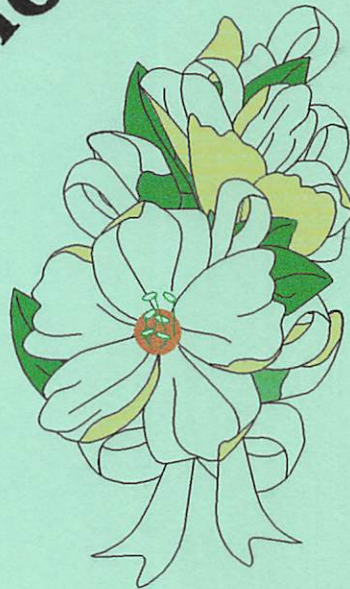


AGENDA
CITY OF BROOKINGS
COMMON COUNCIL MEETING
CITY HALL COUNCIL CHAMBERS
898 ELK DRIVE
BROOKINGS, OREGON, 1997 - 7:00 P.M.
APRIL 28, 1997

MOTHERS DAY



MAY 11, 1997

agenda

CITY OF BROOKINGS
COMMON COUNCIL MEETING
Brookings City Hall Council Chambers
898 Elk Drive, Brookings, Oregon
April 28, 1997
7:00 p.m.

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. ROLL CALL
- IV. CEREMONIES/APPOINTMENTS/ANNOUNCEMENTS
 - A. Safe Kids Week in the Brookings-Harbor area proclamation (blue)
- V. PUBLIC HEARINGS
 - A. An appeal to the City Council of the Planning Commission decision to approve a minor partition, File No. M3-3-97 (green)
- VI. SCHEDULED PUBLIC APPEARANCES
- VII. ORAL REQUESTS AND COMMUNICATIONS FROM THE AUDIENCE
- VIII. STAFF REPORTS
 - A. Finance Department
 - 1. Presentation of 1995/96 Audit - Paul McLeod (yellow)
 - B. Police Department
 - 1. Taxicab Ordinance (tan)
 - C. Community Development
 - 1. Purchase of equipment for the Sea Cliff Sewage Pump Station Retro-fit, exempting said purchase from competitive bidding (purple)
 - 2. Agreement with Pelican Bay Arts Association (cream)
 - D. City Manager

1. Liquor license renewals (pink)
 - a. Local Market
 - b. O'Hollerans Restaurant
 - c. Pine Cone Tavern
 - d. Harbor Mini-mart
 - e. Northgate BP
 - f. Azalea Lanes
 - g. Los Amigos
 - h. Elks Lodge
 - i. D & H Chevron
2. Chamber of Commerce request (orange)
3. Contract for Municipal Judge (grey)
4. Southern Curry Ambulance lease agreement (gold)
5. Homebuilders Association survey (green)
6. Authorization to apply for Rural Investment Fund Grant (cream)

IX. CONSENT CALENDAR

- A. Approval of Council Meeting Minutes
 1. Minutes of 4-14-97 Regular Council Meeting (blue)

(end Consent Calendar)

X. ORDINANCES/RESOLUTIONS/FINAL ORDERS

- A. Ordinances
 1. Ordinance No. 97-0-387.d - An Ordinance amending Ordinance No. 84-0-387, entitled "AN ORDINANCE LICENSING THE BUSINESS OF OPERATING TAXICABS IN THE CITY OF BROOKINGS IN REPEALING ORDINANCE NUMBERS 54-0-063, 61-0-163 AND 73-0-239". (yellow)

XI. COMMITTEE & LIAISON REPORTS

XII. REMARKS FROM MAYOR AND COUNCILORS

XII. ADJOURNMENT

REMINDER: May 5, 1997 - Special Council worksession on wastewater treatment system improvements

APRIL 1997

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY											
		8:00am APRIL FOOL'S DAY 8:30am Staff Mtg-Tom's ofc 9:30am CC-PD Motorola Class 12:00pm Rotary-Sandy's Overflow... 1	8:00am CC-Muni Court 12:00pm CC-Community mtg 6:30pm CC-Citizen Academy 2	8:15am FH-CDD Staff meeting 9:00am CC-Crime Stoppers 10:00am Site Plan-Tom's ofc Overflow... 3	8:00am CC-Mtg with Brusch & Bauder attorney with Nina Canfield, Leo, Bill S. & Doug 4	1:00pm CC-South Curry Youth Assn (Heather 412-0915) 5											
	9:00am CC-VIPS (Barb) 7:00pm FH-Dept drill night	8:30am Staff Mtg-Tom's ofc 12:00pm Rotary-Sandy's 1:15pm CC-Open bids for Public Works Pickup 8	8:00am CC-Muni Court 6:30pm FH-Citizen Academy 7:00pm CC-APF Mtg 7:00pm Tri Cities Council-Gold Beach Chambers 9	8:15am Finance Staff Mtg 8:15am CC-CDD Staff Meeting 10:00am CC-Target (Barb) 10:00am Site Plan-Tom's ofc Overflow... 10													
Daylight Savings Begins 6																	
	9:00am CC-VIPS (Barb Palicki) 6:00pm CC-Council/Planning Comm Mtg 7:00pm CC-Council Mtg Overflow... 13	8:30am Staff Mtg-Tom's ofc 9:00am CC-Forest Svc (Shirley VanCleave) 12:00pm Rotary-Sandy's 1:30pm FH-SDC Review Board 15	8:00am CC-Muni Court 1:00pm CC-911 Mtg (Mike Cooper) 1:30pm FH-Safety Comm Mtg 5:00pm CC-CFABB Overflow... 16	8:15am CC-CDD Staff Meeting 10:00am Site Plan-Tom's ofc 3:00pm FH-Refinement Study (John Bischoff) Overflow... 17													
	9:00am CC-V.I.P.S. (Barb P.) 11:00am CC-Wedding 7:00pm CC-Chetco Point Forum (Don Higginson 9-3447) Overflow... 20	8:30am Staff Mtg-Tom's ofc 12:00pm Rotary-Sandy's 2:00pm CC-John Bischoff 7:00pm CC-Council Mtg (tentative) 22	8:00am CC-Muni Court 6:30pm FH-Citizen Academy 7:00pm CC-Council/Budget Comm worksession Overflow... 23	8:00am CC-CDD Staff Meeting 8:00am FH-Police Dept 10:00am Site Plan-Tom's ofc 7:00pm CC-Parks & Rec Comm Mtg 24													
	9:00am CC-V.I.P.S. (Barb P.) 7:00pm CC-Council Mtg 7:00pm FH-Dept drill night 27	8:30am Staff Mtg-Tom's ofc 12:00pm Rotary-Sandy's 7:00pm CVAT-Forest Svc Bldg 29	8:00am CC-Muni Court 6:30pm FH-Citizen Academy 7:00pm CC-Council/Budget Comm worksession 30														
			MARCH 1997		MAY 1997												
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			16	17	18	19	20	21	22		18	19	20	21	22	23	24
			23/30	24/31	25	26	27	28	29		25	26	27	28	29	30	31

APRIL 1997

APPOINTMENTS & SCHEDULED EVENTS	
4/1/97	1:00pm Rotary Board of Dir-Sandy's
4/1/97	7:00pm CC-Planning Commission Mtg
4/3/97	11:00am Muni Court Bench Trial
4/10/97	12:00pm Chamber Forum-Conf Ctr
4/10/97	5:00pm Local Public Safety Coord Council-GB
4/14/97	7:00pm FH-Dept drill night
4/16/97	6:30pm FH-Citizen Academy
4/16/97	7:00pm CC-Council/Budget Mtg
4/17/97	5:00pm CC-Student Government Day
4/21/97	7:00pm FH-Dept drill night
4/21/97	7:30pm School Board-Azalea Library
4/23/97	7:00pm Chamber Board of Directors-Conf Ctr

DIARY AND WORK RECORD		Time
1	4/9/97	Budget due
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MAY 1997

APPOINTMENTS & SCHEDULED EVENTS

5/8/97	5:00pm Local Public Safety Coord Council-GB
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5/15/97	5:00pm CC-CFABB
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TO BE DONE TODAY (ACTION LIST)

5/1/97		Employee vacation hours reviewed
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PROCLAMATION

WHEREAS, bicycle safety for children is very important; and

WHEREAS, the Brookings Police Department is committed to teaching parents and children about bicycle safety;

NOW, THEREFORE, I, Nancy Brendlinger, Mayor of the City of Brookings, do hereby proclaim the week of May 10-17, 1997 as

SAFE KIDS WEEK IN THE BROOKINGS-HARBOR AREA

and invite our area parents and children to participate in the Bicycle Safety Fair at Kalmiopsis School on Saturday, May 10, 1997 from 9:00 a.m. to 1:00 p.m.



Nancy Brendlinger

Nancy Brendlinger
Mayor

CITY OF BROOKINGS CITY COUNCIL
STAFF AGENDA REPORT

SUBJECT: Appeal of Planning Commission Decision
FILE NO: APP-1-97
HEARING DATE: April 28, 1997

REPORT DATE: April 7, 1997
ITEM NO: V.A

GENERAL INFORMATION

APPELLANT: Eric Vance.

REPRESENTATIVE: None.

REQUEST: An appeal to the City Council of the Planning Commission decision to approve a minor partition, File No. M3-3-97.

TOTAL LAND AREA: 5.96.

LOCATION: On the south side of Hampton Road approximately 125 feet east of Parkview Dr.

ASSESSOR'S NUMBER: 41-13-32C, Tax Lot 600.

ZONING / COMPREHENSIVE PLAN INFORMATION

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

PROPOSED: Same.

SURROUNDING: West, South and East - R-1-6; North - County R-2 (Residential-Two).

COMP. PLAN: Residential.

LAND USE INFORMATION

EXISTING: Vacant.

PROPOSED: Residential on smaller parcel; electric substation on larger parcel.

SURROUNDING: West - Residential; East - Residential; South - Vacant; North - Residential in County.

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

BACKGROUND INFORMATION

At its March 4, 1997 regularly scheduled meeting, the Planning Commission heard and approved an application for a minor partition of a 5.96 acre parcel of land located on the south side of Hampton Rd. approximately 125 feet east of Parkview Dr. It should be noted that the Assessor's Tax Map indicates the property size as 5.96 acres in size while the Minor Partition plat map, prepared by the surveyor, indicates the parent parcel to be 5.93 acres in size. This report will use the 5.96 acre figure. The partition divided the subject property into two parcels of 2.46 and 3.47 acres in size. The subject property is vacant and is zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) and designated as Residential by the Comprehensive Plan.

The stated purpose of the minor partition was to divide the subject property to create a lot for the placement of an electrical substation. At the same time that the application for the minor partition was filed, Coos-Curry Electric Cooperative filed an application for a Conditional Use Permit to place the substation on the larger of the lots created by the minor partition. Both of these applications were originally scheduled to be heard at the March 4, 1997 Planning Commission meeting and a hearing notice was published in the local newspaper and mailed to all property owners within a 250 foot radius of the subject property, indicating that both applications were to be heard at the March 4 hearing.

Subsequently one of the Planning Commission members raised the question if it was appropriate to hear both of the applications together since there would be no lot for the substation until the minor partition was heard and approved. Staff discussed this issue with the city attorney and it was concluded that the proper procedure would be to consider the application for the minor partition, and if approved, then hear the application for the conditional use at a later date. A notice was then mailed (or, in one case faxed) to each of the surrounding property owners indicating that the conditional use permit was being pulled from the March 4, 1997 Planning Commission agenda and would be heard at a later date. This notice was mailed (and faxed) on February 21, 1997. The Planning Commission proceeded with the hearing on, and approved the minor partition. A copy of the Staff Report for the minor partition and the minutes of the March 4, hearing are attached. (It should be noted that there were only 4 Planning Commission members present at the March 4, hearing and of those four only two were present at the Commission's April hearing and thus the March 4 minutes have not yet been approved by the Commission.)

On March 19, 1997, the city received an application to appeal the Planning Commission decision to the City Council. The basis for the appeal is primarily procedural rather than on the merits of the partition in itself. It should be noted that since the City Council hears all appeals as "de novo" and thus will accept new testimony from all interested parties, the applicant and staff have the opportunity to correct procedural errors, if any, that may have occurred. The basis of appeal submitted by the appellant is attached as a part of this report. This staff report will address the issues raised by the appellant as follows:

1. Application Form Contents. The appellant has correctly stated that the application submitted by the applicant did contain the statement "This request for a conditional use permit to construct a Power Substation" in the section of the form titled Request. This statement should have read "This is a request for a minor partition to create a lot for a Power

Substation", however, the first section of the application form titled Application For, is correctly marked as a Minor Partition. The Request section of the application form is essentially to allow the applicant to expand on the nature of his request. In most cases the materials submitted with the application clearly portray the intent of the application and that is the case here. The submittal package contained a minor partition plat and the necessary findings for a minor partition. It is not uncommon for an applicant who is not familiar with the process to make errors when filling out the application form and the form may not get corrected if the rest of the material sufficiently expresses the intent of the application. This information has been corrected by a letter received on April 18, 1997

2. Names of Property Owners. Section 176.050.A.3 does ask for the name and address of all property owners, however, it only requires the signature of one of the property owners. Unless the names and addresses are supplied, staff does not necessarily know that there are other property owners. When a final map gets recorded, it must have the signature of all of the owners on the plat map. The applicants surveyor, who prepares the final plat map, would research the ownership and place the signature blocks for all owners on the map.
3. Natural Features. The applicant has submitted a map of his property showing the wooded areas, creek and other natural features on the subject property. The subject property is not with in the 100 year flood plain as depicted on the Federal Emergency Management Agency (FEMA) maps. Features such as marshes, ponds, and creeks are issues that are not a primary concern when partitioning a lot, especially when dividing a lot of almost 6 acres into only two large parcels. These items become important when development occurs on the property and in this case review of the conditional use permit will include consideration of these features and how they may impact or be impacted by the substation.
4. Lot Size. The application did show the lot size to be 3.47 acres in size and that it was "part of Tax Lot 600". As stated in Number 1 above it is not uncommon for an applicant to make errors on their application form, particularly if they are not familiar with the process. At times an applicant focuses on the lot that they want to sell, particularly if there is a stated purpose for that lot. In this case it was the lot to be sold to Coos-Curry Coop and therefore the 3.47 acre lot may have become "the partition" in the applicants mind. Again as stated in Number 1 above, all of the material submitted with the application was obviously for the entire 5.96 acre property. The first page of the Staff Report did contain the 3.47 acre figure as the total land area. However, the first paragraph of the body of the staff report correctly stated that the size of the subject parcel was 5.96 acres in size and was used throughout the report as the basis of the evaluation.
5. Development Of The Remainder Lot. A remainder lot is defined as any lot created by a partition or subdivision that is greater than twice the size of the minimum lot size allowed by the underlying zoning. The applicant must show how a remainder lot can be divided again. The purpose of this is to show that the land can be used efficiently or if the remainder lot cannot be divided further, the final plat map must contain a statement to the effect that the parcel cannot be further divided to inform future buyers. In this case both of the lots are much greater than the minimum 6,000 sq. ft. required by the underlying R-1-6 Zone and the applicant provided an exhibit that shows a possible division of both proposed lots. There is

nothing binding about the lot configuration shown nor is there any requirement to show how it can be divided to the smallest lots possible. The applicant's exhibit showing how each parcel may be divided further was adequate to meet the requirements of the code.

6. No Public Comment and Notice of Public Hearing. The appellant is stating that the Planning Commission did not allow discussion concerning the proposed use of the lot during the hearing for the minor partition. In this case the Commission was acting according to the advice of the City Attorney. The criteria used to determine the appropriateness of a minor partition does not speak to the intended purpose or uses that may be placed on the lots created by the partition. This a zoning matter and there are permitted uses allowed within each zone. The underlying zoning provides a good indication as to what permitted uses may be placed on any given lot. Each zone also allows certain conditional uses that must first be approved by the Planning Commission through a public hearing. It would be impractical to list all of the possible uses that may be placed on the property in the hearing notice.

In the subject case, notice was, in effect, given as to what use would be placed on one of the lots created by the minor partition. The original hearing notice listed the hearing for the minor partition and a hearing for a conditional use permit to allow the substation on one of the lots created by the partition. The second hearing notice was a copy of the original, except that there was a notation across the listing for the conditional use permit indicating that the hearing had been postponed to a later date.

The Hodges have the right to divide there property in a manner consistent with the provisions of the Land Development Code, regardless on what use may be permitted on the property in the future. If the proposed use requires the approval of a conditional use permit, as the substation does, the appellant and all of the property owners within the area will have an opportunity to express their concerns for that use when the application for the substation is heard by the Planning Commission. The conditional use permit hearing in now scheduled for the June 3, 1997 Commission meeting and new hearing notices will be mailed to property owners within the required 250 feet from the site.

7. Criteria For Approval. The hearing notice sent to the surrounding land owners and published in the local newspaper states that the "Criteria used to decide this case can be found in the Brookings Land Development Code Section 176.50. In the opinion of the former City Attorney, who was consulted about this matter some years ago, that by informing the public where the criteria can be obtained, the intent of the notice has been met. All types of land use applications have a list of criteria for approval and some are quite long. It is impractical to list all of the criteria for each hearing on the hearing notice. The notice also states that all documents pertaining to the hearing can be viewed or obtained at the City Planning Department which also includes the criteria. This information can be obtained by visiting the Planning Department Office, via a telephone call or by written request.
8. Hearing Notice, Appeal Statement. The statement that "Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue" does not appear in the hearing notice that the city publishes and sends to the

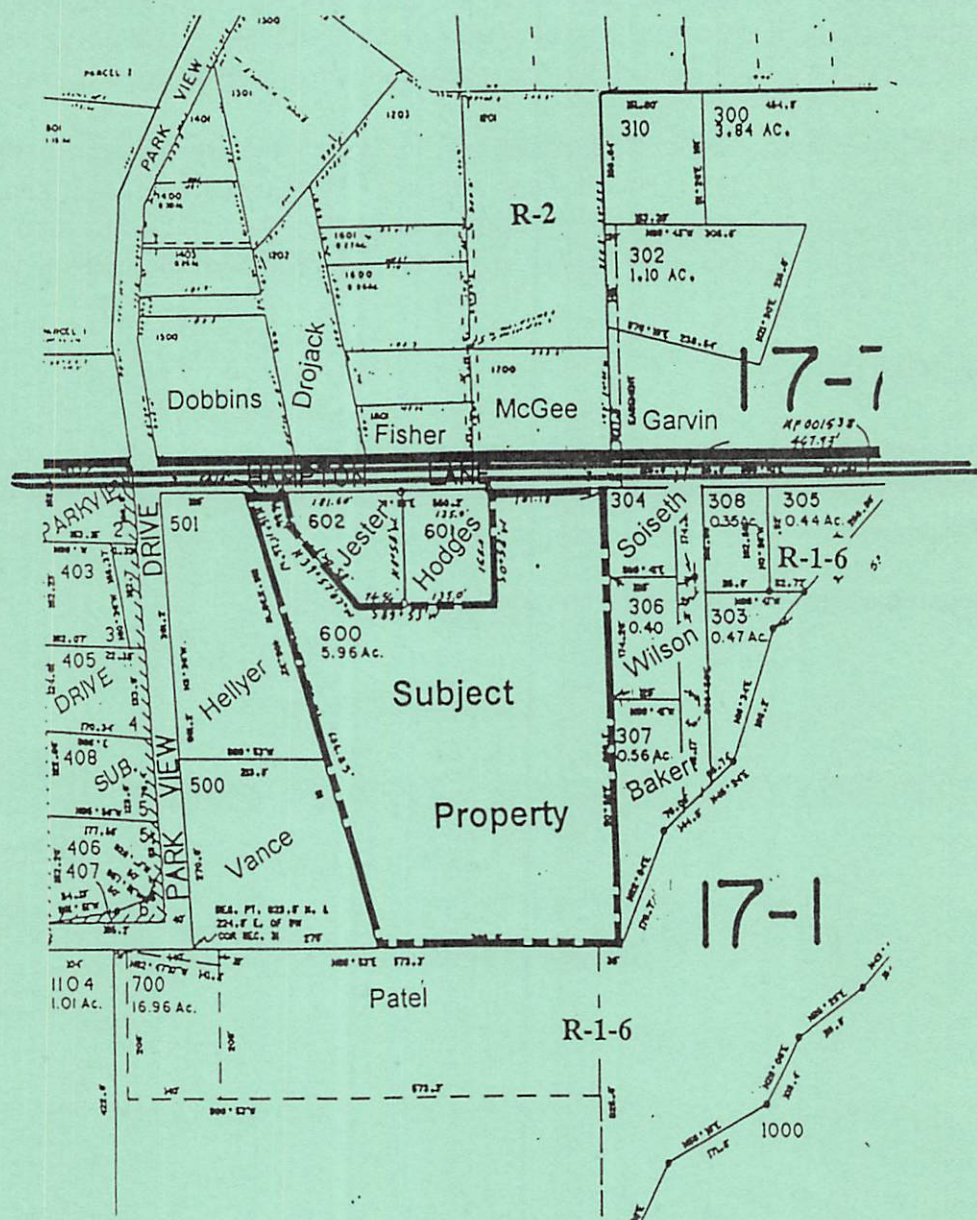
surrounding property owners. This is because by city ordinance appeals to the City Council are held "de novo" which allows new evidence to be submitted and the meeting is held as if the first meeting never occurred. Since the appeal hearing at the City Council does allow new evidence, to place the above statement into the Planning Commission hearing notice would be misleading. The hearing notice sent for the City Council meeting does contain this statement because if the case is appeal to the Oregon Land Use Board of Appeals (LUBA), the LUBA hearing is conducted "on the record" and no new evidence is allowed.

Since this and all appeals to the City Council are held "de novo", the primary issue in this matter is the request for a minor partition of the Hodges' property. The Council must hear and decide this request. The staff report and exhibits that were prepared for the Planning Commission Hearing are attached. Since this is a "de novo" hearing, any errors and deficiencies of the staff report have been corrected.

RECOMMENDATION

Staff recommends **APPROVAL** of Case File No. M3-3-97, based on the findings and conclusions stated in the and subject to the conditions of approval listed in the attached Planning Commission Staff Report.

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



APPLICANT: Don & Becky Hodges

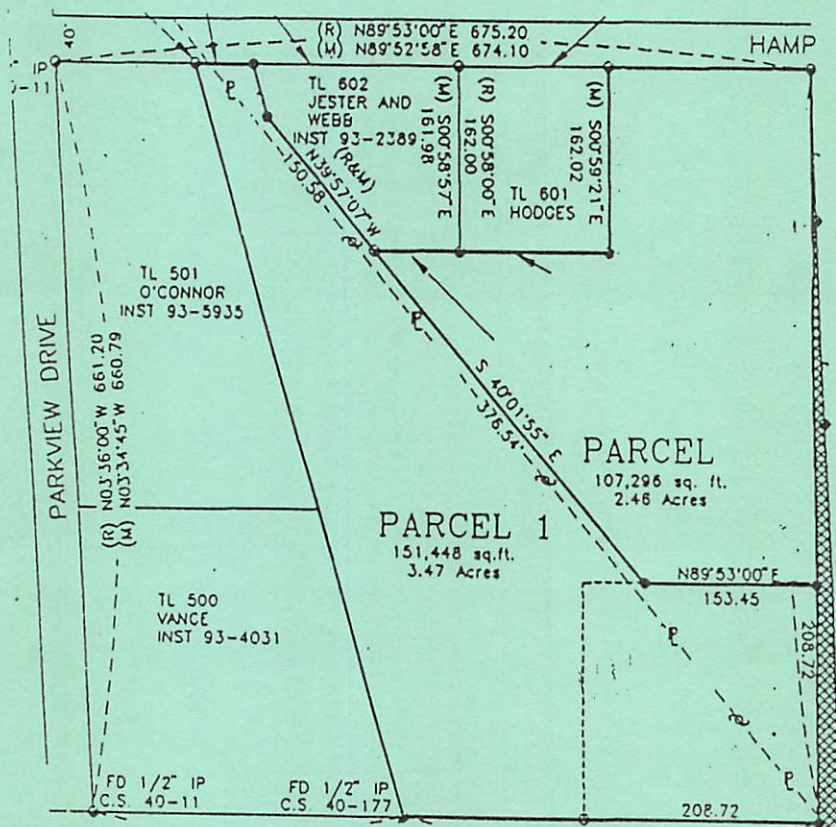
ASSESSOR'S NO: 40-13-31C Tax Lot 600

LOCATION: South of Hampton Road

SIZE: 5.96 acres

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





APPLICANT: Don & Becky Hodges

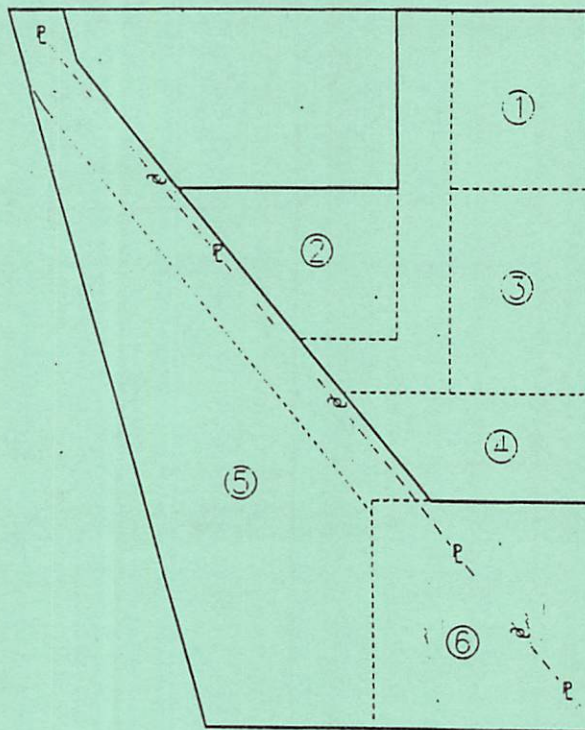
ASSESSOR'S NO: 40-13-31C Tax Lot 600

LOCATION: South of Hampton Road

SIZE: 5.96 acres

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





APPLICANT: Don & Becky Hodges

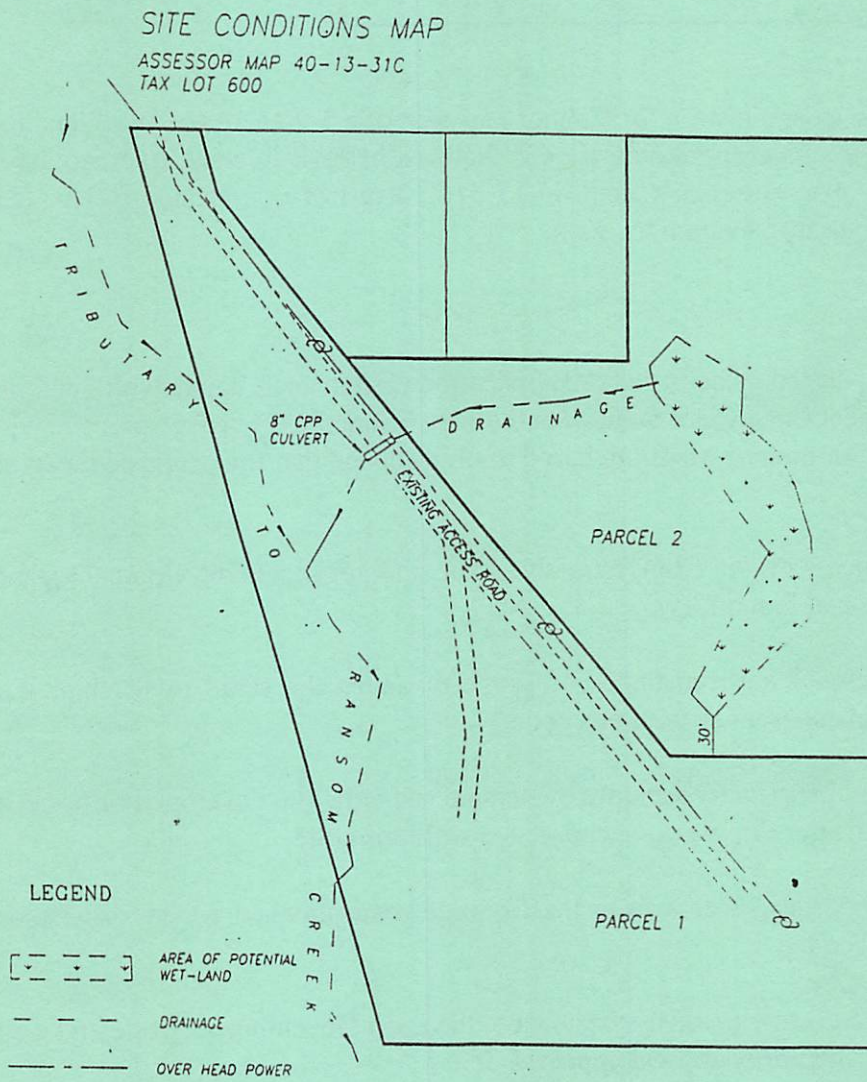
ASSESSOR'S NO: 40-13-31C Tax Lot 600

LOCATION: South of Hampton Road

SIZE: 5.96 acres

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





APPLICANT: Don & Becky Hodges

ASSESSOR'S NO: 40-13-31C Tax Lot 600

LOCATION: South of Hampton Road

SIZE: 5.96 Acres

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



**BEFORE THE CITY COUNCIL
CITY OF BROOKINGS, COUNTY OF CURRY
STATE OF OREGON**

In the matter of City Council File No. M3-3-97;)	Final ORDER
application for approval of a Minor Partition ; Don)	and Findings of
and Becky Hodges, applicant.)	Fact
)	

ORDER approving an application for a minor partition of a 5.96 acre parcel of land located on the south side of Hampton Lane approximately 125 feet east of Park Avenue, to create two lots of 2.46 and 3.47 acres in size; Assessor's Map 40-13-31C, Tax Lot 600; zoned R-1-6, (Single Family Residential, 6,000 sq. ft. minimum lot size).

WHEREAS:

1. The City Council duly accepted the application filed in accordance with Section 176.050, of the Land Development Code which authorizes the City Council to approve, approve with conditions or deny a request for a minor partition, based upon evidence that the proposal meets the following criteria:

A. Conformance with the Comprehensive Plan, and applicable development standards of this code, and state and federal law.

B. Development of any remainder of property under the same ownership, if any, can be accomplished in accordance with this code.

C. Adjoining property under separate ownership can either be developed or be provided access that will allow its development in accordance with this code.

