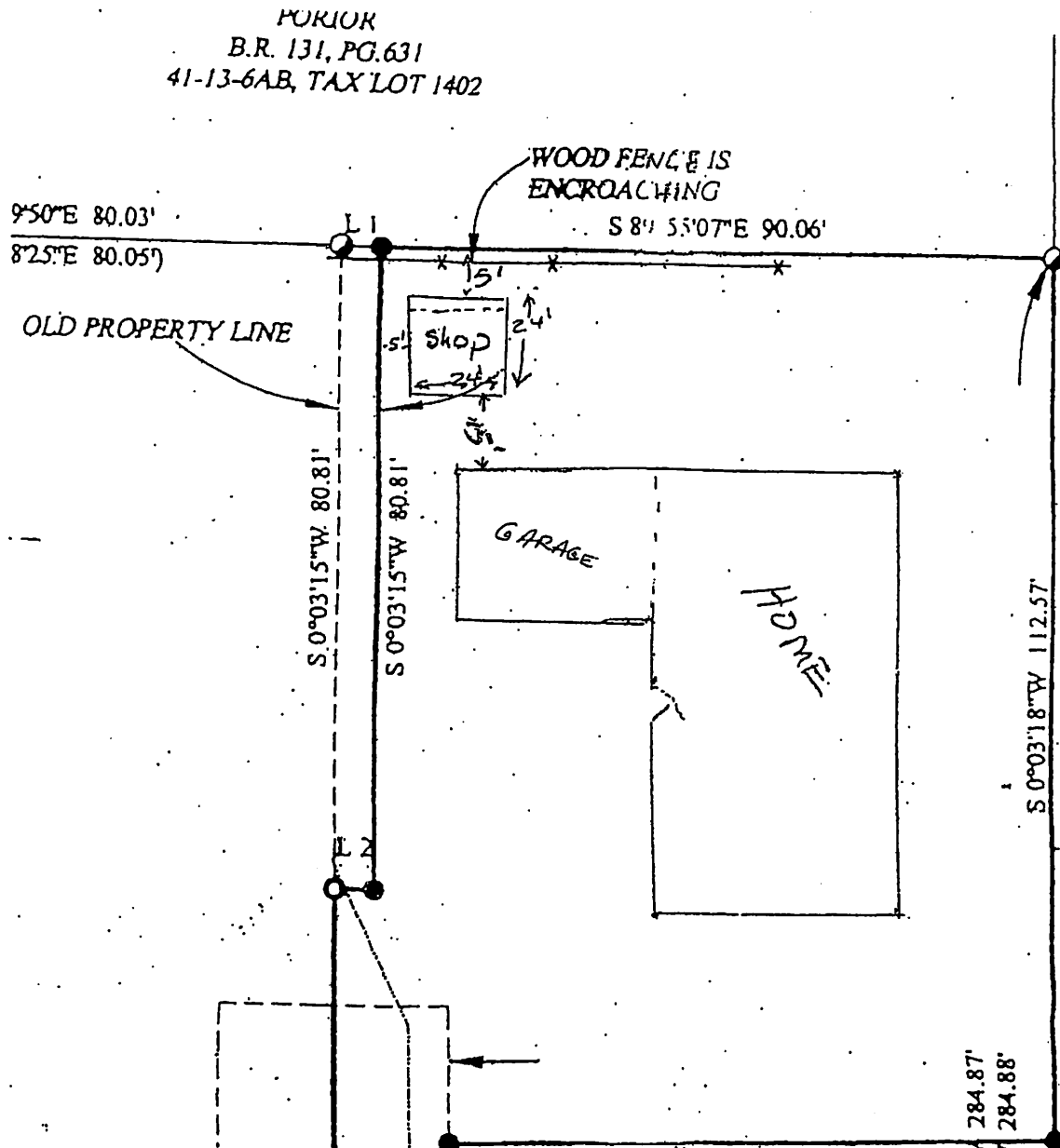
Assessor's No: 41-13-06 AB Tax Lot 1500

Size: 0.30 Acre

Location: 912 Easy Street

Zone: R-1-6 (Single-family, 6,000 sq.ft. minimum lot size)





Applicant: Brian Woosley

Assessor's No: 41-13-06 AB Tax Lot 1500

Size: 0.30 Acre

Location: 912 Easy Street

Zone: R-1-6 (Single-family, 6,000 sq.ft. minimum lot size)



Patrick & Susan Dodgen
P.O. Box 1628
Brookings, OR 97415

September 7, 2004

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



RE: File No. VAR-3-04, Brian Woosley, applicant

Dear members of the Brookings Planning Commission:

The basic problem is that the applicant's permit to build was approved without consulting the zoning laws. When we brought this problem to the attention of the city officials we were put off.

The city's oversight and inaction directly disrupts our right and ability to enjoy our property and diminishes our property's value.

The city has allowed the applicant to continue construction suggesting an assurance that the variance will be granted and the problem fixed.

I respectfully request the Planning Commission members to consider the attached document outlining our viewpoint on these issues.

Sincerely,

Susan Dodgen

Attachment
1/3

RE: File No. VAR-3-04, Brian Woosley, applicant

We want to bring the following issues to your attention regarding the above application for a setback variance.

1. The application for the variance needs to be amended to include the north boundary. As the owners of the residence on the north boundary of the Woosley residence, we find it troubling that this application does not address the setback on our side of the subject property. The first story of the building is currently 5-6 feet from the north property line where the zoning requires a 10 foot setback. According to the staff analysis of the current request for a variance on the west boundary, the lot was not recognized as a flag lot when the permit was issued. If this was the case the zoning would have required a 15 foot setback on the north (rear) boundary, not 5 as for the west side. As a flag lot it requires 10 feet. Regardless of how the oversight occurred, the current building is violating zoning code and any proposed remedy of said violation must not be granted without considering all aspects.

2. The permit to build was granted without adequate consideration and application of the Brookings Development Code by the Planning Department. We are concerned because the building in question is directly in front of our home and essentially blocks the ocean view from our living room and deck. Additionally, the applicant told us that the purpose of the building is to store his business vehicles and equipment. We feel that this negatively impacts the "residential characteristics" of our property. We understand that there are no laws in Brookings regarding the protection of views or against using residential property for such business purposes. However, if the permit had been granted correctly under the current zoning regulations the impact on our property would not have been as great.

3. Regarding the staff's analysis of the proposed variance in relation to criterion 1, Exceptional Circumstances: We contacted the Building Inspector in May of 2003 regarding the proximity of the excavation for the applicant's building to our property line. This was before the cement walls for the lower level were poured and more than a year before the trusses were placed on the roof. We were assured at that time that the building was legal within the code and under a valid permit. Had the city taken the time to investigate our concern this whole matter could have been corrected with minimal problems.

We later addressed the matter with the City Manager in June, 2004. His investigation then "brought to light" the staff oversight and the invalidity of the applicant's permit. By this time the building was well under construction. We were told at that time that the current permit was invalid due to the error and that the applicant would be required to stop construction on the building until the matter is corrected. Yet, the applicant has continued to be allowed to work on the building and as recently as last week completed the roof. This gives the appearance that a cease and desist order was never issued and suggests that the applicant was assured that the variance would be approved.

4. Regarding the staff's analysis of the proposed variance in relation to criterion 2, Preservation of A Property Right: Certainly, to make the applicant remove the building would be a hardship and disruption of his property rights that are protected by law. Granting a variance and allowing the building to remain disrupts ours. We bear no ill will against our neighbor for acting in good faith believing he had been issued a valid permit; however, the city's oversight and inaction has directly and profoundly disrupted our right and ability to enjoy our property and will diminish our property value in the event we should decide to market our residence.

We believe that the zoning laws exist to protect the property rights of all property owners in the city of Brookings, not just those currently developing. By buying property in the city of Brookings, we all agree to follow the same set of rules. We have been forced into an adversarial position with our neighbor although we have done nothing but assume these rules will be followed.

Brookings Development Code states in 136.010 that in granting a variance the city must consider the best interests of the surrounding property, the neighborhood or the city as a whole. We wonder whose best interest the city feels it needs to protect and what it will do for merely practical reasons to clear up mistakes or oversights?

Again, we respectfully ask the planning commission to consider all aspects of this issue carefully before making a decision on this matter.

Patrick and Susan Dodgen
PO Box 1628
Brookings, OR 97415
September 7, 2004

CITY OF BROOKINGS



STAFF REPORT

Date: October 20, 2004
To: Mayor Hagbom & City Councilors
From: Bill Sharp, Fire Chief
Thru: Leroy Blodgett, City Manager
Subject: Outside Burning

REPORT

There are currently four types of outside burning allowed within the city limits (described below). The first two described below are considered commercial burns which require a permit from the Oregon Department of Environmental Quality (DEQ). DEQ consults with the Fire Chief prior to issuing a permit to see if there are concerns. If there are significant concerns DEQ will not issue the permit. The second two types of burning are private burns and are permitted by the City without any DEQ consultation or permits.

Below are descriptions of the four types of burns:

1. Commercial open burning. This is usually from land clearing for development and often includes large piles of brush, trees, and debris.
2. Commercial construction burns. This is construction material left from a project. This type of burning may happen throughout a construction project as material accumulates on-site.
3. Private open burns. This is typically brush, wood, etc. from a private city lot. These are typically not large open burns and require a permit from the City Fire Department.
4. Private burn barrels. Burn barrels are allowed with certain restrictions and approval of the City Fire Department. Household garbage is not allowed to be burned.

Over the past years we have had numerous discussions with DEQ, citizens and City Council regarding outside burning. A recent survey on the city web site resulted in mixed opinions. Most want to continue burn barrels; it was about equal for and against private open burning; and most were opposed to commercial burning.

After discussing the current policy and problems with staff and the Department of Environmental Quality, and looking at all aspects of its impact, we determined that it was time to bring this issue before the City Council and recommend a policy change.

The change recommended by staff is not to allow any commercial burning inside the city limits. If approved, there would be no change of policy at this time regarding private open burns or burn barrels. This change will require contractors and/or developers to haul material to a disposal site or to an approved location outside the city for burning.

Martin Apts, DEQ Air Quality Officer for our region (Coos & Curry Counties) relayed to us that the cities of Coos Bay and North Bend ultimately came to this same position because of increased development and density. The change they made was done without many problems or fanfare.

STAFF RECOMMENDATION

Adopt a policy to no longer allow commercial burning within the city limits.



MEMO

Date: October 20, 2004

To: Mayor and City Council

From: Leo Lightle, Community Development Director

Subject: Authorization for awarding the contract for boring and placing conduit under Wharf Street and the parking lot at the Wastewater Treatment Plant.

Background:

The Wastewater Treatment Plant staff solicited bids for the boring and placing of conduit under Wharf Street and the parking lot at the Wastewater Treatment Plant to the 2 million gallon biosolids storage tank site.

There will be three conduits to install.

The biosolids in the storage tank are stratifying and so we are, at times, just hauling water. Therefore, our hauling costs are higher than they should be for the pounds of biosolids that we have to disperse. This is part of a budgeted improvement.

To make the solids handling more efficient, we need to mix the biosolids in the tank.

We solicited three bids:

Sportshaven Excavating, Inc.	\$ 6,850
Jacksonville Boring	They could not bid at this time.
Brotherton Pipeline Inc.	\$34,742

Staff Recommends:

That the City Council authorizes awarding the project to Sportshaven Excavating, Inc. for \$6,850.

CITY OF BROOKINGS



MEMO

Date: October 20, 2004

To: Mayor and City Council

From: Leo Lightle, Community Development Director

Subject: Authorization for awarding the contract for multi-stage centrifugal sewage aeration compressor, for mixing the 2 million gallon biosolids tank.

Background: The Wastewater Treatment Plant staff solicited bids for a multi-stage centrifugal sewage aeration compressor to mix the biosolids in the 2 million gallon biosolids storage tank. This is part of a budgeted improvement.

The Wastewater Treatment Plant staff is buying the equipment and hiring the subcontractors for the project. The blowers needed are unique to our application and to be consistent with existing equipment.

The biosolids in the storage tank are stratifying and so we are at times just hauling water, therefore our hauling costs are higher than they should be for the pounds of biosolids that we have to disperse.

We received three bids:

Gardner Denver Blower Division	\$34,717
ADS Equipment Inc.	\$35,785
McKenna Engineering and Equipment Co. Inc.	\$36,101

Sufficient funds are in the budget for this project.

Staff Recommends:

That the City Council authorizes awarding the contract for multi-stage centrifugal sewage aeration compressor to Gardner Denver Blower Division for \$34,717.

CITY OF BROOKINGS



STAFF REPORT

Date: October 19, 2004

To: Mayor Hagbom & City Councilors

From: Leroy Blodgett, City Manager

Subject: November & December Council Meeting Dates

REPORT

The regular meeting dates for Council meetings in November are the 8th and 22nd of the month. The week before the November 8th meeting is the LOC conference in Portland. City councilors and staff will return to Brookings on Sunday November 7th. Due to the fact that staff will not be able to prepare council packets and, even if we did councilors would not be able to pick them up until the day of the meeting, I suggest not having a meeting on that date. The second meeting of the month is the Monday after Thanksgiving, which may not work with everyone's schedule.

The regular meeting dates for December is the 13th and 27th. The second meeting of the month falls only two days after Christmas and may not work with schedules.

STAFF RECOMMENDATION

- Hold one city council meeting in November on the 15th of the month.
- Cancel the December 27th meeting, holding one meeting for the month on December 13th as regularly scheduled.

If issues come up that requires city council attention we can hold a special meeting during this time.

CITY OF BROOKINGS



STAFF REPORT

Date: October 21, 2004

To: Mayor Hagbom & City Councilors
From: Leroy Blodgett, City Manager

Subject: Fiber Optics

REPORT

The City recently installed a new phone system in city hall, wastewater plant and the public works shop. One of the goals is to connect the wastewater plant and public works shop to the network at city hall. The City is also providing its own internet service at city hall. The goal for the internet service is to also connect the plant and public works the same as the phone system.

To accomplish the goal we had planned to make a wireless connection between city hall and the wastewater plant. The cost of the wireless connection is approximately \$8,000, but with no monthly charge. However, we have discovered that Charter Communications is capable of providing the connection via fiber optics. The fiber will be 10 times faster than the wireless connection and more secure.

The connection to the outside world is via a T-1 line supplied by Sprint. The cost of that service is approximately \$1,200 per month. Charter Communications is also capable of replacing that connection with a fiber optic line. Once again the connection will be state of the art and much faster than the phone line.

Included in the council packet is a proposal from Charter to provide both the connection between the two locations and to replace the T-1 line with a fiber optic line. The cost of the initial installation will be \$2,000 and the monthly charge will be \$990. The proposal not only provides a faster connection, but also a less expensive alternative to the wireless connection. It also gives the opportunity to simply increase bandwidth if necessary in the future. Charter does require a 5-year contract to provide service.

STAFF RECOMMENDATION

Accept the Charter Communications proposal and authorize the City Manager to sign a contract for a service as proposed.



THE WAY BUSINESS WORKS.

