AGENDA

City of Aurora
PLANNING COMMISSION MEETING
Tuesday, November 01, 2011, 7:00 p.m.
Council Chambers
21420 Main Street N.E., Aurora, Oregon

1. Call to Order of Planning Commission Meeting:

2. City Recorder Calls Roll

Chairman, Kaiser
Commissioner, Graupp
Commissioner, Gibson
Commissioner, Graham
Commissioner, Fawcett
Commissioner, Braun
Commissioner, Schafer

3. Consent Agenda

All matters listed within the Consent Agenda have been distributed to each member of the Aurora Planning Commission for reading and study, are considered to be routine, and will be enacted by one motion of the Commission with no separate discussion. If separate discussion is desired, that item may be removed from the consent Agenda and placed on the Regular Agenda by request.

Minutes

I. Aurora Planning Commission Meeting –October 04, 2011
II. City Council – September 13 , 2011

Correspondence

I. Oregon Dept Aviation, Airport Planning Rule

II. LCDC Meeting Notice November 7, 2011

4. Visitor

Anyone wishing to address the Planning Commission concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Council could look into the matter and provide some response in the future.

This is a public meeting and all interested citizens are invited to attend. The meeting place is not handicapped accessible; those needing assistance should contact the city Office three (3) working days before regularly scheduled meetings. The minutes of this and all public meetings are available at City Hall during regular business hours. All meetings are audio taped and may be video taped
C:\msword\planningcommission111032009

5. **Public Hearing**

   A. **Code Interpretation 11-01 Interpretation of the Aurora Municipal Code (AMC) in regards to AMC 16.48.040 Rivers and Stream Corridors.**

6. **New Business**

   A. **Discussion and or Action on Harrison property 21825 Airport Rd, request from Mr. Harrison for confirming questions.**

7. **Old Business**

   A. **Discussion and or Action on Historic Review Guidelines update.**
   B. **Development Code status.**

8. **Commission Action/Discussion**

   A. City Planning Activity (in Your Packets)
      Status of Development Projects within the City.

9. **Adjourn**

This is a public meeting and all interested citizens are invited to attend. The meeting place is not handicapped accessible; those needing assistance should contact the city Office three (3) working days before regularly scheduled meetings. The minutes of this and all public meetings are available at City Hall during regular business hours. All meetings are audio taped and may be video taped
C:\msword\planningcommission111032009

Minutes
Aurora Planning Commission Meeting
Tuesday, October 04, 2011 at 7:00 P.M.
Aurora Commons Room, Aurora City Hall
21420 Main St. NE, Aurora, OR 97002

STAFF PRESENT: Kelly Richardson, City Recorder
Renata Wakeley, City Planner

VISITORS PRESENT: Richard Harrison, Aurora

1. Call to Order of Planning Commission Meeting

The meeting was called to order by Planning Chair Nick Kaiser at 7:03 p.m.

2. City Recorder Did Roll Call

Chairman, Kaiser -	**Present**
Commissioner, Graupp	**Present**
Commissioner, Gibson	**Present**
Commissioner, Graham	**Absent**
Commissioner, Fawcett	**Present, left early @ 8:38**
Commissioner, Braun	**Present**
Commissioner, Schafer	**Present**

3. Consent Agenda

Minutes

- **Planning Commission Meeting –** September 06, 2011
- **City Council –** August 09, 2011

Correspondence

I. **Oregon Local leadership training schedule**

II. **LCDC Meeting Notice October 6-7th, 2011,** Chairman Kaiser did ask Planner Wakeley if pg 7 or 12 would affect us and it was determined it would be covered during Schafer's discussion on the TPR

A motion to accept the consent agenda with the changes stated for the September 06, 2011 minutes was made by Commissioner Gibson and seconded by Commissioner Fawcett. Motion Passes Unanimously.

4. Visitor

Anyone wishing to address the Planning Commission concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Planning Commission could look into the matter and provide some response in the future.

Gary Lovell, Aurora was only visiting and made no comments.

5. New Business

A. **Discussion on 99E Corridor Project with ODOT,** City Planner Wakeley was asked to be the representative for the city in this project with ODOT. It is unclear as of yet if Wakeley will be on the Public Advisory Board or the Technical Advisory Board. ODOT will look at some of the following items,
   - Access
   - More jurisdiction/rule to local government
   - Right away
   - And expansion
   - Approach

B. **Discussion and or update on Transportation Planning Rule (TPR),** this is a LCDC rule not an ODOT rule and it is very strict and over time it has killed an assortment of projects. The TPR has been under scrutiny for years because it is so strict. This is about draft 4 and it mentions,
   - Exempt Zone Changes
   - Multi Modal Mixed Use Area
   - Gives more flexibility to local control
   - Could generate more jobs

Planning Commission discussed some of the draft options briefly.

6. Unfinished Business

A. **Aurora State Airport Master Plan Review Update**
   - At the meeting the consultant went over each option
   - Everything is still contingent on the FFA

B. **Discussion and or Action on Historic Review Guidelines,** Commissioner Graupp gave a brief overview of what he observed at the last Historic Review Board meeting, some of which were some communication errors or lack thereof and his hope was to have settled the board down.
   - City Planner Wakeley will discuss with the HRB Board at their next meeting title 17
   - More discussion on district verses administrative type 1 & 2 approval between Planning Commission members.

C. **Development Code status,** City Recorder Richardson explains that her and City Planner Wakeley along with the City Attorney have been diligently working on completing this task and are almost done.

Wakeley will compile what is needed for the street tree list and her comments and get it to Annie Kirk for her comments and review.

7. Commission Action/Discussion

A. City Planner Activity Sheet (not in your packets)
Status of Development Projects within the City: Attached.

City Planner Wakeley read her report.

Wakeley updated the Commission and read her report.
   - Southern Gateway report was submitted for Council review.
   - Annexation for drywell at the end of Ottaway, will go before Council for a fee waiver.
   - Richard Harrison, applicability of the setbacks, on riparian and wetlands. Would prefer to have PC interpretation done.

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8. Adjourn 8:43 P.M.

A motion to adjourn the October 04, 2011 meeting is made by Commissioner Gibson and seconded by Commissioner Braun. Motion Passes Unanimously.

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Nick Kaiser, Chairman

ATTEST:

_____

Kelly Richardson, City Recorder

Minutes
Aurora City Council Meeting
Tuesday, September 13, 2011 at 7:00 P.M.
Aurora Commons Room, Aurora City Hall
21420 Main St. NE, Aurora, OR 97002

STAFF PRESENT: Bob Southard, Public Works Superintendent
Kelly Richardson, City Recorder,
Brent Earhart, Chief of Police
Jan Vlcek, Finance Officer

STAFF ABSENT: Otis Phillips, Waste Water Superintendent , excused

VISITORS PRESENT: Bill Graupp, Aurora
Judy Meirow, Aurora
Debbie Southard, Aurora
Jessica Brotherton, Aurora
Tustin, Aurora
Greg Patzer, Aurora
Jon Montgomery, Aurora
Gary Lovell, Aurora
P. Annie Kirk, Aurora
Rick Vlcek, Aurora
Aaron Reed, Aurora

1. Call to Order of Regular Meeting

The meeting was called to order by Mayor Jim Meirow at 7:00 p.m.

2. City Recorder does Roll Call

Councilor Taylor –Present
Councilor Roberts – Present
Councilor Sahlin – Present
Councilor Brotherton - Present
Mayor Meirow – Present

3. Consent Agenda

I. City Council Meeting Minutes – August 09, 201 & Special Meeting August 23, 2011
II. Planning Commission Meeting Minutes – August 02, 2011
III. Historic Review Minutes – July 28, 2011, Notice of Decisions sent out.

Correspondence

I. **Letter from Historic Review Board**
II. **Letter from Infrastructure Finance Authority**

A motion to approve the consent agenda and City Council minutes for August 09, 2011 and August 23, 2011 after brief discussion about Planning Commissions comments was made by Councilor Taylor and seconded by Councilor Roberts. Motion Passes Unanimously.

4. **Visitor**

Anyone wishing to address the City Council concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the City Council could look into the matter and provide some response in the future.

Aaron Reed, Aurora – made a statement/question to Council about volunteers/Council members and bonding and signature requirements. The Mayor and Council members chose to not respond.

5. **Discussion with the Parks Committee**

- **Parks Committee Report (not in packet)**

The Parks Committee is working on a tree list and a recycling project.

6. **Discussion with Traffic Safety Commission**

a. **Traffic Safety Report (not Included in your packet)**

There was a brief discussion as to whether or not the Council thought there was a crosswalk needed or not and how long it would take.

A motion to approve a crosswalk on Ottaway Street near Hwy 99E was made by Councilor Taylor and seconded by Councilor Roberts. Motion Passes.

7. **Reports**

A. **Police Chief's Report** – (included in your packet)

Chief Earhart summarizes his report to the Council.

- Citations were down
- I death investigation
- 2 domestic cases
- Speed trailer was hit and run
- Vehicle Maintenance, car 27 had a spark plug go and the accident involving a squad car according to Canby Ford was caused from a shifting mechanism failure, the officers were not even in the car at the time it basically drove off by itself up hill and it is on video and sat for 8 minutes before driving off.
- Chief was asked to give Council a schedule if they help @ North Marion High.
- Discussion during meeting about the growing problem with dog feces 'in the park. Council discussion was more signage and article in the newsletter to start.

No more questions of the Chief.

B. **Finance Officer's Report – Financials** (included in your packets)

1. Revenue & Expense Report

Vlcek summarizes her report.
Finance Officer Vlcek handed out July treasures report with very few pending adjustments to look at.
Councilor Brotherton asks about the 50,000 on Water Filtration is that under budget, no but because of the distribution of it and time it is showing here and once we get the last reimbursement from the State it will zero out that fund.

No more questions.

C. **Public Works Department's Report** – (included in your packet)

1. Monthly Status Report (Storm Water) Southard reads his report.

- Ehlen Road and Airport Road water line has been completed.
- Water Hydrant on Filbert is active now.
- Currently working on painting lines in and around town.
- Councilor Sahlin asks
- about infrequent water interruptions, if we have power surges to the system it can shut off the pumps.
- It was suggested by Aurora resident and volunteer Fred Netter to advise Chief Yoder any time they work on a fire hydrant.

A. Waste Water Treatment Plant Update (from Otis Phillips) there was no discussion on the report as submitted.

There were no more questions from the Council.

D. **City Recorder's Report** (included in your packet)

Gives a brief overview of the written report as submitted and in addition a complaint made by Aurora Citizen Aaron Reed on a few alleged business license violations which were investigated and found to be false and all three businesses were found in compliance.

- Tiero Construction was out of business
- Annabecke House
- Simply Sports
- Both were in good standing and have current business license.
- Aaron Reed makes a statement about State license and Mayor Meirow suggests he contact the State.

No questions from the Council.

E. **City Attorney's Report** – (not Included in your packet)

- Update on code enforcement and letter from the state. State still claims we gave up our program when Marion County failed to file the appropriate paperwork on our behalf by default it then went to the County and that there is a one year process to obtain it back. Council wants to move forward with the process.
- City County Insurance letter states we our fully covered in employment matters except wage claims or breach of contract claims.
- Brief discussion on a possible appeal of an HRB decision for 21852 Airport Rd.

- Working on Netter easement, City Attorney Koho states that this is more of an agreement with the Netter's than an easement and does not at this time recommend it. Once Mr. Netter explains why he asking for this agreement to protect not only himself but city employees, Koho is directed by Council to move forward with a document to cover these areas and present it to Netters for their review.