D. The ability to take access from the frontage road pursuant to the provisions of Section 132.060 of this code.

E. Conditions necessary to satisfy the intent of the Land Development Code and Comprehensive Plan can be satisfied prior to final approval.

2. The Brookings City Council duly considered the above described application on the agenda of its regularly scheduled public hearing on April 28, 1997; and

3. Recommendations were presented by the Planning Director in the form of a written Staff Agenda Report dated April 7, 1997, and by oral presentation, and evidence and testimony by the applicant and the public at the public hearing; and,

4. At the conclusion of the public hearing, after consideration and discussion of testimony and evidence presented in the public hearing, the City Council, upon a motion duly seconded, accepted the Staff Agenda Report and approved the request for the subject application and directed staff to prepare a Final ORDER and Findings of Fact to that affect.

THEREFORE, IT IS BE HEREBY ORDERED that the application of minor partition on the subject parcel is approved. This approval is supported by the following findings and conclusions:

FINDINGS

1. The applicant is requesting a minor partition to divide a 5.96 acre parcel into two parcels of 107,296 and 151,448 sq. ft. in size (2.46 and 3.47 acres).
2. The subject property is zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) and designated as Residential by the Comprehensive Plan.
3. The subject property is located on and has frontage on Hampton Ln. which is a paved travel way within a 40 foot wide right-of-way with no other improvements.
4. The subject property is crossed by a power line from the northwest corner to the southeast corner. There is a blanket easement in favor of Coos/Curry Electric Co-op across the subject property.
5. Both of the lots created by the proposed partitions are greater than twice the minimum lot size allowed by the R-1-6 Zone and are therefore considered to be remainder lots.
6. All of the lots surrounding the parent lot have frontage on a public street.
7. The parent parcel has two separate frontages of 54.54 and 181.18 feet on Hampton Lane. Parcel 1 of the proposed partition will have the 54.54 foot frontage and Parcel 2 will have the 181.18 foot frontage.
8. There is a water main located within the Hampton Ln. right-of-way but no sewer main.

CONCLUSIONS

1. The lots created by the proposed partition meet the size and width requirement of the R-1-6 Zone.
2. Both of the lots created by the proposed partition are, by definition, remainder lots. The applicant has shown that both lots can be divided further within the provisions of the Land Development Code.
3. All of the lots surrounding the subject property have frontage on a public street and can be accessed from that street. The proposed partition will not prevent the access to or the development of any of the surrounding lots.
4. Both of the lots created by the proposed partition have frontage on and can be accessed from Hampton Ln.
5. The proposed partition is consistent with the goals and policies of the Comprehensive Plan and

the conditions of approval can be satisfied prior to the recordation of the final plat map.

CONDITIONS APPLICABLE PRIOR TO FINAL APPROVAL

The conditions of this map approval will be applied prior to and as a condition of final plat approval in order to satisfy the intent of the Land Development Code and Comprehensive Plan.

A. Prior To Recordation

1. The applicant shall dedicate to the city, for right-of-way purposes, a 5 foot wide strip of land along the Hampton Ln. frontage of the parent parcel.

B. Recordation Procedures

1. Within 90 days of the Planning Commission's approval the applicant shall record the partition plat with the County Recorder. Prior to recordation the applicant must submit two (2) Mylar copies of the partition plat to be signed by the Planning Commission Chairman. Failure to submit the Mylar copies within the allotted time will render this approval null and void.
2. With in ten (10) days of recordation the applicant shall submit three (3) blueline copies of the recorded partition map to the City Planning Department.

Dated this **28th** day of **APRIL**, 1997

Nancy A. Brendlinger, Mayor

ATTEST:

John C. Bischoff, Planning Director

Fax transmittal to the City of Brookings Planning Department

3/19/96

To: Brookings City Council
c/o Brookings Planning Commission
c/o John Bishoff, Planning Director
898 Elk Drive
Brookings, Oregon 97415

From: Eric Vance
31408 Camas Lane
Eugene, Or. 97405

phone 1-541-9547646
fax 1-541-3436185

Re: Submittal of an application for appeal to the City Council of a land use decision by the Planning Commission to approve a minor partition (file no. M3-3-97). Applicable fees will be paid by Kim Jester during the working hours of March 19, 1997.

The completed land use application shall include (11) attached sheets providing clarification of the reasons for the appeal request.

(12) pages to follow this cover sheet. If any errors, omissions, or missing materials are noted, then please contact Eric Vance immediately at the telephone or fax no above.



Land-Use Application City of Brookings

898 Elk Drive Brookings OR 97415
(541) 469-2163 Ext. 237 Fax (541) 469-3650

Applicants must complete the following form to the best of their knowledge. Incomplete information may cause a delay in the review and the final decision on your request. If requested information is not known to the applicant, city staff will provide such information where appropriate.

APPLICATION FOR:

- | | | |
|---|--|--|
| <input type="checkbox"/> Minor Partition | <input type="checkbox"/> Planned Unit Development | <input type="checkbox"/> Lot Line Adjustment |
| <input type="checkbox"/> Major Partition | <input type="checkbox"/> Subdivision | <input type="checkbox"/> Annexation |
| <input type="checkbox"/> Plan Amendment | <input type="checkbox"/> Variance | <input type="checkbox"/> Minor Change |
| <input type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Vacation | <input type="checkbox"/> Sign Permit |
| <input type="checkbox"/> Appeal: Planning Com. | <input checked="" type="checkbox"/> Appeal: City Council | |

APPLICANT/OWNER INFORMATION:

Applicant ERIC VANCE
Mailing Address 31408 CAMAS LANE
City EUGENE State OR Zip 97405
Telephone No. (541) 454-7646 Fax No. (541) 3436185
Representative NA
Mailing Address _____
City _____ State _____ Zip _____
Telephone No. _____ Fax No. _____
Owner (If not applicant) DON & BECKY HODGES AND DAVID & TERRE J. HODGES
Mailing Address 96978 PARK AVE.
City BROOKINGS State OR Zip 97415
Telephone No. 469-4527 Fax No. _____

PROPERTY INFORMATION:

Location OFF HAMPTON ROAD
Assessor's Map No. 40-13-31C Tax Lot No. 600
Parcel Size 5.96 ACRES Existing Zoning R1-6
Comprehensive Plan Designation RESIDENTIAL
Existing Use _____
Proposed Use POWER SUBSTATION & OTHER
Is water service available to the site? NO
If no, how far to nearest city water line? 1/4 MILE
Is sewer service available to the site? NO
If no, how far to nearest city line? NA

REQUEST:

I, ERIC VANCE HEREBY REQUEST AN APPEAL TO THE BROOKINGS CITY COUNCIL, A DECISION OF THE PLANNING COMMISSION TO GRANT A MINOR PARTITION REQUEST BY DON & BECKY HODGES, FILE NO. M-3-97 AT THE PLANNING COMMISSION HEARING HELD MARCH 4, 1997. ATTACHED IS AN ADDENDUM TO THIS REQUEST AND ADDITIONAL DOCUMENTATION

I hereby certify that the information provided on this application is correct to the best of my knowledge and understand that any false information may result in the rejection of the application and forfeiture of all fees submitted.

Eric W. Vance Date 3/16/97
Applicant's Signature

If applicant is not the owner of the property subject to this request please have the owner sign below or attach a letter signed by the owner authorizing to act on his/her behalf.

NA Date _____
Property Owner's Signature

File No. 5997 Date Received APR 19 1997 Receipt No. 5997 Received by JCB

Q:\FORMS\LINDA\APPLAND.USE

CITY OF BROOKINGS

March 18, 1997

Brookings City Council
c/o Brookings Planning Commission
c/o John Bischoff, Planning Director
City of Brookings
898 Elk Drive
Brookings, Oregon 97415

Re: Appeal to the City Council a decision of the Planning Commission to approve a Minor partition requested by Don & Becky Hodges, file no. M3-3-97 at the Planning Commission hearing held March 4, 1997.

This is an addendum to the Land Use Application provided by the Planning Directors office for the purpose of filing an appeal to the city council, of a land use decision of the Planning Commission. Included with the application for appeal are this addendum, submitted by Eric Vance, and two letters from John Vance dated March 2 and March 18, 1997. This appeal is to be considered as one appeal request by the applicant, Eric Vance, and co-applicants John Vance and Dr. and Mrs. Merle Vance. Kim Jester is authorized to provide any original signatures or authorizations as required by the City of Brookings on the Vances behalf and in Vances absence on matters pertaining to the appeal of the land use decision to the city council.

As per the Brookings Development Code section 156.010 the written request for such appeal "shall state specific reasons for the appeal based upon pertinent, applicable sections of this code."

The reasons for the appeal are illustrated below and further outlined in the attached March 2, 1997 letter and March 18, 1997 letter by John Vance to the planning commission. The reasons for appeal are also further addressed in the body of verbal and written evidence submitted at the March 4, 1997 Planning Commission hearing.

Errors in the minor partition application and documentation

Brookings Development Code 176.050 The application for minor partition
The application and review of the application by the site plan committee pursuant to
Section 80.030.B.

The signed application for minor partition as submitted to the Planning Director by Don and Becky Hodges and issued the file no. M-3-97, stated under the heading (Request)
"This is a request for a conditional use permit to construct a Power Substation.

This site is in a secluded area under Coos-Curry Electric Cooperative, Inc. Transmission Right-of- Way." This request is not consistent with an application for a minor partition, and did in fact precipitate the general state of confusion about the inseparability of the issues with respect to the minor partition and the proposed use as a substation.

Brookings Development Code 176.050 A. 3. requires that application contain the following material:

Name, address and telephone number of each of the following: Property owner(s), partitioner, preparer of the map, surveyor, and date of survey.

The names and addresses of the all the owners of the property to be partitioned were not on the application and the application was not signed by all the legal owners or their authorized agents. There are four legal owners of the property to be partitioned and only two owners are listed on the application.

Brookings Development Code 176.050 A. 7. requires that application contain the following material:

Natural features: location and extent of creeks, streams, marshes, and wooded areas.

These features are not graphically illustrated or even verbally described in the application materials submitted by the applicants for the minor partition, yet all these features are in abundance on the subject property. A portion of the property is in marsh land and has wetland flora including bog lilies. The property has a year-round creek adjacent to the proposed sub-station site that supports a viable and active fish habitat, and leads directly to the ocean in a area that has sensitive tidal and estuary features. The subject property also supports a wooded area that is currently adjacent to the creek and aids in the support of the wetland character.

Brookings Development Code 176.050 A. 8. requires that application contain the following material:

Flood areas: show location of the 100 year flood plain and other areas subject to ponding.

Locations subject to ponding are not illustrated on the application materials submitted for the minor partition, yet such conditions do exist. The subject property is well above the flood plain, but it is in a geological basin or swale where ponding occurs on a perpetual basis, and in fact supports classic wetland habitat.

Brookings Development Code 176.050 A. 12. requires that application contain the following material:

Lot size: existing and proposed lot sizes in square feet or acres.

The existing lot size was described on the application for minor partition as 3.47 acres. The existing lot size as described in the Planning Commission staff report general

information summary was also 3.47 acres. This lot size designation was in error, and no effort to correct this error was forthcoming from the Planning department. The fact that the real acreage in question was almost 6 acres in size, led to confusion for the parties involved, to fully understanding the partition request for this property. To further compound the problem the property was described on the application as being "part of tax lot 600" when in fact the subject property is apparently wholly tax lot # 600.

Brookings Development Code 176.050 B. 2. enables the planning commission to deny the request based on the following criteria.

Development of the remainder of property under the same ownership, if any, can be accomplished in accordance with this code.

From the secondary development shadow plan provided by Stuntzner Engineering for the applicant for minor partition, the proposed substation lot #6 would be left without a viable road access if such parcel remained under same ownership. The long access road to proposed lot #6 is graphically represented on the secondary development plan as traversing its entire length in the middle of the 115 kv transmission line right-of-way and in which two transmission towers are in place.

Errors in procedures

Brookings Development Code 176.030 insuring thorough public review.

Procedures. The following procedures are intended to expedite land divisions which are minor in scope and impact, and to insure thorough public review and comment for land division which may have greater neighborhood impact to existing and future public facilities and services.

The Planning Commission did not permit any public comment on the use of this land division that had as its proposed use, the construction of facility, which would have enormous neighborhood impact, and equally enormous impact on future public facilities and services. When the intended use is at such variance from the use for which an area was zoned for, then it should unquestionably invoke the intent of this provision.

Oregon comprehensive land use planning coordination statute 197.763 - Conduct of local quasi-judicial land use hearings; notice requirements; hearing procedures - section (3(a)) The notice provided by the jurisdiction shall:

Explain the nature of the application and the proposed use or uses which could be authorized

The Public Notice Of Public Hearing sent by the Planning Director giving notice of the hearing for the minor partition file no. M3-3-97 did not state the proposed use or uses which could be authorized.

Oregon comprehensive land use planning coordination statute 197.763 - Conduct of local quasi-judicial land use hearings; notice requirements; hearing procedures - section (3(b)) The notice provided by the jurisdiction shall;

List the applicable criteria from the ordinance and the plan that apply to the application at issue.

The Public Notice Of Public Hearing sent by the Planning Director giving notice of the hearing for the minor partition file no. M3-3-97 did not state the criteria from the ordinance and the plan that apply to the application at issue. To assume that the surrounding homeowners have the time and ability to locate a copy of the Brookings Development code and then to further apply the proper criteria to the issue at hand, is presumptuous at best.

Oregon comprehensive land use planning coordination statute 197.763 - Conduct of local quasi-judicial land use hearings; notice requirements; hearing procedures - section (3(e)) The notice provided by the jurisdiction shall;

State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;

The Public Notice Of Public Hearing sent by the Planning Director giving notice of the hearing for the minor partition file no. M3-3-97 did not state the required notice as stated above. This is an egregious error in itself, but was compounded by the fact that testimony at the hearing on March 4, 1997 was not permitted on some issues, further compromising the ability of the citizens to appeal on such issues.

Sincerely,

Eric W. Vance

Eric Vance, President
Camas Construction Co.

31408 Camas Lane
Eugene, Oregon 97405

phone 1-541-9547646
fax 1-541-3436185

John Vance
E Mail Address: aba@intergate.bc.ca

March 18, 1997

City Council
City of Brookings
898 Elk Drive
Brookings, Oregon 97415

Attention: City Manager

Dear Sir:

Re: Appeal of Application for Minor Partition, M3-3-97 for purposes of a partition for a Power Substation, on behalf of Dr. and Mrs. Merle Vance, Owners, TL 500, City of Brookings.

On March 2, 1997 I provided a letter and notice of appeal to the Planning Commission for distribution to the Commission for their March 4, 1997 Public Hearing (attached). My letter and notice of appeal cited a number of irregularities that frustrated the opportunity of the Vance family to be heard on the application for partition. In summary, they included the following:

- a. the opportunity to address the issue of the applicant's purposes for the land has been frustrated by instructions of Commission staff to the public that no discussion would be permitted on this matter;
- b. that the terms of the statutory Hearing on this matter have been altered without proper Notice, thereby frustrating due process of law as it applies to the Vance's and other affected Owners;
- c. that the applicant information provided is misleading and uncorrected in distribution of materials, including principal documents, by Commission staff to the Commission and the public;
- d. that the staff report's conclusions, respecting conformance of the application to the Community Plan and the Land Development Code, were in error by omitting the applicant's stated purpose in the analysis, and incomplete in addressing requirements of other authorities having jurisdiction, thereby misleading the Commission to believe that statutory obligations of the Commission had been met.

The Commission chose not to respond to any of the issues raised, nor take corrective action to amend, continue or vacate the application. This appeal urges you to reverse the Planning Commission decision, thereby allowing the opportunity for affected property owners, including the Vance family, to be heard concerning the applicant's proposed partition request for a partition of land for purposes of a power substation..

As grounds for appeal I would draw your attention to the following errors made by the Planning Commission as well as the issues raised in my letter of March 2, 1997. The Vance family requests that the City Council reverse the decision of the Planning Commission.

Failure to Permit Comment on Land Use Purpose

Oregon Revised Statutes 197.763 governs the conduct of the Brookings' Planning Commission. This statute states the Planning Commission **shall** give notice to the public for a minor partition expressly to **"Explain the nature of the application and the proposed use or uses which could be authorized."**(ORS 197.763(3)(a)) The legislative intent of this requirement is to notify affected property owners of proposed uses for purposes of a public hearing so that affected persons might address the relevant **land uses** which result from the decision. In keeping with that interpretation, statute requires at the commencement of a hearing under a land use regulation, a statement that **"testimony and evidence must be directed toward the (applicable substantive criteria) or other criteria in the plan or land use regulation which the person believes to apply to the decision."** (ORS 197.763(5)(b))

By ruling that affected property owners could not speak to the issue of the applicant's proposed land use, specifically a power substation, or to the impact that such a use might have on applicable land use plans, or on owners affected by the proposed use, the Planning Commission failed to meet its statutory obligations. By failing to state, in the notice of public hearing, the proposed land uses which could be authorized, the Commission failed to meet explicit statutory requirements. If the Commission should argue that the use of the applicant's site for purposes of a power substation did form part of the original public notice, the Commission should be reminded that it severed the conditional use permit (CUP-3-97) from the hearing, without notice, and used the severance to exclude public comment on the proposed land use for the partition application M3-3-97)

Criteria for land use decisions must apply to proposed land use

The Notice for the March 4, 1997 Public Hearing, as set out above, **did not** set out the proposed use or uses of the partitioned land for application M3-3-97, but did refer to the criteria to evaluate the application for partition. *Webster's Dictionary* defines criteria as **"the standards or principles by which a thing is judged."** The question raised by the planning Commission's action is what "thing" is to be judged by applying criteria to it?

The answer to this question is suggested by the legislature in another requirement imposed on the Planning Commission respecting notice. **"List the applicable criteria from the ordinance and the plan that apply to the application at issue."** (ORS 197.762(3)(b)). The intent of this statute is expressly to allow applicable criteria to be applied to the **land use application**, in this case an application to partition land for the purposes of a power substation. The refusal of the Commission to hear any evidence or argument from affected property owners on the application for partition in order to

construct a power substation defeated the very purpose of the Public Hearing and the statutory requirement, and is therefore reversible. The application received by the City of Brookings (1-31-97) is evidence that the applicant applied for a partition for a proposed use of the land for a "Power Substation Site". The request of the applicant for the partition stated, "This is a request for a conditional use permit to construct a Power Substation". City Council has the opportunity to correct the Planning Commission error by reversing their decision on the application for partition.

Request for Council to receive new appellant information

There is an additional procedural error of the Commission that should be noted and which concerns the Vance family and other affected property owners. In addition to being advised by Planning Commission staff that the subject of a power substation could not be raised at the Public Hearing of March 4, 1997, a number of people, including the Vance family, are concerned that the Planning Commission's refusal to allow evidence or argument concerning the application will affect their ability to raise substantive matters when the appeal is presented to Council or upon a re-hearing of the application by the Planning Commission. We would bring to your attention that the notice provided by the Planning Commission for purposes of this application was also deficient in that the statutory requirement requiring the commission to advise participants that issues not submitted at the time the Public Hearing could not be raised on appeal. The relevant statute which sets out the requirements for public notice states:

The notice provided by the jurisdiction shall ...state that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue. (ORS 197.763(2)(b))

The Public Notice for the Public Hearing of March 4, 1997 did not advise affected owners of this requirement, notwithstanding the statutory requirement to do so. This failure also serves as a ground for appeal. In fairness, given this omission, we request that Council, at appeal, permit property owners to be heard on relevant items to the application from which they were prohibited from speaking or providing written submissions as a result of Commission rulings.

In summary, the Planning Commission decision of M3-3-97 should be reversed on grounds of non-compliance with relevant provisions of ORS 197.763 in addition to the reasons outlined in my previous submission of March 2, 1997. The Vance family believes that Brookings City Council wishes to assist the Planning Commission to carry out its responsibilities consistent with Council policy and Oregon state law.

Sincerely,

John Vance

John Vance
E Mail Address: aba@intergate.bc.ca

(FAX COPY)

March 2, 1997

City of Brookings
Planning Commission
898 Elk Drive
Brookings, Oregon

Attention: John C. Bischoff, Planning Director,
BY FAX: (541) 4693650

Dear Sirs:

Re: Public Hearing Your file No: M3-3-97 and application for conditional use permit for power substation. Assessor's Map 40-13-31C Tax Lot 600, File CUP-3-97.

Along with others, I represent Dr. and Mrs. Merle Vance, Owners, at 2320 Bridle Path Lane, Sacramento, California, respecting TL 500 adjacent to the proposed partition. The Vance family has been advised, by you of the following:

- a. Verbally, that the purpose of the Public Hearing scheduled by you for Tuesday March 4, 1997 has materially changed, specifically withdrawal from the Hearing of the application for a conditional use permit to allow construction of a power substation facility on the parcel proposed to be partitioned.
- b. Verbally, by you, that you will not permit to be heard from the Vance family, or other residents who have standing, information concerning the purposes of the application for partition, specifically, the use of the partitioned land for purposes of a power substation.

This letter serves to request that the application for partition be set aside, for the time being, since you have erred in law by failing to notify affected Owners in writing of the change in scope and purpose of the public Hearing and by defeating the opportunity of affected property owners to be heard on matters relevant and integral to the application for partition.

Error in Due Process

First, the purposes of the partition and the conditional use for a power station are so intertwined, that the treatment of the application for partition separately from its purposes defeats the intent and stated purpose of the Hearing which required these matters be held together. This is an egregious error since the signed application from Hodges (1-31-97) for minor partition states that "*this is a request for a conditional use permit to construct a Power Substation.*" The Applicant Hodges, has applied for a conditional use permit

for a power substation as the purpose for the minor partition. It cannot be separated from the application for partition as set out in their application. The approval of an application for partition for uses upon which there are certain conditions unmet yet entailed is an error and presumes the Commission's acceptance of the entailment, specifically the conditional use. That matter must be heard concurrently in order to preserve the rights of affected property owners. The language use in the Notice of Public Hearing reinforces this conclusion. The word "purpose", in the singular is used to describe the item of business. The words "this matter" are used twice to refer to the application, documents and evidence.

For affected parties, such as the Vance's, to be advised by Commission staff that the subject of the entailment, i.e. the conditional use of a power station, may not form part of their brief at the Hearing, is also an error. This position denies due process to property owners affected by the application for partition with respect to the purposes stated in the application. We would argue that any evaluation of a partition application must consider the use for which the partition was applied.

We also note that the conditions imposed on the partition respecting its purposes have changed in the Staff report of 02-20-97 and a final ORDER drafted. However, the Hodges' application is clear with respect to the intended purposes of the partition. The application, and schedule for the Hearing, recognized that the partition and the purposes for it should be considered concurrently. We would argue that the decision to hear the matters separately defeats the rights of property owners affected by the application to be heard on the matter of the proposed purpose of the application. We also note that the requirement that a conditional use permit be obtained as a prior condition of recordation has been eliminated in the new staff report. This gives rise to concern on our part that the purpose of the application is presumed to be acceptable to the Commission in advance of deliberation, i.e., a *de facto* approval of a conditional use without a Hearing. This is a reasonable conclusion for the Vance's to draw, since the application for partition includes the purpose of a hydro substation and that portion has been severed from the proceedings. Eliminating the public's right to be heard on that purpose poses a problem of due process under statutory requirements and common law. The Commission should vacate the application for partition until the purpose of the application can be openly heard and considered. If this presumption is not the case, by limiting the public's right to be heard on the express purpose of the application, we assume that there is a purpose for the partition other than that stated by the applicant. If so, this would require a new application and a new public Hearing.

Error in Information

The public hearing on these matters should be vacated until such time as information on the proposed partition is demonstrated to be accurate. Inaccurate information to the Commission and the public is misleading and an unreasonable basis for hearing a matter as potentially injurious as this application on affected parties. The City of Brookings Staff Agenda Report File No M3-3-97 set out general information to the Commission and the public which is factually incorrect. The total land area denoted in the General

Information section of the Staff Agenda Report states a parcel size of 3.47 acres is to be partitioned. The application for partition prepared by Hodges (1/30/97) states such information as accurate. Yet, material provided by Stuntzner Engineering and Forestry (dated 7-23-96) prepared and distributed to the public indicates that a different division, materially different from that proposed by the applicant. To compound the problem, the Notice of Public Hearing refers to a 5.93 acre parcel, but with the same file number (M3-3-97). It is fair and reasonable that the information provided by an applicant be reasonably accurate, as it is fair and reasonable that information provided the Commission and the public be consistent. We would argue for vacation of the application until such time as a corrected application be brought forward by Hodges accurately describing the parcel to be partitioned. It would be unwise for the commission to approve a partition supported by an application which is seriously flawed and by a staff report which in which errors in have been repeated by Commission staff. We note that the information furnished on prescribed applications, staff reports and Commission documents are defective.

Staff Analysis Misleading

The purpose of the application, prima facie, is the creation of a lot or lots for a power substation. A criterion for evaluation of the proposed partition is that development of any remainder of property under the same ownership can be accomplished in accordance with the Land Use Code. From the shadow plan provided by Stuntzner, development of the property would leave the proposed substation (parcel 6), without benefit of road access. Either the application should be defeated since development on the land would leave the substation without lawful access (Criterion No. 4), or the application defeated because approval, given the purpose for a substation facility, would limit the development of the remainder of the parcel based on the requirement for access to the proposed substation (Criterion No. 2). If the proposed use as the Commission staff indicate, is not the subject of the partition application, then the plan submitted by Stuntzner leaves a future residential remainder lot without access. Under either of these circumstances, the applicant's proposed use should be taken to represent inconsistency with the City's Comprehensive Plan policies by placing undue and foreseeable restriction on the development of the remainder lands created by this partition application.

The Commission is obliged, under statute, to ascertain conformance of the proposed partition to applicable state and federal laws. The staff report omits, in its entirety, comment on the applicant's stated purpose of use of the partitioned land for an electric substation and by so doing fails to provide a basis for evaluation of conformance to statutory requirements. The report purports to evaluate an application, whose land use purpose is explicit, without reference, at all, to that purpose. This leaves the staff report materially flawed. By ignoring the proposed land use, staff ignore the singular element by which to measure conformity of the proposed partition's purpose to Brookings' Comprehensive Plan. This disservice is compounded in the absence of references which would vouchsafe that the proposed partition and the Deferred Improvement Agreement meets the regulatory requirements of other agencies having jurisdiction. These include, but are not limited to conservation authorities having jurisdiction on fish bearing waters

affected by the location of the proposed land use set out in the application for partition, or by authorities having jurisdiction over utilities, generally. The absence of such information is sufficient for the Commission to set aside the application until such information is forthcoming, documented and available for inspection by the Commission and affected property Owners.

In summary, this application should be set aside since:

- a. the opportunity to address the issue of the applicant's purposes for of the land has been frustrated by instructions of Commission staff to the public that no discussion would be permitted on this matter;
- b. that the terms of the statutory Hearing on this matter have been altered without proper Notice, thereby frustrating due process of law as it applies to the Vance's and other affected Owners;
- c. that the applicant information provided is misleading and uncorrected in distribution of materials, including principal documents, by Commission staff to the Commission and the public;
- d. that the staff report's conclusions, respecting conformance of the application to the Community Plan and the Land Development Code, were in error by omitting the applicant's stated purpose in the analysis, and incomplete in addressing requirements of other authorities having jurisdiction, thereby misleading the Commission to believe that statutory obligations of the Commission had been met.

This letter will also serve as Notice of Appeal should the Commission not vacate the application. The grounds for appeal are those stated above without prejudice to any other right or remedy available under law. We suggest that staff would benefit the Commission, the applicant and the property Owners affected by recommending withdrawal of this matter for the public Hearing scheduled for March 4, 1997.

Sincerely,

John Vance

RECEIVED

APR 17 1997

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

City of Brookings
c/o John Bishoff, Planning Director
898 Elk Drive
Brookings, Or. 97415

Dear Mr. Bishoff:

This letter is to clarify information on the Minor Partition submitted for the March 4th Planning Commissioners Meeting, by Donald and Becky Hodges.

The tax lot is a portion of SW 1/4, Sec. 31, T 40S, R 13W WM. Map 40-13-31C T/L 600 consisting of 5.93 acres. Lot 600 is to be partitioned into two parcels, #1 being 3.47 acres and #2 at 2.46 acres.

The owners of tax lot 600 are listed below:

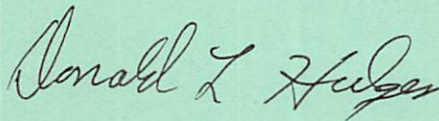
Donald L. & Beckey G. Hodges
96978 Park Ln.
Brookings, Or. 97415

David L. Hodges
915 Easy St.
Brookings, Or. 97415

Teri Gores
70424 Shady Nelms Drive
Dublin, OH. 43017-3030

We hope this information will help with the process.

Sincerely,



Donald L. Hodges

CITY OF BROOKINGS PLANNING COMMISSION
STAFF AGENDA REPORT

SUBJECT: Minor Partition
FILE NO: M3-3-97
HEARING DATE: Mar 4, 1997

REPORT DATE: February 20, 1997
ITEM NO: 8.1

GENERAL INFORMATION

APPLICANT: Don and Becky Hodges.

REPRESENTATIVE: Stuntzner Engineering and Forestry.

REQUEST: A minor partition to divide a ~~3.47~~ 5.96 acre lot into two parcels of 107,296 (2.46 acres) and 151,448 sq. ft. (3.47 acres) in size.

TOTAL LAND AREA: ~~3.47~~ 5.96 acres.

LOCATION: On the south side of Hampton Road approximately 125 feet east of Parkview Dr.

ASSESSOR'S NUMBER: 40-13-31C, Tax Lot 600.

ZONING / COMPREHENSIVE PLAN INFORMATION

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

PROPOSED: Same.

SURROUNDING: West, South and East - R-1-6; North - County R-2 (Residential-Two).

COMP. PLAN: Residential

LAND USE INFORMATION

EXISTING: Vacant

PROPOSED: Residential on smaller parcel; electric substation on larger parcel.

SURROUNDING: West - Residential; East - Residential; South - Vacant; North - Residential in County.