October 15, 2004

City of Brookings

Dear Mr. Blodgett,

Thank you for considering Charter Business for providing future services in your wide area network and Internet Access applications. Per our phone conversations, I'm providing this proposal to outline the several services available to you by using our high speed, flexible network. Included in this proposal is the pricing for wide area networking and Internet services. I have provided a network description, basic service features and pricing. One of Charter's main business objectives is to not simply provide an access service but to work with you as a partner. Charter Business will help City of Brookings stay abreast of new technology and utilize our expertise in the industry to assist you in making the best decision for your current needs.

We believe that this broadband proposal is a visionary approach that offers an advanced, scalable platform that will help to consolidate the Cities existing infrastructure. With the implementation of Charter Business's high-speed connections, The City of Brookings will receive a solution that provides flexibility and scalability to meet today's technology demands as well as those for years to come. As you know, our parent company, Charter Communications, has an extensive fiber optic network throughout the Northwest United States, allowing us to grow with you as your needs increase.

On behalf of Charter Business and Charter Communications, we appreciate the effort you have put forward in working with us towards a solution which will benefit both the users of and those responsible for maintaining and managing your network. Please call me at 541-210-0780 for any questions.

Customer Focused. Technology Driven.

Sincerely,

Keith Grunberg
Charter Business
Sale Engineer

Executive Summary

Charter Business is proposing a fully managed, secure high-speed network based on the criteria outlined in the following Network Description Section. The network consists of running fiber optic cable into each building that is connected to the network and providing dedicated connections at speeds of your choice. A single fiber optic connection will enable each building to receive data, voice, video, and Internet and remote user information.

The attached network design shows a 10/100 Megabit WAN connection plus a 3 Mbps Internet connection to the main facility located at City Hall 898 Elk Dr. Brookings, Or 97415. This will be a dedicated path with an Ethernet handoff to your LAN. Internal routing would be your responsibility. In addition to the data connection, we can provide a T1 circuit to any link that would allow you to connect your PBX's for internal voice use.

The service being proposed is our Standard Service level and will consist of the following:

- Edge electronics
- Single point of entry into the customer premise
- Back up power on the Charter Business backbone electronics
- 24 x 7 Call Center Support
- Monitoring of the edge electronics
- Maintenance for the edge electronics provided by Charter Business

We are open to working with you in any way we can and have the ability to be very flexible with our designs. We view this proposal as an initial design offer, but are willing to make modifications as necessary. Charter Business is also flexible in being able to offer The City of Brookings additional value-add services with our Advanced and Premium service levels. This would allow The City of Brookings to derive even further benefits from the Charter Business connection for a minimal charge per month. I would be happy to discuss the details of our other service levels with you.

If this proposal provides the solution to meet the needs of your company, the next step would be to contact me to schedule a follow up meeting to finalize the network design and set up site visits for your locations.

Needs Analysis

Based on our previous discussions, Charter Business has identified the following areas of consideration that concern your current and future network plans. Bulleted are the main points that Charter Business Network's recommends be addressed as you review your options:

- Network flexibility offers incremental bandwidth growth, which allows The City of Brookings to only pay for the amount of bandwidth that is needed today, with only a phone call to change the size of the connection in the future.
- More efficient use of applications such as billing, payroll, etc.

- The benefit of a single vendor with a complete fiber network, offering the best security and reliability.
- The potential for a remote user solution that would give remote users the speed and security similar to an on-campus user.

Charter will provide a 3 Mbps symmetrical Internet connection via Ethernet over fiber.

In order to provide this connectivity, construction will be necessary to bring fiber into the main facility. Charter will provide the necessary edge device(s) at the site.

Network Description

Broadband Packet Access Service

The Broadband Packet Access Service that we will provide has all facilities connecting into a "cloud" that consists of the Charter Business (Charter Business) backbone infrastructure. Physically, Charter Business can provide a wide range of bandwidth options as the physical connection into each facility. The actual bandwidth provided through these physical connections will be determined by the amount of bandwidth that you choose to purchase. Charter Business can provision each site at a different bandwidth to accommodate the City of Brookings network needs and to provide the greatest amount of flexibility for future growth.

The following sites will be connected via the Charter Business cloud as illustrated in the following diagram:

City of Brookings City Hall 898 Elk Dr. Brookings, Or. 97415 Contact: Leroy Beodgett City Manager (541) 469-1101	City of Brookings Sanitation Dept. 901 Warf St. Brookings, Or. 97415 Contact: Leroy Beodgett City Manager (541) 469-1101
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Charter Business provides an edge device at each site that will create transparent service between all of your facilities. The City of Brookings will be provided with RJ45 10/100 Ethernet based on a final network design.

It is recommended that The City of Brookings provide a separate 10 Amp 110V AC circuit for the edge electronics that is powered by an UPS system. Customer supplied routing will be necessary for communication between each site.

Charter Business will terminate the fiber optic cable at the Minimum Point of Penetration (MPOP) 50 feet within each facility. If your computer closet exceeds this distance, additional internal wiring may be required and would be the responsibility of Clatsop Community College and Affiliates.

During Business Hours (8:00 a.m. to 5:00 p.m. Monday through Friday, local time):

Charter Business will initiate response within two (2) hours from the event notification, which may or may not yield a field dispatch. This restorative response can be triggered by our network management system proactively or via initial Customer notification of a problem. Notwithstanding Force Majeure Events Charter's goal will be to restore service within eight (8) hours. In the event Charter receives an alarm or other notification that would indicate a service-affecting issue, Charter personnel will proactively contact the Customer within thirty (30) minutes of such alarm of the event and indicate what course of action has been taken, or is being taken.

During Other Times (Weekends, Charter Employee Holidays, 5:01 p.m. to 7:59 a.m. Weekdays):

Charter will initiate restorative response within four (4) hours from the event notification, which may or may not yield a field dispatch. This restorative response can be triggered by our network management system proactively or via initial customer notification of a problem. Notwithstanding Force Majeure Events Charter's goal will be to restore service within twelve (12) hours. In the event Charter receives an alarm or other notification that would indicate a service-affecting issue, Charter personnel will proactively contact the Customer within thirty (30) minutes of such alarm of the event and indicate what course of action has been taken, or is being taken.

Network Testing: Charter Business will provide a 100% satisfaction guarantee on all services and equipment that we supply.

Network Management: Charter Business is responsible for complete management of the network to our point of demarcation. During the term of the service agreement, Charter Business will be able to securely monitor the network remotely at all times.

Service: Charter Business is responsible for overall network management and operation of the backbone infrastructure during the term of our agreement. Charter Business will provide one (1) hour initial telephone response time and provides our best effort for a four (4) hour physical response time 24/7 for any network troubles during normal business hours. An 800 number will be provided for any trouble reports.

A Network Engineer will be available to remotely connect into the network in the event of any problems to make a diagnosis. Local Charter Business and Charter Cable Technicians will be dispatched when equipment needs to be replaced, or when the fiber optic cable requires repairs.

Technical Support to Network Engineers: Charter Business has on staff certified network engineers and extensive field support. Charter Business reserves the right to contract to supplement technical support to its engineers from other companies providing such a service.

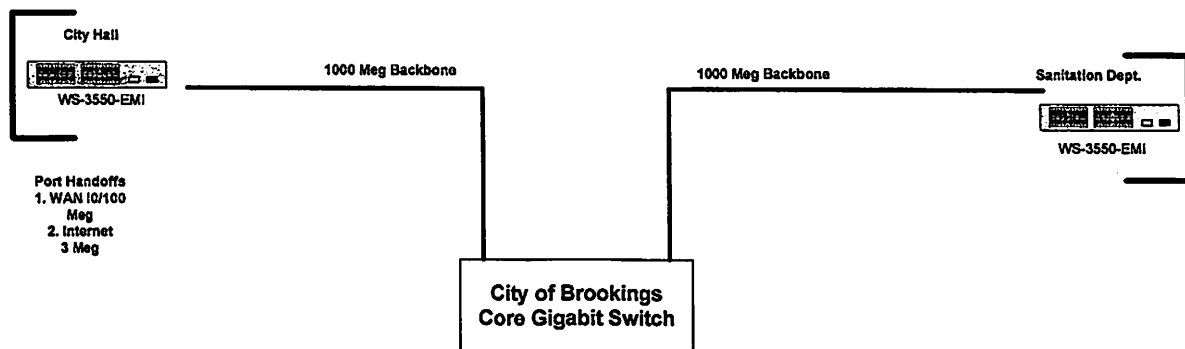
Expected Down Time. Charter Business Network's experience is that both the fiber network and backbone equipment are extremely reliable. A stock of spare electronics parts will be housed at a local Charter Business warehouse facility.

Privatized Network

The proposed fiber optical network laid out to the City of Brookings Network will be a completely privatized network from any outside communications. This network will be free standing and will not be shared in-band or out of band backbone transport within each site listed.

Network Drawing

City of Brookings - Physical Fiber Design



Company Information and References

Charter Business (Charter Business) is a wholly owned subsidiary of Charter Communications. Formerly "FiberLink", Charter Business was purchased by Microsoft co-founder Paul Allen in August of 1998 and rolled into Charter Communications in 1999, when Charter joined Paul Allen's "Wired World". With Mr. Allen's vision and his ability to invest in an infrastructure of the future, Charter Business is well positioned for continued growth and expansion.

The best place to research company background, financial and service information is at the following two web sites:

www.chartercom.com

www.charter-business.com

References are available and will be provided if you find that Charter Business is a fit for your networking needs. We highly respect the time of our current customers and only give out their names at a point when all the other details of a new customer relationship have been completed.

Pricing

General Terms: These prices will remain in effect through 11/31/04 subject to these contingencies:

- ✓ Final engineering, design and site visits
- ✓ Complete Terms & Conditions are provided in our service contract.

Pricing consists of two different components:

- 1) **Charter Business Installation** - Cost from each site to the local Charter Business "point-of-presence". This pricing is for the fiber to be installed up to the property line and normally includes going across the customer premise and penetration of the building. Confirmation of the pricing will be provided after a site visit is completed.
- 2) **Monthly Service Fees** – Monthly fee for services between sites based on the amount of bandwidth and type of services provided as described in this proposal. This pricing is based on our Standard Service level and will consist of the following:
 - Edge electronics provided by Charter Business for the term.
 - Single point of entry into the customer premises.
 - Back-up power on the Charter Business backbone electronics.
 - 24 x 7 Call Center Support.
 - Monitoring of the edge electronics.
 - Maintenance for the edge electronics provided by Charter Business

Pricing/Term Options

	60 Month Term	60 Month Term
Service	10 Meg WAN 3 Megabit Internet Symmetrical	100 Meg WAN 3 Megabit Internet Symmetrical
Number of sites	2	2
Total Install Charges	\$1,500.00 per Site	\$1,000.00 per Site
Monthly Charges*	\$445.00 per Site	\$495.00 per Site

- *The monthly service charge includes the edge equipment required to complete the network connections. **3 Mbps to Internet for Main building located at City Hall 898 Elk Dr. Brookings, OR. 97415*

Charter Business Contacts

- Keith Grunberg Sales Engineer
 - (541) 210-0780
 - keith.grunberg@chartercom.com
- Tech Support (866) 724-2487

**CITY OF BROOKINGS
COMMON COUNCIL MEETING MINUTES
City Hall Council Chambers
898 Elk Drive, Brookings, OR 97415
October 11, 2004 7:00 p.m.**

I. Call to Order

Council President Rick Dentino called the meeting to order at 7:00 p.m.

II. Pledge of Allegiance

Led by Councilor Anderson

III. Roll Call

Council Present: Council President Rick Dentino, Councilors Frances Johns Kern, Craig Mickelson, and Larry Anderson, a quorum present.

Council Absent: Mayor Bob Hagbom

Staff Present:

City Manager Leroy Blodgett, City Attorney John Trew, Community Development Director Leo Lightle, City Planner John Bischoff, Assistant Planner Dianne Snow, Pool Supervisor Jeanne Nelson, and Administrative Secretary Linda Barker

Media Present: Curry Coastal Pilot Editor Scott Graves

Other:

Approximately 30 other citizens

IV. Ceremonies/Appointments/Announcements

A. Ceremonies

1. Proclamation—Safe Schools Week

Council President Dentino read a proclamation which he presented to School Superintendent Chris Nichols; Head Brookings-Harbor High School Custodian and Safety Committee member Pete Hernandez; Kalmiopsis School Principal Brian Hodge; and Azalea School Principal Mike Dillenburg, declaring the week of October 17 through 23 as America's Safe School Week.

B. Announcements

1. None

V. Scheduled Public Appearances

A. Lorraine Kuhn—recap of Community Picnic

Kuhn thanked the City for co-sponsoring the event held on a beautiful day in Azalea Park. Picnic volunteers served over 400 hot dogs, 600 ice cream cones, 500 cups of soda, and 20 watermelons. She invited the City to again co-sponsor the picnic next year.

B. Jeanne Nelson—recap of 2004 swim season

Nelson said the numbers for this year were similar to past years. She said the loss of the Gold Beach swim program resulted in fewer participants in the lessons program than in prior years. The resurfacing project is nearly finished and there is water in the pool again. A few items still to be completed. She thanked the Fire Dept for filling the pool.

The agenda was changed at this point and the public hearing continuation was held after Item VII. Oral Requests and Communications from the Audience.

VII. Oral Request and Communications from the Audience

A. Committee and Liaison Reports

Councilor Mickelson deferred his time to the other items on the agenda, stating a report will be given at the next meeting.

Councilor Anderson commented on the Litter Olympics held on October 2. He said it was a rude awakening to see the amount of litter around town. He thinks at some future time the Council needs to discuss this problem. City Manager Blodgett and Councilor Dentino remarked this was a fun way to collect some of the litter in the area.

B. Unscheduled

Barbara Nysted, 427 Buena Vista Loop, Brookings, spoke to the Council regarding System Development Charges (SDC) and the lack of a SDC Review Board. She felt the SDCs are currently too low for developers.

She also spoke in regards to outdoor burning quoting April Rosenthal's recent letter to the editor of the Curry Coastal Pilot thanking the City for quickly putting out a smoldering fire that was burning near the youth-occupied soccer fields at Azalea Park. Nysted said it is time to adopt an ordinance to eliminate all outdoor burning in the entire city.

She wanted to know if there were any plans to reinstate the SDC review board. City Manager Blodgett explained that the City received only two applications for a five member board even when it was advertised over an extended period.

VI. Public Hearing

A. Continuation of Public Hearing on Planning Commission File MPD-1-04, a request for approval of a Master Plan of Development on a 553-acre

parcel; consisting of 1,000 dwelling units of various types, a 2.43 acre commercial site, and a 10-acre college campus, to be built in phases implemented in detailed development plans approved by the Planning Commission; located on the easterly side of Highway 101, approximately 4,500 feet (0.8 miles) north of Carpenterville Road and extending north to approximately the Cape Ferrelo overlook entrance; Assessor's Map 41-14 and Index, Tax Lots 2400, 2401, and a portion of 2402; U.S. Borax, applicant; Burton Weast, representative; and in the matter of Ordinance 04-O-565 amending the Comprehensive Plan to include the Lone Ranch Master Plan as a separate document of Goal 14

The public hearing reconvened at 7:13 p.m. Council President Dentino read procedures for this continuation into the record.