There were no more questions of Koho.

8. **Ordinances and Resolutions**

9. **Old Business**

A. **Discussion and or Action on Aurora Airport Master Plan,** Fred Netter gave an update which included the two options,

- **Extended threshold 800 feet to the North**
- **Or 1,000 feet to the South.**

If FFA won't fund or approve option 1 then they will go ahead with 1,000 feet to the South.

- Noise issues with either option
- Annexation of the airport is what we would really like to see however more property owners in that area would first need to be annexed.
- Brief discussion on whether or not it would affect Urban Growth boundary.
- Twice now the Airport unsuccessfully has attempted to form their own Urban Renewal District.
- Urban Renewal District was also discussed however it was suggested the Fire District doesn't work in conjunction with a Renewal District.

B. Discussion and or Action on Drywell situation on Ottaway Street.

a. Letter from Joe and Gayle Fidanzo 15233 Ottaway St.

- Submitted an application to annex their property, discussion was not complete.
- It is suggested more conversation with the other two property owners is needed.
- The drywell situation cannot be solved unless we have all three property owners on board.
- Councilor Taylor suggests a face to face meeting.

<u>A motion was made by Councilor Taylor and seconded by Councilor Brotherton to obtain additional professional services to help in the drywell situation up to the amount of 500.00. Motion Passes Unanimously.</u>

C. **Discussion and or action on Historic Review Guidelines,** Upon Council request Councilor Sahlin contacted the City Planner to get a cost estimate to help facilitate the updates on the Historic Review Guidelines as follows:

Goals:

- Procedural aspects of Chapter 17 of the Municipal Code: Specifically, AMC 17.04 through 17.16 to ensure that procedural aspects such as notification and hearing procedures are current and being followed and ensuring the standards meet current land use law for land use determinations (not including 17.20- Signs, 17.24- Accessory Dwelling Units, or 17.28- Temporary Uses and Structures).
- Determining applicability of the standards and guidelines in an Inventory vs. District format. Type I & II break out of which properties would be subject to administrative review vs. requiring Historic Review

Board review. This discussion and potential procedural change is based upon the recent survey completed by the State Historic Preservation Office (SHPO).

- Review of the Design Review Guidelines for Historic District Properties, in partnership with the Historic Review Board, to focus the guidelines and provide more clarity (permitted vs. prohibited). Review of a potential revision to the procedures to provide Type I (administrative) and Type II (Historic Review Board) review processes.
- Enforcement and follow up on violations. Assignment of responsibility in assuring conditions are met and adoption of policies for implementation for enforcement.

Planning Services (40 hours)

- Two work sessions with Planning Commission to develop draft code revisions based upon feedback from council (3 hours each plus 5 hours research/follow up/revisions to code language= 16 hours)
- One work session with Planning Commission and HRB based upon draft code revisions from HRB and revisions based upon feedback (4 hours)
- One work session with PC and CC in preparation for adoption and follow up revisions (4 hour)
- Creation and processing of Legislative Amendment code update application on behalf of city (applicant), including completion of application, notices, mailings and staff report (10 hours)
- Legislative amendment public hearing before the Planning Commission with recommendation to City Council (3 hours)
- Legislative amendment public hearing before the City Council for adoption of code revisions and any revisions, if applicable (3 hours)

Services/Costs to be provided by Council/city staff:

- Outline of the changes they are looking for from HRB and what issues/concerns need to be addressed
- Mailing and publication costs related to the legislative amendment
- Staff support (attendance at work sessions and public hearings, planning staff support).
- Printing of code revisions

Planning services (COG)	$3,500
Personnel costs (CITY)	$2,500
Mailing notices, newspaper advertisements, and printing cost	$700
TOTAL	**$6,700**

- Council discussion started by Councilor Roberts asking how does the Planning Commission have the authority to update the Historic Guidelines, it is explained that we are simply trying to help improve this document for clarity. There is a fairly passionate discussion between Council members regarding whose authority it is to make these updates, between Mayor Meirow and City Attorney Koho they explain that council can direct who they want however this document is a portion of the Aurora Municipal Code and an appendix to title 17 which Planning Commission is in charge of however the council desire is to have both boards working in conjunction to create a better and clearer document presented for council approval. Mayor Meirow states again that HRB has been doing an excellent job they are working from the document before them. Now I and the council think some improvements to the document are in order: in conclusion of the discussion,

- The conversation turns to Finance Officer Vlcek to see if there is money in the budget for this cost estimate Vlcek states not much however I think that it could be stretched over two fiscal years and split the cost.

A motion is made by Councilor Sahlin and seconded by Councilor Brotherton to approve splitting the cost over two fiscal years. Motion Passes was opposed by Councilor Roberts.

D. **Discussion and or action on the TGM Final Report from workshop in June,** A very brief discussion about the findings in the report as presented, a memo from the City Planner outlining the Planning Commission comments was left out of the packets by mistake and City Recorder Richardson apologizes to Council and states that basically the Planning Commission suggest acknowledgement of the report which the Council does do and thanks the hard work of the consultants.

10. New Business

A. Election of New Mayor.

- Letter of interest from Gary Lovell, Aurora states to the council he is removing his name and lets the council know they are all doing a great job.
- Letter of interest from Jon Montgomery, Aurora
  1. What is your experience on various boards, *I have been on a few fund raiser committees.*
  2. How would you handle be constantly harassed, *I am a volunteer fire fighter and I think I get some of that now and could handle it fine.*
  3. How long have you lived in Aurora, *I have been here for a year and a half, born and raised in Canby Oregon.*
  4. What are your specific goals, *I would like to make the position of Mayor a job that no one would want to quit.*
  5. Do you think you can devote enough time (30hrs a week) to this position, *I feel that I can yes.*
- Letter of interest from Curtis Gatlin, Aurora *was not present at the meeting.*
- Letter of interest Council President, Greg Taylor, Aurora
  1. What is your experience on other boards; *I have been a part of Aurora since the 70's first as a Planning Commission Member and then moved up as a City Councilor.*
  2. How will you deal with other boards and entities, *I think I can do that I feel I have a good understanding that we are all volunteers and can listen and communicate with the citizens.*
  3. Are you available to have contact with staff on any given moment, *I work full time but have a very easy going boss and can receive cell phone calls.*
  4. Were you appointed and elected, *yes on both*
  5. What are you specific goals and where do you see the city, *I feel that we need to continue in our investment in our infrastructure and need to plan now for that, I have been a proponent for industrial growth towards the Airport and we need the additional growth and the dollars it will produce.*
  6. This position is a lot like being the City Manager do you have the time, *yes I do and at times I have had to cover for the previous Mayor.*
- Letter of intent from Whitney Tustin, Aurora
  1. Why do you want to be Mayor, *I would like to listen and do what the citizens want.*
  2. What is your experience on other boards, *I have not been part of city government as of yet.*

3. How do you deal with harassment, *I grew up with four brothers and I think I have a thick skin and the majority rules.*
4. How long have you been in Aurora, *I have lived here over 10 years I had considered running for a board and my wife talked me out of it.*
5. What do you do for a living; *I work at Columbia Helicopter about 60 hrs a week.*
6. How do you feel about the comments from the Mayor in regards to the Airport it could be a conflict, *I would do whatever Aurora citizens want.*
7. What do you think about the police situation and going out of city limits, *I believe in IGA's and I think if they are asked to help they should.*
8. How many times have you attended meetings, *I work a lot and in past years the council did not always get along and so I stopped coming.*

These questions and answers are a brief overview they are not verbatim you can obtain a copy of the recording at City Hall.

- **Does anyone in the audience want to be added as a candidate? <u>No one came forward. Does anyone want to ad to their questions or something they want to say. No one came forward.</u>**
- **Election was held and Councilors voted as follows;**
  - **Councilor Brotherton voted for Greg Taylor**
  - **Councilor Sahlin voted for Greg Taylor**
  - **Councilor Roberts wrote in and voted for Charles Donald**
  - **By a two to one vote Greg Taylor was appointed Mayor for a term ending at the first meeting in January of 2013**
  - **Oath of office was administered to Greg Taylor.**

Presented to Jim Meirow a plaque of appreciation.

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<u>A motion to declare the Council position vacant and be voted on at the October 11, 2011 meeting was made by Councilor Roberts and seconded by Councilor Sahlin. Motion Passes.</u>

<u>A motion to nominate Terri Roberts as Council President is made by Councilor Sahlin and seconded by Councilor Brotherton. Motion Passes.</u>

Before leaving the meeting a citizen Jim Fisher asked both Montgomery and Tustin how they could apply for the Mayor position when this is the first time he has ever seen them at a meeting. *Montgomery replied I was still trying to get the lay of the land so to speak. Tustin said well I was busier and now I have more time also a lot of finger pointing was happening and I just stopped coming.* **Also both Montgomery and Tustin stated they would be interested in the open Council position created. City Recorder, Richardson stated please put something in writing.**

11. Adjourn

A motion to adjourn the September 13, 2011 meeting at 9:12 pm was made by Councilor Roberts and seconded by Councilor Sahlin. Motion Passes Unanimously.

Greg Taylor, Mayor

ATTEST:

Kelly Richardson, City Recorder

Oregon
John A. Kitzhaber, MD, Governor

OREGON DEPARTMENT OF AVIATION

3040 25th Street, SE
Salem, OR 97302-1125
Phone: (503) 378-4880
Toll Free: (800) 874-0102
FAX: (503) 373-1688

RECEIVED
OCT 12 2011
CITY

Date **October 10, 2011**

To: **Oregon County and City Planners**

From: **Heather Peck, Project and Planning Manager**
Sandra Larsen, Aviation Planning Analyst

Subject: **Airport Planning Rule**

In 2007 the Oregon Department of Aviation (ODA) conducted a study to determine which land use jurisdictions have applied OAR 660-013 (Airport Planning) for specified airports. The Oregon Legislature adopted ORS 836.600 through 836.630 to allow for the future use and growth of Oregon's airport. This was done in recognition of airports as a vital element of Oregon's transportation system. Implementing rules were created in OAR 660-013-0010 through 660-013-0160. The rules require local jurisdictions to provide for the protection of airport imaginary surfaces, aviation-related uses, airport growth, and from incompatible land uses. In an effort to update our records, we would like to hear from those jurisdictions who have implemented the Airport Planning Rule since 2007 or who intend to do so in the near future. ODA is willing to help in any way possible with zoning updates. We have sample zoning ordinances to assist in the process.

The FAA and ODA rely on local jurisdictions to control land use in the vicinity of airports by implementing an airport overlay zone and making a determination of no hazard by ODA and FAA a condition of local approval. Per OAR 738-070-0060, each person proposing any kind of construction or alteration described in OAR 738-070-0070 is required to notify ODA in advance. This gives us the opportunity to evaluate the proposal in light of airport safety and compatibility. We ask that you provide copies of land use applications that may potentially impact nearby airports and also that you require the applicants to provide a written Determination of No Hazard from both ODA and the FAA before issuing permits. There is no charge to the applicant for this requirement. If there are questions applicants may contact ODA for assistance.

In 2003 ODA produced the Land Use Compatibility Guidebook which can be found at http://www.oregon.gov/Aviation/landuseguidebook.shtml. This gives valuable information when considering various land use issues surrounding airports.

