



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Coastal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

June 12, 2006



TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Fairview Plan Amendment
DLCD File Number 001-06

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: June 28, 2006

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Meg Fernekees, DLCD Regional Representative
Tamra DeRidder, City of Fairview

<paa> ya/



FORM 2

DLCD NOTICE OF ADOPTION

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

DEPT OF
JUN 08 2006
LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: City of Fairview Local File No.: 06-0320
(If no number, use none)

Date of Adoption: April 19, 2006 Date Mailed: May 2, 2006
(Must be filed in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: _____

- Comprehensive Plan Text Amendment
 - Land Use Regulation Amendment
 - New Land Use Regulation
 - Comprehensive Plan Map Amendment
 - Zoning Map Amendment
 - Other: _____
- (Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

Revised 19.100.020 - SEC Overlay, Affected area to read "This section shall apply to those lands designated on the Natural Areas Protected by the Significant Environmental Concern Overlay Map in the Fairview Comprehensive Plan"

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

Same

Plan Map Changed from: N/A to _____

Zone Map Changed from: N/A to _____

Location: _____ Acres Involved: _____

Specify Density: Previous: N/A New: _____

Applicable Statewide Planning Goals: None - SCRIVNER'S ERROR

Was an Exception Adopted? Yes: _____ No:

DLCD File No.: 001-06(14936)

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing**. Yes: No:

If no, do the Statewide Planning Goals apply.

Yes: No:

If no, did The Emergency Circumstances Require immediate adoption?

Yes: No:

Affected State or Federal Agencies, Local Governments or Special Districts: Union Pacific

RL Metro; Mult Co. Drainage Dist; Mult County

Local Contact: TAMARA DeLidde Area Code + Phone Number: 503-674-6222

Address: 1300 Village St. City: Fairview, OR 97024

Zip Code+4: 97024 Email Address: tdelidde@ci.fairview.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.

3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.

4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.

5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.

6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.

7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Mara.Ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE
(11-2006)

AN ORDINANCE AMENDING THE CITY OF FAIRVIEW MUNICIPAL CODE, TITLE 19, SECTION 19.100.020, BY CLARIFYING THAT AREAS PROTECTED BY THE SIGNIFICANT ENVIRONMENTAL CONCERN OVERLAY ARE MAPPED AS PART OF THE COMPREHENSIVE PLAN AND DECLARING AN EMERGENCY

WHEREAS, the City of Fairview has previously adopted an acknowledged Comprehensive Plan in compliance with Statewide Planning Goals; and

WHEREAS, the City first adopted regulations creating a Significant Environmental Concern (SEC) Overlay, with text and accompanying zoning map, in 1990, to assure protection and conservation of Fairview's valuable cultural areas, wetlands, riparian and upland wildlife habitat areas, and to permit appropriate development when carried out in a sensitive manner with minimal impacts on identified natural resource values; and

WHEREAS, subsequent to initial adoption of the text and Zoning Map, the City's Comprehensive Plan and land use regulations were acknowledged by the state Department of Land Conservation and Development (DLCD), following additional studies undertaken in 2001 and submitted to DLCD in 2002; and

WHEREAS, interim updates to the City's Zoning Map have been undertaken over the intervening years, and will continue over time as the City updates its planning documents in response to changes in state and regional requirements, in response to changes in City policy, and in response to applications from property owners; and

WHEREAS, the locations of SEC overlay areas which have now been significantly updated and acknowledged should be reflected on a separate, dedicated map in the Fairview Comprehensive Plan; and

WHEREAS, the Development Code at Section 19.100.020 currently requires the SEC be designated instead on the Zoning Map; and

WHEREAS, the City staff initiated an amendment to the text of the Development Code to denote that SEC-designated lands will be designated on the SEC Overlay Map in the Fairview Comprehensive Plan, the Planning Commission considered the proposed amendment and recommended its approval to the City Council; and

WHEREAS, the City Council has received the recommendation from the Planning Commission, together with the full staff report and background material, and has fully reviewed and considered the same; and

WHEREAS, the Council has, pursuant to notice duly given in accordance with applicable Ordinance and statute, held a public hearing to consider the proposed amendment, at which time all interested persons were given opportunity to be heard thereupon; and

WHEREAS, based upon its review and analysis of the Planning Commission's recommendation and findings, its own review of the staff report, public input received and consideration of all pertinent materials as submitted, the Council concludes that the amendment to the Development Code text should be made, and adopts as its findings concerning the applicable text amendment criteria the findings in the Planning Department Staff Report dated April 11, 2006, which is attached hereto and incorporated herein by this reference and is marked Exhibit "A".

NOW, THEREFORE, THE CITY OF FAIRVIEW ORDAINS AS FOLLOWS:

Section 1. The Fairview Municipal Code, Title 19, Section 19.100.020, is amended to read as follows:

"This section shall apply to those lands designated SEC on the Natural Areas Protected by the Significant Environmental Concern Overlay map in the Fairview Comprehensive Plan."

Section 2. The Community Development Director is authorized and directed to make the required revisions in the Fairview Municipal Code, and to notify DLCDD of the amendment as required by law.

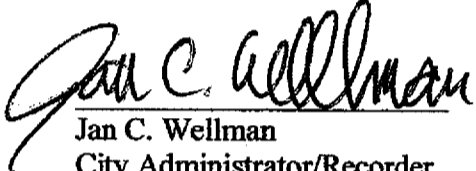
Section 3. An emergency exists and it is in the public interest for this ordinance to take effect upon its adoption.

First Reading: April 19, 2006

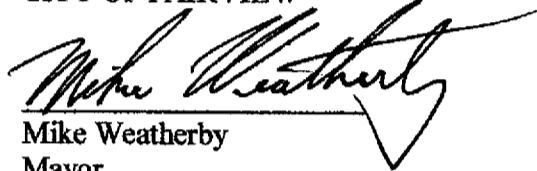
Second Reading and Adoption: April 19, 2006

Yes: 7
No: 0
Absent: 0

ATTESTED BY:


Jan C. Wellman
City Administrator/Recorder

CITY OF FAIRVIEW


Mike Weatherby
Mayor

**Ord. # 11-2006
Exhibit "A"**

Exhibit 2

**STAFF REPORT
CITY OF FAIRVIEW PLANNING COMMISSION**

TO: Fairview Planning Commission

FROM: Tamara DeRidder, AICP, Community Development Director

PROJECT NUMBER: 06-03-ZC

SUBJECT: Significant Environmental Concern (SEC) Overlay, FMC 19.100.020 – Affected Area; Correcting Scribner's error