Planning Director Bischoff stated this was a continuation of a September 13, 2004, hearing that had been closed for public testimony. Additional written testimony was received in accordance with the request by Pete Chasar and US Department of the Interior, Fish and Wildlife Service to leave the record open for seven additional days for written testimony. Written response was submitted by the applicant. The applicant requested three additional conditions of approval in response to the testimony submitted.

City Attorney Trew said all written testimony was received in a timely manner and included in the packet for the councilors to study. Trew reminded the Council that tonight's decision needs to be based on evidence in the record, either written or oral.

Dentino read three additional conditions of approval into the record.

The applicant waived his right to seven additional days to submit additional testimony and asked that a decision be made on the matter at this meeting.

Council discussion ensued with questions and comments from the Council regarding the process of deliberation. Dentino said since he was acting mayor he would not be making any motions. He had questions about a water shortfall of 125,000 gallons from the Borax test wells to meet the project's needs. He researched this and found the City and State are in agreement that the City has provided adequate water for the entire build out of the Urban Growth Boundary. Borax's wells will contribute to the City's supply and are a bonus to what water is already available.

Councilor Anderson said he had questions for the applicant. Trew advised that asking questions of the applicant invites a response from all participants. He explained the opportunity to ask questions of the applicant

was while the public hearing was open to testimony and asking questions of staff would be a better procedure. Anderson responded that he felt the Council did not have the opportunity to ask questions of the applicant at the public hearing. Blodgett suggested that Councilors pose their questions to staff who will do their best to answer them. Anderson said he will direct questions to staff.

Anderson questioned the cost of utility extensions including off-site, on-site and enlargement of existing infrastructure. Blodgett responded that the cost to extend all utilities will be borne totally by the developer. There are provisions in our ordinances to have developers oversize lines for projected development and provisions for reimbursements to the developers as connections are made to the lines. There may be need for additional work from Arnold Lane to Mill Beach Road to enlarge lines that are undersized now. These projects would be paid for with SDCs. Blodgett said no on-site costs would be borne by the City.

Anderson questioned the maintenance for right-of-ways that use a drainage swale. Blodgett said as it is written the City would be obligated to maintain those areas but an additional condition could be added to require the developer or homeowners association to maintain those sections.

Anderson asked whether any fire protection facilities would be on-site. Bischoff said fire protection facilities were in the destination-resort plan but are not in the current plan for the area. All homes and commercial buildings including the college will have individual sprinkler systems. The sprinklers give our fire department the time to respond. Bischoff added that our fire staff feels comfortable with this arrangement.

Councilor Mickelson stated that he has studied this plan intensively, as Council liaison to the Planning Commission and now at the Council level. He felt there could be confusion between outright approval for development plans and the master plan. He said the concepts and standards in a master plan are not precedent-setting as each plan must stand on its own merit. Much expertise was brought by Borax and Western Advocates to a plan that allows for flexibility for development. He had read the opponents' information and highlighted areas of his concern. He found testimony was not always factual or taken out of context. He concluded that the Borax Master Plan of Development meets the standards and he looks forward to the development plans. He thinks this is a program we can live with and must watch very closely.

Dentino added that this is a master plan of general standards, important and not to be toyed with. Development plans must be approved before any dirt is turned. There was further discussion on the number of dwelling

units that can be constructed on the site as the master plan calls for 1,000 homes and an additional 10% at build out. Blodgett clarified this was not 10% more homes but 10% more trips generated per day. Questions on water rights and a new budgeted water reservoir were answered by Blodgett.

Anderson said that the MPoD is a new zoning component to the Land Development Code. He basically felt very comfortable with the scope and intent of the MPoD but had questions about the details. He said not far from City Hall are areas without planning of this kind. There are many challenges with topography, natural and cultural resources, and community relations. As one Council person he trusts the technical and professional staff that put together this package. He discussed street widths, setbacks, and sidewalks and said there was a real challenge to design streets to engineering standards keeping in mind cuts and fills, grades and street design. He commented on the 5,000 sq. ft. lots and how to build and protect riparian areas. He said you could go with a smaller than 5,000 sq. ft. building pad (not lot size) and still deliver a salable product. He said it appears the biggest problem is the appearance of a blank check over the build out of the project.

Discussion ensued about verbiage in the staff report. Anderson said he was uncomfortable with the findings for Criteria E which he read into the record. He feels this one sentence could come back to haunt the City. There was continued discussion on topics ranging from enforcement of CCRs; maintenance of swales; and the process of bringing findings, ordinance and final conditions of approval to the Council.

Trew said there were two options for the Council, to approve or deny. Additional conditions could be added to a motion to approve. Staff would then prepare the Ordinance and Final ORDERS and Findings of Fact for Council consideration at the October 25, 2004, meeting.

The Council recessed from 7:26 p.m. to 7:37 p.m.

When the meeting reconvened there was additional discussion on whether language in the findings would be an alteration to the ordinance itself. Bischoff read Land Development Code Section 70.070.E Review Criteria for MPoD and said the Planning Commission has the authority to require a different standard than that proposed pursuant to Section 70.130.

Councilor Anderson moved, a second followed, and the Council voted unanimously to accept the Planning Commission's recommendation and approve the application for a Master Plan by the applicant (Borax, Inc.) with the additional three conditions requested by the applicant and condition #29, to set conditions for the developer or

homeowners association to maintain the drainage swales in the road right-of-ways.

The Final Order and Findings of Fact which will include all conditions of approval and the enabling ordinance to change the comprehensive plan will be considered at the October 25, 2004, meeting.

VII. Oral Requests and Communications from the Audience
This item was held before the scheduled public hearing continuation.

VIII. Staff Reports

A. *Community Development Department*

1. *Award of Highway 101 Wastewater and Water Projects contract*
Community Development Director Lightle said he was asking for authorization to award a contract on wastewater and water line replacement on portions of Highway 101. Project areas would be Chetco Lane to Fifth Street; Crissey Circle to north of Parkview Drive; and Arnold Lane to Rubio's Restaurant. These bids are in response to a second request for bids as no bids were received on the first advertisement. Lightle stated there is money in the current fiscal year's budget for these projects and recommended approval to award the contract to Crader Enterprises, Inc. in the amount of \$1,104,715.

Councilor Anderson asked about a time frame for the construction. Lightle said the project will be completed by May, 2005. Anderson also asked how close the bids came to the engineer's estimate. Lightle said the estimate was \$1,300,000 so the bid amount was under the engineer's estimate. Lightle explained local firms were concerned about the depth of the project so did not bid. In response to a question of why the contractors who bid this advertisement didn't bid on the first request for bids, Lightle said this could have been because of work already scheduled. He said HGE, Inc. has work with Crader before and find they are a responsible bidder.

Councilor Anderson moved, a second followed, and the Council voted unanimously to accept the staff recommendation and award the contract for Highway 101 water and sewer line replacement and installation on sections from Chetco Lane to Fifth Street; Crissey Circle to north of Parkview Drive; and Arnold Lane to Rubio's Restaurant to Crader Enterprises, Inc. in the amount of \$1,104,715 and to authorize the Mayor or City Manager to sign the contract.

B. *City Manager*

1. *League of Oregon Cities designation of voting delegate at annual business meeting*

City Manager Blodgett said the Council needed to select a member to vote on resolutions recommended by the League of Oregon Cities Resolutions Committee at the annual LOC business meeting in November. In the past the voting member has been the mayor and the alternate the Council President. He recommended appointing Mayor Hagbom as voting delegate and Council President Dentino as alternate voting member.

Councilor Johns Kern moved, a second followed, and the Council unanimously voted to appoint Mayor Hagbom as the voting delegate and Council President Dentino as the alternate voting delegate for the 2004 LOC Annual Business Meeting to be held in Portland November 6, 2004.

2. *Other*
None

IX. Consent Calendar

A. *Approval of Council Meeting Minutes*

1. *Minutes of September 27, 2004, regular Council meeting*

B. *Acceptance of Planning Commission Minutes*

1. *Minutes of September 7, 2004, regular Commission meeting*

C. *Approval of Vouchers for month of September, 2004 (\$509,363.15)*

End Consent Calendar

Councilor Mickelson moved, a second followed, and the Council voted unanimously to approve the Consent Calendar as published.

X. Remarks from Mayor and Councilors

A. *Council*

City Attorney Trew reminded the Council that final approval for the Borax MPoD has not yet been given. Final conditions of approval, the Final Order and Finding of Facts and the Ordinance will be presented at the next Council meeting.

Councilor Anderson said the Little Olympics was a real eye opening event. Council President Dentino, City Manager Blodgett and he participated and he has a different understanding of the littler problem now. Anderson said the trash cans downtown have helped but he feels the Ordinances in place may not be what they need to be. Dentino said we as residents must take responsibility for litter for it to decline. Blodgett compliment Jan Willms who organized this event and mentioned the youth

group from the Church of the Nazarene who would also like to do a similar project. He said Pat Sherman had given him suggestions for anti-litter signs and he will distribute these to the Councilors.

B. Mayor
None

XI. Adjournment

With no business before it the Council adjourned the meeting at 8:59 p.m.

Respectfully submitted:

Rick Dentino
Council President

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

Paul Hughes
Finance Director/City Recorder

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



Issue: Borax Final Order, Conditions of approval and Ordinance amending the Comprehensive Plan to add the Master Plan as a separately bound document.

Background: At its meeting of October 11, 2004 the Council approved the Lone Ranch Master Plan with a number of conditions of approval and directed staff to prepare a Final Order to that effect. The Final Order contains findings for the approval. Also attached are the conditions of approval, which are a part of the Final Order and Ordinance 565 amending the Comprehensive Plan.

Please note that the conditions of approval contain one additional condition, Condition No. 30, which is recommended by staff and requires amended Master Plan documents reflecting changes made by the "Errata Sheet" dated June 4, 2004 and the "Response to Comments" document dated June 14, 2004 and the change in maximum building heights. The errata sheet and response to comments document are attached to the inside of the cover page of your Master Plan document. If you do not have these documents or if you have any questions about the attached material please contact staff prior to the October 25, 2004 meeting.

Recommendation: Adoption of the Final Order with attached findings and conditions of approval.
Adoption of Ordinance 565 amending the Comprehensive Plan.

BEFORE THE PLANNING COMMISSION
CITY OF BROOKINGS, COUNTY OF CURRY
STATE OF OREGON

In the matter of Planning Commission File No. MPD-1-04; a request for a Master Plan of Development; U.S. Borax, applicant.) Final ORDER) and Findings of) Fact))
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ORDER approving an application for a Master Plan of Development to establish 540 single family detached homes, 150 single family attached homes (townhouses), a 2.43 acre convenience commercial area, and a 10 acre college campus site on a 553 acre parcel of land located on the east side of Highway 101 approximately 0.80 miles north of Carpenterville Rd.; Assessor's Map 40-14 & Index, Tax Lot 2400, 2401, 2402; zoned MPD (Master Plan Development).

WHEREAS:

1. The Planning Commission duly accepted the application filed in accordance with the Brookings Land Development Code pursuant to Section 70 Master Plan Development; and

2. Such application is required to show evidence that all of the following criteria have been met:

- A. Promote flexibility in design and permit diversification in location of structures;
- B. Promote efficient use of land and energy and facilitate a more economical arrangement of buildings, circulation systems, land uses, and utilities;
- C. Preserve to the greatest extent possible existing landscape features and amenities, and utilize such features in a harmonious fashion;
- D. Provide for more usable and suitably located recreation facilities and other public and common facilities than would otherwise be provided under conventional land development procedures;
- E. Combine and coordinate architectural styles, building forms and building relationships within the Planned Development;
- F. Provide the applicant with reasonable assurance of ultimate approval before expenditure of complete design monies, while providing the City with assurances that the project will retain the character envisioned at the time of approval;
- G. Promote and encourage energy conservation; and
- H. Provide greater compatibility with surrounding land uses than what may occur with a conventional project.

3. The Brookings Planning Commission duly set this matter upon the agenda of a public meeting and considered the above described application with the public hearing a matter of record of the Planning Commission meeting of July 27, 2004 and August 18, 2004; and

4. At the conclusion of said public hearing, after consideration and discussion of testimony and evidence presented in the public hearing, the Planning Commission, upon a motion duly seconded, accepted the Staff Agenda Report and recommended that the City Council approved the request, and

5. The Brookings City Council duly considered the above described application in a public hearing at a regularly scheduled public meetings held on September 13, 2004, and October 11, 2004, and are a matter of record; and

6. At the conclusion of said public hearing, after consideration and discussion of testimony and evidence presented in the public hearing, the City Council, upon a motion duly seconded, accepted the Planning Commissions recommendation; and

THEREFORE, LET IT BE HEREBY ORDERED that the application for a Master Plan Development on the subject parcel is approved. This approval is supported by the following findings and conclusions:

FINDINGS

1. The applicant has submitted a Master Plan of Development pursuant to Section 70, Master Plan Development District, of the Land Development Code, for development of 553 acres of land within the city limits.
2. The property is zoned Master Plan Development and is designated as Master Plan Area by the Comprehensive Plan.
3. The applicant has submitted findings addressing the criteria set forth by the Master Plan Development Zone for the approval of a Master Plan of Development. The applicant's findings are attached to and made a part of this document.
4. The applicant has completed a Transportation Impact Study (TIS) addressing traffic impacts on Highway 101 that will be generated by the proposed project.
5. The TIS indicates that three intersections, Highway 101/Carpenterville Rd., Highway 101/Fifth St., and the main entrance to the proposed project will be impacted by the proposed development.
6. Improvement to the Carpenterville Rd. and Fifth St. intersections are addressed in the city's adopted Transportation System Plan (TSP).
7. Because the extent of development on the subject site was not known at the time the TSP was adopted, project generated improvements were not included.
8. The TIS submitted by the applicant has provided improvement options for the main entrance to the project site, which will be implemented as required and with necessary Oregon Department of Transportation Access Permits.

CONCLUSIONS

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

CONDITIONS OF APPROVAL

The conditions of approval are attached to this document and are made apart thereof.

LET IT FURTHER BE OF RECORD that the Planning Commission approved the requested Master Plan of Development.

Dated this 25th day of **October**, 2004.