We intend to send out any revisions and/or updates to the OARs and ORSs when and if they occur. If you have any questions or suggestions please feel free to contact us any time. Sandra Larsen is your primary contact and may be reached at 503-378-2894 or at **sandra.larsen@state.or.us**. You may also contact Heather Peck at **heather.peck@state.or.us**.

Oregon
John A. Kitzhaber, M.D., Governor

Land Conservation and Development Commission
635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2540
Phone: (503) 373-0050
Fax: (503) 378-5518
http://www.oregon.gov/LCD

MEETING NOTICE

LOCAL OFFICIALS ADVISORY COMMITTEE (LOAC) to the Land Conservation and Development Commission

November 7, 2011
1:30 – 4:00 p.m.
Department of Land Conservation and Development
635 Capitol Street, Basement Conference Room D
Salem, Oregon

1. **Introductions**
2. **Public Comment**
3. **Report from Project Managers for the Central Oregon Regional Economic Opportunity Analysis**
4. **Regionalism – Look at regional solutions to problems (as discussed at joint meeting with LCDC August 17)**
5. **Transportation Planning Rule Update**
6. **Committee Business and Reports**
   - Select Next Meeting Date (Recommended Date February 13, 2012, 1:30-4:00)
7. **Other**

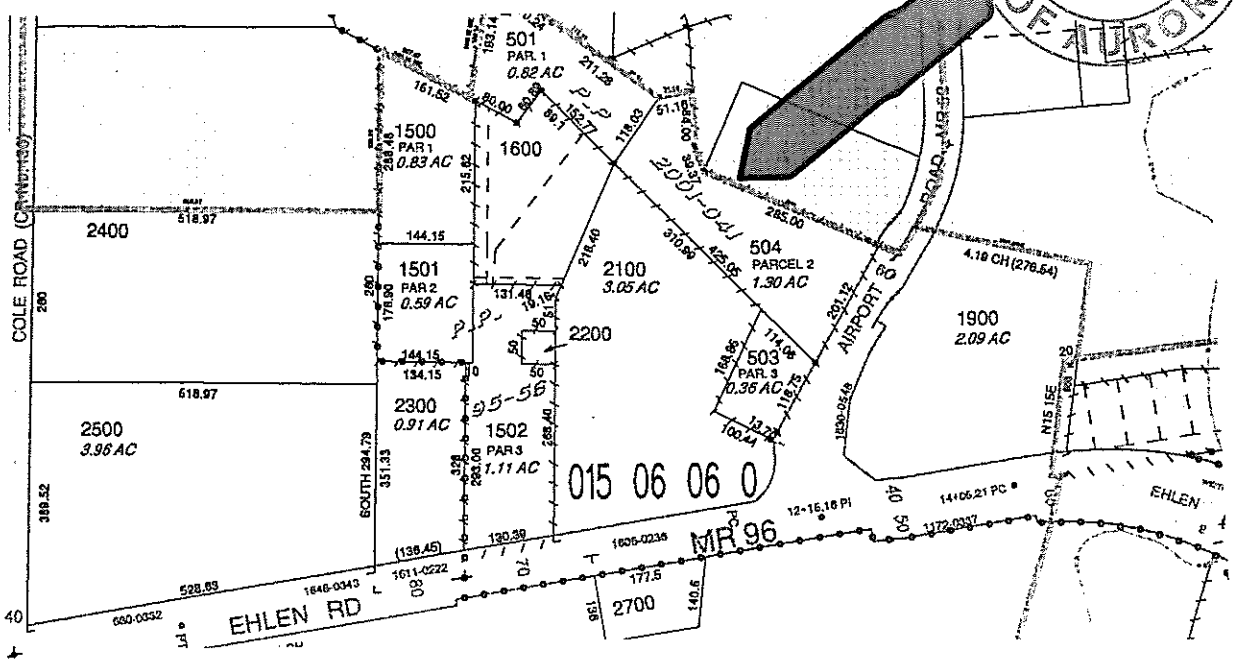
Oregon's Local Officials Advisory Committee was established under ORS 197.165 for the purpose of promoting mutual understanding and cooperation between the Land Conservation and Development Commission and local government in the implementation of ORS Chapters 195, 196 and 197 and the goals. The committee is comprised of persons serving as city or county elected officials and reflects the city, county and geographic diversity of the state. The committee advises and assists the commission on its policies and programs affecting local governments. Committee members are unpaid citizen volunteers appointed by the commission.

Committee Members:
George Endicott, Mayor, City of Redmond; Chair
Larry Givens, Umatilla County Commissioner
Dick Gordon, Council Member, City of Medford
Charlotte Lehan, Clackamas County Commissioner, Vice-Chair
Keith Mays, Mayor, City of Sherwood
Kathryn Harrington, Metro Councilor, ex-officio member

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Lisa Howard at (503) 373-0050 ext. 271, lisa.howard@state.or.us, or by TTY: Oregon Relay Services (800) 735-2900.

RECEIVED
OCT 14 2011
CITY OF AURORA

NOTICE OF PUBLIC HEARING
AFFECTING THIS AREA



Date:	November 1, 2011
Time:	7:00 P.M.
Place:	Planning Commission Aurora City Hall 21420 Main Street NE Aurora, Oregon 97002
Nature of Application:	Interpretation 11-01
Location:	21825 Airport Road NE (Map 041W12C Lot 504)
Name of Applicant:	Richard Harrison
Zone:	Low Density Residential (R1) with Historic Residential Overlay
Request:	Interpretation of the Aurora Municipal Code (AMC) in regards to AMC 16.48.040 Rivers and Stream Corridors

Additional information is available at City Hall, 21420 Main Street NE, Aurora, Oregon.

The applicable criteria and standards from Aurora Municipal Code Section 16.02.050 Interpretations, 16.04 Definitions, and 16.48 Protection of Natural Features are used to

NOTICE OF PUBLIC HEARING
AFFECTING THIS AREA

Date:	November 1, 2011
Time:	7:00 P.M.
Place:	Planning Commission Aurora City Hall 21420 Main Street NE Aurora, Oregon 97002
Nature of Application:	Interpretation 11-01
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Name of Applicant:	Richard Harrison
Zone:	Low Density Residential (R1) with Historic Residential Overlay
Request:	Interpretation of the Aurora Municipal Code (AMC) in regards to AMC 16.48.040 Rivers and Stream Corridors

Additional information is available at City Hall, 21420 Main Street NE, Aurora, Oregon.

The applicable criteria and standards from Aurora Municipal Code Section 16.02.050 Interpretations, 16.04 Definitions, and 16.48 Protection of Natural Features are used to review this application. Interpretations are processed under 16.76 Procedures for Decision Making-- Quasi-Judicial.

The planning commission's review will determine which properties are subject to a fifty (50) foot setback from perennial streambeds and if the subject property is regulated by a fifty (50) foot setback from a perennial streambed. The public hearing on this matter will be conducted in accordance with the rules of Chapter 2 of the Aurora Municipal Code and the rules of procedure adopted by the City Council. Oral testimony may be presented at the public hearing. At the public hearing, the planning commission will review a staff report, open the public hearing and invite both oral and written testimony.

A copy of this application, all documents, all documents and evidence are available for inspection at no cost and copies will be provided at reasonable cost. A copy of the staff report will be available for inspection at no cost and copies will be provided at a reasonable cost, at least seven days prior to the hearing. The applicant and any person who submits comments during the comment period shall receive the notice of decision.

Issues which may provide the basis for appeal shall be raised in writing not later than the close of the comment period or following the final evidentiary hearing on this case. Such

issues shall be raised with and accompanied by statements or evidence sufficient to afford this body, and the parties to this hearing an adequate opportunity to respond to each issue.

Please submit written comments by no later than **5:00 p.m.** on **November 1, 2011.**

Address written comments to:	Planning Department - City of Aurora 21420 Main Street NE Aurora, Oregon 97002
Staff Contact:	Renata Wakeley, City Planner, (503) 588-6177.

CITY OF AURORA
PLANNING COMMISSION

STAFF REPORT:	Interpretation 11-01 [INT-11-01]
DATE:	October 27, 2011

APPLICANT/OWNER:	Richard Harrison
REQUEST:	Interpretation of the Aurora Municipal Code (AMC) in regards to AMC 16.48.040 Rivers and Stream Corridors
SITE LOCATION:	21825 Airport Road NE. Map 041W12C Lot 504
SITE SIZE:	56,628 square feet, or 1.30 acres
DESIGNATION:	Zoning: Low Density Residential (R1) with a Historic Residential Overlay
CRITERIA:	Aurora Municipal Code (AMC) Chapters 16.02 Introductory Provisions, 16.04 Definitions, and 16.48 Protection of Natural Features
ENCLOSURES:	Exhibit A: Assessor Map Exhibit B: Interpretation Application Exhibit C: FEMA floodplain map Exhibit D Slope Map Exhibit E: Oregon Wetland Determination Report (DSL) Exhibit F: Oregon Department of Forestry Fish Presence Report Exhibit G: Goal 5 Safe Harbor (ORS 660-023-0090) Exhibit H: Department of Land Conservation and Development Goal 5 specialist correspondence Exhibit I: John Rankin interpretation requested by Harrison (9/13/11) Exhibit J: Supplemental materials from Harrison (10/19/11)

I. REQUEST

Interpretation of the Aurora Municipal Code (AMC) in regards to:

(1) Applicability of minimum separation distances required along rivers or perennial streambeds, and

(2) Whether the fifty (50) foot minimum separation distance applies to the perennial streambed on the subject property.

II. PROCEDURE

Pursuant to 16.02.050, Interpretations are processed as Quasi-Judicial applications when the Interpretation is discretionary and if specific property is involved. Quasi-Judicial applications are processed according to AMC 16.76. Sections 16.02 Introductory Provisions and 16.04 Definitions provide the guidelines to aid

in the implementation of Interpretations.

The subject property owner has been in contact with city staff in regards to sale of the subject property over several months. No land use application or application for interpretation was received from the subject property owner. Staff has determined that an interpretation is required from the planning commission as no previous land use decisions provide guidance into the applicability of the river and perennial streambed setback. Staff submitted an application for interpretation on October 11, 2011 and the application was determined complete on October 13, 2011. Notice was mailed to surrounding property owners on October 13, 2011. Notice was also published in the Canby Herald. The City has until **February 9, 2012**, or 120 days from acceptance of the application to approve, modify and approve, or deny the application.

III. APPEAL

Appeals are governed by AMC 16.76.260. An appeal of the Commission's decision shall be made, in writing, to the City Council within 15 days of the Planning Commission's final written decision.

IV. CRITERIA AND FINDINGS

The applicable review criteria for Interpretations are found in AMC Chapter 16.02.050 Interpretations.

16.02.050 Interpretations

A. An interpretation is a decision which is made under land use standards that require an exercise of policy or legal judgment. By definition, an interpretation does not include approving or denying a building permit issued under clear and objective land use standards or a limited land use decision.

FINDING: The applicant has not yet submitted a building permit but rather seeks clarification on whether a building permit could be approved based upon clarification (ie. Interpretation) of the Aurora Municipal Code (AMC) prior to submission of their building permit application.

B. Each development and use application and other procedure initiated under this title shall be consistent with the adopted comprehensive plan of the city as implemented by this title and applicable state and federal laws and regulations. All provisions of this title shall be construed in conformity with the adopted comprehensive plan.

FINDING: The applicant will be required to meet the requirements of AMC 16.48 as well as receive building permit approval from the City of Aurora and Marion County prior to construction on site.