DATE: April 11, 2006

LOCATION: Affects All Properties within the City of Fairview

PROPERTY OWNERS: Property Owners within the City of Fairview, OR

APPLICANT: City of Fairview, Staff

CURRENT ZONING: None on Zoning Map

PROPOSED ZONING: None on Zoning Map

CURRENT COMPREHENSIVE PLAN DESIGNATION: SEC Overlay

PROPOSED COMPREHENSIVE PLAN DESIGNATION: SEC Overlay

APPLICABLE CRITERIA:

1. Citizen Involvement Comprehensive Plan Chapter 2
2. Amendments Criteria (19.205)
3. Legislative Procedures (19.416)
4. Land Use District Map and Text Amendments (19.470)

ATTACHED EXHIBITS:

- A. SEC Overlay Map of the 2004 Fairview Comprehensive Plan
- B. FMC 19.100.020 – SEC, Affected Area (Ord. 9-1990 § 3.602)
- C. Ordinance 9-1990 (part) July 18, 1990: Cover, Table of Contents, new FMC Chapter 3.6- Significant Environmental Concern Overlay, & Signature page
- D. Ordinance 9-1990 Official Zoning Map
- E. November 24, 1992 Letter to DLCD and Goal 5 Analysis Submittal
- F. Ordinance 12-1993: City's response to Periodic Review Order & Updating SEC elements

STAFF SUMMARY

After thorough investigation of the city documents, it has been determined that the City did adopt the SEC Overlay as part of the Zoning Map in 1990. However, subsequent revisions to the Zoning Map did not include this Overlay in the map adoption process. This includes the 2001 adoption of a major update of the Municipal Code land use designations and Zoning Map. This makes the decision to alter the language of the Code to refer to the Comprehensive Plan's SEC Overlay Map the preferred option.

The SEC Overlay map and language has gone through a series of revision through various adoptions and the Periodic Review process with DLCD. The revised language and corrected SEC Overlay map are reflected in the current municipal code and the 2004 edition of the Comprehensive Plan.

ANALYSIS AND FINDINGS

1. SITE, ZONING AND VICINITY INFORMATION

The Significant Environmental Concern (SEC) Overlay applies to all properties located within the City of Fairview.

2. BACKGROUND

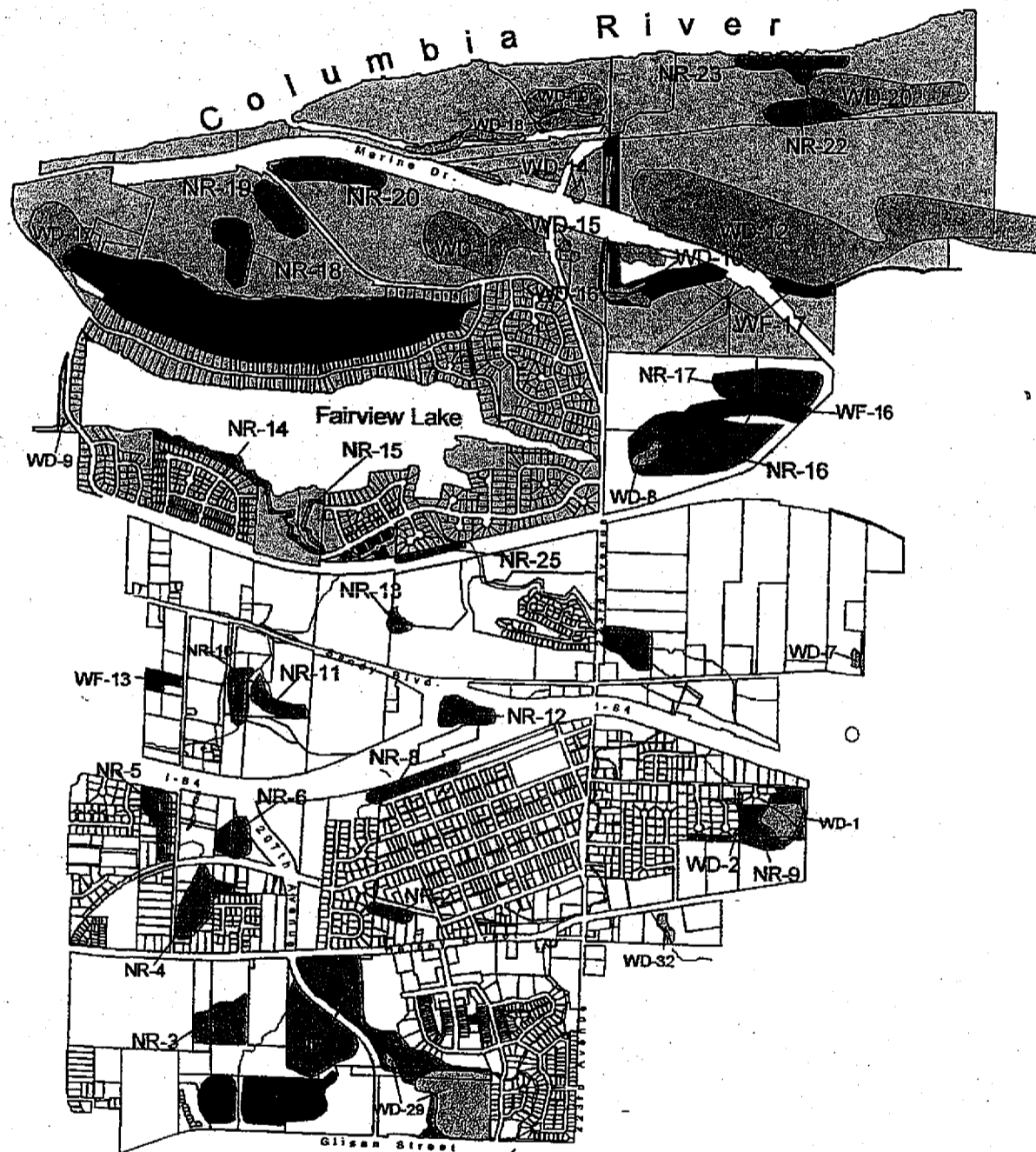
The question was raised in a December 29, 2005 letter received from attorney Tim Sercombe that there is an error either in the Municipal Code or Zoning Map for the city relating to the SEC. The municipal code states that the SEC Overlay shall apply to those lands designated SEC on the city of Fairview Zoning Map and none is shown on the current version of the City's Official Zoning Map. Our city attorney concurred with this assessment and has brought into question the continued application of the SEC Overlay.