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

BACKGROUND INFORMATION

The subject property is a vacant, 5.96 acre, parcel of land located on the south side of Hampton Lane approximately 125 feet west of Parkview Dr. The subject parent lot originally had approximately 549 feet of frontage on Hampton Ln. A previous partition created two lots (T/L 601 and 602) which also front on Hampton Ln. with the result that the parent lot now has two frontages on Hampton Ln. The first is in the northwest corner and is 54.19 feet and the second is 181.21 feet in the northeast corner. The easterly property line is 660.10 feet and the south property line is 369.90 feet. The west property boundary angles back to Hampton Ln. 686.80 feet. See Exhibit 1. The subject parent lot undulates gently with a slight downward slope from Hampton Ln. toward the south west into Ransom Creek to the south and another smaller drainage on the west. Pass the southerly boundary of the site, the slope increases greatly as it drops into the creek..

The property and the area to the west, south and east are zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) and there are houses adjacent to both the west and east side of the site.

The area between the site and Ransom Creek is vacant. The two lots that were divided out of the parent lot in the past each have a house also. The area to the north of Hampton Ln. is outside the city limits and is zoned with the county's R-2 (Residential-Two Zone) and is developed with scattered single family homes.

Hampton Lane is a paved travel way within a 40 foot wide right-of-way with no other improvements. There is a water main located within the Hampton Lane right-of-way but no sewer main. Drainage from the site is toward the south into Ransom Creek. There is a blanket (no defined boundaries) easement in favor of Coos/Curry Electric Co-op for a power line that crosses the subject property from the northwest corner to the southwest corner.

PROPOSED MINOR PARTITION

The applicant is requesting a minor partition to divide the parent parcel into two parcels of 107,296 and 151,448 sq. ft. in size. Parcel 1 of the proposed partition will consist of the entire westerly frontage, 54.19 ft., the westerly, southerly and 208 feet of the easterly boundary of the parent parcel. The easterly boundary of Parcel 1 will extend southeast from Hampton along the west boundary of T/L 602 for a distance of approximately 198 feet and then on in a southeast direction for another 377 feet at which point the line turns east and extends 153 feet to the easterly boundary of the parent parcel (See Exhibit 2). The resulting lot looks somewhat like a hockey stick.

Parcel 2 of the proposed partition will have 181 feet of frontage on Hampton Rd. (the entire easterly frontage of the parent lot) and an easterly boundary of 450 feet extending south from Hampton to the point where the new lot line intersects the easterly boundary of the parent lot. The southerly and westerly boundary follows the new lot line to the southwest corner of T/L 602; then follows the southerly boundary of T/Ls 602 and 601 then turns north along the east boundary of T/L 601 to Hampton Rd. (See Exhibit 2). The center of the existing power line will be within Parcel 1 just west of and will run parallel to the boundary between Parcels 1 and 2.

ANALYSIS

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

1. Conformance with the comprehensive plan, and applicable development standards of this code, and state and federal laws.
2. Development of any remainder of property under the same ownership, if any, can be accomplished in accordance with this code.
3. Adjoining property under separate ownership can either be developed or be provided access that will allow its development in accordance with this code.
4. The ability to take access from the frontage road pursuant to the provisions of Section 132.060 of this code.
5. Conditions necessary to satisfy the intent of the land development code and comprehensive plan can be satisfied prior to final approval.

The following is staff's analysis of the proposed partition in relation to the criteria cited above. Since all of the criteria relates to the requirements of the Land Development Code, the first criterion encompasses all of the others and will therefore be discussed after criterion number 5.

Criterion 2, Remainder Lots. Both of the lots created by the proposed partition are greater than twice the size of the minimum lot allowed in the R-1-6 Zone and are therefore considered to be remainder lots. The applicant has submitted a diagram showing how both parcels may be divided in the future (See Exhibit 3).

Criterion 3, Surrounding Property. All of the lots surrounding the subject parent lot have frontage on a public street and can be accessed from that street. The lot directly south of the subject property, Tax Lot 700, has access on Parkview Dr., from an unnamed street extending south from Hampton Ln. and from, although very steep, Hampton Ln. itself. The proposed partition will not prevent access to or the development of any of the surrounding lots.

Criterion 4, Access. Both of the lots created by the proposed partition have frontage on Hampton Rd. and the topography of the site is such that each parcel can be easily accessed from that frontage.

Criterion 5, Conditions of Approval. The conditions of approval will require an additional 5 feet of right-of-way on the south side of Hampton Lane adjacent to the frontage of the parent parcel. There is already a Deferred Improvement Agreement recorded on the parent parcel. This condition can be satisfied prior to the recordation of the final plat map.

Criterion 1, Comprehensive Plan. The proposed partition is in compliance with the criteria addressed above and with other applicable provisions of the Land Development Code. It is consistent with the Comprehensive Plan policies of not placing undue restrictions on the development of land and for the efficient use of land within the city.

FINDINGS

1. The applicant is requesting a minor partition to divide a 5.96 acre parcel into two parcels of 107,296 and 151,448 sq. ft. in size (2.46 and 3.47 acres).
2. The subject property is zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) and designated as Residential by the Comprehensive Plan.
3. The subject property is located on and has frontage on Hampton Ln. which is a paved travel way within a 40 foot wide right-of-way with no other improvements.
4. The subject property is crossed by a power line from the northwest corner to the southeast corner. There is a blanket easement in favor of Coos/Curry Electric Co-op across the subject property.
5. Both of the lots created by the proposed partitions are greater than twice the minimum lot size allowed by the R-1-6 Zone and are therefore considered to be remainder lots.
6. All of the lots surrounding the parent lot have frontage on a public street.
7. The parent parcel has two separate frontages of 54.54 and 181.18 feet on Hampton Lane. Parcel 1 of the proposed partition will have the 54.54 foot frontage and Parcel 2 will have the 181.18 foot frontage.
8. There is a water main located within the Hampton Ln. right-of-way but no sewer main.

CONCLUSIONS

1. The lots created by the proposed partition meet the size and width requirement of the R-1-6 Zone.
2. Both of the lots created by the proposed partition are, by definition, remainder lots. The applicant has shown that both lots can be divided further within the provisions of the Land Development Code.
3. All of the lots surrounding the subject property have frontage on a public street and can be accessed from that street. The proposed partition will not prevent the access to or the development of any of the surrounding lots.
4. Both of the lots created by the proposed partition have frontage on and can be accessed from Hampton Ln.

5. The proposed partition is consistent with the goals and policies of the Comprehensive Plan and the conditions of approval can be satisfied prior to the recordation of the final plat map.

CONDITIONS OF APPROVAL

A. Prior To Recordation

1. The applicant shall dedicate to the city, for right-of-way purposes, a 5 foot wide strip of land along the Hampton Ln. frontage of the parent parcel.

B. Recordation Procedures

1. Within 90 days of the Planning Commission's approval the applicant shall record the partition plat with the County Recorder. Prior to recordation the applicant must submit two (2) Mylar copies of the partition plat to be signed by the Planning Commission Chairman. Failure to submit the Mylar copies within the allotted time will render this approval null and void.
2. With in ten (10) days of recordation the applicant shall submit three (3) blueline copies of the recorded partition map to the City Planning Department.

RECOMMENDATION

Staff recommends **APPROVAL** of Case File No. M3-3-97, 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.

**MINUTES
BROOKINGS PLANNING COMMISSION
REGULAR MEETING
March 4, 1997**

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

George Ciapusci
Keith Pepper
Rick Dentino

Judi Krebs
Jessica Babin

John Bischoff, Planning Director
Linda Barker, Secretary

Absent were Commissioners Freeman, Lindsey and Breuer.

Chair Ciapusci announced that advertised hearings for conditional use permits File No. CUP-2-97 and CUP-3-97 have been postponed until a later date and would not be heard during this meeting.

Chair Ciapusci welcomed Rick Dentino to the Commission. Commissioner Dentino was appointed by the City Council to fill the position vacated by Chet Singleton. Chair Ciapusci also introduced Jessica Babin to the audience. Ex Officio Commissioner Babin sits on the Commission in an contributory but non-voting capacity.

MINUTES

The minutes from the February 4, 1997 meeting were presented but not voted upon as there was not a sufficient number of commissioners in attendance at this meeting who had attended the February meeting. The minutes will be carried forward to the April regular meeting.

THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION ON FINAL ORDERS

None

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

None

THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION IN THE PUBLIC HEARINGS

1. By a 4-0 vote, (motion: Commissioner Krebs, second: Commissioner Pepper) the Planning Commission approved (File No. M3-3-97) a request for a minor partition to divide a 5.96 acre lot into two parcel of 107,296 and 151,448 sq. ft. in size; located on the south side of Hampton Road approximately 125 feet east of Parkview Dr.; zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size); Don and Becky Hodges, applicants; Stuntzner Engineering and Forestry, representative.

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

a) Rich Roberts

PO Box 2748

Harbor OR

b) George Hellyer	1090 Parkview Drive	Brookings OR
c) Kim Jester	1300 Hampton Road	Brookings OR
d) Susan Wimberly	1005 Parkview Drive	Brookings OR
e) Dan Webb	1300 Hampton Road	Brookings OR
f) Don Hodges	96978 Park Lane	Brookings OR
g) Dave Hodges	915 Easy Street	Brookings OR

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

2. By a 4-0 vote (motion: Commissioner Krebs, second: Chair Ciapusci) the Planning Commission approved the Final ORDER and Findings of Fact for File Document No. M3-3-97 as written.

The Commission adjourned from 8:05 to 8:10 p.m.

3. By a 4-0 vote (motion: Commissioner Pepper, second: Commissioner Dentino) the Planning Commission approved (File No. M3-2-97) a request for a minor partition to create two lots of 1.00 and 1.01 acres in size from a parcel of land totaling 2.1 acres; located approximately 480 feet east of Old County Road on Marine Drive with Marine Drive on the south and Marina Heights Road on the north; zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size); Charles H. Brendlinger, applicant.

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

a) Charles Brendlinger	PO Box 6667	Brookings OR
------------------------	-------------	--------------

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

4. By a 4-0 vote (motion: Commissioner Pepper, second: Commissioner Dentino) the Planning Commission approved the Final ORDER and Findings of Fact for File Document No. M3-2-97 as written.
5. By a 4-0 vote (motion: Commissioner Krebs, second: Chair Ciapusci) the Planning Commission approved (File No. SUB-2-97/PUD) a request for approval of a redesign of a previous Planned Unit Development of 95 condominium units to 49 foot print lots for single family houses; located on the north side of the easterly end of Seacrest Lane; zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size); Larry Anderson, applicant.

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

a) Larry Anderson	PO Box 1746	Brookings OR
b) Bill Dundom	PO Box 1502	Brookings OR

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

argument.

6. By a 4-0 vote (motion: Commissioner Krebs, second: Commissioner Pepper) the Planning Commission approved the Final ORDER and Findings of Fact for File Document No. SUB-2-97/PUD with the following changes to the conditions of approval:
 - Changed Condition 2: granting five (5) years for approval and recordation of the final plat.
 - Changed Condition 15: adding placing a stop sign at the intersection of Seacrest Lane and Glenwood Drive and placing a "stop ahead" sign on Seacrest at a point to be determined by city staff.
 - Changing Condition 17: requiring the applicant to submit a proposed name for the private loop street located within the subdivision. The City Planning Commission will consider the proposed private street name when considering the final plat map.
 - Adding Condition 41: The applicant shall install fire hydrants throughout the subdivision at locations to be determined by the City Fire Chief.
7. By a 4-0 vote (motion: Commissioner Krebs, second: Commissioner Pepper) the Planning Commission voted to send a favorable recommendation to the City Council in the matter of File No. CZ-1-97 a request for a change of zone from C-3 (General Commercial) to C-4 (Tourist Commercial) on the 150,265 ± sq. ft. lot that contains the Elks Lodge building; located on the north side of Elk Drive approximately 375 feet east of Fifth Street; zoned C-3 (General Commercial); Brookings Elks Lodge, applicant; Philip Cox, representative.

Before the hearing Chair Ciapusci declared that he is a member of the Elks Lodge but this would not affect his decision in this hearing. Commissioner Krebs declared her husband is an Elk and she belongs to the Emblem Club but this would not affect her decision. No one in the audience challenged any Commission member.

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

a) Phil Cox PO Box E Brookings OR

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

THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION ON COUNTY REFERRALS

None

UNSCHEDULED PUBLIC APPEARANCES

None

REPORT OF THE CITIZENS ADVISORY COMMITTEE

Planning Director Bischoff reported the second meeting of the Transportation Growth Management Program's Infill and Redevelopment Committee has been held. The kick off meeting for the

refinement study on the couplet has been held and a committee is being set up to continue work on the study. Primarily, the committee will be made up of the same members who were on the South Coast Transportation Plan Study with modifications to allow for those members who are from Harbor who may not be directly affected by the couplet which is located completely within the Brookings city limits.

MESSAGES AND PAPERS FROM THE CITY MANAGER

None

MESSAGES AND PAPERS FROM THE MAYOR

The calendar in the Planning Commission packet shows the City Council meeting of March 6, 1997 beginning at 7:00 p.m. The correct time is 7:30 p.m. No meeting will be held on Monday, March 10, the regular Council meeting night.

REPORT OF THE PLANNING DIRECTOR

Staff reported a certified letter has been sent to Carl Hatfield, 828 Railroad, stating he cannot live in a RV within the city limits. The 15 days grace period allowed him is nearly up and if he continues to live at the site he will be cited.

PROPOSITIONS AND REMARKS FROM COMMISSION MEMBERS

Chair Ciapusci announced a joint Planning Commission/City Council meeting has been set for April 14, 1997 at 6 p.m. in the Council Chambers. He would like suggestions for agenda items from the Commissioners. He will also contact members absent this evening to get their input. Items from the 1996 Annual Report will be incorporated into the agenda. Chair Ciapusci asked Planning Director Bischoff to schedule a meeting with the County Planning Department regarding the handling of County referrals prior to the joint City Planning Commission/City Council meeting.

Commissioner Krebs questioned the RV that is being used at the Southern Curry Ambulance site on Railroad. Director Bischoff responded they were given permission by the City Council for a small mobile home to sit on the property but not a RV. He will investigate this and take action if it is needed.

Parked cars with "for sale" signs have reappeared at the corner of Spruce and Alder. Commissioner Krebs saw 4 or 5 on the City owned property at that corner. Director Bischoff will ask the Police Department to cite the owners if the cars are located on City property.

Commissioner Krebs questioned the status of the RV located on a lot on Railroad next to GTE's compound. Lights are on in the RV during the evening and it appears to be inhabited. The owner of the RV has been cited and fined in the past for hooking the RV's waste system into the City wastewater system. Staff will follow up to determine if the RV is being used as a residence again.

Commissioner Pepper gave a brief report on Park and Recreation Commission activities. The work on Stout Park is beginning and the City is doing grubbing work in preparation for closing Pine Street next month. There has been a proposal made by a group to use some land in Azalea Park for a BMX race track. Although news reports have indicated the group wanted to use land set aside for soft ball fields, representatives from the two groups have met and another site adjacent to the ball fields has been chosen for consideration. While understanding the work is being done by volunteers, the Parks

and Recreation Commission is still concerned with the length of time the softball fields project has taken. The Parks and Recreation Commission has asked for input from the Planning Commission on future park developments and requested a joint meeting of the two commissions. Chair Ciapusci and Commissioner Krebs felt this was a good idea and one that has been mentioned in the Planning Commission Annual Report in years past. Commissioner Pepper will suggest the Parks and Recreation Commission prepare a list of topics, as will the Planning Commission, and propose a date for the joint meeting.

Several bills are being considered by the Oregon Legislature regarding land use issues. Commissioner Krebs reported on these.

ADJOURNMENT

There being no further business before the Planning Commission, the meeting was adjourned at 9:55 p.m.

Respectfully submitted,

BROOKINGS PLANNING COMMISSION

George L. Ciapusci, Chairman

RECEIVED

APR 17 1997

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

City of Brookings
c/o John Bishoff, Planning Director
898 Elk Drive
Brookings, Or. 97415

Dear Mr. Bishoff:

This letter is to clarify information on the Minor Partition submitted for the March 4th Planning Commissioners Meeting, by Donald and Becky Hodges.

The tax lot is a portion of SW 1/4, Sec. 31, T 40S, R 13W WM. Map 40-13-31C T/L 600 consisting of 5.93 acres. Lot 600 is to be partitioned into two parcels, #1 being 3.47 acres and #2 at 2.46 acres.

The owners of tax lot 600 are listed below:

Donald L. & Beckey G. Hodges
96978 Park Ln.
Brookings, Or. 97415

David L. Hodges
915 Easy St.
Brookings, Or. 97415

Teri Gores
70424 Shady Nelms Drive
Dublin, OH. 43017-3030

We hope this information will help with the process.

Sincerely,



Donald L. Hodges

CITY OF BROOKINGS

898 Elk Drive
Brookings, Oregon 97415
Phone (541) 469-2163
Fax (541) 469-3650

The Home of Winter Flowers



PUBLIC NOTICE NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing will be held before the Brookings Planning Commission on Tuesday, March 4, 1997, at 7:00 p.m. in the Council Chambers of Brookings City Hall, 898 Elk Drive, Brookings.

The purpose of the public hearing is to consider the following:

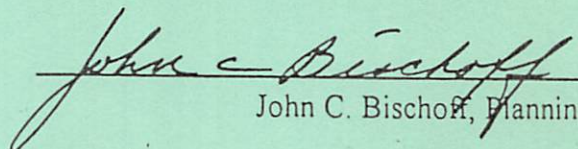
1. An application for a minor partition to divide a 5.93 acre parcel of land located on the south side of Hampton Road, approximately 125 feet east of Parkview Dr. to create two lots of 3.47 acres and 2.46 acres; Assessor's Map 40-13-31C Tax Lot 600; R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) Zone. Don and Becky Hodges, applicant; Stuntzner Engineering, representative. File No. M3-3-97. Criteria used to decide this case can be found in Section 176 of the Land Development Code.
2. An application for a conditional use permit to allow construction of a power substation on a 3.47 acre parcel of land located on the south side of Hampton Road, approximately 125 feet east of Parkview Dr., Assessor's Map 40-13-31C Tax Lot 600; R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) Zone. Coos-Curry Electric, Inc. applicant; Jim Arntz, representative. File No. CUP-1-97. Criteria used to decide this case can be found in Section 14 of the Land Development Code.

**This item only
cancelled until further notice.**

The public is invited to attend and participate in this public hearing. All persons wishing to address this matter will have an opportunity to do so in person at the hearing or can submit written evidence to the Brookings City Planning Director at the address above. Should you need additional information on this matter, a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff report prepared for this case will be available for inspection, at no cost, and provided at reasonable cost, seven days prior to the hearing. All documents may be viewed or obtained at the Planning Department at Brookings City Hall or call John Bischoff at 469-2163.

Any applicant or any other person may, within 15 days after any decision of the Planning Commission, appeal the decision of the Planning Commission to the City Council.

If special accommodations are needed for the physically challenged, contact Linda Barker at 469-2163 or TDD 469-3118.


John C. Bischoff, Planning Director

CITY OF BROOKINGS

898 Elk Drive
Brookings, Oregon 97415
Phone (541) 469-2163
Fax (541) 469-3650

The Home of Winter Flowers



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The purpose of the public hearing is to consider the following:

1. An application for a minor partition to divide a 5.93 acre parcel of land located on the south side of Hampton Road, approximately 125 feet east of Parkview Dr. to create two lots of 3.47 acres and 2.46 acres; Assessor's Map 40-13-31C Tax Lot 600; R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) Zone. Don and Becky Hodges, applicant; Stuntzner Engineering, representative. File No. M3-3-97. Criteria used to decide this case can be found in Section 176 of the Land Development Code.
2. An application for a conditional use permit to allow construction of a power substation on a 3.47 acre parcel of land located on the south side of Hampton Road approximately 125 feet east of Parkview Dr.; Assessor's Map 40-13-31C Tax Lot 600; R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) Zone. Coos-Curry Electric, Inc. applicant; Jim Arntz, representative. File No. CUP-3-97. Criteria used to decide this case can be found in Section 140 of the Land Development Code.

The public is invited to attend and participate in this public hearing. All persons wishing to address this matter will have an opportunity to do so in person at the hearing or can submit written evidence to the Brookings City Planning Director at the address above. Should you need additional information on this matter, a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff report prepared for this case will be available for inspection, at no cost, and provided at reasonable cost, seven days prior to the hearing. All documents may be viewed or obtained at the Planning Department at Brookings City Hall or call John Bischoff at 469-2163.

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John C. Bischoff, Planning Director

BRUCE H. ANDERSON
JAMES K. COONS
JOHN G. COX
DOUGLAS M. DUPRIEST
STEPHEN A. HUTCHINSON
D. MICHAEL WELLS
INGE D. WELLS

HUTCHINSON, ANDERSON, COX & COONS, P.C.
ATTORNEYS AND COUNSELORS AT LAW
200 FORUM BUILDING
777 HIGH STREET
EUGENE, OREGON 97401-2782
(541) 686-9160
FAX (541) 343-8693

Kim JESTER

OF COUNSEL
ALAN G. SELIGSON

Received as evidence
at hearing 3-4-97
203

ALL OR ANY THAT PERTAIN * Special Note of
August 6, 1996 Bargain & Sale Deed, LAST
2 pages.

Brookings Planning Commission
c/o John Bischoff, Planning Director
City of Brookings
898 Elk Drive
Brookings, OR 97415

Re: Hodges Partition Request For An Electric Substation
M3-8-96
Our Clients: Merle W. Vance and Velma J. Vance
Our File No.: 7897

Dear Members of the Brookings Planning Commission:

This office represents Merle W. Vance and Velma J. Vance of 2320 Bridle Path Lane, Sacramento, California 95864. The Vances own a vacant residential lot on Parkview Drive. The Vance property is Tax Lot 500 in Government Lot 4, Section 31, Township 40 South, Range 13 West, and is labeled "Vance" on Exhibit No. 1 attached to the Staff Report.

The Vance property is immediately west of, adjacent to, and is within sight and sound of, the Hodges property. The Vances purchased the property knowing that it and the surrounding properties, including the Hodges property, were zoned for residential use. They bought the property intending to build on it and live in it. It represents a significant investment of their life savings and embodies their dreams of retirement in the peaceful and beautiful setting that Brookings' land use regulations have helped to secure and protect for the city and its residents.

The Vances are concerned about the erosion of residential zoning in the area, about increased noise, about the effects of an electric substation, and about the inevitable depreciation in property values, including theirs, that flows from such impacts.

The Proposed Use Would Significantly Change the Character of this Low Density Single Family Residential Area

The Hodges property is zoned R-1 Single Family Residential. The properties east of Highway 101 are also zoned, and many are being used for, single family residential use. Some of the properties are vacant and/or capable of re-division and more houses will likely be built in the immediate vicinity.

On the same planning commission agenda is a request from the Church of the Nazarene requesting a conditional use permit for a church. Brookings Application No. CUP 2-96. The church is proposed to have 16,465 square feet of floor area, seating for 527 persons, and 116 parking spaces. This would be a large facility. The location of the church would also adversely affect the residential character of the area. The church proposed would cause unacceptable noise, traffic and related impacts on nearby residences and residential lots.

If both of these requests are granted, there would be a dramatic change in the character of this neighborhood in a remarkably short period of time. The neighborhood would change from a few houses on large lots, with a suburban/rural feeling, to a large church and a large electric substation being the most dominant uses in this small neighborhood. Electric substations are much better suited to industrial areas than residential areas.

Approval of the Partition Should Be Conditioned On The Applicants Obtaining A Conditional Use Permit

Staff has proposed that approval of the partition be conditioned on approval of a conditional use permit. The Vances strongly support this condition. The property would not be divided in this fashion if residential use were proposed. The partition should lapse if the conditional use permit is not obtained. This will likely not be a problem for either the applicant or the electric utility, since likely the utility would not purchase the lot unless it has all the necessary approvals.

The Application is Not Complete And the Application Cannot Be Approved When Significant Information Is Missing

The application is missing significant information required by the Brookings Development Code (especially Sections 176.050(A) and 176.060(B)).

The application is not accompanied by a proposed minor partition map complying with Section 176.050(A).

The application is signed by only one owner, and the diagram does not reveal the names, addresses and phone numbers of the property owners, the preparer of the map, the surveyor or the date of the survey.

The map does not show existing easements. This is an especially significant oversight, since staff proposes to rely on an existing easement for access.

The map does not show all existing and proposed utilities. The map should at least show the location of power poles and the proposed substation.

The map does not show natural features, such as creeks, streams and wooded areas. There is a creek and associated wetlands along the west edge of the property that should be shown.

The map fails to show slopes as required by the code.

There is no signature guaranteeing the truth and accuracy of the information on the proposed plat map as required by Section 176.050(A)(16).

The proposed plat does not show how the large remaining lot could be re-divided as required by Section 176.050(A)(18). This is important here since there are significant constraints on where lots and dwellings could be located due to the power lines and due to the creek and slopes.

The Partition Would Create A Landlocked Lot In Violation Of Brookings Code Section 132.060

The lot proposed to be created would not abut a public road. The lot proposed to be created would not abut a private road. Brookings Code Section 132.060 states:

"On all lots created after the date of this amendment, access to the lot must be from the frontage street and must be addressed to that street."

(Emphasis added.)

This provision does not pertain just to lots created for residences, but for all lots in residential areas, such as this one.

Staff suggests that relying on an old utility easement in favor of the electric utility would suffice. It does not. The easement was created to allow access to the power line, not an electric substation. It was never intended to serve as a road easement to service a substation that had not been located. That easement benefits the electric utility, which is not the owner of the lot to be created.

There is a practical problem as well as a legal problem, because the utility line easement covers the location of the utility lines and crosses the property at a severe angle.

Also, the existing utility line easement appears to cross Ransom Creek. While this might not be a problem for a power line, it could definitely be a problem if that same corridor is intended to be used as a road to access the proposed substation.

The applicant should be required to provide road access for the proposed lots, the same as other lots. Were both the partition and CUP to be granted, the CUP could lapse after one year if it was not implemented. Yet, presumably by then, the partition plat would already have been recorded and final and the lot would continue in existence indefinitely, even though it would not have access to a public road and would be landlocked. Standard road access must be established.

Proper Public Notice Was Not Given To All Those Entitled To Such Notice

For reasons unknown to us, the city used the Vances' correct address when sending notices on the church conditional use permit application, but sent the notice to an address that was not the Vances' address for the partition application.

Staff says that when they checked with the Assessor after receiving the envelope back, the Assessor provided a different name and address for the Vances' lot, and staff re-mailed to that address.

Thus the notice was mailed to wrong addresses twice and the Vances have never received the written notice and received actual notice shorter than is prescribed by the code. This has seriously hampered their ability to review and respond to this application.

The Approval Standards Have Not Been Met

The Vances do not believe that the proposal, in its current form, provides enough information to allow the Commission to determine that the city's approval standards have been satisfied.

Specifically:

The applicant has the burden of proving each essential evidentiary fact by a preponderance of the evidence. These standards must be supported by adequate findings, as well as facts in the record.

Section 176.050(B)(1) requires proof of compliance with the Brookings Comprehensive Plan. At present, however, the application does not address the plan.

Section 176.050(B)(2) requires proof that the development of the remainder of the property under the same ownership can be accomplished in accordance with the code. There is no plan for such division and given the site constraints, including the utility line and easement, steep slopes, a creek, wetlands and the unusual shape of the remaining portion of the parcel, it is not at all clear how the remainder of the property could be divided in conformance with the code.

Section 176.050(B)(4) requires proof that there is an ability to take access off the frontage road. As explained above, the parcel being created would have frontage on no road whatsoever.

The Vances Have Other Concerns About The Impacts Of An Electric Substation

An electric substation is a use much more suited to an industrial area or a commercial area, than to a residential area. The Vances have various other concerns about the impacts that the location and operation of an electric substation would have on their property and the neighborhood, including, but not limited to, safety, the character of the neighborhood, property values, etc. Since these concerns relate more directly to the conditional use permit criteria, we will not elaborate on those matters here.

Conclusion

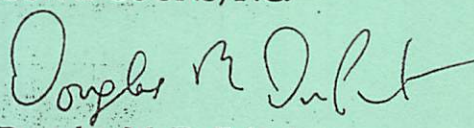
For the foregoing reasons, the partition request should be denied. Please include this letter in the record of the Planning Commission proceeding. Please notify of any further hearings or meetings on this matter, and we also request that you be provided with a notice of any decision made on this matter.

Brookings Planning Commission (re Hodges Partition)
c/o John Bischoff, Planning Director
August 6, 1996
Page 6

Thank you for your time and attention to these concerns.

Very truly yours,

HUTCHINSON, ANDERSON,
COX & COONS, P.C.



Douglas M. DuPriest

DMD:sk
Enclosures
cc: Clients

HWY.