The 2009-2029 Aurora Comprehensive Plan (page 92 of 100), Goal 5, Policy 2 states, "The City will encourage plans for development which include preservation of open spaces, and protection of adjacent natural resources, i.e., riparian greenbelts. The City will consider appropriate 'Safe Harbor' setbacks to protect stream banks and water quality consistent with EPA and DEQ standards. Also included in the Comprehensive Plan under V. Resource Inventories, C. Air, Water and Land Resource Quality, 3. Water Quality (page 71 of 100), the Comprehensive Plan states, "DLCD, in cooperation with the Division of

State Lands, has developed stream bank protection standards known as 'safe harbor' setbacks. The City has incorporated these requirements in the update of the Development Code".

> Goal 5 Safe Harbor (ORS 660-023-0090-5) reads as follows: As a safe harbor in order to address the requirements under OAR 660-023-0030, a local government may determine the boundaries of significant riparian corridors within its jurisdiction using a standard setback distance from all fish-bearing lakes and streams shown on the documents listed in subsections (a) through (f) of section (4) of this rule, as follows:
> (a) Oregon Department of Forestry stream classification maps;
> (b) United States Geological Service (USGS) 7.5-minute quadrangle maps;
> (c) National Wetlands Inventory maps;
> (d) Oregon Department of Fish and Wildlife (ODFW) maps indicating fish habitat;
> (e) Federal Emergency Management Agency (FEMA) flood maps; and
> (f) Aerial photographs.
>
> As a safe harbor in order to address the requirements under OAR 660-023-0030, a local government may determine the boundaries of significant riparian corridors within its jurisdiction using a standard setback distance from all fish-bearing lakes and streams shown on the documents listed in subsections (a) through (f) of section (4) of this rule, as follows:
> (a) Along all streams with average annual stream flow greater than 1,000 cubic feet per second (cfs) the riparian corridor boundary shall be 75 feet upland from the top of each bank.
> ***(b) Along all lakes, and fish-bearing streams with average annual stream flow less than 1,000 cfs, the riparian corridor boundary shall be 50 feet from the top of bank.***

While the Comprehensive Plan identifies the intent of applying a "safe harbor" to the Development Code, staff finds that the intent was to use the FEMA flood maps, as an approved document listed above under ORS 660-023-0090. As such, only those rivers and streambeds under the jurisdiction of the FEMA flood maps would be subject to the "safe harbor" setback of fifty (50) feet.

Planning Commission should determine, or interpret, the intent of the AMC in regards to whether the AMC 16.48.040.B requires:

> 1. Applying the setback using the safe harbor of "ALL lakes, and fish-bearing streams with average stream flow less than 1,000 cfs… shall be 50 feet from the top of bank"; And if so, as the Dept of Forestry has not listed the subject creek as a fish bearing stream, should the setback apply?
>
> 2. "The minimum separation distance necessary to maintain or improve upon existing water quality shall be the required setback for buildings or structures proposed along side of ***any*** river or perennial streambed… will not be less than ***fifty (50) feet*** or exceed one hundred fifty (150) feet for uses permitted in the flood plain shown on the FEMA maps. Whether the setback applies to any river or perennial streambed and whether the setback applies to subject rivers and streambeds on FEMA maps only.

The subject property will also be subject to review and approval by the Division of State Lands and Army Corp of Engineers (See Offsite Wetland Determination Report under Exhibit C).

C. Where the conditions imposed by any provision of this title are less restrictive than comparable conditions imposed by any other provision of this title or of any other ordinance, or resolution, the **most restrictive** or that imposing the higher standard shall govern.

FINDING: The applicant seeks clarification on whether the perennial streambed is subject to the minimum separation distance setback as identified under AMC 16.48.040.B.

Subject to AMC 16.20, the Historic Residential Overlay minimum front yard setback is fifteen (15) feet, the minimum side yard setback is five (5) feet, and the minimum rear setback is ten (10) feet.

Subject to 16.48.040.B. The minimum separation distance necessary to maintain or improve upon existing water quality shall be the required setback for buildings or structures proposed along side of any river or perennial streambed. This distance shall be determined by a site investigation, but will not be less than fifty (50) feet or exceed one hundred fifty (150) feet for uses permitted in the flood plain shown on the FEMA maps. For all other uses, structures shall be sited outside the flood plain shown on the FEMA maps. Investigation shall consider:

1. Soil types;
2. Types and amount of vegetation cover;
3. Bank stability;
4. Slope of the land abutting the streams;
5. Hazards of flooding; and
6. Stream character.

C. All development proposed in flood plain areas shall be governed by provisions of Chapter 16.18.

D. The siting/construction of subsurface sewage disposal fields within the flood plain shown on the FEMA maps or within one hundred (100) feet of any water course is prohibited.

E. The unauthorized diversion of impoundment of stream courses which adversely impact fisheries, wildlife, water quality or flow is prohibited.

Additional documentation for Planning Commission review includes:

a) FEMA maps (Exhibit C),
b) Slope Map (Exhibit D)
c) Information from Dept of Forestry (Exhibit F),
d) Correspondence with DLCD (Exhibit H)

Staff finds that while the subject property contains a perennial stream, it has not been identified as a fish bearing stream under the approved Goal 5 documentation, including FEMA maps and Dept. of Forestry data. As such, the Goal 5 "safe harbor" criteria could not be used to support implantation of the safe harbor to this property. In addition, the City of Aurora did not inventory which creeks and rivers would be subject to the "safe harbor". Staff finds that, as currently written, the riparian streambed setback should apply to those properties under the 100-year floodplain and those properties outside of the 100-year floodplain shall be subject to the required setback for buildings or structures under the zone map.

APPLICANT's POSITION: See Exhibit J. Staff believes that the planning commission can confirm those items requested in Mr. Harrison's October 19th letter and still make a determination that the streambed setback ***does*** or ***does not*** apply. Section 16.48.040.A regarding setbacks for the protection of vegetation

along water ways and 16.48.040.B regarding protection of water quality along waterways are separate and distinct setback provisions. This application for interpretation is not requesting an interpretation of 16.48.040.A in regards to protection of vegetation along water ways.

D. The planning commission shall have the initial authority and responsibility to interpret all terms, provisions and requirements of this title. All requests for interpretations shall be in writing and on forms provided by the city recorder. Upon receipt of such a request, the commission shall schedule the interpretation as a consideration item at the next regularly scheduled meeting.

   If the person making the request disagrees with the commission's interpretation, they may appeal it to the city council. The council will hear the appeal as a consideration item at the next month's regularly scheduled meeting. The decision of the council shall be conclusive upon the parties.

FINDING: Staff submitted an application for interpretation subject to AMC 16.02.050 and 16.76 and public hearing notice was sent to property owners within 200 feet of the subject parcel and published in a paper of general circulation. An appeal of the planning commission's decision shall be made to the Aurora City Council within 15 days of the planning commission's decision.

E. When an interpretation is discretionary, notice shall be provided and the interpretation processed in accordance with the quasi-judicial process if specific property is involved or the legislative process if no specific property is involved.

FINDING: Staff submitted an application for interpretation subject to AMC 16.02.050 and 16.76 and public hearing notice was sent to property owners within 200 feet of the subject parcel and published in a paper of general circulation. An appeal of the planning commission's decision shall be made to the Aurora City Council within 15 days of the planning commission's decision.

F. The planning director may develop administrative guidelines to aid in the implementation and interpretation of the provisions of this title.

FINDING: AMC 16.02.050 provides the administrative guidelines for processing Interpretations. Staff has provided applicable definitions and references from the AMC to assist the Planning Commission to assist the planning commission in their Interpretation in the above text. The applicant has submitted materials supporting their request for Planning Commission to determine a covered but unenclosed porch as an "open porch" which under the AMC would be permitted to project into a required yard but shall remain not less than five feet from the property line.

V. CONCLUSIONS AND RECOMMENDATIONS

The Planning Commission has three options as outlined below as part of this Interpretation application. Based upon the findings outlined in the staff report, staff recommends Planning Commission **Action A** as outlined below for the Interpretation application (file no INT-11-01):

Interpretation of the Aurora Municipal Code (AMC) in regards to: (1) Applicability of minimum separation distances required along rivers or perennial streambeds, and (2) Whether the fifty (50) foot minimum separation distance applies to the perennial streambed on the subject property.

VI. PLANNING COMMISSION ACTION

A. Based upon the findings in the staff report, the Planning Commission:

1. Adopts the findings in the staff report and determines that the minimum separation distance required along rivers or perennial streambeds is applicable to rivers and streambeds within FEMA floodplain zones only.

and

2. The fifty (50) foot minimum separation distance DOES NOT apply to the perennial streambed on the subject property (Map Lot) as neither are located within the FEMA floodplain zone.

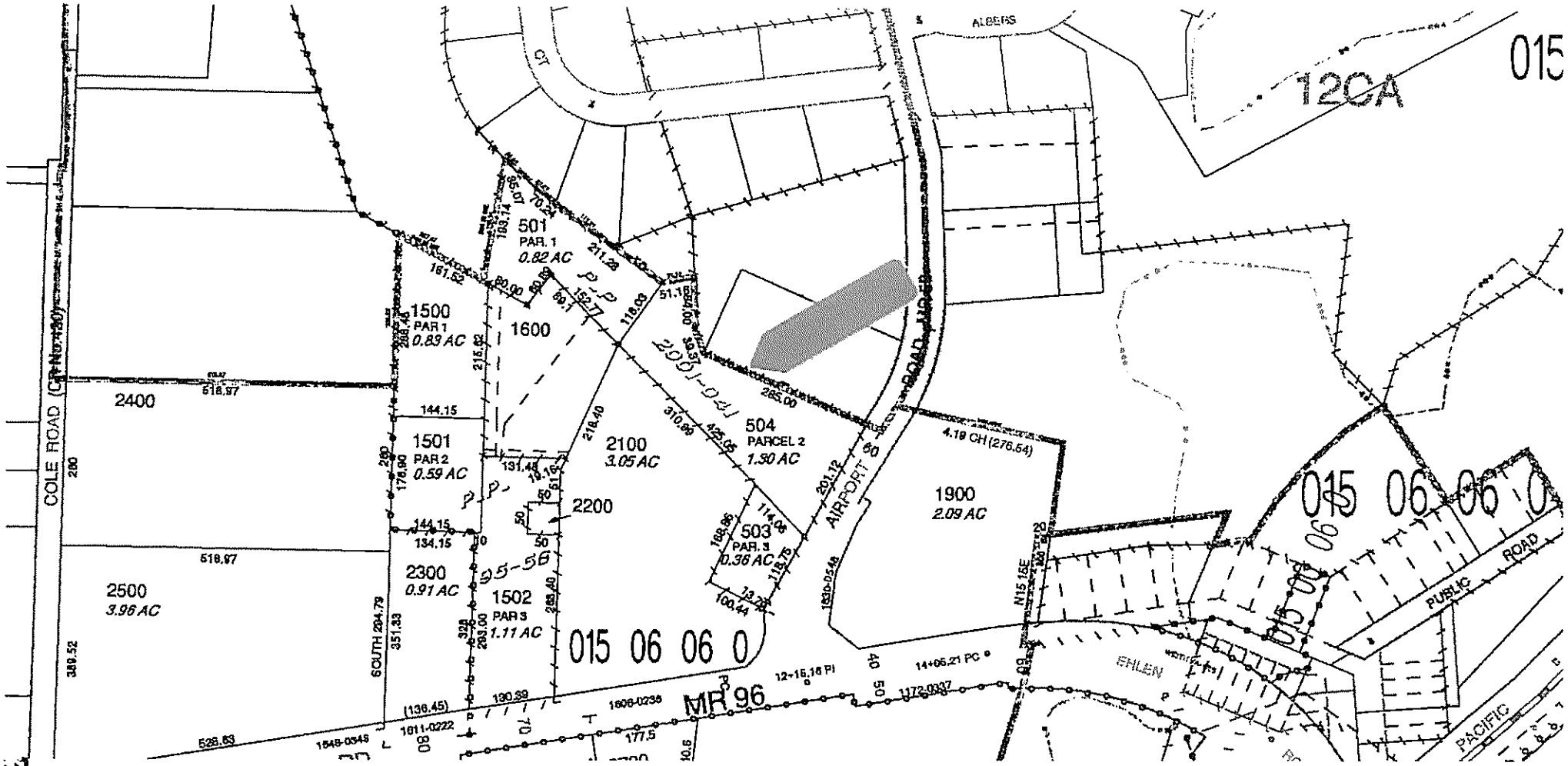
B. The Planning Commission does not agree to the findings in the staff report and determines the following:

1. State how the applicant meets the criteria for a perennial streambed subject to AMC 16.48.040.B. and is subject to the minimum separation distance of not less than fifty (50) feet or exceed one hundred fifty feet (150), based upon a site investigation.

and

2. Based upon this Interpretation, the applicant for the subject property (Map 41W13AB Lot 1001) must meet the minimum separation distance as identified under AMC 16.48.040.B.