To resolve this issue staff has conducted an extensive search of our records to determine the historic status of both the code and zoning map in relation to the SEC Overlay. The following events are largely represented in the attached exhibits:

- 1990 - Significant Environmental Concern Overlay text and Zoning Map adopted
- 1992 - Periodic Review updating 1979 Comprehensive Plan adopted
- 1993 - Adoption of SEC Overlay FMC text amendments and Map
- 1994 - DLCD Remand Order requiring additional Goal 5 studies
- 2001 - Major update to Municipal Code land use designations and Zoning Map
- 2002 - City submits required studies, adopted text and map amendments for Periodic Review
- 2002 - DLCD approves Final Work Tasks
- 2004 - City adopts updates in new Comprehensive Plan

Although it appears that the SEC Overlay was initially adopted as an overlay onto the official Zoning Map this was not carried forward with further renditions of this map. Our understanding is that this inconsistency was due, at least in part, to the mapping technology that was available at the time to depict these layers, record keeping and the changes in collective memory and planning staff over time.

Natural Areas Protected by the Significant Environmental Concern Overlay



-  Taxlots
-  Creeks
-  Wetlands (SEC)
-  Water Features (SEC)
-  Natural Resources (SEC)
-  Cultural Sensitivity (SEC)



Chapter 19.100

SIGNIFICANT ENVIRONMENTAL CONCERN OVERLAY

Sections:

- 19.100.010 Purpose.
- 19.100.020 Area affected.
- 19.100.030 SEC permit required.
- 19.100.040 Exceptions.
- 19.100.050 Application for SEC permit.
- 19.100.060 SEC permit – Required findings.
- 19.100.070 Decision by planning commission.
- 19.100.080 Scope of conditions.
- 19.100.090 Criteria for approval of SEC permit.

19.100.010 Purpose.

It is the purpose of the significant environmental concern designation to protect and conserve valuable cultural areas, wetlands, riparian and upland wildlife habitat areas, and ecologically and scientifically significant natural areas while permitting appropriate development activities when carried out in a sensitive manner with minimal impacts on identified natural resource values. (Ord. 6-2001 § 1)

19.100.020 Area affected.

This section shall apply to those lands designated SEC on the city of Fairview zoning map. (Ord. 6-2001 § 1)

19.100.030 SEC permit required.

All uses permitted under the provision of the underlying zone are permitted on lands designated SEC or listed as having a culturally significant site; provided, however, that the location and design of any use, or change or alteration of a use, except as provided in FMC 19.100.040, shall be subject to an SEC permit.

Where an activity requires a permit or other approval from the state or other government entity, the applicant is encouraged to obtain final approval prior to submitting an application for an SEC permit. (Ord. 6-2001 § 1)

19.100.040 Exceptions.

An SEC permit shall not be required for the following:

- A. Existing farm use, including accessory buildings and structures.

B. Activities to protect, conserve, enhance and maintain public recreational, scenic, historical and natural uses on public lands.

C. The expansion of capacity or the replacement of existing communication or energy distribution and transmission systems, except substations.

D. The maintenance and repair of existing flood control facilities.

E. Uses legally existing on the effective date of the ordinance codified in this title; provided, however, that any change or alteration of such use shall require an SEC permit as provided herein. (Ord. 6-2001 § 1)

19.100.050 Application for SEC permit.

An application for an SEC permit for a use or for the change or alteration of an existing use on land designated SEC shall address the applicable criteria for approval and shall be filed with the city with the appropriate fees to be heard by the Fairview planning commission.

Applications for extraction of aggregates and minerals, depositing of dredge spoils and similar activities must, where applicable, include a copy of any necessary approval(s) from the Department of Environmental Quality regarding any applicable standards for water quality, noise, vibration and toxic or noxious matter as well as a copy of any necessary approval(s) from the Oregon Department of Geology and Mineral Industries for surface mining operations. Where such approvals are subject to conditions, the applicant shall provide a statement regarding compliance with those conditions. Where final approval is not obtained prior to submitting the application, the applicant will provide a statement from the relevant jurisdiction or other evidence that such approval is feasible. (Ord. 6-2001 § 1)

19.100.060 SEC permit – Required findings.

A decision on an application for an SEC permit shall be based upon findings of consistency with the purposes of the SEC zone and with the criteria for approval specified in FMC 19.100.090. (Ord. 6-2001 § 1)

19.100.070 Decision by planning commission.

A. A decision on an SEC permit application shall be made by the planning commission.

B. The planning commission may approve or deny the proposal or approve it with such modifi-

ORDINANCE
(9-1990)

AN ORDINANCE TO GUIDE, REGULATE AND CONTROL THE LOCATION AND USE OF BUILDINGS, STRUCTURES AND LAND FOR RESIDENTIAL, BUSINESS, INDUSTRIAL AND OTHER USES IN THE CITY OF FAIRVIEW, MULTNOMAH COUNTY, OREGON; SETTING FORTH DEFINITIONS, PERTINENT PROVISIONS AND PROVIDING FOR ADMINISTRATION AND ENFORCEMENTS; REPEALING ORDINANCES 1-1958, 1-1968, AND 2-1979; AND OTHER PERTINENT PROVISIONS.

THE CITY OF FAIRVIEW ORDAINS AS FOLLOWS:

EXHIBIT C
06-03-ZC

Significant Environmental Concern

3.60 Significant Environmental Concern.

3.601 Purpose. It is the purpose of the Significant Environmental Concern designation to protect and conserve valuable wetlands, riparian and upland wildlife habitat areas, and ecologically and scientifically significant natural areas while permitting appropriate development activities when carried out in a sensitive manner with minimal impacts on identified natural resource values.

3.602 Area Affected. This section shall apply to those lands designated SEC on the City of Fairview Zoning Map.

3.603 SEC Permit Required.

- A. All uses permitted under the provision of the underlying district are permitted on lands designated SEC; provided, however, that the location and design of any use, or change or alteration of a use, except as provided in 5.134, shall be subject to an SEC permit.

3.604 Exceptions.

An SEC permit shall not be required for the following:

- A. Farm use, including accessory buildings and structures.
- B. The propagation or cutting of timber.
- C. Customary dredging and channel maintenance, but not the placement of spoils.
- D. The placing, by a public agency, of signs, markers, aids, etc., to serve the public.
- E. Activities to protect, conserve, enhance and maintain public recreational, scenic, historical and natural uses on public lands.
- F. Activities regulated pursuant to the provisions of Oregon statutes on lands designated as scenic waterways under the Oregon Scenic Waterways System.
- G. The expansion of capacity, or the replacement, of existing communication or energy distribution and transmission systems, except substations.
- H. The maintenance and repair of existing flood control facilities.
- I. Uses legally existing on the effective date of this Ordinance; provided, however, that any change or alteration of such use shall require an SEC permit as provided herein.