LOT 5 33.00

Hodges

Vance

LOT 4 40.07

801

702

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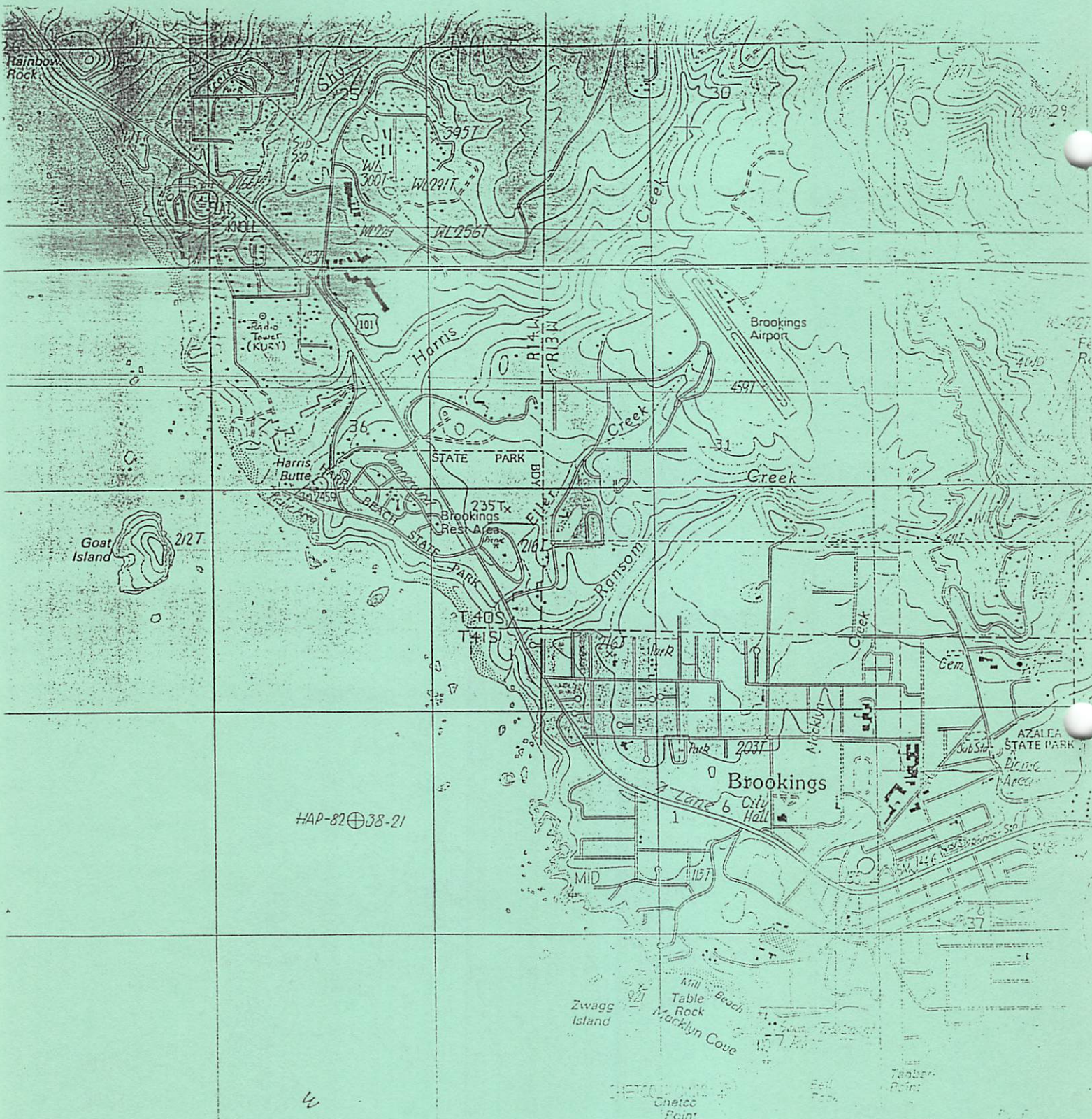
Church Property

MC

31

801
0.31 AC.

NEW CT.
NEW COURT



RIGHT-OF-WAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, for a good and valuable consideration, the receipt thereof acknowledged, do hereby grant unto Coos-Curry Electric Cooperative, Inc., a cooperative corporation, whose postoffice address is Coquille, Oregon, and to its successors or assigns, the right to enter upon the lands of the

undersigned, situated in the County of Curry, State of Oregon, and more particularly described as follows:

A transmission line as now started crossing the Southwest corner of a tract of land containing 8.97 acres more or less and lying in the NW 1/4 of the SW 1/4 of section 21 township 40 South, range 12 East T. 40 S. R. 12 E.

and to construct, operate and maintain on the above described lands and/or upon all streets, roads or highways abutting said lands, an electric transmission or distribution line or system, and to cut and trim trees and shrubbery to the extent necessary to keep them clear of said electric line or system and to cut down from time to time all dead, weak, leaning or dangerous trees that are tall enough to strike the wire in falling.

The undersigned covenant that they owners of the above described lands and that the said lands are free and clear of encumbrances and liens whatsoever character except those held by the following persons:

IN WITNESS THEREOF, the undersigned have set their hands and seals this 10th day of May, 1942.

Signed, sealed and delivered in the presence of:

J. D. Murray (L. S.)
Joseph F. Snyder (L. S.)
Ann Snyder (L. S.)

STATE OF OREGON

ss.

County of KLAMATH

BE IT REMEMBERED, that on this 10th day of May, 1942, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Joseph F. Snyder and Ann Snyder, husband and wife

who are known to me to be the identical persons described in and who executed the within instrument, and acknowledged to me that he executed the same freely and voluntarily.

IN TESTIMONY WHEREOF I have hereunto set my hand and Notarial Seal the day and date first above written.

My Commission Expires January 23, 1950

Index in Deeds

State of Oregon } ss.
County of Curry

I hereby certify that the within instrument was filed for record JAN. 22, 1942 at 10:15 o'clock P. M. and recorded in Book of Records Vol. 57 Page 1553

Edwin

INDEX



BR

37

PAGE

818

1554

RIGHT-OF-WAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, for a good and valuable consideration, the receipt thereof acknowledged, do hereby grant unto Coos-Curry Electric Cooperative, Inc., a cooperative corporation, whose postoffice address is Coquille, Oregon, and to its successors or assigns, the right to enter upon the lands of the undersigned, situated in the County of Curry, State of Oregon, and more particularly described as follows:

1 Strip of Land for the location construction installation maintenance
of an electric power transmission line running across the
SW 1/4 of the NW 1/4 of Section 31 Township 12 South Range 13 West N.E. 1/4
of Curry Co. Oregon August 1948

and to construct, operate and maintain on the above described lands and/or upon all streets, roads or highways abutting said lands, an electric transmission or distribution line or system, and to cut and trim trees and shrubbery to the extent necessary to keep them clear of said electric line or system and to cut down from time to time all dead, weak, leaning or dangerous trees that are tall enough to strike the wire in falling.

The undersigned covenant that they owners of the above described lands and that the said lands are free and clear of encumbrances and liens whatsoever character except those held by the following persons: None

IN WITNESS THEREOF, the undersigned have set their hands and seals this 12th day of August 1948.

Signed, sealed and delivered in the presence of:

Edwin Ranson (L. S.)
Frieda Ranson (L. S.)

STATE OF OREGON }
County of Curry }

BE IT REMEMBERED, that on this 12th day of August 1948, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Edwin Ranson and Frieda Ranson - husband and wife who are known to me to be the identical persons described in and who executed the within instrument, and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and Notarial Seal, the day and year last above written.

Notary Public in and for the State of Oregon
I hereby certify that the within instrument was
filed for record in the County of Curry
at 10:15 o'clock P.M. on the 12th day of August
in Book of Records Vol. 37 Page 1554
BERNARD L. MATHER, County Clerk
Ernest K. Mather
Notary Public

BOOK OF RECORDS

Handwritten

INDEX

BR 37

PAGE 836

1570

RIGHT-OF-WAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, for a good and valuable consideration, the receipt thereof acknowledged, do hereby grant unto Coos-Curry Electric Cooperative, Inc., a cooperative corporation, whose postoffice address is Coquille, Oregon, and to its successors or assigns, the right to enter upon the lands of the

Lynn O. Hampton & Doris K. Hampton - husband & wife
undersigned, situated in the County of *Curry*, State of Oregon, and more particularly described as follows:

A tract of land lying in the S 1/4 of the S 10 1/4 of Section 31 Township 40 South Range 13 West N. M.

and to construct, operate and maintain on the above described lands and/or upon all streets, roads or highways abutting said lands, an electric transmission or distribution line or system, and to cut and trim trees and shrubbery to the extent necessary to keep them clear of said electric line or system and to cut down from time to time all dead, weak, leaning or dangerous trees that are tall enough to strike the wire in falling.

The undersigned covenant that they owners of the above described lands and that the said lands are free and clear of encumbrances and liens whatsoever character except those held by the following persons:

Coffman - Curry City Bank

IN WITNESS THEREOF, the undersigned have set their hands and seals this *15* day of *September*, 19*48*

Signed, sealed and delivered in the presence of:

Lynn O. Hampton (L. S.)
Doris K. Hampton (L. S.)

STATE OF OREGON }
County of *Curry* }

BE IT REMEMBERED, that on this *15* day of *September*, 19*48*, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named *Lynn O. Hampton & Doris K. Hampton - husband & wife* who *are* known to me to be the identical persons described in and who executed the within instrument, and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and Notarial Seal, the day and year last above written.

W. H. Heston
Notary Public for Oregon

My Commission Expires *Dec 1 1950*

State of Oregon
County of *Curry*

I hereby certify that the within instrument was filed for record *JAN 28 1949* at *10:15* o'clock *A* M. and recorded in Book of Records Vol. *37* Page *836*
BERNARD MATHER, County Clerk
James K. Mather Deputy
Fee Rec'd. *2.00*

INDEX

RIGHT-OF-WAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, for a good and valuable consideration, the receipt thereof acknowledged, do hereby grant unto Coes-Curry Electric Cooperative, Inc., a cooperative corporation, whose postoffice address is Coquille, Oregon, and to its successors or assigns, the right to enter upon the lands of the undersigned, situated in the County of Curry, State of Oregon, and more particularly described as follows: A tract of land lying in the NW 1/4 of the S10 1/2 of Section 31 Township 40 South Range 13 West N. M.

and to construct, operate and maintain on the above described lands and/or upon all streets, roads or highways abutting said lands, an electric transmission or distribution line or system, and to cut and trim trees and shrubbery to the extent necessary to keep them clear of said electric line or system and to cut down from time to time all dead, weak, leaning or dangerous trees that are tall enough to strike the wire in falling.

The undersigned covenant that they owners of the above described lands and that the said lands are free and clear of encumbrances and liens whatsoever character except those held by the following persons:

Coffman - Curry City Bank.

IN WITNESS THEREOF, the undersigned have set their hands and seals this 15 day of September, 1948.

Signed, sealed and delivered in the presence of:

Gym O. Hampton (L. S.)
Doris K. Hampton (L. S.)

STATE OF OREGON }
County of Curry } ss.

BE IT REMEMBERED, that on this 15 day of September, 1948, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Gym O. Hampton & Doris K. Hampton - husband & wife who are known to me to be the identical persons described in and who executed the within instrument, and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and Notarial Seal, the day and year last above written.

Notary Public for Oregon
My Commission Expires August 10, 1951
INDEXED IN DEEDS
State of Oregon
County of Curry } ss.
I hereby certify that the within instrument was filed for record JAN. 25, 1975 at 10:15 o'clock A.M. and recorded in Book of Records, Vol. 2, Page 75
BERNARD J. [Signature]

555

*
BARGAIN AND SALE DEED

KNOW ALL MEN BY THESE PRESENTS, that DONALD M. HODGES and BECKY G. HODGES, husband and wife, hereinafter called "GRANTOR", conveys to DAVID L. HODGES and TERRE J. HODGES, as Tenants by the Entirety, hereinafter called "GRANTEE", an undivided one half interest in and to the real property situated in the County of Curry, State of Oregon and more particularly described as follows:

That certain tract of land lying in the Southwest Quarter (SW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section Thirty-one (31), Township Forty (40) South, Range Thirteen (13) West, Willamette Meridian in Curry County, Oregon, described as follows:

Beginning at an iron pipe driven at a point 623.5 feet North and 224.8 feet East of the Southwest corner of said Section 31; thence following the East boundary of the county road, North 03° 36' West 661.2 feet to an iron pipe; thence North 89° 53' East 675.2 feet to an iron pipe; thence South 0° 58' East 660.1 feet to an iron pipe; thence South 89° 53' West 644.9 feet to the place of beginning;

EXCEPTING a tract of land beginning at a point which is 623.5 feet North and 224.8 feet East of the Southwest corner of Section 31; thence following the East boundary of the county road, North 3° 36' West 661.2 feet; thence North 89° 53' East 125.0 feet; thence South 12° 47' East 676.9 feet; thence South 89° 53' West 275.0 feet to the point of beginning.

Grantor hereby covenants that the above premises are free of all encumbrances, except as follows:

1. The rights of the public in and to that portion of the herein described property lying within the limits of public roads or highways; and
2. An easement created by instrument, including the terms and provisions thereof, dated September 15, 1948; Recorded January 28, 1975 in Book of Records No. 37, Page 836; in favor of Coos-Curry Electric Cooperative, Inc. for constructing, operating and maintaining electrical transmission lines; and
3. A Trust Deed, including the terms

and provisions thereof, with interest thereon and such future advances as may be provided therein, given to secure the payment of \$46,000.00, dated December 12, 1977, recorded on December 12, 1977 in BR. Volume No. 56, Page 396; Trustor being Donald L. Hodges and Becky G. Hodges, husband and wife; Trustee being Transamerica Title Insurance Company; Beneficiary being W.L. Edwards and Norma C. Edwards, husband and wife; and

4. Insofar as the one half interest retained by Grantors and the one half interest conveyed to Grantees is concerned, those one half interests shall be as Tenants in Common, but within the one half interest they ^{are} held as Tenants by the Entirety for the respective couples. That Grantees, by accepting this conveyance agree and are fully bound to pay one half of all of the obligations referred to in the Trust Deed described herein.

The true and actual consideration for this transfer is none.

Dated this 21 day of October, 1978.

Donald L. Hodges

Becky G. Hodges

Mail tax statements to:

Mr. & Mrs. Donald L. Hodges
Rt. 3 Box 109
Brookings, Oregon 97415

STATE OF OREGON)
) ss.
COUNTY OF CURRY)

Personally appeared the above-named DONALD L.

HODGES and BECKY G. HODGES and acknowledged the foregoing instrument to be their voluntary act and deed. Before me this 21 day of October, 1978.

Notary Public for Oregon
My Commission Expires: 08-12-80

(SEAL)

Indexed in Deeds
State of Oregon } ss.
County of Curry }

I hereby certify that the within instrument was
filed for record JAN 5 1979

at 8:50 o'clock A. M. and recorded

in Book of Records Vol. 66 Page 74-25
BERNARD J. MATTHEW County Clerk

James H. Frey. Deputy
Fee Rec'd

DEED -2



Land-Use Application City of Brookings

899 Elk Drive Brookings OR 97415
(541) 469-2189 Ext. 237 Fax (541) 469-3650

Applicants must complete the following form to the best of their knowledge. Incomplete information may cause a delay in the review and the final decision on your request. If requested information is not known to the applicant, city staff will provide such information where appropriate.

APPLICATION FOR:

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Minor Partition | <input type="checkbox"/> Planned Unit Development | <input type="checkbox"/> Lot Line Adjustment |
| <input type="checkbox"/> Major Partition | <input type="checkbox"/> Subdivision | <input type="checkbox"/> Annexation |
| <input type="checkbox"/> Plan Amendment | <input type="checkbox"/> Variance | <input type="checkbox"/> Minor Change |
| <input type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Vacation | <input type="checkbox"/> Sign Permit |
| <input type="checkbox"/> Appeal: Planning Com. | <input type="checkbox"/> Appeal: City Council | |

*Received as evidence
at hearing 3-4-97*

APPLICANT/OWNER INFORMATION:

Applicant Don & Becky Hodges
Mailing Address 96978 Park Ln
City Brookings, State OR Zip 97415
Telephone No. (541) 469-4527 Fax No.
Representative Stuntzner Engineering and Forestry
Mailing Address Box 2748
City Harbor, State OR Zip 97415
Telephone No. (541) 469-5329 Fax No.
Owner (If not applicant) N/A
Mailing Address
City State Zip
Telephone No. Fax No.

PROPERTY INFORMATION:

Location Off Hampton Rd under Coos-Curry Elec. Co-op, Inc. Power Trans. R/W - S end of TL 600
Assessor's Map No. 40-13-31C Tax Lot No. Part of 600
Parcel Size 3.47 acres Existing Zoning R-1-6
Comprehensive Plan Designation Residential
Existing Use Open area not in use
Proposed Use Power Substation Site
Is water service available to the site? NO
If no, how far to nearest city water line? 1/4 mile
Is sewer service available to the site? NO
If no, how far to nearest city line? N/A

REQUEST:

This is a request for a conditional use permit to construct a Power Substation. This site is in a secluded area under Coos-Curry Electric Cooperative, Inc. Transmission Right-of-Way.

I hereby certify that the information provided on this application is correct to the best of my knowledge and understand that any false information may result in the rejection of the application and forfeiture of all fees submitted.

Don Hodges Becky Hodges
Applicant's Signature

Date 1-31-97

If applicant is not the owner of the property subject to this request please have the owner sign below or attach a letter signed by the owner authorizing to act on his/her behalf.

Don Hodges Becky Hodges
Property Owner's Signature

Date 1-31-97

File No 113-3-97 Date Received Receipt No. Received by

also see

cur-3-97

FORMS/LINDA W/PLAND USE

INSTRUMENT NO. _____
HODGES PARTITION
of portions of
SW 1/4 Sec. 31, Twp. 40 S, Rge. 13 W; W.M.
MAP 40-13-31C, T/L 600

NARRATIVE

THE PURPOSE OF THIS SURVEY WAS TO CREATE A PARCEL FOR COOS-CURRY ELECTRIC INC. FOR A SUB STATION. THE ACCESS TO THIS PARCEL ALREADY EXISTS THROUGH AN EASEMENT FOR THE EXISTING POWER LINES. THE BASIS OF BEARING WAS TAKEN FROM FIELD TIES OF MONUMENTS FOUND AS SHOWN. ALL MONUMENTS FOUND WERE HELD AS RECORD PER C.S. 40-11 AND C.S. 40-177 AND C.S. 40-666 AND AN UNRECORDED SURVEY BY JOHN THORP JANUARY 1979.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JANUARY 18, 1994
DENNIS A. CROWE
845
EXPIRES 12/31/97

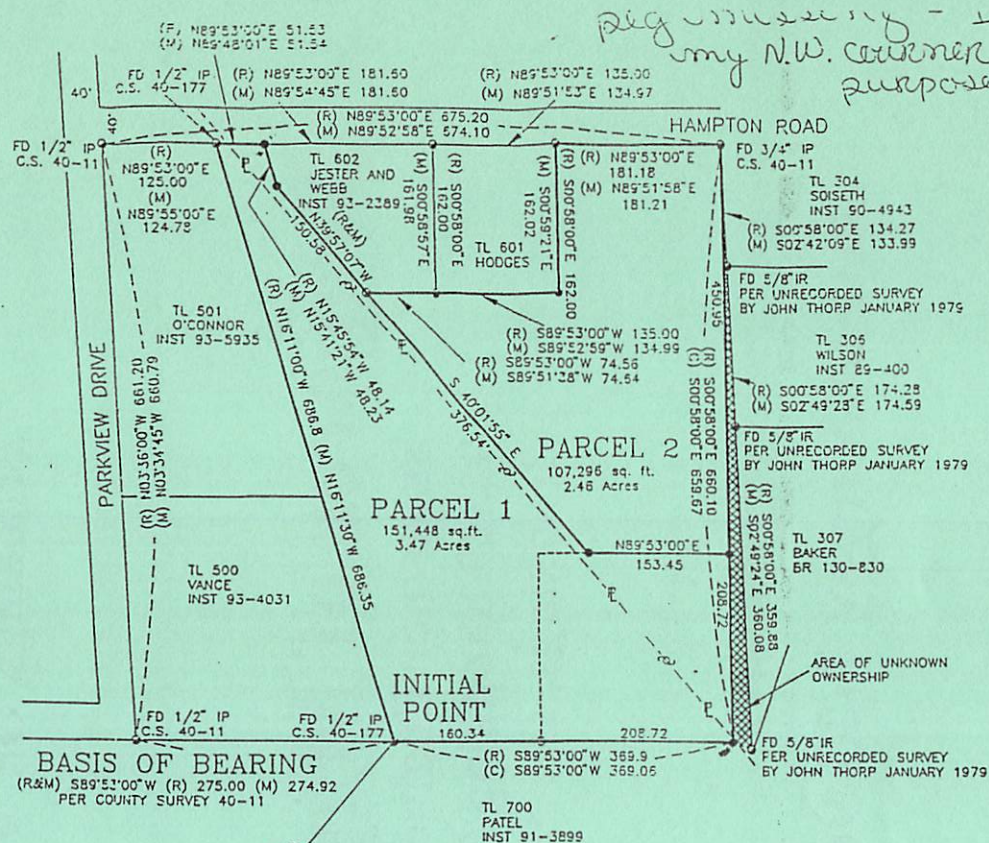
I HEREBY CERTIFY THAT THIS IS A TRUE
AND EXACT COPY OF THE ORIGINAL

SCALE 1"=100'

JULY 1996

OWNER

DONALD LAND BECKY G. HODGES
96978 PARK LANE
BROOKINGS, OREGON 97415



EASEMENT NOTES:

THE FOLLOWING EASEMENTS RELATIVE TO THE RIGHTS OF COOS-CURRY ELECTRIC COOPERATIVE, INC. TO ENTER UPON THE SUBJECT PROPERTY ARE AS FOLLOWS:

BR 37-817 GRANTS THE CO-OP THE RIGHT TO CONSTRUCT A TRANSMISSION LINE CROSSING PORTIONS OF THE SW 1/4 OF S31, T40S, R13W; W.M. AS IT WAS STAKED PER MAY 10, 1949. THE EASEMENT CARRIES NO SPECIFIC DESCRIPTION AND THEREFORE MUST BE ASSUMED TO FOLLOW WHERE THE LINE CURRENTLY EXISTS. NO SPECIFIC WIDTH WAS GRANTED.

BR 37-818 AUTHORIZES THE CO-OP TO ENTER UPON A "STRIP OF LAND", AGAIN UNDEFINED BY DESCRIPTION, FOR PURPOSES OF MAINTAINING AND CONSTRUCTING A POWER TRANSMISSION LINE.

BR 37-836 GRANTS THE CO-OP THE RIGHT TO ENTER UPON THE ENTIRE TRACT, WITH NO SPECIFIC PURPOSE NOTED.

IT SHOULD ALSO BE NOTED THAT THESE EASEMENTS WERE EXECUTED IN 1948 AND 1949, BY SEPARATE LANDOWNERS, SO IT IS UNCLEAR JUST WHICH APPLY TO THE SUBJECT PROPERTY, HOWEVER BR 66-74 EXECUTED IN 1978 REFERS TO BR 37-836 AS THE DOCUMENT SPECIFICALLY PERTAINING TO THE TRACT. THUS IT WOULD APPEAR THAT THE CO-OP HOLDS A "BLANKET" EASEMENT ON THE ENTIRE SUBJECT PROPERTY AS WELL AS TAX LOTS 601 AND 602.

Stuntzner Engineering
& Forestry, LLC

ENGINEERING • LAND SURVEYING • FORESTRY
PLANNING • WATER RIGHTS

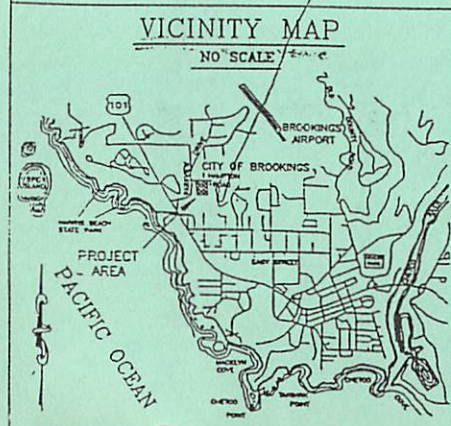
97829 Shopping Center Ave. Phone: (541) 469-5332
P.O. Box 2745 Harbor, Oregon 97415 Fax: (541) 469-0781

Drawn By: LLOYD MAILLOCK Date: 7-23-96

Checked By: DENNIS CROWE Drawing No. 296-3-27

Designed By: Revised By:

Job Name: S Sheet 2 of 2



LEGEND

- SET 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED STUNTZNER ENG.
- MONUMENT FOUND 5/8" IRON ROD PLS 1868 C.S. 40-666 (OR AS NOTED)
- RECORD POSITION ONLY
- (R) RECORD
- (M) MEASURED
- (C) CALCULATED
- P POWER LINE
- W POWER POLE

My LOSTOR... COMES CONTINUED.
Submit M3-3-97
Kim Tester

Minor Partition Applicant

Property Owner
Don & Becky Hodges
96978 Park Lane
Brookings, Or. 97415

*Received as
evidence at
hearing 3-4-97
JPS*

Conditional Use Applicant

Coos-Curry Electric Cooperative, Inc.
815 Railroad St. (Box 819)
Brookings, Or. 97415

Preparer of Map

Stuntzner Engineering and Forestry
97829 Shopping Center Av (Box 2748)
Brookings, Or. 97415

Date of Survey 7-23-96

KIM JESTER

Kim Jester
1300 Hampton Road
Brookings, Oregon 97415
(541) 469-9156

*received as
evidence at hearing
3-4-97 JDS*

Board of Directors
Coos-Curry Electric Cooperation, Inc.
P.O. Box 1268
Port Orford, Oregon 97465

February 20th, 1997

ATTENTION: Barbara Forest

RE: Board of Directors Meeting, February 25th, 1997 at 10:00 a.m. - Hampton Road Substation

We would like to bring the matter of a secluded location and public relations up. Coos-Curry Co-Op - of the people by the people, for the people? This I question when 22 families must be notified, excluding the Hodges. This site is not secluded. Most residences and lots look down on this, including all of Phase II of Clarion Glen, east of site, 2 story homes on the end of Paradise Lane, Julie Dr., homes and lots on Homestead Road. Although they are on the other side of Ranson Creek they will all look down on this.

I will personally be happy to show any member of the board any time I'm available, when they are in Brookings the homes involved.

Lauren Porsch and Ed Schlender made one attempt to explain the substation layout and listen to our concerns, and before they bothered to do this a planning commission member had to tell Lauren, Coos-Curry Co-Op was putting the cart before the horse.

I was never even notified about the substation until a gentleman who was interested in my property made inquires about Coos-Curry lines, and was showed a drawing of my property with a substation behind it! I was very upset as I had no knowledge of this and lost the sale.

Kim Jester

Kim Jester

cc: City of Brookings
County Commissioners

POINT IS I don't feel these people
CAN BE TRUSTED!

Submitted By KIM TESTER
DAN WEBB

Whithous Beach road paved, 0th ann improvements made, 5A

Received as irredent
at hearing 3-4-97 LEX



CURRY
COASTAL

PT

gon • 3 Sections,

Saturday, June 15, 1996, Brookings

Coos-Curry plans system expansion

By STEPHEN HERMANN
Pilot Staff Writer

Plans are on the drawing board for another electrical substation in Brookings.

The current electrical load requirements in Brookings and Harbor are running Coos-Curry Electric Cooperative substations close to capacity. There are currently three substations in the area.

"Brookings isn't close to anything drastic yet," said Ed Schlender, general manager of Coos-Curry Electric. "But we have had the plans to build substations as the load requirements demanded them. And it appears we are moving toward that time."

Engineers have looked at the saturation of the area from Whaleshead to the California border and plan according to their projections. Changes in zoning can change load requirements. The new Fred Meyer store was an example of a change in load

requirements.

Finding a place to put the station may present a different problem. In 1994, Coos-Curry attempted to place a substation on land it owns near Bud Cross Park and ran into considerable resistance from homeowners that would have been neighbors of the electrical substation.

Schlender said, "The substation was not put in at that time because people didn't think it would mesh well with the neighborhood."

"At this time we are looking at land more suited for this type of thing," he said. "We are working around several constraints: on one hand we don't want to be too far from the customers or we defeat the reason for having it in the first place, but we do want to stay out of residential neighborhoods."

Schlender explained that a substation costs about \$1 million to install, but if it is a distance from its load then extra expenses

are incurred because of line installation.

Schlender said he was not ready to commit on the location of the next station but said there were several alternatives in and around Brookings and Harbor that Coos-Curry owns.

"We have to look at potential growth when trying to plan for the future," Schlender said. "Examples of this would be the Upper Chetco; we know this area will grow."

Schlender said there were three reasons to increase the number of substations. An increase in load, to have spare capacity and to break an area into smaller parts.

Spare capacity is used in case of a power failure in one or more substations. Breaking an area into smaller parts helps isolate areas so that in the event of a failure a small area is affected.

Schlender said that the location could be finalized by the end of next month.

Coos-Curry to build fourth Brookings substation

By STEPHEN HERMANN
Pilot Staff Writer

Brookings' fourth electrical substation appears imminent. Ed Schlender, general manager of Coos-Curry Electric Cooperative, confirmed Tuesday that the cooperative is in negotiations with the owners of property on Hampton Road, although he couldn't say when the substation would be built or go into operation.

"That property is in an area that isn't very populated," Schlender said. "And we are going to go about this very methodically; it does not need to be done this year."

According to Schlender, the property is what the cooperative needs for continued service to

the Brookings-Harbor area.

"We're looking at low-profile land to put the substation on," he said. "That area is low-lying land, the kind we want to fit into. We can keep the height down for the surrounding neighbors."

"What we have in mind is a low building surrounded by walls and the area around it landscaped."

The cooperative has nothing suitable if the property on Hampton Road is not approved by the Brookings Planning Commission, Schlender said.

"We will have to regroup if approval is not made," he said. "The question is, Can we supply Brookings if we can't put up a substation there?"

"We will do whatever the town

wants us to do, but it may not be what we feel is the right system for adequate service."

Schlender explained that the cooperative has engineering standards it must meet.

"No one wants a second-class system," Schlender said. "We can't get as far away from the load center as people want. It all comes down to cost. The farther away from the load center we are, the more expensive the rates will be, and the less reliable the power will be."

Schlender said that an artist's rendition exists that is representative of what the next and subsequent substations will look like. It can be seen at the Coos-Curry office.

"They will have to fit into the community," he explained. "And

in this case we are trying to alleviate people's concerns about a new substation. We are having terms for beautification, walls and other construction dictated to us by the present owners. We think this will fit into the neighborhood."

The lot on Hampton Road is zoned R-1-6, allowing single-family homes with a minimum 6,000 square foot lot size.

Brookings Planning Director John Bischoff also confirmed that the plans for the property on Hampton Road were for a possible sale to Coos-Curry.

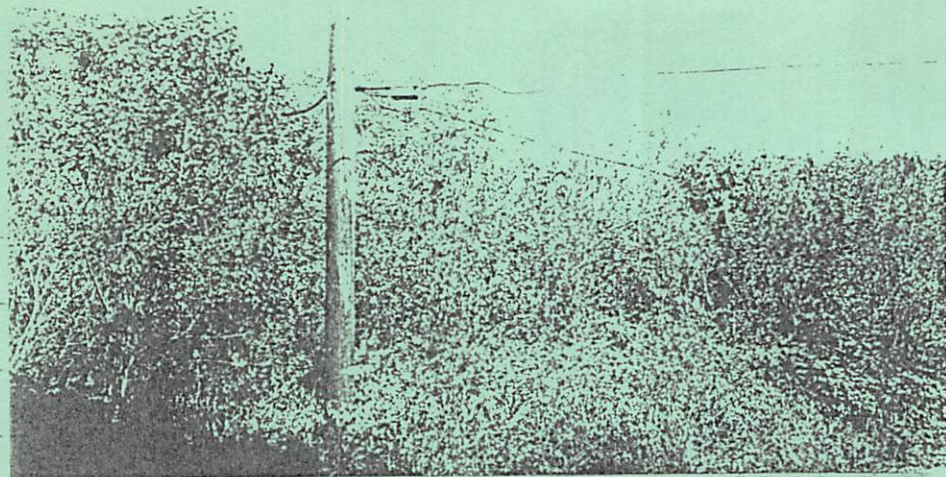
"The owners of the property have applied for a minor partition to section off a one-acre parcel they plan to sell to Coos-Curry," Bischoff said. "The cooperative will have to get a condi-

tional-use permit if they want to build a substation there."