C. Continue the hearing to a time certain or indefinitely (considering the 120 day limit on applications).


015
12CA
ALBERS
CT
501
PAR. 1
0.82 AC
1500
PAR 1
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1600
2400
1501
PAR 2
0.59 AC
2100
3.05 AC
504
PARCEL 2
1.30 AC
2200
503
PAR. 3
0.36 AC
1900
2.09 AC
2300
0.91 AC
1502
PAR 3
1.11 AC
2500
3.96 AC
COLE ROAD
AIRPORT ROAD
015 06 06 0
MR 96
EHLEN
PUBLIC ROAD
PACIFIC

Exhibit A

City of Aurora
Building /Planning Application

(Check appropriate box)

- ☐ SITE DEVELOPMENT REVIEW (AMC 16 58)
- ☐ FLOOD PLAN DEV. PERMIT (AMC 16 18)
- ☐ HISTORIC OVERLAY DISTRICT (AMC 16.20-16 22)
  - ☐ Certificate of Appropriateness
  - ☐ Demolition Permit
  - ☐ Sign Review
- ☐ MANUFACTURED HOME PARK (AMC 16.36)
- ☐ COMPREHENSIVE PLAN AMENDMENT (AMC 16 80)
  ☐ Text ☐ Map
- ☐ ZONING ORDINANCE AMENDMENT (AMC 16 80)
  ☐ Text ☐ Map
- ☐ CONDITIONAL USE (AMC 16 60)
- ☐ VARIANCE (AMC 16 64)
- ☐ HOME OCCUPATION (AMC 16 46)
  ___ Type I ___ Type II
- ☐ NON-CONFORMING USE (AMC 16 62)
- ☐ LAND DIVISION
  - ☐ Subdivision (AMC 16 72)
  - ☐ Partition (AMC 16 70)
  - ☐ Property Line Adjustment (AMC 16 68)
- ☐ APPEAL TO _____ (AMC 16 74-16 78)
- ☒ OTHER Interpretation

APPLICANT GENERAL INFORMATION

Applicant CITY OF AURORA Phone 503 678 1283

Mailing Address 21420 MAIN ST NE

Property Owner RICHARD HARRISON Phone

Mailing Address

Contact person if different than applicant CITY OF AURORA Phone

Mailing Address

PROPERTY DESCRIPTION

Address 21825 AIRPORT Rd. NE Tax Map # 4W12C Tax Lot # 504

Legal Description (attach add'l sheet if necessary)

Total Acres or Sq. Ft. 1.30 Existing Land Use Vacant

Existing Zoning R1 Proposed Zoning (if applicable) N/A

Proposed use Single family residential

ACTION REQUESTED: (use additional sheets as needed)

Interpretation of 16.48 - Natural Features and applicability to subject property

ATTACHMENTS:

A. Plot plan of subject property- show scale, north arrow, location of all existing and proposed structures, road access to property, names of owners of each property, etc. Plot plans can be submitted on tax assessor maps which can be obtained from the tax assessor's office in the Marion County Courthouse, Salem OR.

B. Legal description of the property as it appears on the deed (metes and bounds). This can be obtained at the Marion County Clerk's office in the Marion County Courthouse, Salem OR.

ADDITIONAL INFORMATION

In order to expedite and complete the processing of this application, the City of Aurora requires that all pertinent material required for review of this application be submitted at the time application is made. If the application is found to be incomplete, review and processing of the application will not begin until the application is made complete. The submittal requirement relative to this application may be obtained from the specific sections of the Aurora Municipal Code pertaining to this application. If there are any questions as to submittal requirements, contact the City Hall prior to formal submission of the application.

In submitting this application, the applicant should be prepared to give evidence and information which will justify the request and satisfy all the required applicable criteria. The filing fee deposit must be paid at the time of submission. This fee in no way assures approval of the application and is refundable to the extent that the fee is not used to cover all actual costs of processing the application.

I certify that the statements made in this application are complete and true to the best of my knowledge. I understand that any false statements may result in denial of this application. I understand that the original fee paid is only a deposit and I agree to pay all additional actual costs of processing this application, including, but not limited to, all planning, engineering, City attorney and City administration fees & costs. I understand that no final development approval shall be given and/or building permit shall be issued until all actual costs for processing this application are paid in full.

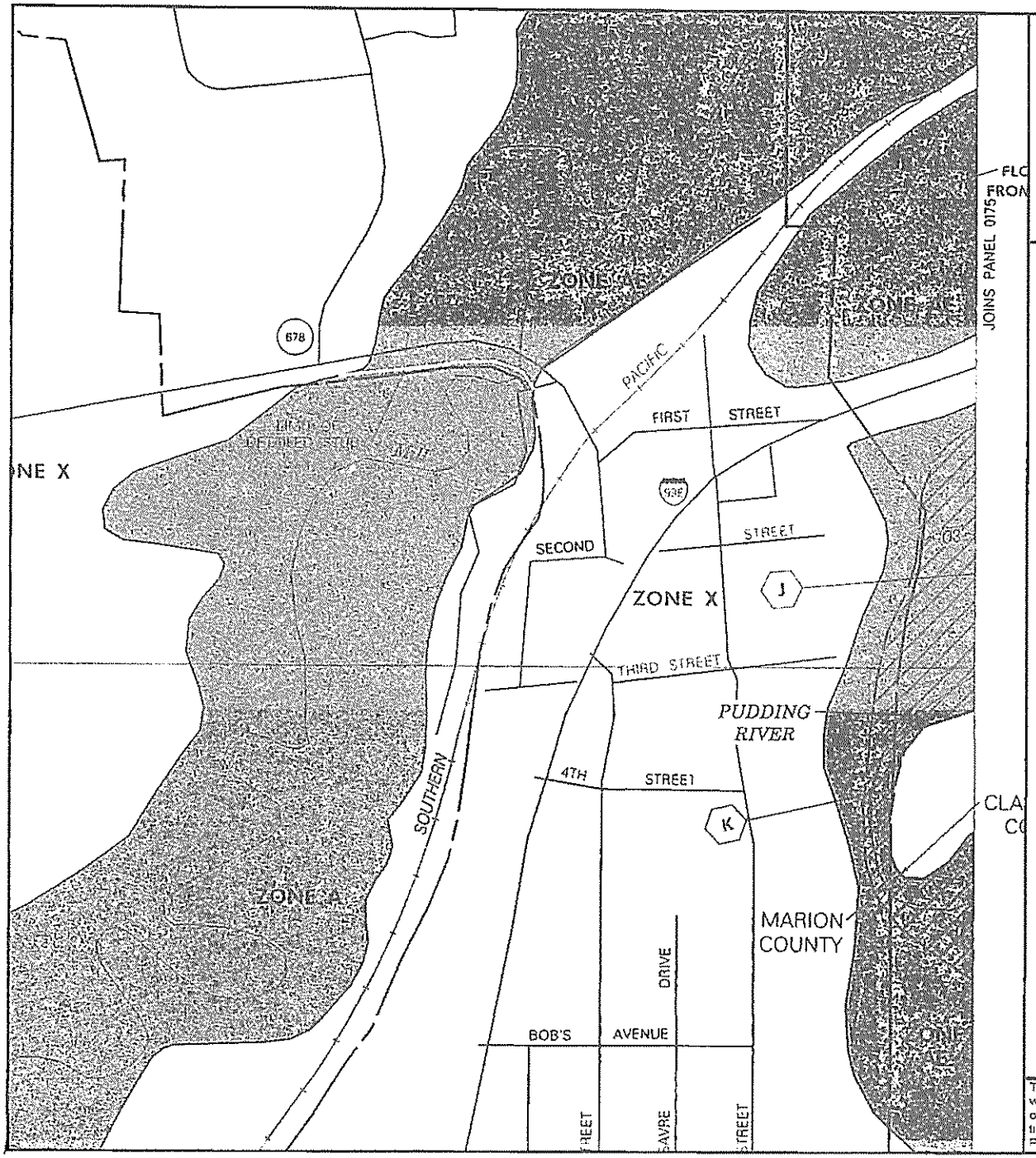
Signature of Applicant — Date 10/11/2011

Signature of Property Owner N/A — Date

Office Use Only: Received By: _____ Date: _____
Fee Paid $ _____ Receipt # _____ Case File # _____

Planning Director Review (if applicable): _____ Date: _____

Exhibit B1



APPROXIMATE SCALE IN FEET

500 0 500

NATIONAL FLOOD INSURANCE PROGRAM

FIRM

FLOOD INSURANCE RATE MAP

MARION COUNTY, OREGON AND INCORPORATED AREAS

PANEL 132 OF 1150

(SEE MAP INDEX FOR PANELS NOT PRINTED)

COMMUNITY	NUMBER	PANEL	SUFFIX
AURORA, CITY OF	[illegible]	[illegible]	G
MARION COUNTY UNINCORPORATED AREAS	[illegible]	[illegible]	G

MAP NUMBER
41047C0132 G

EFFECTIVE DATE:
JANUARY 19, 2000

Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov

Exhibit C1

45'00"

45°15'00"

CLACKAMAS COUNTY

PUDDING RIVER

LEGEND

SPECIAL FLOOD HAZARD AREAS INUNDATED BY 100-YEAR FLOOD

ZONE A No base flood elevations determined

ZONE AE Base flood elevations determined

ZONE AH Flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations determined

ZONE AO Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined.

ZONE A99 To be protected from 100-year flood by Federal flood protection system under construction ; no base flood elevations determined.

ZONE V Coastal flood with velocity hazard (wave action); no base flood elevations determined

ZONE VE Coastal flood with velocity hazard (wave action); base flood elevations determined

FLOODWAY AREAS IN ZONE AE

OTHER FLOOD AREAS

ZONE X Areas of 500-year flood; areas of 100-year flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 100-year flood.

OTHER AREAS

ZONE X Areas determined to be outside 500-year floodplain.