Significant Environmental Concern

- D. A building, structure or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance.
- E. Recreation needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflict with areas of environmental significance.
- F. The protection of the public safety and of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.
- G. Significant fish and wildlife habitats shall be protected.
- H. The natural vegetative fringe along rivers, lakes and streams shall be protected and enhanced to the maximum extent practicable to assure scenic quality and protection from erosion.
- I. Buildings, structures and sites of historic significance shall be preserved, protected, enhanced, restored and maintained in proportion to their importance to the area's history.
- J. Archeological areas shall be preserved for their historic, scientific and cultural value and protected from vandalism or unauthorized entry.
- K. Extraction of aggregates and minerals, the depositing of dredge spoils and similar activities shall be conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, historical or archeological features, vegetation, erosion, stream flow, visual quality, noise, and safety, and to guarantee necessary reclamation.
- L. Areas of annual flooding, flood plains, water areas and wetlands shall be retained in their natural state to the maximum possible extent to preserve water quality and protect water retention, overflow and natural functions.
- M. Areas of erosion or potential erosion shall be protected from loss by appropriate means which are compatible with the environmental character.
- N. The quality of the air, water and land resources and ambient noise levels in areas classified SEC shall be preserved in the development and use of such areas.
- O. The design, bulk, construction materials, color and lighting of buildings, structures and signs shall be compatible with the character and visual quality of areas of significant environmental concern.
- P. An area generally recognized as a fragile or endangered plant habitat or which is valued for specific vegetative features, or which has an identified need for protection of the natural vegetation, shall be retained in a natural state to the maximum extent possible.
- Q. The applicable policies of the Comprehensive Plan shall be satisfied.

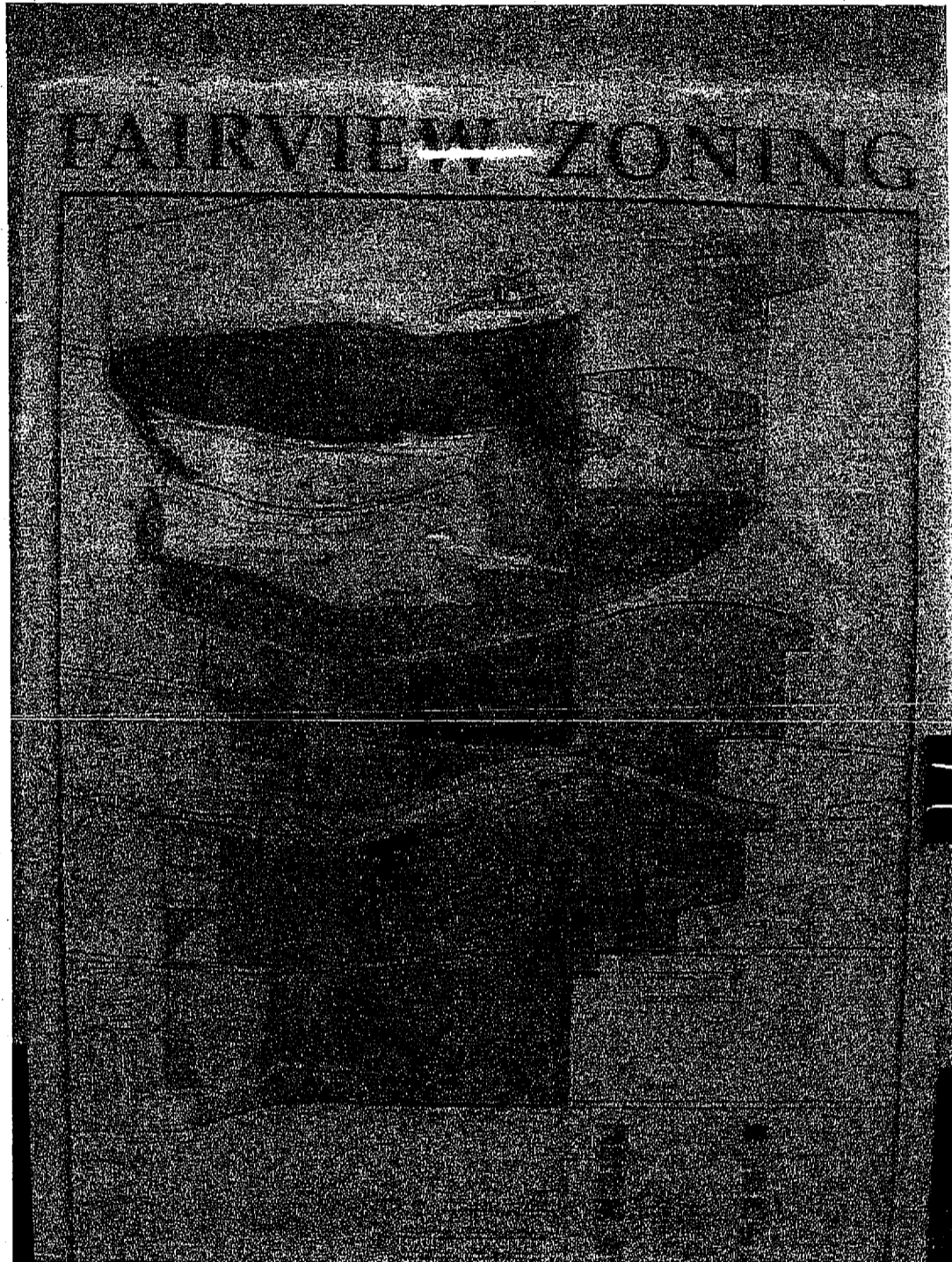


EXHIBIT D
06-03-ZC

FAIRVIEW

300 HARRISON ST., P.O. BOX 337
FAIRVIEW, OREGON 97024
(503)665-7929 FAX 666-0888

EXHIBIT E
06-03-ZC

November 24, 1992

Jim Hinman
Oregon Department of Land Conservation and Development
1175 Court Street NE
Salem, Oregon 97310

Dear Jim,

As you are aware, the City of Fairview has been working to complete its periodic review process. Our local review order was adopted by the City Council in July, 1990 and was subsequently submitted to LCDC for review and acknowledgement. In October of 1991, Michael Rupp (DLCD Plan Review Manager) wrote a letter to Andy Linehan of CH2M Hill which discussed four areas of concern which the City needed to address before our local order could be recommended for acknowledgement. These concerns were related to manufactured housing, residential facilities, airport noise and historic resources. In response to the October 1991 DLCD letter, I have written draft amendments to our local review order and zoning ordinance which I think satisfactorily address the above issues.