Bob Hagbom, Mayor

ATTEST:

John C. Bischoff, Planning Director

FINDINGS AND CONCLUSIONS REGARDING LONE RANCH MASTER PLAN OF DEVELOPMENT

BACKGROUND

1. U.S. Borax Inc. (Borax) has applied for approval of a Master Plan of Development (MPoD) for the Lone Ranch project, and submitted a proposed MPoD with its application. A Technical Appendix has been submitted with the MPoD. Borax also submitted a document entitled Lone Ranch Master Plan Errata Sheet Prepared June 4, 2004. Marty Stiven, Borax's land use consultant, submitted a memorandum to John Bischoff entitled Response to Issues Regarding Lone Ranch Master Plan, dated June 14, 2004. Additionally, some clarifications were provided by the applicant's consultants throughout the process. Conditions of approval are being imposed. The proposed MPoD as amended by the Errata Sheet, clarified by the Response to Issues document, and conditioned by the conditions of approval, is the MPoD being adopted. The conditions of approval prevail over any inconsistent material, and the MPoD is to be interpreted and applied consistent with these findings.
2. Lone Ranch is located on 553 acres of property within the City of Brookings, at the northern edge of the City, immediately east of Highway 101 (the Lone Ranch site).
3. The MPoD is a plan for a primarily residential development with 1,000 dwelling units in both single-family and multi-family structures. The MPoD also plans for a 10-acre community college site and provides for a limited amount (2.5 acres) of retail and commercial development within the plan area to provide commercial services.
4. Of the 553 acres within the MPoD area, approximately 370 acres are to remain in open space.
5. The Lone Ranch site has a Comprehensive Plan designation of Master Plan Area (MPA) and is zoned Master Plan Development (MPD).

GENERAL FINDINGS AND INTERPRETATIONS

6. The application is for approval of a master plan of development. Under the code, the Master Plan approval by itself does not allow development without a further land use proceeding to approve a detailed development plan. The Master Plan must be evaluated as a conceptual plan, not as a development plan.
7. Because no development is authorized by the approval, detailed studies that depend on the actual proposed development (for example hydrological studies) are not required prior to MPoD approval but can be required to be submitted during the DDP process as a condition of approval.

8. The City has an acknowledged Comprehensive Plan and an acknowledged Development Code. The MPoD application is subject to applicable Comprehensive Plan and Development Code provisions. The statewide land use planning goals apply primarily through compliance with applicable Comprehensive Plan and Development Code provisions. An application that complies with all acknowledged Comprehensive Plan and Development Code provisions is consistent with the statewide land use planning goals.
9. One of the main issues that has been discussed is the adequacy of utilities and infrastructure. The applicable standard is whether "adequate facilities are available **or can be reasonably made available at each phase.**" BDC 70.070C (*emphasis added*). This provision does not require a finding that facilities are in place and does not require detailed plans for utilities and infrastructure -- it only requires a finding that it is feasible to provide facilities sufficient to provide service for each phase.

CONSISTENCY WITH BROOKINGS DEVELOPMENT CODE

10. Brookings Development Code Section 70.070A imposes the following standard for MPoD approvals: "The proposed MPoD is consistent with the purposes identified in Section 70.010 and the intent of the MPD zone." Therefore, consistency with the purpose statement of Section 70.010 is an approval standard.

70.010 Purpose. *The Master Planned Development (MPD) zone is a land use district. The Master Planned Development zone may be applied on sites that are 50 acres or greater in size. The MPD zone shall implement the MP Comprehensive Plan designation, which shall be placed on all land requiring a "Master Plan of Development in the Urban Growth Management Agreement, (UGMA) adopted by the City and the County. Upon or subject to annexation into the City, the MP Comprehensive Plan designation shall be applied to all land that is required to adopt a "Master Plan of Development" (MPoD) in the Urban Growth Boundary. In addition, the City may apply the MPD designation to other lands within the City.*

The MPD zone is to be implemented through the approval of a MPoD that describes in detail, as outlined in this section, how the development of the property will occur and how the development will implement applicable goals and policies of the City's Comprehensive Plan, and applicable provisions of the Land Development Code. The MPoD will assess and minimize, to an acceptable level, the impacts of the development on the City's services, infrastructure, transportation systems and neighboring properties. As the MPD zone is implemented through an approved MPoD, no development shall be allowed until applicable requirements of Section 70 are met. Compliance with applicable plan goals and policies is deferred until the MPoD review.

Master Planned Development review procedures are established in this chapter for the following purposes:

- A. *Promote flexibility in design and permit diversification in location of structures;*
 - B. *Promote efficient use of land and energy and facilitate a more economical arrangement of buildings, circulation systems, land uses, and utilities;*
 - C. *Preserve to the greatest extent possible existing landscape features and amenities, and utilize such features in a harmonious fashion;*
 - D. *Provide for more usable and suitably located recreation facilities and other public and common facilities than would otherwise be provided under conventional land development procedures;*
 - E. *Combine and coordinate architectural styles, building forms and building relationships within the Planned Development;*
 - F. *Provide the applicant with reasonable assurance of ultimate approval before expenditure of complete design monies, while providing the City with assurances that the project will retain the character envisioned at the time of approval;*
 - G. *Promote and encourage energy conservation; and*
 - H. *Provide greater compatibility with surrounding land uses than what may occur with a conventional project.*
11. The site is zoned MPD, has a Comprehensive Plan Designation MP, and is greater than 50 acres.
 12. The MPoD submitted by applicant describes how the development of property will occur and how the development will implement applicable plan and code provisions.
 13. Compliance with comprehensive plan goals and policies as well as other portions of Section 70 is addressed below.
 14. A key element of the master planning process as outlined by the code is that it allows for master plan approval based on a concept and provides for implementation of the specific plan through subsequent detailed development plan approval. The Lone Ranch master plan provides the concept for the development but allows design flexibility. It provides diversification in location of structures.
 15. The Lone Ranch site is highly constrained. The features that constrain development of the site are:

- a. Three steeply sloped stream corridors;
- b. A 100' wide transmission line corridor and easement;
- c. Restriction to four pre-determined access points from Highway 101;
- d. Thirty five individual wetland sites; and
- e. Presence of Western lilies;

Collectively these features have reduced the developable area of the site to approximately one third of the site. Therefore, the master plan provides for flexibility in the location of structures and in design by the adoption of standards appropriate to the site consistent with the Brookings Development Code. By narrowing some of the street widths, reducing a small number of lot sizes, and by providing sprinklers to homes, the MPoD preserves the existing natural environment to the greatest extent possible consistent with the development of the site. The plan provides for efficient use of the land and an economic arrangement of buildings, circulation systems, land uses, and utilities.

16. The neighborhood concept developed for Lone Ranch has allowed the applicant to design supporting infrastructure and create fifteen neighborhoods that may be developed individually or in groups. The supporting documentation provided as part of the master plan demonstrates that all public services are available or will be available to accommodate each neighborhood as it is developed and at the time of the full buildout of the site. The Council finds that it is feasible to provide all public services and utilities at acceptable levels prior to each phase of development.
17. The neighborhood design has allowed the applicant to provide assurance to the public that services can be provided to neighborhoods as each develops. Although assurance is provided that infrastructure is adequate, a key principal in Lone Ranch is that the neighborhoods will develop as the market dictates. That is why the master plan provides for developable areas, but does not specifically provide lot lines or building pads. Although the applicant has provided for one potential scenario as shown on the Illustrative Plan, the individual developer of each neighborhood will require final approval of the specific design and location of structures through the detailed development plan. No DDP for a phase may be approved if adequate services will not be made available.
18. The flexibility in the planning process will come as each phase is developed. The provisions of the master plan ordinance allow for flexibility in application of the master plan during the approval of the detailed development plan. At the time of each DDP, the City can assess whether or not the specific phase is consistent with the overall transportation plan, the open space, and the proposed overall density. No specific lot configuration is required by the master plan. In this manner, construction will keep pace with any changes that may occur in the industry, such as housing products, lots sizes, or others, over the period of time that Lone Ranch is anticipated to be complete. Therefore, the approach

presented by the Lone Ranch master plan is flexible in both design and the location of structures.

19. The Lone Ranch master plan promotes an efficient use of land and energy given the small amount of developable area relative to the site and the physical elements of the site. The MPoD balances efficiency with preservation of as many wetland and buffer areas as possible. 67% of the site is dedicated to open space, either as stream corridors, wetlands, the transmission line corridor or buffer areas. As a result, the developable areas are in pockets dispersed over the 553 acre site. However, the 182 acres proposed for development is very efficient and has been designed in a manner that specifically promotes efficiency and the economical arrangement of buildings, circulation systems, land uses and utilities, consistent with the physical features of the site. Environmental constraints do limit the extent to which all areas can be interconnected by roads, but the site achieves efficiency consistent with environmental protection needs. The overall density of the single family lots is 6.6 units per acre. The overall density of the multi-family development is 14 units per acre.
20. Commercial land to accommodate retail and commercial uses will allow services to most residents of Lone Ranch and college students without using the Highway 101 route. Inasmuch as no construction is actually approved during the master planning stage, building efficiency is not addressed. However, an efficient circulation system is proposed. As described in Section IV of the application, all but two of the neighborhoods are served by the main loop road system in the central portion of the site. The two neighborhoods identified as G and H are accessed separately from the northernmost access to avoid crossing Ram Creek. This minimizes the need to reenter Highway 101 to travel within Lone Ranch. The Council finds that the protection of Ram Creek justifies the lack of a vehicular connection between Neighborhoods G and H and the rest of the site. The neighborhoods are connected by a pedestrian way.
21. Where possible, home sites are planned for both sides of the streets making efficient use of the improvement. Where the topography or the presence of wetlands makes this impossible, development areas are provided on only one side of the street. As shown on the circulation plan, an example of where this occurs is in Neighborhood I where development is proposed along the north side of the road, but the topography precludes development to the south. Streets may also be single loaded in neighborhoods O and F.
22. The plan for the delivery of sanitary sewer and water services was designed by professional engineers to promote efficiency. The utilities were designed so that each neighborhood could be developed in a flexible order and be fully served.
23. Two thirds of the site has been set aside for preservation of wetlands, stream corridors and buffers. Large tracts of open space have been identified at both the northern and southern edges of the site. Most notably, the area north of

Neighborhoods G and H surrounding Lone Ranch Creek and the area west of Taylor Creek at the southern edge of the site have been left as open space. The development areas have been located to avoid the wetland areas in order to minimize the impact of the development. As a result nearly 371 acres of land is in open space. Although subject to change at the detailed development stage, street patterns can be provided so that many lots back onto the open spaces, maximizing the use of the open space for the homeowner. The extensive multi-use path system has balanced the desire to allow access to the open space throughout the site while preserving privacy for homeowners and preserving the natural areas.

24. The MPoD preserves existing natural features and other amenities to the greatest extent possible and utilizes them in a harmonious fashion.
25. The MPoD provides an integrated plan for all 553 acres of the site. A multi-use coordinated trail system is proposed throughout the fifteen neighborhoods of Lone Ranch. The trail system is a public facility that is more usable and suitably located because it is part of a master plan than it would have been in a conventional development.
26. The architectural style will be established with the detail development plan submittal for the first phase (exclusive of the community college). The college will establish its own architectural style. Compliance with this portion of the purpose statement is to be determined at the detail development phase.
27. Much of the character of Lone Ranch is established by the features that are part of the master plan. The large amount of open space, the multi-use path system, the development standards, the street design options, the preservation of the wetlands and the preservation of the lilies, are all features that will be guaranteed as part of the master plan approval. As defined by the ordinance, as each subsequent phase is developed and submitted for detailed development plan approval, the plan will be reviewed for its consistency with the master plan.
28. At the time the first phase is proposed for development (exclusive of the college), details such as street lighting, landscaping plans, and architectural requirements may be established further defining the character of development. Such improvement will be consistent with the initial character.
29. The master plan has allowed development to occur in clusters, better preserving open space and wetlands. The clustering has resulted in the need to reduce street widths and lot sizes. It has also allowed units to be clustered in a manner that creates buffers, for the most part, around the exterior edges of the site. With the exception of a small development area in Neighborhoods J, H and O, all development is a minimum of 250 feet from the edge of the site boundary. The ability to deviate from development standards is allowed by the master plan ordinance. Therefore, the impact on adjacent properties is minimal due to the

large buffer areas. This clustering and variation from development standards is allowed through the master planning as opposed to traditional subdivision planning.

30. The Lone Ranch MPoD is more compatible with the surrounding area than the site would be if developed as a traditional subdivision.

70.020 General Provisions. *Development within a Master Planned Development (MPD) zone is governed by the approval of a MPoD which can be developed in a single phase or in multiple phases. Prior to development a MPoD must be approved and prior to construction of any phase a Detailed Development Plan (DDP) must be approved. On sites where a MPD designation exists on the City's Official Zoning Map the provisions of Section 70 shall apply. The following procedure allows for Planning Commission review of a MPoD and Detailed Development Plan. An application to apply the MPD zone to specific properties may be submitted and reviewed concurrent with MPoD approval. The applicant may either select to process the development proposal under a DDP concurrent with approval of the MPoD or may request only approval of a MPoD in accordance with Section 70.050 and later apply for a DDP for an individual phase or phases of the project. However, prior to issuing any building permits a DDP must be approved by the Planning Commission.*

An applicant for MPoD approval may propose one or more alternative development standards for all or any specific areas within the plan boundaries, which supersede corresponding development regulations or standards otherwise applicable to the project area through existing regulations. Such alternative standards shall be clearly and specifically identified within the plan submittals, and shall include an explanation and/or drawings, which demonstrates that such alternative standards equally or better meet the purpose of the existing regulations.

31. The MPoD provides for development in multiple phases, as permitted by Section 70.020.
32. The MPoD is being approved prior to approval of any DDP and prior to any development.
33. The applicant has applied for alternate development standards as permitted by Section 70.020. The alternative standards were clearly and specifically identified in the plan submittals, with explanations and drawings as required. As stated in more detail below, the alternative standards equally or better meet the purpose of existing regulations.
34. The MPoD is consistent with Section 70.020.

70.030 Allowed Uses. *The following uses are allowed outright when they are included in an approved MPoD.*

- A. *All uses allowed outright and conditionally in the R-1, R-2, R-3 zones;*
 - B. *All uses allowed outright and conditionally in the C-1, C-2, C-3 and C-4 zones.*
 - C. *All uses allowed outright in the I-P and M-2 districts.*
35. The uses proposed in the MPoD are permitted outright or conditionally in the zones listed in Section 70.030 and therefore are allowed outright in the MPoD area.

70.040 Master Plan of Development (MPoD) Review Procedures. *An application filed for an MPoD shall be reviewed in accordance with the following procedures.*

Application Requirements

Applications shall be made on forms provided by the City. The person filing the application must be the owner or a person having an interest in the land to be included in the MPoD. If the MPoD is to include land in more than one ownership, the application must be submitted jointly by all of the owners or persons having an interest in each of the separately owned properties to be included.

The application shall be accompanied by the following:

- *Three copies of the narrative on 8.5 in. by 11 in. sheets;*
- *Four sets of full-scaled black line drawings of the MPoD graphic(s), with sheet size not to exceed 30 in. by 42 in. Where necessary, an overall plan with additional detail sheets may be submitted; and*
- *One set of the graphics shall be reduced to fit on 8.5 in. by 11-in, sheets of paper. Graphics, and related names/numbers must be legible on this sheet size.*

A. *Graphic Requirements*

A MPoD shall include the following information where applicable:

1. *Public Notice map including properties within 250 feet of the boundary of the MPoD.*
2. *Existing land use map (typically a topographic map that extends at least 300 ft. beyond the site. The map includes existing building footprints and makes a distinction between single-family, multi-family, commercial and industrial uses, as well as other significant features such as roads, drainageways, parks, and schools);*

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

4. The City Planner may also require additional information to evaluate the proposal.

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

1. Statement of planning objectives to be achieved by the project. This statement should indicate a description of the character of the proposed development, and a discussion indicating how the application meets the review criteria in Section 70.080.