ZONE D Areas in which flood hazards are undetermined

UNDEVELOPED COASTAL BARRIERS

Identified 1983 | Identified 1990 | Otherwise Protected Areas

Coastal barrier areas are normally located within or adjacent to Special Flood Hazard Areas

Floodplain Boundary

Floodway Boundary

Zone D Boundary

Boundary Dividing Special Flood Hazard Zones, and Boundary Dividing Areas of Different Coastal Base Flood Elevations Within Special Flood Hazard

APPROXIMATE SCALE IN FEET

500 0 500

NATIONAL FLOOD INSURANCE PROGRAM

FIRM

FLOOD INSURANCE RATE MAP

MARION COUNTY, OREGON AND INCORPORATED AREAS

PANEL 132 OF 1150

(SEE MAP INDEX FOR PANELS NOT PRINTED)

CONTAINS COMMUNITY	NUMBER	PANEL	SUFFIX
AURORA, CITY OF	[illegible]	[illegible]	G
MARION COUNTY UNINCORPORATED AREAS	410154	[illegible]	G

MAP NUMBER 41047C0132 G

EFFECTIVE DATE: JANUARY 19, 2000

Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov

Exhibit 2

Slope- City of Aurora

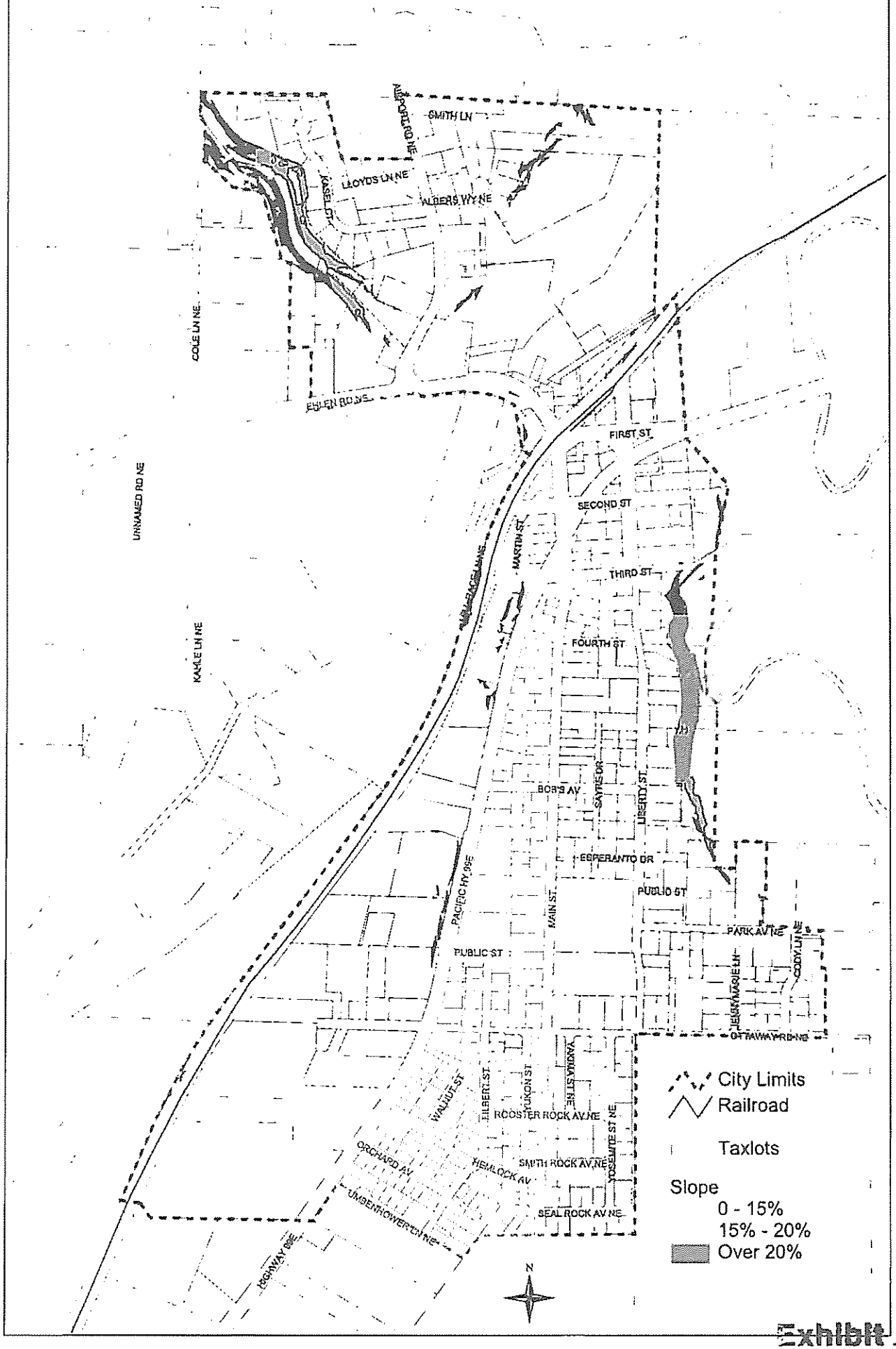


Exhibit D1

BATCH
WD# 2011-0294

OFFSITE WETLAND DETERMINATION REPORT
OREGON DEPARTMENT OF STATE LANDS

775 Summer Street NE, Suite 100, Salem OR 97301-1279 Phone: (503) 986-5200

At your request, an offsite wetland determination has been conducted on the property described below.

County:Marion City:Aurora

Owner Name & Address: Richard Harrison, 21823 Airport Rd., NE, Aurora, OR 97002

Township:04S Range:01W Section:12C Tax Lot(s): 504

Project Name: N/A

Site Address/Location: 21825 Airport Rd NE, Aurora

☒ The National Wetlands Inventory or Local Wetlands Inventory shows a wetland/waterway on the property.

☐ The county soil survey shows hydric (wet) soils on the property. Hydric soils indicate that there may be wetlands.

☐ It is unlikely that there are jurisdictional wetlands or waterways on the property based upon a review of wetlands maps, the county soil survey and other information. An onsite investigation by a qualified professional is the only way to be certain that there are no wetlands.

☒ There are wetlands or waterways on the property that are subject to the state Removal-Fill Law.

- ☒ A state permit is required for ≥ 50 cubic yards of fill, removal, or ground alteration in the wetlands or waterways.
- ☐ A state permit may be required for any amount of fill, removal, or other ground alteration in the Essential Salmonid Habitat and hydrologically associated wetlands.

☐ A state permit will be/will not be required for project because/if

☐ The proposed parcel division may create a lot that is largely wetland and thus create future development problems.

☒ A wetland determination or delineation may be needed prior to site development; the wetland delineation report should be submitted to the Department of State Lands for review and approval.

☒ A permit may be required by the Army Corps of Engineers: (503) 808-4373

Note: This report is for the state Removal-Fill Law only. City or County permits may be required for the proposed activity.

Comments: The National Wetlands Inventory shows a wetland and a pond on tax lot 504. There also appears to be an un-named tributary to Mill Creek on the lot. A permit is required for greater than 50 cubic yards of cumulative removal plus fill volume in wetlands and below ordinary high water of streams and ponds. For permit information and requirements contact DSL Resource Coordinator, Dan Cary (503) 986-5302.

Determination by: Caroline Stimson Date: September/ 20/ 2011

☐ This jurisdictional determination is valid for five years from the above date, unless new information necessitates a revision. Circumstances under which the Department may change a determination and procedures for renewal of an expired determination are found in OAR 141-090-0045 (available on our web site or upon request). The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months from the above date.

☒ **This is a preliminary jurisdictional determination and is advisory only.**

Copy To: ☒ Owner ☒ Enclosures: Brochure

☐ _____, Planning Department

☐

FOR OFFICE USE ONLY

Entire Lot(s) Checked? ☒ Yes ☐ No **Waters Present** ☒ Yes ☐ No ☐ Maybe **Request Received: August / 31 /2011**

LWI Area:N/A **LWI Code:N/A** **Latitude: 45.2344 Longitude-122.7599** **Related DSL File #:N/A Same Site**

Has Wetlands? ☒Y ☐N ☐Unk **ESH?** ☐Y ☒N **Wild & Scenic?** ☐Y ☒N **State Scenic?** ☐Y ☒N **Coast Zone?** ☐Y ☒N ☐Unk

Adjacent Waterbody: Trib. Mill Cr. NWI Quad: Woodburn ☐Scanned ☐Mailings Completed ☐Data Entry Completed

OBJECTID	Fishpres	Verfish	Versource	Veridate	Verifid	Fpasize	Sizesrc	Barrier	Barryear	Domestic	Continuity	Duration	Stname
620622	Unknown					Small	Calculated				Continuous	Perennial	
620805	Unknown					Small	Calculated				Continuous	Perennial	
919918	Unknown					Small	Calculated				Continuous	Perennial	
1164008	Unknown					Small	Calculated				Continuous	Perennial	
1062249	Fish					Large	Calculated				Continuous	Perennial	Mill Creek
1171500	Unknown					Small	Calculated				Continuous	Perennial	
684516	Unknown					Small	Calculated				Continuous	Perennial	
685751	Unknown					Small	Calculated				Continuous	Perennial	
685927	Unknown					Small	Calculated				Continuous	Perennial	
682078	Unknown					Small	Calculated				Continuous	Perennial	
685284	Unknown					Small	Calculated				Continuous	Perennial	
609350	Unknown					Small	Calculated				Continuous	Perennial	
996181	Unknown					Small	Calculated				Continuous	Perennial	
1369632	Unknown					Small	Calculated				Continuous	Perennial	
609288	Unknown					Small	Calculated				Continuous	Perennial	
609424	Unknown					Small	Calculated				Continuous	Perennial	
609653	Unknown					Small	Calculated				Continuous	Perennial	
608294	Unknown					Small	Calculated				Continuous	Perennial	
610570	Unknown					Small	Calculated				Continuous	Perennial	

Exhibit H

Oregon Administrative Rules 660-023-0090

Riparian Corridors

(1) For the purposes of this rule, the following definitions apply:

(a) "Fish habitat" means those areas upon which fish depend in order to meet their requirements for spawning, rearing, food supply, and migration.

(b) "Riparian area" is the area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.

(c) "Riparian corridor" is a Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary.

(d) "Riparian corridor boundary" is an imaginary line that is a certain distance upland from the top bank, for example, as specified in section (5) of this rule.

(e) "Stream" is a channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels.

(f) "Structure" is a building or other major improvement that is built, constructed, or installed, not including minor improvements, such as fences, utility poles, flagpoles, or irrigation system components, that are not customarily regulated through zoning ordinances.

(g) "Top of bank" shall have the same meaning as "bankfull stage" defined in OAR 141-085-0010(12).

(h) "Water area" is the area between the banks of a lake, pond, river, perennial or fish-bearing intermittent stream, excluding man-made farm ponds.

(2) Local governments shall amend acknowledged plans in order to inventory riparian corridors and provide programs to achieve Goal 5 prior to or at the first periodic review following the effective date of this rule, except as provided in OAR 660-023-0250(5).

(3) Local governments shall inventory and determine significant riparian corridors by following either the safe harbor methodology described in section (5) of this rule or the standard inventory process described in OAR 660-023-0030 as modified by the requirements in section (4) of this rule. The local government may divide the riparian corridor into a series of stream sections (or reaches) and regard these as individual resource sites.