Beginning in late fall of 1991, questions have arisen about the adequacy of Fairview's protection of its land and water resources. At that time we met with Scott Pemble, Multnomah County Planning Director. We discussed the natural areas around Fairview Lake, the County SEC (Ordinance 234) regulations that were adopted in 1980 for development near the lake, and the City's SEC regulations and its Goal 5 periodic review work as they relate to the lake. After their meeting, the City decided to supplement its knowledge of the lake area natural resources by conducting a special inventory and to proceed with the Goal 5 ESEE analysis. A team of environmental scientists from CH2M Hill conducted a survey of the location, quality and quantity of fish and wildlife habitat areas in the Fairview Lake area. The resulting study was produced in July and will be part of the City's Goal 5 submittal. In August of 1992, the City contracted with CH2M Hill to analyze the economic, social, environmental and energy (ESEE) consequences of the conflicting uses of identical Goal 5 resources and to recommend a range of protective measures for identified resources. The two areas that are the main focus of the analysis are the Fairview Lake and Fairview Creek areas. Although the analysis is nearing completion, there was a delay experienced because of the ensuing water quality issues described below.

In mid August, Fairview received a letter from the Department of Environmental Quality (DEQ) regarding its Goal 5 work. The Department expressed various concerns and recommended that "... in addressing the Goal 5 ESEE analysis requirements and other land use or periodic reviews, a thorough analysis of potential impacts to ground and surface waters of residential and industrial development in the watershed, and particularly in the vicinity of Fairview Lake, should be included." DEQ further indicated it would be essential that a comprehensive study of the probable effects of land use changes and development on surface and ground water be undertaken prior to the approval of any land use changes or development proposals. In early September a meeting was held at the request of the City of Fairview with DEQ and

- ▶ Information about the City's Groundwater Protection Ordinance will be presented.

SURFACE WATER PROTECTION

- ▶ The City's participation in the NPDES program will be described. The final document (Phase II) will contain BMP's for the entire Fairview Creek Basin.
- ▶ The City's Stormwater Drainage Master Plan process is now underway. Adoption is scheduled to occur by March 30, 1993. This study will be outlined.
- ▶ Reference will be made to the erosion control plan that the City will soon be considering for adoption. This document will specify what erosion control measures would be necessary during the construction phases of developments.

GOAL 5 ANALYSIS

- ▶ The ESEE analysis will propose a riparian corridor protection ordinance for Fairview Creek and Fairview Lake.
- ▶ Reference will be made to the proposed Open Spaces and Park Plan that will recommend sites for City acquisition.
- ▶ Information about the western pond turtle will be provided.
- ▶ A description and ordinance will be provided relating to the City's efforts to preserve wetlands and fish habitat.

We propose the following time schedule for adopting and submitting to DLCD our entire package of local review order amendments and related ordinances:

December 1992	Submit to DLCD a copy of draft amendments and ordinances for staff review.
January 1993	Planning Commission adoption hearing.
February 1993	City Council adoption hearing.
March 1993	Submit adopted amendments and ordinances to LCDC for acknowledgement hearings.

The City is anxious to complete its Periodic Review program. We know that our approach will not eliminate differences of opinion during the acknowledgement stage of the process; however, we do believe it offers a way to comprehensively address the issues that have been raised to date. It also provides LCDC and interested agencies and groups a complete set of facts about the actions the City has taken to protect its resources and the actions it intends to take in the future. This should result in a smoother and more efficient acknowledgement process.

City of Fairview
Goal 5 Analysis
Including Inventory, Analysis,
Recommendations, Policy, and Regulations
for the
Protection and Management
of
Water Features, Wetlands, and Natural Resources

Chapter 1 Resources Inventory

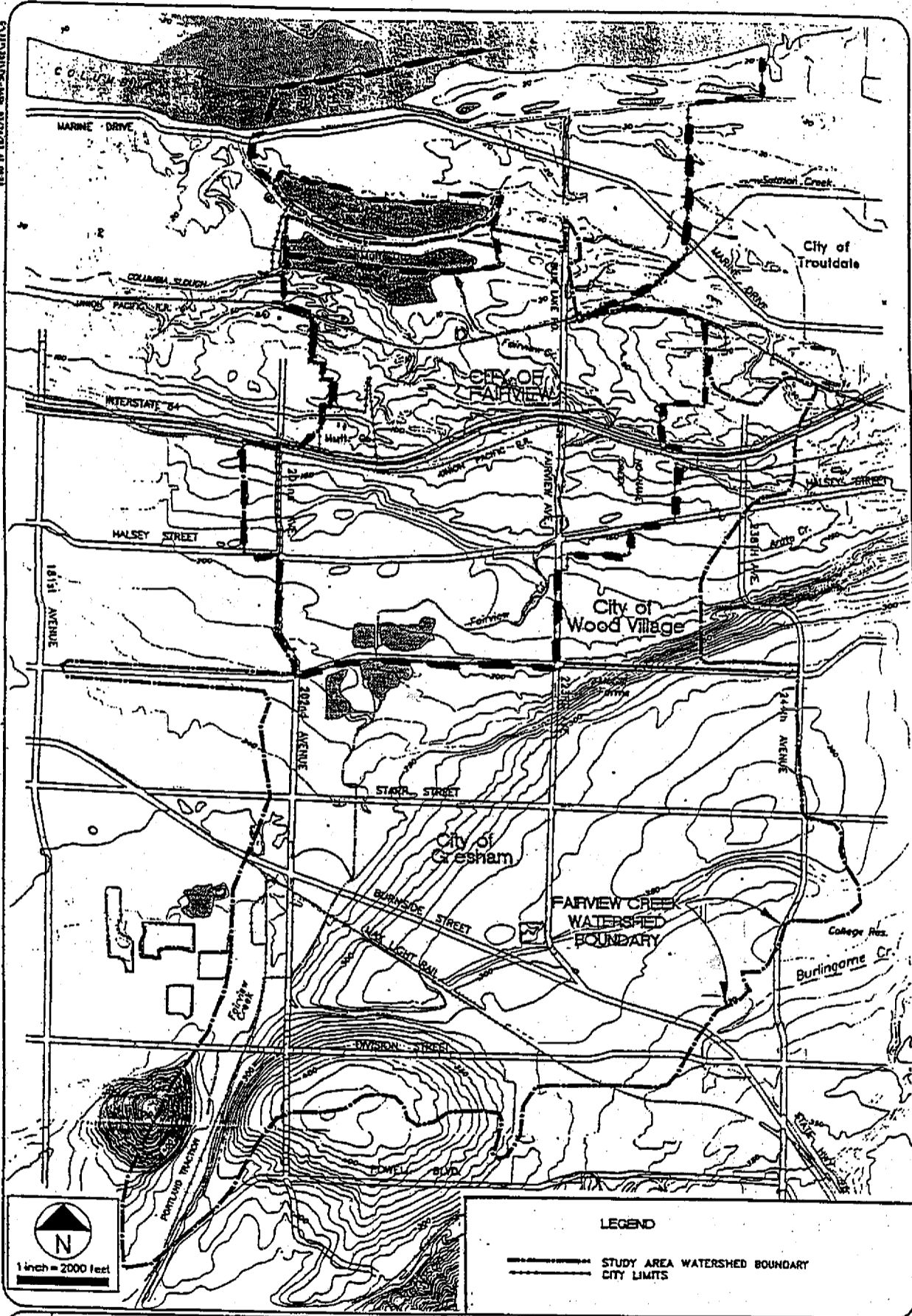
The Natural Resources in the City of Fairview were inventoried at two different times. First in April 1989 for the original submission of the Comprehensive Plan and again in 1992 as a part of the 207th Avenue Corridor Assessment and as a field check to update the inventory information for areas on the Southshore of Fairview Lake (approximately 82 acres). Wetlands delineations for specific development proposals (Fairview Village, Portland Hospital Service Corporation, Lingelbach property) supplemented the original quantity and quality information.