Bischoff explained that a lot cannot be sold if it does not have frontage on a public street, hence the need for a conditional-use permit.

"This property doesn't have street frontage, so in order for it to be sold, it will have to have a conditional-use permit approved or there will be no sale," he said.

"The parcel that is waiting for minor partition approval has an easement access for Coos-Curry under its power lines, but if the conditional-use permit for the substation isn't approved, there won't be a sale," he explained. Brookings Land Development Code does not allow property without access to public streets.



submitted by KIM JESTER
DAN WEBER

FILE NO # M3-3-97

* SPRAYED BY CHRIS MILLER
COOS-CURRY CO-OP

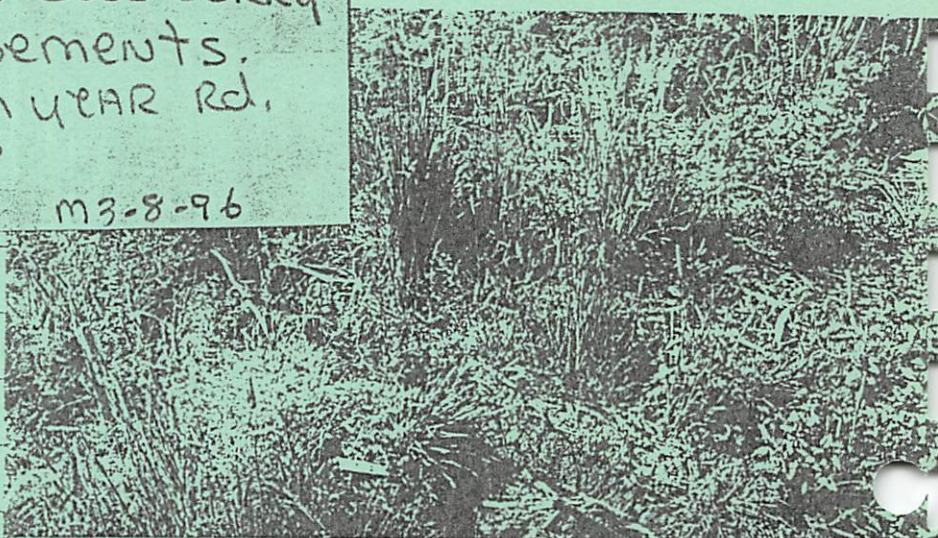
Received as evidence
at hearing 3-4-97
LHB

- Hampton Rd. How Coos Curry
- maintains their easements.
- Less than 30 ft. from YEAR Rd.
- Creek. LAST August 95

M3-8-96

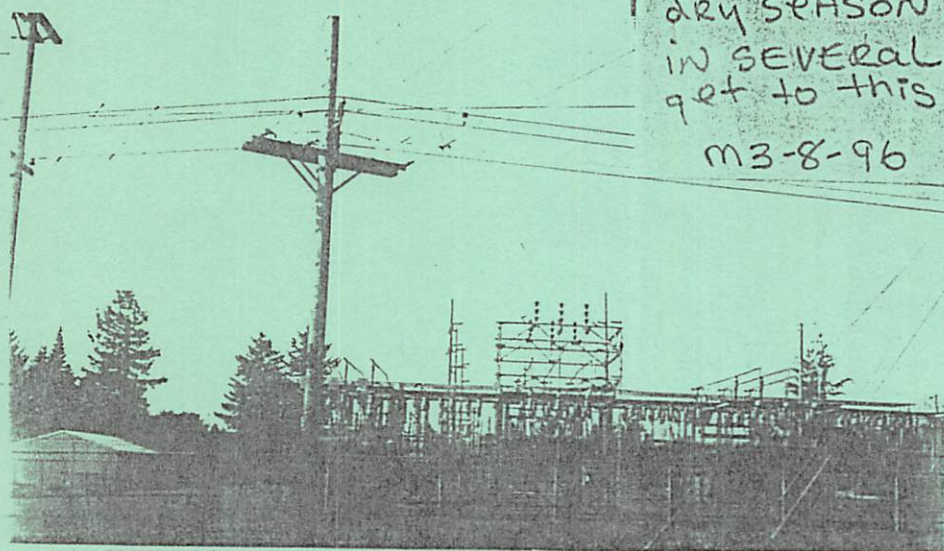
Extremely sensitive
SITE for requested
USE

Even with a concrete wall
much will show ABOVE



PROPOSED PARCEL 2 TAKEN LAST
JULY 96. VERY WET EVEN AFTER A
dry season. Easement rd. is swampy
in SEVERAL locations even before you
get to this.

M3-8-96



existing substation. NOT A VIEW
that should be available in R1.
PERHAPS North of town would be
better with no existing dwellings than
if people want to build next to it they
CAN.

M3-8-96

THE
City should make
Coos-Curry clean
- there is a lot
- more to do

giving them a lot
to do to create
another Sprawl
next to Herring Creek
should be STOPPED

*John B. Vance
At 31408 Camas Lane
Eugene, Oregon
Fax 1-541-3436165
E Mail: John Vance@sunshine.net*

RECEIVED

MAR 03 1997

CITY OF BROOKINGS
COMMUNITY DEVELOPMENT

March 2, 1997

City of Brookings
Planning Commission
898 Elk Drive
Brookings, Oregon

*Attention: John C. Beschoff, Planning Director,
BY FAX: (541) 4693650*

Dear Sirs:

Re: Public Hearing Your file No: M3-3-97 and application for conditional use permit for power substation. Assessor's Map 40-13-31C Tax Lot 600, File CUP-3-97.

Along with others, I represent Dr. and Mrs. Merle Vance, Owners, at 2320 Bridle Path Lane, Sacramento, California, respecting TL 500 adjacent to the proposed partition. The Vance family has been advised, by you of the following:

- a. verbally, that the purpose of the Public Hearing scheduled by you for Tuesday March 4, 1997 has materially changed, specifically withdrawal from the Hearing of the application for a conditional use permit to allow construction of a power substation facility on the parcel proposed to be partitioned.
- b. verbally, by you, that you will not permit to be heard from the Vance family, or other residents who have standing, information concerning the purposes of the application for partition, specifically, the use of the partitioned land for purposes of a power substation.

This letter serves to request that the application for partition be set aside, for the time being, since you have erred in law by failing to notify affected Owners in writing of the change in scope and purpose of the public Hearing and by defeating the opportunity of affected property owners to be heard on matters relevant to the application for partition.

Error in Due Process

First, the purposes of the partition and the conditional use for a power station are so intertwined, that the treatment of the application for partition separately from its purposes defeats the intent and stated purpose of the Hearing which required these matters be held together. This is an egregious error since the signed application from Hodges (1-31-97) for minor partition states that "this is a request for a conditional use permit to construct a Power Substation." The applicant Hodges, has applied for a conditional use permit for a power substation as the purpose for the minor partition. It cannot be separated from the application for partition as set out in their application. The approval of an application for partition for uses upon which there are certain

conditions unmet yet entailed is an error and presumes the Commission's acceptance of the entailment, specifically the conditional use. That matter must be heard concurrently in order to preserve the rights of affected property owners. The language use in the Notice of Public Hearing reinforces this conclusion. The word "purpose", in the singular is used to describe the item of business. The words "this matter" are used twice to refer to the application, documents and evidence.

For affected parties, such as the Vance's, to be advised by Commission staff that the subject of the entailment, i.e. the conditional use of a power station, may not form part of their brief at the Hearing, is also an error. This position denies due process to property owners affected by the application for partition with respect to the purposes stated in the application. We would argue that any evaluation of a partition application must consider the use for which the partition was applied.

We also note that the conditions imposed on the partition respecting its purposes have changed in the Staff report of 02-20-97 and a final ORDER drafted. However, the Hodges' application is clear with respect to the intended purposes of the partition. The application, and schedule for the Hearing, recognized that the partition and the purposes for it should be considered concurrently. We would argue that the decision to hear the matters separately defeats the rights of property owners affected by the application to be heard on the matter of the proposed purpose of the application.

We also note that the requirement that a conditional use permit be obtained as a prior condition of recordation has been eliminated in the new staff report. This gives rise to concern on our part that the purpose of the application is presumed to be acceptable to the Commission in advance of deliberation, i.e., a *de facto* approval of a conditional use without a Hearing. This is a reasonable conclusion for the Vance's to draw, since the application for partition includes the purpose of a hydro substation and that portion has been severed from the proceedings. Eliminating the public's right to be heard on that purpose poses a problem of due process under statutory requirements and common law. The Commission should vacate the application for partition until the purpose of the application can be openly heard and considered.

If the presumption of prior determination is not the case, by limiting the public's right to be heard on the express purpose of the application, we assume that there is a purpose for the partition other than that stated by the applicant. If so, this would require a new application and a new public Hearing.

Error in Information

The public hearing on these matters should be vacated until such time as information on the proposed partition is demonstrated to be accurate. Inaccurate information to the Commission and the public is misleading and an unreasonable basis for hearing a matter as potentially injurious as this application to affected parties. The City of Brookings Staff Agenda Report File No M3-3-97 set out general information to the Commission and the public which is factually incorrect. The total land area denoted in the General Information section of the Staff Agenda Report states a parcel size of 3.47 acres is to be partitioned. The application for partition prepared by Hodges (1/30/97) states such information as accurate. Yet, material provided by Stuntzner Engineering and Forestry (dated 7-23-96) prepared and distributed to the public indicates that a different division, materially different from that proposed by the applicant. To compound the problem, the Notice of Public Hearing refers to a 5.93 acre parcel, but with the same file number (M3-3-97). It

is fair and reasonable that the information provided by an applicant be reasonably accurate, as it is fair and reasonable that information provided the Commission and the public be consistent.

We would argue for vacation of the application until such time as a corrected application be brought forward by Hodges accurately describing the parcel to be partitioned. It would be unwise for the commission to approve a partition supported by an application which is seriously flawed and by a staff report in which errors have been repeated by Commission staff. We note that the information furnished on prescribed applications, staff reports and Commission documents are defective.

Staff Analysis Misleading

The purpose of the application, prima facie, is the creation of a lot or lots for a power substation. A criterion for evaluation of the proposed partition is that development of any remainder of property under the same ownership can be accomplished in accordance with the Land Use Code. From the shadow plan provided by Stuntzner, development of the property would leave the proposed substation (parcel 6), without benefit of road access. Either the application should be defeated since development on the land would leave the substation without lawful access (Criterion No. 4), or the application defeated because approval, given the purpose for a substation facility, would limit the development of the remainder of the parcel based on the requirement for access to the proposed substation (Criterion No. 2). If the proposed use, as the Commission staff indicate, is not the subject of the partition application, then the plan submitted by Stuntzner leaves a future residential remainder lot without access. Under either of these circumstances, the applicant's partition application should be taken to represent inconsistency with the City's Comprehensive Plan policies by placing undue and foreseeable restriction on the development of the remainder lands created by this partition application.

The Commission is obliged, under statute, to ascertain conformance of the proposed partition to applicable state and federal laws. The staff report omits, in its entirety, comment on the applicant's stated purpose of use of the partitioned land for an electric substation and by so doing fails to provide a basis for evaluation of conformance to statutory requirements. The report purports to evaluate an application, whose land use purpose is explicit, without any reference to that purpose. This leaves the staff report materially flawed. By ignoring the proposed land use, staff ignore the singular element by which to measure conformity of the proposed partition's purpose to Brookings' Comprehensive Plan.

This disservice is compounded in the absence of references which would vouchsafe that the proposed partition and the Deferred Improvement Agreement meets the regulatory requirements of other agencies having jurisdiction. These include, but are not limited to conservation authorities having jurisdiction on fish bearing waters affected by the location of the proposed land use set out in the application for partition, or by authorities having jurisdiction over utilities, generally. The absence of such information is sufficient for the Commission to set aside the application until such information is forthcoming, documented and available for inspection by the Commission and affected property Owners.

In summary, this application should be set aside since:

- a. the opportunity to address the issue of the applicant's purposes for of the land has been frustrated by instructions of Commission staff to the public that no discussion would be permitted on this matter;

- b. that the terms of the statutory Hearing on this matter have been altered without proper Notice, thereby frustrating due process of law as it applies to the Vance's and other affected Owners;
- c. that the applicant information provided is misleading and uncorrected in distribution of materials, including principal documents, by Commission staff to the Commission and the public;
- d. that the staff report's conclusions, respecting conformance of the application to the Community Plan and the Land Development Code, were in error by omitting the applicant's stated purpose in the analysis, and incomplete in addressing requirements of other authorities having jurisdiction, thereby misleading the Commission to believe that statutory obligations of the Commission had been met.

This letter will also serve as Notice of Appeal should the Commission not vacate the application. The grounds for appeal are those stated above without prejudice to any other right or remedy available under law. We suggest that staff would benefit the Commission, the applicant and the property Owners affected by recommending withdrawal of this matter for the public Hearing scheduled for March 4, 1997.

Sincerely,

John Vance

John Vance

RECEIVED

MAR 03 1997

CITY OF BROOKINGS

March 1, 1997

Brookings Planning Commission
c/o John Bischoff, Planning Director
City of Brookings
898 Elk Drive
Brookings, Oregon 97415

Re: Minor partition request by Don & Becky Hodges, file no. M3-3-97

Dear members of the Planning Commission:

My name is Eric Vance. My parents, Merle and Velma Vance own TL 500 immediately west of the subject property (Hodges minor partition) which is before you. The proposed use of parcel I of the partition as stated in the partition application and staff report, is for the development of a Coos Curry Electric Co-Op substation facility.

I submit to you that it is impossible to legally separate the issues and criteria that are to be used by you in the determining the merits of the partition, from those of the proposed use of this partition. The primary mechanism of determining property use is of course prescribed by the zoning status. If someone wishes to change the zoning and its prescribed intended use, then it should be incumbent on them to justify this change, or at the least provide information on the impact of this change may have upon the existing community. The Planning staff has to date not seen fit to address the impact that this partition will have on the citizens in this part of your city. The Planning staff has submitted no plan and has done no planning. The simple listing of the boilerplate criteria in the staff report is not an analysis, and has no real relevance to the real intentions of the Brookings Comprehensive Plan. The Planning staff and the Planning Commission have an obligation to the citizens of Brookings to actually plan the division of property within their jurisdiction. With out any real planning by the planning staff, it is therefore now up to you, the Planning Commission, to see the real issues behind the intent of the Comprehensive Plan, and the zoning intentions for this area.

The Planning staff has stated in their report under Criterion I that "It is consistent with the Comprehensive Plan policies of not placing undue restrictions on the development of land and for the efficient use of public property". No rationale is included in this statement, although it is a clear reference that "use" was considered, as they felt that the use was "efficient". The fact is, that nothing could be further from the truth. A partition for the proposed use of an electric substation in the middle of residential neighborhood zone R1-6 will most certainly restrict unduly the subject property, as well as the surrounding property, for the use that the current zoning was to permit. The future development of this residential area will be hindered, downgraded, and "uglyfied" to such an extent, it will

be likely never to recover its potential viability again. The planning commission will by their decision, set into motion one of two scenarios. If the commission allows the partition to occur for the proposed use set forth here, then this neighborhood will be forever doomed to mediocrity, and an undesirable place to buy, build, or live. The commission on the other hand, can enforce the intent of the Comprehensive plan, and encourage growth and development of this land for its best use, and the use for which it was intended. You are the only authority that is empowered to plan the course of development in this beautiful city. I implore you to deny this partition by exercising your power to clearly chart the future, and enforce the stated and true intentions of the Comprehensive Plan.

Sincerely,

A handwritten signature in cursive script that reads "Eric Vance". The signature is written in dark ink and is positioned above the typed name.

Eric Vance, President
Camas Construction Co.

March 1, 1997

RECEIVED

MAR 03 1997

CITY OF BROOKINGS

Brookings Planning Commission
c/o John Bischoff, Planning Director
City of Brookings
898 Elk Drive
Brookings, Oregon 97415

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Sincerely,

Eric W. Vance

Eric Vance, President
Camas Construction Co.

Memorandum



TO: Mayor, City Council

FROM: Be v Adams, Finance Director/Recorder *BA*

DATE: April 24, 1997

RE: Formal adoption of the 1995/96 Audit

Issue:

Adoption of the 1997/98 audited financial statements.

Synopsis:

City Auditor, Paul McLeod, from Musser and Associates will be present to answer any questions that the Council may have. He has asked that if the Council has any questions, after reviewing the audit, he would appreciate having those questions given to him before the meeting so that he may do any research necessary to have the answer for you at the meeting. If you do have questions for him to address on Monday night, you may call him directly at 469-7448; or give your questions to me and I will forward them on to him.

Recommendation:

That Council formally adopt the 1995/96 audited financial statements.

Memorandum

TO: Mayor, City Council

FROM: Jack McDonald, Chief of Police

THROUGH: Tom Weldon, City Manager

DATE: April 23, 1997



Subject: Modifications to City Ordinance 97-O-387-d; Licensing of Taxicab Business and Drivers

Issue: City Council approval of Taxicab Ordinance

Synopsis: Acting by Council direction, the Police Department staff evaluated our present ordinance and several examples provided by the League of Oregon Cities. As a result we have upgraded our existing ordinance with several additions which reflect our current enforcement needs.

Recommendation: We recommend Council approve the ordinance as presented.

Rationale: Our existing ordinance was evaluated and upgraded to meet contemporary needs.

Background:

- Changes to Operator Requirements Section Six (6):
 1. *Applicant for a taxicab driver's permit has been convicted within the last ten (10) years* was changed to the last thirty-six (36) months.
 2. *The applicant for a taxicab driver's permit that has been convicted of a felony within the last five (5) year* was changed to thirty-six (36) months.
 3. *The applicant has not been declared a habitual traffic offender or had his/her license to operate a motor vehicle suspended by any state within ten (10) years preceding the date of application.* This was changed to the applicant for a taxicab driver's permit has accumulated more than three (3) convictions for moving traffic offenses within the previous twelve (12) months.
- An addition of a taxicab maintenance requirements: See Section 10.
- An additional ~~of~~ a penalty for violation. See Section 14, page 5.

Options/Alternatives:

Take no action and continue to encounter conflicts between State Statute requirements, local conditions and the industry needs of both law enforcement and the taxicab industry.

*moving violations
or public
safety*

Memorandum

TO: Mayor, City Council
FROM: Leo Lightle, Community Development Director
THROUGH: Tom Weldon, City Manager
DATE: April 23, 1997



Issue: Purchase of equipment for the Sea Cliff Sewage Pump Station Retro-fit, exempting said purchase from competitive bidding.

Synopsis: Sea Cliff Sewage Pump Station is in need of repair. Staff is seeking authorization to purchase Smith & Loveless retro-fit parts from ADS Equipment, Portland, Oregon. Money for this project was included in the 1996-97 Wastewater Collection Fund budget under Equipment Operation/Maintenance.

Recommendation: The City Council adopt Resolution No. 97-R-616 and authorize staff to purchase the equipment needed for the Sea Cliff Pump Station Retro-fit.

Rationale: Staff believes the quote from ADS Equipment is reasonable and that the most cost-effective solution for the repair of the Sea Cliff Pump Station is to retro-fit the station with Smith & Loveless parts.

Background: Sea Cliff Pump Station was installed in 1978 and has served the city very well during this time. We need to retro-fit it now because we can do it on a timely basis and not when it is broken down and have to call in Roto-Rooter to haul sewage while parts are being ordered and shipped, installed, etc. So far we have not had a major break down other than normal maintenance and minor breakdowns. However the pump station is 19 years old and is being eaten up by rust.

A price quote for retro-fitting the Smith & Loveless pump station was received from the factory representative, ADS Equipment, Portland Oregon. It was \$11,945, which includes all needed materials to repair the deterioration of the station. In addition the base plate will be hot dipped galvanized to eliminate rust problems from our salty sea air environment.

When the Smith and Loveless factory in Lenexa, Kansas was contacted for the addresses for additional distributors, staff was

Memo to Mayor, City Council

RE: Exempting from competitive bidding, Sea Cliff Pump Station retro-fit

April 23, 1997 Page 2

informed that their distributors have exclusive areas. Competition between distributors isn't encouraged. In order to receive the compatible parts needed to retro-fit our station we need to go through the factory representative for our area which is the only available source for the required parts.

Queen Pump had been called in the past to give us a bid on the Beach Avenue pump station and their bid was quite a bit higher than ADS Equipment because it was for an entire station and not a retro-fit. Staff believes that ADS Equipment will best serve our needs for this project.

-EOM-



Smith &
Loveless, Inc.

14040 Santa Fe Trail Drive
Lenexa, Kansas 66215
913/888-5201

SALES AGREEMENT

Page 1 of 1

Name and Address:

City of Brookings

Date:

April 3, 1997

Inquiry Number

WE-37360

Engineer:

Job Location:

Brookings, OR

Smith & Loveless, Inc., having an office at 14040 Santa Fe Trail Drive, Lenexa, Kansas 66215 (hereinafter referred to as "Seller"), hereby agrees to sell to the buyer designated below (hereinafter referred to as "Buyer"), subject to all of the terms and conditions on the face and reverse sides hereof, the following equipment:

ONE

To convert the existing Wet Well Mounted Pump Station, Serial Number 15-2303, to our Model "S" above the base plate piping less the existing rotating assemblies, control panel, vacuum pumps and float check valves and float switches would consist of the following components:

- a. New base plate for installation on top of a 4'-0" ID wetwell.
- b. New check valves, plug valves, volutes front heads and elbow.
- c. Fiberglass hood with hardware.
- d. Manhole cover.
- e. Unistruts for mounting existing control panel.
- f. Discharge tee and coupling.
- g. Pump lifting stanchion.
- h. Vent blower.
- i. Volute gaskets.
- j. 10 feet of vacuum tubing.
- k. Attaching hardware for existing rotating assemblies, vacuum pumps and control panel.
- l. Base plate to be galvanized.

Price: \$11,784 F.O.B. factory plus any taxes which may apply. Truck/Rail freight allowed to job site, rail siding or nearest unloading area - unloading to be by Buyer.

Terms: With continuing approval of the Smith & Loveless Credit Department, the following are the payment terms:

100% net 30 days from date of shipment

Shipment is estimated 8 - 10 weeks after receipt in Seller's office of a signed sales agreement or a purchase order.

THE SALE OF THE EQUIPMENT DESCRIBED ABOVE IS MADE SOLELY ON AND EXPRESSLY SUBJECT TO ALL OF THE TERMS AND CONDITIONS ON THE FACE AND REVERSE SIDES HEREOF.

Agreed to this _____ day of _____, 19____

Buyer

By _____
Authorized Signature

Address

Is this purchase tax exempt? YES _____ NO _____

If YES, attach Sales Tax Exemption Certificate.

Agreed to this _____ day of _____, 19____
at Lenexa, Kansas.

SMITH & LOVELESS, INC.

By _____
Authorized Signature

Prepared by _____
Sales Representative

The Sales Representative is not an agent or employee of Seller and is not authorized to enter into any agreement on Seller's behalf or to bind Seller in any way.

Form No. 04-08-24B

APR 04 1997 15:00

503 227 2637

PAGE.02

ADS EQUIPMENT, INC.

P. O. Box 5155
Portland, OR 97208
[503] 227-2600 FAX [503] 227-2637

FAX Transmission

TO: City of Brookings
Wastewater Treatment Plant
901 Wharf Street
Brookings, OR 415

FROM: Richard W. Cooper
COPY TO: file

ATTENTION: Mr. Joe Ingwersen

PHONE NO: 541.412.0424

YOUR REF: Request for Quotation
Model "S" Retrofit
Station Serial No. 15-2303-E
Sea Cliff Pump Station

DATE: 04 April 1997
OUR REF: 16.14.04.450140.a/WE37360

FAX NO: 541.469.3650

PAGE: 1 OF 3

Following is a quotation prepared by the factory at our request. They have developed the pricing based upon a 4-ft. diameter wet well. However, it is our experience that the retrofit is better if it is arranged for installation on a 5-ft. diameter wet well. In the case of the existing station it recommended that the wet well be revised to five- (5) foot diameter.

If you want to have the unit furnished for use with the 5-ft. diameter wet well add \$161.00 to the price listed

Please review the attached and call me should you have any questions. I would like to speak with you regarding the installation of the retrofit unit. Call when you have an opportunity.

Visit us at - <http://www.adseq.com>
E-mail address - pdx@adseq.com

RESOLUTION NO. 97-R-616

A RESOLUTION EXEMPTING FROM COMPETITIVE BIDDING THE PURCHASE OF EQUIPMENT FOR THE SEA CLIFF SEWERAGE PUMP STATION RETRO-FIT.

BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BROOKINGS THAT:

1. The City of Brookings has determined that there is a need for a retro-fit of the Sea Cliff Sewerage Pump Station.

2. Because substantial savings can be realized through a retro-fit of the Sea Cliff Pump Station rather than the purchase of a new lift station system, the City of Brookings has determined that it is in the best interest of the City of Brookings to purchase Smith and Loveless equipment, which is the same brand of equipment as the original Sea Cliff Sewerage Pump Station equipment, for a retro-fit of the sewerage pump station.

3. Staff has contacted the Smith and Loveless factory and has been advised that their distributors have exclusive areas and competition between distributors was not encouraged. ADS Equipment of Portland, Oregon, our area distributor, has quoted a price for the retro-fit at \$11,945.

4. The purchase of the equipment for the retro-fit of the Sea Cliff Sewerage Pump Station is therefore exempted from the competitive bidding set out in ORS Chapter 279 and the City's Resolution No. 92-R-539.

Passed by the Council and signed by the Mayor this 28th day of April, 1997.

Nancy Brendlinger
Mayor

ATTEST:

Beverly S. Adams
City Recorder

Memorandum

TO: Mayor, City Council
FROM: Leo Lightle, Community Development Director
THROUGH: Tom Weldon, City Manager *Tom*
DATE: April 24, 1997



Issue: AGREEMENT FOR USE OF REAL PROPERTY BETWEEN THE PELICAN BAY ARTS ASSOCIATION AND THE CITY OF BROOKINGS

Synopsis: This agreement benefits both parties and enhances both projects. The benefit to the city is a route tying together the Stout Park Pathway System. This makes more sense from a practical point of view and provides more open space. The benefit to the Arts Association is the saving of construction dollars and providing a more pleasing view (i.e. parking lot vs. park improvements.)

Recommendation: The City Council enter into an agreement to provide parking for the Pelican Bay Arts Association in exchange for use of a portion of the Pelican Bay Arts Association property to construct park improvements.

Rationale: Both the city's Stout Park project and the Pelican Bay Arts Association's building expansion project are enhanced by this agreement.

Background: The Manley Art Center expansion requires that additional parking be provided as per the Land Development Code. The cost for providing the parking area causes a substantial impact on the funding of their project.

The city's Stout Park project, which includes pathways, plantings, etc., was being put together at about the same time as the Manley Art Center expansion was being designed.

There was discussion amongst the two parties that a common blending of the projects would benefit both. The blending of the two projects also makes sense in as much as the city will inherit the land when it ceases to be of use to the Pelican Bay Arts Center.

Memo to Mayor, City Council
RE: Agreement with Pelican Bay Arts Association
April 24, 1997 Page 2

The city would be able to use a portion of the land owned by the Pelican Bay Arts Association which owns the building identified as the Manley Art Center, to construct a portion of their pathway system in return for providing parking for the Manley Arts Center. The plans for the Stout Park project increased the available parking to accommodate the extra parking needed by the Pelican Bay Arts Association. The agreement to provide the parking to comply with the requirements of the Land Development Code is in compliance with the Brookings Land Development Code Section 92, "Off-Street Parking and Loading Regulations."

In the interest of saving the reader some time in going over redundant material, you will find in the attached "AGREEMENT FOR USE OF REAL PROPERTY" prepared by the City Attorney, the justification for the agreement, compliance with code issues and a map showing the area.

RESOLUTION NO. 97-R-616

A RESOLUTION EXEMPTING FROM COMPETITIVE BIDDING THE PURCHASE OF EQUIPMENT FOR THE SEA CLIFF SEWERAGE PUMP STATION RETRO-FIT.

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3. City has contacted the Smith and Loveless factory and been advised that their distributors have exclusive areas and competition between distributors was not encouraged. ADS Equipment of Portland, Oregon, the area distributor, has quoted a price for the retro-fit of \$11,945.
4. The purchase of the equipment for the retro-fit of the Sea Cliff Sewerage Pump Station is therefore exempted from the competitive bidding set out in ORS Chapter 279 and the City's Resolution No. 92-R-539.
5. It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts. The awarding of a public contract pursuant to this exemption will result in substantial cost savings to the City.

Passed by the Council and signed by the Mayor this 28th day of April, 1997.

Nancy Brendlinger
Mayor

ATTEST:

Beverly S. Adams
City Recorder

Amended April 28, 1997

AGREEMENT FOR USE OF REAL PROPERTY

THIS AGREEMENT made this ____ day of _____, 1997 by and between PELICAN BAY ARTS ASSOCIATION, a non-profit association organized under the laws of the State of Oregon, hereinafter "Pelican Bay", and CITY OF BROOKINGS, a municipal corporation and political subdivision of the State of Oregon, hereinafter "City";

RECITALS

WHEREAS Pelican Bay owns real property in the City of Brookings described as Assessor's Map 41-13-5CB, TL 501 (hereinafter "Premises");

WHEREAS Pelican Bay intends to construct an addition to the Manley Art Center presently located on the Premises, and in connection with the construction is required to provide at least five (5) off street parking spaces as required by Brookings Land Development Code Section 92;

WHEREAS City wishes to use a portion of the Premises for construction, maintenance and use of park improvements beneficial to Stout Park in the City of Brookings;

WHEREAS Pelican Bay and City have reached certain tentative agreements as to use by City of a portion of the Premises and use by Pelican Bay of certain identified areas of Stout Park to satisfy off street parking requirements, and the parties wish to put the terms of their agreement in this writing;

AGREEMENT FOR USE OF REAL PROPERTY - 1

WHEREAS Pelican Bay and City believe that each party will receive distinct benefits under this agreement by providing for reciprocal use of their adjoining real properties;

NOW, THEREFORE, in consideration of the promises, covenants and conditions set forth below, the parties agree as follows:

AGREEMENTS:

1. The above recitals are incorporated herein by this reference.

2. Pelican Bay grants unto City the privilege to use the northern portion of the Premises (48' x 50' area) to construct and maintain improvements for Stout Park, including walkways, trees, bushes, vegetation and a drainage system. Attached hereto as Exhibit "A" is a diagram which depicts the area in which the park improvements will be located.

