

Agenda
City of Brookings
Common Council Meeting
City Hall Council Chambers
898 Elk Drive
Brookings, OR 97415
January 22, 2001
7:00 p.m.

Especially for You



*A new year
for new beginnings
and
a beautiful home of
winter flowers*

Brookings, Oregon

believe it!

agenda

CITY OF BROOKINGS
COMMON COUNCIL MEETING
Brookings City Hall Council Chambers
898 Elk Drive, Brookings, Oregon
January 22, 2001
7:00 p.m.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. CEREMONIES/APPOINTMENTS/ANNOUNCEMENTS

A. Appointments

- 1. Additional members to City's 50th Birthday Celebration Committee*

V. PUBLIC HEARING

- A. In the matter of Planning Commission File No. APP-1-01, an appeal to a Planning Commission decision that approved VAR-2-00, an application for a variance to the existing Claron Glen subdivision to deny public access to internal walkways and not require sidewalks on both sides of the street; Assessor's Map 40-13-31 CD, various tax lots; R-1-6 (Single-family Residential, 6,000 sq. ft. minimum lot size) Zone. Wayne F. Robinson, appellant.*
- B. In the matter of Planning Commission File No. LDC-1-01, an amendment to repeal Ordinance 99-O-446.EE which allowed communication towers up to 150 feet in height, when operated by a public entity offering emergency services. City initiated.*

VI. SCHEDULED PUBLIC APPEARANCES

- A. *Ken Burns - Annual Curry County Recycling Committee Report*
- B. *Pat Widmer and Barbara Cleland -Family Community Education (FCE) presentation*
- C. *Tom Kerr - Kerr Ace Hardware Improvements presented*

VII. ORAL REQUESTS AND COMMUNICATIONS FROM THE AUDIENCE

- A. *Committee and Liaison reports*
 - 1. *Chamber of Commerce*
 - 2. *Businesses for a Better Brookings*
 - 3. *Port of Brookings-Harbor*
 - 4. *Council Liaisons*
- B. *Unscheduled*

VIII. STAFF REPORTS

- A. *City Manager*
 - 1. *Adoption of City Council Goals*
- B. *Community Development Department*
 - 1. *Acceptance of two deeds - new extension of Wharf Street and sludge tank parcel from South Coast Lumber Co.*
 - 2. *Approval of contract amendment with Brown and Caldwell in the amount of \$59,250 and authorization for Mayor to sign contract amendment*

IX. CONSENT CALENDAR

- A. *Approval of Council Meeting Minutes*
 - 1. *Minutes of January 8, 2001, Regular Council Meeting*
- (end Consent Calendar)*

X. ORDINANCES/RESOLUTIONS/FINAL ORDERS

- A. *Ordinances*
 - 1. *No. 01-O-446.LL - in the matter of an ordinance amending Section 40, Public Open Space (P/OS District)of Ordinance 89-O-446, an ordinance creating the Land Development Code*
- B. *Resolutions*

XI. REMARKS FROM MAYOR AND COUNCILORS

A. Council

B. Mayor

1. Council Liaison Appointments

XII. ADJOURNMENT

*Council Chambers Use if
Fire Hall Use as of 1/16/01*

FEBRUARY 2001

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				8:15am CC-CmtyDevDpt Staff mtg/LLightle 9:00am CC-Crime Stoppers 7:00am TV49-Coast Today w/City Officials &/or Employees		
	9:00am CC-VIPS/Volunteers in Police Service-BPalicki 7:00pm FH-FireTrng/ChShrp	6:30pm FH-BPD Citizen Police Academy #8-OSP-Tactical Commctns/BPalicki 7:00pm CC-Planning Commission	12:00pm Comnity Agencies mtg @ Chetco Sr.Center 3:00pm CC-AMF Mtg/SRidens 7:00pm CC-50th B/D Comm Mtg/LKuhn 7:00pm FH-PoliceReserves	8:15am CC-CmtyDevDpt Staff mtg/LLightle 7:00am TV49-Coast Today w/City Officials &/or Employees	Regional City Managers	Conference in Brookings
	7:00pm FH-FireTrng/ChShrp 7:00pm CC-Council Mtg	3:00pm CC-HOPE Mtg/ Tim Adsit-469-7443 6:30pm CC-BPD CtznPoliceAcadmy #8-Drug Invstgns/ BPalicki	HAPPY VALENTINES DAY!! 2:30pm FH-SafetyComMtg/ HThmpson	7:00am TV49-Coast Today w/City Officials &/or Employees 8:15am CC-CmtyDevDpt Staff mtg/LLightle		
Lincoln's Birthday	7:00pm FH-FireTrng/ChShrp 8:00am City Hall CLOSED - Presidents' Day Holiday..... 9:00am CC-VIPS/Volunteers in Police Service-BPalicki	6:30pm CC-BPD Citizen Police Acadmy#8-Invstgtns/BPalicki	6:00pm FH-Subrbn Fire Dist Mtg/RexAtwell	7:00am TV49-Coast Today w/City Officials &/or Employees 8:15am CC-CmtyDevDpt Staff mtg/LLightle 7:00pm CC-Parks & Rec Comm/ CMickelson		
President's Day	9:00am CC-Municipal Court/ JdgHarper 7:00pm CC-Council Mtg 7:00pm FH-FireTrng/ChShrp	6:30pm CC-BPD Citizen Police Acadmy #8-Invstgtns/BPalicki	7:00pm FH-50th B/D Comm Mtg/LKuhn			
			Ash Wednesday			

JANUARY 2001

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AMF=American Music Festival

AzPk=Azalea Park

Bndshl=Bandshell

BPD=BrkgsPolice Dept

CC= Council Chambers or City Council

CCCOA=Curry County Council on Alcoholism

CDD-Community Development Dept/CmtyDevDpt

FH=Fire Hall

HOPE=Healthy Opportunity for Positive Environment

ODOT=Oregon Dept of Transportation

PC=Planning Comm

PROUD=Pstive Revltztn of Urban Dwntwn Com

SDC=Systems Devlpt Charge Review Brd

VIPS=Volunteers in Police Service

JANUARY 2001

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
	8:00am City Hall CLOSED - New Year's Day Holiday..... 7:00pm FH-FireTrng/ChShrp New Year's Day	7:00pm CC-Planning Commission-Meeting Cancelled 7:00pm CC-Planning Commission	12:00pm Cmnty Agencies mtg @ Chetco Sr.Center 7:00pm FH-PoliceReserves	7:00am TV49-Coast Today w/City Officials &/or Employees 8:15am CC-CmtyDevDpt Staff mtg/LLightle 9:00am CC-Crime Stoppers		
	9:00am CC-Welcome for Finance Director Randy Reed 7:00pm FH-FireTrng/ChShrp 7:00pm CC-Council Mtg	3:00pm CC-HOPE Mtg/ Tim Adsit-469-7443	3:00pm CC-AMF Mtg/LBlodgett 7:00pm "Curry Govts" Mtg @ Gold Beach City Hall-2nd Wed of Nov, Jan, Mar, May, Jul, Sep, Nov, Jan 7:00pm FH-50th B/D Committee Mtg/LKuhn 2:30pm FH-SafetyComMtq/HThrnson	7:00am TV49-Coast Today w/City Officials &/or Employees 2:00pm CC-Subdivision Comm Mtg/JBischoff 8:15am CC-CmtyDevDpt Staff mtg/LLightle	1:30pm Wastewater Treatment Plant Ribbon Cutting Ceremony @ treatment plant	
	7:00pm FH-FireTrng/ChShrp 9:00am CC-VIPS/Volunteers in Police Service-BPalicki		2:00pm CC- Goals Session Workshp/City Council 6:00pm FH-Subrbn Fire Dist Mtg/RexAtwell	7:00am TV49-Coast Today w/City Officials &/or Employees 2:00pm CC-Emerg Tsk Force w/CoCrdr-Chf Sharp;MArrell 6:30pm CC-Seatbelt Class-PD/BPalicki 8:15am CC-CmtyDevDpt Staff mtg/LLightle	12:00pm CC-Interview Brd-Sheriff's Reserve/BPalicki	
M.L. King Jr. Day	9:00am CC-Municipal Court/ JdgHarper 7:00pm FH-FireTrng/ChShrp 7:00pm CC-Council Mtg	6:30pm CC-BPD Citizen Police Academy #8-Intro/Cmmnty Policing/BPalicki-FIRST CLASS	1:00pm CC-Dispatch Testing/SgtCooper	7:00am TV49-Coast Today w/City Officials &/or Employees 8:15am CC-CmtyDevDpt Staff mtg/LLightle 7:00pm CC-Parks & Rec Comm/ CMickelson		
7:00pm FH-FireTrng/ChShrp		6:30pm CC-BPD Citizen Police Academy #8-911/Patrol/Trrfc Enfc,BPalicki				
DECEMBER 2000						
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CITY OF BROOKINGS CITY COUNCIL
STAFF AGENDA REPORT

SUBJECT: Appeal
FILE NO: APP-1-2001
HEARING DATE: January 22, 2001

REPORT DATE: January 16, 2001
ITEM NO: V.A

GENERAL INFORMATION

APPLICANT: Wayne F. Robinson.

REPRESENTATIVE: None.

REQUEST: An appeal to a Planning Commission decision that approved VAR-2-00, an application for a variance to the existing Claron Glen subdivision to deny public access to internal walkways and not require sidewalks on both side of the street.

TOTAL LAND AREA: 20 acres \pm .

LOCATION: Between Hassett St. on the south and Brooke Lane on the north and from the first tier of lots on the west side of Third St. to the west boundary of the Brookings Meadow Subdivision.

ASSESSOR'S NUMBER: 40-13-31CD, Tax Lot-Variou.

ZONING / COMPREHENSIVE PLAN INFORMATION

EXISTING: R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size).

PROPOSED: Same.

SURROUNDING: All R-1-6 except on the north which is R-1-10 and R-1-8

COMP. PLAN: Residential.

LAND USE INFORMATION

EXISTING: Single family homes.

PROPOSED: No change in the use other than to close walkways to the public.

SURROUNDING: Same.

PUBLIC NOTICE: Mailed to all property owners within the Claron Glen Subdivision and within 250 feet of Claron Glen Subdivision boundaries, and published in local news paper.

BACKGROUND

In 1990 the Planning Commission approved the Claron Glen Subdivision, creating 72 lots on a 38 acre parcel of land. This subdivision was unique in that the developer, South Coast Lumber Co. chose to take advantage of a provision within the City's Land Development Code that allowed walkways to be placed within common areas between the lots in leu of placing sidewalks on one side of the streets. A detailed explanation of this approval can be found in the attached Planning Commission Staff Report.

On December 5, 2000 the Planning Commission held a public hearing on, and approved, an application submitted by the Claron Glen Homeowners Association, for a variance to allow the internal walkways to be closed to the public without being required to construct a sidewalk on the west side of Third St. and Midland Way.

The attached Planning Commission Staff Report contains the materials submitted by the applicant and staff's analysis of this material and recommendation on the request.

The Planning Commissions decision is now being appealed to the City Council. The basis of the appeal is contained in a letter submitted with the application for an appeal on December 17, 2000 and is attached. Staff has read this letter and believes that the analysis contained in the Planning Commission Staff Report is sufficient to address the issues raised by the appellant, except for one point of clarification. The appellant's letter refers to an original variance to allow the internal walkways in leu of a side walk on one side of the street. As explained in the Planning Commission Staff Report, the Land Development Code specifically allows the Planning Commission to approve alternative pedestrian routes. No variance was sought by the applicant or approved by the Planning Commission in the original approval of the Claron Glen Subdivision.

All evidence submitted at the Planning Commission hearing is in your packet. However, during that hearing there was considerable testimony about the maintenance of the trees within the Claron Glen walkways. At the time of the hearing staff stated that the trees were not an issue in deciding the variance, although at least one Commission member disagreed. The evidence in your packet primarily concerns the trees and in staff's opinion do not address the nor apply to the criteria used to decide a variance. Staff is recommending that the Council review all of the information an determine if it wants to consider testimony about the trees at its meeting. In his letter, the appellant addresses the variance criteria and has not discussed the trees.

All appeals of Planning Commission decisions to the City Council are "de novo" hearings and thus new evidence can be submitted to be considered.

Staff continues to recommend **APPROVAL** of Planning Commission File No. VAR-2-00, based on the findings and conclusions in the Planning Commission Staff Report.

Wayne Robinson
949 Helen Lane
Brookings, Oregon

Brookings City Council
898 Elk Drive
Brookings Oregon

Dear City Councilors:

I am appealing the Planning Commission ruling on the variance sought by the Clarion Glen Homeowners Association. I feel that very little was actually said about the impact of not requiring sidewalks in the area. A review of the Planning Commission meeting will show that too much was said about trees and not enough about sidewalks.

The variance grants relief the Clarion Glen HOA from a previous variance sought by them. They got a financial advantage with the first variance for the walkways, and now seek further gains by negating the walkways without construction of sidewalks.

1. The developer put in the walkways instead of sidewalks to lower his initial cost of development. The trade-off was the higher maintenance cost of the walkways. Since this lower development cost was passed on, presumably in lower lot prices, this is hardly a hardship on the owners of the property. The Clarion Glen HOA now wants to close the walkways without installing sidewalks to preserve a financial advantage of some residents.

Installing the required sidewalk will only increase the value of the properties in the area. They will then be totally conforming with the rest of the newer subdivisions and also have a great increase in public safety.

The lack of sidewalks on both sides of the street creates serious hazards for people, especially children, who live in the area. This is an upscale area with some young families moving in. The parents are left with the fact that their children must play in the street rather than on a sidewalk. This could be very dangerous.

2. Granting of this variance will cause a greater difference in the property rights and values in the area. The owners that have the walkways behind them also have a sidewalk in the front of their home. Owners across the street have neither walkways or sidewalks. The owners with walkways closed and a sidewalk will have greater value and no threat of sidewalk installation to hang over them.
3. The addition of sidewalks on the west side of the streets involved will not be a big hardship on the property owners. Construction could be done with very little impact on existing landscaping. All driveways need not be reconstructed. Cuts could be made to bring the driveway sides up to code without removing the entire driveway apron. If some sprinkler lines and bushes need to be moved that is a small cost compared to the increased safety of the sidewalks. How many bushes and sprinklers is a persons life and safety worth?
4. The cost of the sidewalks need not be borne by each individual property owner without a sidewalk. By spreading the cost among all of the 70+ members of the Clarion Glen HOA it would not be much of a hardship on anyone. In as

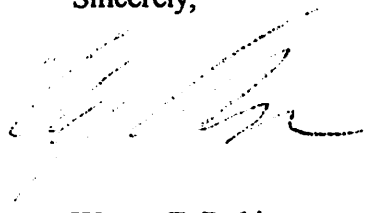
much as the addition of the sidewalks will increase the value of the affected properties there is really not much cost at all. The Clarion Glen HOA will also be able to spend less money on the maintenance of the walkways since they will not have to be kept to city walkway standards.

A reasonable estimate of \$15 per running foot for sidewalk construction would have an estimated total for 2,000 feet of sidewalk of \$30,000. Spread over the 70+ property owners of Clarion Glen HOA this is less than \$500 each, hardly a financial hardship. I cannot believe that the good people of this neighborhood could not contribute this amount to improve their property and increase their safety.

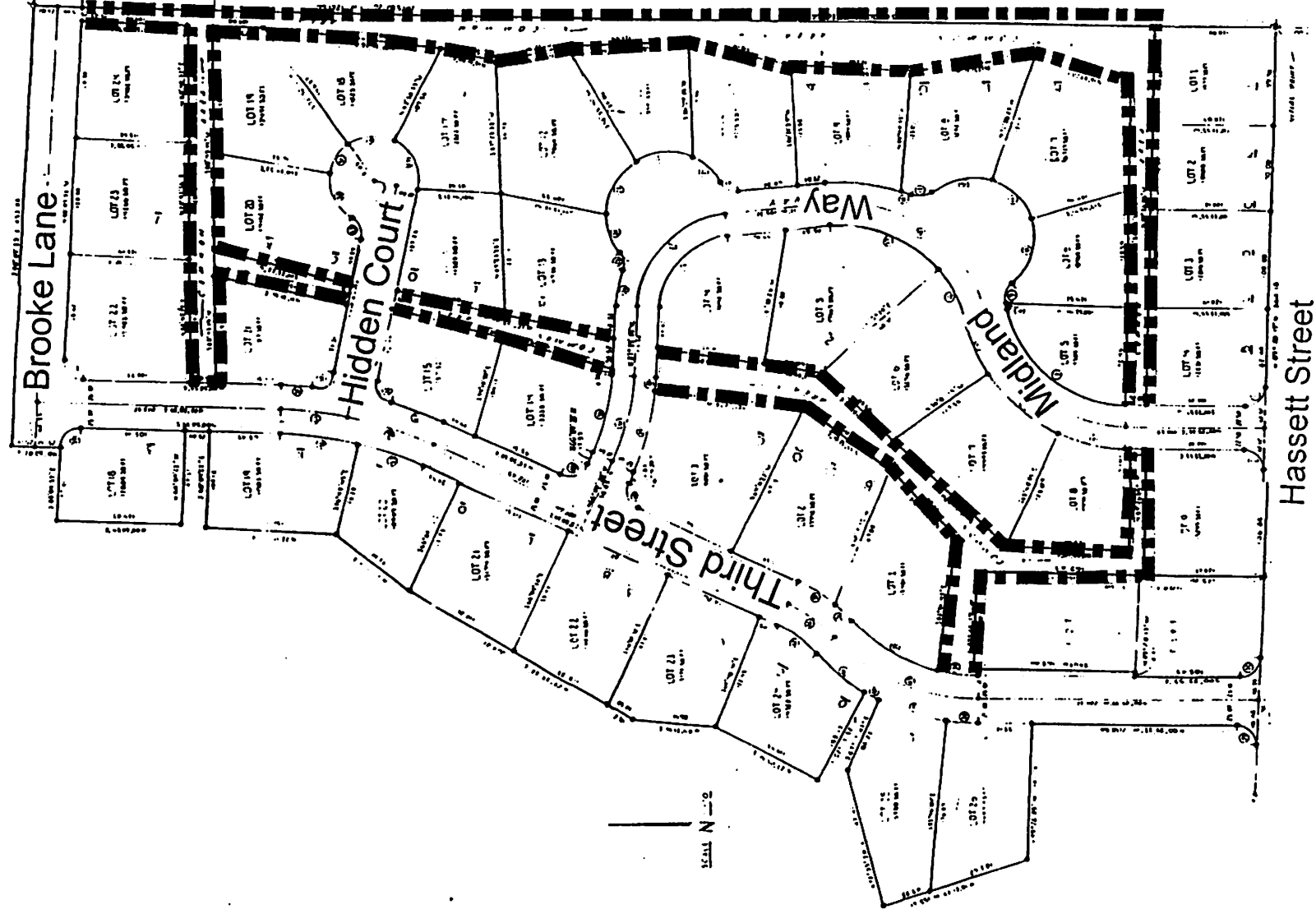
5. By granting this variance on the premise that the minor inconvenience of having your lawn disturbed, and possibly not using your garage for a few days is a severe hardship, is a bad precedent. I don't recall any worry about lawns and home access when the sewer was installed in Dawson tract. Public safety should outweigh any small problems with regard to sidewalk construction. If a serious personal injury results from a lack of sidewalks in this area, I think the city council would seriously regret not acting in the public good.

For the above reasons I respectfully request that the Planning Commission approval of the Clarion Glen HOA variance # VAR-2-00 be rescinded and sidewalks required if the walkways are to be closed.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Wayne F. Robinson', is written over a faint, circular official stamp.

Wayne F. Robinson



CITY OF BROOKINGS PLANNING COMMISSION
STAFF AGENDA REPORT

SUBJECT: Variance
FILE NO: VAR-2-00
HEARING DATE: December 5, 2000

REPORT DATE: November 17, 2000
ITEM NO: 8.2

GENERAL INFORMATION

APPLICANT: Claron Glen Homeowners Association.

REPRESENTATIVE: William A. Boynton.

REQUEST: The applicant is requesting a variance that would allow the homeowners association (HOA) to close the walkways within the common area of the subdivision to the public while still retain sidewalks on one side of the street only.

TOTAL LAND AREA: 20 acres \pm .

LOCATION: Between Hassett St. on the south and Brooke Lane on the north and from the first tier of lots on the west side of Third St. to the west boundary of the Brookings Meadow Subdivision.

ASSESSOR'S NUMBER: 40-13-31CD, Tax Lot-Variou.s.

ZONING / COMPREHENSIVE PLAN INFORMATION

EXISTING: R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size).

PROPOSED: Same.

SURROUNDING: All R-1-6 except on the north which is R-1-10 and R-1-8

COMP. PLAN: Residential.

LAND USE INFORMATION

EXISTING: Single family homes.

PROPOSED: No change in the use other than to close walkways to the public.

SURROUNDING: Same.

PUBLIC NOTICE: Mailed to all property owners within the Claron Glen Subdivision and within 250 feet of Claron Glen Subdivision boundaries, and published in local news paper.

BACKGROUND INFORMATION

The Claron Glen Subdivision was approved in April, 1990 to create 73 lots from a 38.63 parcel of land located on the north side of Hassett St. between Second St. on the west and the Brookings Meadow Subdivision on the east. The subdivision contained four through streets and two cul-de-sac streets. When the Claron Glen Subdivision was first proposed, it was presented with the concept of internal walkways and sidewalks on one side of the street, in lieu of sidewalks on both sides. Section 172, Public Facilities Improvement Standards and Criteria, Sub-Section 060.A.2 Sidewalks, states "In the case where a proposed development provides suitable alternative pedestrian routes and approved by the Planning Commission." Using this provision the subdivision was approved with sidewalks on one side of Third St. Timberline Dr. and Midland Way and with internal walkways throughout the interior of the subdivision.

The first phase of Claron Glen was recorded in December, 1990 with a total of 26 lots located from along the west side of Third St. to the easterly boundary of the subdivision. This phase was constructed with sidewalks on the east side of Third St. and Midland Way and with common area walkways through the interior of the subdivision. The remaining 47 lots were not recorded within the allotted time period and the remaining portion of the subdivision became invalid.

In July, 1992 the Planning Commission approved the Claron Glen II Subdivision which was identical to the original 47 lots that did not get recorded from the original approval, except that it contained additional lots on extension of the north end of Timberline Dr. and along the north side of Brooke Lane. This subdivision, except for the lots at the northerly most end of Timberline Dr. was recorded on May 4, 1994. The original approval of Claron Glen II Subdivision, as in the original 1990 approval, allowed internal common area walkways in lieu of sidewalks on one side of the street. However, by the time this map was to be recorded, the applicant, South Coast Lumber Co., realized that the residents within the first phase were not happy with the common walkways and were complaining about them. The complaints were based on the fact the walkways were along the back yard of the houses and people walking along them could and would stop and stare at owners having a barbeque or just sitting in their backyard. At that time the applicant decided to place sidewalks on both sides of Timberline Dr. and to keep what were to be internal walkways as just common area. This change was allowed for Claron Glen II, however, since the original phase did not have sidewalks on both sides of the street, the walkways in Phase 1, east of Third St., were still considered to be walkways.

In the interim these common walkways have become a problem for both the city and the homeowner's association and is a source of contention between neighbors. The city has received complaints from owners in the Brookings Meadow Subdivision, that the walking trails within Claron Glen, are not being kept open for walking purposes and that the walkways create a potential danger from undesirables hiding in the bushes. The city in turn has had to contact the homeowners association and require that the walkways be kept open. This has been a ongoing problem, even with compliance by the homeowners association, their response at times is not fast enough to satisfy the complaints.

PROPOSED VARIANCE

The applicant is requesting a variance that would allow the walkways to be closed to the public without having to retrofit Third St. and Midland Way with sidewalks on the side that currently does not have one.

ANALYSIS

The Planning Commission must consider and determine that the requested variance meets all of the following criteria:

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.

There is an exceptional condition or circumstance inherent in this request that is beyond the control of the Claron Glen Homeowners Association. The internal walkways in lieu of sidewalks on both sides of the street, were requested by the developer of the property and approved by the city prior to the establishment of the HOA and even prior to the sale of any individual lot within the subdivision. The ultimate impact of having the public walkways within the common areas was not known when individuals bought lots or when the HOA was formed. A hardship can be considered to exist because of the ability of non residents having access to the walkways and thus having the potential to destroy the privacy of the property owners within their own back yards. The walk ways can also be considered to be a security risk because of their secluded nature. If people are walking around in the back yards of a conventional subdivision, they can be legitimately questioned as to why they are there. In Claron Glen the walkways provide an easy, legitimate and secluded access to the back of houses which could be used by burglars or for other illicit activities.