2. Statement addressing how the project is in compliance with the applicable goals and policies of the Comprehensive Plan.

3. Quantitative data for the total concept development plan for the following where appropriate:

(a) Total number and type of dwelling units;

(b) Parcel size;

(c) Proposed lot coverage of buildings and structures where known;

(d) Gross densities per acre;

(e) Approximate allocation and amount of open space (lands not designated for buildings or vehicle parking and maneuvering areas);

(f) General type and location of land committed to nonresidential construction uses. The applicant may specify a list of allowable uses within the master plan area which may not include all uses allowed in the underlying zone.

4. General statement of intentions concerning timing, responsibilities, and assurances for all public and non-public improvements, such as irrigation, private roads and drives, landscape, and maintenance;

5. Statement describing project phasing, if proposed. Phases shall be:

(a) Substantially and functionally self-contained and self-sustaining with regard to access, parking, utilities, open spaces, and similar physical features; capable of substantial occupancy, operation, and maintenance upon completion of construction and development;

(b) Properly related to other services of the community as a whole and to those facilities and services yet to be provided; and

(c) Provided with such temporary or permanent transitional features, buffers, or protective areas as may be required to prevent damage or detriment to any completed phases and to adjoining properties not in the MPoD.

(d) Phasing plan including timing for construction and provision of dwelling units, parcel sizes and open space by phase.

6. *Traffic Impact Study consistent with Phasing Plan.*

36. Applicant has submitted all materials required by Section 70.040 with the required numbers of copies and required details. The City determined that the application was complete before the hearings were scheduled.

70.050 Acceptance of Application

- A. *The City Planner shall review the application in accordance with Section 4, Development Permit Procedures.*
- B. *After accepting a complete application the City Planner shall schedule a public hearing to be held by the Planning Commission. Notice of the hearing shall be provided in accordance with Section 84, Public Hearing Notice Procedures.*

37. The City Planner has reviewed the application in accordance with Section 4. The Planning Commission hearing was duly noticed and has been held.

70.060 Staff Evaluation *The City Planner shall prepare a report that evaluates whether the MPoD complies with the review criteria. The report shall also include a recommendation for approval or denial and, if needed, a list of conditions for the Planning Commission to consider if an approval is granted.*

38. A staff report was prepared and City staff recommended approval with conditions.

70.070 Review Criteria *The Planning Commission shall approve an application for MPoD upon finding that the following approval criteria be met:*

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

39. As discussed above, the MPoD is consistent with the purposes of Section 7.010. The intent of the MPD is to provide for planned development to avoid inefficient

and wasteful development. The MPoD is consistent with that intent by providing for efficient and environmentally sensitive development.

- B. The proposed phasing schedule, if any, is reasonable and does not exceed 10 years between commencement of development on the first and last phases unless otherwise authorized by the Planning Commission either at the time of approval of the MPoD or by a modification to the MPoD. If at the end of 10 years the project is not built out, the Planning Commission shall review the MPoD and shall have the ability to require changes to or rescind the plan based on existing conditions*
40. The Lone Ranch master plan utilizes a 15 year planning horizon. Because of the nature and extent of the Lone Ranch MPoD (15 neighborhoods, 1000 dwelling units), this is a reasonable phasing schedule. The nature and extent of the planned development justify authorization of a 15 year phasing schedule.
- C. The proposed MPoD will demonstrate that adequate utilities and infrastructure are available or can reasonably be made available at each phase. The proposed MPoD will further demonstrate that existing utility services and water supplies for adjacent properties will not be negatively affected at each phase.*
41. The materials submitted by applicant, including the technical appendix, demonstrate that adequate utilities can reasonably be made available at each phase of the development and that adjacent properties will not be negatively affected. The following discusses specific utilities and infrastructure:
- a. Water: Substantial evidence is supplied in the Lone Ranch Master Plan Utilities Report, and in subsequent testimony and submissions by the project engineer and city staff, that the proposed water system, which will be connected with the city system, will adequately serve the site and will not negatively affect adjacent properties. The testimony of the City's Planning Director and the letter from the City's engineering consultant constitute substantial evidence supporting that the water system and supply can reasonably be made available at each phase of the development.
 - b. The Rainbow Rock Condominiums water system is the only other water system potentially affected by the Lone Ranch MPoD. That project will be able to connect to the City's water system at the time that it is extended to serve the Lone Ranch project and before any adverse impacts occur. The City system has adequate capacity to serve the condominiums. The water supply to each phase of the project, to the Rainbow Rock Condominiums and to the rest of the City will remain adequate.
 - c. Sanitary Sewer: Lone Ranch will connect to the City's sanitary sewer system. The City's 1999 Public Facility Plan and the Lone Ranch Master Plan Utilities Report, as well as evidence provided by applicant's

engineers and by City staff and the City's engineering consultant provide substantial evidence that there is adequate capacity to accommodate the proposed development.

- d. The site contains an easement south of Taylor Creek, which is used as a sanitary sewer drain field to accommodate the Rainbow Rock Mobile Home Park, located east of Lone Ranch. No impact on the drain field is anticipated from any development of Lone Ranch. However, per the terms of the easement, the mobile home park will connect to the public sanitary sewer system at the time it is made available and the drain field will be abandoned. Utility service will remain adequate.
 - e. Storm Water Management: The Lone Ranch storm drain system will be designed to connect to the existing storm conveyances. The storm drain network, consisting of storm drains, catch basins and other stormwater management facilities will be designed as each neighborhood is developed. The Lone Ranch Master Plan Utilities Report, as well as testimony from applicant's engineers, City staff, and the City's engineering consultant provides substantial evidence that the proposed system is adequate to serve the proposed development. A condition of approval is being imposed requiring a hydrologic study for each DDP to ensure compliance.
 - f. Public Safety: At the time that the Lone Ranch property was annexed into the City of Brookings, the City committed to providing adequate police and fire protection to the site as the Lone Ranch community was built. The City can reasonably make adequate police services available.
42. Based on the Lone Ranch Master Plan Utilities Report, the City's Public Facilities Plan, the testimony and evidence provided, and approval of the annexation, public services are adequate or will be made to be adequate during the course of development of Lone Ranch. Assurance that the public facilities will actually be provided prior to development is provided by the DDP process and the conditions of approval.
- D. *The proposed MPoD will demonstrate that the plan respects the physical characteristics of the site.*
43. The development has been designed to minimize the impact on the existing wetlands and buffer areas and avoids impact to the existing lilies. More than 2/3 of the site has been left in open space in direct response to the slopes, existing vegetation and wetlands and existing access points. The MPoD provides for 15 separate neighborhoods as a means of respecting the physical characteristics of the site, rather than a single neighborhood that would ignore existing physical characteristics.
44. The plan itself is evidence that the plan respects the physical characteristics of the site.

E. *The applicant demonstrates that all deviations from the development standards are warranted.*

45. The MPoD proposes both development standards and some deviations from otherwise applicable development standards. The Council finds that the proposed standards for the MPoD zone, including standards that deviate from otherwise applicable standards, are warranted.
46. The code does not contain minimum lot size, width, or height standards for the MPD zone. The standards are to be set by the MPoD. A deviation is a deviation from an otherwise applicable code standard. A standard established in the MPoD is not a deviation unless it is contrary to an otherwise applicable code standard. The following standards are not deviations.
 - a. The applicant proposes a general minimum single family detached lot size of 6,000 square feet, with a maximum of 10% of the lots proposed in any detailed development plan to be a minimum of 5,000 square feet. This will allow flexibility in the siting of lots to minimize impact on wetlands and buffers. The need to provide adequate buffers to protect the environment is sufficient justification to allow a portion of the lots to be below the generally applicable minimum lot size proposed in the MPoD. The location of the development and the amount of open space ensures that this will not be a dense urban development but will maintain the values intended to be preserved by the minimum lot size requirement. The Council finds that the 6,000 square feet minimum lot size is appropriate and that allowing 10 percent of the lots to be less than 6,000 square feet, but greater than 5,000 square feet, provides an appropriate standard for lot sizes and appropriate density for the developable single family areas.
 - b. The minimum lot width proposed for single family detached proposed by the MPoD is 60 feet, with an exception for those lots that are less than 6,000 square feet, where the minimum width would be 50 feet. The exception is warranted to protect wetlands and buffers and to be consistent with the size of the lots. The Council finds that both the general minimum lot width standard and the exception provide appropriate standards for single family lots.
 - c. Applicant has requested maximum building coverage to be 50%. The proposed standard leaves half of each property free of buildings. The standard is appropriate for this development. The maximum building coverage is greater than allowed elsewhere in the City, but is justified to meet market demand to ensure a successful development and protect the open spaces. A lower maximum building coverage would result in larger lots and greater impact on open space.
 - d. The applicant has requested an average building height for single family detached homes of 35 feet. The varying topography of the site warrants a need for taller building heights. Lone Ranch is a hilly and forested area, so

taller houses do not have the jarring appearance that they would in a flat area. Commercial buildings 40 feet in height are also requested and that height is appropriate, given the topography and the possibility of taller residential buildings. Each building would be subject to approval under the DDP review to assure that it is appropriate for its location.

- e. The applicant has proposed the following standards for single family attached homes:

Minimum lot size: 1,250 square feet

Maximum lot coverage: 60%

Front yard setback: 20 feet to garage; 15 feet to house

Rear yard setback: 10 feet

The proposed standards are reasonable, appropriate and warranted by conditions.

- 47. Currently the Brookings Development Code does not allow compact parking spaces within commercial parking areas. Recognition of the range of car sizes by allowing compact parking is a common practice in many jurisdictions. Allowing thirty-five percent (35%) of the parking as compact spaces is warranted because it will reduce impervious surface area thereby reducing impacts on water quality facilities. It will also serve to reduce the total area needed for developing, maximizing the area that can be preserved as open space.
- 48. A series of alternate street standards are proposed. Four street sections are proposed in the MPoD for Lone Ranch. They include two types of residential collector standards, one urban and one rural. The urban standard includes sidewalks while the rural standard accommodates a multi-use pathway. In addition, a local residential street standard is proposed as well as a private alley/street standard. These standards are minimum street widths. A developer may provide wider streets, including streets that are consistent with existing City street standards, if desired. The proposed street standards have been based on standards identified in the Neighborhood Street Design Guidelines published by the Department of Land Conservation and Development in November of 2000. The narrower street standards are warranted – they have been encouraged in urban areas since then and would result in the following benefits to the public:
 - i. less impervious surface area within the development,
 - ii. greater responsiveness to topographical features,
 - iii. less on-site grading,
 - iv. less impact on wetlands and buffer areas.
- 49. The applicant has coordinated with the City on the development of the Lone Ranch standards. All standards are appropriate and the deviations that have been requested are warranted.

F. The circulation proposed MPoD will demonstrate that adequate transportation facilities are available, and the plan promotes the most economic, safe and efficient movement of traffic.

50. The traffic impact study prepared by DKS Associates, provided by applicant, as well as subsequent testimony and materials provided by DKS, provide substantial evidence that the transportation facilities will be adequate. The Council interprets this section as requiring that transportation facilities be available for each phase of the development before any occupancy of a new phase is allowed. The adequacy of the transportation facilities will be assured by the completion of the transportation mitigation projects offered by the applicant prior to occupancy of the first residential phase and by the requirement to provide additional transportation impact studies if the project is developed to the point where the number of trips will exceed the number on which the transportation impact study was based.
51. The proposed circulation plan was designed to balance the impact on the wetlands with the need to provide an interior circulation system for the project. The proposed system allows for circulation within the site without reentering Highway 101, with the exception of the area north of Ram Creek. The area north of Ram Creek has its own circulation system, including a potential connection to an existing road east of the site.
52. The existing transportation system, with planned improvements that are required before the first residential phase, is adequate to provide service to Lone Ranch and all transportation facilities will remain adequate with those improvements and improvements already planned in the TSP.
53. Given the need to balance the physical characteristics of the site with the efficient movement of traffic, the MPoD demonstrates that the plan promotes the most economic, safe and efficient movement of traffic possible on this very constrained site.

G. The proposed MPoD meets the applicable requirements of the Urban Growth Boundary Joint Management Agreement.

54. The relevant portion of the JMA to the Lone Ranch project is that all of the areas annexed into the City's UGB in 1998 are required to be master planned. The MPoD is one step in the master planning process.

Comprehensive Plan Goal and Policies

55. The MPoD is consistent with the goals and policies of the Comprehensive Plan as detailed below.

GOAL 1 – Citizen Involvement:

To provide a citizen involvement process that ensures the opportunity for citizens to be involved in all phases of the planning process.

56. The MPoD application was processed in accordance with the public involvement elements identified in the City's Land Development Code (LDC). Notice of the public hearings before the City Council and Planning Commission were sent to all property owners within 250 feet of the property. Public notices of the hearings were also published in the local newspaper. Since the site was annexed in 2002, the following public involvement events have occurred:

- a. Burton Weast, of Western Advocates, addressed the public forum conducted by the Chamber of Commerce;
- b. Mr. Weast addressed a League of Women Voter's forum on the project;
- c. Mr. Weast has been a speaker at the Chamber of Commerce's annual economic development meeting held in February of 2003 and 2004. Mr. Weast's primary message to the Chamber was the development plans and intentions for Lone Ranch.
- d. Several newspaper articles have been published over the past two years, helping to keep the community informed.
- e. The Planning Commission held a public hearing on July 27, 2004, and allowed additional written comment through August 3, 2004. The Planning Commission deliberated and adopted a recommendation on August 17, 2004.
- f. The City Council held a public hearing on September 13, 2004, and allowed additional written comments to be submitted after the hearing.

57. The process has been consistent with Goal 1.

GOAL 2 – Land Use Planning

To establish a land use planning process and policy 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.

Policy 3 – In instances where public hearings are required, relative to this application, the Planning Commission and City Council will follow procedures established in the City's LDC. These bodies are responsible for considering the effects of a decision on the entire community and should not be swayed unduly by persons testifying for or against a particular course of action, but must place this input into its proper perspective and base the final decision on all information provided to them.

58. The City has established a land use planning process and policy framework consistent with Goal 2. The MPoD has been considered in the context of that process and framework. The MPoD is consistent with the provisions of the City's Comprehensive Plan, the LDC as well as the provisions of the Public Facilities Plan (PFP) and the Transportation System Plan (TSP) as indicated by the Utility Report and the Transportation Impact Study prepared by competent qualified

experts and submitted by applicant. The decision to approve the MPoD is made based on the facts as presented under applicable standards and policies.

59. The applicant has submitted all of the required materials; the required public hearing was held before the Planning Commission and an additional public hearing has been held before the City Council.
60. All required notices have been provided and the City has held public hearings consistent with the Goal and Policy.
61. Approval of the master plan is consistent with Goal 2.

GOAL 3 – Agricultural Lands

To cooperate with the County in the preservation and maintenance of agricultural lands.