3. Pelican Bay grants unto the public the right to enter the above described area in connection with access to and use of Stout Park.

4. In exchange for the foregoing, City agrees that Pelican Bay may satisfy the off street parking requirements of Section 92 of the Land Development Code by parking in certain identified parking areas within Stout Park. Parking on this adjoining property is authorized by Brookings Land Development Code Section 92.080.

5. Pelican Bay may revoke the City's right to use the area depicted on attached Exhibit "A" by first giving at least 180

AGREEMENT FOR USE OF REAL PROPERTY - 2

days written notice to City. City may, at its option, remove the improvements from the area following its receipt of the notice, and all benefits granted to City hereunder shall terminate at the conclusion of the notice period. In such event, unless other arrangements are negotiated by City and Pelican Bay, Pelican Bay will no longer be allowed to utilize Stout Park to satisfy its off street parking requirements under Brookings Land Development Code Section 92. Pelican Bay must at that time furnish proof to City that Pelican Bay has satisfied all existing off street parking requirements of the Code. City shall not be required to vacate the Premises until such time as Pelican Bay has satisfied the off street parking requirements of the Code.

6. This agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties.

IN WITNESS WHEREOF Pelican Bay and City have caused this instrument to be signed on the date first above written by their duly authorized representatives.

PELICAN BAY ARTS ASSOCIATION

CITY OF BROOKINGS

By _____
Bette Sherbourne
President

By _____
Mayor

By _____
Dickey Powell
Treasurer

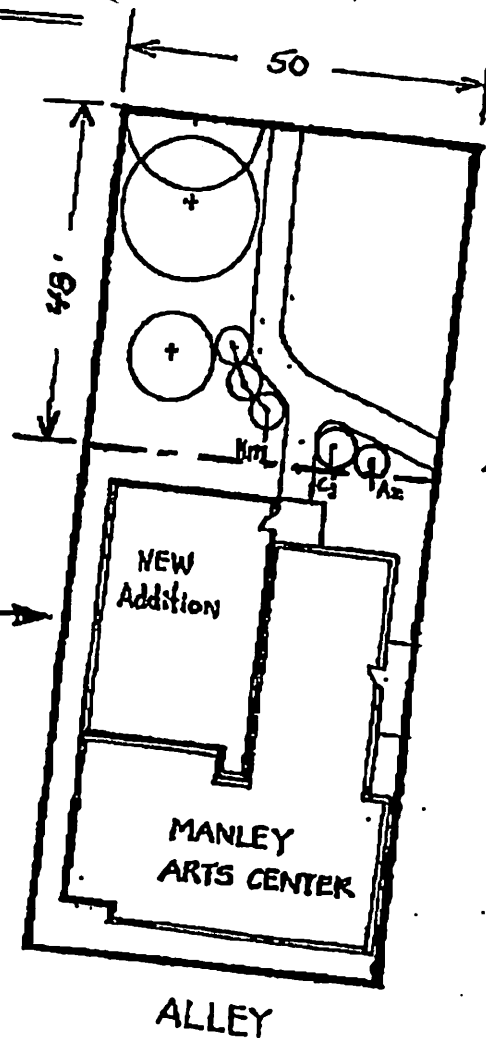
Attest:

City Recorder

AGREEMENT FOR USE OF REAL PROPERTY - 3

Pink Area on Arts Center prop
Approx. 50' x 48'

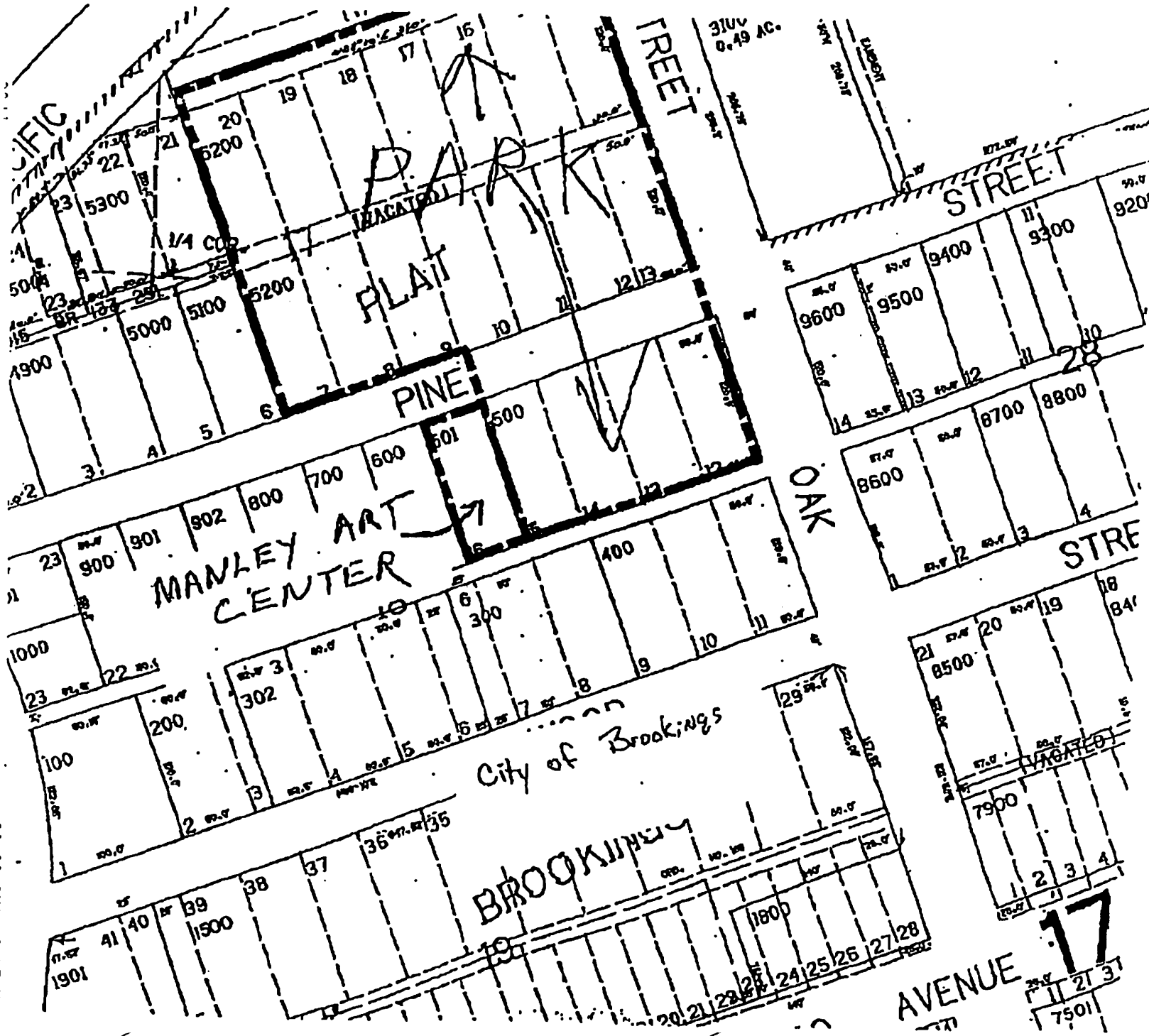
Assessor Map 41-13-50B
TL 501



City of Brookings

STOUT PARK
MEMORIAL
(REFER TO
DETAIL)

Exhibit A Page 1



Jack McDonald
Chief of Police

**POLICE DEPARTMENT
City of Brookings**

898 Elk Drive
Brookings, Oregon 97415
(541) 469-3118 - Fax (541) 412-0253



TO: Mayor
City Council

THROUGH: Tom Weldon, City Manager

FROM: Jack McDonald, Chief of Police

SUBJECT: LIQUOR LICENSE RENEWALS

DATE: April 24, 1997

Attached for your consideration are copies of liquor license renewals from:

- ✓ Fred Meyer, 325 5th Street Brookings
- ✓ Allance Fast Mart, Chetco & Oak Streets PO Box 1185, Brookings
- Azalea Lanes, 410 Oak Street, PO Box 999, Brookings
- Los Amigos, 539 - 541 Chetco Ave #1, Brookings
- Local Market, 604 Railroad, Brookings
- D & H Chevron, 548 Chetco Ave, PO Box 960, Brookings
- O Hollerans Restaurant, E/S US 101 Box O, Brookings
- Pine Cone Tavern, 629 Chetco Ave, PO Box 935, Brookings
- Northgate BP, 1023 Chetco Ave, Brookings

The Police Department has reviewed the requests and has no objections to the granting of the renewals.

Jack McDonald
Chief of Police

mjc

Oregon Liquor Control Commission
PO Box 22297, Milwaukie, OR 97269 1-800-452-6522
License Renewal Application

IMPORTANT: Failure to fully disclose any information requested, or providing false or misleading information on this form is grounds to refuse to renew the license. Your license expires June 30, 1997

License Type: Package Store	District: 3	County/City: 0805	RO#: R23005A	119/203
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FRED MEYER, INC
FRED MEYER, INC.
ATTN: GENNY ANDERSON
PO BOX 42121
PORTLAND, OREGON 97242

Licensee(s) **FRED MEYER, INC**

Tradename **FRED MEYER**
325 5TH STREET
BROOKINGS OR 97415

Instructions:

1. Answer all questions completely on the renewal application.
2. Have each partner or an authorized corporate officer sign the renewal application.
3. Have the local governing body endorse the renewal application.
4. Return completed renewal application along with the appropriate license fee due before June 10, 1997 to avoid late fees.

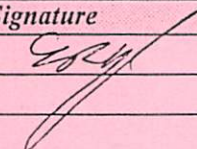
Operational Questions:	Responses:										
(1) Please list a daytime phone number.	Phone Number: 503/797-7134										
(2) Please list all <u>arrests or convictions</u> for any crime, violation, or infraction of any law during the last year even if they are <u>not liquor</u> related for anyone who holds a financial interest in the licensed business. Attach additional sheet of paper to back of form if needed.	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Name</th> <th style="width: 15%;">Offense</th> <th style="width: 15%;">Date</th> <th style="width: 20%;">City/State</th> <th style="width: 35%;">Result</th> </tr> </thead> <tbody> <tr> <td colspan="5" style="height: 40px;"> </td> </tr> </tbody> </table>	Name	Offense	Date	City/State	Result					
Name	Offense	Date	City/State	Result							
(3) Will anyone share in the profits who is not a licensee? If yes, please give name(s) and explain.	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> EXPLAIN:										
(4) Were there any changes of ownership (ie: add/drop partners, change to corporations, etc.) not reported to the OLCC in the last year?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> EXPLAIN:										

Endorsement - Please take this form to your local governing body that is listed below before you return it to the OLCC.

The City of BROOKINGS recommends that this license be GRANTED _____ REFUSED _____ on (date) _____

Signed: _____ Title of Signer _____

License Fees and Late Fee Schedule & Amounts - Do not mail cash.	Dollar Amount (\$)
License Fee for Package Store	50.00
TOTAL FEE TO PAY >>>>PLEASE PAY THIS AMOUNT <<<<	50.00
Late Fees	
IF Renewal Application Is Received After June 10, 1997 but before July 01, 1997	Add 12.50 To Total Due
IF Renewal Application Is Received On or After July 01, 1997.	Add 20.00 To Total Due

Print Name	Signature	Date	Social Security #	Date of Birth
Thomas R. Hughes		4/17/97	505-54-2088	10/31/44



Oregon Liquor Control Commission
PO Box 22297, Milwaukie, OR 97269 1-800-452-6522
License Renewal Application

IMPORTANT: Failure to fully disclose any information requested, or providing false or misleading information on this form is grounds to refuse to renew the license. Your license expires June 30, 1997

License Type: Package Store with Pumps	District: 3	County/City: 0805	RO#: R13988A	119/203
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OTTEN AUGUST DEAN
CHETCO & OAK STS
PO BOX 1185
BROOKINGS OR 97415

Licensee(s) **OTTEN AUGUST DEAN**

Tradename **ALLIANCE FAST MART
CHETCO & OAK STS
PO BOX 1185
BROOKINGS OR 97415**

Instructions:

1. Answer all questions completely on the renewal application.
2. Have each partner or an authorized corporate officer sign the renewal application.
3. Have the local governing body endorse the renewal application.
4. Return completed renewal application along with the appropriate license fee due before June 10, 1997 to avoid late fees.

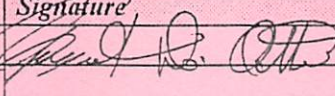
Operational Questions:	Responses:										
(1) Please list a daytime phone number.	Phone Number: <u>541-469-2525</u>										
(2) Please list all <u>arrests or convictions</u> for any crime, violation, or infraction of any law during the last year even if they are <u>not liquor</u> related for anyone who holds a financial interest in the licensed business. Attach additional sheet of paper to back of form if needed.	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Name</th> <th>Offense</th> <th>Date</th> <th>City/State</th> <th>Result</th> </tr> </thead> <tbody> <tr> <td colspan="5" style="text-align: center;"><u>NONE</u></td> </tr> </tbody> </table>	Name	Offense	Date	City/State	Result	<u>NONE</u>				
Name	Offense	Date	City/State	Result							
<u>NONE</u>											
(3) Will anyone share in the profits who is not a licensee? If yes, please give name(s) and explain.	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES & EXPLAIN:										
(4) Were there any changes of ownership (ie: add/drop partners, change to corporations, etc.) not reported to the OLCC in the last year?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES & EXPLAIN:										
(5) Package Store Licenses with Gas Pumps: Report actual grocery inventory at cost (DO NOT INCLUDE BEER OR WINE).	\$ <u>9,837.34</u>										

Endorsement - Please take this form to your local governing body that is listed below before you return it to the OLCC.

The City of BROOKINGS recommends that this license be GRANTED _____ REFUSED _____ on (date) _____

Signed: _____ Title of Signer _____

License Fees and Late Fee Schedule & Amounts - Do not mail cash.	Dollar Amount (\$)
License Fee for Package Store with Pumps	50.00
TOTAL FEE TO PAY >>>>PLEASE PAY THIS AMOUNT <<<<	50.00
Late Fees	
IF Renewal Application Is Received After June 10, 1997 but before July 01, 1997	Add 12.50 To Total Due
IF Renewal Application Is Received On or After July 01, 1997.	Add 20.00 To Total Due

Print Name	Signature	Date	Social Security #	Date of Birth
OTTEN, AUGUST DEAN		4-24-97	524-52-1787	1-16-37



Oregon Liquor Control Commission
PO Box 22297, Milwaukie, OR 97269 1-800-452-6522
License Renewal Application

IMPORTANT: Failure to fully disclose any information requested, or providing false or misleading information on this form is grounds to refuse to renew the license. Your license expires June 30, 1997

License Type: Retail Malt Beverage	District: 3	County/City: 0805	RO#: R04221A	119/201 R
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AZALEA LANES, INC
410 OAK STREET
PO BOX 999
BROOKINGS OR 97415

Licensee(s) **AZALEA LANES, INC**

Server Education Designee(s)
KERR, GARY

Tradename **AZALEA LANES**
410 OAK STREET
PO BOX 999
BROOKINGS OR 97415

Instructions:

1. Answer all questions completely on the renewal application.
2. Have each partner or an authorized corporate officer sign the renewal application.
3. Have the local governing body endorse the renewal application.
4. Return completed renewal application along with the appropriate license fee due before June 10, 1997 to avoid late fees.

**

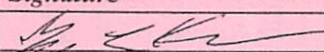
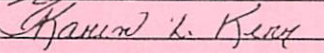
Operational Questions:	Responses:
(1) Is there a change in your Server Education Designee? If yes, please list their name and Social Security Number.	Name _____ SS# _____
(2) Please list a daytime phone number.	Phone Number: <u>469-4244</u>
(3) Please list all arrests or convictions for any crime, violation, or infraction of any law during the last year even if they are <u>not liquor</u> related for anyone who holds a financial interest in the licensed business. Attach additional sheet of paper to back of form if needed.	Name _____ Offense _____ Date _____ City/State _____ Result _____
(4) Will anyone share in the profits who is not a licensee? If yes, please give name(s) and explain.	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> EXPLAIN:
(5) Were there any changes of ownership (ie: add/drop partners, change to corporations, etc.) not reported to the OLCC in the last year?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> EXPLAIN:
(6) Did you make any significant changes in operation during the past year that you have not reported to the OLCC, such as changes in menu, hours of operation, or remodeling?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> EXPLAIN:

Endorsement - Please take this form to your local governing body that is listed below before you return it to the OLCC.

The City of BROOKINGS recommends that this license be GRANTED _____ REFUSED _____ on (date) _____

Signed: _____ Title of Signer _____

License Fees and Late Fee Schedule & Amounts - Do not mail cash.		Dollar Amount (\$)
License Fee for Retail Malt Beverage		200.00
Server Education student fee		2.60
TOTAL FEE TO PAY >>>>PLEASE PAY THIS AMOUNT<<<<		202.60
Late Fees		
IF Renewal Application Is Received After June 10, 1997 but before July 01, 1997		Add 50.00 To Total Due
IF Renewal Application Is Received On or After July 01, 1997.		Add 80.00 To Total Due

Print Name	Signature	Date	Social Security #	Date of Birth
Gary L. Kerr		4/18/97	543-70-1266	7-8-55
Karen L. Kerr		4-18-97	541-74-2137	5-3-58



Oregon Liquor Control Commission
 PO Box 22297, Milwaukie, OR 97269 1-800-452-6522
License Renewal Application

IMPORTANT: Failure to fully disclose any information requested, or providing false or misleading information on this form is grounds to refuse to renew the license. Your license expires June 30, 1997

License Type: Restaurant	District: 3	County/City: 0805	RO#: R21803A	119/205
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GONZALES DANIEL
 GONZALES, D & V
 1505 EL MONTE
 CRESCENT CITY CA 95531

Licensee(s) *6* GONZALES DANIEL
6 GONZALES VIRGINIA

Server Education Designee(s)

Tradename **LOS AMIGOS**
 539-541 CHETCO AVE #1
 BROOKINGS OR 97415

Instructions:

1. Answer all questions completely on the renewal application.
2. Have each partner or an authorized corporate officer sign the renewal application.
3. Have the local governing body endorse the renewal application.
4. Return completed renewal application along with the appropriate license fee due before June 10, 1997 to avoid late fees.

**

Operational Questions:	Responses:
(1) Is there a change in your Server Education Designee? If yes, please list their name and Social Security Number. <i>11/5</i>	Name _____ SS# _____
(2) Please list a daytime phone number.	Phone Number: <i>541 469 4102</i>
(3) Please list all arrests or convictions for any crime, violation, or infraction of any law during the last year even if they are <u>not liquor</u> related for anyone who holds a financial interest in the licensed business. Attach additional sheet of paper to back of form if needed.	Name _____ Offense _____ Date _____ City/State _____ Result _____ <i>NO</i>
(4) Will anyone share in the profits who is not a licensee? If yes, please give name(s) and explain.	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> EXPLAIN:
(5) Were there any changes of ownership (ie: add/drop partners, change to corporations, etc.) not reported to the OLCC in the last year?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> EXPLAIN:
(6) Did you make any significant changes in operation during the past year that you have not reported to the OLCC, such as changes in menu, hours of operation, or remodeling?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> EXPLAIN:

Endorsement - Please take this form to your local governing body that is listed below before you return it to the OLCC.

The City of BROOKINGS recommends that this license be GRANTED _____ REFUSED _____ on (date) _____

Signed: _____ Title of Signer _____

License Fees and Late Fee Schedule & Amounts - Do not mail cash.		Dollar Amount (\$)
License Fee for Restaurant		200.00
Server Education student fee		2.60
TOTAL FEE TO PAY	>>>>PLEASE PAY THIS AMOUNT <<<<	202.60
Late Fees		
IF Renewal Application Is Received After June 10, 1997 but before July 01, 1997		Add 50.00 To Total Due
IF Renewal Application Is Received On or After July 01, 1997.		Add 80.00 To Total Due

Print Name	Signature	Date	Social Security #	Date of Birth
<i>Daniel Gonzales</i>	<i>Daniel Gonzales</i>	<i>7/24/97</i>	<i>556 74 0835</i>	<i>05/29/48</i>



Oregon Liquor Control Commission
PO Box 22297, Milwaukie, OR 97269 1-800-452-6522
License Renewal Application

IMPORTANT: Failure to fully disclose any information requested, or providing false or misleading information on this form is grounds to refuse to renew the license. Your license expires June 30, 1997

License Type: Package Store	District: 3	County/City: 0805	RO#: R04217A	119/203
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ALLEN, GENE
ALLEN, GENE
PO BOX 995
BROOKINGS OR 97415

Licensee(s) ALLEN, GENE
BEARD, JAN
BEARD, TERESA

Tradename **LOCAL MARKET**
604 RAILROAD
BROOKINGS OR 97415

Instructions:

1. Answer all questions completely on the renewal application.
2. Have each partner or an authorized corporate officer sign the renewal application.
3. Have the local governing body endorse the renewal application.
4. Return completed renewal application along with the appropriate license fee due before June 10, 1997 to avoid late fees.

Operational Questions:	Responses:										
(1) Please list a daytime phone number.	Phone Number:										
(2) Please list all <u>arrests or convictions</u> for any crime, violation, or infraction of any law during the last year even if they are <u>not liquor</u> related for anyone who holds a financial interest in the licensed business. Attach additional sheet of paper to back of form if needed.	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Name</th> <th>Offense</th> <th>Date</th> <th>City/State</th> <th>Result</th> </tr> </thead> <tbody> <tr> <td colspan="5" style="height: 40px;"> </td> </tr> </tbody> </table>	Name	Offense	Date	City/State	Result					
Name	Offense	Date	City/State	Result							
(3) Will anyone share in the profits who is not a licensee? If yes, please give name(s) and explain.	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> EXPLAIN:										
(4) Were there any changes of ownership (ie: add/drop partners, change to corporations, etc.) not reported to the OLCC in the last year?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> EXPLAIN:										

Endorsement - Please take this form to your local governing body that is listed below before you return it to the OLCC.

The City of BROOKINGS recommends that this license be GRANTED _____ REFUSED _____ on (date) _____

Signed: _____ Title of Signer _____

License Fees and Late Fee Schedule & Amounts - Do not mail cash.	Dollar Amount (\$)
License Fee for Package Store	50.00
TOTAL FEE TO PAY >>>>PLEASE PAY THIS AMOUNT <<<<	50.00
Late Fees	
IF Renewal Application Is Received After June 10, 1997 but before July 01, 1997	Add 12.50 To Total Due
IF Renewal Application Is Received On or After July 01, 1997.	Add 20.00 To Total Due

Print Name	Signature	Date	Social Security #	Date of Birth
Jon Walter Beard	<i>Jon Walter Beard</i>	4-21-97	559-25-5486	6-9-61
Gene Allen	<i>Gene Allen</i>	4-21-97	551-50-5476	12-9-36
TERESA BEARD	<i>Teresa Beard</i>	4-21-97	566-11-1908	1-18-66



Oregon Liquor Control Commission
PO Box 22297, Milwaukie, OR 97269 1-800-452-6522
License Renewal Application

IMPORTANT: Failure to fully disclose any information requested, or providing false or misleading information on this form is grounds to refuse to renew the license. Your license expires June 30, 1997

License Type: Package Store with Pumps	District: 3	County/City: 0805	RO#: R22555A	119/203
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CARPENTER, DANNY W
548 CHETCO AVE
PO BOX 960
BROOKINGS, OR 97415

Licensee(s) **CARPENTER, DANNY W**
CARPENTER, MAUREEN K

Tradename **D & H CHEVRON**
548 CHETCO AVE
PO BOX 960
BROOKINGS, OR 97415

Instructions:

1. Answer all questions completely on the renewal application.
2. Have each partner or an authorized corporate officer sign the renewal application.
3. Have the local governing body endorse the renewal application.
4. Return completed renewal application along with the appropriate license fee due before June 10, 1997 to avoid late fees.

Operational Questions:	Responses:										
(1) Please list a daytime phone number.	Phone Number: <u>541-469-5143</u>										
(2) Please list all <u>arrests or convictions</u> for any crime, violation, or infraction of any law during the last year even if they are <u>not liquor</u> related for anyone who holds a financial interest in the licensed business. Attach additional sheet of paper to back of form if needed.	<table border="1"> <thead> <tr> <th>Name</th><th>Offense</th><th>Date</th><th>City/State</th><th>Result</th></tr> </thead> <tbody> <tr> <td colspan="5" style="text-align: center;"><u>None</u></td></tr> </tbody> </table>	Name	Offense	Date	City/State	Result	<u>None</u>				
Name	Offense	Date	City/State	Result							
<u>None</u>											
(3) Will anyone share in the profits who is not a licensee? If yes, please give name(s) and explain.	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES & EXPLAIN:										
(4) Were there any changes of ownership (ie: add/drop partners, change to corporations, etc.) not reported to the OLCC in the last year?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES & EXPLAIN:										
(5) Package Store Licenses with Gas Pumps: Report actual grocery inventory at cost (DO NOT INCLUDE BEER OR WINE).	\$ _____										

Endorsement - Please take this form to your local governing body that is listed below before you return it to the OLCC.

The City of BROOKINGS recommends that this license be GRANTED _____ REFUSED _____ on (date) _____

Signed: _____ Title of Signer _____

License Fees and Late Fee Schedule & Amounts - Do not mail cash.	Dollar Amount (\$)
License Fee for Package Store with Pumps	50.00
TOTAL FEE TO PAY >>>>PLEASE PAY THIS AMOUNT<<<<	50.00
Late Fees	
IF Renewal Application Is Received After June 10, 1997 but before July 01, 1997	Add 12.50 To Total Due
IF Renewal Application Is Received On or After July 01, 1997.	Add 20.00 To Total Due

Print Name	Signature	Date	Social Security #	Date of Birth
DAN W. CARPENTER	<i>Dan W. Carpenter</i>	4/21/97	559-82-5563	12/29/54
MAUREEN K. CARPENTER	<i>Maureen Carpenter</i>	4/21/97	567-94-6233	2-17-55



Oregon Liquor Control Commission
PO Box 22297, Milwaukie, OR 97269 1-800-452-6522
License Renewal Application

IMPORTANT: Failure to fully disclose any information requested, or providing false or misleading information on this form is grounds to refuse to renew the license. Your license expires June 30, 1997

License Type: Dispenser Class A	District: 3	County/City: 0805	RO#: R03551A	119/212
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DA-0468

Licensee(s) **O HOLLERANS INC**

O HOLLERANS INC

E/S US 101 BOX 0

BROOKINGS OR 97415

Server Education Designee(s)

O HOLLERAN, RICHARD C

Tradename

O HOLLERANS RESTAURANT

E/S US 101 BOX 0

BROOKINGS OR 97415

Instructions:

1. Answer all questions completely on the renewal application.
2. Have each partner or an authorized corporate officer sign the renewal application.
3. Have the local governing body endorse the renewal application.
4. Return completed renewal application along with the appropriate license fee due before June 10, 1997 to avoid late fees.

**

Operational Questions:	Responses:
(1) Is there a change in your Server Education Designee? If yes, please list their name and Social Security Number.	Name _____ SS# _____
(2) Please list a daytime phone number.	Phone Number: <u>541-469-9907</u>
(3) Please list all arrests or convictions for any crime, violation, or infraction of any law during the last year even if they are <u>not liquor</u> related for anyone who holds a financial interest in the licensed business. Attach additional sheet of paper to back of form if needed.	Name _____ Offense _____ Date _____ City/State _____ Result _____
(4) Will anyone share in the profits who is not a licensee? If yes, please give name(s) and explain.	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> EXPLAIN:
(5) Were there any changes of ownership (ie: add/drop partners, change to corporations, etc.) not reported to the OLCC in the last year?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> EXPLAIN:
(6) Did you make any significant changes in operation during the past year that you have not reported to the OLCC, such as changes in menu, hours of operation, or remodeling?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> EXPLAIN:

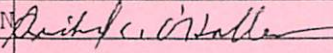
	Food & Liquor Sales - Report below the average monthly sales figures to the nearest dollar for the 12 month period ending March 31, 1997	Amount
A	Average Monthly Alcoholic Beverage Sales (Include Beer, Wine & Distilled Spirits)	\$ 11,024
B	Average Monthly Food Sales	\$ 17,242
C	Average Monthly Total Sales (Add A + B):	\$ 28,266
D	Percent of Food To Total Sales (Divide B By C):	% 61

Endorsement - Please take this form to your local governing body that is listed below before you return it to the OLCC.

The City of BROOKINGS recommends that this license be GRANTED _____ REFUSED _____ on (date) _____

Signed: _____ Title of Signer _____

License Fees and Late Fee Schedule & Amounts - Do not mail cash.	Dollar Amount (\$)
License Fee for Dispenser Class A	400.00
Server Education student fee	2.60
TOTAL FEE TO PAY >>>>PLEASE PAY THIS AMOUNT <<<<	402.60
Late Fees	
IF Renewal Application Is Received After June 10, 1997 but before July 01, 1997	Add 100.00 To Total Due
IF Renewal Application Is Received On or After July 01, 1997.	Add 160.00 To Total Due

Print Name	Signature	Date	Social Security #	Date of Birth
Richard C. O'HOLLERAN		Apr. 21	479-28-6970	Jan. 8, '31



Oregon Liquor Control Commission
PO Box 22297, Milwaukie, OR 97269 1-800-452-6522
License Renewal Application

IMPORTANT: Failure to fully disclose any information requested, or providing false or misleading information on this form is grounds to refuse to renew the license. Your license expires June 30, 1997

License Type: Retail Malt Beverage	District: 3	County/City: 0805	RO#: R04220A	119/201
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KEMP WILMA M
629 CHETCO AVENUE
PO BOX 935
BROOKINGS OR 97415

Licensee(s) ☒ KEMP WILMA M

Server Education Designee(s)

Tradename **PINE CONE TAVERN**
629 CHETCO AVENUE
PO BOX 935
BROOKINGS OR 97415

Instructions:

1. Answer all questions completely on the renewal application.
2. Have each partner or an authorized corporate officer sign the renewal application.
3. Have the local governing body endorse the renewal application.
4. Return completed renewal application along with the appropriate license fee due before June 10, 1997 to avoid late fees.