(4) When following the standard inventory process in OAR 660-023-0030, local governments shall collect information regarding all water areas, fish habitat, riparian areas, and wetlands within riparian corridors. Local governments may postpone determination of the precise location of the riparian area on lands designated for farm or forest use until receipt of applications for local permits for uses that would conflict with these resources. Local governments are encouraged, but not required, to conduct field investigations to verify the location, quality, and quantity of resources within the riparian corridor. At a minimum, local governments shall consult the following sources, where available, in order to inventory riparian corridors along rivers, lakes, and streams within the jurisdiction:

(a) Oregon Department of Forestry stream classification maps;

(b) United States Geological Service (USGS) 7.5-minute quadrangle maps;

(c) National Wetlands Inventory maps;

(d) Oregon Department of Fish and Wildlife (ODFW) maps indicating fish habitat;

(e) Federal Emergency Management Agency (FEMA) flood maps; and

Exhibit 91

(f) Aerial photographs.

(5) As a safe harbor in order to address the requirements under OAR 660-023-0030, a local government may determine the boundaries of significant riparian corridors within its jurisdiction using a standard setback distance from all fish-bearing lakes and streams shown on the documents listed in subsections (a) through (f) of section (4) of this rule, as follows:

(a) Along all streams with average annual stream flow greater than 1,000 cubic feet per second (cfs) the riparian corridor boundary shall be 75 feet upland from the top of each bank.

(b) Along all lakes, and fish-bearing streams with average annual stream flow less than 1,000 cfs, the riparian corridor boundary shall be 50 feet from the top of bank.

(c) Where the riparian corridor includes all or portions of a significant wetland as set out in OAR 660-023-0100, the standard distance to the riparian corridor boundary shall be measured from, and include, the upland edge of the wetland.

(d) In areas where the top of each bank is not clearly defined, or where the predominant terrain consists of steep cliffs, local governments shall apply OAR 660-023-0030 rather than apply the safe harbor provisions of this section.

(6) Local governments shall develop a program to achieve Goal 5 using either the safe harbor described in section (8) of this rule or the standard Goal 5 ESEE process in OAR 660-023-0040 and 660-023-0050 as modified by section (7) of this rule.

(7) When following the standard ESEE process in OAR 660-023-0040 and 660-023-0050, a local government shall comply with Goal 5 if it identifies at least the following activities as conflicting uses in riparian corridors:

(a) The permanent alteration of the riparian corridor by placement of structures or impervious surfaces, except for:

(A) Water-dependent or water-related uses; and

(B) Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area; and

(b) Removal of vegetation in the riparian area, except:

(A) As necessary for restoration activities, such as replacement of vegetation with native riparian species;

(B) As necessary for the development of water-related or water-dependent uses; and

(C) On lands designated for agricultural or forest use outside UGBs.

(8) As a safe harbor in lieu of following the ESEE process requirements of OAR 660-023-0040 and 660-023-0050, a local government may adopt an ordinance to protect a significant riparian corridor as follows:

(a) The ordinance shall prevent permanent alteration of the riparian area by grading or by the placement of structures or impervious surfaces, except for the following uses, provided they are designed and constructed to minimize intrusion into the riparian area:

(A) Streets, roads, and paths;

(B) Drainage facilities, utilities, and irrigation pumps;

(C) Water-related and water-dependent uses; and

(D) Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area.

(b) The ordinance shall contain provisions to control the removal of riparian vegetation, except that the ordinance shall allow:

(A) Removal of non-native vegetation and replacement with native plant species; and

(B) Removal of vegetation necessary for the development of water-related or water-dependent uses;

(c) Notwithstanding subsection (b) of this section, the ordinance need not regulate the removal of vegetation in areas zoned for farm or forest uses pursuant to statewide Goals 3 or 4;

(d) The ordinance shall include a procedure to consider hardship variances, claims of map error, and reduction or removal of the restrictions under subsections (a) and (b) of this section for any existing lot or parcel demonstrated to have been rendered not buildable by application of the ordinance; and

(e) The ordinance may authorize the permanent alteration of the riparian area by placement of structures or impervious surfaces within the riparian corridor boundary established under subsection (5)(a) of this rule upon a demonstration that equal or better protection for identified resources will be ensured through restoration of riparian areas, enhanced buffer treatment, or similar measures. In no case shall such alterations occupy more than 50 percent of the width of the riparian area measured from the upland edge of the corridor.

Stat. Auth.: ORS 183 & 197
Stats. Implemented: ORS 197.040 & 197.225 - 197.245
Hist.: LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96; LCDD 3-2004, f. & cert. ef. 5-7-04

Wakeley, Renata

From: Punton, Amanda [amanda.punton@state.or.us]
Sent: Monday, September 26, 2011 2:27 PM
To: Wakeley, Renata
Cc: Oulman, Steven
Subject: RE: Aurora Municipal Code 16.48 regarding setbacks on rivers and stream corridors

Renata,
I see your problem. Is there anything else in the code that talks about a property owner's responsibility to "maintain or improve upon existing water quality"? This phrase sounds like it might relate to a TMDL implementation plan, or possibly a Goal 6 element of the comp plan.

I just looked back through our record of plan amendment notices for the city, which should include changes to city code. Going back to 2005 I did not see an amendment to the city's riparian protection program. So we can assume this code language has been there for a while. Can you figure out how it has been applied to development over the past few years?

I think an interpretation that the code is telling you to look at a side yard setback requirement to determine the setback from a stream is crazy talk.

I think you can assume that within this section of the code the "setback" refers to a setback from the stream. I think it is also reasonable to interpret the language to mean that **there is a 50' minimum structural setback**. The sentence structure is horrible, but I think it says that in addition to the minimum 50' setback along all rivers and perennial streams for all structures, there is the potential for the city to **require additional setback within the floodplain for structures allowed in the floodplain, and that this larger setback distance will not exceed 150'**. Hopefully the city has some standards or guidelines for how the setback requirement in the floodplain is determined. Possibly there is something in a separate flood hazard code. Further the code says that **structures that are not allowed in the flood plan ("all other structures") must be sited outside the flood plain.**

This is just my take on it. In the end the city is responsible for interpreting its own code. Good luck,

Amanda

Amanda Punton | Natural Resource Specialist
Planning Services Division | Oregon Coastal Management Program
Oregon Dept. of Land Conservation and Development
800 NE Oregon #18 | Portland, OR 97232
Office: (971) 673-0961| Fax: (971) 673-0911
amanda.punton@state.or.us | www.oregon.gov/LCD/

From: Wakeley, Renata [mailto:renatac@mwvcog.org]
Sent: Monday, September 26, 2011 1:31 PM
To: amanda.punton@state.or.us
Subject: Aurora Municipal Code 16.48 regarding setbacks on rivers and stream corridors

Hi Amanda,

I have copied the section of the Aurora Municipal Code in question and would appreciate any feedback you can provide on interpreting it's applicability to the subject property with perennial streambed but no floodplain identified on site.

AMC 16.48 Protection of Natural Features:

16.48.040.B. The minimum separation distance necessary to maintain or improve upon existing water quality shall be the required setback for buildings or structures proposed along side of any river or perennial streambed. This distance shall be determined by a site investigation, but will not be less than fifty (50) feet or exceed one hundred fifty (150) feet for uses permitted in the flood plain shown on the FEMA maps. For all other uses, structures shall be sited outside the flood plain shown on the FEMA maps For all other uses, structures shall be sited outside the floodplain shown on the FEMA maps.

Exhibit #1

QUESTION 1: My initial interpretation was that the property would be subject to setback of not less than 50 feet as he has a perennial stream bed on site. Do you concur with this interpretation of applicable setbacks (ie. 50 feet from streambed)?

QUESTION 2: After further review and discussion with other planners in my office, another way to interpret this paragraph would be to pull it apart:

- **"The minimum separation distance necessary to maintain or improve upon existing water quality shall be the required setback for buildings or structures proposed along side of any river or perennial streambe."- IN THIS CASE, THE SIDE YARD SETBACK IN THE RESIDENTIAL ZONE IS 5 FEET SO THE 5 FOOT SETBACK IS THE REQUIRED SETBACK FOR BUILDINGS OR STRUCTURES.**
- **" This distance shall be determined by a site investigation, but will not be less than fifty (50) feet or exceed one hundred fifty (150) feet for uses permitted in the flood plain shown on the FEMA maps."- IN THIS CASE, THERE IS NO FLOODPLAIN LOCATED ON THE PROPERTY SO USES PERMITTED IN THE FLOODPLAIN DOES NOT APPLY AND THE 50 FOOT SETBACK WOULD NOT APPLY.**
- "For all other uses, structures shall be sited outside the flood plain shown on the FEMA maps."- IN THIS CASE, THERE IS NO FLOODPLAIN IDENTIFIED ON HIS PROPERTY SO THE STANDARD CITY SIDEYARD SETBACK IS ALL THAT APPLIES.

Thanks in advance for any feedback you can provide on this matter.
Regards,

Renata Wakeley, Planner

Mid-Willamette Valley Council of Governments

105 High Street SE, Salem OR 97301

p: 503 540 1618
f: 503 588 6094

Exhibit H2

JOHN A. RANKIN, LLC.
Attorney at Law
26715 S.W. Baker Road
Sherwood, Oregon 97140
(503) 625-9710 / Fax (503) 625-9709
email: john@johnrankin.com

September 13, 2011

VIA HAND DELIVERY

Mayor Jim Meirow
City Council
Kelley Richardson, City Recorder
Renata Wakeley, Planning Consultant
City of Aurora
City Hall
Aurora, Oregon 97002

RE: Response to Renata Wakeley's August 17, 2011 Memorandum to Randy Norgart.
Regarding Ability to Build on 21825 Airport Road NE Property (Map 41W12C TL 504)
Request for Clarification from City Council
Owners: Richard and Sharon Harrison.

Dear Mayor, Council, Kelley and Renata:

As former City Attorney and Planning Consultant for over ten years and specifically as having rendered the City's decision on the Harrison's 1999 Minor Land Partition ("MLP"), Richard and Sharon Harrison have asked me to review Renata's Memorandum noted above and the applicable documents and regulations and comment and request your clarification on the alternative interpretations outlined below and for a quick and clear path to obtaining threshold City non-structural building permit approval.

1. Renata is correct that the 1999 MLP approval does not ensure that either of the two lots created by the approval will be buildable, but clearly the Harrison's 1999 application and the City's decision contemplated the creation of buildable lots with two new homesites.

2. Renata correctly cites AMC 16.20 Historic Residential Overlay as applicable, which consistent with the underlying R-1 zone allows single-family detached residential dwellings as outright permitted uses on the Harrison properties with 15' front and 10' side and rear setbacks.

3. Renata correctly cites AMC 16.48 Protection of Natural Features as generally now applicable to all developments (including new homes) in the City, <u>but</u> as to the Harrison property, the City must recognize that:

    a. AMC 16.48 was adopted in 2002 approximately three years <u>after</u> the City's MLP decision in 1999, and
    b. Under that original decision, the Harrisons proved the proposed homesites

Exhibit I1

could be located on the more level central portions of the property and the City approved the two new legal lots of record on that basis, and

c. The express purpose of the Harrison's 1999 partition application and the City's approval was the creation of two new homesites, and
d. If the Harrisons had applied for building permits on both new parcels any time prior to 2002, they would have been approved and the homes built.