62. This goal imposes requirements only on the City, not applicants, and is therefore not applicable. Even if this Goal were applicable, it would be met because the MPoD is consistent with the preservation and maintenance of agricultural lands, as detailed in the following findings.
63. The property is not zoned as agricultural. However, property on the west side of Highway 101 between Boardman State Park and the city limits is zoned Forest Grazing (FG). The land to the north and east of the site is zoned FG and contains primarily vacant land. Many of the natural features of the area form buffers between the subject property and the forest grazing land to the southwest, north, and east. The property directly to the north of the site is approximately 108 acres in size, is owned by U.S. Borax, and is not within the UGB.
64. When the urban growth boundary was expanded to include the Lone Ranch property, the decision was made that the subject site would be urbanized and that development could occur adjacent to the FG zoned areas. The MPoD is consistent with that decision. The MPoD is not inconsistent with resource use of the property to the north.
65. The MPoD plans for a development that for the most part is separated from agricultural or forest lands by existing stream corridors or by Highway 101. Little development is planned for the northerly 300 feet of the site. The portion of the property to the north that is adjacent to Lone Ranch is steeply sloped and therefore not suitable for agricultural use. The combination of the lack of development of the northern part of Lone Ranch and the constraints on use of the southern portion of the property to the north will result in a buffer of 300 to 600 feet between any development and any area that could be put to timber or agricultural use. The FG land to the west of the site is separated from the development by the Taylor Creek corridor, which creates a buffer of from 250 to 800 feet wide.

66. The only FG areas not separated by stream corridors from Lone Ranch are:

The area southwest of the site that include the pond and water tank serving the Rainbow Rock Condominiums. This area is not used for agriculture or forest purposes. Much of the area is separated from development within Lone Ranch (Neighborhoods O and A) by a proposed road and steep slopes. Adequate buffering can be assured by detailed requirements at the detailed development plan stage.

A small portion (part of Neighborhood J) of the Lone Ranch development will extend to near the northern edge of the development. The detailed development plan for this area will ensure adequate buffering.

A small number of proposed lots in neighborhood H are near the edge of the property near FG zoned land. Any impact will be minimal because of the small number of lots. The potential residences in this area do not threaten agricultural or forest lands.

67. The buffers created by slopes and stream corridors and the fact that all development will be within the urban growth boundary on lands that are not zoned for agricultural and resource use result in a development that does not threaten the preservation or maintenance of agricultural or forest lands.

GOAL 4 – Forest Lands

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

68. This goal is not applicable because it imposes requirements only on the City, not on applicants. However, if it were applicable, it would be met because the MPoD is consistent with the protection of forest lands. The property is not zoned as forest land and therefore does not convert forest lands into non-forest lands. The findings for Goal 3 are incorporated into this finding.

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

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.*

69. The Master Plan for Lone Ranch includes a wetland assessment of the site. As a result of the wetland assessment, and in response to the topography of the site, 67% of the site is left as open space. The MPoD minimizes the impacts of development on the resources of the site. Less than ½ acre of wetland area will be impacted by development. Development may occur only if appropriate permits are obtained from the Division of State Lands and the Army Corps of Engineers. It is feasible to obtain those permits, given that most wetlands and

buffer areas are preserved and that mitigation can be provided if required to compensate for any impacts.

70. The Comprehensive Plan does not identify any historic area on the site. New construction, including all excavation, will follow the requirements of the regulations of the State Historical Preservation Office (SHPO). Those regulations provide adequate protection of any historical site that may be identified. A condition of approval is being imposed to require compliance with state regulations regarding cultural resources. It is feasible to comply with this condition and compliance will result in protection of any historic resources that may be discovered.
71. A survey of possible historic resources on the site has been performed and the applicant will provide the survey and report on historic resources to SHPO to assure compliance with applicable regulations protecting archaeological and historic resources.
72. The wetlands assessment identified the location of the western lilies, which are primarily located in wetland areas. Therefore, by limiting development within the wetlands, impact on the western lily is avoided. Additional site specific surveys, following the protocols required by federal agencies, will be submitted when detailed development plans are submitted. Construction will be required to follow applicable federal regulations protecting the western lilies. The detailed development plans, including the site specific surveys, will be subject to review by responsible federal agencies to ensure protection of identified lilies.
73. As required by a condition of approval, hydrologic analyses will be performed when site specific plans are prepared, but cannot be prepared until site specific plans are available. Those analyses will provide information that will allow determinations to be made concerning any possible impact on wetlands or western lilies at the detailed development plan stage. The flexibility in the MPoD will allow refinements of development plans to minimize any possible impact.

GOAL 6 – Air, Water and Land Resources Quality

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

Policy 1 – *It is the policy of the City of Brookings to recognize and comply with State and Federal environmental quality statutes, rules and standards.*

74. No development will occur as a result of the MPoD approval – further approvals are needed. All development that will occur on the property as a result of future detailed development plans must comply with applicable federal, state and local environmental quality standards. The development standards in the MPoD have been designed in part to minimize any impact on the quality of the air, water and land resources. The allowance for reduced lot sizes, while not increasing the allowable density of the area, better accommodates the natural features of the site, including the topography and streams and wetlands. Specifically, the minor

reduction of street widths within Lone Ranch allows more of the site to be preserved in open space and minimizes the amount of grading required to accommodate streets.

75. The City has determined that the connection to the City water supply will have no significant impact on the Chetco River. The sanitary and storm drainage systems have been designed in accordance with the provisions of the PFP and are therefore in compliance with local environmental quality requirements.

GOAL 7 – Areas Subject to Natural Disasters and Hazards

To protect life and property from natural disasters and hazards.

Policy 1 – *When development is located in areas of known natural hazards, the density or intensity of the development shall be limited by the degree of the natural hazard.*

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.*

76. There are no identified areas subject to natural disasters and hazards.
77. There are limited areas of the property that are in excess of 15% slope. The MPoD demonstrates the areas proposed for development are limited to the flatter portions of the property and development on areas of steep slopes is avoided. Section 100 of the LDC requires areas in excess of 15 % slope be reviewed by an engineering geologist when divisions of land are proposed. Applicant submitted a Geotechnical Analysis prepared by a qualified and competent expert. That analysis included a series of design recommendations that were incorporated into the MPoD.

78. Approval of the MPoD is consistent the provisions of Goal 7.

GOAL 8 – Recreational Needs

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.*

79. The MPoD provides for a significant amount of open space (67% of the site). It also provides for more than 4 miles of multi-use pathways and sidewalks. The paths and open space will provide opportunities for recreational activities.

80. Approval of the Master Plan of Development is consistent with Goal 8.

GOAL 9 – Economy of the State

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.

81. There are few opportunities for a large scale mixed use development within Brookings. The large parcel size (553 acres) allows for a planned community of a scale and type like none other in Brookings. The presence of a satellite college facility will provide improved educational facilities for City residents, resulting in new job opportunities and job training.
82. In addition to the employment opportunities afforded by the expanded community college and the commercial facilities, additional jobs will be made available during the construction of the infrastructure improvements and buildings, including homes and commercial buildings. Collateral economic benefits will arise as a result of the construction and employment opportunities at Lone Ranch.
83. Few sites allow the level of development available on this 553 acre property. Development at the densities proposed cannot occur without approval of the master plan. Approval of the Master Plan of Development will assist the City in diversifying and improving the economy of the Brookings area.
84. The MPoD is consistent with Goal 9.

GOAL 10 – Housing

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 properties and plan for suitable locations.

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.

Policy 8 – City shall, in light of increasing demand for multi-family housing, provide suitable and adequate areas for such development.

85. The UGB was expanded to include the site in part to accommodate future housing needs, after it was determined that the existing supply of land within the existing UGB would be inadequate to accommodate future population growth. Inclusion in the UGB was only the first step toward providing land in suitable quantities to encourage the construction of new residential units. As required by

the approval of the UGB, before units can be added to meet demand, the Master Plan of Development must be approved.

86. The proposed Master Pan provides for a mix of uses that includes single and multi-family housing at a variety of densities. It is anticipated that lot sizes would range from 5,000 – 10,000 square feet, in order to provide a wide range of housing types and a variety of affordability. This is one of the few locations within the City and UGB that can accommodate a large scale mixed use development where a variety of housing types can be integrated with a college campus, supporting commercial uses, and open space in a planned and aesthetically pleasing manner.
87. Approval of the Master Plan of Development is consistent with Goal 10 because it is a necessary step in the process that will eventually allow needed housing to be developed in the plan area. Denial of the MPoD would be contrary to and inconsistent with Goal 10 and the Goal 10 policies by substantially limiting the City's ability to provide needed housing.

GOAL 11 – Public Facilities and Services

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

Policy 1 (D) - *All public works construction to serve newly developed area 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.*

88. The property was included in the PFP and the TSP, and further planning efforts continue to show that public facilities can be provided to the site. The developer will provide all on-site infrastructure needs consistent with City standards (as modified by the approval) and participate in the off-site public facilities to ensure the orderly provision of public facilities and services necessary to the property. The City Standard Specifications have been modified since Policy 1(D) was adopted and the infrastructure will be consistent with the City Standard Specifications adopted August 1988, and updated January 1991 and February 1998. The Council interprets Policy 1(D) as requiring compliance with updated standards, not just the September 1981 standards.
89. The Master Plan of Development is consistent with Goal 11.

GOAL 12 – Transportation

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

90. A Transportation Impact Study for the site has been prepared by DKS Associates. The study was prepared by competent experiences professionals, who worked closely with the City and Oregon Department of Transportation. Based on the TIS, applicant has proposed a series of off-site and on-site

improvements to mitigate the potential impacts caused by the development at Lone Ranch. Development of those improvements is being required as a condition of approval. It is feasible to construct those improvements. Completion of those improvements will assure that Lone Ranch will have no negative impact on the transportation system. The TSP contains plans for other public improvements that will be provided that will also contribute to maintaining the adequacy of the transportation system.

91. The TIS was based on an anticipated number of trips. A theoretical but unlikely possibility exists that the number of trips generated will be greater than the number anticipated in the TIS. An condition is being imposed that will require a new TIS for any phase that will result in total cumulative trip generation in excess of the number used in the TIS.
92. With the requirement that the proposed improvements be made to the transportation system, approval of the Master Plan of Development is consistent with Goal 12.

GOAL 13 – Energy Conservation

To conserve energy

Policy 2 - *The City desires high density development to be located adjacent to major shopping areas and along major transportation routes, as appropriate.*

Policy 3 - *Energy conserving alternatives to conventional housing, such as multi-family housing and planned unit developments are encouraged in appropriate areas. Education in energy conservation techniques and encouraging further energy resource development is also desired.*

93. The MPod is for a mixed use development that combines single-family and multi-family residential development with supporting commercial facilities and a college campus. The location of the commercial facilities in close proximity to the residential areas conserves energy by reducing the need for long distance automobile trips.

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 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.*

94. Lone Ranch is located within the Brookings City limits. The development therefore is consistent with this goal by providing for development within the City rather than outside the city limits.

GOAL 15 – Willamette River Greenway

Finding: The Property is not within the Willamette River Greenway. Therefore, this goal is not applicable.

GOAL 16 – Estuarine Resources

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

95. Applicant submitted a utility report prepared by competent experienced professionals. That utility report demonstrates that the proposed development will have no impact on the Chetco River. None of the site drains to the Chetco River watershed. Any water withdrawals from the Chetco River will be within that allowed to the City, consistent with protection of the estuary. There is no negative impact on the estuary or its wetlands and the development is consistent with Goal 16.

GOAL 17 - Coastal Shorelands

To conserve, protect, where appropriate develop and/or restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependant uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters.

96. The Lone Ranch project is separated from the shoreline by Highway 101 and Samuel S. Boardman State Park. However, there are some existing impacts on the shoreline that will be reduced by development of the site. The Geotechnical Report submitted by Applicant indicates that the surface water run-off currently is culverted and piped under Highway 101 and drops directly into the ocean. Development within the MPoD area will be required to follow a storm water management plan, which will put in place a system that will catch and treat storm water, thereby reducing erosion and direct run-off into the ocean.

97. The MPoD is consistent with Goal 17.

GOAL 18 – Beaches and Dunes

To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas.

98. According to the Curry County Comprehensive Plan, there are only a few places along the shoreline where coastal dunes have developed and extend short distances along the coast or inland from the beach. The beach and dune areas are all located within the coastal shoreland area. There are no coastal shorelands east of U.S. 101. All of the MPoD area is east of U.S. 101. There are no beach or dune areas within the MPoD area and Goal 18 is not applicable.

FINDINGS RELATING TO STATEWIDE LAND USE PLANNING GOALS

99. Compliance with the statewide land use planning goals is assured because the proposed MPoD is consistent with all applicable Comprehensive Plan and Development Code provisions.

Goal 1 – Citizen Involvement

100. The City had an extensive public process consistent with the citizen involvement provisions of its acknowledged plan and regulations. Citizens have been involved, with numerous chances to comment on the MPoD. The findings relating to Comprehensive Plan Goal 1 are incorporated by reference. The application and process has been consistent with statewide Goal 1, if applicable.

Goal 2 – Land Use Planning

101. The City has followed its land use planning process applicable to MPoD applications. The City's code, including the MPoD procedural provisions, has been acknowledged. The findings relating to Comprehensive Plan Goal 2 are incorporated by reference. The application and process are consistent with statewide Goal 2, if applicable.

Goal 3 – Agricultural Lands

102. Goal 3 is not applicable because the area subject to the MPoD does not include agricultural lands. Findings relating to Comprehensive Plan Goal 3 are incorporated by reference.

Goal 4 – Forest Lands

103. Goal 4 is not applicable because the area subject to the MPoD does not include forest lands. Findings relating to Comprehensive Plan Goal 4 are incorporated by reference.

Goal 5 – Open Spaces, Scenic and Historic Areas, and Natural Resources.

104. The City's Comprehensive Plan and Development Code have been acknowledged to be in compliance with the statewide land use planning goals, including Goal 5. The City's inventories of Goal 5 resources do not identify any Goal 5 resources on the site. As demonstrated above, the MPoD is consistent with Comprehensive Plan and Development Code provisions implementing Goal 5. The findings for Comprehensive Plan Goal 5 are incorporated by reference. Additional findings in response to comments from opponents of the project, listed below, are incorporated by reference. The Council recognizes the concern that has been expressed for natural resources, including streams, stream corridors, and wetlands, and for cultural and historical resources. The Council finds that the MPoD has been designed to protect natural resources by minimizing stream crossings, protecting the vast majority of wetlands, and providing mitigation for

any wetlands that are affected. The conditions of approval that are being approved provide protection for natural resources and historic and cultural resources, consistent with Goal 5, if applicable.

Goal 6 – Air, Water and Land Resources Policy

105. The City's Comprehensive Plan and Development Code are acknowledged. The MPoD is consistent with applicable Comprehensive Plan and Development Code provisions, as demonstrated above. The findings for Comprehensive Plan Goal 6 are incorporated by reference. The MPoD, as conditioned, is consistent with Goal 6, if applicable.