**

Operational Questions:	Responses:										
(1) Is there a change in your Server Education Designee? If yes, please list their name and Social Security Number.	Name _____ SS# _____										
(2) Please list a daytime phone number.	Phone Number: <u>541-469-2609</u>										
(3) Please list all <u>arrests or convictions</u> for any crime, violation, or infraction of any law during the last year even if they are <u>not liquor</u> related for anyone who holds a financial interest in the licensed business. Attach additional sheet of paper to back of form if needed.	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Name</th> <th>Offense</th> <th>Date</th> <th>City/State</th> <th>Result</th> </tr> </thead> <tbody> <tr> <td colspan="5"> </td> </tr> </tbody> </table>	Name	Offense	Date	City/State	Result					
Name	Offense	Date	City/State	Result							
(4) Will anyone share in the profits who is not a licensee? If yes, please give name(s) and explain.	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> EXPLAIN:										
(5) Were there any changes of ownership (ie: add/drop partners, change to corporations, etc.) not reported to the OLCC in the last year?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> EXPLAIN:										
(6) Did you make any significant changes in operation during the past year that you have not reported to the OLCC, such as changes in menu, hours of operation, or remodeling?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> EXPLAIN:										

Endorsement - Please take this form to your local governing body that is listed below before you return it to the OLCC.

The City of BROOKINGS recommends that this license be GRANTED _____ REFUSED _____ on (date) _____

Signed: _____ Title of Signer _____

License Fees and Late Fee Schedule & Amounts - Do not mail cash.		Dollar Amount (\$)
License Fee for Retail Malt Beverage		200.00
Server Education student fee		2.60
TOTAL FEE TO PAY >>>>PLEASE PAY THIS AMOUNT<<<<		202.60
Late Fees		
IF Renewal Application Is Received After June 10, 1997 but before July 01, 1997		Add 50.00 To Total Due
IF Renewal Application Is Received On or After July 01, 1997.		Add 80.00 To Total Due

Print Name	Signature	Date	Social Security #	Date of Birth
WILMA M KEMP	Wilma M Kemp	4-21	487-22444	12-27-22



Oregon Liquor Control Commission
PO Box 22297, Milwaukie, OR 97269 1-800-452-6522
License Renewal Application

IMPORTANT: Failure to fully disclose any information requested, or providing false or misleading information on this form is grounds to refuse to renew the license. Your license expires June 30, 1997

License Type: Package Store with Pumps	District: 3	County/City: 0805	RO#: R23853A	119/203
---	--------------------	--------------------------	---------------------	----------------

COLVINN OIL COMPANY, INC.
COLVIN OIL COMPANY, INC.
2520 FOOTHILL BLVD.
GRANTS PASS OR 97526

Licensee(s) COLVINN OIL COMPANY, INC.

Tradename **NORTHGATE BP**
1023 CHETCO AVE
BROOKINGS OR 97415

Instructions:

1. Answer all questions completely on the renewal application.
2. Have each partner or an authorized corporate officer sign the renewal application.
3. Have the local governing body endorse the renewal application.
4. Return completed renewal application along with the appropriate license fee due before June 10, 1997 to avoid late fees.

Operational Questions:	Responses:
(1) Please list a daytime phone number.	Phone Number: <u>541-479-5343</u>
(2) Please list all arrests or convictions for any crime, violation, or infraction of any law during the last year even if they are <u>not liquor</u> related for anyone who holds a financial interest in the licensed business. Attach additional sheet of paper to back of form if needed.	Name Offense Date City/State Result
(3) Will anyone share in the profits who is not a licensee? If yes, please give name(s) and explain.	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> EXPLAIN:
(4) Were there any changes of ownership (ie: add/drop partners, change to corporations, etc.) not reported to the OLCC in the last year?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> EXPLAIN:
(5) Package Store Licenses with Gas Pumps: Report actual grocery inventory at cost (DO NOT INCLUDE BEER OR WINE).	<u>\$ 38,684.76</u>

Endorsement - Please take this form to your local governing body that is listed below before you return it to the OLCC.

The City of BROOKINGS recommends that this license be GRANTED _____ REFUSED _____ on (date) _____

Signed: _____ Title of Signer _____

License Fees and Late Fee Schedule & Amounts - Do not mail cash.	Dollar Amount (\$)
License Fee for Package Store with Pumps	50.00
TOTAL FEE TO PAY >>>>PLEASE PAY THIS AMOUNT <<<<	50.00
Late Fees	
IF Renewal Application Is Received After June 10, 1997 but before July 01, 1997	Add 12.50 To Total Due
IF Renewal Application Is Received On or After July 01, 1997.	Add 20.00 To Total Due

Print Name	Signature	Date	Social Security #	Date of Birth
<u>Lake Colvin</u>	<u>[Signature]</u>	<u>4/6/97</u>	<u>54186644</u>	<u>8-8-61</u>



I N T E R

O F F I C E

MEMO

To: Mayor and City Council
From: Tom Weldon, City Manager *Tom*
Subject: Chamber of Commerce request for reallocation of funds
Date: April 23, 1997

The Brookings-Harbor Chamber of Commerce is requesting that the \$1,000 the city originally approved to help support their community beautification project be reallocated (see attached letter).

This cash donation would now be used to help the Port of Brookings Harbor grant application to fund a feasibility study for the development of a civic auditorium in our community.

I recommend we agree to reallocate these funds as the Chamber of Commerce has requested.

-com-



CHAMBER OF COMMERCE

April 22, 1997

Mayor Nancy Brendlinger and
Brookings City Council
898 Elk Drive
Brookings, OR 97415

Dear Mayor and Councilors:

The Brookings City Council generously budgeted One Thousand Dollars (\$1,000.00) for this current fiscal year to support a Brookings-Harbor Chamber of Commerce sponsored community beautification project. This involved, in part, bringing the founder of the Chemainus, Washington beautification project to our community for a series of workshops. Due to a problem of clarification of terms with this individual, as well as scheduling difficulties, the Chamber of Commerce's Tourism Committee chose to "shelve" the project for the near future.

The Chamber's Board of Directors have reallocated the \$1,000.00 they originally designated for the Chemainus project to be used as part of the cash match that would be required for the Port of Brookings Harbor grant application to fund a feasibility study for the development of a civic auditorium in our community. The total cash match, which is twenty-five percent (25%) of the grant proposal, would be made up of monies from the Chamber, the Port and hopefully, the City of Brookings.

This letter is a request for the City of Brookings to reallocate the \$1,000.00 originally budgeted for the "Chemainus" project to the partial cash match for this grant. It is expected that the grant will be awarded in July, 1997. If the grant is not awarded, the money will be returned to the City of Brookings.

As you know, the Brookings-Harbor Chamber of Commerce and the Port of Brookings Harbor believe that a self-supporting civic auditorium in our community would be a tremendous asset to our economy. This grant would provide the opportunity to determine whether such a project is financially feasible.

Thank you for your consideration of this matter.

Les Cohen
Executive Director

AGREEMENT FOR SERVICES

THIS AGREEMENT made and entered into this _____ day of _____, 1997, by and between CITY OF BROOKINGS, a municipal corporation of the State of Oregon, hereinafter referred to as "City", and _____, hereinafter referred to as "_____", all of whom agree as follows:

W I T N E S S E T H

WHEREAS, City desires to contract for the services of a Municipal Judge for the City of Brookings;

WHEREAS, it is the desire of the Common Council of City to establish certain conditions of employment and to set forth work obligations for the Municipal Judge;

WHEREAS, _____ desires to accept contract employment as Municipal Judge of the City of Brookings and agrees to the terms set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants contained in this agreement, the parties hereto agree as follows:

1. CONTRACT FOR SERVICES: City hereby contracts with _____ to perform the functions and duties of Municipal Judge of the City of Brookings.

2. DUTIES OF MUNICIPAL JUDGE: The Municipal Judge shall fully and faithfully perform all of the duties set forth in Brookings Ordinance No. 51-0-008 as relates to Municipal Judge and the duties and performance responsibilities set forth in the

AGREEMENT FOR SERVICES - 1

job description attached hereto as Exhibit "A" and by this reference incorporated herein. The Municipal Judge shall also perform such other duties as may be assigned, from time to time, by the Common Council of City. The Municipal Judge shall comply with all federal, state and local laws, ordinances and regulations applicable to this contract, and with the state and federal constitutions. The Municipal Judge will support the Constitution of the United States and the Constitution of the State of Oregon and faithfully discharge the duties of the office of Municipal Judge of the City of Brookings to the best of his or her ability.

3. COMPENSATION: For services rendered hereunder, City shall pay to Municipal Judge the sum of \$25 per hour, but not to exceed \$250 per month. Municipal Judge shall furnish a monthly itemization to City which details services by description of case, identification of defendant and time expenditure.

4. STATUS OF SERVICE TO CITY: The Municipal Judge acknowledges that he or she is appointed by the Common Council and may be removed by a majority of the Common Council for any reason.

5. TERM: This agreement may be terminated upon thirty (30) days advance written notice by one party to the other, or if an agreement is reached by both parties, this agreement may be terminated immediately. Upon the effective date of termination, the Municipal Judge shall be paid to that date, and no further

AGREEMENT FOR SERVICES - 2

obligation on the part of either City or the Municipal Judge shall exist thereafter.

6. STATUS AS INDEPENDENT CONTRACTOR: _____

is not an officer, employee or agent of the City, but rather is an independent contractor. Municipal Judge shall be solely responsible for any federal or state taxes and withholdings applicable to compensation or payments made to Municipal Judge under this agreement. Municipal Judge shall not be eligible for any benefits received by City employees, including but not limited to social security, unemployment insurance or worker's compensation.

7. GENERAL PROVISIONS: This agreement constitutes the entire agreement between the parties hereto. The provisions of this agreement shall be binding upon and inure to the benefit of the parties and their respective successors and heirs. This agreement is personal unto the parties and the Municipal Judge may not assign or delegate his or her duties hereunder, except as authorized by City. This agreement shall become effective on _____, 1997.

SIGNED ON THE DATE FIRST HEREINABOVE WRITTEN and executed on behalf of the City as authorized by its Common Council.

CITY OF BROOKINGS

MUNICIPAL JUDGE

BY _____
Mayor

BY _____

AGREEMENT FOR SERVICES - 3

ATTEST:

AGREEMENT FOR SERVICES - 4

CITY OF BROOKINGS

MUNICIPAL JUDGE

GENERAL STATEMENT OF DUTIES:

The Municipal Judge is the judicial officer of the City of Brookings and shall preside over the Municipal Court of the City of Brookings.

DISTINGUISHING FEATURES OF THE CLASSIFICATION:

The Municipal Judge shall have authority to issue process for the arrest of any person accused of an offense against the ordinances of the city of Brookings; to commit any such person to jail or admit him to bail pending trial; to issue subpoenas; to compel witnesses to appear and testify in court on the trial of any cause before the court; to compel obedience to such subpoenas; to issue any process necessary to carry in effect the judgments of the court; and to punish witnesses for contempt of court.

SUPERVISION RECEIVED:

The Municipal Judge works under the supervision of the City Council. The Municipal Judge is appointed and may be removed by a majority of the Council.

JURISDICTION:

All of the incorporated area, now or hereafter, within the City of Brookings shall be within the territorial jurisdiction of the Municipal Court and the Municipal Judge.

The Municipal Judge shall exercise jurisdiction of all offenses defined and made punishable by ordinance of the City of Brookings and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by ordinances of the City of Brookings.

SUPERVISION EXERCISED:

No employees are supervised by the Municipal Judge.

CITY OF BROOKINGS

MUNICIPAL JUDGE

KEY PERFORMANCE AREAS:

The Municipal Judge shall have authority to form and adopt reasonable rules for the conduct of the business of the Municipal Court for the City of Brookings; provided, however, that he/she shall not form or adopt any rule which contravenes the Constitution of the United States, the Constitution of the State of Oregon, the laws of the State of Oregon or any ordinance of the City of Brookings.

The Municipal Judge shall by order set the days and hours that the Municipal Court for the City of Brookings will be in session for the transaction of judicial business. Once the Municipal Judge has set said days and hours, they shall not be changed or altered except by order of the Municipal Judge.

EMPLOYMENT STANDARDS

KNOWLEDGE OF: Legal principles, rules of evidence and City Ordinances.

SKILL IN: Maintaining decorum and order in hostile situations; weighing evidence, evaluating witnesses testimony, applying legal principles to situations and maintaining the legal and civil rights of citizens.

DESIRABLE EXPERIENCE:

Employment as an attorney or judge.

PRE-EMPLOYMENT REQUIREMENTS:

Drug/Criminal background screen; bondability; educational, licensing and experience verification.

COMPENSATION TYPE: Monthly

EXEMPTION STATUS: Exempt

JOB GRADE: N/A

CITY OF BROOKINGS

MUNICIPAL JUDGE

POSITION FUNCTIONAL REQUIREMENTS

Division/Dept: Judicial
Job Title: Municipal Judge
Reports To: City Council

The functions and abilities for successful performance in this position include, but may not be limited to:

Physical Job Functions

Designated Function	Reach (Inches)	Distance (Feet)	Weight (Pounds)	Time (%)
COLLATING		3		5
DIALING	18			5
FILING	18			5
KNEELING			2	
LIFTING		3	10	5
REACHING		3		5
SITTING				80
SORTING	18			5
STOOPING				3
STANDING				10
TYPING	12			5
WALKING				10
WORD PROCESSING	18			5

Note: Percentages of time usually exceed 100% because many functions actually occur simultaneously.

CITY OF BROOKINGS

MUNICIPAL COURT JUDGE

Mental Aptitudes Table

Designated Function	% Time	Aptitude Level	
WRITING	10	2	Note: Percentages may exceed 100% because functions may occur simultaneously
READING	25	1	
REASONING	100	1	
MATHEMATICS	25	2	
VERBAL	40	2	

Basic Acuities

Designated Function	Acuity Level
VISION	1
HEARING	1
TOUCH	2
TASTE	2
SMELL	1

Note: Acuities levels are: High = 1 Medium = 2 Low = 3

Acuity levels are established **after** reasonable accommodations are provided.

ORDINANCE NO. 51-O-008

AN ORDINANCE CREATING A MUNICIPAL COURT, CREATING THE OFFICE OF MUNICIPAL JUDGE, PRESCRIBING THE JURISDICTION OF SAID COURT AND JUDGE, PROVIDING FOR THE MAKING OF RULES OF SAID COURT, PROVIDING FOR PROCEDURE OF SAID COURT, AND DECLARING AN EMERGENCY. [Effective October 23, 1951]

Sections:

- | | |
|--------------------|---|
| Section 1. | Creation of municipal court. |
| Section 2. | Creation of office of municipal judge. |
| Section 3. | Judicial officer of the city. |
| Section 4. | Territorial jurisdiction. |
| Section 5. | Crime and offense jurisdiction. |
| Section 6. | Authority of municipal court judge. |
| Section 7. | Creation of office of municipal judge pro tem. |
| Section 8. | Applicability of Oregon laws. |
| Section 9. | [Repealed] |
| Section 10. | Municipal court rules. |
| Section 11. | Municipal court schedule. |
| Section 12. | [Emergency clause] |

The city of Brookings ordains as follows:

Section 1. Creation of municipal court. There is hereby created a court for the city of Brookings to be known as "The Municipal Court for the City of Brookings."

Section 2. Creation of office of municipal judge. There is hereby created the office of municipal judge.

Section 3. Judicial officer of the city. The municipal judge shall be the judicial officer of the city of Brookings and shall preside over the municipal court of the city of Brookings.

Section 4. Territorial jurisdiction. All of the incorporated area, now or hereafter, within the city of Brookings shall be within the territorial jurisdiction of the municipal court and the municipal judge.

Section 5. **Crime and offense jurisdiction.** The municipal judge shall exercise original and exclusive jurisdiction of all crimes and offenses defined and made punishable by ordinance of the city of Brookings and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by an ordinance of the city of Brookings.

Section 6. **Authority of municipal court judge.** The municipal judge shall have authority to issue process for the arrest of any person accused of an offense against the ordinances of the city of Brookings, to commit any such person to jail or admit him to bail pending trial, to issue subpoenas, to compel witnesses to appear and testify in court on the trial of any cause before him, to compel obedience to such subpoenas, to issue any process necessary to carry in effect the judgments of the court, and to punish witnesses for contempt of court.

Section 7. **Creation of office of municipal judge pro tem.** The office of municipal judge pro tem is hereby created. The municipal judge pro tem shall be appointed in the same manner as the municipal judge. The municipal judge pro tem shall serve as municipal judge pro tem when the municipal court judge is absent from the city, incapacitated, or otherwise unable to discharge the duties of municipal judge. When occupying the office of municipal judge, the municipal judge pro tem shall have all the powers and authority of the municipal judge. [Section 7 added by Ordinance No. 64-O-175, adopted February 11, 1964.]

Section 8. **Applicability of Oregon laws.** When not governed by ordinance or by charter of the city of Brookings, all proceedings in the municipal court for the city of Brookings for the violation of a city ordinance shall be governed by the applicable general laws of the state of Oregon governing justices of the peace and justice courts.

Section 9. [Section 9 repealed by Ordinance No. 67-O-195 adopted December 12, 1967.]

Section 10. **Municipal court rules.** The municipal judge shall have authority to form and adopt such reasonable rules for the conduct of the business of the municipal court for the city of Brookings; provided, however, that he/she shall not form or adopt any rule which is in contravention with the constitution of the United States, the constitution of the state of Oregon, the laws of the state of Oregon or any ordinance of the city of Brookings.

Section 11. **Municipal court schedule.** The municipal judge shall set the days and hours that the municipal court for the city of Brookings shall be in session for the transaction of judicial business, but one the municipal judge has set said days and hours, they shall not be changed or altered except by order of the municipal judge, which order shall be published at least once in a newspaper of general circulation in the city of Brookings 10 days in advance of the effective date of such order; provided, however, that no change or alteration of said days or hours shall be made which will result in advancing or postponing the trial date of any cause already set for trial at the time of making the order.

Section 12. **[Emergency clause]**

[EFFECTIVE OCTOBER 23, 1951]

FRANK C. ROBERTS
ATTORNEY AT LAW

P.O. BOX 575
94202 E. SECOND STREET
GOLD BEACH, OR 97444

PHONE (541) 247-7061
FAX (541) 247-6936

February 27, 1997

Nancy A. Brendlinger, Mayor
Post Office Box 667
Brookings, Oregon 97415

Re: Real property located at 720 Railroad Avenue, Brookings, Oregon

Dear Mayor Brendlinger:

This office represents Southern Curry Ambulance Association (SCAA). David Cartwright, the manager of SCAA, has requested that I draft this letter making a request that SCAA be put on the City Council's next agenda so that Mr. Cartwright may appear and discuss a proposal relevant to the real property located at 720 Railroad Avenue, Brookings, Oregon. Said proposal has three options and those options are set forth further in this letter.

Over the past several years, the City of Brookings has leased on a year to year basis the real property located at 720 Railroad Avenue, Brookings, Oregon, to SCAA for \$1.00 per year. Mr. Cartwright and the board members of SCAA would like the Mayor, the City Council and the City of Brookings to understand how grateful SCAA has been to the City for the several years of generosity in ensuring that SCAA had an ambulance barn and an office to work out of while providing services to Southern Curry County. They would hope that the past relationship, which has been so beneficial to the community, will continue in the future. However, as it is coming time to renew the lease agreement, SCAA, through its manager David Cartwright, proposes three options for the City to consider that are relevant to continued use of the real property. This is done in response to a call Mr. Cartwright received from the Brookings City Administrator who advised him that the City of Brookings would no longer be able to lease the property to SCAA for \$1.00 per year. Over the past several years, SCAA has remodeled and expanded the buildings located on the property in order to meet the expansion needs of the organization and the needs of the community. The buildings located on the property are no longer adequate for the needs of SCAA and in the very near future the organization will need to do substantial improvements to meet their needs. We would hope that in considering the proposals set forth below the Mayor and City Council Members would keep in mind the fact that SCAA is a nonprofit organization dedicated to providing emergency services to Southern Curry County and will continue that dedication to providing the best possible service in the future. The proposed options are as follows:

Option 1: The City of Brookings would agree to sell the property located at 720 Railroad Avenue, Brookings, Oregon to SCAA and some method of setting a price would be agreed to by all the parties

February 27, 1997
Page 2

involved which would include either using the assessed value of the property or getting 2 appraisals and then taking into consideration the improvements that SCAA has done to the property along with the fact that they are a nonprofit organization serving Southern Curry County. If there were a sale of the property, some of the considerations then would be splitting the costs of appraisals and the city waiving permit fees for any improvements on the real property. We would have to have further discussions pertaining to financing.

Option 2: The City would agree to lease the property to SCAA for a period of 20 years with an option to renew for 2 additional 20 year terms and a further option of first right of refusal to purchase. The City would again need to work with SCAA in waiving permit fees for the improvements that would need to be done.

Option 3: The City would continue to lease the property on a year to year basis for \$1.00. SCAA would sign a new lease for a year period when the current one is up and the City would give them the option to renew for 2 additional 1 year periods which would allow SCAA the time to find other property that they would be able to lease or purchase and move to.

SCAA would like to remain in the City of Brookings but due to their expansion of service and vehicles and being restrained under the physical quarters that they have now, they have no choice but to expand. SCAA hopes that the excellent working relationship that they have had with the City and the fact that SCAA and the City of Brookings have worked hand in hand to continue to provide emergency services to the community will continue. SCAA looks forward to discussing this matter at your next meeting.

Sincerely,



Frank C. Roberts

FCR:bm

pc: client

Julie Cartwright

C. David Ham

Larry Curry

Bob Hagbom

Kevin T. Blank

SOUTHERN CURRY AMBULANCE ASSN., INC.

720 Railroad Ave., Brookings, OR 97415

(541) 469-7911

April 21, 1997

Mr. Tom Weldon, Manager
City of Brookings
898 Elk Drive
Brookings, OR 97415

Re: Lease of 720 Railroad

Dear Tom,

The Board of Directors and staff of Southern Curry Ambulance wish to express our gratitude for our past lease arrangements with the City of Brookings.

We have endeavored to return the favor in the following manner:

1. Training your fire department personnel.
2. Donating an ambulance and other equipment.
3. We have provided ambulance transports at no cost to the City for incarcerated medical/mental patients. Just in the last few weeks we had three such transports which saved the City just over \$2,100.00.
4. We have provided standby ambulance service for City schools athletic functions.
5. We have provided standby ambulance service for large gatherings such as home shows, etc.

Our service is growing and the need for a larger office space and crews quarters are needed. I would refer you to my January 15th letter and our Corporate Attorney Frank Roberts letter, of February 27th for our suggested options.

It is our hope, that an arrangement satisfactory to all may be reached soon. Thank you for your consideration of this matter.

Sincerely,



David B. Cartwright
General Manager

pc: Nancy Brendlinger, Mayor
Julie Cartwright
C. David Ham

Larry Curry
Bob Hagbom
Kevin T. Blank



SOUTHERN CURRY AMBULANCE ASSOC., INC.

P.O. BOX 1986
720 RAILROAD AVE.
BROOKINGS, OR 97415



January 15, 1997

To: Tom Weldon, City Manager
City of Brookings

Re: Proposal for Ambulance Barn at 720 Railroad St.

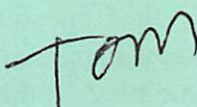
- 1) We obtain three (3) property appraisals with allowances for our improvements and a sales agreement to the satisfaction of both parties.
- 2) A twenty (20) year lease at a conservative monthly or annual rental payment with no cost building permits. We pay improvement costs.
- 3) The lease to remain as is until we can find and develop an adequate piece of property.

Respectfully Submitted,

David Cartwright, General Manager
Southern Curry Ambulance

interoffice

MEMORANDUM

to: Mayor and City Council
from: Tom Weldon, City Manager 
subject: Homebuilder's and Realtor's survey evaluating city services and section 100 study committee proposal
date: April 24, 1997

I'm a little confused on this issue. The Homebuilders Association President told me two times while discussing this survey they found no big problems in our building inspection and planning areas. However, the narrative with this survey states the city "often seems to have become very non-user friendly". I don't know which comment is an accurate portrayal of the attitude of these groups.

Another area of confusion with this survey is that they didn't give us any numbers. There are approximately 50 members of the Homebuilder's Association and 66 members of the Curry County Realtor's Board in the Brookings-Harbor area. As best I can tell the most responses they had to any of their 23 questions was 10. This is an extremely small number of responses on which to base these strong comments.

The people surveyed are those who are being regulated (not the community at large) thus it is not surprising that they had negative things to say and that they think the restrictions are too tight. The Building Codes are state laws designed to ensure the safety of future occupants of buildings. This state law is not designed according to the likes or dislikes of those people who are covered by it. The city staff is also bound by certain planning documents which represent the will of the people expressed through their locally elected officials and in accordance with state laws and administrative rules and court decisions. Again, it is not surprising those people being regulated don't like the regulations.

The consulting services and flexibility provided by some building departments are conveniences used to encourage compliance. Many building departments do not service the public like we attempt to. Their rationale is that they are an enforcement agency not an advisory agency. They believe builders should own code books and learn the code themselves or hire this service from a private firm. The City of Brookings does not subscribe to this philosophy and consequently staff tries to educate as well as administer codes. As we all know, education takes time and sometimes we may make mistakes.

Mayor and City Council

Page 2

April 24, 1997

If construction were to drop off significantly the Council might consider turning building code enforcement over to the state. This could happen, particularly with the lack of support for this locally provided service as exhibited in this survey. If this were to happen I wonder if the state inspectors would provide information and flexibility like we attempt to do?

Interestingly none of these people contacted for the survey would let them use their name. This makes it difficult to seriously address issues in any depth. Staff has been told (by people who didn't want their name used) that not all the members of the Homebuilders Association were given the opportunity to complete a survey.

Many of the negative comments in the survey are directed towards the City Engineer. This consultant works for the city, not the individual builder or homeowner, and has worked for the city many years. Therefore he knows our codes and requirements related to codes and staff believes generally does a good job. We are discussing the comments and suggestions with the engineer in an effort to determine if his services can be made more efficient.

Staff is opposed to setting up another permanent committee, specifically a grievance committee as they suggest, to hear problems and make recommendations to the Planning Commission and/or Council. Committees seem to generate work for themselves and therefore staff. We already have mechanisms in place to hear about problems and discuss solutions. The City Council is the Appeals Board for hearing matters relating to codes and the City Manager and Community Development Director are the appropriate people to hear complaints about employee performance.

Staff is also opposed to setting up a committee now to review Section 100 of our Development Code. We have too many things happening now to take staff (and Council and Planning Commission members) time for this issue. It seems to me (based upon complaints and problems I hear about) that Section 100 is generally working satisfactorily. While I'm not opposed to regularly reviewing important ordinances, I don't think reviewing Section 100 is a high priority now.

They do make a few constructive suggestions, some of which are already started and will be continuing and would be done whether they suggested them or not. We do appreciate their suggestions regarding a job description type handout telling who and where to go for information on city services. I also like the ideas on the City Engineer handout. We should discourage people from calling the Engineer directly, as someone must pay for his time the person calling pays when this happens.

All in all, reviewing their summary and survey has been an interesting and in many ways helpful exercise.

-com-

EVALUATION OF CITY SERVICES

Last fall, the Home Builder's Association and the Curry County Board of Realtors conducted a survey of contractors', realtors and homeowner's regarding city services pertaining to development. For the most part, those contacted deal with the city on a regular basis and speak with the experience of several contacts with city staff. However, this same need to deal with the city in the future also led to an almost 99% majority requesting to be anonymous.

The survey showed that there were satisfied customers of the city. However, on the other hand it also showed, as did the survey taken by the Business Development Center, that the city does have some weak areas that need refining. It is hoped that the city will make a sincere effort to improve in these areas. We would encourage the city staff not to wait until the '97-'98 year to implement the Council Goal of each department developing a user friendly "to do" list such as the one recently developed by Doug Alexander of the Building Department.

In conclusion, the city is in a service business and it often seems to have become very non-user friendly. A great number of users are distrustful and leery of the city's purpose. This projection is causing local people problems. Some newcomers are just deciding not to stay here but to go on to places with a more friendly attitude.

We are making a few basic suggestions to resolve the problems:

1. The Planning, Community Development and Engineering Departments and the City Manager should develop a better method of handling the public. Part of this could be in the form of a hand out that completely outlines all the requirements to complete various projects, such as the new handout on building permits. This would give a better understanding on how to get things done for the public and the staff.
2. Develop a job description guide handout for Who and Where to go to get answers regarding various city services.
3. Publish a handout that details the involvement of the City Engineer, (i.e., name, phone

number and times when City Engineer can be reached, type of projects requiring City Engineer, at what point is City Engineer involved, turn-around time expeted for approval, charges and justification for charges).

4. Set up a committee to review and suggest changes to Section 100 as soon as possible.
5. Set up a volunteer Grievance Committee to hear problems and make recommendations to the Planning Commission and/or the City Council on solutions before the problems get out of hand.

We feel that implementation of these suggestions would go a long way to providing more productive time both in city hall and in the public workplace.

We would also like to note that this survey was done by volunteers at no cost to the city.

Sincerely,

SURVEY OF CITY SERVICES

1. What type of project did you have?

Answer: Mostly residential house construction on flat and sloped lots. One respondent stated "all types". Some had only gone through engineering and planning

2. Were you directed to the proper department on your first contact?
Yes____No____

Answer: All but one person answered yes.

3. Did you receive all the information you needed to prepare the necessary paper work (plans, etc.) to start your project on your first contact with the County/City?
Yes____No____ If your answer is no, how long did it take?

Answer: Almost half answered no. Comments: Planning needs to write information down in handout packet; - Wasn't told of all requirements when I first made contact with Building Dept.; - Not told needed drainage plan in beginning; - Took 3 months.

4. How long did it take to get approval of your project?

Answer: 2 months (1 mo. for my geologist and engineer and 1 mo. with city engineer); One month total; - Taken 2 ½ months and still trying - 7 working days; - 3 weeks; - 2 months; - Two weeks to two months, depends on project; - 3 months; - Two months, sometimes more; - It takes quite a while playing "Guess Again" to learn the "system".

5. Did you have contact with anyone in any of the following departments?

Building:
Engineering:
Planning:
Other, please specify

Answer: The majority had contact with Building and Planning. Several dealt with HGE, one with Leo, one with Dennis.