It would also be a hardship on each individual lot owner along the side of Third St. and Midland Way which would be retrofitted for a sidewalk if a sidewalk were to be required to close the walkway. Each lot would have a certain amount of its landscaping removed and construction crews walking in a portion of the remaining landscaping. A part of each driveway apron would also have to be removed and access to the garage would be interrupted during periods of construction requiring cars to be parked across the street. Since all of the walkways to be closed and the existing sidewalk are on the east side of Third St., the new sidewalk would be on the west side of the street. However, the residents on the west side of the street are not impacted by the walkway problem thus they would have to endure this hardship to resolve an issue that does not directly affect them. This is also a hardship that is out of the control of nor caused by the property owners or the HOA.

Criterion 2, Preservation of A Property Right.

Each property owner has the expectation of a certain amount of privacy in his/her back yard and the expectation that the back of their house is not directly exposed to a secluded public area that may be used for illicit entry of their yard or house or other activities. The HOA also has the right to expect that the landscaping within its common area will be secure and relatively free of damage. As it has turned out the public aspect of the walkways have apparently been used to top and even remove trees belonging to the HOA, to improve the view of property owners outside of the Claron Glen Subdivision. Closing the walkways will provide increased security because anyone walking in them can be challenged as to why they are there and they can no longer be used as a legal access for the purpose of illegally removing trees or other landscape materials. Again these conditions are beyond the control of the individual property owners within the HOA and of the HOA itself.

When individuals bought property along the west side of Third St. and Midland Way, they did so with the expectation that their landscaping and driveways would not be ripped up to satisfy the intent of an ordinance which allowed the walkways in lieu of a sidewalk on one side of the street that ultimately failed. This is a preservation of a property right to enjoy their yards without the threat of disruption and is beyond the control of the individual owners and the HOA.

Criterion 3, Affect On City Ordinances.

When the Claron Glen Subdivision was approved, the walkways were considered to be a creative and interesting alternative to placing sidewalks on both sides of the street. It was essentially an experiment that failed and the owners within the Claron Glen should not be made to endure the results of this failure. The walkways were and still are allowed by the Land Development Code. Since Claron Glen is the only subdivision in which this concept has been used, granting this variance will not be detrimental to the Land Development Code. If history is remembered, the city will not use the walkway option in a subdivision again unless it is a part of a planned unit development and not open to the general public or they are designed in a manner that avoids the issues discussed above. It is unlikely to set a precedent of approving another subdivision with public walkways and sidewalks on one side of the street and then turn around a grant a variance to do away with the walkways.

Criterion 4, Minimum Variance.

The requested variance is to simply allow the closing of the walkways without having to replace the sidewalk on Third St. and Midland Way. This is the minimum that will resolve the problems generated by the walkways as discussed above.

The Claron Glen Homeowners Association C, C & Rs require that the common areas be maintained “....to standards deemed ‘Reasonable Standards of Maintenance’ by the Brookings City Council or the Brookings Planning Commission.....” Once reverted back to just common area, the requirement of the C, C & Rs still must be met. Staff is therefore recommending a more general maintenance standard as follows:

“The common areas within the Claron Glen Homeowner Association ownership shall be maintained in a manner that enhances the common use and enjoyment of the property owners within the subdivision.”

FINDINGS

1. The applicant, the Claron Glen Homeowners Association, is requesting a variance to close the public walkways within the Claron Glen Subdivision and to not have to retrofit the sidewalk along the west side of Third St. and Midland Way.
2. The subject property is zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) and is designated as Residential by the Comprehensive Plan.
3. The area of the subdivision which contains the public walkways is the first recorded phase lying between Third St. on the west, Brooking Meadow Subdivision on the east, Brooke Ln. on the north and Hassett St. on the south.
4. Section 172, Public Facilities Improvement Standards and Criteria, Sub-Section 060.A.2 Sidewalks, of the Land Development Code, states "In the case where a proposed development provides suitable alternative pedestrian routes and approved by the Planning Commission."
5. Pursuant to Section 172.060.A.2, the developer proposed and gained approval to place walkways within common areas throughout the subdivision in lieu of sidewalks on one side of Third St. and Midland Way.
6. The walkways have generated complaints from property owners that their private backyard activities are viewed by people walking in the walkways.
7. The applicant has also expressed concern that because they are secluded the walkways can be used for illegal activities and present other security issues.
8. All of the residents along the non sidewalk side of Third St. and Midland Way have landscaped their yards to the curb and their driveways are also extended to the curb.
9. The Claron Glen Subdivision is the only non-planned unit development subdivision that has internal walkways in lieu of sidewalks on both sides of the street.

CONCLUSIONS

1. The applicant has demonstrated that there is an extraordinary circumstance involved because the walkways were established prior to any of the residents buying property within the subdivision and prior to the formation of the Homeowners Association. The impact of having the walkways within the wooded and secluded common area behind the houses, was not understood at the time they were approved. The walkways therefore create a hardship on the individual property owners for privacy and security reasons. Both the circumstance and hardship are beyond either the HOA and individual owners control.
2. Requiring the HOA to retrofit Third St. and Midland Way by placing a sidewalk along the west side of the street will create a hardship on the individual owners along these streets because of the disruption of their landscaping and driveway aprons. The owners along that portion of the street will be required to park on the opposite side of the street during certain phases of construction because they will be cut off from their garage. Also since the new sidewalk on Third St. would be on the west side of the street, and these residents are not impacted by the

walkway issues, they would have to endure this hardship to resolve an issue that does not directly affect them.

3. Each property owner has the expectation of a certain amount of privacy in his/her back yard and the expectation that the back of their house is not directly exposed to a secluded public area that may be used for illicit entry of their yard or house or for other illegal activities. The HOA also has the right to expect that the landscaping within its common area will be secure and relatively free of damage. As it has turned out the public aspect of the walkways have apparently been used to top and even remove trees belonging to the HOA, to improve the view of property owners outside of the Claron Glen Subdivision.
4. When individuals bought property along the west side of Third St. and Midland Way, they did so with the expectation that their landscaping and driveways would not be ripped up to satisfy the intent of an ordinance which allowed the walkways in lieu of a sidewalk on one side of the street that ultimately failed. This is a preservation of a property right to enjoy their yards without the threat of disruption and is beyond the control of the individual owners and the HOA.
5. Since Claron Glen is the only non-planned unit development subdivision that has walkways in lieu of sidewalks on one side of the street, granting this variance will no set a precedent and will not be detrimental to the intent of the Land Development Code. The propose variance is the minimum required to resolve the issues addressed in the staff report dated November 17, 2000.

CONDITIONS OF APPROVAL

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

1. To satisfy the provisions of the C, C, & Rs and the by laws of the Claron Glen Homeowners Association which require that the common areas be maintained “....to standards deemed ‘Reasonable Standards of Maintenance’ by the Brookings City Council or the Brookings Planning Commission.....”, the Planning Commission sets the following standard for maintenance of the common areas:

“The common areas within the Claron Glen Homeowner Association ownership shall be maintained in a manner that enhances the common use and enjoyment of the property owners within the subdivision.”

RECOMMENDATION

Staff recommends **APPROVAL** of Case File No. VAR-2-00, 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.

**Claron Glen Homeowners Association
P. O. Box 413
Brookings, OR 97415**

City of Brookings
898 Elk Drive
Brookings, OR 97415

Claron Glen Findings

SUBJECT: Request of variance

To Whom It May Concern:

In 1990 South Coast Lumber Co. planned Claron Glen Subdivision Phase I. Phase I which is bordered on the east by Brookings Meadow Subdivision, the north by Brooke Lane, the west by the west side of Third Street, and the south by Hassett Street. In lieu of sidewalks on both sides of Third Street internal walkways (common areas) were created. Public access to these common areas was allowed.

This has led to serious contention between some neighbors in Brookings Meadow Subdivision and Claron Glen homeowners. Because of the public access to these areas some Brookings Meadow residents have topped or felled numerous Leyland Cypress trees. These trees are the sole property of the Claron Glen HOA and were originally planted by South Coast Lumber Co. They have attained considerable growth (15 to 20 feet). They provide privacy and security to the homeowners whose lots lie adjacent to the common area between Claron Glen Subdivision and Brookings Meadow Subdivision. The topping and felling has greatly reduced the privacy. There is some argument regarding unwanted individuals utilizing these internal walkways for possible criminal intent. With the exception of the above mentioned tree damage no such events have occurred.

Almost without exception the walking in these walkways is by one individual who is a Brookings Meadow homeowner. Many non-residents walk in Claron Glen either on the present sidewalks or the streets, but not in the internal walkways, and 90% plus walk solely in the streets.

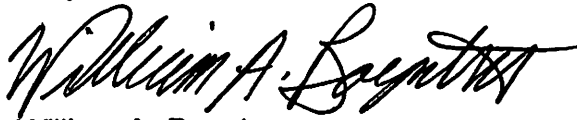
If a sidewalk on the west side of Third Street was constructed much mature existing landscaping, many underground watering systems and driveways would be impacted. The homeowners on the west side of Third Street have strongly objected for the above reasons, plus the cost involved.

For these reasons the Claron Glen HOA is requesting a variance in lieu of constructing the above sidewalk. We respectfully request the closing of the internal walkways (common area) to public access. The original planning of Phase I in this regard has proven to be a mistake which has led to unfortunate dissention between some Brookings Meadow Subdivision

homeowners and Claron Glen homeowners. We hopefully feel this solution will bring resolution to this unforeseen mistake.

For the Claron Glen HOA,

Very sincerely,

A handwritten signature in black ink, appearing to read "William A. Boynton". The signature is fluid and cursive, with a large initial "W" and a stylized "A".

William A. Boynton
President

November 9, 2000

TO: City Staff

FROM: Leo Lightle, Community Development Director

SUBJECT: Individuals asserting that the Building Codes do not define "fence" so therefore you use the definition in the dictionary

Community Development Department



Memorandum

DATE: November 28, 2000

The flaw in the rationale is that the Uniform Building Code clearly states under purpose: "to promulgate a state building code to govern the construction, reconstruction, alteration and repair of buildings and other structures and the installation of mechanical devices and equipment therein, and to require the correction on unsafe conditions caused by earthquakes in existing buildings . . ."

Structure in the Uniform Building Code is defined as:

Structure is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Under Section 111.1 of the Uniform Building Code Exceptions:

1. Structural
 - 1.17 . . . fences not over 6 ft. high . . .

The scope of the code is to regulate construction that is artificially built up or composed of parts joined together in some definite manner. Fences under 6 ft. high are listed under structural under the exemption to permit section. It seems clear that with the scope defining construction, reconstruction, alterations of building and other structures . . . and defining structures, that landscaping is not a fence under the Uniform Building Code.

Wayne Robinson
949 Helen Lane
Brookings, Oregon

RECEIVED
DEC 4 2000
CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

Brookings City Planning Commission
898 Elk Dr.
Brookings, Oregon

After reading the variance proposal it seems that the City of Brookings and Clarion Glen think their subdivision is on an island. I would beg to differ. There are 8 properties in Brookings Meadows subdivision that back on the public walkway. We have just as valid though much abused property rights.

The abuse of our property rights comes from the City of Brookings refusing by accident or design to enforce the 6 foot fence and evergreen planting laws concerning the cypress trees in the public walkway behind our homes. Those trees were planted as a fence and barrier to block any view into the walkway. How else could you infer that with the tree trunks all less than 2 feet from our properties and less than 10 feet apart; especially with the planting of bushy fast growing trash trees.

WHY DOESN'T THE CITY ENFORCE THE LAW ON THESE TREES?

It could very possibly be that the City of Brookings by not enforcing the law has left itself open to Measure 7 claims by property owners that have damage caused by these trees.

While the city may admit that the walkway idea was a mistake and writing it off will be the best solution, I beg to differ. Why should the residents of the west side of Helen Lane be forced to live with a solution that only benefits Clarion Glen. Clarion Glen Homeowners Association has been less than cooperative in the maintenance of the area even with city oversight. If the area is closed and maintained is left to the satisfaction of the Clarion Glen Homeowners Association, what are their standards, and what if their satisfaction is an overgrown mess?

The Clarion Glen Homeowners may say otherwise but their past actions put their sincerity in doubt.

Having lived in a home where one of those trees was allowed to grow un-maintained, I think the Clarion Glen Homeowners do not know what they are dealing with. The tree is located in the front yard of the home at 709 Pioneer Road. It is 80-90 ft. high with a combined girth at ground level of 5-6ft. Dia. It also has very invasive roots that have ruined the yard. Trees like this planted 2 ft. from the property line can be nothing but trouble. If allowed to grow un-trimmed and un-topped, as I am sure the Clarion Glen Homeowners Association will let them to provide a screen, these trees will become a serious hazard.

All of the Clarion Glen Homeowners who have their properties backing on the walkway have fenced it off from their yards. One or two have gates into the walkway but most have abandoned the area. Our neighbors backing us have been very good about keeping the area clear but they are the exception. With reports of prowlers and catching people smoking marijuana in the walkway closing the area will only make it worse. With no city supervision

and failing maintenance westside Helen Lane residents only recourse to prevent property destruction and crime will be civil legal means.

Clarion Glen Homeowners complain about the cost of installing sidewalks and that Richard Caulkin is the main walker in the public walkway. Since he is the main person who uses my front sidewalk is it OK if I remove my sidewalk?

The cost of installing sidewalks is a one time expense and pales in comparison to the cost of our endless civil litigation that will be necessary to keep our property rights intact.

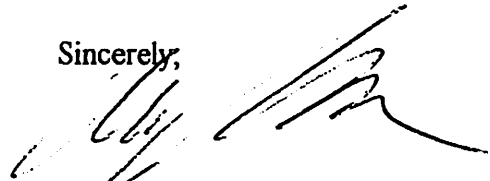
Since the proposed variance gives the Clarion Glen Homeowners financial relief from city supervised maintenance and require no installation of sidewalks to compensate for the loss of the walkway, clear favoritism seems to be shown.

While I can sympathize with the Clarion Glen Homeowners problem, they knew of the situation when they built or bought. A one-sided solution to the admitted mistake is no solution at all and can only cause more dissension between neighbors.

For my part I would like to see the walkway continue, the cypress trees removed, and maybe westside Helen Lane residents could help maintain the walkway. I personally would contribute to the maintenance of the walkway. With this solution former contentious neighbors could work together with a common goal.

THE VARIANCE SHOULD BE DENIED AND THE CYPRESS TREES REMOVED!

Sincerely,



Wayne Robinson

RECEIVED

DEC 1 2000

TO: The Planning Commission and City of Brookings
DATE: November 7, 2000

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

RE: Planning Commission meeting 11/07/00 Agenda Item: Staff Proposal for Claron Glen Subdivision – relief from internal walkway requirement for maintenance (Phase I)

The Brookings Meadows homeowners have serious concerns regarding the proposed elimination of the City's requirement to enforce maintenance guidelines in Claron Glen Phase I walkways.

The proposed action will allow Claron Glen to determine what future maintenance will enhance the walkway area for property owners in Claron Glen.

The proposed action does nothing to mitigate current or future impacts to the property owners in Brookings Meadows subdivision. Seven Brookings Meadows homeowners adjacent to the Phase I walkway, and four homeowners across the street are being impacted by the following:

- 1) Safety and trespass with criminal intent.
- 2) Long term tree maintenance at the property lines, including cypress, pine, redwood and maple trees.
- 3) Lost aesthetic value, including ocean views that existed prior to planting cypress, pine, redwood and maple trees in the walkway.

In the past the City did not give Claron Glen clear, detailed, written maintenance guidelines. Brookings Meadows has tried to cooperatively develop maintenance agreements with Claron Glen, but without success. Last year Brookings Meadows officially brought the unresolved issues to the City and Claron Glen in a meeting at the City Hall. As a result, the City required Claron Glen to trim cypress trees growing through existing fences, vertically prune branches extending across property lines (preventing construction of fences, in some cases), and remove branches preventing walkway use.

This past year, the trees have responded to being cut vertically, nearly in half, by growing five feet taller. This growth will continue year after year. The impacts to landowners on Helen Lane have not been eliminated. As the trees mature it will become impossible to vertically maintain branches at property lines.

Brookings Meadows Homeowners have had the City as its ally for assuring future maintenance of these trees by Claron Glen. If the proposed relief is approved, Brookings Meadows will have no future influence with Claron Glen to continue to maintain the trees.

Brookings Meadows will have to live with this problem created by Claron Glen until Claron Glen feels obligated to do something. The 1999 tree trimming significantly impacted Claron Glen's architectural budget. It is clear Claron Glen is not interested in spending any money maintaining these trees. Nor will they agree to top or remove them.

Most Brookings Meadows homeowners plan to live out their lives on their properties. At maturity, these trees will grow to 50-70 feet in height. There is a mature cypress tree which was planted in 1954, like those planted in the internal walkway, at 709 Pioneer Lane. Please take a look at this tree. It towers over the adjacent house and yard. The trunk girth is about the width of a car.

The Brookings Meadows homeowners' feel the City is obligated to ask Claron Glen for answers to the following questions, if this proposal is approved:

1) How does Claron Glen propose these trees be maintained next year, because Brookings Meadows homeowners will call them to trim the tree growth again? How will they maintain the trees at 30 feet? 50 feet?

2) What will Claron Glen allow their own homeowners to do when the cypress, redwood, and pine trees grow through fences and into Claron Glen backyards? Will Claron Glen owners also remove such problem trees for Brookings Meadows owners?

The proposal states that the walkways in Phase I were "a grand experiment that did not work and there does not appear to be a feasible way to undo what has been done other than writing it off as a mistake". Brookings Meadows disagrees. If the walkways revert to common area for the benefit of the Claron Glen homeowners, the trees impacting homeowners in Brookings Meadows should be subject to mitigation and removal.

Sincerely,

Timothy and Nancy De Mond
957 Helen Lane

RECEIVED

DEC 1 2000

Date: June 7, 1999

To: Helen Lane Residents
From: Tim & Nancy De Mond
Subject: Update on Cypress Trees

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

On Friday May 14th Tim met with Al Francis (President of Claron Glen Homeowners Assc.), Bill Boynton (President of Claron Glen Architectural Committee) and Ken Burns (who we think is the Secretary of the Claron Glen Homeowners Assoc.) to discuss the inputs received from all of the Helen Lane Residents. Please see the sheet of recommendations attached. Each of the Helen Lane residents' recommendations was discussed during a walk down the common area. The majority of vertical pruning at the property line was under contract with their current landscape company. However, tree removal and/or a specific height for topping cypress trees remained unresolved issues. Some Claron Glen homeowners don't care but others remain very sensitive to removal or topping of trees.

On Friday June 4th Tim had a follow-up conversation with Al Francis. Al had previously met with the Architectural Committee, and as many Claron Glen residents as possible, to discuss Helen Lane residents' recommendations. Al stated, at this time Claron Glen is observing minimal compliance with the City requirements based on a poll of numerous homeowners. It was made clear that all of the vertical cypress tree growth at the common area boundary, approximately 74 trees, is now under contract to be removed at Claron Glen's expense. At this point in time, there is no consensus on tree removal or horizontal tree topping. Al suggested that tree topping might have to be resolved on a neighbor to neighbor basis. In the near future, there will be an official Claron Glen Homeowners Assoc. meeting to finalize their position on these issues. After this meeting, Claron Glen will write a letter to the City of Brookings stating their final decisions. Al will give Tim a copy of the letter and Tim will forward a copy to Helen Lane residents.

Vertical trimming at the property line has already occurred at our lot. Discussions with the landscapers have indicated that they are mowing about 60 lawns a week, and this is the busiest time of the year for them. They will do their best to complete the trimming on remaining lots as soon as possible.

Regards, Tim and Nancy De Mond

General Scope of Work

Prepared by Tim De Mond for Claron Glen Homeowners' Association
May 11, 1999

Helen Lane homeowners recommend the following actions be taken with the cypress trees located in the Claron Glen common area. Al Francis (phone number 469-5574) will contact each homeowner at a later date to prepare a detailed scope of work and schedule.

Timothy and Nancy De Mond
957 Helen Lane
412-1922

- Remove all or every other cypress tree, or trim to a 6-ft. hedge
- Remove pine tree planted at the property line
- Vertically trim cypress, the entire tree height, at property line
- Selectively trim tops of highest horizontal growth by 3-ft. (to 2nd story deck elevation)

James S. (Scott) and Cynthia Hall
953 Helen Lane
469-9124

- Trim lower limbs in-and-behind fence in common area (pushing against wood fence)
- Remove low brush at fence line to improve air circulation and moist condition

Wayne and Helen Robinson
949 Helen Lane
469-0232

- Remove cypress or trim to a 6-ft. hedge
- Vertically trim cypress, the entire tree height, at property line

Owen and Bonnie Coleman
945 Helen Lane
469-7319

- Remove cypress or trim to a 6-ft. hedge
- Vertically trim cypress, the entire tree height, at property line
- Remove brush at ground level adjacent to fence as it poses a safety hazard

Richard and Pat Calkins
941 Helen Lane
469-0477

- Remove cypress or trim to a 6-ft. hedge
- Vertically trim cypress, the entire tree height, at property line
- Remove brush at ground level adjacent to fence as it poses safety hazard
- Note: Trees that are not properly trimmed (creating an unbalanced condition), may be uprooted in strong winds

Melba Spotswood

937 Helen Lane

469-5013

- Remove all or every other cypress tree, or trim to a 6-ft. hedge
- Vertically trim cypress, the entire tree height, at property line

Judy Baker

933 Helen Lane

- Unable to contact

Eunice Broyles

929 Helen Lane

469-5388

- Remove cypress or trim to a 6-ft. hedge
- Cypress roots extend into existing flower beds preventing digging and planting
- Vertically trim cypress, the entire tree height, at property line
- Note: Claron Glen homeowners and contractors have been extremely nice about previous maintenance

Charles and Helen Starkey

925 Helen Lane

469-1237

- Remove all or every other cypress tree, or trim to a 6-ft. hedge
- Vertically trim cypress, the entire tree height, at property line
- Remove lower brush and limbs as it poses a hiding place and a safety hazard

cc: Tom Weldon

John Bischoff

Helen Lane Residents

Date: May 8, 1999
To: Helen Lane Residents
From: Tim and Nancy De Mond, 412-1922
Re: Meeting summary and maintenance requirements

RECEIVED
DEC 1 2000

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

Homeowners of Helen Lane properties adjacent to the Claron Glen common area met with representatives of Claron Glen and the City of Brookings on May 5, to discuss our request to remove the cypress trees in the common area. Claron Glen has been discussing the problems associated with the cypress trees for several years, including: total and/or partial tree removal; tree relocation; and ongoing maintenance. It is recognized that these trees are fast growing and pose an ongoing financial maintenance burden to Claron Glen.

Clarification was given on several issues, per the City of Brookings:

- 1) Al Francis, President of the Claron Glen Home Owner Association, (phone number 469-5574), will coordinate the removal of unwanted tree growth posing a hazard to existing fences through the Architectural Committee.
- 2) Al will coordinate the removal of tree limbs preventing installation of new fencing.
- 3) Hazard from rope anchors used to support existing trees will be eliminated.
- 4) Brookings has no view protection Ordinance, and Claron Glen homeowners are very sensitive to tree topping.

It was agreed that Al Francis (Claron Glen), John Bischoff (City), and Tim De Mond (Helen Lane) would meet in the next week to walk the common area and review each property maintenance needs. Tim would specifically address maintenance needs associated with the 957 property.

Any eventual need to relocate or remove trees that pose future hazards will be addressed as time and financial requirements allow by Claren Glen Homeowners Association.

One or two representatives of Helen Lane will be invited to attend a future Claren Glen Homeowner meeting when common area maintenance issues are planned for discussion.

Al requested other Helen Lane property maintenance needs to be identified on an owner-to-owner and property-to-property basis. In this regard, Nancy and Tim plan to meet with each of the Helen Lane homeowners adjacent to the common area to develop a general scope of work required at each property. This information will be presented to Al Francis, a representative of the Claron Glen Architectural Committee, and John Bischoff during next weeks meeting. Al Francis will complete future development of detailed scope of work, cost, and scheduling with each homeowner.