4. Respectfully, Renata incorrectly cites that AMC 16.48.030 Hillsides as applicable to the Harrison property, because even though the City's Slope Map shows slopes 15% and over along either side of the more level central portion of the property, upon which portion the City's 1999 decision approved the single family dwellings could be sited:
   a. The more level central portion of Harrison is not a "slope hazard area" as defined in subsection A.
   b. This more level central portion does not contain slopes of 15% or more as required by Subsection A(1) or 20% or greater as required by Subsection A(3) – making both those subsections inapplicable.
   c. The central portion does contain a natural drainageway, but a physical inspection proves that the central area is not potentially unstable and shows no history of being made potentially unstable as a result of the drainageway, and there is no evidence of rapid stream incision or stream bank erosion as required by Subsection A(2) – making that subsection inapplicable.
   d. Therefore, AMC 16.48.030 is not applicable to the development of two homesites on the two parcels of the Harrison property.

5. Renata correctly cites that AMC 16.48.040 Protection of Stream Corridors as applicable to the Harrison property, but only in the following limited manner:
   a. During construction of the two residences, measures will be taken to the "maximum extent feasible" to protect the natural drainageway, including implementing "adequate drainage" and "erosion control" [as generally required by AMC 16. 48.040 (A)(1)] and preserving "buffers and filter strips of natural vegetation" along the drainageway [as generally required by AMC 16. 48.040 (A)(2)].
   b. Subsection A(3)(b)'s 10 foot setback is the only other specific standard that is applicable because the property does contain a minor drainageway. The Harrisons will comply with this setback requirement during the siting of the two new homes.
   c. All other subsections of AMC 16.48.040 are not applicable because the property is not located:
      i. Along the Pudding River or Mill Creek - Subsection A(3)(a), or
      ii. Along a seasonal drainageway - Subsection A(3)(c), or
      iii. Within the flood plain shown on FEMA maps – Subsection B and C.

6. Renata is correct regarding the potential jurisdictional requirements of DSL and DEQ, and the Harrisons will contact and comply with all applicable state agency regulations.

7. Renata correctly identifies the 25 foot wide access easement along the north boundary of the two parcels

Exhibit I2

Please kindly review the issues raised in this letter and confirm what the Harrisons need to do to obtain City land use approval for submitting two new single family dwelling building permits to the County Building Department. Please note that the Harrisons have a pending sale on the property and time is of the essence.

If you have any questions or need additional information, please call or email me. Thank you. All the best to you and the City!

Very truly yours,

John A. Rankin

JAR/bhs
Enclosures: As noted above
pc: File

Exhibit I3

Request Planning Commission to confirm the following:

21825 Airport Rd NE is a legal lot of record created in 1999.

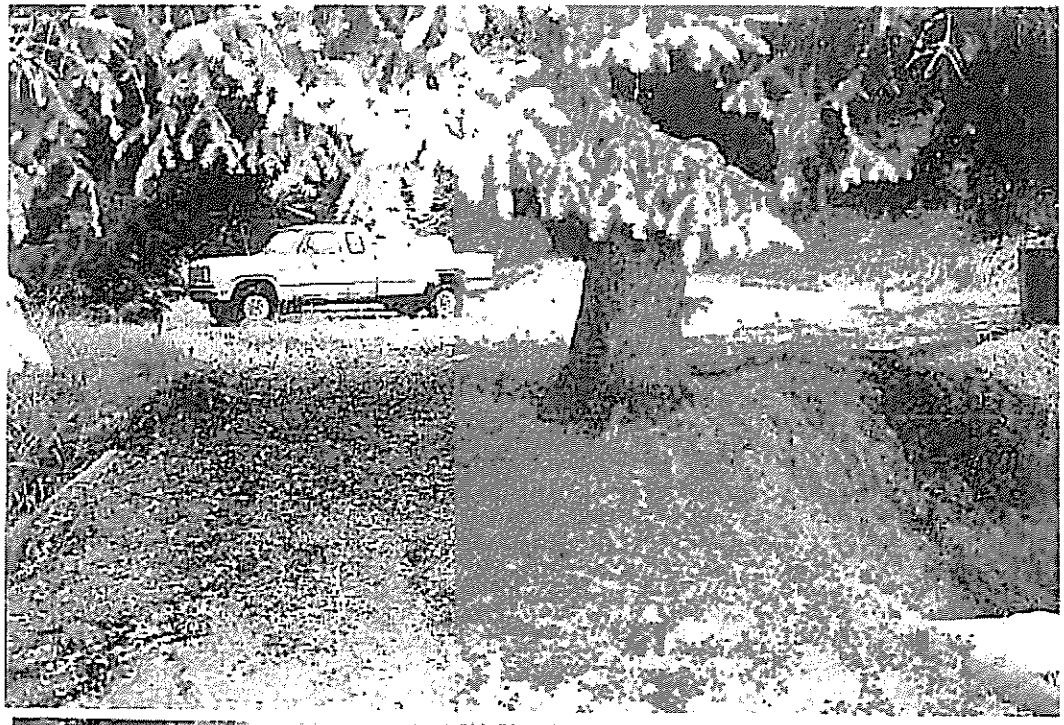
21825 Airport Rd NE is not in the flood plain and is not shown on the FEMA maps

21825 Airport Rd NE is not shown on the wetland map.

21825 Airport RD NE has a minor drainage way and falls under the current code 16.48.040, A section 3. b. minor drainage ways. Under this section of the code the set back is 10 feet from the center line of the plus one additional foot for each one percent of slope greater than twelve (12) percent.

RICHARD HARRISON
19 OCT 2011

Exhibit J1



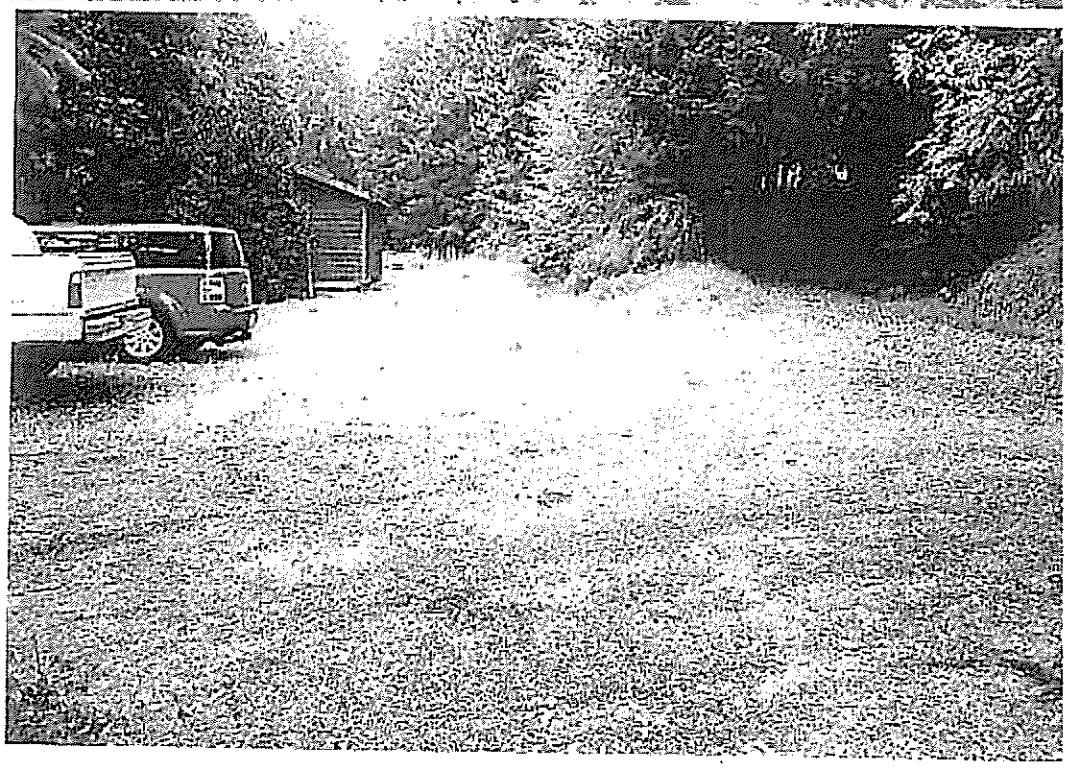


Exhibit J2

Exhibit J3

Exhibit J4

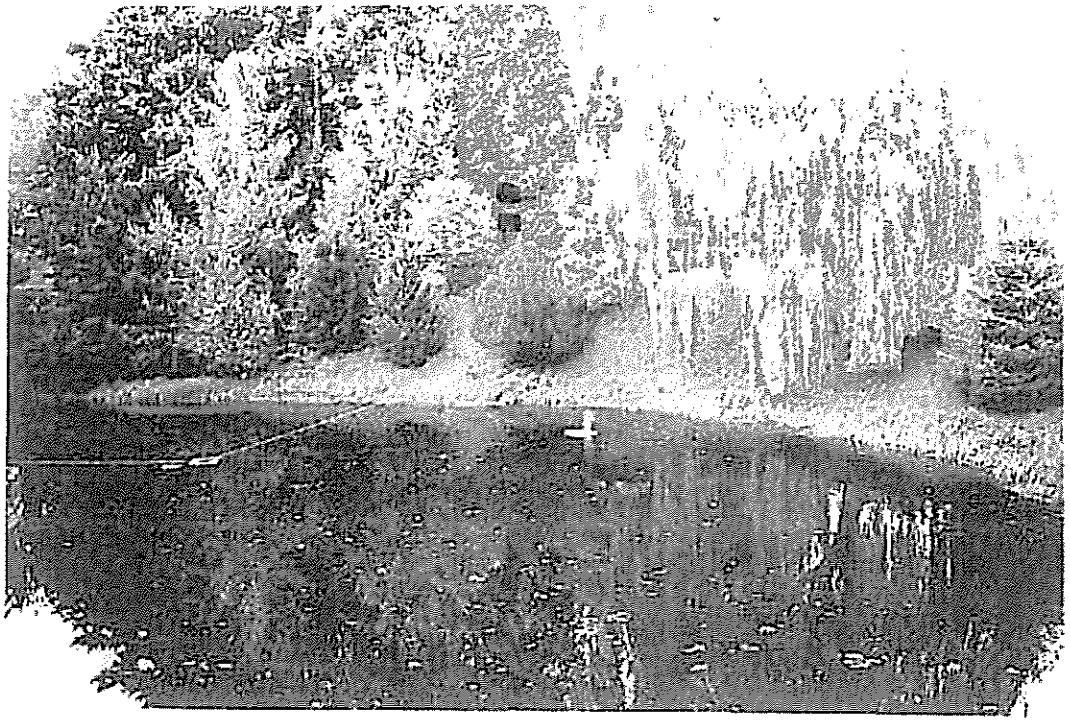


Exhibit J5

November 2011 Update

LAND USE APPLICATIONS

Project	Status
Building Permits	
Sign Permits	
Manufactured Home Permit	
Land Use Applications	• Interpretation 11-01 included in planning commission packets. • Legal counsel continues to work with property owners for resolution of dry wells. Fidanzo annexation application was determined complete and will be submitted to the PC at a future date.

ADDITIONAL PLANNING

Project	Status
Transportation System Plan	• Memo regarding street reclassification/additions submitted to Southard on June 2nd. • Adoption of a street tree ordinance – revised materials submitted to Annie Kirk in October. Adoption recommendation to PC in December.
TGM Outreach Workshop	• PC request to Council to acknowledge the document submitted in September and November 2011 (previously emailed to PC).
Urban Renewal District Feasibility Study	
Development Code/HRB updates	• October 27th HRB meeting • New AMC packets
Water Master Plan	
Newsletter/Community Updates	
Misc.	