6. How many and what departments/personnel were needed to give approval of your project?

Answer: Most said all departments were needed for approval. Other answers: Don't know yet as not approved yet; - Too many to remember - Sometimes all plus the fire chief.

7. Did all codes that applied to your project seem reasonable? Yes____No____
If your answer is no, please explain.

Answer: All but one felt that the codes were unreasonable. Comments included; Hillside code needs changing; - Section 100 excessive; - Some zoning and parking requirements are unreasonable; - Too many sheets required for minor projects; - No time schedule for city staff or city engineer to respond and approve plans; - 2-3 weeks for city engineer approval of simple plan.

8. Were there any problems complying with the codes and requirements?

Answer: Respondents were evenly split on this one. Comments included; Just time and expense; - Too much time. Too much trouble; - Cost a lot of money for engineering and implementation; - Especially Section 100; - Just expensive.

9. Do you feel your plans were approved quickly_____or took too long_____
Please explain.

Answer: All but one felt that it took too long for approvals. Comments: Took 3 weeks with HGE; - Time is money and our good weather days are being wasted; - Got too close to the rainy season waiting for approvals; - Takes 2-3 weeks to get 1 and 2 page plans approved by city engineer.

10. Do you feel the fees and charges for your project were reasonable?
Yes____No____
If no, please explain.

Answer: A few felt the fees were reasonable but most thought the fees were too high for the service received. Comments: Spent an extra \$6,000 to outside consultant who only confirmed what had already been designed; - City engineer took too long; - SDC's too high; - City engineer cost too much when you have to wait.

11. Were you able to get inspections when needed? Yes___No___
If no, please explain.

Answer: All but one said they could get inspections when needed.

12. Was the attitude of the employees helpful? Yes_____No_____
If no, please explain.

Answer: Just a little over half said employee attitude was helpful. Comments: City engineer difficult to reach; - City inspector seemed very stressed; - Only answer for requirements was to satisfy city engineer; - "I don't care" attitude with staff and engineer; - Generally yes, maybe Linda will help Leo; - City need to be more consumer friendly; - City engineer in Coos Bay is out of touch with our city needs.

13. Overall, were you happy with your experience with the City? Yes___NO___
If no, please list things that you feel need to be changed.

Answer: Only two felt their experience was positive. Comments: With city personnel, yes but with bureaucratic paper work and outside agencies, no; - City engineer doesn't keep word; - A list of all documents needed by city should be provided when applying for building permit; - Engineering department is bad news.

14. Would you do this project again? Yes_____No_____
If the answer was no, please explain.

Answer: Only one person said no. Comments: Endless delays postponed this project into the next year; - If I had to but would plan on 3-4 week delay; - Cost too much money; - Disgusted property owner, no choice.

15. Do you feel good about the answers to your questions that you receive from the city?

Answer: One answered yes and one answered sometimes. Most said no. Comments: Some of the time mass confusion; - Usually accurate.

16. Do you understand the requirements for development in the city?

Answer: A little less than half said yes. The rest said sometimes. Comments: Not sure of the proper chain of command; - Do not always get same answer twice.

17. Can you easily obtain information from the following departments?

Building Yes, when available; - 50/50; - Fair
Planning Mostly yes or OK; - some no's; - county easier to work with.
Engineering Yes's and no's split; - Vague

18. Do you get personal cooperation from staff when asking specific questions?

Answer: One yes; Comments: Not in writing; - Vague; - Most are helpful except for one person; - Never

19. Are you reluctant to sell or show vacant undeveloped land in the city due to all the rules and regulations in developing?

Answer: Evenly split on yes's and no's. Comments: No, but it is a lot of extra hours that need not be; - Cautions buyers to check with the city; - Extremely cautious; - City more than county.

20. Do you have trouble dealing with the city's Hillside Development standards?

Answer: Mostly yes. Comments: Don't think that most realtors understand full impact; - Haven't tried; - Not strict enough, makes us nervous.

21. Do you feel like you are losing sales because there is so much confusion over how to satisfy all the development requirements?

Answer: Mostly yes. Comments: Sometimes; - I tell my buyers to talk to the city. I don't represent anything requiring city input anymore.

22. Have you been told that it is easier to develop in other areas than it is to develop here?

Answer: All but one answered yes.

23. Do the local development codes seem reasonable?

Answers ranged from no, to some of them to don't know.

SECTION 100 of the Land Development Code

All new legislation, including city ordinances, need to have a review now and then in order to straighten out the bugs that appear as the particular law is being applied. Section 100, also know as The Hillside Ordinance, is no exception. Quite a few bugs have surfaced in what was once thought to be good ordinance.

Upon the request of John Bischoff, the city planner, we have put forth some ideas on making Section 100 a better ordinance for both the City and the public. Attached is what we expect will be the beginning of the process to amend Section 100. We firmly believe that changes we have recommended should be incorporated if we are to keep Section 100.

Some additional areas that should be dealt with are:

1. Slope density; do we have the proper density? By what criteria do we use half acre and full acre as lot sizes?
2. How do you calculate slope density when there is a depression within the slope?
3. Flat benches that are located on slopes; should the same Section 100 requirements apply to a building site that is fairly flat within a slope?
4. Does Section 100 allow for Dwelling Groups per LDC Section 20.110-120?
5. Should the underlying zoning on slopes be changed to reflect the true realities of Sec.100?

Section 100

HAZARDOUS BUILDING SITE PROTECTION AND SLOPE HILLSIDE DEVELOPMENT STANDARDS

(This section also addresses measures to be taken on non-hillside areas as well as hillside areas)

Sections:

- 100.010 Purpose.
- 100.020 Review by city manager or planning commission.
- 100.030 Slope-density standards.
- 100.040 Site study authorization.
- 100.050 Site preparation.
- 100.060 Enforcement.
- 100.070 Final maps.

100.010 Purpose.

A. The purpose of this section is to prevent building site hazards and threats to life and property created by flooding, landslides, weak foundation soils and other hazards as may be identified by the city of Brookings ~~or other agencies~~. This section is intended to advance the above purpose to protect life and property: *(the reference to "other agencies" is taken out so as to reduce the vagueness of how many and what agencies a homeowner/developer must go through to get approvals)*

1. By requiring the study of such areas by a qualified person prior to construction.
2. By requiring special construction techniques to control dust, mud, water runoff, soil erosion or sediment deposition during construction.
3. By controlling building density in the above described areas.
4. By establishing mechanisms for enforcement to insure compliance with this code.

B. The policies and standards of this section are based upon the data contained in the comprehensive plan document and other technical information. *(need to have this "other technical information" specifically named so that the documents can be inspected)*

100.020 Review by city manager or planning commission.

- A. The city manager or a qualified designate, shall review all planning permit requests for conformance with the standards and criteria of this section.
- B. The city manager or a qualified designate shall review requests for building permits or grading permits, and the planning commission shall review land use applications proposed ~~within~~ with areas identified as having average slopes of greater than 15% grade.
- C. The city manager or a qualified designate may refer matters to the planning commission which require use of standards, such as slope-density determinations. The planning commission shall consider the advice of the city manager or a qualified designate and/or other technically qualified person(s) and such qualified persons representing the applicant in making a determination.
- D. The planning commission may approve, approve with conditions or require changes or deny the proposal based upon the criteria or standards listed in Sections 100.030, 100.040 and 100.050. Planning commission decisions may be appealed to the city council as provided in Section 156.

100.030 Slope-density standards.

In the review of applications for partitioning, subdivisions, planned or clustered developments or multiple-family dwellings, the planning commission and the city manager or a qualified designate in reviewing ministerial applications, shall employ the following density standards for the project site, based on the average slope. Average slope shall be determined by at least three measurements perpendicular to the contour lines from boundary to boundary within the lot or, in the case of a subdivision or partition, within the boundaries of the proposed lot and not including land to be dedicated for right-of-way or other dedicated *(added for clarification and match city's current interpretation)* purposes or city required easements. *(Property set aside for city use should be same as dedicated property and not be included in average slope calculation)* Average slope of the site shall be as determined by a contour map prepared by the applicant or his representative. Contour maps should be prepared with 5' contour lines, with the following interval and with the average slope indicated:

Overall Site
Elevation Difference

Contour
Interval

0'—25'

2'

26—50'

5'

51'+—

10'

(requiring 5' contour lines for all elevations simplifies the readability of the map - also this change is consistent with the current information sheet that the planning department hands out that states that topographical maps are to have 5' contour lines)

The applicants submittal must accurately reflect the nature of the slopes on the subject property. The city may determine that more measurements are required to establish the actual average slope. ~~Average slope shall be determined by measuring perpendicular to the contour lines from boundary to boundary within the lot or, in the case of a subdivision or partition, within the boundaries of the proposed lot and not including land to be dedicated for right-of-way or other purposes~~ *(This sentence is moved to the first paragraph)*

1. Zero - 15% average slope: Density is limited only by the underlying zone in which the site is located.
2. Greater than 15% - 30% average slope: ~~Site study and report by a certified engineering geologist is required prior to construction or excavation. (this language is moved to 100.050 Site preparation)~~ Density of proposed lots shall not exceed two (2) dwelling units per acre one (1) dwelling unit per half acre except as provided in Section 100.030.4.
3. Greater than 30% slope: ~~Site study and report by a certified engineering geologist is required prior to construction or excavation. (this language is moved to 100.050 Site preparation).~~ Density of proposed lots shall not exceed one (1) dwelling unit per acre except as provided in Section 100.030.4. ~~Construction on slopes of 30% or greater is permitted only with a foundation designed by a Oregon licensed civil engineer. (this language is moved to 100.050 Site preparation)~~
4. If it can be demonstrated that the average slope across a given lot of a proposed subdivision or minor partition is less than 15% grade that lot may be smaller than the requirements of Sections 100.030.2 and 3 above. In no case shall the size of a lot be less than the minimum allowed by the underlying zoning. Specific density shall be established after deliberation of the planning commission and testimony from the city manager or a qualified designate, and the applicant's

certified engineering geologist, and the applicant's civil or structural engineer. ~~other qualified persons.~~ The ~~A~~ site study conducted by the geologist and the civil or structural engineer shall determine if a greater or lesser density is suitable for the site. ~~The site study shall also determine the need for mitigation measures such as drainage structures, water retention, rip rap, road placement and re-vegetation.~~ *(this language is moved to Section 100.050 Site Preparation)*

100.040 Site study authorization.

A. The city manager or a qualified designate may require a site study by a certified ~~engineering~~ *(this animal is almost non-existent and not necessary with the requirement of a civil engineer to also be involved)* geologist, Oregon licensed civil engineer and/or other qualified person prior to issuance of a building or grading permit in areas containing or adjacent to a fault zone, sinkhole, unstable soils, steep slopes, high water table, or other geologic hazard. Site studies may also be required for construction or excavation in areas of steep slope, where, in the opinion of the city manager or a qualified designate, there is a potential hazard to the proposed structure(s) or to any adjacent property. The site study shall also determine the need for mitigation measures such as drainage structures, water retention, rip rap, road placement and re-vegetation. *(this is language from 100.030.4)* And also:

B. site specific studies may be required by the city manager or a qualified designate, ~~or the planning commission~~ *(it is not appropriate for the planning commission to be involved in issuance of building permits)* for said building or grading permit of property containing weak or unstable foundation soils or other geologic factors as determined by the soils or geology ~~engineering-geology~~ *(redundant)* report. Site reports shall include bearing capacity of the soil, soil stability, pertinent geological formations, adequacy and method of drainage facilities, *(it should not be taken for granted that a "facility" will be needed)* and soil compaction and other requirements necessary for stability prior to construction. Location and characteristics of weak foundation soils and geologic formations shall be updated as information becomes available.

100.050 Site preparation

A. A site study shall determine

1. On average slopes of greater than 15% - 30% a site study and report by a certified geologist and an Oregon licensed civil engineer is required prior to excavation or construction.

2. On average slopes of greater than 30% a site study and report by a

certified geologist and an Oregon licensed civil engineer is required prior to excavation or construction and with the foundation designed by an Oregon licensed civil engineer.

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

C. B. Prior to any site preparation on an existing lot, or on an approved but unrecorded minor or major partition or subdivision, on average slopes greater than 15% grade, the applicant shall submit grading plans prepared by an Oregon licensed civil engineer showing the following information: ~~for approval of the City Engineer:~~ *(by involving the City Engineer, the city is sharing the liability with the applicants engineer for any failures. The current City Engineer has expressed a desire not to be involved in approving development on private property thus relieving the city of a potential future liability problem):*

1. All cut and fill slopes associated with new or improved roads, driveways and building pads and methods of fill compaction.
2. All utility grading including the placement of electrical television and telephone cables.
3. Areas of the site to be denuded of vegetation cover.
4. Mitigation measures including erosion control, permanent planting and an implementation time table ~~The implementation time table shall be approved by the City Engineer and/or city Manager or a qualified designate, in regard to the season(s) in which construction will occur.~~ *(this will be addressed in the new E4)*

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

E. D. Erosion and sedimentation caused by storm water runoff on all lots *(this matches the city's current policy)* shall be minimized by employing the following measures, or substitute measures deemed acceptable by the city manager or a qualified designate:

1. Only the minimal removal of vegetation cover, particularly tree cover, necessary for building placement, or access, yard or garden areas, view enhancement or streets shall be done. On average slopes of 15% or greater said removal of trees and brush for view enhancement can be a part of the grading plan if such an action does not increase the potential hazard and/or mitigation can be applied. ~~The city shall observe this in the development of streets and building pads.~~ *(this has been addressed earlier in the paragraph)*

2. Temporary measures for controlling runoff, such as berms, holding ponds, terraces and ditches shall be used as required, particularly in areas having slopes of 15% or greater.

3. Exposed areas shall be mulched and kept covered during construction to eliminate dust, mud, erosion or sedimentation, and shall be planted in permanent cover within thirty (30) days from completion of grading and/or construction or by October 1st, whichever ever comes sooner or as per the approved grading plan of Section 100.050.B. If the approved erosion control time table of the grading plan is delayed for any reason an approved emergency erosion control plan shall be implemented and in place no later than October 1st. *(clarifies that all lots need to follow erosion control methods and sets definite calendar time table for implementation)*

~~F. E. Storm drainage is to be as per Section 172.150 A.B.C. & D. (ALSO NEED TO ADD TO SEC. 172.150 REFERENCE TO THE CITY'S COMP PLAN FOR "STORM DRAINAGE DEVELOPMENT")~~

~~For a structure, driveway, parking area or other impervious surfaces in areas of 15% slope and greater, the release rate and sedimentation of storm water shall be controlled by the use of retention facilities as specified by the project engineer and approved by the City Engineer or other qualified designate. The storm drain facilities shall be designed for storms having a 25 year recurrence frequency. Storm water shall be directed into drainage with capacity to be calculated in accordance with the City's Comprehensive Plan for Storm Drainage Development, so as not to flood adjacent or downstream property.~~

~~F. In all areas of the city, the city manager or a qualified designate may require culverts or other drainage facilities, designed in accordance with the City's Comprehensive Plan for Storm Drainage Development, be installed as a condition of construction. (Sec. 172.150 A.B.C. & D. is more encompassing and already applies to all lots)~~

G. Developments which abut the coastal bluffs or coastal shoreland boundary, or direct surface water runoff over the bluffs or shoreland boundary will require special impact mitigation measures.

H. Filling lowlands shall be done only where it is determined that the fill will not cause flooding or damage to adjacent properties and where adequate drainage facilities are installed.

100.060 Enforcement

A. The construction, location, development or use of land or structures, contrary to the provision of this section, ordinance or permit, or in violation of any conditions or limitations approved pursuant to this ordinance, is an unlawful public nuisance.

B. In addition to other remedies set forth in Section 164, and other remedies provided by ordinance or under state law, the City may institute appropriate action or proceedings to prevent, restrain, correct, abate or remove the unlawful location, erection construction, development, maintenance, repair, alteration, occupancy or use of land or structures.

C. If the City Manager determines that a violation of this section has occurred, the City shall notify the owner of the land and the developer, general agent, architect, builder, contractor or other person or entity who has participated in committing the violation, to cease all further development until such time as the violation has been remedied. If development continues in disregard of notice from the City, the City may seek an injunction to stop further development until the violation has been remedied.

D. If the City Manager determines that a violation has occurred, the City shall give written notice to the owner of the land, and the developer, general agent, architect, builder, contractor, or other person or entity who has participated in committing the violation, that a violation has occurred and that the violation must be remedied within a time specified. The amount of time to remedy the violation shall depend upon the nature of the violation, the circumstance then existing and whether an emergency exists. Noncompliance within the time set by the City will cause the City to take remedial steps to cure the violation and charge the costs, fees and expenses of such remedial action to the owner of the land. This shall include any expenses, costs and fees paid by the City to third persons for labor and materials to remedy the violation. Charges made under this subsection shall be a lien against the real property on which the violation arises and the City Recorder is authorized to enter the amount of such charges immediately in the docket of City liens.

E. The owner of the land, and the developer, general agent, architect, builder, contractor or other person or entity who takes part in any violation of this ordinance, shall be guilty of a violation of this ordinance and shall be subject upon conviction to a fine of not more than \$200. Each day under which a violation exists shall be considered a separate offense.

F. The remedies set forth in this section are cumulative and not exhaustive of all remedies the City may exercise to prevent, correct or abate a violation under this section.

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

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

Memorandum

TO: Mayor, City Council

FROM: Tom Weldon, City Manager

Tom

DATE: January 23, 1997



Issue: Applying for Rural Investment Fund grant

Recommendation: Authorize City Manager to submit application for \$200,000 of Rural Investment Funds (RIF)

Rationale: There is approximately \$700,000 available through this fund for projects in Coos-Curry-Douglas counties and our project qualifies under this fund.

Background:

- 1) RIF goal #3 - "Improve and expand the physical infrastructure of rural areas to support existing demands and new economic growth."
- 2) Our Wastewater System Improvements project fits perfectly under RIF goal #3.
- 3) Our total project cost is \$12.9 million
- 4) Since this project is required by federal and state rules, it seems appropriate we receive some of our federal and state tax dollars back here to help fund it.

-eom-

MINUTES

CITY OF BROOKINGS

COMMON COUNCIL MEETING

Brookings City Hall Council Chambers

898 Elk Drive, Brookings, Oregon

April 14, 1997

7:00 p.m.

I. CALL TO ORDER

Mayor Brendlinger called the meeting to order at 7:03 p.m.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

Council Present: Mayor Nancy Brendlinger, Councilor Bob Hagbom, Councilor Larry Curry, Councilor Julie Cartwright, Councilor Dave Ham

Staff Present: City Manager Tom Weldon, Planning Director John Bischoff, Community Development Director Leo Lightle, Building Inspector Doug Alexander, Police Chief Jack McDonald, Municipal Court Judge William Cowley, Accounting Clerk Denise Bottoms

Media Present: Anita Rainey, Curry Coastal Pilot; Martin Kelley, KCRE; Austin Bertelson, KURY

IV. CEREMONIES/APPOINTMENTS/ANNOUNCEMENTS

Mayor Brendlinger announced that Linda Barker has completed 5 years of employment with the City of Brookings and the city had a certificate thanking her for that service.

A proclamation announcing the last 3 weeks in April as "Spring Clean Up Month in Brookings-Harbor" was read by Mayor Brendlinger and presented to Richard Gyro, representing the Community Pride Partnership.

Mayor Brendlinger presented a proclamation to the American Legion representatives announcing April 25, 1997 as "Poppy Day".

A proclamation for "Brookings Crime Victims Rights Week" which will be April 13-19, 1997 was read and presented to Joan McClure of the Victims Service Program in Curry County.

Mayor Brendlinger proclaimed "Respite Care Awareness Day" to be April 24, 1997 and presented the proclamation to Dynelle Lentz.

V. PUBLIC HEARINGS

VI. SCHEDULED PUBLIC APPEARANCES

Ron Ellingson made a presentation for Curry County Employee Assistance Program.

VII. ORAL REQUESTS AND COMMUNICATIONS FROM THE AUDIENCE

VIII. STAFF REPORTS

A. City Attorney

1. Oregon Ethics law review

City Attorney Martin Stone reviewed the Oregon Ethics Law with City Council, Board, Commission and Committee members.

B. Police Department

1. Building Expansion plans

Motion made by Councilor Hagbom, seconded by Councilor Ham to approve the expenditure of \$26,000 for the Police Department building expansion as presented at the March 24, 1997 meeting. Motion passed unanimously.

C. Community Development

1. Paul Rettig's letter

Community Development Director Leo Lightle discussed the condition of Marina Heights Road. Paul Rettig addressed the Council with his concerns regarding the repair of this road. Mayor Brendlinger also gave some information on the city's progress and plans to repair this road in the future.

2. Pedestrian Facilities Project

Motion made by Councilor Curry, seconded by Councilor Ham to authorize an additional \$10,000 from the System Replacement Fund for this project and authorize related paperwork to be signed by the City Manager. Motion passed unanimously.

3. Building Code Administrative Ordinance

There was explanation of this Ordinance and time for questions or concerns from the public.

4. Authorization to call for bids for water treatment plant and Police Department expansion roofing

Motion made by Councilor Hagbom, seconded by Councilor Curry to authorize the city's consulting engineering firm to prepare plans and specifications for the reroofing of the Water Treatment Plant and to call for bids. The call for bids will also include the bidding for the roof for the new Police Department addition. Motion passed unanimously.

5. Accept bid on Public Works Pickup truck

Motion made by Councilor Ham, seconded by Mayor Brendlinger to accept the bid from Coast

Auto Center for a 1997 Chevrolet C2500 for \$16,369. Motion passed unanimously.

6. Approval of consultants contract

Motion made by Councilor Ham, seconded by Councilor Hagbom to table this item to the next Council meeting. Motion passed unanimously.

7. Committee members for the Highway 101 Refinement Study

The suggested committee members will be contacted and told that the meeting will be held but that no specific individual will be appointed to this committee.

D. City Manager

1. Municipal Court Judge job description

Motion made by Councilor Ham, seconded by Councilor Curry to accept staff's recommendation to treat the position of Municipal Judge as a contract position and accept the changed the job description. Motion passed 4-1.

2. Accept bid on surplus generator

Motion made by Councilor Hagbom, seconded by Councilor Curry that the surplus generator bid be awarded to Southern Curry Ambulance Association and sold for the price bid of \$501.01. Motion passed unanimously.

3. Building Inspections in County

Motion made by Councilor Hagbom, seconded by Councilor Curry to accept staff's recommendation not to expand our inspection services by

providing these services outside the city and that staff write a letter to the Building Codes Agency expressing the city's support of the County retaining their current building inspection service. Motion passed unanimously.

IX. CONSENT CALENDAR

- A. Approval of Council Meeting Minutes
 - 1. Minutes of 3-24-97 Regular Council Meeting
 - 2. Minutes of 4-2-97 Special Council Meeting
- B. Acceptance of Commission/Board Minutes
 - 1. Minutes of 2-4-97 Regular Planning Commission Meeting
- C. Approval of Vouchers (\$188,187.04)

(End Consent Calendar)

A motion was made by Councilor Curry and seconded by Councilor Hagbom to approve the consent calendar following corrections to the minutes. Motion carried unanimously.

X. ORDINANCES

- A. 97-O-523 - An Ordinance establishing administration and enforcement standards and procedures for the City of Brookings and it's Building Official and code enforcement agency

Councilor Hagbom moved, Councilor Curry seconded and the Council voted unanimously to adopt Ordinance No. 97-O-523 by first reading.

Councilor Hagbom moved, Councilor Curry seconded and the Council voted unanimously to adopt Ordinance No. 97-O-523 by second reading.

XI. COMMITTEE & LIAISON REPORTS

XII. REMARKS FROM MAYOR AND COUNCILORS

Councilor Curry reported on attending CPACT and Tri-Cities Council meetings.

Mayor Brendlinger reported that she enjoyed judging the Brookings-Harbor talent show. She also will be meeting with Tom Weldon, Leo Lightle and Gary Myer of Harbor Sanitary District (at his request) to discuss flow meters.

Mayor Brendlinger announced that Southern Curry Ambulance is requesting a 60 day extension on the lease of their building, which expires on 5-10-97. The Council came to a consensus to grant a 30 day extension to Southern Curry Ambulance, regardless of the outcome of the request for renewal of this lease at the April 28, 1997 meeting.

XIII. ADJOURNMENT

Councilor Ham moved, Councilor Hagbom seconded and the Council voted unanimously to adjourn the meeting at 10:00 p.m.

Nancy Brendlinger
Mayor

ATTEST:

Beverly Adams
Finance Director/Recorder

ORDINANCE NO. 97-O-387.D

AN ORDINANCE AMENDING ORDINANCE NO. 84-O-387 ENTITLED "AN ORDINANCE LICENSING THE BUSINESS OF OPERATING TAXICABS IN THE CITY OF BROOKINGS IN REPEALING ORDINANCE NUMBERS 54-O-063, 61-O-163 AND 73-O-239".

Sections:

Section 1.	Ordinance Identified.
Section 2.	Amendment to Section 6.
Section 3.	Addition of new Section 7.
Section 4.	Amendment to Sections 7 and 8.
Section 5.	Addition of new Section 10.
Section 6.	Amendment to Sections 9 through 11.
Section 7.	Amendment to Section 12.
Section 8.	Amendment to Sections 13 through 15.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Ordinance No. 84-O-387, enacted June 12, 1984, and entitled, "An ordinance licensing the business of operating taxicabs in the City of Brookings in repealing ordinance numbers 54-O-063, 61-O-163 and 73-O-239", as previously amended on March 28, 1990 by Ordinance No. 90-O-387.

Section 2. Amendment to Section 6. Ordinance No. 84-O-387, Section 6 is amended in its entirety to read as follows:

Section 6. Operator requirements.

A. No person shall operate a taxicab for hire within the city of Brookings without having first obtained a taxicab drivers permit.

B. Application for such permit may be made by the payment of a fee to the City of Brookings in the sum of \$20.00 and shall set forth the name, address, date of birth and Oregon Driver's License Number of the applicant. The applicant shall provide a 2-1/2" x 3-1/2" photograph to be attached to the taxicab driver's permit. A permit may be issued by the City of Brookings if the applicant satisfactorily passes the police background investigation. The Chief of Police, or his designee, shall investigate each applicant for a taxicab driver's permit. The following shall be cause for the Chief of Police to deny either permit:

- (1) The applicant for a taxicab driver's permit has been convicted within the previous thirty-six (36) months of any major traffic offense, as defined by Oregon law;
- (2) The applicant for a taxicab driver's permit has been convicted of a felony within the previous thirty-six (36) months;
- (3) The applicant for a taxicab driver's permit has accumulated more than three (3) convictions for moving traffic offenses within the previous twelve (12) months; or
- (4) The applicant for a taxicab driver's permit does not hold a valid Oregon driver's license.
- (5) The applicant for a taxicab driver's permit is not 21 years of age.

C. A taxicab driver's permit shall be renewed every two (2) years of employment with the following conditions:

- (1) Any break in continuous employment will require a new permit;
- (2) Any significant change in appearance from

permit identification photograph to taxicab driver's actual current appearance will require a photograph change on the permit. A new photograph must be brought to City Hall for new identification preparation. There will be a \$10.00 charge for this service.

D. Taxicab drivers shall annually provide the Chief of Police with a copy of their DMV driving record. Drivers with an acceptable driving record will have their identification permit stamped and be allowed its continued use.

E. The City Manager may revoke the permit of a taxicab driver who is convicted of possession of an open container of alcohol, possession, manufacture or delivery of a controlled substance (not including the delivery of medically prescribed drugs), or a major traffic offense, all as defined in Oregon Revised Statutes, committed while in the course of his/her employment.

F. It shall be unlawful for any operator of a taxicab, while on duty, to drink any intoxicating liquor or use any controlled substance, to use any obscene language, to shout or to call to prospective passengers, or to disobey any traffic rules or regulations established by Oregon Revised Statutes ~~or a City of Brookings~~ *OK*
~~Ordinance~~

G. The taxicab driver's permit shall be displayed in a prominent place in the taxicab at all times when in service. A taxicab driver's permit is not transferable.

Section 3 Addition of new Section 7. Ordinance No. 84-O-387 is amended by the addition of a new Section 7, as follows:

Section 7 Suspension and revocation of permits.

A. The City Manager may suspend or revoke any taxicab driver's permit for noncompliance with the provisions of this ordinance. Such suspension may extend for a period not to exceed one (1) year.

B. No taxicab driver's permit shall be revoked unless the owner has first received notice and an opportunity to present evidence in his/her behalf to the City Manager. Any owner may appeal a suspension or revocation to the City Council, whose decision shall be final and binding.

Section 4. Amendment to Sections 7 and 8. Ordinance No. 84-O-387 is amended by the renumbering of former Sections 7 and 8 as Sections 8 and 9.

Section 5. Addition of new Section 10. Ordinance No. 84-O-387 is amended by the addition of a new Section 10, as follows:

Section 10. Taxicab maintenance requirements.

A. The Chief of Police, or his designee, may at any time after displaying proper identification, enter any taxicab used for transporting passengers by permit from the City, to ascertain whether any of the provisions of this ordinance are being violated, or to ascertain whether there are any violations of safety requirements of the State of Oregon or the City.

B. Any taxicab found to be in violation of any safety requirements of the State of Oregon or the City shall be ordered out of service, and before being placed again in service any mechanical or safety related defects shall be corrected and such correction verified by the Chief of Police or his designee.

C. The interior and exterior of every taxicab shall be kept as thoroughly clean as reasonably possible at all times.

Section 6. Amendment to Sections 9 through 11. Ordinance No. 84-O-387 is amended by the renumbering of former Sections 9 through 11 as Sections 11 through 13.

Section 7. Amendment to Section 12. Ordinance No. 84-O-387,
Section 12 shall be renumbered as Section 14 and amended in its entirety to
read as follows:

Section 14. Penalty for violation. Any person, firm or
corporation operating a taxicab or taxi service for hire within the
corporate limits of the City of Brookings who has not complied with the
terms and provisions of this ordinance shall be guilty of a violation of this
ordinance and, upon conviction thereof, shall be punished by a fine not
exceeding \$1,000.00.

Section 8. Amendment to Sections 13 through 15. Ordinance No.
84-O-387 is amended by the renumbering of former Sections 13 through 15 as
Sections 15 through 17.

First Reading:_____

Second Reading:_____

Passage:_____

Effective Date:_____

Passed by the Council and signed by the Mayor this _____ day
of _____, 1997.

Nancy Brendlinger
Mayor

ATTEST:

Beverly S. Adams
City Recorder