RECEIVED
DEC 1 2000

Date: May 5, 1999

To: Claron Glen Home Owners Association
From: Helen Lane Residents
Re: Cypress trees in adjacent common area

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

Thank you for your time to address concerns of the Helen Lane homeowners. The cypress trees located in the common area in-between Helen Lane and the Claron Glen subdivision need to be removed for the following reasons:

- 1) Planting cypress trees 2 to 3 feet from the rear property line along Helen Lane lots has created a hazard to existing fences. It creates an ongoing, significant maintenance expense. Property owners are not able to bear the ongoing physical effort and expense required to restrict unwanted tree growth into Helen Lane properties.
- 2) Existing cypress trees extend 3 to 4 feet over the property line at 957 Helen Lane preventing installation of a fence.
- 3) These trees constitute a hazard, as hiding places for those with criminal intent.
- 4) The width of trees from limb to limb will eventually surpass the width of the access area if left untrimmed. Lower limbs will eventually have to be removed to allow required access as a common area.
- 5) Rope anchoring currently in use to provide support to existing trees is causing a public safety hazard.
- 6) The shade resulting from maturing untrimmed trees reduces sunshine requirements for both fruit trees and vegetable garden areas.
- 7) The invasive surface roots of these trees present significant problems to install fence posts, and to maintain raised vegetable garden beds.
- 8) Due to the height of the cypress trees, Helen Lane property values are being reduced by the loss of ocean views.
- 9) The expense of removing the trees now, is less than what long term maintenance costs will be for the Claron Glen subdivision.

Helen Lane residents appreciate the attention to these concerns by Claron Glen subdivision. Timothy and Nancy De Mond have been asked to respond to your comments and would appreciate a response by June 4, 1999. Their telephone number is 412-1922. At that time, Helen Lane residents request an opportunity to sit down with the Claron Glen Homeowners Board to discuss options for resolving the concerns mentioned above. Thank you again.

RECEIVED
DEC 1 2000

December 1, 2000

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

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

SUBJECT: Request for variance, Claron Glen Subdivision Homeowners Association

We have read the proposed variance and the prepared Final ORDER and Findings of Fact prepared for the Planning Commission. If the Commission approves the variance requested by Mr. Boynton on behalf of the Claron Glen Homeowners Association, we request **a condition be added to the variance which requires removing Cypress trees that are impacting the land use of homeowners in Brookings Meadows.**

The variance as proposed and the ORDER as written do not address the **real problem**. **The real problem is the Cypress trees and their continued impact on Brookings Meadows homeowners' use of their land.** Approving the variance will not solve this problem. Claron Glen Homeowners Association has a responsibility to be accountable, and to deal with problems these Cypress trees are causing to adjacent landowners.

Please imagine what our future will be like if the Cypress tree problem is not addressed. Where there was once a beautiful ocean view, now is a solid wall of Leyland Cypress trees. At maturity, they are over 50 feet tall and 20 feet wide. Our property values are less because we no longer have an ocean view. The tree branches are growing into and through our fences. Their invasive roots have crowded out our own landscape plants. Our yard plants are not growing because the invasive Cypress roots are robbing them of water and nutrients. The breadth of these trees has shaded our fruit and vegetable gardens from sunshine to the point they no longer will bear fruit. The base of the tree trunk is approaching the width of a truck, fences are being pushed over, and the tree trunk is now several feet from the back of our homes. The trees are so tall and wide that continuing to cut them back only spurs on more growth . . . We are not kidding about this future scenario, just imagine that we are talking about the property where you live.

Brookings Meadows homeowners have been trying for years to impress upon Claron Glen Homeowners the extent of damage these trees are doing, and will continue to do, to our property. Mr. Boynton's request for a variance states the problem is posed by use of the common walkway by one Brookings Meadows homeowner, which has led to the serious contention between neighbors in the two subdivisions. Mr. Boynton did not state the real contention is the Cypress trees and the problems they are causing the residents of Brookings Meadows.

Please take a short walk with us down Memory Lane. The original Brookings Meadows homeowners objected to planting of the Cypress trees when they were first being planted around 5 years ago. At that time, the majority of the common area had already been planted with ornamental shrubs and trees. The "privacy screen wall" of Cypress trees was planted later to provide additional screening to the satisfaction of current Claron Glen homeowners' desire for more privacy.

Current Brookings Meadows homeowners began a collective effort to request that the Cypress trees be removed back in December 1998, when 10 homeowners signed a request to the Brookings City Manager (T. Weldon). In May 1999, we sat down with Claron Glen (A. Francis, B. Hagbom), the city (J. Bishoff, T. Weldon), and other homeowners to address our concerns for maintenance of the Cypress trees. Mr. Hagbom admitted planting the Cypress trees in the common area had been a mistake, and there was nothing he could do about it. Claron Glen had not maintained the common area, and Brookings Meadows requested the Cypress trees be removed due to their considerable growth (15-20 feet). It was only when Brookings Meadows asked the City to step in and require Claron Glen to do maintenance were Cypress trees impacting adjacent owner properties dealt with (see Attachment 2, past communications with the City regarding the Cypress tree problems).

Due to the high maintenance costs involved, chances are Claron Glen will not voluntarily do maintenance again.

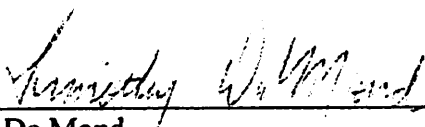
Please consider what we are dealing with in the present. Recently, two Felony Criminal Mischief I charges were made against Brookings Meadows homeowners over these trees.

Two days later, three suspicious characters were caught in the act while looking into a Brookings Meadows homeowner's windows. These suspicious characters had hidden in the cypress trees and gained access to a Helen Lane homeowner's rear porch through use of the common area. Mr. Boynton argues in his request for a variance that no events of unwanted individuals utilizing these internal walkways for possible criminal intent has occurred. Now it has. The Cypress trees allow much hidden cover for persons of criminal intent and they have focused on Brookings Meadows homeowners, not Claron Glen homeowners. Removal of the Cypress trees would take much of the available hidden cover out of the area for undesirables to hide.

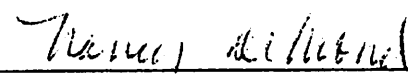
We have provided (Attachment 1) our comments on the variance proposal. Our comments support that a hardship exists for Brookings Meadows homeowners by the Cypress trees in the common area. This hardship is not recognized by Mr. Boynton's proposal for a variance. **The real problem is the Cypress trees.** If removal of the Cypress trees is a condition for the variance, there will no longer be an "unfortunate dissention between some Brookings Meadow homeowners and Claron Glen homeowners". As Mr. Boynton states in his variance request, "We hopefully feel this solution (variance) will bring resolution to this unforeseen mistake". Mr. Boynton knows that the only thing that will remove contention between neighbors is removal of the Cypress trees.

The hardship is not addressed in the Commission's ORDER. **If the Commission approves a variance, we request the Commission add a condition to the variance requiring removal of Cypress trees which are impacting Brookings Meadows homeowners' property value and use.** The trees would be identified with input from Brookings Meadows homeowners.

We also request the Commission consider delaying this decision on a variance until the impacts are determined on devaluation of property values under OR Measure 7 requirements.



Timothy De Mond



Nancy De Mond

Attachment 1

We request the Planning Commission staff consider these comments to their analysis, findings, and conclusions on Variance File No. VAR-2-00, Item No. 8.2.

Background Information

The Cypress trees in the common area along Brookings Meadows homeowners were not planted in 1990 when the first phase of Claron Glen was "planned". The Cypress trees were planted later, after the original landscape plantings, as a "privacy screen" for current residents of Claron Glen. The trees were planted an average of 8 feet apart, less than 3 feet from Brookings Meadows property lines. The Cypress trees were intentionally planted this way so homeowners in Claron Glen would not have to "look at homes in Brookings Meadows subdivision". These trees grow up to 4-5 feet a year, and are now 25 feet tall making them around 5 years old. In another 5 years they will be 40 feet tall.

When Brookings Meadows homeowners bought their property, they had expectations just like Claron Glen Homeowners. They expected to enjoy an ocean view. They expected to landscape and garden without hardship in their own yards. They did not expect these rights to be ripped away to satisfy the intent of a city ordinance for Claron Glen. The common walkways became a problem when Claron Glen made the decision to improperly plant and place Cypress trees in a situation where they impact adjacent property uses.

Analysis

Criteria 1. An Exceptional Circumstance has been determined met as being "beyond the control of Claron Glen Homeowners", in that the impact of the common area was not known when lots were bought or the Homeowners Association was formed. This created a hardship to Claron Glen property owners by the destruction of privacy.

The argument to meet an Exceptional Circumstance does not recognize that while Claron Glen couldn't know the impact public walkways would have at the time of "planning", Claron Glen knew later when they "planted" the walkways there would be impacts on adjacent owners. **Claron Glen is responsible for making decisions in the past on the selection and planting of trees inappropriate to the common walkway area.** Their decisions have caused impacts and maintenance costs associated with Cypress trees planted adjacent to Brookings Meadows properties. Brookings Meadows homeowners will continue to deal with the hardship posed from growth and maintenance of the Cypress trees. Claron Glen Homeowners had the option to select plants conducive to the setting. At the time the Cypress trees were planted, Brookings Meadows homeowners expressed dissatisfaction with the trees and their placement near the property line. Brookings Meadows owners offered to replace the Cypress trees with something more appropriate. Ultimately Claron Glen made their decision, for their own benefit, without concern for the hardship the Cypress trees placed on Brookings Meadows.

Criteria 2. The Preservation of a Property Right is determined to be met through the expectation that Claron Glen homeowners have the right to privacy in their backyard, their backyard is not exposed to a public area, and common area landscaping will be secure. This means "Claron Glen Homeowners have come to like the view out their back door of a wall of trees, which serves to screen their view from looking at the homes in back of them". They don't expect to give up that view.

This argument for Claron Glen homeowners' preservation of property rights is met by giving their property rights priority over Brookings Meadows rights. **Brookings Meadows homeowners have a right to a preferred view, just as Claron Glen does.** Brookings Meadows owners should also be allowed their view. They should be allowed to landscape and garden in their own yard without hardship from invasive adjacent plantings selected by Claron Glen. **Claron Glen places a continuing hardship on Brookings Meadows homeowners from an associated property devaluation through loss of their ocean view.** The new requirements under OR Measure 7 include reimbursement to a landowner when a land use changes and results in property devaluation.

Criteria 3. The Affect on City Ordinances is determined to be met by the failure of a City ordinance as a creative experiment, and reason that Claron Glen should not be made to endure the results of the failure.

The argument that Claron Glen homeowners should not have to deal with the consequences of their past actions does not relieve **Brookings Meadows homeowners of continuing to have to endure Claron Glen's failure.** For years, the Cypress trees will continue to grow 4-5 feet every year, impacting our quality of life, and invading our property rights and use of our land.

Criteria 4. The Minimum Variance is determined to be met by privatizing the common area and restricting anyone other than a Claron Glen homeowner from access to it. **We disagree this is the minimum that will resolve the problems discussed above.**

The argument that this variance is only about access to the common area is not supported completely. **The Cypress tree plantings are a problem, and will continue to be a problem for Claron Glen and Brookings Meadows if they are not removed.** Claron Glen has refused to recognize a reasonable standard for height of the Cypress trees. Removal of the Cypress trees is an option to resolve the Minimum Variance criteria.

Conclusions

Conclusion #1. Establishment of the common area prior to residents buying property in both Claron Glen and Brookings Meadows has created impacts for both subdivisions. While it is true the circumstance and hardship posed by the common area are beyond the control of Brookings Meadows, it is not beyond the control of Claron Glen to resolve the impacts. Claron Glen was responsible for contracting out the decisions for plant selection and placement. This variance could have been avoided had Claron Glen acted in a responsible manner, addressing the impacts to owners in Brookings Meadows when they chose to plant the "privacy screening wall" of Cypress trees.

Conclusion #3. Property owner expectations over privacy and exposure and viewshed should be met through maintenance of land rights and property uses. Claron Glen is asking for rights to privacy, use, and view; so should these rights be expected for Brookings Meadows. Land rights and property uses should not be extended to one subdivision at the impact of another. This would constitute favoritism; something that homeowners living in Claron Glen and who also work as public servants should not determine.

Conclusion #4. This conclusion states, "... the preservation of Claron Glen property rights to enjoy a yard without threat of disruption, and which is beyond the control of the individual owners". The statement is made for the impact to Claron Glen homeowners if sidewalks were to be installed in lieu of the walkways. The conclusion should recognize that the decision that Claron Glen made in applying the ordinance was beyond the control of Brookings Meadows homeowners. The preservation of Brookings Meadows property rights was disrupted when Claron Glen elected to select and plant Cypress trees in the common walkways.

Will Claron Glen homeowners end up being the victim, through satisfaction of an ordinance they themselves entertained, which ultimately failed them? **It would not be proper for the Commission to allow Claron Glen to avoid the consequences of their past actions, and allow Brookings Meadows homeowners to bear the consequences of Claron Glen's failure.**

RECEIVED

NOV 28 2000

Edgar E. Henke
769 Lisa Lane
Ashland, OR 97520

NOVEMBER 26, 2000

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

BROOKINGS City Planning Director,

WE THE UNDERSIGNED DO HEREBY
SUPPORT THE APPLICATION PROVIDED BY
WM. A. BOYNTON, CLAYTON CTEN HOME-OWNERS
ASSOCIATION REQUESTING FOR A VARIANCE
TO THE EXISTING CLAYTON CTEN SUBDIVISION,
TO DENY PRIVATE ACCESS TO INTERNAL
WALKWAYS AND NOT PRIVATE SIDEWALKS
ON BOTH SIDES OF THE STREET.

Thank you

Edgar E. Henke
Mickey Linder
735 BROOKS LANE
BROOKINGS, OR 97415
412-3309

November 28, 2000

RECEIVED
NOV 28 2000

To: The Brookings City Planning Commission
From: Richard Calkins, 941 Helen Lane, Brookings, OR
Re: TESTIMONY FOR PUBLIC HEARING, December 5: Claron Glen
Application for a Variance

Dear Commissioners:

This is to ask that you **DENY the Claron Glen application** for a variance -- on grounds that are implicit and explicit in this testimony.

For three years, I've been reporting to the City staff that the Claron Glen Subdivision's (Leyland Cypress) fence (less than three feet from my property) should be removed or maintained at six feet because: 1) It was never approved by the City Engineer as required by the Commission; 2) It is antithetical to the Commission's approval of a safe public pathway in lieu of sidewalks on both sides of the Phase One streets; 3) The fence is "illegal" - specifically, a violation of the City's ordinance establishing the Building Code. (See Exhibits A-I.)

THEREFORE, this is to formally **request** that the Commission ENFORCE THE BUILDING CODE ORDINANCE by requiring Claron Glen to remove the 70+ tree Leyland Cypress fence or keep it maintained below six feet AS A CONDITION FOR GRANTING ANY VARIANCE. (Of course, the enforcement should also take place if the variance is denied.)

For three years, I've been asking the City staff to enforce the subdivision agreement requiring the five-foot wide pathway in the common area (referred to as a "jogging path" at the Commission hearing). On November 1, Mr. Blodgett informed me that the Commission erred by failing to provide Claron Glen guidelines for protecting public access. On November 2, Mr. Bischoff informed me that the agreement for a five-foot pathway for public access was a "verbal agreement" at the time of the approval of the subdivision. (That's what he had been telling me all along - and the basis for my repeatedly requesting the City to enforce the agreement.)

THEREFORE, this is to formally **request** that the Commission deny the variance and instruct the City staff to enforce the subdivision agreement with respect proper maintenance OR - in lieu of public access to the common area -- require Claron Glen to install sidewalks that were omitted when the Commission granted the developer the option - and which are REQUIRED BY CITY ORDINANCE when an alternative is not approved by the Commission.

ADDITIONAL ARGUMENTS:

I contend that Claron Glen has acted in bad faith by failing to keep its commitment to the City. (For example it has refused to give anything but lip service in response to Mr. Bischoff's letter to Claron Glen dated June 23, 1999. See ATTACHMENT #1.) It is inappropriate to reward bad faith with favors - and unrealistic to expect Claron Glen to properly maintain the area without specific City guidelines. (It's difficult even to get Claron Glen to obey the law. E.g. I had to phone the fire department this Summer because Claron Glen had failed to remove weed patches higher than 12 inches by August.)

I contend that the City INCREASES its liability rather than decreasing it -- if the Commission adopts the staff's recommendation.

I contend that the citizens of Brookings especially need the Commission's careful consideration of the variance request due to the conflict of interest of Mayor Hagbom. (As a member of the Claron Glen Homeowner's Association, Mr. Hagbom has financial and other vested interests in these issues. And the Mayor has a great deal to say about whom the City employs and what the tasks of those employees shall be.)

I contend that the City staff's recommendation for the variance exhibits favoritism toward the Mayor's homeowners association while failing to provide anything to satisfy the just petition of the Helen Lane Homeowners Association. (See ATTACHMENT #2.)

EVIDENCE: The following exhibits pertain to the "illegality" of the Leyland Cypress fence.

Exhibit A: The City requires a building permit for fences erected over six feet in height.

Exhibit B: The City defines fence as per Webster's Third International Dictionary, copyright 1986.

Exhibit C: There are many types and examples of fences. To a mid-westerner, "fence" connotes "white picket." To a Texan, "fence" connotes "barbed wire." That doesn't mean all fences must be white picket and/or barbed wire. In fact, the dictionary takes the **common characteristics of all fences** into consideration with its definition. The two types of fences above are hardly a sight barrier. But the City of Brookings Development Code acknowledges that a fence might be a sight barrier. Section 8.010 reads: "'Fence, sight-obscuring' A fence, wall or evergreen planting arranged in such a way as to

obstruct vision." The most interesting thing about the City's definition of one type of fence is that - in the adoption of its Development Code - **the City of Brookings also acknowledges that a FENCE may, indeed, be an EVERGREEN PLANTING.** Thus, it is unreasonable for the City to continue to maintain that Claron Glen's fence is not a fence, on the grounds that it is an evergreen planting rather than a picket fence painted white or barbed wire strung between poles - or some other specific example of a fence that may come to someone's mind when the word "fence" is mentioned. And it is especially unprofessional for a City staff member to argue that Claron Glen's fence is not a fence when the City Development Code illustrates that one type of fence is a sight-obscuring evergreen planting.

Exhibit D: FENCE DEFINITION: "1 archaic... 2a: a **barrier** intended to prevent escape or intrusion **or to mark a boundary.**"

Exhibit E: BARRIER DEFINITION: "1 obs... 2: a **material object or set of objects that separates**, keeps apart, **demarcates** or serves as a unit or barricade."

Exhibit F: BOUNDARY DEFINITION: "1: something that indicates or fixes a limit or extent: something that marks a bound (as of a territory or a playing field): a bound or separating line."

Exhibit G: HEDGE DEFINITION: "1a: a fence or boundary formed by a **row of shrubs or low trees planted close together...** b: any fence or wall **marking a boundary or forming a barrier...** 2a: a line or array forming a **barrier** or marking a **boundary.**" **Please note that a hedge is a TYPE of fence - according to the dictionary that is part of the Brookings Building Code.**

Exhibit H: SPITE FENCE: "an unsightly fence or wall that serves no useful purpose, is so constructed as to be an injury to adjoining property, and is erected and maintained maliciously for the purpose of injuring a neighbor (as by obstructing unreasonably his air, light, or view)."

Exhibit I: NATURE of LEYLAND CYPRESS: The attached documents serve as evidence of the importance of the City's doing its duty to provide me and my neighbors equal protection under the law rather than continue to act with favoritism on behalf of the Mayor's homeowner's association.

CC: Attorney John Babin

ATTACHMENT # 1

CITY OF BROOKINGS

898 Elk Drive
Brookings, Oregon 97415
Phone (541) 469-2163
Fax (541) 469-3650
cityhall@brookingsor.org

The Home of Winter Flowers



June 23, 1999

Alvin K Francis
McMurray and Sons, Inc.
P.O. Box 1254
Brookings, OR 97415

Re: Your undated letter received by the city June 8, 1999

Dear Al:

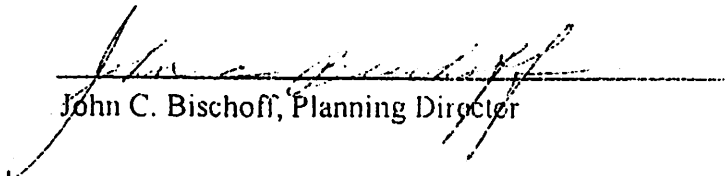
Thank you for the letter stating the HOA's intentions regarding the walkways and their maintenance. Early last week Mr. Calkins asked if I would walk through the area with him which I did on June 15. On this walk he pointed out what I would consider to be legitimate concerns in several places within the walkways as follows:

- Places where the path narrows to the point that a walker must push the shrubs or trees aside to get by.
- Limbs that have been cut from trees in a manner that they protrude from the trunk and are not obvious and thus posed a hazard of being walked into.
- Places where ground cover almost completely blocked the walking path.
- One location where a property owner has braced a tree by placing a rope across the walkway to a metal stake which is bent and creates a hazard.
- No provision for steps have been made at the end of the walkway onto Brooke Lane.

I realize that some or all of these items may be on your list for correction and just have not been completed at that time.

If you have any questions or need further information please call me at (541) 469-2163, Ext. 237.

Sincerely,


John C. Bischoff, Planning Director

cc: Tom Weldon, City Manager
Bob Hagbom, Mayor
Richard Calkins

DEC 07 1998

DEC 04 1998

1:55 pm

December 7, 1998

Mr. & Mrs. Owen Coleman
945 Helen Lane
Brookings, Oregon 97415

Mr. Tom Weldon, City Manager
Brookings, Oregon

Dear Mr. Weldon:

This is the cover letter for the attached petition that we recently circulated to some homeowners on our street. What we are asking the City to do – and some of our rationale – is specified in the petition.

Since we (and neighbors) have made reasonable efforts to communicate with the leadership of the Claron Glen Homeowners Association – without success -- we must turn to you for assistance. Our requests for maintenance of the area in question were rebuffed by the President, Mr. Ken Burns – as exhibited by the letter we received from the association's attorney – a copy of which is attached. Please note that the letter even goes so far as to forbid our setting foot on the property, regardless of the association's agreement with the City. (We have previously discussed the situation with, John Bishoff, who offered to help us.)

Furthermore, it has come to our attention that a City ordinance prohibits fences over six feet tall. The planting of the cypress as a fence is a violation of that ordinance. (The dictionary defines a fence as a "barrier" along property lines. By planting the cypress so close together and so close to the property line, it clearly constitutes a barrier, hence, a fence.) Indeed, in a phone conversation with Mr. Burns earlier this year, he acknowledged that the purpose of the cypress was to create a fence. He called it a "wall." (Pursuant to the ordinance, the previous owners of our home were allowed to keep the fence trimmed below six feet.)

If, as one neighbor maintains, the plan for the Claron Glen "common area" was never approved by the City Engineer – as required by the City – that is an additional reason for the City to act upon our requests.

We are the contacts for the Brookings Meadows Homeowners Association with respect to this matter. We look forward to hearing from you; and – on behalf of the citizens on our street – we thank you for attending to the City's responsibility for correcting the unfortunate landscaping, grading and maintenance errors.

Respectfully yours,

Owen Coleman Bonnie Coleman
Owen and Bonnie Coleman, 469-7319

DEC 04 1998
1:55 pm

To: Brookings City Manager
From: Undersigned Brookings Meadows Home Owners
Re: Claron Glen Adjoining Common Grounds

It is our understanding that the City approved the Claron Glen Homeowner's Association "Common Area" between our homes as a public walkway in lieu of sidewalks on both sides of the development, east of Third street. This is to request that the City require the association to maintain the area as a public walkway and to remove the cypress trees that have been planted in this area. The area has become virtually impassable in places, and hazards under foot are also abundant. The very fast growing cypress constitute the primary obstacle to the public's safety when walking on this property because they are planted close together and the lower limbs grow to a length of 25 feet. The cypress also constitute a danger as a hiding place for those with criminal intent. According to one of our residents, the current president of the association has described the purpose of planting the cypress trees as being to "wall out" the residents of Helen Lane. We believe such a use of this property is a violation of the agreement with the City. The planting of this type of tree within three feet of Brookings Meadows private homes has created a threat to our property (e.g. fences) and a maintenance aggravation/expense of great proportions. We also request that the City require the association to install stairs on the steep and dangerous slope at the northernmost part of the walkway, where it meets the sidewalk. (I.e. The approval of the cypress and the omission of the stairs in the plan requiring approval by the City Engineer was an oversight which we ask you to correct.)