The natural resources identification is based upon the above information and all written testimony and information received as well as the following sources:

- Aerial photography (1:4800 scale)
- City of Fairview Natural Resources Reconnaissance (April 2, 1989)
- Oregon Natural Heritage Data System search for rare, threatened and endangered plant and animal records (April 22, 1992)
- U.S. Soil Conservation Service *Soil Survey of Multnomah County, Oregon* (1983)
- U.S. Fish and Wildlife Service National Wetlands Inventory Map
- U.S. Geological Survey Water Resources Investigations Report 88-4110, *Lithology, Thickness, and Extent of Hydrogeologic Units Underlying the East Portland Area, Oregon* (1989)
- Oregon Department of Fish and Wildlife Biological Survey of Fairview Creek (October, 1991) and Fish inventory data (July 17, 1992)
- Friends of Blue and Fairview Lakes Wildlife Observation Data sheets
- A checklist of Portland Birds (*The Urban Naturalist*, 1984)

The updated natural areas inventory for the area South of Fairview Lake along with all testimony and observation sheets is provided in Appendix 3. Other documents not included as an attachment in this submission can be examined at the City of Fairview Planning Office.

Seventy-one natural resource sites were inventoried, evaluated and determined to be of significance. These sites are identified in Figure 1 and depicted in Map 1. Due to varying characteristics and values, the sites were categorized as either wetlands (WD), water feature (WF) or other natural resource (NR). Figure 1 introduces the site code used in the remainder



DATE
Mar., 1993

WATERSHED MAP

Fairview Creek
Drainage Basin

FAIRVIEW

OAKLEY ENGINEERING, INC.
DRAINAGE PLANNING & DESIGN, HYDROLOGY,
CIVIL ENGINEERING, & SITE DEVELOPMENT
700 N.E. Hayden Island Dr., Suite 340 - Portland, OR
TEL (503) 289-7411 - FAX (503) 289-7636

**Figure 1
Size of Resource Sites Inventoried**

Wetlands		Natural Resources		Water Feature	
Number	Approximate Size	Number	Approximate Size	Number	Approximate Size
1	1.84	1	52.28	1	5.18
2	1.34	2	1.9	2	4.64
3	1.75	3	6.01	3	8.04
4	4.7	4	4.63	5	1.13
5	3.60	5	2.12	7	4.48
6	1.0	6	3.04	9	1.84
7	.50	8	3.14	10	4.44
8	1.74	9	14.30	11	1.46
9	.83	10	4.37	12	8.19
10	3.81	11	1.36	13	.67
11	.5	12	1.18	14	1.86
12	22.22	13	1.14	15	.64
13	9.9	14	5.86	16	3.02
14	1.75	15	1.30	17	4.60
15	1.1	16	7.66	18	68.18
16	.92	17	2.01	19	49.11
17	1.02	18	1.55	20	1.00
18	4.20	19	2.12		
19	11.56	20	2.0		
20	2.65	22	1.04		
22	1.04	23	13.47		
23	0.36				
24	2.71	25	.83		
25	6.88				
26	.38				
27	.10				
28	.05				
29	1.26				
30	.26				
31	.55				
32	1.00				
Total	88.73		123.33		168.04

A total of about 415 acres were inventoried as wetlands, water bodies, and upland natural areas for purposes of Statewide Planning Goal 5, the Natural Resources Element of the Comprehensive Plan of the City of Fairview. This represents about 18.5 percent of the approximately 2,243 acres within the City Fairview.

Chapter 2

Analysis of Economic, Social, Environmental, and Energy Consequences of Resource Protection

Both the resources and the conflicting uses may benefit the fabric that constitutes a full service city. It is the balancing of these uses that is the goal of the ESEE analysis. LCDC recognized this fact in its Administrative Rule when it charged local governments to identify conflicts with inventoried Goal 5 resource sites. This task is done by examining the uses allowed in broad zoning districts and comparing these uses with the natural resource area sites identified. The outcome of this analysis will determine whether there are conflicting uses and, to some degree, the magnitude of the conflicting use.

Compatible and Conflicting Uses

Compatible Uses

The uses that can be conducted in manner that will not cause resource degradation are uses that do not disturb vegetation or increase bank erosion. Such uses include:

- Aesthetic enjoyment of resources
- Open space uses not including recreation (which can create littering and the destruction of vegetation in much the same as other conflicting uses)

Conflicting Uses

Numerous uses are not compatible with resource protection but are allowed by the City of Fairview zoning ordinance. If these uses are allowed some level of natural resource degradation would result. These uses are particularly enumerated on the Site Data Sheets included in Appendix 1.

Once conflicting uses are identified, Statewide Planning Goal 5 and its Administrative Rule require the jurisdiction to analyze the economic, social, environmental and energy consequences of resource protection. If no conflicts exist, the resource must be protected.

Reasons must be provided that demonstrate the decision making process of the jurisdiction. One of three decisions provided for under the Goal 5 Administrative Rule must be made. These decisions are:

- Fully allow the conflicting use without other land use restrictions. This situation would occur when the jurisdiction feels the conflicting use is important enough to be unrestricted even though it would have a negative impact on the resource.

dependent. The ESEE consequence analysis must also weigh the cost of a suggested regulatory measures/natural resource protection on property values. Council must weight consequences between resource protection and the loss of value to development.

The anticipated economic value of the loss to property owners due to regulation would be:

- Reduced crop yield prior to development if agricultural practices were to conform to new regulations.
- Highly site specific value of Lakeside/Creekside properties diminished (e.g., residential homes may have no or limited site access to the lake/creek due to setback or other resource protection requirement.

These economic impacts, though hard to quantify could result in a lower value housing type which would diminish anticipated property tax revenues. This in turn could have other economic impacts.

Individual property owner economic impacts and expectations must also be considered. Though no "taking" of property was anticipated, testimony in the record indicated that property owners had acquired their property with the expectation that housing types would be compatible with the amenity value offered by the site (view of the lake, creek, etc.). Riparian corridor buffers could extinguish or limit this amenity. Thus, protection of natural resources can be generally concluded to have both positive and negative impacts. Fairview has concluded that resource protection can be interrelated with development objectives in a manner which enhances development potential.