Goal 7 – Areas Subject to Natural Disasters and Hazards

106. The City's Comprehensive Plan and Development Code are acknowledged. The MPoD is consistent with applicable Comprehensive Plan and Development Code provisions, as demonstrated above. The findings for Comprehensive Plan Goal 7 are incorporated by reference. The MPoD, as conditioned, is consistent with Goal 7, if applicable.

Goal 8 – Recreational Needs

107. The City's Comprehensive Plan and Development Code are acknowledged. The MPoD is consistent with applicable Comprehensive Plan and Development Code provisions, as demonstrated above. The findings for Comprehensive Plan Goal 8 are incorporated by reference. The MPoD, as conditioned, is consistent with Goal 8, if applicable.

Goal 9 – Economic Development

108. The City's Comprehensive Plan and Development Code are acknowledged. The MPoD is consistent with applicable Comprehensive Plan and Development Code provisions, as demonstrated above. The findings for Comprehensive Plan Goal 9 are incorporated by reference. The MPoD, as conditioned, is consistent with Goal 9, if applicable.

Goal 10 -- Housing

109. The City's Comprehensive Plan and Development Code are acknowledged. The MPoD is consistent with applicable Comprehensive Plan and Development Code provisions, as demonstrated above. The findings for Comprehensive Plan Goal 10 are incorporated by reference. The MPoD, as conditioned, is consistent with Goal 10, if applicable.

Goal 11 – Public Facilities and Services

110. The City's Comprehensive Plan and Development Code are acknowledged. The MPoD is consistent with applicable Comprehensive Plan and Development Code

provisions, as demonstrated above. The findings for Comprehensive Plan Goal 11 are incorporated by reference. For a conceptual plan such as an MPoD, Goal 11 does not require that public facilities be in place at the time of approval, but only requires proper planning for the provision of public facilities and services. The MPoD and the City's public facilities plans provide proper planning for public facilities and services, consistent with Goal 11. The MPoD, as conditioned, is consistent with Goal 11, if applicable.

Goal 12 -- Transportation

111. The City's Comprehensive Plan and Development Code are acknowledged. The MPoD is consistent with applicable Comprehensive Plan and Development Code provisions, as demonstrated above. The findings for Comprehensive Plan Goal 12 are incorporated by reference. The MPoD, as conditioned, is consistent with Goal 12, if applicable.

Goal 13 – Energy Conservation

112. The City's Comprehensive Plan and Development Code are acknowledged. The MPoD is consistent with applicable Comprehensive Plan and Development Code provisions, as demonstrated above. The findings for Comprehensive Plan Goal 13 are incorporated by reference. The MPoD, as conditioned, is consistent with Goal 13, if applicable.

Goal 14 – Urbanization

113. Goal 14 does not apply because the property is already within the City limits. The City's Comprehensive Plan and Development Code are acknowledged. The MPoD is consistent with applicable Comprehensive Plan and Development Code provisions, as demonstrated above. The findings for Comprehensive Plan Goal 14 are incorporated by reference. The MPoD, as conditioned, is consistent with Goal 14, if applicable.

Goal 15 – Willamette River Greenway

114. Goal 15 does not apply because the property is not within the Willamette River Greenway.

Goal 16 – Estuarine Resources

115. The City's Comprehensive Plan and Development Code are acknowledged. The MPoD is consistent with applicable Comprehensive Plan and Development Code provisions, as demonstrated above. The findings for Comprehensive Plan Goal 16 are incorporated by reference. The MPoD is consistent with Goal 16, if applicable.

Goal 17 – Coastal Shorelands

116. The City's Comprehensive Plan and Development Code are acknowledged. The MPoD is consistent with applicable Comprehensive Plan and Development Code provisions, as demonstrated above. The findings for Comprehensive Plan Goal 10 are incorporated by reference. The MPoD, as conditioned, is consistent with Goal 10, if applicable.

Goal 18 – Beaches and Dunes

117. The City's Comprehensive Plan and Development Code are acknowledged. The MPoD is consistent with applicable Comprehensive Plan and Development Code provisions, as demonstrated above. The findings for Comprehensive Plan Goal 18 are incorporated by reference. The MPoD, as conditioned, is consistent with Goal 18, if applicable.

Goal 19 – Ocean Resources

118. The proposed MPoD does not affect ocean resources.

FINDINGS ADDRESSING ISSUES RAISED IN WRITTEN COMMENTS

Letter, memorandum and testimony from Catherine Wiley

119. A letter from Ms. Wiley to Karen Quigley dated August 25, 2003, was offered in support of protection of cultural resources that may be on the site. Ms. Wiley argues that Goal 5 requires cultural resource surveys. Goal 5 does not require cultural resource surveys of all properties to be developed. Rather, it requires the County to develop an inventory of various resources, including "Cultural areas." The County's inventories do not list any Goal 5 resources on the site.
120. A cultural resource survey has been completed and will be provided to the State Historic Preservation Office. State statutes protect cultural resources and applicant must comply with applicable statutes. Those statutes are enforced by state agencies separate from the City's land use process.
121. Ms. Wiley stated in her letter that according to oral history, there was a permanent Native American settlement somewhere on the Borax property. If evidence of such a settlement is discovered during development of the property, the developer will be required to take steps to protect the site, as required by state law. However, much of the property is not being developed and there is no evidence that any such settlement was within the area being developed. There is also no evidence of the extent to which any such settlement has left behind cultural or archaeological resources.
122. Ms. Wiley states that there are many ancient cultural sites about three miles north of the property. That statement does not establish that there are cultural sites on the Borax property.

123. The Applicant has stated that it does not want to make the survey available because it could be misused by those who loot and destroy cultural resource sites. Dennis Griffin, Lead Archaeologist for the Heritage Conservation Division of the Oregon Parks and Recreation Department has stated: "US Borax should not disclose to the city or any other agencies any site-specific locations of cultural resources identified by the archaeological survey." The City agrees that the survey should remain confidential. Therefore, it should be submitted to SHPO but should not be submitted to the City.
124. The evidence of Native American settlements on the site is disputed. In testimony, Ms. Wiley referred to an earlier study, claiming that it indicated that there had been a Native American settlement. Ms. Wiley did not offer the study into evidence. In response to this testimony, John Bischoff, the City's Planning Director, obtained a copy of the study and reviewed it. Mr. Bischoff testified that the settlements referred to in the study were not on the property, but to the west of the property. Mr. Bischoff's testimony is credible.
125. In her July 26, 2004 memorandum to the Planning Commission, Ms. Wiley complains of improper notice and unavailability of materials. Notice of the July 27, 2004 Planning Commission hearing was provided to nearby property owners on July 2, 2004 and published in *The Pilot* on July 3, 2004, in compliance with the 10 day notice requirement. Ms. Wiley was given an additional week to provide written testimony. Even if there were some procedural defect, Ms. Wiley had the opportunity to and did comment and was not adversely affected by any alleged procedural defect.
126. Ms. Wiley argues that "building lots, building heights, sidewalks, roadways, drainage, gutters, etc." are inconsistent with City standards. There are no standards for some of these matters in the MPoD zone. Except to the extent that adjustments have been applied for and are granted, the MPoD is consistent with City standards. The Code explicitly allows adjustments. BDC 70.020 ("An applicant for MPoD approval may propose one or more alternative development standards for all or any specific areas within the plan boundaries, which supersede corresponding development regulations or standards otherwise applicable to the project area through existing regulations.
127. Ms. Wiley argues that certain "problematic" businesses will not be excluded from the commercial area. This argument does not relate to any approval standard.
128. Ms. Wiley argues that parking is not specified for residences or commercial areas. The MPoD does not contain detailed development plans, those are provided later. The MPoD does not propose adjustments to parking standards, except to allow compact spaces. Any development will be required to provide parking consistent with existing standards, as modified. This argument does not establish that any approval standard has not been met.
129. Ms. Wiley argues that different numbers have been provided as to the extent of wetland areas. The study submitted by applicant shows the total acreage of the wetlands as approximately 28 acres. However, because of the buffer around

wetlands, a larger area is proposed to be protected from development to preserve the functioning of the wetlands, with the exception of the small area of wetlands that will be impacted by development and for which mitigation will be provided.

130. Ms. Wiley argues that stream buffers are not identified. The streams were identified and development within areas adjacent to streams is minimal. To provide vehicular circulation, some roads do cross some streams, but the transportation system has been designed to minimize impacts on streams by having crossings be at close to right angles. This argument does not address any applicable code standard or criterion.
131. Ms. Wiley argues that reservoirs may be "side-by-side." There is no prohibition on locating reservoirs in close proximity to each other.
132. Ms. Wiley argues that there is no final ecological report or recommendation. The Code does not require any such report or recommendation. Furthermore, there is insufficient evidence to support the conclusion that either spotted owls or marbled murrelets are located on the property. The record contains evidence, the testimony of Chris Wright, a biologist, that a survey on spotted owls and marbled murrelets was conducted and that the survey did not find either spotted owls or marbled murrelets.
133. Ms. Wiley argues that there is "no projection on watershed in consideration of tree, foliage and soil removal." The MPoD is a conceptual plan. Information on effect on drainage areas will be required at the detailed development review level.
134. Ms. Wiley argues that there is "no means of remedy" for residents of Rainbow Rock Condominiums relating to water. The water supply for those residents will be assured, which is what the code requires.
135. Ms. Wiley argues that there is no assessment of the impact on surrounding homeowners and their water. Findings relating to impacts on water are included above. There are no immediately adjacent residential properties, other than the condominium project, whose water needs are planned for in the MPoD. There is no evidence that there would be any impact on any surrounding homeowners, other than transportation impacts, which are adequately addressed.
136. Ms. Wiley argues that development should fit the land. The MPoD shows sensitivity to existing topography and natural features and therefore "fits" the land. The flexibility provided in the plan further assures that actual development will be tailored to fit the land, rather than forcing a preconceived development notion on the land.
137. Ms. Wiley argues that U.S. Borax is not a U.S. company. This argument is irrelevant.

138. Ms. Wiley argues that the property is unique and exceptional. However, Ms. Wiley does not provide any justification that would allow the City to deny the MPoD.
139. Ms. Wiley argues that there is no assurance that the proposed pathways, walkways and trailways will be open to the public "as should be mandated within the City." Ms. Wiley's arguments concedes that there is no such requirement at this time.
140. Ms. Wiley makes some type of argument regarding an archaeological survey for cultural and historical sites. Such a survey has been performed and will be provided to SHPO. The City's Goal 5 inventory does not identify any cultural resources on the site. Unless there is an inventoried Goal 5 cultural resource, the statutory responsibility for protection of cultural sites lies with the state. A condition is being imposed requiring compliance with state regulations protecting cultural sites.
141. Ms. Wiley argues that it is anticipated that the area is abundant with artifacts. Other evidence is that although there may be some artifacts on the property, few have been discovered. Furthermore, the state Heritage Conservation Division has concluded that the "cultural resource concerns are assured adequate protection during the project's early development process." Letter from Dennis Griffin dated August 27, 2004. The letter from Dr. Griffin further stated: "The current discussion regarding the Master Plan for the Lone Ranch development does not involve any site-specific planning areas that would be in conflict with any cultural resources that exist on the property." Regardless of the extent of the artifacts on the property, the Council finds that the MPoD provides sufficient flexibility so that each detailed development plan can be developed with adequate protection for any cultural or historic resources that may be identified on site. Furthermore, in the event that any excavation or other development process reveals any cultural or historic resources, state law requires the development to stop so that appropriate measures are taken to preserve the resources.
142. Ms. Wiley raises questions about the tax status of the property. The tax status of the property is not a relevant issue.

Testimony of Pete Chasar

143. Mr. Chasar argues that performing a "cultural survey" will not address the impact of the development on archaeological sites in open space areas. The survey covers all areas in reasonable proximity to the development, including trails. The applicant has indicated that it will work with state agencies, including SHPO and the Heritage Conservation Division to ensure protection of cultural and historic sites. The Heritage Conservation Division has stated that the archaeological survey report will be taken into consideration in discussions with the developers concerning potential impacts of the development plan and that identified sites will

be avoided or mitigated. The involvement of the state agencies will provide protection of all sites and will consider all impacts of the development.

144. Mr. Chasar argues that trails and open spaces need to be publicly owned and managed. There is no applicable standard or criterion requiring trails and open spaces to be publicly owned. Other means of assuring appropriate maintenance and use of trails and open space are possible, including covenants and agreements. Mr. Chasar's specific recommendations concerning open space are not needed to assure that the area will remain as open space. Approximately 371 acres (67 percent of the total site) are proposed to be open space. The City cannot justify an exaction of 371 acres of open space. To transfer the property to public ownership would therefore either require compensation or be an unconstitutional taking. The City cannot require that the MPoD be revised in such a way that would constitute an unconstitutional taking.
145. Mr. Chasar argues that parking for trail use is required. Nothing in the applicable standards or criteria requires parking for trail use.
146. Mr. Chasar also argues that there should be either a tunnel or pedestrian bridge connecting the project's trails with Boardman State Park. The Council finds no applicable requirement to provide such a connection. Surface crossings of highways at controlled intersections can be made safe.
147. Mr. Chasar argues that the project is not consistent with Goals 11 through 14. The Council finds that the MPoD is consistent with Goal 11 because it plans for timely, orderly and efficient development of public services. Mr. Chasar argues that the distance of extension of a water line demonstrates that development of public services is not timely, orderly or efficient. Mr. Chasar misunderstands the requirement. The requirement is that public services be provided before development and that the provision of the services be planned and efficient. A one mile extension is not an unusual or inefficient extension. The plan for public services in the MPoD is timely, orderly and efficient.
148. The MPoD is consistent with Goal 12 because the transportation system will be safe, convenient and economic, and the impacts on the existing transportation system will not render it unsafe, inconvenient, or uneconomic. Mr. Chasar argues that the lack of a route other than the highway to connect the northernmost neighborhood is not safe or efficient. The Council finds that it is necessary to not have an on-site connection to avoid impacts on sensitive natural resources.
149. The project is consistent with Goal 13 because the arrangement of the transportation system and the inclusion of retail within the development will result in limited vehicle miles to obtain essential goods and services.
150. Goal 14 is not relevant to the development of property that is within the UGB and within the City limits.