Name	Address	Date
John Wiley	940 Helen	12-3-98
Bonnie Coleman	945 Helen	12-3-98
Owen S. Coleman	945 Helen	12-3-98
Sam Brown	944 Helen Lane	12-4-98
David Brown	944 Helen Lane	12/4/98
Helen J. Robinson	949 Helen Lane	12-3/98
Wayne F. Robinson	949 Helen Lane	12/3/98
Cynthia A. X. X.	953 Helen	12/3/98
Timothy A. Almond	957 Helen Lane	12/6/98
Wendy A. Almond	957 Helen Lane	12/6/98

DEC 01 1998
DEC 04 1998
1:55 pm
L 26

To: Brookings City Manager
From: Undersigned Brookings Meadows Home Owners
Re: Claron Glen Adjoining Common Grounds

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Name	Address	Date
Jacobi McMillen	940 Helen	12-3-98
Robert H. Allen	941 Helen Ln.	12-7-98
Ed Collins	941 Helen Ln.	12-7-98
James J. Boyles	929 Helen Lane	12-7-98
Paul R. Thomas	905 HELEN LANE	12-7-98
Nedra M. Thomas	905 Helen Ln	12-7-98

108.3 Tests. Determination of equivalence shall be based on design or test methods or other such standards approved by the building official. The building official shall be permitted to accept as supporting data to assist in this determination duly authenticated reports from BOCA Evaluation Services, Inc., ICBO Evaluation Services, Inc., SBCCI Public Safety Testing and Evaluation Services, Inc., and National Evaluation Services, Inc., acceptance documents from the U.S. Department of Housing and Urban Development or from other approved authoritative sources for all materials or assemblies proposed for use which are not specifically provided for by this code. The cost of all tests, reports and investigations required under these provisions shall be paid by the applicant.

SECTION 109 MODIFICATIONS

109.1 Practical difficulties. When there are practical difficulties involved in carrying out the provisions of this code, the building official may grant modifications for individual cases. The building official shall first find that a special individual reason makes the strict letter of this code impractical and that the modification is in conformity with the intent and purpose of this code and that such modification does not lessen health, life safety and fire safety requirements.

SECTION 110 LIABILITY

110.1 Relief from personal responsibility. (Not adopted by the State of Oregon.)

SECTION 111 PERMIT

111.1 Permit required. A permit shall be obtained before beginning construction, alteration or repairs, other than ordinary repairs, using application forms furnished by the building official. Ordinary repairs are nonstructural repairs and do not include addition to, alteration of, or replacement or relocation of water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electrical wiring, or mechanical or other work for which a permit is required by the building official.

Exceptions:

1. Structural items, designated as follows, in or appurtenant to one-family dwellings and which do not encroach over sub-surface disposal systems or into required yards are exempt from permits and fees in this code:
 - 1.1. Retrofitted insulation;
 - 1.2. Concrete slabs;
 - 1.3. Driveways and sidewalks;
 - 1.4. Masonry repair;

- 1.5. Porches and decks, where the floor or deck is more than 30 inches (762 mm) above grade where the edge of the porch, deck or floor does not come closer than 3 feet (914 mm) to projection lines;
- 1.6. Patio covers, not over 120 square feet (11 m²) area;
- 1.7. Painting;
- 1.8. Interior wall, floor or ceiling covering;
- 1.9. Nonbearing partitions, except when such partitions create habitable rooms;
- 1.10. Shelving and cabinet work;
- 1.11. Gutters and downspouts;
- 1.12. Nonhabitable small accessory buildings not over 120 square feet (11 m²) or a height of 10 feet (3048 mm) measured to the highest point;
- 1.13. Door and window replacements (where no structural member is changed);
- 1.14. Replacement or repair of siding not required to be fire resistant;
- 1.15. Reroofing, except in wildfire hazard zones as provided in Section 325 or where replacement or repair of roofing does not exceed 30 percent of the required live load design capacity and is not required to be fire resistant;
- 1.16. Plastic glazed storm windows;
- 1.17. Except for barriers around swimming pools required in Appendix B, fences not over 6 feet high (1829 mm); and
- 1.18. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge (ORS 455.310).
2. Electrical. To replace light bulbs, fluorescent tubes approved fuses, or to connect approved portable electrical equipment to permanently installed and properly wired receptacles. See also ORS 479.540(14).

Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

111.2 Permit application. Any owner, contractor, or other authorized agent who desires to obtain a permit shall first make application to the building official.

111.2.1 Valuation. The determination of value or valuation under any of the provisions of this code shall be made by the building official. The value to be used in computing the building permit and plan review fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment.

111.2.2 Plan review fees. When a plan or other data is required to be submitted by Sections 111.1 and 112, a plan review fee shall be paid at the time plans and specifications are submitted for review.

BUILDING DEFINITIVE IS

EXHIBIT B.

SECTION 201 GENERAL

201.1 Scope. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this code, have the meanings indicated in this chapter and in Chapters 12, 30 and 40.

201.2 Interchangeability. Words used in the present tense include the future; words in the masculine gender include the feminine and neuter, the singular number includes the plural and the plural, the singular.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the adopted model building, fire prevention, mechanical, gas or plumbing codes, such terms shall have the meanings ascribed to them as in those codes.

201.4 Terms not defined. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's *Third New International Dictionary of the English Language*, Unabridged, Copyright 1986, shall be considered as providing ordinarily accepted meanings.

ATTACHED MAY 1993 E.D.

SECTION 202 GENERAL BUILDING DEFINITIONS

ACCESSORY STRUCTURE. A building, the use of which is incidental to that of the main building and which is located on the same lot.

APPROVED. Approved refers to approval by the building official as the result of investigation and tests conducted by him or her, or by reason of accepted principles or tests by nationally recognized organizations.

APPROVED AGENCY. An established and recognized agency regularly engaged in conducting tests or furnishing inspection services, when such agency has been approved by the building official.

BALCONY (Exterior). An exterior floor system projecting from a structure and supported by that structure, with no additional independent supports.

BASEMENT. That portion of a building which is partly or completely below grade (see "Story above grade").

BUILDING. Any one- and two-family dwelling or portion thereof, which is used or designed or intended to be used for human habitation, for living, sleeping, cooking or eating purposes, or any combination thereof, and shall include structures accessory thereto.

BUILDING, EXISTING. A building erected prior to the adoption of this code, or one for which a legal building permit has been issued.

BUILDING OFFICIAL. See ORS 455.715(1).

ORS 455.715(1) is not a part of this code but is reproduced here for reader's convenience:

455.715 Definitions for ORS 455.715 to 455.740. As used in ORS 455 to 455.740, unless the context otherwise requires:

(1) "Building official" means a person charged by a municipality with responsibility for administration and enforcement of the state building code in the municipality.

CARPORT. A carport is a structure used to shelter a vehicle having no enclosed sides above, and is entirely open on two or more sides.

CEILING HEIGHT. The clear vertical distance from the finished floor to the finished ceiling.

COURT. A space, open and unobstructed to the sky, located on or above grade level on a lot and bounded on three or more sides by walls or a building.

DECK. An exterior floor system supported on at least two opposing sides by an adjoining structure and/or posts, piers or other independent supports.

DWELLING. Any building which contains one or more "dwelling units" used, intended, or designed to be built, rented, leased, let or hired out to be occupied, or which is adapted for living purposes.

DWELLING UNIT. A single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

FAMILY. An individual, two or more persons related by blood, marriage or law, or a group of not more than any five persons living together in a dwelling unit. Servants having common housekeeping facilities with a family consisting of an individual, or two or more persons related by blood, marriage or law, are not a part of the family for this code.

FIRE SEPARATION, EXTERIOR FIRE EXPOSURE. The distance in feet (mm) measured from the building face to the closest property line, to the center line of a street or alleyway or to an imaginary line between two buildings on the property.

GRADE. The finished ground level adjoining the building at all exterior walls.

GRADE-FLOOR WINDOW. A window located such that the sill height of the window is not more than 44 inches (1115 mm) above or below the finished grade adjacent to the window.

GRADE PLANE. A reference plane representing the average of the finished ground level adjoining the building at all exterior walls.

GREENHOUSE. An enclosed detached accessory structure consisting primarily of light-transmitting materials and used exclusively for growing plants.

"Family" An individual; or two (2) or more persons related by blood, marriage, legal adoption or guardianship, or a group of not more than five (5) unrelated persons living together in a dwelling unit.



"Fence, sight-obscuring" A fence, wall or evergreen planting arranged in such a way as to obstruct vision.

"Findings" Written statements of fact, conclusions and determinations based on evidence presented in relation to the decision approval criteria and accepted by the review body in support of a decision.

"Flag lot" A "panhandle" shaped lot or parcel with its widest area set back some distance from a road and having a thin strip of land connecting to a road to provide legal access.

"Floodplain" The land within the city subject to a one percent chance of flooding in any given year.

"Floodway" That portion of a floodplain and river channel that is necessary to conduct the waters of the base flood without cumulatively raising the water level more than one (1) foot.

"Floor area" The area included in the surrounding walls of a building, or portion thereof, exclusive of vent shafts and courts.

"Frontage" That portion of a parcel of property which abuts a dedicated public street or highway.

"Garage or carport" A permanently constructed building with covered roof available for the parking of a motor vehicle.

"Grade (ground level)" The average of the finished ground level at the center of all walls of the building. In case a wall is parallel to and within five (5) feet of a sidewalk, the ground level shall be measured at the sidewalk.

"Group living" Shall mean more than five (5) persons unrelated by blood or marriage residing together in a dwelling unit.

produces large
spermatozoa
maleness, see SEX
gains in a female
bodies and that
mosomes charac-
OCLEUS

mece]: a mistress
program

wife, female, fr.
\fem\ : WIFE
2 law : WOMAN

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mmes couvertes
— distinguished

emerell, fumerel,
fumariolum vent,
open structure on
ion : LOUVER

sole \-m(z)'s-\
d state — distin-
d woman acting
state

ic] 1 : belonging
sian minerals in-

E-al]: FEMININE

us womanly (fr.

minie, fr. MF, fr.
world of women
TEN (when a man
selfishness on the
go)

feminine, fr. MF
female + -inus
female breast, ON
L felare to suck,
pitful, Gk thēlys
basic meaning:
members of society)

of or appropriate
ich are especially
udes, or qualities
specif : receiving
l showing a mix-

s) 3 : belonging
for that ordinarily
ms referring to
m of an adjective)
ER 4 of a sign of
(beginning with
an unstressed and
ic verse with a ~
ng on a weak beat
MALE

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~ of all the ages
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femoral triangle or femoral trigone n : SCARPA'S TRIANGLE
femoral vein n : the chief vein of the thigh constituting a con-
tinuation of the popliteal vein that accompanies the femoral
artery in the upper part of its course and continues above
Poupart's ligament as the external iliac vein
femor- comb form [NL, fr. L femor-, femur thigh] : femoral
(femorocole) : femoral and (femorofibular)
fem-o-ro-tibial index \femə(r)ō+...-n [femoro- +
tibial] : the ratio of the length of the femur to the length of the
tibia multiplied by 100 (compared the femorotibial indexes of
fossil men and modern anthropoids)

femur \femə(r)\ n, pl femurs \-ə(r)z\ or fem-o-ra \fem-
ə-rə\ [L] 1 : one of the three flat narrow spaces separating the
grooves of a triglyph : SHANK 2 a : the proximal bone of the
hind or lower limb that is in man the longest and largest bone,
extending from the hip to the knee, articulating above with the
acetabulum by a rounded head connected with the shaft of the
bone by an oblique neck that bears a pair of trochanters for
the attachment of muscles, and articulating with the tibia
below by a pair of condyles — called also thighbone b : THIGH
3 [NL, fr. L] a : the segment of an insect's leg that is third
from the body, is often enlarged, and constitutes the principle
horizontal element b : MEROPODITE

fen \fen\ n -s [ME, fr. OE fenn marsh, mud, dirt; akin to
OHG fenna marsh, ON fen, Goth fani clay, Skt pañka mud,
mire] : low peaty land covered wholly or partly with water
unless artificially drained

fen \- dial var of FEND

fen \- also fan \fan\ or fin \fin\ or vents \ven(t)s\
interj [prob. alter. of fend] — used as a ritual call by children
esp. in certain games (as marbles) to prevent certain actions by
an opponent or teammate or to exempt the first caller from a
task or action

EXHIBIT D

fen \fan\ or fan \fan\ n -s [Chin (Pek) fēn] : CANDAREEN 1
fenagle var of FINAGLE

fence \fen(t)s\ n -s often attrib [ME fens, short for defens —
more at DEFENSE] 1 archaic : a means of protection or
security : DEFENSE (my whole body wanted a ~ against heat
and cold — Jonathan Swift) 2 a : a barrier intended to pre-
vent escape or intrusion or to mark a boundary (large areas of
range were put under ~): as (1) : a structure of posts and
boards, wire, pickets, or rails commonly used as an enclosure
for a field or yard (erected a ~ that was horse high, hog tight,
and bull strong) (2) : something legally constituting an en-
closure around land (as a bank of earth high enough to confine
livestock) b : something resembling a fence in appearance or
function (a teapotrimmed with a silver ~) (a ~ of mountains
around the valley) (built a radar ~ across the continent)
: an immaterial barrier or boundary line (erected legislative
~s to control the development of industrial and residential
areas) (on the other side of the ~ in the argument) c (1) : an
obstacle met in fox hunting that can be jumped (as a fence,
hedge, brook, or chicken coop) (2) : an artificial obstacle on
the course of a steeplechase or horse show : JUMP d : FENC-
ING 3 3 : FENCING 4 (books of ~) 4 a : a receiver of stolen
property : a dealer in stolen goods b : a place where stolen
goods are bought and sold 5 a : an attachment to a plane,
saw bench, or woodworking machine that controls the location
or extent of the cut — see BEADING PLANE illustration b : an
attachment to a marking gauge that serves to guide the mark-
ing 6 : a projection on a lock forming an obstruction to
throwing the bolt except when the gatings of the tumblers are
properly arranged (as by the key) to allow the fence to pass
7 : a means of political support for an officeholder, candidate,
or institution : a political interest — usu. used in pl. (building
his ~s for election as governor — Springfield (Mass.) Daily

arising from
closure)

fen-chene \fē-
OHG fenihh
FENNEL] : a
obtained esp.
fen-chol \-cl
ALCOHOL

fen-chone \fē-
-one] : an oil
camphor and
optically diff.
esp. in fennel
that is used c
bornane

fen-chyl alcoh
: either of t
hydrogenatic
fenchyl alcoh
southern pin

fen-ci-ble \fē-
defensable, d.
a man a :

country b :
being defend
3 : being of

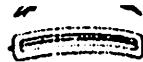
2fencible \fē-
service and 1
U. S. during
19th century

fencing n -s
more at FEN
gaps between
region (the
used in bulk
defense with
scoring of a
protective cl
fencing pate
or process a
that is proct
patent

fend \fend\
more at DEF
her claimor—
from enterin
to ~ branc
policy of ~,
rebuff him—
a shore, doc
Brit : to pre
an effort : s
(for oneself
young child
(as for one
himself) (th

2fend \- n
support (he
fend-er \fē-
+ -our -or]
or set up t
from susta
damage : as
camel or
ship and w
ships that

bar-rot-ter \bə'rel-ə-tər\ *n* -s [modif. of OF *barreter* to exchange] : an early type of radio detector operating by increased resistance when subjected to the influence of electric waves



barrettes

bar-ri-cade \bə'ri-kād, -kād, -kād also -er-\ *vt* -ED/-ING/-S [MF *barricader*, fr. *barricade*] 1 : to block off or stop up (as a street or passage) with a barricade esp. in order to prevent the advance of an enemy 2 : **BLOCKADE** (angry workers *barricaded* the narrow streets with furniture, carriages, and piles of lumber) 2 : to prevent access to by means of a barricade (*barricaded* myself behind my study door — Bentz Plagemann)

barricade \bə'ri-kād, -kād, -kād also -er-\ *n* -s [F, fr. MF, fr. *barricade* to barricade, fr. *barricade* barrel (a typical component of barricades, fr. dial. — Gascon — *barrico*) 1 -ade; akin to OF *barril* barrel] 1 a : an obstruction or rampart hastily improvised and thrown up across some way or passage (as in revolutionary street fighting) to check the advance of the enemy — usu. used in pl. (men, women, and children manned the ~s) b : material barrier or obstacle that prevents passage (a man behind a floor-to-ceiling concrete ~ was looking through a glass port-hole — Stanley Frank) 2 : a nonmaterial barrier or protective shield (sat stiff as a poker behind his flimsy ~ of silence — Claud Cockburn) (guarded by ~ legal ~s — W.P. Webb) 3 : a field of disagreement, dispute, or combat (would die upon the literary ~ of defending the noble proportions of "War and Peace" — Ellen Glasgow)

bar-ri-ca-do \bə'ri-kā-dō, -dō also -er-\ *vt* **barricaded**; **barricaded**; **barricading**; **barricades** also **barricados** [modif. of F *barricade*] *archaic* : **BARRICADE**

barricade \bə'ri-kād, -kād, -kād also -er-\ *n*, *pl* **barricades** also **barricados** *archaic* : **BARRICADE**

bar-ri-co \bə're-(j)kō, -kō, -kō *Br* *of* en 'brāko\ *n*, *pl* **barricoes** also **barricos** [modif. of Sp *barrica*] : a small cask : **KFO**

bar-ri-or \bə're-(j)or, -or also -er-\ *n* -s [MF *barrere*, fr. MF *barrere*, fr. *barre* bar] 1 *obs* : **BARRICADE**; esp. : an outer defense to impede or stop an enemy 2 : a material object or set of objects that separates, keeps apart, demarcates, or serves as a unit or barricade as : a : the palisades that enclosed the lists in medieval tournaments — usu. used in pl. b (1) *or* **barrier** beach also **barrier** bar : a long narrow sandy island lying parallel to a shore and built up by the action of waves, currents, and wind — called also *offshore bar*; see **BARRIER ISLAND** (2) *sometimes* *cap* : an extension of the antarctic continental ice sheet into the sea resting partly on the bottom c : the gate where customs duties are collected at the boundaries of some European countries d : a railing or other separation between the station building and train platforms in some European countries with openings to permit the passage of arriving and departing passengers e (1) : **POTENTIAL BARRIER** (2) : a movable net or structure serving in an emergency to halt a landing airplane esp. on an aircraft carrier when the tail hook has failed to engage the arresting gear f : a porous partition (as a thin sheet of silver-zinc alloy from which the zinc has been dissolved out) used in electrolysis g *in packaging* : a flexible material that can be formed into a container preventing or limiting the entrance of moisture, retaining flavors or oils, and otherwise protecting its contents h : a solid usu. white or yellow warning line painted between traffic lanes of a highway 3 **barriers** *pl*, *often* *cap* : a medieval war game in which combatants fought on foot with a fence or railing between them — often used in the phrase *at barriers* 4 a : the starting point in an ancient racecourse b : the movable gate or device at the starting line in a modern racetrack which is opened to signal the start of a race 5 : something intangible or immaterial that acts as a barrier (as by impeding or separating) (psychological and social ~s to increased agricultural production — G.P. Witherley) (the ~ between the craft and scholarly traditions

barrow \bə'row, -rō\ *n* -s [ME *barow*, fr. OE *bearg*; akin to OHG *barug* barrow, ON *bí* , Russ *barov* barrow, OE *borien* to bore — more at **BORE**, male hog castrated before it reaches sexual maturity]

barrow \bə'row, -rō\ *n* -s [ME *barow*, *barowe*, fr. OE *baarwe* basket, handbarrow; akin to OFris *bare* handbarrow, LG *berwe*, ON *barar* bier, OE *beran* to carry — more at **BEAR**] 1 a : **HANDBARROW** b : **WHEELBARROW** 2 : a cart with a shallow box body, two wheels, and shafts for pushing it : **PUSHCART** (street vendors pushing their ~s)

barrow boy also **bar-row-man** \-mən, -man\ *n* [*barrow* + *boy* or *man*] : **COSTERMONGER**

bar-row-ist \bə'row-ist\ *n* -s *cap* [Henry Barrow or Barrowe 11593 Eng. church reformer + *-ist*] : a follower of Henry Barrow, a founder of Congregationalism in England who was executed for nonconformity

bar-row pit \bə'row-pit, -pit also -'be-\ *n* [by alter.] chiefly West : **BORROW PIT**; esp. : a ditch dug along a roadway to furnish fill and provide drainage

bar-row's goldeneye \bə'rowz, -roz also -'be-\ *n*, usu. *cap* B [after Sir John Barrow 11848 Eng. traveler and admiralty official] : a No. American goldeneye (*Harephala islandica*) distinguished from the American goldeneye by the somewhat more crested head and white patch shaped like a crescent in front of the eye of the male

bar-ru-let \bə'ru-(y)alət\ *n* -s [*bar* + *-ule* + *-et*] *heraldry* : a diminutive of the bar usu. half to a fourth as wide

bar-ru-ly \bə'ru-(y)alē, -lē also **bar-ru-lē** or **bar-ru-lie** \bə'ru-(y)alē, -lē\ *adj* [ME *berle*, prob. modif. of MF *burele*, fr. OF — more at **BUREL**] *heraldry* : divided into a large number of horizontal bars

bar-ry \bə're, -ba-\ *adj* [ME, fr. AF *barré*, fr. OF *barre* bar — more at **BAR**] *heraldry* : divided into an even number of horizontal bars of two tinctures arranged alternately

bar-ry \bə're\ *n* -s [by shortening and alter.] : **BARRACUDA** **bar-ry-bendy** \bə're-'bendē, -bendē\ *adj* [*barry* + *bendy*] *heraldry* : divided by bars and bends with tinctures alternate — see **BENDY**

bar-ry-nebuly \bə're-'nebū, -nebū\ *adj* [*barry* + *nebuly*] *heraldry* : composed of bars having nebuly bounding lines — compare **BARRY-WAVY**

bar-ry-pily \bə're-'pilē, -pilē\ *adj* [*barry* + *pily*] *heraldry* : divided into equal piles arranged horizontally — see **PILY**

bar-ry-wavy \bə're-'wāvē, -wāvē\ *adj* [*barry* + *wavy*] *heraldry* : divided into an even number of wavy bars — compare **BARRY-NEBULY**

bars *pl* of **BAR**, *pres 3d sing* of **BAR**

bar-sac \bə'sak, -sək\ *n* -s usu. *cap* [fr. *Barsac*, dept. Gironde, France] : a white semisweet Bordeaux wine produced near the Garonne river in the department of Gironde, France

bar screen *n* [*bar*] : a screen or sieve with parallel uniformly spaced bars instead of wire mesh — see **GRIZZLY**

bars gemel or **bars gemels** *pl* of **BAR GEMEL**

bar share *n* [*bar*] : a plowshare welded to the landside

bar shoe *n* [*bar*] : a horseshoe having a flat piece across the usual opening at the heel to protect a tender frog from injury

bar sight *n* [*bar*] : a rear sight on a firearm consisting of a movable bar with an open notch or peep

bar sinister *n* [*bar*] 1 : a supposed heraldic charge widely believed to be a mark of bastardy 2 : the fact or condition of being of illegitimate birth (started with the initial handicap of the *bar sinister* — G.D. Brown) 3 : an enduring stigma, stain, or reproach (as of improper conduct or irregular status) (the loyalty determinations presented a special situation involving the imposition of a *bar sinister* — N.L. Nathanson) (a number of the great universities still ignore ecology or accord it the *bar sinister* — Amer. Naturalist)

bar soap *n* [*bar*] : soap sold in the form of solid oblong cakes commonly for laundry purposes

EXHIBIT E

bou-le-vard \ˈbʊl.vərd, -vəd also ɪ- \ n -s [F, modif. of MD *bolwerk* — more at BULWARK] 1 a : a broad thoroughfare; esp : one more pretentious than an ordinary street or avenue often having grassplots with trees along the center or between curbings and sidewalks b : a grassed or landscaped strip in the center or between the curbings and sidewalks of a boulevard 2 : MOUSE GRAY