General Social Consequences

Protection of a riparian strip provides a visual sense of edge between natural and urban land uses. Protection of natural resources creates visual variety in the landscape and serves as a connection to other greenspaces. It can provide a sense of separation between uses and lessen the impact of one activity to another.

Failure to protect the resource allows more choice regarding individual property maintenance without imposing societal or city values. This could lead to diversity of visual experience. Some may choose to mow lawns to creek and lake edge, for example, while other treatments may choose some degree of buffering. Whether this approach creates more conflict or harmony could be an issue of debate. Additionally, the attitudes and expectations individuals may have toward the area in which he or she lives can be taken into consideration in a subjective manner. Residents may have grown accustomed to vacant land without any visual obstruction. Clearly, any development would then be viewed as creating a negative social impact. In general, some level of protection of natural resources results in a positive social benefit.

Chapter 3

Resource Protective and Management Measures

This chapter summarizes the policies, regulations, and procedures that provide a high degree of protection to identified Goal 5 resources while allowing appropriate levels of development to occur. These measures were instituted by Fairview to take advantage of the positive values which wetlands, water features, and natural areas represent. They also reflect the pragmatic reality that to fully protect resources would result in negative consequences if development were completely prohibited in a rapidly urbanizing area and pushed from public services. The protective measures fall into the following categories:

- **Plan Policy.** Amending the City's Comprehensive Plan Policy to establish the importance of natural resource values (see Chapter 2).
- **Regulatory Measures.** Adopting implementing measures to establish a riparian corridor along Fairview Creek, Fairview Lake, and the Columbia Slough. The corridor is at least 35 feet wide from the top of bank except when wetlands areas noted on the map where a greater area is consistent with the resources. The riparian corridor buffer overlay district allows accessory (infrastructure) development uses, but is otherwise effective in reducing the adverse impacts of specific land uses on the resource. The significant environmental concern overlay zone (SEC) is intended to allow development in nonriparian resource areas but in a manner which minimizes impacts on identified resources.
- **Protective Procedures.** Conservation easements, deed restrictions, or dedication of land as a requirement of development approval.
- **Construction management, and land disturbance ordinance** minimizes vegetation disturbance and prevents stream bank erosion. The erosion control ordinance is an engineering plan which is administered by Department of Public Works.
- **Active coordination** with the Division of State Lands and Army Corps of Engineers to ensure that wetland protection requirements are fully achieved and, when appropriate, requiring conservation easements or dedication.
- **Tree removal regulations** for upland areas that will retain and enhance native vegetation and tree canopy. Existing trees over six inches in diameter and four feet from the ground will be preserved wherever possible pursuant to significant environmental concern regulations.
- **Reinstigation of a riparian strip** and discouraging lawn mowing to the edge of the lake bank on the north side of Fairview Lake. Fairview recommends

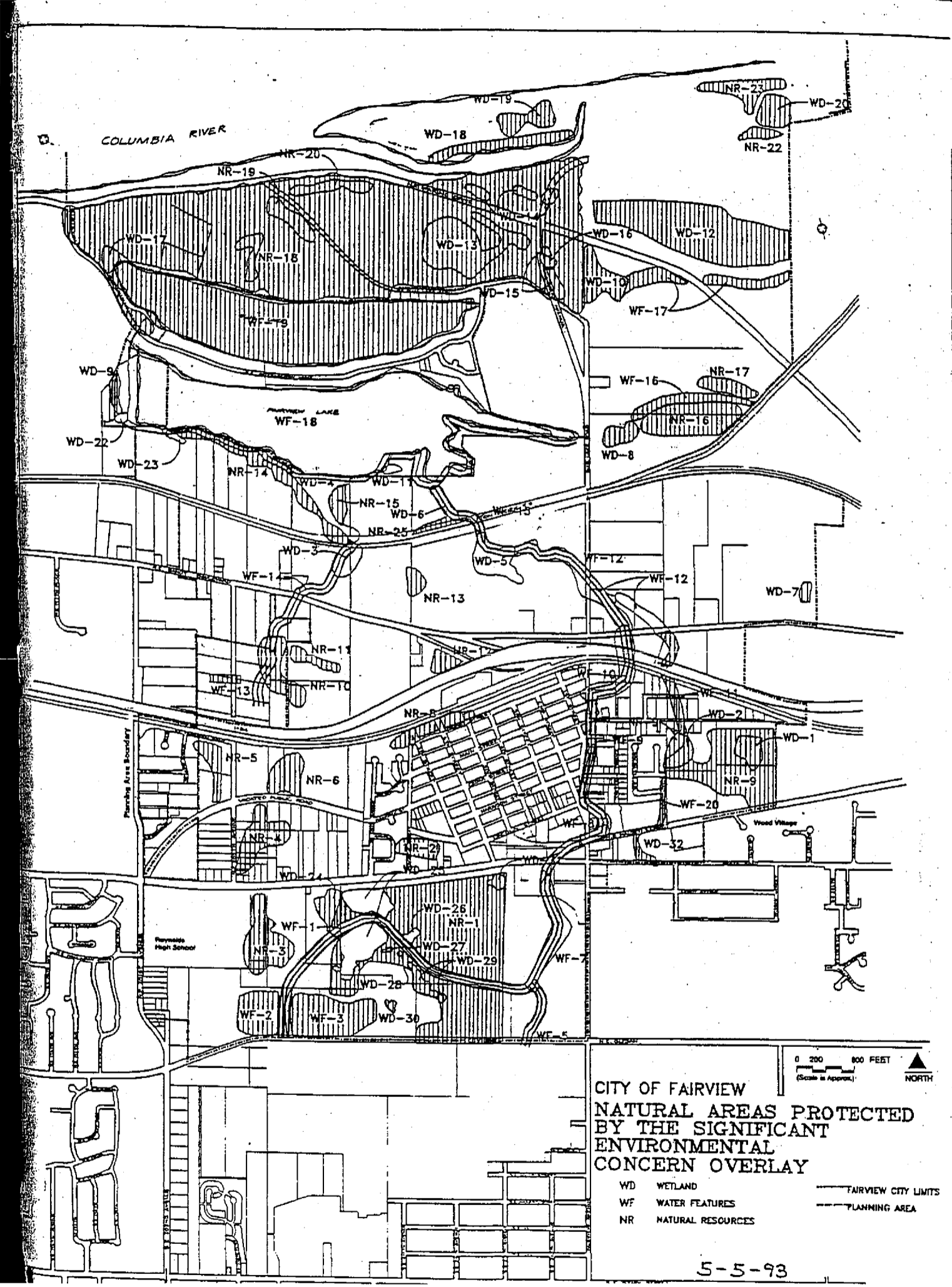
- Osburn Creek north of the I-84 freeway. Oregon Department of Fish and Wildlife (ODFW) has recommended that this section of the creek be protected because the agency found cutthroat trout in it. As suggested by ODFW, a 25-foot setback from the top of the bank is required. Osburn Creek is smaller than Fairview Creek and has a lower water flow. The 25-foot setback was considered adequate by ODFW based on the size of the creek and the local topographic conditions.
- The upland wooded areas near Fairview Creek on the Tektronix property. This is the largest and most significant wooded area in the City. ODFW has indicated that the lengthy exposure of the creek to the woods results in a substantial decrease in water temperature. This cooling effect makes Fairview Creek more hospitable for coldwater fish such as trout. Although those trees within 35 feet of the creek banks would be protected by the Riparian District, ODFW would like to work with the City to see whether a greater setback distance would be appropriate for this section of Fairview Creek. This City will consult with ODFW about this matter and will consider amending the Riparian District in this regard.