Testimony of Yvonne Maitland, Citizens for Orderly Development

151. Ms. Maitland's testimony does not refer to or relate to applicable approval standards or criteria.
152. Ms. Maitland states that the property owner, US Borax, is wealthy and not in the business of development and building houses. The wealth of an applicant is not an issue, except to the extent that the City needs to be assured that the developer has the resources to develop the infrastructure that may be needed for the development. The fact that US Borax is wealthy is in its favor. Its alleged lack of experience is not relevant, given that it has assembled a qualified, experienced and capable team of engineers, planners and others to assist it.
153. Ms Maitland refers to the former zoning of the property, which is not relevant to this application.
154. Ms. Maitland argues that the MPoD shows land in open space, not because of generosity but because of site restraints. Whatever the motivation, the MPoD demonstrates a large amount of open space and a basic layout that respects the topography, natural features, and constraints of the site. The MPoD shows an appropriate development for the site and leaves a substantial amount of open space.
155. Ms. Maitland states generalities regarding the possibility of erosion and landslides, but generalized statements are not evidence that this development will be improperly developed. Furthermore, the MPoD is a conceptual plan, not a detailed development plan, and any issues relating to erosion or improper siting or design of structures and other man-made features are more appropriately addressed at the development plan stage. The MPoD provides flexibility so that these types of problems can be avoided or minimized.
156. Ms. Maitland states a concern about the density of development, but the proposed density is appropriate for the site. The overall density is approximately 2 dwelling units per acre.
157. Ms. Maitland notes that clustering and reduced standards will reduce building costs. This argument does not relate to any applicable code standards. Furthermore, the proposed adjustments are limited to a small percentage of lots and are intended to and will reduce impacts on sensitive areas. The adjustments allow development to meet the demand for smaller lots.
158. Ms. Maitland argues that the City should ask the developer to provide a greater share of off-site improvements, with specific reference to sewer facilities. The developer is providing some off-site improvements and the share between the City and the developer is appropriate and proportional to the benefits provided to each. The allocation of costs does not result in a subsidy to the developer. The applicable standard is whether the MPoD demonstrates that adequate utilities

and infrastructure can reasonably be made available, and the MPoD does demonstrate that.

159. Ms. Maitland states concerns about the Chetco River and water rights. City staff has provided testimony that the City water supply is adequate to provide service without adverse impact on the Chetco River. The standards is whether adequate utilities and infrastructure can reasonably be made available and whether existing service and supply will be negatively affected. The MPoD and the testimony of staff show that adequate facilities and infrastructure can be made available without negative effects on existing service and supply.
160. Ms. Maitland argues that the minimum setback should be 50 feet from streams and that surface water should not be allowed to drain into certain streams. The applicable standard is whether the plan respects the physical characteristics of the site. The setbacks as proposed in the MPoD (averaging 50 feet from wetlands and 100 feet from streams) provide adequate protection of streams and the conceptual stormwater drainage plan demonstrates respect for physical characteristics of the site. Detailed storm drainage plans will be required for each development plan to provide appropriate protection of water and other resources.
161. Ms. Maitland asked for more specific mapping details on the slope analysis map. The map provides adequate detail for the MPoD level of analysis, which approves only a concept, not actual development.

Kalmiopsis Audubon Society (KAS)

162. The KAS argues that the MPoD does not comply with Comprehensive Plan Goal 5, policy 1, which requires protection of natural and scenic resources. The MPoD preserves a large portion of the total site in its natural state. The goal policy of protecting natural and scenic resources does not prohibit all development. The policy must be read in conjunction with other policies, which encourage housing and economic development. To deny development of the property would constitute an unconstitutional taking.
163. The KAS notes that there are wetlands on the property. The MPoD preserves those wetlands to the greatest extent possible, consistent with development of the property. The measures proposed for wetland protection and mitigation meet the standard of protecting natural resources. The KAS argues that no governmental concurrence for wetlands delineations has yet been obtained. The MPoD is a conceptual plan and does not authorize development. The wetlands delineation will be necessary for each DDP, but is not required now. The flexibility of the MPoD allows adjustments at the DDP stage to ensure compliance with wetlands protective regulations.
164. The KAS notes concerns with changes in hydrology. The MPoD and supporting documentation are appropriate for a conceptual plan. Detailed information on hydrology will be provided and evaluated at the time development plans are

applied for. Development plans will be required to provide protection for wetlands and rare plants.

165. The KAS also states concerns with stormwater runoff. Again, the plan is necessarily conceptual at this stage and the plan is appropriate and adequate as a conceptual plan. More detail and information will be required of the drainage plans provided with the detailed development plans and the City will evaluate each detailed plan to ensure compliance with applicable standards. The conceptual plan does minimize impacts on streams by limiting the number of road crossings over streams.
166. The KAS argues for larger buffers. The buffers proposed in the MPoD are adequate to provide protection, but more detailed information will be required at the time of each detailed development plan to ensure that impacts on wetlands and creeks are minimized.
167. The KAS argues for limits on location of homes to reduce impacts on scenic values. The MPoD provides an appropriate balance of the rights of property owners and future homeowners with the rights of others.
168. The KAS argues that the development may have impacts on the Chetco River because water from the later stages of the development may need to be from the City system, which draws from the Chetco. Nothing in the KAS arguments demonstrates that the application is inconsistent with any applicable standard. Any development that uses the City's system will increase water use and withdrawals from the Chetco. However, City staff has provided information that the project can be served within the City's existing water rights. The KAS further argues that water rights need to be resolved at this stage. Given that water rights must be perfected (used) within a certain time of the initial approval, it is not appropriate to require that water rights be obtained before approving the MPoD. That is an issue to be resolved at each DDP. The City finds that obtaining water rights is feasible.

Goal 1 Coalition

169. The Goal 1 Coalition argues that an archaeological survey is needed. No applicable code standard or criterion mandates an archaeological survey. There are no inventoried Goal 5 resources on the project. An archaeological survey has been made to assist the applicant in complying with state statutes protecting historical and cultural resources and that survey is being provided to the appropriate state agency. However, as noted in other findings, the survey needs to be maintained confidential and should be provided only to the state, which will ensure that archaeological resources are protected. A condition is being imposed requiring compliance with applicable laws protecting cultural resources. It is feasible to comply with those statutes.
170. Goal 1 Coalition also states concerns related to wetlands and western lilies. Goal 1 Coalitions concerns are stated in terms of compliance with federal

environmental laws. The MPoD does not authorize any development, so the MPoD itself will not have any impact on wetlands or western lilies and therefore does not violate federal laws protecting wetlands and endangered species. The MPoD allows flexibility, which will allow impacts to be minimized at the detailed development plan stage, based on further review of site-specific conditions. At the conceptual stage, the MPoD shows preservation of 98 percent of wetlands and 100 percent of lily habitat. This impact is the minimum impact to be expected from development of the site.

171. Goal 1 Coalition argues that western lilies have not been adequately mapped. The applicant has submitted information showing the location of mature reproducing individual plants. However, prior to development, the detailed development plans will be reviewed by the responsible federal agencies responsible for endangered species and wetlands. The responsible agencies are aware of the conditions on the site and their review at the development stage will provide adequate review to determine protection of protected species and features. Applicant will work with USF&W to guide its compliance with applicable laws in the development of detailed development plans.
172. Goal 1 Coalition argues that a detailed hydrological analysis is needed to determine potential impact on lily habitat. The plan at this point is only conceptual and does not include specific site plans. Until such plans are prepared, a detailed hydrological analysis is not possible. It is premature to require detailed analysis at this conceptual stage of the approval process. A condition of approval is being proposed that requires detailed hydrological studies for each DDP.

US Fish and Wildlife Service

173. USF&WS recommended ongoing monitoring of murrelets. The monitoring is ongoing and will be performed according to the appropriate protocols.
174. USF&WS recommends additional surveys of western lilies. Additional surveys will be required before detailed development plans are approved, but additional surveys are not required at this point in the process, given that approval of the MPoD does not approve development. The Applicant has stated that the surveys will follow required protocols.
175. USF&WS recommended postponing a final decision until more information is known. However, this decision does not authorize development and the MPoD provides for flexibility that will allow actual development plans to be tailored to protect natural resources and important wildlife habitat. While there is a need for more information before detailed development plans are approved, there is no need to delay approval of the MPoD.
176. USF&WS recommends a hydrological analysis, but that is not possible at this time, given that the MPoD is only conceptual and does not provide specifics of development.

177. USF&WS recommends an expanded wetlands functional assessment. The wetlands functional assessment provided by applicant met all requirements of the agencies with authority over wetlands.
178. USF&WS recommends wider buffer widths. The buffer widths proposed are adequate and are consistent with the standards of the agencies with regulatory authority.
179. USF&WS recommends vegetation management techniques that promote western lily habitat. The City anticipates that responsible regulatory agencies will impose such conditions. The standards and criteria applicable to land use decisions, specifically those applicable to the MPoD, do not require such a condition.
180. The recommendations by USF&WS are not directed to any applicable land use standard or criterion, but are based on USF&WS's general interest in protected species. USF&WS will have the opportunity to review and comment on any wetlands alteration permit that is issued.

Comments by Pat Sherman

181. In a memorandum dated August 18, 2004, Pat Sherman stated that a water right must be obtained before a well may be used. This statement does not provide a reason to delay approval of the MPoD. Mr. Sherman suggested conditioning approval on obtaining a water right. That condition may be necessary at the time of detailed development plan approval, but is not necessary at this time, because the approval is only of the conceptual plan, not any development. Mr. Sherman's argument is not related to any applicable standards or criteria.

Additional Comments Submitted At or After The Close of Oral Testimony

182. The Council allowed submission of additional written comments after the close of oral testimony. Various persons, mostly opponents of the MPoD, submitted comments on September 13, and 20, 2004. Commenters included Goal One Coalition, Peter Chasar, Bill Smith, Pat Russell, Catherine J. Wiley, Ron Wimberley, and the U.S. Fish and Wildlife Service. With the exception of U.S. Fish and Wildlife Service, none of the commenters listed in this paragraph are qualified experts as to any technical matter.
183. The applicant submitted additional comments on September 24, 2004. The applicant's submission on September 24, 2004, consisted of a letter from the applicant's attorney, a document entitled "U.S. Borax's Responses to Comments," and memoranda from Marty Stiven, a land use consultant, Bob Vaught, of the applicant's engineering consultants, Chris Wright, a soil and wetlands scientist, and Scott Mansur, a traffic engineer. The Council adopts the document entitled "U.S. Borax's Responses to Comments" and the memoranda from applicant's consultants as additional findings. These documents are attached as Exhibit A. The Council finds that Scott Mansur, Bob Vaught, and

Chris Wright are experts in their technical fields and that their testimony is expert opinion.

184. None of the comments submitted by opponents justify denial of the MPoD application.

**CONDITIONS OF APPROVAL
LONE RANCH MASTER PLAN
MPD-1-04
(As Amended by the City Council)**

General Conditions

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

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

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

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

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

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

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

19. Each phase of development shall be complete within itself for access, water service, sewer service, storm drainage, and all utilities, and all streets, services and utilities shall be extended to the furthest limit of the phase to ensure connection to the next phase.
20. Each DDP containing slopes greater than 15% shall include a geological report pursuant to Section 100, Hazardous Building Site/Hillside Development Standards, of the Land Development Code.
21. All appropriate federal and state permits related to the direct impact of development on the waters of the State or U.S. shall be obtained prior to development.
22. Prior to approval of the Detailed Development Plan (DDP), covenants, which are enforceable by the city, protecting Western Lilies shall be provided as part of each DDP, which includes known Western Lily habitat.
23. Prior to construction of any phase that may adversely affect the quality or quantity of water available through the existing Rainbow Rock Service Association (RRS) surface water supply system, the applicant shall demonstrate how such adverse impacts will be mitigated or that RRSA can obtain an adequate alternative water supply. Each DDP shall evaluate the impact of development on the existing RRSA surface water system, unless RRSA has previously discontinued use of the system.
24. All required improvements to Highway 101 at the Lone Ranch access as identified in the Lone Ranch Transportation Impact Study, dated April 19, 2004 shall be required as part of the ODOT access permit for that entrance. The specific configuration of the improvements to Highway 101 at the southern access will be negotiated between the applicant and ODOT.
25. The applicant shall support any future effort to reestablish the ability for fish passage under Highway 101 for Lone Ranch Creek, Ram Creek and Taylor Creek. "Support" means that the applicant shall not oppose such efforts.
26. If any DDP will result in development that is projected to exceed the 1036 total master plan PM peak hour trips or the 839 net new PM peak hour trips as identified in the Lone Ranch Transportation Impact Study, taking into account traffic generated in previous phases, an additional transportation impact study will be required to be submitted with the DDP application and the DDP may be approved only if consistent with the Transportation System Plan.
27. To assure that the mobility standards are met at the intersection of Highway 101/Carpenterville Road, no DDP should be approved that would exceed the acceptable ODOT mobility standards for Highway 101/Carpenterville Road intersection until the City of Brookings TSP is amended to identify recommend improvements or a change to standards and the Lone Ranch development pays a proportionate share to these improvements. Analysis at Highway 101/Carpenterville Road should be conducted to determine the level of impact for each DDP until the City of Brookings TSP is amended to include the necessary improvements.

28. A hydrologic study shall be provided with each DDP, and any such study must be provided to federal and state agencies responsible for wetlands and endangered species protection. The City will review the hydrologic study to determine compliance with applicable standards relating to storm drainage.
29. The applicant shall establish Covenants, Conditions and Restrictions (CC&Rs) requiring the Homeowners' Association or Associations to maintain drainage swales located adjacent to streets that do not have curbs and gutters or other hard drainage systems. The CC&Rs shall provide that the city may enforce the maintenance of the swales, which includes the right to access all properties necessary to conduct the maintenance, either through legal action or by providing the maintenance and billing the Homeowners' Association or Associations. All such expenses, costs, and charges may be enforced by the city as liens against the real properties of individual members of the Homeowners' Association or Associations. The CC&Rs shall also contain a clause stating that any proposed change to this covenant must be approved by the city. The proposed CC&Rs as to the maintenance of the swales and the city's ability to enforce the CC&Rs, must be approved by the city prior to recordation.
30. The Master Plan document is hereby amended to include all changes made by the Errata Sheet dated June 4, 2004 and to indicate that the maximum building height for single family detached and single family attached homes is 35 feet and the maximum building height for multiple family and commercial buildings is 40 feet. The applicant shall provide the city with 4 copies of the amended Master Plan document.

**IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON**

**In the Matter of an Ordinance amending the
Comprehensive Plan of the City of Brookings to
incorporate the Lone Ranch Master Plan into
Goal 14 as a separately bound document of the
Plan.**

ORDINANCE No. 04-O-565

Sections:

Introduction.
Section 1. Comprehensive Plan to add the Lone Ranch Master Plan document

WHEREAS, the Brookings City Council, at its regularly scheduled meeting of October 25, 2004, did conduct a public hearing on this matter, during which hearing testimony and evidence was presented by the applicant's representative, interested parties and recommendations were received from the City Planning Commission and presented by the Planning Director; and

WHEREAS, at the conclusion of said public hearing, after consideration and discussion, the Brookings City Council, upon a motion duly seconded, did vote in the majority to adopt the Lone Ranch Master Plan, identified as Exhibit 1, as a separately bound document of the city's Comprehensive Plan.

The city of Brookings ordains as follows:

Section 1. Amendment to Goal 14, Urbanization, of the Comprehensive Plan

Goal 14 of the comprehensive plan is hereby amended to read as follows:

Implementation

7. Brookings recognizes the Lone Ranch Master Plan and has adopted it as a separately bound document of this Comprehensive Plan.

First Reading: _____

Second Reading: _____

Passage: _____

Effective Date: _____

Signed by me in authentication of its passage this _____ day of _____, 2004.

ATTEST:

Bob Hagbom, Mayor

Paul Hughes, Finance Director/Recorder