2 boulevard \ˈvɪ-ED/-ING/-s : to make into a boulevard : provide with boulevards

bou-le-var-dier \ˈbʊl.vərˈdi(ə)r, ˈbʊl- \ n, pl **boulevardiers** \-yā(z), -i(ə)r\ [F, fr. *boulevard* + *-ier* -er] : a frequenter of the Parisian boulevards : a sophisticated man of fashion; also : BON VIVANT, FLANEUR, TRIFLER

boulevard light n : a tall ornamental streetlight with a luminaire like a lantern at the top used chiefly on parkways and principal thoroughfares

boulevard stop n : a traffic stop required of vehicles before entering or crossing a through street

boule-verse-ment \bʊl.vɜrsəˈmɛnt\ n -s [F, fr. MF, fr. *bouleverser* to overturn (fr. *boule* ball + *verser* to overturn, fr. L *versare* to turn, overturn + *-ment* — more at VERSATILE] : OVERTURNING, REVERSAL; also : CONVULSION, DISORDER

-boulia — see -BULIA

-boulic — see -BULIC

boulimia var of BULIMIA

bouille or **buhl** also **boille** \ˈb(y)ʊl\ n -s [after André Charles Bouille †1732 Fr. cabinetmaker] : inlaid decoration developed under Louis XIV by André Charles Bouille in which tortoiseshell, yellow metal, and white metal are inlaid in cabinetwork, forming scrolls or cartouches

bou-lon-nais \ˈbʊl.əˈnā\ n [F, fr. *boulonnais* of Boulogne, fr. *Boulogne*, seaport city in northern France] 1 usu cap : a French breed of very large quick-maturing draft horses 2 pl **boulon-naises** \-āz\ often cap : a horse of the Boulonnais breed

boult obs var of BOLT

boul-ter \ˈbɔltə(r)\ n -s [origin unknown] : a long stout fishing line to which many hooks are attached and which is used for bottom fishing esp. in deep water

boul-ter-er \-tə(r)\ n -s : one who fishes with a boulder

1 boun \ˈbʊn, ˈbʌn\ chiefly dial var of BOUND

2 boun \ˈvɪ-ED/-ING/-s [ME *bounsen*, prob. of imit. origin] vt 1 obs : BEAT, BELABOR 2 a : to cause to rebound (~ a ball off a wall) : cause to be reflected (~ a light ray off a reflector) b : to throw about : handle violently 3 chiefly Brit a : to bluff or bully with big talk b : SCOLD, BROWBEAT 4 a : to discharge from a post or employ esp. peremptorily and unceremoniously (the old mess sergeant had been *bounced* on recommendation of the mess officer — H.H. Arnold & I.C. Eaker) b : to expel or eject esp. precipitately from a room or place or from membership or participation (if the college would only ~ him for something that wasn't too much his fault — Theodore Morrison) ~ vi 1 obs : to make a loud sudden noise : bang or knock loudly 2 : to strike and rebound (*bouncing* from rock to rock) (the ball will hardly ~ at all) (the car *bounced* all over the road) 3 : to recover from a blow or a defeat quickly or vigorously — usu. used with *back* 4 a of a check : to be returned by a bank as no good (as because of lack of funds) b : RECOIL, BOOMFRANG (a tendency, which could ~ uncomfortably back on them, to come out and boldly blame the press for everything — Mollie Panter-Downes) 5 a : to leap or spring suddenly, violently, or noisily : BOUND (*bounced* into the room) (*bouncing* on his seat with ecstasy) b : to walk with springing steps 6 chiefly Brit : to talk big : BLUSTER, SWAGGER, BOAST SYN see DISMISS

1 bounce \ˈbʊns\ n -s 1 obs : a heavy sudden often noisy blow or thump; also : the sound of an explosion : BANG 2 : a sudden leap or bound : a rebound esp. of a ball 3 : BLISTER, BRAG, SWAGGER : an impudent lie or boast 4 : LIVELINESS, RESILIENCE, VERVE (full of ~ and enthusiasm) 5 slang : a peremptory discharge or expulsion (he got the ~) 6 : a pronounced beat characterizing a style of playing jazz usu. in a medium or moderate tempo

bounce-able \-səbəl\ adj, now dial chiefly Eng : BUMPTIOUS, PUGNACIOUS — **bounce-ably** \-səbəl\ adv

bounce back n [*bounce back*, v] 1 : ECHO, REFLECTION (locating submarines by the sonar *bounce back*) 2 : COMEBACK

bounce pass n : a basketball pass in which the ball is caromed off the floor

1 bound \ˈvaɪ- \ n -s [with & Midland : BET, WAGER — used ch in assertions and affirmations (I ~ you he'll like it)]

2 bound \ˈvaɪ- \ n -s [MF *bond*, fr. *bondir*] 1 : a leap or spring made easily and lightly (cleared the hedge at a ~) : one continuous series of such springs 2 : BOUNCE, REBO 3 : one of a series of relatively short movements by a milli unit or by elements of it alternately from one preselected p on the ground to the next SYN see JUMP

3 bound \ˈvɪ-ED/-ING/-s [MF *bondir* to leap, bound, reso fr. (assumed) VL *bombitare* to hum, irreg. fr. L *bombus* hollow sound — more at BOMB] 1 : to move with a spring leap or with a succession of springs or leaps 2 : REBO (an elastic ball ~s) : BOUNCE SYN see JUMP

bound-a-ry \ˈbaʊnd(ə)rē, rī\ n -ES [2bound + -ary] 1 : sthng that indicates or fixes a limit or extent : something marks a bound (as of a territory or a playing field) : a bound or separating line 2 cricket : a hit that sends the ball t across the boundary 3 Midland : a tract of land esp timber on it

boundary condition n, physics : a condition which a qua that varies throughout a given space or enclosure must f at every point on the boundary of that space esp. wher velocity of a fluid at my point on the wall of a rigid cor is necessarily parallel to the wall

boundary layer n : the region of retarded flow in a fluid air close to the surface of a body (as an airplane wing) w moves through the fluid or past which the fluid flows with retardation being greatest close to the surface of the body being due to viscosity of the fluid and its adhesion to the face

boundary light n : any light used to indicate the limits o landing area of an airport

boundary marker n : a usu. cone-shaped orange marker indicates the boundary of an area available for the landi an airplane

boundary rider n, Austral : one that rides around the bo aries of a station and keeps the fences in order

bound bailiff n [alter. (influenced by 4bound) of *bumber* : a bonded sheriff's officer who serves writs and makes ar

bound charge n [4bound] : the portion of the electrical cl on a conductor that because of the inductive action of a n boring charge will not escape to the earth when the cond. is grounded

bounded past of BOUND archaic past part of BIND

bound-ed-ness n -ES : the quality or state of being bou

bounded noun n [bounded fr. past part. of 3bound] : a (as *book*, *letter*, *window*) that in the singular is always ac panied by a determiner

bound-en \ˈbaʊndən\ adj [ME — more at BOUND] 1 ar : BOUND : fastened by bonds : in bondage 2 archaic : obligation (as for a favor) : OBLIGED, BEHOLDEN (~ to pol supporters) 3 : made obligatory : imposed as a duty : BIN (our ~ duty)

1 bound-er \-də(r)\ n -s [3bound + -er] archaic : BOUN

2 bound-er \ˈvɪ-ED/-ING/-s [3bound + -er] 1 slang Brit a : DOG b : a 4-wheeled cab 2 chiefly Brit : a man of objection manners, taste, or other form of social behavior : OUTS CAD (a big, jolly fellow, with a touch of the ~ about hi D.H. Lawrence) — often used in general disparagement most offensive, the old ~ had been — Norman Douglas) batted ball that bounces along the ground : GROUNDER

bound-er-ish \ˈbaʊndərɪʃ\ adj : resembling or typical bounder

bounding pres part of BOUND

bound-ing-ly adv : in a bounding manner

bound-less \ˈbaʊnd(ɪ)lɪs\ adj [2bound + -less] : havin boundaries or limits (~ ocean) (the ~ prairie) : IMMEASUR VAST (~ heavens) : without restraining limits (~ oy) (~ timism) — sometimes distinguished from *infinite* (a sph surface is ~ but not infinite in extent) — **bound-less-ly** — **bound-less-ness** n -ES

bound-ness n -ES : the quality or state of being bound

bounds pl of BOUND, pres 3d sing of BOUND

bound up adj : inseparably connected or associated (his c is *bound up* with the fortunes of the enterprise); also : d involved : wrapped up (he is *bound up* in his family)

bound variable n [4bound] logic : a variable occurring v the scope of a quantifier and so no longer available for s tution by a constant : an apparent variab

bound water n [4bound] : water that is an essential compo of various materials (as animal and plant cells or soils)

Scot: a grating in a millrace. 4 a: a name for controlling warp threads. b: any of various attachments for guiding mills for guiding thread in textile

sm]: HEEL 2 (that's the ~ of it) (~ of a good fighter) fön\ n [G heckelphon, fr. Wilhelm instrument maker, its inventor + G wind instrument of the oboe family (the normal oboe

m\ n -s usu cap [Isaac Thomas Hecker tholic clergyman + E -ism]: certain the adaptation of traditional beliefs to ern culture, the exaltation of natural rties, the preference for active rather he revision of traditional missionary erroneous by Pope Leo XIII — called

c,kañ\ n -s [origin unknown]: POISON

ly dial var of HACKLE

clod; heckled; heckling \-k(ə)lɪŋ\ fr. hakell, heckele hackle — more at E 1 2 a: to harass with questions, objections designed to embarrass and would gather in front-row seats and ~ outs — E.J. Kahn) b: to interfere with hostile intent; meddle with so as to ire; MOLEST (heckled even by photog- flash bulbs as he was about to start — ned too harried and heckled by her life lder children — John Dollard) syn see

KWAIL

-s: one that heckles (spoke forcefully ook easy care of ~s — J.D. Hicks) nñ\ n [heconin saponin found in the fr. NL Hectia, genus name of Hectia as in saponin] + -genin]: a crystalline H₄₂O₄ obtained from a desert herb many agaves and used in a synthesis of

em [F, irreg. fr. Gk hekaton — more at hectare] (hectograph)

rij, -litr\ n -s [hectare + -age]: area in

, -litr\ n -s [F, fr. hect- + are]: a al to 100 ares or 10,000 square meters ble

\ n [by alter.]: HEXASTYLE

Gk hektrā, fr. fem. of hektos sixth, fr.): an ancient Greek coin worth ⅙ coin of Phocaea and Lesbos

adj [alter. (influenced by LL hecticus) etyk hectic fever), fr. ME etique, fr. LL os habitual, habit-forming, consump- chein to have) + -ikos -ic — more at tUAL, CONSTITUTIONAL, PERSISTENT; tuating but persistently recurrent (~ ic of tuberculosis and septicemia) abtually accompanying a hectic fever losis) 2: marked by a hectic condi- fever; CONSUMPTIVE (a ~ patient) ality; FLUSHED, RED (the ~ color had impatient face — Harriet La Barre) tement, bustle, or feverish activity s after oil was discovered — Harold gh thirty different countries — Carveth ~ we couldn't even keep track of the aterial — N.O. Wahlstrom) — hec-ti- li\ adv

-k, short for fever etyk) 1: a hectic by a hectic fever; esp: CONSUMPTIVE

archaic var of UNCTU

uality or state of being hectic

he-der or che-der also che-dar \ˈkɑdər, ˈkɛd\ n, pl ha-da- rim \ˈkɑdərɪm, -dər-, -rēm\ or ders \ˈkɑdərz, ˈkɛd\ [Yiddish kheyder, fr. Heb hedher re a]: an elementary Jew- ish school in which children from about 7 to 13 years of age are taught to read the Pentateuch, the Prayer Book, and other books in Hebrew — compare TALMUD TORAH

hed-erə \ˈhedərə\ n, cap [NL, fr. L. ivy; perh. akin to L. prehendere to seize — more at GET]: a genus of Old World woody vines (family Araliaceae) usu. having palmate leaves but in adult form often becoming shrubby with unlobed leaves — see IVY

hed-er-a-gen-in \ˈhedərəˈjɛnɪn; ˈhedəˈrɑjənɪn, -nɛn\ n -s [ISV hedera- (fr. NL Hedera) + -gen + -in]: a crystalline triterpenoid saponin C₃₀H₄₈O₄ obtained by hydrolysis of hederin and other saponins (as from soap nuts)

hed-er-in \ˈhedərɪn\ n -s [ISV heder- (fr. NL Hedera, genus name of Hedera helix) + -in]: a crystalline antibiotic gly- coside C₄₁H₆₄O₁₁ active against fungi and bacteria that is found esp. in ivy — called also alpha-hederin, helixin

hedge \ˈhej\ n -s [ME hegge, fr. OE hecg: akin to OE haga hedge, hawthorn, OHG hag hedge, hedged-in enclosure, heckis hedge, ON hegg bird cherry (tree), L. caulae sheepfold, colum sieve, W cae field, Corn kē hedge, fence] 1 a: a fence or boundary formed by a row of shrubs or low trees planted close together (white farmhouses with faded red barns and fields bordered with ~s of green — Gordon Webber) b: any fence or wall marking a boundary or forming a barrier (the high stone ~ encircled the enclosure — A.L. Rowse) 2 a: a line or array forming a barrier or marking a boundary (pikemen ~ present a ~ of metal points from which any cavalry would flinch — Tom Wintringham) b: a protective or defensive bar- rier (regarded it as the main function of their existence to raise a ~ around the law — F.W. Farrar) 3 a: a means of protec- tion or defense — usu. used with against (proponents of using fluorides as a ~ against tooth decay — N.Y. Times) b: any of several means of protection against financial loss: as (1) a bet made against the side or chance already bet on (2) a pur- chase or sale made not primarily for income or profit but as protection against a known risk (realization that common stocks are the best ~ against inflation — C.E. Merrill) (3) a purchase or sale of commodity futures made to offset the risk of loss from market fluctuations 4: a statement so qualified or calculated as to be noncommittal or ambiguous (bureau- cratic literature ~ festooned with ~s and qualifications — Fortune) 5: OSAGE ORANGE

2 hedge \ˈ\ vb -ED/-ING/-S [ME heggen, fr. hegge, n.] vt 1: to enclose with or separate by a hedge: fence with a row of shrubs or low trees planted close together (its modest lot is hedged by ~ hibiscus — Frederick Simpich) 2 a: to enclose as if with a hedge; ENCIRCLE (meandering through an immense meadow hedged by forest — S.H. Holbrook) (a small dance floor crowded with couples and hedged with waiting men — Ed- mund Wilson) b: to surround so as to form a protective barrier; GUARD, PROTECT (remembered that no great divinity ~s this sovereign — Graham Greene) c: to surround so as to prevent freedom of movement or action; FENCE, HEM, RESTRICT (the bulk and pressure of the rules that ~ him on every side — B.N. Cardozo) — often used with about or in (are hedged about with many special conditions, limitations, and restric- tions — F.L. Mott) (hedged themselves in with a thousand dos and don'ts — A.L. Kroeber) 3: to obstruct with or as if with a hedge or barrier; HINDER (the difficulties which hedged all approach — D.G. Mitchell) 4 obs: to introduce and include within something larger or more important — used with in or into (when you are sent on an errand, be sure to ~ in some business of your own — Jonathan Swift) 5 a: to reduce or eliminate the risk of (a bet) by making a bet against the side or chance already bet on (is hedging its bets in the all-important diplomatic poker game — Newsweek) b: to protect oneself against financial loss from (were advising clients to ~ the im- minent inflation by buying farmland — Forer) 6: to form into a hedge or barrier (ye are hedged on the borders of my path — Adah I. Menken) 7: to qualify or modify so as to allow for contingencies or avoid rigid commitment (when he states a position, he is apt to ~ it round with careful qualifica- tions — Colin Brogan) ~ vi 1: to plant or trim hedges 2 a: to evade risk or responsibility by avoiding an open or

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EXHIBIT G

eral body cilia that are uniform or variously reduced and ad into cirri and including the suborders Heterotricha, rototricha, and Hypotricha

ro-trich-i-da \spīrō-'trikədə\ [NL, fr. *spir-* + *trich-* + *-da*] *syn* of SPIROTRICHA

rot-ri-chous \(')spīrō-'trikəs\ *adj* [NL *Spirotricha* + E *-ous*] : of or relating to the Spirotricha

spit *var* of SPURT

spit *vt* [freq. of *spirt*] *obs* : SPATTER, SPLASH

spit *la* \spīr(y)ələ\ *n* [NL, fr. LL, twisted cracknel, fr. L. *spira*, a coil, twist + *-ula* --- more at SPIRE] 1 *cap* : a genus (coexisting with a family Spirulidae of the order Decapoda) of small cephalopods related to the extinct belemnites, having a many-chambered shell coiled freely in a flat spiral that is comparable to the phragmocone of the belemnite shell and most enveloped in the soft parts, and occurring in most tropic seas usu. at great depths from which the shells float to the surface and are cast on beaches, although complete specimens of the animal are rare 2 *s* : a cephalopod of the genus *Spirula*

spit *late* \spīr(y)ə'lāl, 'spīr-\ *adj* [prob. fr. (assumed) NL *spiralatus*, fr. (assumed) NL *spirula* small coil (fr. LL, twisted cracknel) + L. *-atus* -ate] : spiral in form or arrangement

spit *ra* \spīr'rə\ *n*, *cap* [NL, fr. *spir-* + *-ura*] : the type genus of Spiruridae including various parasites of rodents

spit *ri-d* \(')spīr'rīd\ *adj* [NL *Spiruridae*, *Spirurida*] : of relating to the family Spiruridae or the order Spirurida

spit *ri-da* \spīr'rīdə\ *n* *pl*, *cap* [NL, fr. *Spirura* + *-ida*] : an order of Aphasmodia comprising parasitic nematode worms with the esophagus cylindroid and not divided into three regions, six lips, no buccal stylet, and the musculature myxarian and including the guinea worm, the filarial worms, and other parasites of vertebrates that all have complex life cycles requiring an invertebrate intermediate host

spit *ri-dae* \-dē\ *n* *pl*, *cap* [NL, fr. *Spirura*, type genus + *-ae*] : a family of nematode worms having the adults parasitic in vertebrates and larval stages in insects and with related forms constituting a distinct superfamily of the order Spirurida

see ASCAROPS

spit *ri-oid* \-d, -oid\ *adj* [NL *Spirura* + E *-oid*] : resembling or related to the Spiruridae

spit *ri-oid* \-d, -oid\ *n* *s* : a spiruroid worm

spit *ry* \spīr'rē, -rē\ *adj* [*spire* + *-y*] 1 : resembling a spire tall, slender, and tapering to a point : rising in a slender, tapering form (~ grass) (~ trees) (~ turrets) 2 : abounding in spires (~ towns)

spit \-d, -id\ *adj* [*spire* + *-y*] *archaic* : of a spiral form : curving or coiling in spirals : CURLED, SERPENTINE, WREATHED (hid in the volumes of the snake --- John Dryden)

spit *si-tude* \spī'sītūd, -tītūd\ *n* *s* [ME, fr. L. *spissitudo*, *spissi-* (fr. *spissus*) + *-tudo* -tude] *archaic* : the quality or state of being thick, dense, or compact : DENSITY, VISCOSITY

spit *u-la* \spī'sələ, -izə\ *n*, *cap* [NL, perh. irreg. fr. J. B. von *spix* 1826 Ger. zoologist] : a genus of surf clams that includes a large yellowish white thick-shelled clam (*S. solidissima*) that is the common edible surf clam of the eastern coast of North America

spit \spīt, usu 'd- + V\ *n* *s* [ME *spite*, fr. OE *spitu*; akin to D *spit*, *spet* spit, OHG *spiz* spit, *spizzi* pointed, Icel *spita* g, L *spina* thorn --- more at SPINE] 1 *a* : a usu. metal stationary or revolving slender pointed rod for holding meat and other foods while cooking before or over a fire 2 *archaic*

spit *word* *C* *dial Brit* : a skewer on which fish (as herring) are hung to dry 3 *d* : SPINDLE 4 *o* : a steel rod on which drawn wire is wound as it leaves drawplates 2 *a* : a small point of sand and commonly consisting of sand or gravel deposited by waves and currents and running into a body of water --- compare BAR 2d 3 *b* : a long narrow shoal extending from the shore

spit \-d, -id\ *vt* spitted; spitted; spitting; spits [ME *spiten*, fr. *spite*, n.] 1 : to thrust a spit through : fix upon a spit (over a fire) 2 : to spread the glowing embers of a fire; and across the floor were spitted four whole sheep --- Oscar Handlin 3 : to pierce as if with a spit : IMPALE (spitted him on a bayonet --- Mack Forriss)

(embassies abroad could not do without their spit men --- *N.Y. Times*) (a full-time professional soldier, of the old spit-and-polish school --- Evelyn Eaton)

spitball \spī-'bɔl\ *n* 1 : paper chewed and rolled into a ball to be thrown as a missile 2 : a baseball pitch delivered after the ball has been moistened with saliva or sweat (sounded the doom of the ~ and other... freak pitching deliveries --- *Spring field (Mass.) Republican*) --- called also *spitter*

spit-ball-er \spī-'bɔ(r)\ *n* *s* : one that throws spitballs

spitbox \spī-'bɔks\ *n* : SPITTOON

spit bug *n* : SPITTLEBUG

spitch-cock \spīch,kɔk\ *n* [origin unknown] : an eel split and grilled

spitchcock \spī-'tʃɔk\ *vt* : to prepare as a spitchcock or in the manner of a spitchcock (~ an eel)

spit curl *n* [prob. so called fr. its being sometimes plastered down with saliva] : a spiral curl that is usu. plastered on the forehead, temple, or cheek

spite \spīt, usu -id- + V\ *n* *s* [ME, short for *spiteful*] 1 *a* *obs* : an injury, hurt, or disgrace incurred or inflicted (it is a great ~ to be praised in the wrong place --- Ben Jonson) 2 *a* : something that vexes : a petty annoyance 3 *a* : often petty ill will or hatred toward another accompanied with the disposition to irritate, annoy, or thwart : envious or rancorous malice (a little insignificant ~ not really hate at all, but ~ --- C.D. Lewis) 4 *b* : an instance of spite : an individual malicious feeling : GRUDGE (a normal child has no ~ against work until you have drilled one into him --- C.E. Mortague) *syn* see MALICE --- in *spite of prep* : in defiance or contempt of (charge in *spite of* superior enemy forces) : despite adverse effects (in *spite of* all efforts of (in *spite of* careful preparation) : in opposition to all efforts of (in *spite of* careful preparation)

spite \spīt, usu -id- + V\ *vt* -ed/-ing/-s [ME *spiten*, fr. *spite*, n.] 1 *obs* : to regard with spite : DISLIKE, HATE 2 : to treat maliciously (a by shaming or thwarting) (children are still ready to ~ the older generation --- E.H. Erikson) 3 *a* : to fill with spit 4 *b* : ANNOY, OFFEND

spite fence *n* : an unsightly fence or wall that serves no useful purpose, is so constructed as to be an injury to adjoining property, and is erected and maintained maliciously for the purpose of injuring a neighbor (as by obstructing unreasonably his air, light, or view)

spiteful \spīt'fʊl\ *adj*, sometimes *spitefuller*; sometimes *spitefullest* [ME, fr. *spite* + *-ful*] : filled with or showing spite : having or exhibiting a desire to vex, annoy, or injure : MALICIOUS, MALICIOUS (growing to hate the very sight of or another, becoming bitter, ~ jealous --- W.H. Wright) (because the present law is ~ --- A.E. Stevenson 1965) --- **spiteful** \spīt'fʊl, -li\ *adv* --- **spitefulness** \spīt'fʊl-nəs\ *n* *s*

spiteless \spīt'lis\ *adj* : lacking spite : not motivated by spite

spite marriage *n* : a marriage entered into by one person to vex a third person with whom he is in love

spite of prep : in spite of (exert your freedom, *spite of* the world --- C.W. Hendel)

spite-work \spī-'wɜrk\ *n* : trouble or injury inflicted as revenge for a real or fancied grievance

spitfire \spī-'fīə\ *n* [*spit* + *fire*, n.] 1 : one that emits fire (as volcano or a cannon) 2 : a quick-tempered, fiery, or violent emotional person

spit in the ocean : poker in which each player is dealt a hand of cards facedown and combines them with cards faceup on the table to make a poker hand; *specif* : a game in which each player is dealt four cards, a fifth card is faced on the table, at the faced card and all others of the same rank are wild

spit-ish \spīt-'ish\ *adj* : SPITEFUL

spit-kit also **spit-kid** \spīt,kit, -kid\ *n* 1 : ASITRAY 2 : small ship (as a patrol boat)

spits *pl* of SPRT, pres 3d sing of SPRT

spit shine *n* : a very high gloss on a boot or shoe esp. when partially obtained by the application of saliva

spit shine *vt* : to apply spit shine to (a boot or shoe)

spit-stick \spīt'stik\ or **spit-stick-er** \spīt'stik-ər\ *n* [*spit* + *stick*, alter. (influenced by *stick*) cf *spitsticker*, fr. D *spitssteker*, *spits* pointed (fr. MD, fr. MHG *spiz*, *spitze*, fr. OHG *spizel*) *steker* graver, one that pricks or thrusts, fr. MD, joust, fr. I *steken* to sting, prick, thrust + *-er*; akin to OHG *stehan* to pierce, thrust, etc.]

EXHIBIT H: SPITE FENCE

The Claron Glen fence meets the definition of a spite fence in the following ways:

"Unsightly"

- Claron Glen's stated intention is to let the trees grow with no responsibility or schedule for maintenance - which will result in their being an eyesore.
- Planting so close to Helen Lane property that exercising our right to prune at the property line makes the fence look ugly.

"No Useful Purpose"

- It's unnecessary, the neighbors having fenced their yards.
- Not needed for ornamental purposes. Claron Glen has some beautiful ornamental trees and shrubs in the common area.
- Detrimental to ornamental trees: Claron Glen has been allowing the inexpensive fence to hurt its expensive ornamental trees and shrubs by growing over them, etc.

"Injury to Adjoining Property"

- The fence roots injure the trees, plants and gardens of neighbors.
- The fence damages neighboring fences.
- The fence height shuts out light to our trees, shrubs and lawns.
- The fence prevents us from using up to 2000 square feet of our property.
- As the Leyland Cypress grow quickly in height and width, the damages and dangers increase.

"Maintained Maliciously"

- Helen Lane property owners are required by Claron Glen to engage the expense and danger of pruning (at the property line) one of the largest and fastest growing trees in the world at 20, 30, 40, 50, 60, 70, 80 and above heights.

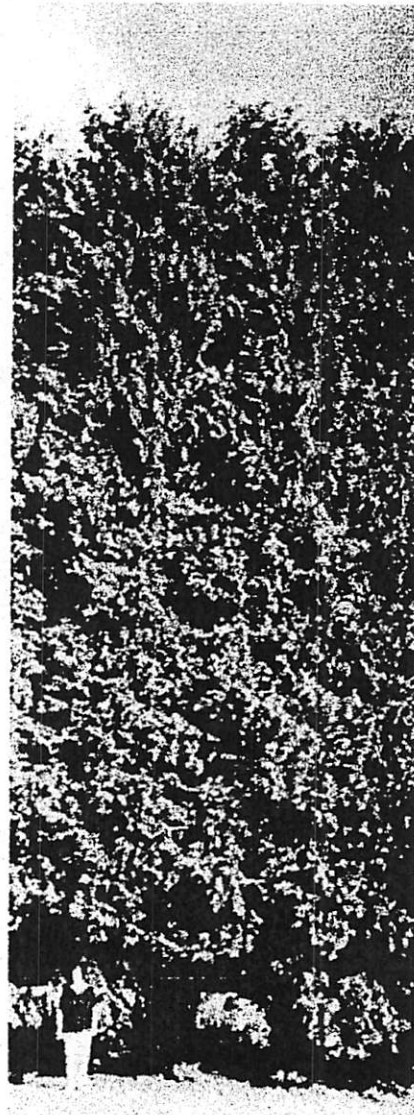
- The subdivision plan to substitute a public path for a sidewalk was opposed by former 941 Helen Lane owners.
- Claron Glen created permanent damage and an ugly appearance for Helen Lane homeowners by scalping the Leyland Cypress at the tree trunks.
- Claron Glen's president Burns told a Helen Lane resident that the fence was to wall us out.
- Since early 1999, the Claron Glen's Board of Directors has refused to meet with Helen Lane residents to reach an accommodation over our just grievances.
- The Claron Glen CC&R's show respect to homeowners by expressly forbidding such a hedge-fence over six feet in height; but disrespect Helen Lane homeowners by allowing it.

"Obstructing Unreasonably" (Air, light and view.)

- Claron Glen has consistently refused to acknowledge any rights of Helen Lane homeowners - except pruning at our property line -- repeatedly claiming, for example, that we have NO right to protection of our "light and view."
- Claron Glen's obstruction of our light and view is unreasonable because it has planted - and homeowners have the ability to plant - various trees to provide for more privacy than their six foot fence provides.

LEYLAND CYPRESS HEDGE
Approximately 45 Feet Tall
(50-75% of its Eventual Height)

Source: The Royal Forestry Society © John Morgan
(<http://www.rfs.org.uk/totm/leyland.htm>)



Fax. 0121 471 3592.



The Leyland Cypress

Tree Roots

Information for Hedge Victims

Links to other pages

The Leyland Cypress

Cupressocyparis leylandii

This tree is responsible for much of the high hedge nuisance at present being suffered. The reason it causes so much trouble is that it grows so quickly. Young trees almost always grow at 1 metre a year.

It is widely chosen for hedge planting because it can produce an effective hedge in three to five years, because it will grow in virtually any soil and because it is indifferent to pollution and exposure, but few people, who buy it, understand that it will grow into an uncontrollable 'beanstalk'.

The nurserymen push it because they can grow it easily and therefore sell it cheaply, and in enormous numbers. More recently the Supermarkets, and other large retail outlets, have also realised how much profit is to be made out of the Leyland Cypress. Many of these do not scruple to stress those qualities which appeal to the city dweller's craving for privacy, but only a few of the more responsible of these organisations give equal weight to the fact that these same qualities

make it a potential source of distress to neighbours.

Controlling the tree soon becomes an onerous annual chore. If the trimming of the sides is neglected, for a short while only, it may be necessary, because of the rapid growth, to cut back into the old wood. This will leave ugly dead sticks which will never produce leaves again. The dry heart of the tree is extremely flammable and if it catches fire will burn like a torch. If planted close to a house these hedges constitute a fire hazard. If allowed to grow naturally, the tree is apt to lose lower branches in heavy snow, and this can result in tall, but very scruffy looking hedges.

At first glance the Leyland Cypress seems a God-given answer to lack of privacy in crowded urban society: a second glance reveals the prospect of vast areas of suburbia under dense high forest of over 30 metres.

Parentage

The tree is a hybrid between the Monterey Cypress (*Cupressus macrocarpa*) and the Nootka Cypress (*Chamaecyparis Nootkatensis*). These trees are not closely related and their offspring are possessed of hybrid vigour to a remarkable degree. It grows faster than either of its parents, and promises to grow much higher than either.

The Monterey Cypress grows wild on only a mile or so of low cliffs near Monterey in California. The Nootka Cypress, a very hardy tree, grows on the slopes just below glaciers and snow from Alaska to Oregon. The two trees do not normally meet in their wild habitat.

History

Six plants of the hybrid were first raised from the seed gathered from of a nootka in 1880. The parent tree is at Leighton Hall in Powys. They were sent in 1892 to Mr Leyland's estate in Haggerston Castle near Berwick, where all six still stand today among caravan holiday homes. This is the commonest form of the tree and has grey-green slender well-separated shoots. Another form arose, again in Leighton Hall, this time from seed gathered from a the Monterey Cypress. One of these still survives on the hill at Leighton Hall and in the early 1980s was 30 metres by 110 centimetres, (about 98 feet high). This form is called the 'Leighton Green'. It is a much brighter green. The finest shoots are closely set and broader and gives the tree a denser appearance than the 'Haggerston Grey'. This tree was the one first sold by Hilliers and so is the commonest in older gardens.

There is currently a specimen of the tree in a Pinetum in Kent which, when last measured, was over 150 feet high and still growing well.

Two golden forms have since been raised in Ireland. One, the 'Castlewellan Gold' came from a cone from a branch broken off a golden monterey cypress by the 1963 snows. The male parent was a golden Nootka which stood beside the Monterey. Whereas the 'Castlewellan' has foliage like the 'Haggerston', the foliage of the other golden form, 'Robinson's Gold' more closely resembles that of the 'Leighton Green'. Alan Mitchell observes in one of his tree books that 'Castlewellan Gold' should 'diversify the impending urban forests' as it grows about as fast as the green forms and was being planted 'with abandon'.

Information derived from books by Alan Mitchell and from 'Conifers' Forestry Commission Booklet no 15, revised 1985.

Clare Hinchliffe

Tree Roots

Generally tree roots do not penetrate to any depth in the soil.

'There is a popular misconception that the roots of a large tree growing under typical British conditions will penetrate to a depth of several metres. People refer to these as "tap roots" or "anchor roots".

Tree roots need to obtain water, nutrients and oxygen from the soil. These are usually most readily available near to the surface, and carbon dioxide produced by the roots disperses most readily here. As a consequence most roots are normally found in the upper 300 mm (2ft) or less.

On poorly drained clay soils in areas with a moderate or high rainfall all the roots of a large tree may be in the upper 300 mm (1ft) or less.

Roots will *sometimes* penetrate to a depth of 4 or 5 metres, but this is the exception rather than the rule; and even then the majority of roots are likely to be in the upper 600 mm.

All roots contribute to the moisture supply and stability of the tree. There is no distinction between what are often called "feeder roots", and "support roots". The uptake of moisture and nutrients takes place mainly through very fine hair-like roots at the ends of the smallest woody roots. Many of these fine roots may die back in the autumn and grow again in the next spring. These could be called feeder roots but would not include any roots more than 1mm in diameter.

The size of the root system is related to the amount of foliage which the tree supports, not just to the height or branch spread.



branch spread about 9 metres

main root spread about 12 metres

outer limit of root spread about 20 metres or more

Taken from 'Leaflet No 6 1991' - The Arboricultural Association



Hedgeline Contacts

The Current Political Situation.

Court Cases and Related News Items

Information for Hedge Victims

Homepage

The Campaign; Policy; Key Facts

Regional Sub-Groups

Political & Legislative Moves before Aug. 2000

⚡ Created on a Mac

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The Royal Forestry Society

Leyland Cypress: *X Cupressocyparis leylandii*

The Leyland Cypress has recently been cast in the role of the villain! This hybrid tree is now one of the commonest in Britain. Millions have been planted for quick-growing garden hedges.

A number of disputes between neighbours over boundary hedges of Leyland Cypress have hit the news recently and the Government has been asked to ban growing this vigorous hybrid for hedges. Too many are planted close to houses and soon produce problems with intense shade, root damage and even the possibility they may topple onto buildings.

The Government has responded by publishing the report of the Department of Environment study 'High Hedges: possible solutions'. It has also published a Summary of Responses to the Consultation Paper on the topic.

Hedgeline is an organisation founded to help people who are affected by unreasonably high hedges, often the result of neglect by neighbours. Leyland Cypress is the commonest species involved.



What the government
proposes to do as
reported by ITN on
8/8/00



A hedge too far - Talybont,
Wales
Copyright John Morgan

The Leyland Cypress is not found in the wild. It came about because man brought together two species from distinct genera of plants from different regions that would otherwise never have met. They interbred and produced this new vigorous hybrid.

Although hybrids occur quite frequently between closely related species, it is not often that a cross occurs naturally between trees of different genera.

The parent trees came from opposite ends of the Pacific coast of N. America - the resulting cross between a Monterey Cypress (*Cupressus macrocarpa*) from California and the Nootka or Alaska Cypress (*Chamaecyparis nootkatensis*). The original progenitors were growing close together in a tree collection in Park Wood, Leighton Hall near Welshpool, Powys, adjacent to what is now the Royal Forestry Society's Charles Ackers Redwood Grove and Naylor Pinetum.

The cross occurred when the female flowers or cones of Nootka Cypress were fertilised by pollen from Monterey Cypress. That took place in 1888 on the Leighton Estate near Welshpool, Powys. The two parent species would never have met in the wild as their natural ranges are 1000 miles apart.

The hybrid was named after C J Leyland, brother-in-law of the owner of the estate who took some of the

seedlings and planted them on his own land at Haggerston Castle in Northumberland. This first cross is sometimes known as 'Haggerston Grey' as its scale-like leaves are often grey at the base. It is the common form of the two crosses.

About 20 years later, a further cross occurred at Leighton Estate but the other way round when the cones of the Monterey Cypress were fertilised with pollen from the Nootka. The result of that cross was a second form, baptised "Leighton Green".

As a hybrid, these novel Leyland Cypress were sterile so all the trees we now see have resulted from cuttings originating from those few plants.

Several different forms or clones now exist including the golden "Castlewellan" one which originated from a single mutant tree in the arboretum of that name in Northern Ireland.

Leyland Cypress is light-demanding but is tolerant of high levels of pollution and salt spray. This hardy, fast-growing natural hybrid thrives on a variety of soils and sites making it very popular for hedges. Although widely used for screening, it has not been planted much for forestry purposes. In both forms of the hybrid, Leyland Cypress combines the hardiness of the Nootka or Alaska Cypress with the fast growth of the Monterey Cypress. In fact this is the quickest growing conifer in Britain, growing as much as 1.25m (4 feet) in a year. At Bedgebury Pinetum in South East England the Leylandii are 130 ft tall and still growing strong.

The scientific name of the Leyland Cypress is written as *X Cupressocyparis leylandii*, the X denoting that it is a hybrid.

[Return to top of page](#)

www.rfs.org.uk/totm/leyland.htm rev 27/9/00

Leyland Cypress

Leyland cypress (x *Cupressocyparis leylandii*) is a large, handsome evergreen that is used extensively in the Southeast. It is a favorite because it is fast growing. It is adapted to all of South Carolina.

MATURE HEIGHT/SPREAD

This tree will grow 60 to 70 feet tall and 12 to 20 feet wide. Heights of 70 to 100 feet are not uncommon.

GROWTH RATE

It grows rapidly when young (3 to 4 feet per year).

ORNAMENTAL FEATURES

The Leyland cypress forms a graceful pyramid, with dense pendulous branches and fine, feathery foliage. This foliage, on flattened branchlets, is dark green or blue-green and is small and scalelike. The fruit (cone) is small and brown, and creates no litter problems.

LANDSCAPE USE

This is a fast-growing evergreen when young and will quickly outgrow its space in small landscapes. It is an excellent choice for quick screens, hedges and groupings, especially on large properties. This tree tolerates severe trimming, and can be restrained at an early age with pruning. Although Leyland cypress can be sheared into a tall screen on small lots, it is most effective when allowed to develop into its natural shape. Regular trimming is necessary to retain a formal hedge, screen or windbreak. When considering this tree for use in a design, be mindful of its projected height. It usually grows larger than most people desire. It is a good background plant, and contrasts well with broadleaf evergreens.

This tree prefers sun to part shade and well-drained fertile soil. It is very adaptable, however, and tolerates acidic or alkaline soils and poor drainage on occasion. It withstands salt spray and is suited for coastal landscapes. Prune only during dry periods to help prevent disease.

PROBLEMS

The most serious problem is a canker that causes branch dieback to the main trunk, and can seriously disfigure or kill the tree. To help prevent spread of this fungus, spray with a fungicide, and prune only during dry periods. Bagworms can also be a major insect problem on this tree. For further information on problems on Leyland cypress, refer to the fact sheet *Leyland Cypress Problems*, HGIC 2004.

Leyland Cypress

X *Cupressocyparis leylandii*

HYG - 91

right now this may be the most popular species of tree on the market. Leylands have been around for a long time, first propagated in England in the 1880s. They were not grown to any extent in this country until the 1950s. Leyland Cypress is a hybrid cross of the Alaskan white cedar and Monterey cypress. It is hardy into Zone 6, possibly 5, and can be grown as far south as Zone 10.

The growth rate of Leyland Cypress is just short of phenomenal. Growth rates of 3 feet per year are not uncommon in young trees. The ultimate height of the tree can be as much as 100 feet and it can do this in 60 years.

The texture of the foliage is feathery and soft which produces a very graceful appearance in unsheared trees. They are very easy to prune and can be sheared to maintain size, or to create a very dense hedge or screen. I have had a Leyland cypress in a foundation planting for 20 years that I have maintained at a height of 10 feet and a spread of 5 feet. This requires only a yearly pruning in December. The real beauty of this plant is its ability to be grown in different forms and still be attractive.

Transplanting from containers or well-dug field stock has been a problem only when the transplanting takes place in the fall. The root system of Leylands evidently is its one weak link. The roots do not reestablish quickly enough to allow for fall planting, and many of the trees planted after September do not make it through the first winter, even if it's mild.

Trees should be planted in the spring and kept well watered. Prune Leyland Cypress for the first 2 or 3 years to allow the root system time to develop. Trees could blow over because of too rapid top growth and poor root development. Once trees are stabilized they can withstand wind, salt spray, drought, and hot or cold temperatures.

The popularity of this species has caused its overuse. A large population of any one species over a period of time invites insect and disease problems. A good example of this is the problems we now face with the Japanese Black Pine, due partly to the huge numbers of these trees planted in the last 25 years. Diversity in plant populations is important from both an aesthetic and cultural standpoint.

Several cultivars of Leyland cypress are available which may or not be easy to find at local nurseries.

1. 'Leighton Green' - The original and most common variety, good green color; still one of the best.
2. 'Naylors Blue' - More gray than blue, but still a very attractive tree that grows a little slower than the green form.
3. 'Castlewellan' - Golden yellow tips and dark green interior, good wind tolerance.
4. 'Haggerston Grey' - Green upper foliage and grey underneath; should be available in the trade.

There are several other cultivars available, and I am sure in time we will see even more. If you do not have a Leyland cypress in your landscape, maybe you should give one a try. Remember, they grow very quickly so you can start small.

Author:
Jay Windsor, Agricultural Agent,
University of Delaware Cooperative Extension

HYG - 91
10/17/97



Cooperative Extension

College of Agriculture and Natural Resources

University of Delaware



Send comments or links to webmaster@bluehen.ags.udel.edu

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Backyard Gardener

Your Backyard Information Source

- Seasonal
- How to Garden
- Alpine Garden
- Annual Garden
- Bog Garden
- Catalogs
- Compost
- Dry Garden
- Fence Designs
- Greenhouse
- Herb Garden
- Insects
- Lawn Care
- My Garden
- Perennial Garden
- Plant Finder
- Plant This!
- Propagation
- Rose Garden
- Soil Prep
- Trees
- Vegetable Garden
- Water Garden
- Books / Mags
- Classified Ads!
- Garden Forum
- Garden Store
- Add URL

**Hedges
THAT CAN
TAKE IT!**



HEDGES THAT CAN TAKE IT!

Seemingly, many home gardeners fail to appreciate the value and proper use of pruning shears, plant food, and mulches in the care of hedges. It doesn't take a lot of time or effort to grow beautiful hedges, and hedge plants are not especially exacting in their requirements, but a few conditions must be met.

Your e-mail

add me!

SELECT THE RIGHT PLANTS

Whether for a border, screen, or fence, selection of suitable plants is important. Several factors must be considered, such as size, shape, and foliage habits of mature plants and their requirements for the best growth. Too, they must be plants that will blend harmoniously with other plantings and the general landscape. Your local nurseryman can be of valuable assistance in plant selection.

PLANT CORRECTLY

Plant in an ample trench in soil enriched with complete plant food (also humus in tight soil) under the planting depth. Use 1 pound of Fertilizer for each 25 feet of hedge row. Water the plant immediately after planting ... soak the soil so it will be close around the roots. Mulch.

After planting, most plants should be pruned to within 6 to 12 inches from the ground. Clip the plant back in the early summer and give it a chance to branch out and grow stems and foliage close to the ground. Don't fail to mulch the first year ... mulching is hedge, insurances.

PRUNING FOR BEAUTY AND SHAPE

The most common mistake in pruning is not cutting the plant back far enough or cutting too narrow at the base. This is especially true in young growing plants. This condition becomes worse as the top grows and shades the lower portions. Cutting back is the only solution.

FEED FOR GROWTH AND BEAUTY

Too often hedges are expected to grow in poor soil and subsoil clay dug up during house construction. Many hedges are close to or underneath trees ... their feeding roots take the plant food before hedge plants have a chance to feed. All hedges should be fed at least once a year, preferably in the early spring. Use 1 pound of Fertilizer per 25 feet of row, scattering along both sides and working into the soil.



Support@backyardgardener.com
Site Map

I-5



ArborCare, Inc.

Newsletter

winter 1998

Services

discount, winter
snow plowing

inspections, winter
wood chips, free

Problem Tips

aphids
deer
drought
fungus

Tree Tips

most valuable
Leyland Cypress
select, how to

[home](#) | [email](#)

LEYLAND CYPRESS

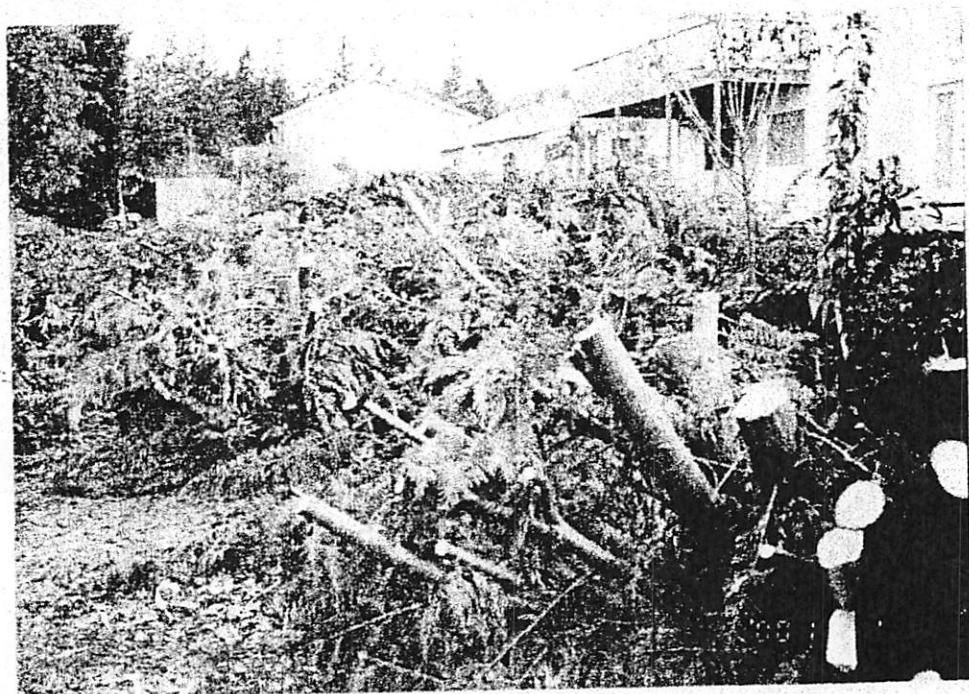
To plant or not to plant.

Leyland Cypress is commonly used for screening because of its rapid growth rate and year-round density. But it should be planted with caution. Most often, Leyland Cypress is planted too closely or in soil with poor drainage which leads to an underdeveloped root system. A combination of severe rain, wind, or wet snow with an overweight canopy and inadequate roots can cause the trees to uproot.

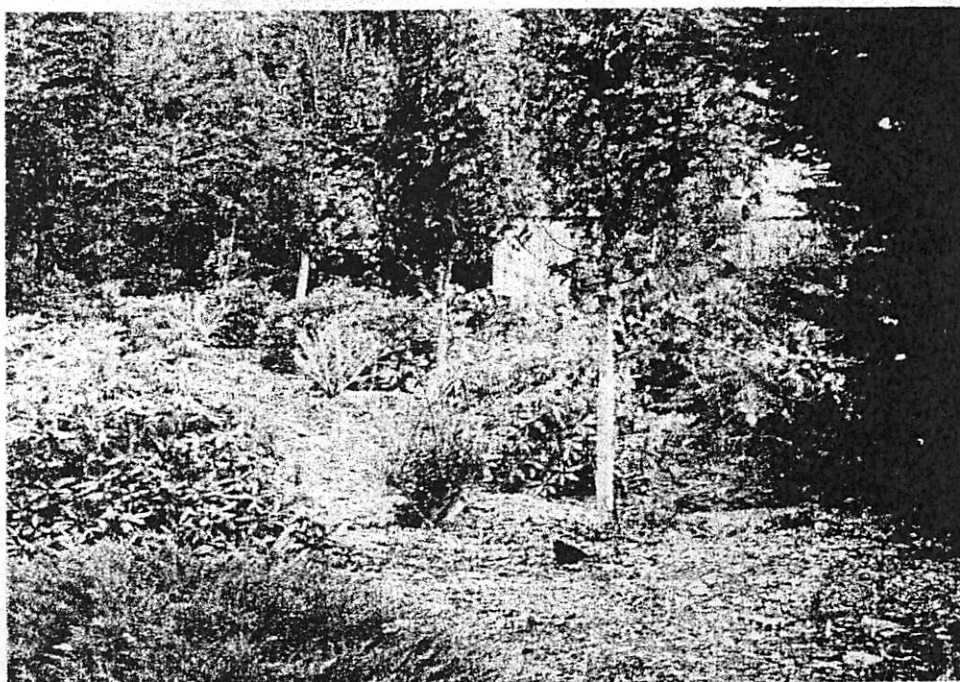
When planting Leyland Cypress, keep in mind:

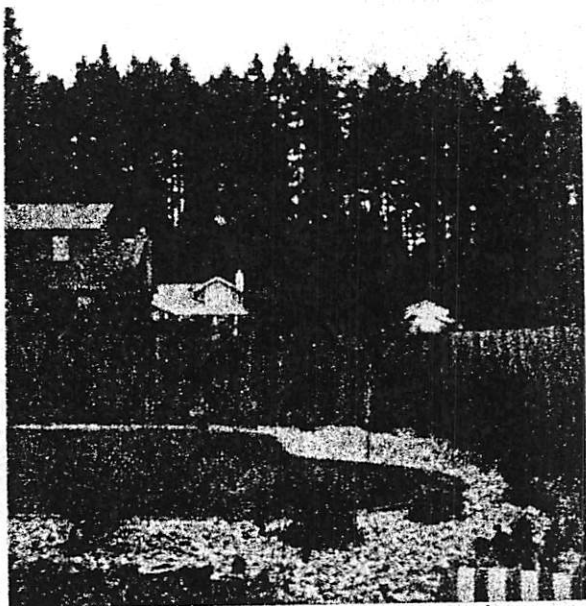
- 6-8 feet between each tree
- full sun
- well drained soil
- adequate watering throughout the year.

Received At Home
11-5-00



11-5-00





Received at Hearing
11-5-00



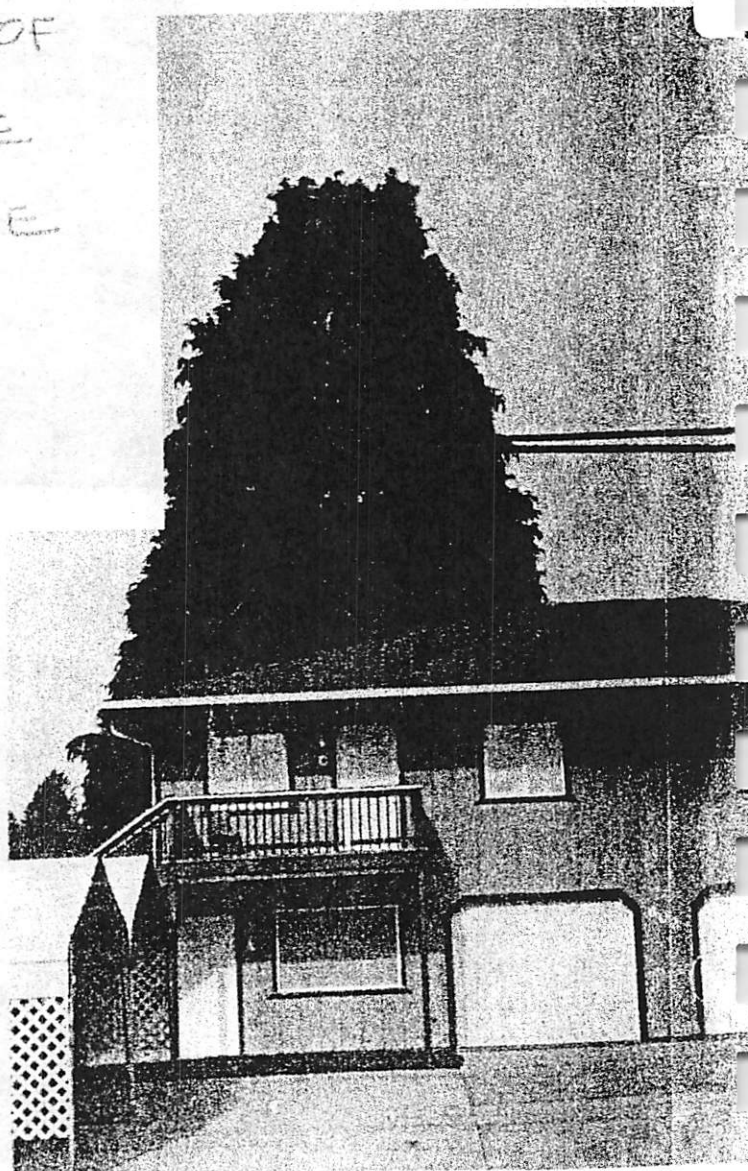
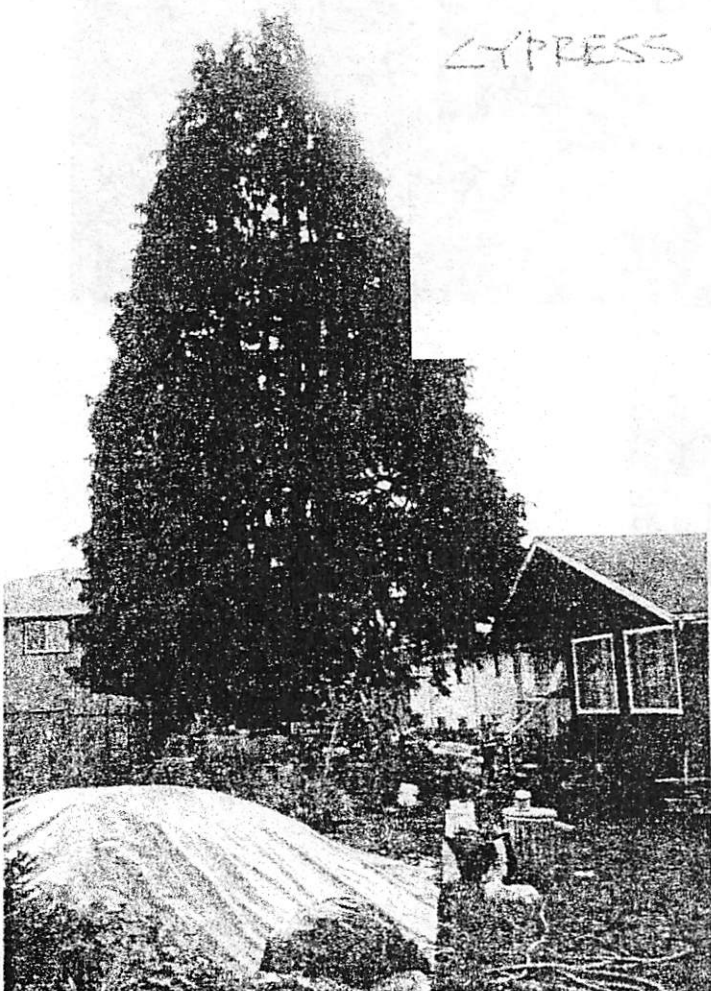
Received at Hearing
11-5-00

11-5-00

11-05-00

11-04-00

TWO VIEWS OF
SAME MATURE
CYPRESS TREE



2000 RECYCLING REPORT

City of Brookings
January 22, 2001
Outline of Presentation

Ken Burns, Curry County Recycling Committee

Curry County Recycling Committee

- Composition-2 active members
- Curry Transfer and Recycling (CTR) representative-Pete Smart
- Commissioner representative-Lucie La Bonte'

2000 Activities

- Meet every other month in Gold Beach
- Include the recycling efforts of other recyclers in Curry County report to DEQ
- Resco Plastics in Coos Bay as potential buyer of plastic-too selective

1998 recycling report

- 1998 Goal-15%
- 1998 actual-28%
- 1999 Goal-35.09%

Current recycling program

- Market driven
- 11,000 households in CTR service area, 3,500 CTR customers
- Curbside in cities and recycling centers
- Recycled items
 - Glass, plastic (1-7), tin cans, newspapers, magazines, cardboard (the most valuable item), Aluminum cans
 - Confidential office paper
 - Aluminum cans-Fred Meyer's and Ray's
 - Plastic bags-Fred Meyer's
 - Plastic bags used at library
 - Cardboard containers at businesses
- CTR and others burn used engine oil in heaters

Future of recycling efforts

- Education
- Explore new markets
- Increase volume to make more cost effective
- Include notice with billings to Brookings residents to promote recycling

To: Bob Hagbom, Mayor
From: Barbara Cleland, President
Curry Co. Council, F.C.E.
Re: Presentation of check to City Council

January 8, 2001

In April 2000, F.C.E. (Family Community Education) had their annual Homemaker's Holiday and had a profit of \$500.00 which they decided to donate to the City Council. The purpose is to start a fund to enclose the city pool. At the time, Pat Widmer was president and this was her wish. Pat will be with me to donate the check. If it is alright with you, Mr. Mayor, and the Council, we would like to challenge all other non-profit organization to match or better our donation.

In talking with Sharon about this she suggested the evening of January 22nd to be present for this presentation. I hope this will meet with your approval.

Thank you

Barbara Cleland
Barbara Cleland

MEMORANDUM

DATE: January 18, 2001
TO: Mayor and Council
FROM: City Manager Leroy Blodgett



RE: Recommended Council Goals for Fiscal Year 2001-2002

On January 17, 2000, you held a special Council work-session for discussing the current fiscal year's goals, their status, potential goals for next fiscal year, and establishing the Council's Goals for the Fiscal Year 2001-2002. After extensive discussions between yourselves and input from the four department heads, you concurred on the following recommended goals for the Fiscal Year 2001-2002, not prioritized, but in alphabetical order.

◇ **COMMUNITY CENTER**

- Begin planning for a new community center

◇ **DEFERRED IMPROVEMENT AGREEMENTS (DIA's)**

- Enforce existing DIA's
- Limit issuance of DIA's to only those absolutely necessary
- Establish sidewalk installation & replacement plan

◇ **DOWNTOWN REVITALIZATION**

- Identify funding sources for the couplet
- Update the Urban Renewal Plan & create an Urban Renewal District
- Expand downtown parking
- Prepare a master plan for the downtown area

◇ **ECONOMIC DEVELOPMENT**

- Support the creation of an Economic Development Corporation

◇ **FINANCE DEPARTMENT**

- Utility payments via credit card

Recommended Council Goals FY2001-2002 continued:

◇ **FIRE DEPARTMENT**

- Identify site and funding for a new fire hall or city hall
- Continue to fund reserves for a new truck

◇ **PARKS**

- Complete the skate park at Bud Cross Park
- Prepare a master plan for all parks & recreation
- Increase Azalea Park parking

◇ **PUBLIC WORKS SHOP**

- Complete the design and begin construction of new public works shop

◇ **SWIMMING POOL**

- Study funding of operations of a covered pool

◇ **WATER**

- Implement "Water Management Plan"
- Apply for funding to raise Ferry Creek Reservoir dam & put on line

Recommendation: Approve adoption of the above-mentioned recommended Council Goals for FY 2001-2002.

Memorandum

TO: Mayor and City Council
FROM: John Bischoff, Planning Director
THROUGH: Leroy Blodgett, City Manager
DATE: January 15, 2001



Issue: Acceptance of two deed—New Extension of Wharf St. and Sludge Tank Parcel from South Coast Lumber Co.

Background: The city has acquired the Wharf St. right-of-way and Sludge tank Parcel as a part of the vacation of Center St. and construction of the Wharf St. improvements. The vacation of Center St. has been filed with the County Clerk and the Partition Plat creating the Wharf St. right-of-way and sludge tank parcel have been recorded. The only remaining action is for the Council to accept these deeds. A map of each is attached.

Recommendation: That the City Council accept the deeds.

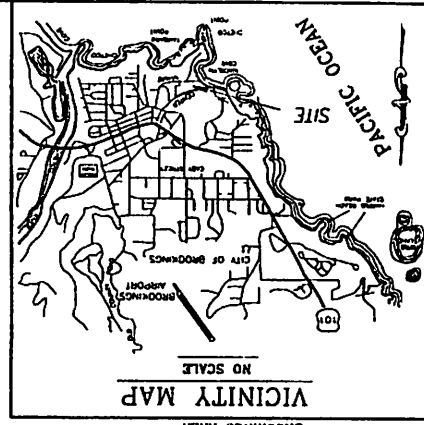
Stuntzner Engineering & Forestry, LLC
 ENGINEERING • LAND SURVEYING • FORESTRY
 PLANNING • WATER RIGHTS

9723 Shopping Center Ave
 P.O. Box 2740
 Phone: (541) 489-5228
 Fax: (541) 489-0780

Drawn By: RPR
 Date: AUGUST 2000
 Checked By: FAM
 Job No: 299-J-46
 Revised By:
 Drawing Name: TRSF DMC
 Sheet: 2 of 2

CURVE TABLE

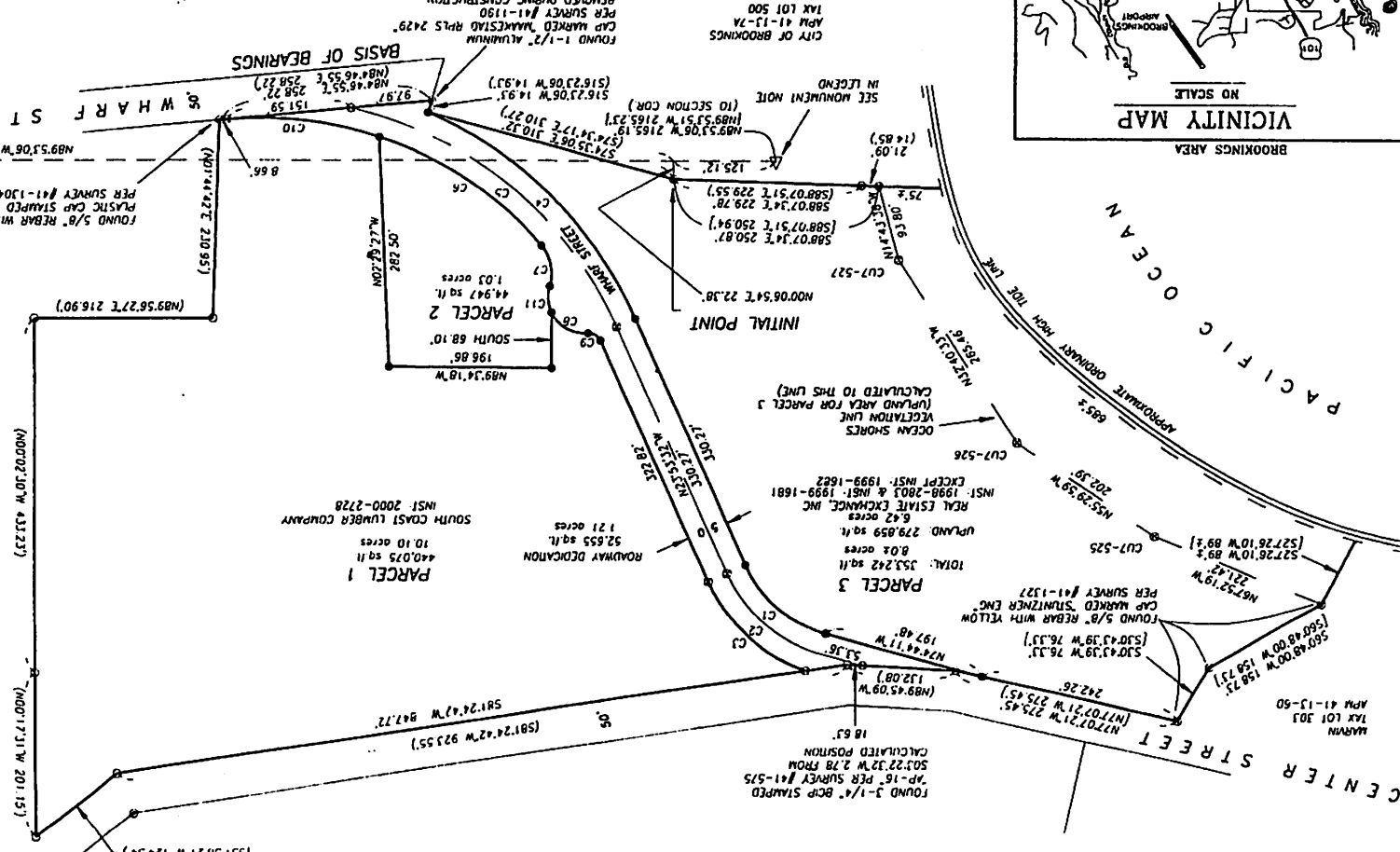
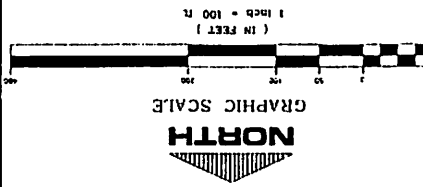
CURVE	DELTA	RADIUS	LENGTH	CHORD
C1	50.50.40"	150.00	133.11	71.30
C2	50.50.40"	175.00	155.30	83.18
C3	47.27.01"	200.00	165.63	87.90
C4	47.27.44"	500.00	366.92	192.16
C5	52.19.15"	425.00	346.52	235.04
C6	50.36.56"	450.00	240.45	123.12
C7	52.39.02"	53.00	53.33	29.17
C8	70.14.42"	45.00	55.20	31.67
C9	71.12.33"	15.00	18.64	10.74
C10	24.00.41"	450.00	188.54	95.70
C11	41.56.18"	45.00	32.94	17.25



PREPARED FOR
 THE CITY OF BROOKINGS
 &
 SOUTH COAST LUMBER COMPANY

REGISTERED LAND SURVEYOR
 RICHARD P. ROBERTS
 2730
 EXPIRES 12/31/00

- LEGEND**
- FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "S SURVEY #41-1115 (OR MONUMENT AS NOTED)
 - CALCULATED POSITION PER SURVEY #41-1314
 - POSITION CALCULATED PER THIS SURVEY - NO MONUMENT
 - SET 5/8" x 30" IRON REBAR WITH YELLOW PLASTIC CAP STAMPED "STUNTZNER ENG"
 - () RECORD DATA PER SURVEY #41-1314
 - () RECORD DATA PER SURVEY #41-1327
 - () RECORD DATA PER SURVEY #41-1190
 - △ FOUND BRASS PLUG IN CONCRETE AT SE CORNER OF SECTION 6 (OR MONUMENT AS NOTED)
 - PER BLM FIELD NOTES HAD BEEN EXCAVATED ABLE TO RECOVER 1-1/2" ALUMINUM CAP ON 5/8" REBAR MARKED "MAKESLAD RPLS 1-1190"
 - 2429' AS SET PER SURVEY #41-1190
 - REESTABLISH CORNER AND ADJACENT RELATIONSHIP FROM WITHNESS CORNER AND ADJACENT RELATIONSHIP TO BRASS PLUG AT SE CORNER OF SECTION 6
 - BEARING PER THIS SURVEY FROM RESET W.C. TO W.C. IS N57°47'23"E. RECORD BEARING PER SURVEY 41-1190 IS N57°46'37"E.



PLAT NUMBER _____ **INSTRUMENT NO.** _____

Grantor's Name and Address:
South Coast Lumber Co.
P.O. Box 670
Brookings, Oregon 97415

Accepted by the City of Brookings

Grantee's Name and Address:
City of Brookings

Mayor

Date

898 Elk Drive
Brookings OR 97415
After Recording Return To:
City of Brookings
898 Elk Drive
Brookings OR 97415

Until a change is requested all
tax statements shall be sent to:
N/A

BARGAIN AND SALE DEED - STATUTORY FORM

SOUTH COAST LUMBER CO., a corporation duly organized and existing under the laws of the State of Oregon, Grantor, conveys to THE CITY OF BROOKINGS, a municipal corporation of the State of Oregon, its successors and assigns, Grantee, the following real property situated in Curry County, Oregon, to-wit:

Parcel No. 2, Partition Plat No. 2000-0024, Instrument No. 2000-5009,
"WHARF STREET PARTITION" consisting of 1.03 acres +/-.

The true and actual consideration for this conveyance is \$None. This transfer is made as a donation to the City of Brookings.

Done by the order of the Grantor's Board of Directors.

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

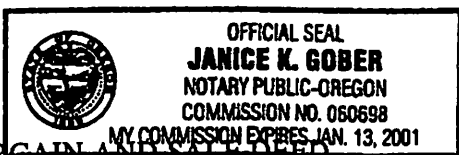
DATED: October 17, 2000.

SOUTH COAST LUMBER CO.

By: Gordon M. Ball
Gordon M. Ball, CFO

STATE OF OREGON, County of Curry) ss.

This instrument was acknowledged before me on OCTOBER 17, 2000 by Gordon M. Ball, CFO of South Coast Lumber Co.



Janice K. Gober
NOTARY PUBLIC FOR OREGON
My Commission Expires: 11/13/01

BARGAIN AND SALE DEED

After Recording Return To:

City of Brookings
898 Elk Drive
Brookings OR 97415

Accepted by the City of Brookings

Mayor

Date

DEED FOR ROAD PURPOSES

South Coast Lumber Co., an Oregon corporation, donates, grants and conveys to the City of Brookings, a Municipal corporation of the State of Oregon, its successors and assigns, a perpetual easement for street purposes in, upon and across the property hereinafter described, and has forever dedicated, and does hereby forever dedicate to the use of the public as a public road, all of the following bounded and described real property situated in the City of Brookings, County of Curry and State of Oregon, to-wit:

The extension of Wharf Street to Center Street as more particularly set forth in WHARF STREET PARTITION, Plat No. 2000-0024, Instrument No. 2000-5009.

The consideration for this transfer is \$None. This transfer is a donation to the City of Brookings.

In witness whereof, South Coast Lumber Co. has caused its name to be signed by an officer of the corporation duly authorized to do so by order of its Board of Directors.

Dated October 17, 2000.

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

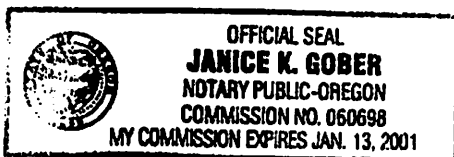
SOUTH COAST LUMBER CO.

By: Gordon M. Ball
Gordon M. Ball, CFO

STATE OF OREGON, County of CURRY ss.

This instrument was acknowledged before me on OCTOBER 17, 2000, by Gordon M. Ball, as CFO of South Coast Lumber Co.

Janice K. Gober
Notary Public for Oregon
My Commission Expires: 1/13/01



TO: Mayor, City Council
FROM: Leo Lightle, Community Development Director
THROUGH: Leroy Blodgett, City Manager
SUBJECT: Amendment to Brown & Caldwell contract
DATE: January 16, 2001



Memorandum

RECOMMENDATION: That the Council approve the contract amendment with Brown and Caldwell in the amount of \$59,250 and authorize the Mayor to sign the contract amendment.

BACKGROUND: Brown and Caldwell put together their original contract based on their past experience with a certain amount of hours for each task. There were additional hours required for several tasks as follows:

- Additional office engineering during construction (over 60 more submittals than anticipated)—\$27,000.
- Buena Vista Loop pump station redesign. The redesign made the pump station safer for daily entry and the reduced cost of construction by the contractor offset this increase in engineering cost—\$15,000.
- DEQ requested performance certification (additional equipment evaluations). This was unanticipated—\$2,500.
- DEQ requested additional Operations & Maintenance Manual information—\$2,000.
- Extended engineering beyond scheduled project completion of November 22, 2000. (The contractor will pay the City \$8,500 on this line item.)—\$12,750.

Total contract increase \$59,250

**AMENDMENT NO. 6 TO
AGREEMENT FOR ENGINEERING SERVICES
BETWEEN CITY OF BROOKINGS
AND BROWN AND CALDWELL
FOR WASTEWATER SYSTEM ENGINEERING**

The AGREEMENT, made and entered into on the 23rd day of June 1997, by and between the City of Brookings, hereinafter referred to as "Owner," and Brown and Caldwell, Inc., hereinafter referred to as "Engineer" is hereby amended as follows:

1. Amend Exhibit A, Project Description, dated October 9, 1997, as follows:

"During treatment plant construction, unanticipated scope issues were encountered that were addressed by the Engineer. Amendment 6 addresses the additional effort expended for these issues. Those issues included:

1. Additional office engineering effort associated with extra submittal review and coordination beyond that originally anticipated.
2. Redesign of the Buena Vista Loop pumping station to save construction cost.
3. Additional performance certification monitoring requested by the Oregon Department of Environmental Quality.
4. Additional O&M Manual information requested by the Oregon Department of Environmental Quality.
5. Inspection and engineering effort beyond the November 22, 2000 construction contract completion date."

2. Delete Table 1 on page 2 of 2 of Exhibit C, Compensation, dated March 13, 2000, and replace with the attached Table 1 dated December 18, 2000.

Table 1. Wastewater System Engineering Compensation Schedule

Task Description	Cost, dollars						
	Original Agreement	Amd. 1	Amd. 2	Amd. 3	Amd. 4	Amd. 5	Amd. 6
1 Phase I-I/I Services , Task 1 – 5	62,936	0	0	0	15,800	0	0
2 Phase 2 I/I Design, Bid and Office Engineering	0	0	81,650	0	0	0	0
3 Phase 3 Follow-on Facilities Planning Assistance	0	3,740	0	0	0	0	0
4 Phase 3 Project Management	0	78,160	0	0	0	0	0
5 Phase 3 Preliminary Design	0	117,600	0	0	0	0	0
6 Phase 3 Geotechnical Investigation	0	19,840	0	0	0	0	0
7 Phase 3 Grant and Loan Assistance	0	9,820	0	0	0	0	0
8 Phase 3 Treatment Plant Design	0	929,240	183,481	156,012	0	0	0
9 Phase 3 Bid Period Services	0	37,440	0	0	0	0	0
10 Phase 3 Office Engineering	0	247,520	1,352	2,231	0	5,000	43,100
11 Construction Management and Inspection	0	305,722	0	0	0	0	11,650
12 O&M Manual, Operations Plan	0	38,100	1,059	2,616	0	0	2,000
13 Startup and Training	0	26,160	540	164	0	0	0
14 Performance Certification	0	26,680	0	0	0	0	2,500
	62,936	1,840,022	268,082	161,024	15,800	5,000	59,250

The parties hereby reaffirm all other terms and conditions of the Agreement.

BROWN AND CALDWELL, INC.

CITY OF BROOKINGS

By: _____

By: _____

Name: Terry C. Gould

Name: _____

Title: Senior Vice President

Title: _____

Date: _____

Date: _____

**CITY OF BROOKINGS
COMMON COUNCIL MEETING MINUTES
City Hall Council Chambers
898 Elk Drive, Brookings, OR 97415
January 8, 2001
7:00 p.m.**

I. CALL TO ORDER

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

II. PLEDGE OF ALLEGIANCE

Led by Linda Barker.

III. ROLL CALL

Council Present: Mayor Bob Hagbom, Councilors Larry Curry, Lorraine Kuhn, Frances Johns, a quorum present.

Staff Present: City Manager Leroy Blodgett, Community Development Director Leo Lightle, City Planner John Bischoff, Police Chief Ken Lewis, Municipal Court Judge Richard Harper and Community Development Secretary Linda Barker.

Media Present: Chuck Hayward, Curry Coastal Pilot

Other: Les Cohen, Brookings Harbor Chamber of Commerce, and other citizens.

Immediately following roll call the order of the agenda was changed and the oath of office was sworn by Randy Reed, Recorder; Rick Dentino, Council Position No. 1; Larry Curry, Council Position No. 2; and Bob Hagbom, Mayor. Councilor Dentino took his place on the bench.

IV. CEREMONIES/APPOINTMENTS/ANNOUNCEMENTS

A. Announcements

- 1. Mayor Hagbom recognized Police Sgt. Mike Cooper's twenty years of service to the citizens of Brookings by presenting him with a certificate of appreciation. Police Chief Lewis presented him with a special framed set of police badges and patches.***

2. New Finance Director/Recorder Randy Reed was introduced to the Council and those in attendance and welcomed to the city.

B. Proclamations

1. *Season for Non-Violence*

Mayor Hagbom read a city proclamation declaring January 30 through April 4, 2001 as a Season for Non-Violence and presented it to Police Chief Lewis.

C. Oath of Office

This item was handled directly after roll call above.

D. Election of Council President

Councilor Johns moved and Councilor Kuhn seconded a motion to elect Councilor Curry as Council president for the calendar year 2001. The motion carried unanimously.

V. PUBLIC HEARING

Mayor Hagbom called for a public hearing at 7:17 p.m., and reviewed the procedure to be followed for public hearings, identified the applicable criteria and announced the public hearing:

A public hearing in the matter of a city initiated amendment to Section 88, Sign Regulations, of the Land Development Code to provide for the display of "Welcome" flags from within the homes along the commercial area of Chetco Avenue (U.S. Highway 101).

Mayor Hagbom proceeded with the hearing by asking City Planner John Bischoff to present the staff report. Bischoff presented the staff report and then advised the Council that staff and the Planning Commission recommended the change to the Land Development Code.

Mayor Hagbom asked if anyone wished to testify as a proponent, opponent or interested party. No one spoke.

The Mayor closed the public testimony on the change to the Land Development Code at 7:23 p.m.

VI. SCHEDULED PUBLIC APPEARANCES

Lee E. Sparks, ODOT Assistant District Manager of District 7 was scheduled to speak but was unable to attend the meeting.

VII. ORAL REQUESTS AND COMMUNICATIONS FROM THE AUDIENCE

A. Committee and Liaison reports

1. *Chamber of Commerce*

Chamber of Commerce Executive Director Les Cohen reported the 50th birthday of the city is also the 50th year of Chamber incorporation and that the Chamber is very proud to be sharing that celebration. He also is working with the Jackson, Del Norte, Josephine and Curry counties on the joint task force on air service to bring more air traffic into the Crescent City airport. On Thursday, January 11, Mayor Hagbom will be giving the state of the city message at the Chamber's monthly forum meeting.

2. *Businesses for a Better Brookings*

There was no report.

3. *Port of Brookings-Harbor*

There was no report.

4. *Council Liaisons*

There were no Council Liaison reports. Mayor Hagbom reported there will be a committee put together to review the city charter. This was last done in 1993 and while there are no major changes to be made the committee will look into changing the Finance Director/Recorder position so that position reports only to one supervisor, not spread between the Council and City Manager as it is done presently. The committee will also clarify how Council appointments between elections are handled. Proposals by the committee must be voted on by the citizens before changes can be made to the City Charter and the committee will target a spring election to vote on these changes.

B. *Unscheduled* None

VIII. STAFF REPORTS

A. *City Manager*

1. *Status of Dot. T. Martin (Chetco River) Bridge lighting project and raised median island on the Chetco/Lower Harbor Road*

City Manager Blodgett reported the raised medians are in place but ODOT has not yet completed the project as the medians have not been painted with any type of reflective material. Community Development Director Lightle agreed this needed to be done. The City Manager also stated poles for the lights on the bridge have been located in Ontario, Oregon and are

awaiting transport to Brookings at no cost to the city.

2. *Approval of revised liquor license request for Fat Boy's Cook House—Christina Stalcup*

Councilor Johns moved, Councilor Kuhn seconded and the Council passed unanimously, a motion to approved the revised liquor license application which eliminated the “Inc.” from the business name after the building owner determined he did not want to rent to a corporation.

3. *Approval of Budget Calendar*

City Manager Blodgett read the 2001-2002 budget calendar indicating that all dates would be changed to 2001 instead of 2000.

4. *Appointment of Budget Officer*

Councilor Dentino moved, Councilor Johns seconded and the Council unanimously passed a motion to appoint the City Manager as Budget Officer and to accept the budget calendar with the date changes.

B. *Community Development Department*

1. *Award of fencing contract for Public Works Yard and Wastewater Treatment Plant.*

Community Development Director Lightle presented a summary of the bids received for the fencing project.

Councilor Johns moved, Councilor Curry seconded, and the Council unanimously approved a motion awarding the contract for the Public Works Yard and Wastewater Treatment Plant fencing to Outdoor Fence Company, Salem Oregon, in the amount of \$61,139.

IX. CONSENT CALENDAR

A. *Approval of Council Meeting Minutes*

1. *Minutes of December 11, 2000, Regular Council Meeting*
2. *Minutes of December 20, 2000, Special Council Meeting*

**B. *Approval of vouchers (\$393,158.73)
(end Consent Calendar)***

Councilor Kuhn moved, Councilor Curry seconded, and the Council voted unanimously to accept the consent calendar as printed.

X. ORDINANCES/RESOLUTIONS/FINAL ORDERS

A. Ordinances

1. *Approval of Ordinance No. 01-O-543, an ordinance known as the "Vendor Assisted Tobacco Sales" ordinance*

Joyce Mathis, Curry County Health Department, stated that present wording of the ordinance is the same as being considered by Curry County, Port Orford and Gold Beach. City Manager Blodgett read the ordinance in its entirety.

Councilor Kuhn moved, Councilor Johns seconded and the Council voted unanimously to have the second reading of the ordinance by title only.

The City Manager read the ordinance by title only.

Councilor Kuhn moved, Councilor Johns seconded and the Council voted unanimously to approved Ordinance No. 01-O-543.

2. *Approval of Ordinance No. 01-O-446.kk, an ordinance amending Section 88, Sign Regulations of Ordinance 89-O-446, an ordinance creating the Land Development Code.*

City Manager Blodgett read the proposed ordinance in its entirety.

Councilor Johns moved, Councilor Kuhn seconded and the Council voted unanimously to read the proposed ordinance by title only for its second reading.

Councilor Dentino recommended the Planning Commission be designated to approve flag design changes. Staff stated that since the site plan committee already handles design of sandwich board signs this could also be handled by the site plan committee.

Councilor Kuhn moved, Councilor Johns seconded and the Council unanimously passed a motion to approve Ordinance No. 01-O-446.kk with the designation that the site plan committee approve flag design changes.

B. Resolutions

1. *Approval of Resolution No. 01-R-687, in the matter of a resolution naming a City Recorder/Treasure and naming authorized signatories.*

City Manager Blodgett summarized the resolution and read it into the record by title only.

Councilor Dentino moved, Councilor Kuhn seconded, and the Council voted unanimously to approve 01-R-687.

XI. REMARKS FROM MAYOR AND COUNCILORS

A. Council

Councilor Kuhn reported the next 50th Birthday Party Committee meeting will be January 10 in the fire hall. Plans are progressing for a great party in July. There will be a fund raiser February 17, 2001, with details being announced soon. The City Manager said the meetings of this committee have been well organized as well as fun and that Councilor Kuhn is doing a great job.

B. Mayor

Mayor Hagbom reminded the group of the goals session that will be held in the Council Chambers Wednesday, January 17 at 2:00 p.m. All Department Heads will be present at the session.

Council Liaisons will be appointed between now and the next Council meeting.

Mayor Hagbom thanked all the volunteers who worked during the Nature's Coastal Holiday at Azalea Park. He asked Community Development Secretary Barker to pass on his thanks to the Public Works Department for all they did to ensure the success of the lighting show.

XII. ADJOURNMENT

Councilor Johns moved, Councilor Kuhn seconded, and the Council voted unanimously to adjourn the meeting at 7:59 p.m.

Respectfully submitted:

Bob Hagbom
Mayor

ATTEST:

Randy Reed
Finance Director/Recorder

**CITY OF BROOKINGS
COMMON COUNCIL MEETING MINUTES
City Hall Council Chambers
898 Elk Drive, Brookings, OR 97415
January 22, 2001
7:00PM**

I. CALL TO ORDER

Mayor Bob Hagbom called the meeting to order at 7:05 PM.

II. PLEDGE OF ALLEGIANCE

Led by Bill Boynton, citizen

III. ROLL CALL

Council Present: Mayor Bob Hagbom, Councilors Rick Dentino, Frances Johns, and Lorraine Kuhn, a quorum present.

Council Absent: Council President Larry Curry

Staff Present: City Manager Leroy Blodgett, City Planner John Bischoff, Community Development Director Leo Lightle, and Administrative Secretary Sharon Ridens.

Media Present: Chuck Hayward, Curry Coastal Pilot

Other: Chamber of Commerce President Richard Gyuro, Planning Commissioner Jim Collis, Curry County Recycling Committee Representative Ken Burns, ODOT District 7 Assistant Director Lee Sparks, and approximately 9 other citizens

IV. CEREMONIES/APPOINTMENTS/ANNOUNCEMENTS

A. Appointments

- 1. Additional members to City's 50th Birthday Celebration Committee***
Councilor Kuhn revealed confirmed plans for the City's 50th Birthday Celebration set for the weekend of July 13, 2001, which includes a sock-hop on Friday, various activities at the Port on Saturday, and a concert in Azalea Park on Sunday. There were no new applicants for the committee.

V. PUBLIC HEARING

Mayor Hagbom advised Council was entering into the public hearing section of the agenda, at the time of 7:07PM.

- A. *In the matter of Planning Commission File No. APP-1-01, an appeal to a Planning Commission decision that approved VAR-2-00, an application for a variance to the existing Claron Glen subdivision to deny public access to internal walkways and not require sidewalks on both sides of the street; Assessor's Map 40-13-31 CD, various tax lots; R-1-6 (Single-family Residential, 6,000 sq. ft. minimum lot size) Zone. Wayne F. Robinson, appellant.*

Mayor Hagbom advised he would disqualify himself from participating in the public hearing involving Claron Glen subdivision, since he resides in the area and at one time was president of the homeowners association. He asked, if there were any other Council members that might have personal bias or personal interest that would preclude their participation in this hearing. Councilor Dentino advised he would disqualify himself, as he chaired the Planning Commission meeting of the original hearing on this issue. Mayor Hagbom noted Councilor Curry, being Council President would therefore need to chair this Public Hearing. Curry with an excused absence, due to illness, would not afford a quorum on hearing the matter before the Council. Hagbom recommended the public hearing on Claron Glen be continued to February 5, 2001, for a special public hearing meeting, which would be the first opportunity to have a quorum available. There was a brief discussion.

Chuck Weller, 932 Helen Lane, Brookings, questioned the continuance, but Wayne Robinson, of 949 Helen Lane and appellant, advised he agreed with the continuation and date chosen. There was no other discussion.

Councilor Kuhn moved, Councilor Johns seconded, and the Council voted unanimously to continue the public hearing on Planning Commission File No. APP-1-01, be continued to February 5, 2001, at 7:00 PM, in the City Hall Council Chambers.

- B. *In the matter of Planning Commission File No. LDC-1-01, an amendment to repeal Ordinance 99-O-446.EE which allowed communication towers up to 150 feet in height, when operated by a public entity offering emergency services. City initiated.*

Mayor Hagbom advised he would now call a legislative public hearing to order at 7:14PM, regarding the consideration to adopt Ordinance No. 01-O-446.LL, which is a revision of Ordinance of Ordinance 99-O-446.EE of the Land Development Code. Hagbom asked City Planner John Bischoff to provide a brief background on the matter. He then asked if any member of the Council had any personal bias

or personal interest that would preclude their participation in the hearing, of if any member had a potential or active conflict of interest? There was none. Councilor Rick Dentino stated ex parte for a site visit. No one objected to the jurisdiction of the Council to hear this matter. Mayor Hagbom stated all testimony and evidence must be directed toward the criteria outlined in the staff presentation or other criteria in the comprehensive plan or land use regulation which the person believes applies to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the Council and the parties an opportunity to respond to the issues precludes appeal to the Oregon Land Use Board of Appeals (LUBA) based on that issue. He also reminded Council and audience the failure to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow Council to respond to the issue precludes an action for damages in Circuit Court.

Mayor Hagbom asked Bischoff to present the ordinance on behalf of the applicant, the City of Brookings. Bischoff provided the background with references to staff reports. There were no further questions or discussion. Mayor Hagbom asked if any member of the public wished to speak in favor of or against the ordinance, and there was none. He asked if the applicant was willing to waive written argument and have decision made at this meeting. Bischoff responded in favor. Mayor Hagbom advised the public hearing on Ordinance No. 01-O-446.LL is closed at 7:20PM, January 22, 2001, and that Council would proceed to discussion and decision. There was no discussion

City Manager Leroy Blodgett read Ordinance No. 01-O-446.LL in full.

Councilor Dentino moved, Councilor Kuhn seconded, and the Council voted unanimously to have Ordinance No. 01-O-446.LL be read by title only.

City Manager Blodgett read Ordinance No. 01-O-446.LL by title only.

Councilor Dentino moved, Councilor Johns seconded, and the Council voted unanimously to adopt Ordinance No. 01-O-446.LL.

The ordinance was adopted.

VI. SCHEDULED PUBLIC APPEARANCES

- A. Ken Burns - Annual Curry County Recycling Committee Report**
Curry County Recycling Committee Representative Ken Burns provided his annual report to the Council for the entire County's recycling activities and collections. His report also included the goals and actual collections for years

1998 and 1999, current recycling programs, and the future of recycling efforts. Mayor Hagbom thanked Mr. Burns for his report.

B. Pat Widmer and Barbara Cleland -Family Community Education (FCE) presentation

Pat Widmer and Barbara Cleland presented the City with a donation of \$550, to begin an important project fund for covering the pool, and challenged all other non-profit organizations to match or better their donation. These monies came from the profits at their annual Homemaker's Holiday. Mayor and Council expressed their appreciation.

C. Tom Kerr - Kerr Ace Hardware Improvements presented

Tom Kerr of Kerr Ace Hardware presented a proposal of blending the existing and remodeling of Kerr Ace Hardware's business location with the City's plans for downtown by providing drawings and discussion. City resident Sue Etchart of 222 Del Norte Lane, Brookings, asked for some clarifications. There was brief discussion from Council, but no other comments from audience. No action was taken.

VII. ORAL REQUESTS AND COMMUNICATIONS FROM THE AUDIENCE

A. Committee and Liaison reports

1. Chamber of Commerce

Chamber President Richard Gyuro of 276 Alan Lane, Brookings invited anyone not yet registered to attend their all day Business Outlook Conference scheduled for tomorrow, January 23, 2001, to register at the door after 7:30AM.

2. Businesses for a Better Brookings

There was no report.

3. Port of Brookings-Harbor

There was no report.

4. Council Liaisons

Councilor Dentino being a new Council member had not yet attended any meetings as a liaison.

Councilor Johns has been meeting with the new committee formed by the School District to oversee the recently passed bond measure.

Councilor Kuhn attended the Brookings-Harbor Port Commission meeting where there new proposed design was presented.

Mayor Hagbom attended the Curry County Commissioners meeting today, where the UGB County Ordinance was passed.

B. Unscheduled

Lee Sparks, 3500 Stewart Parkway, Roseburg, OR, apologized for tardiness in returning for a visit to Brookings, but explained his last month's activities, which included completion of the raised median on U.S. Hwy 101 South just at the south edge of Dot Martin Bridge (Chetco Bridge) and Lower Harbor Road exit. He also reported on the speed reduction at the north end of town, and a potential speed reduction on the two-way turn lane by Benham Lane in Harbor. Mayor Hagbom thanked ODOT for all it's cooperation, and providing a great representative, Lee Sparks.

VIII. STAFF REPORTS

A. City Manager

1. Adoption of City Council Goals

City Manager Leroy Blodgett reviewed the Council's work-session held on January 17th, and recommended the Council adopt the alphabetized recommended goals for FY 2001-2002 as presented.

Councilor Johns moved, Councilor Dentino seconded, and the Council voted unanimously to adopt the City Council Goals as presented for FY 2001-2002.

2. Other

City Manager Blodgett advised he had recently been appointed to the Coos Curry Douglas Regional Investment Board. Blodgett also stated the ODOT Community Solutions Team (CST) met to discuss the couplet project and set a future meeting for March 14, 2001, in Brookings to discuss making it happen. He will be attending the Business Outlook Conference tomorrow, and workshops in Tigard and Newport at the end of the week.

B. Community Development Department

1. Acceptance of two deeds - new extension of Wharf Street and sludge tank parcel from South Coast Lumber Co.

Community Development Director Leo Lightle reported on the background of two new right-of-ways for the City. Lightle also advised

there were no health issues and recommended Council accept the deeds. There was no discussion.

Councilor Kuhn moved, Councilor Johns seconded, and the Council voted unanimously to accept two deeds for the new extension of Wharf Street and sludge tank parcel from South Coast Lumber.

2. *Approval of contract amendment with Brown and Caldwell in the amount of \$59,250 and authorization for Mayor to sign contract amendment*
Community Development Director Lightle explained the requested amended contract presented by Brown and Caldwell in the amount of \$59,250. Lightle responded to discussion and recommended Council approve the contract amendment.

Councilor Dentino moved, Councilor Johns seconded, and the Council voted unanimously to approve the Brown and Caldwell contract amendment in the amount of \$59,250.00, and authorized Mayor Hagbom to sign the contract amendment on behalf of the City.

IX. CONSENT CALENDAR

A. Approval of Council Meeting Minutes

1. *Minutes of January 8, 2001, Regular Council Meeting (end Consent Calendar)*

Councilor Johns moved, Councilor Kuhn seconded, and the Council voted unanimously to approve the consent calendar.

X. ORDINANCES/RESOLUTIONS/FINAL ORDERS

A. Ordinances

1. *No. 1-O-446.LL - in the matter of an ordinance amending Section 40, Public Open Space (P/OS District)of Ordinance 89-O-446, an ordinance creating the Land Development Code*

This agenda matter was handled under Agenda Item No. V. B. previously.

B. Resolutions

There were no resolutions

XI. REMARKS FROM MAYOR AND COUNCILORS

A. Council

Councilor Johns had been contacted by the Pelican Bay Prison as to continuing as a City Liaison to their committee.

B. Mayor

1. Council Liaison Appointments

Mayor Hagbom presented the new Council Liaison list and asked Council to contact him, if there were any questions.

XII. ADJOURNMENT

Council voted unanimously to adjourn the meeting at 8:07PM.

Respectfully submitted:

Bob Hagbom
MAYOR

ATTEST:

Randy Reed
Finance Director/City Recorder

IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON

In the Matter of an Ordinance Amending)
Section 40, *Public Open Space (P/OS District)*) Ordinance No. 01-O-446.LL
of Ordinance 89-0-446, An Ordinance)
Creating the Land Development Code.)

Sections:

- Section 1. Ordinance identified.
Section 2. Amendment to Section 40.

The City of Brookings ordains as follows:

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

Section 2. Amendment to Section 40. Section 40 of Ordinance No. 89-0-446 is hereby amended to read:

40.040. Conditional Uses. The following conditional uses may be permitted subject to a conditional use permit:

- A. Utilities and services, including storage or repair yards, warehouses or similar uses totally enclosed within a building or contained within a minimum eight (8) foot high, sight-obscuring fence.
- B. Caretaker, night watchman or park host residence (As added by Ordinance No. 93-0-446.P, effective August 20, 1993.)

First reading: January 22, 2001

Second reading: January 22, 2001

Passage: January 22, 2001

Effective: February 21, 2001

Signed by me in authentication of its passage this 22nd day of January, 2001.

Bob Hagbom
Mayor

ATTEST:

Randy Reed
Finance Director/Recorder

Memorandum

TO: Mayor and City Council
FROM: John Bischoff, Planning Director
THROUGH: Leroy Blodgett, City Manager
DATE: January 16, 2001



Issue: Recision of Ordinance 99-O-446.EE, which provided for the construction of communications towers up to 150 feet in height, in the Public Open Space Zone.

Background: In 1999 the city amended Section 40, Public Open Space (P/OS) District, of Ordinance 89-O-446, to allow communication towers as a conditional use. This was done in anticipation of the city's need to construct a tower on the City Hall property for the enhanced 911 facilities. After the amendment to the ordinance, the issue was appealed to the State Land Use Appeals Board (LUBA). At that time the City Attorney stated that the appellant may have a valid case and the city and appellant subsequently agreed to a voluntary remand of the ordinance amendment. The appellant and city also agreed that if the amended ordinance was rescinded, the appeal would be dropped. Thus staff is submitting Ordinance No. 01-O-446.LL to remove the provision of a communication tower as a conditional use of the Public Open Space Zone.

Recommendation: Adoption of Ordinance 01-O-446.LL.

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

In the Matter of an Ordinance Amending)	
Section 40, <i>Public Open Space (P/OS District)</i>)	Ordinance No. 01-O-446.LL
of Ordinance 89-0-446, An Ordinance)	
Creating the Land Development Code.)	

Sections:

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B. Caretaker, night watchman or park host residence (As added by Ordinance No. 93-0-446.P, effective August 20, 1993.)

First reading: _____

Second reading: _____

Passage: _____

Effective: _____

Signed by me in authentication of its passage this _____ day of January, 2000.

Bob Hagbom
Mayor

ATTEST:

Randy Reed
Finance Director/Recorder