Buffer Width Analysis

The scientific literature examined indicate that riparian corridor buffers are resource protective measures. There was not agreement, however, on the adequacy of differing buffer widths during the public hearing process before the Fairview Planning Commission and Council. Testimony on setback or buffer widths ranged between no buffers at all to a buffer of 300 feet or more. The City of Gresham has adopted a 25-foot setback for Fairview Creek. The City of Portland's Natural Resource Management Plan for the Columbia South Shore is proposing a 50-foot setback along the Columbia Slough. In the main, the City of Portland setback buffers more intensive industrial uses allowed along the Columbia Slough than the principally residential uses in Fairview. Also in 1980 Multnomah County adopted a 35-foot building setback from the mean low water line for the unincorporated shoreline area of Fairview Lake which were designated SEC (Ordinance No. 234).

The Washington Department of Ecology report titled *Wetland Buffers Use and Effectiveness*¹, February 1992, was used extensively to analyze the effectiveness of different buffer widths to protect resource values. The findings and conclusions from the Washington Department of Ecology's report are available for examination in the City of Fairview Planning Office. A clear finding was that buffer effectiveness increases a buffer width increases.

¹Castelle, A. J., C. Conolly, M. Emers, E. D. Metz, S. Meyer, M. Witter, S. Mauermann, T. Erickson, S. S. Cooke. 1992. *Wetland Buffers: Use and Effectiveness*. Adolphson Associates, Inc., Shorelands and Coastal Zone Management Program, Washington Department of Ecology, Olympia, Pub. No. 92-10.



COLUMBIA RIVER

FAIRVIEW LAKE

Planning Area Boundary

Reynolds High School

Wood Village

CITY OF FAIRVIEW
 NATURAL AREAS PROTECTED
 BY THE SIGNIFICANT
 ENVIRONMENTAL
 CONCERN OVERLAY

- WD WETLAND
- WF WATER FEATURES
- NR NATURAL RESOURCES
- FAIRVIEW CITY LIMITS
- PLANNING AREA

0 200 400 800 FEET
 (Scale is Approx.)



5-5-93

ORDINANCE
(12-1993)

AN ORDINANCE AMENDING ORDINANCE 9-1990, ENTITLED: "AN ORDINANCE TO GUIDE, REGULATE AND CONTROL THE STRUCTURES AND LAND FOR RESIDENTIAL, BUSINESS, INDUSTRIAL AND OTHER USES IN THE CITY OF FAIRVIEW, MULTNOMAH COUNTY, OREGON; SETTING FORTH DEFINITIONS, PERTINENT PROVISIONS AND PROVIDING FOR ADMINISTRATION AND ENFORCEMENTS; REPEALING ORDINANCES 1-1958, 1-1968, AND 2-1979 AND OTHER PERTINENT PROVISIONS."

THE CITY OF FAIRVIEW ORDAINS AS FOLLOWS:

SECTION 1 FINDINGS

1. The City of Fairview's Periodic Review of the Fairview Comprehensive Plan was adopted on July 18, 1990. It was a review of the City's Plan and Land Use Ordinance taking into account the four factors specified by ORS 197.460 and OAQ 660, Division 19:
 - Substantial changes in circumstances;
 - New or amended goals or rules adopted since the date of acknowledgment;
 - State agency plans and programs;
 - Additional planning tasks required at the time of acknowledgment or agreed to in receipt of State grant funds.
2. The Planning Commission's review of the proposed Review Order and related Plan amendments found that there was a need for the Plan amendments which was best served by Plan amendments, and that the Plan amendments were in compliance with the applicable provisions and policies of the Comprehensive Plan as well as the Statewide Planning Goals.
3. The City Council received from the Planning Commission its recommendations regarding the Review Order and related Plan amendments. In the Council's adoption of the Review Order on July 18, 1990, the Council reviewed the Planning Commission's report, the proposed Local Review Order, staff reports and all pertinent background information.
4. The City Council and Planning Commission, during their evaluation of the proposed Review Order and Plan amendments, held public hearings pursuant to the applicable procedures outlined in the City Zoning Ordinance and Oregon statute. These hearings provided an opportunity for all interested citizens to be heard. Likewise, all affected government units were given the opportunity to comment.
5. The City Council did find the Final Local Review Order and proposed Plan amendments in conformance with the goals and policies of the Comprehensive Plan and Statewide Planning Goals and adopted them at the July 18, 1990 public hearing.
6. On March 20, 1991, the City Council implemented the Final Local Review Order by adopting (Ordinance 4-1991) the Comprehensive Plan amendments that were proposed during the previous periodic review hearings.
7. On June 5, 1991, the City received a letter from the Oregon Department of Land Conservation

3.222), R-4 Two Family (duplex) Residential District (Section 3.232), A-1-B Apartment Residential Business Office District (Section 3.252) and MH-2, Mobile Home Park District (Section 3.262).

2. Delete: "Residential Care Facility" from the Conditional Uses list of the R-4 Two Family (duplex) Residential District (Section 3.233F) and MH-2, Mobile Home Park District (Section 3.263A).

B. Airport (PDX) Noise

1. Add:

"5.10 Airport Noise Disclosure Statement"

"5.11 Purpose"

"The City of Fairview is near the flight paths of aircraft which depart and land at the Portland International Airport (PDX). As such, the City is intermittently impacted by aircraft noise and is within a "noise sensitive area" (55LDN) as defined by DEQ. This noise disclosure statement requirement serves as a notice to residential property owners that they may experience objectionable noise from PDX aircraft."

"5.12 Applying the Noise Disclosure Statement"

"A. Noise Contour Boundary Source. The LDN55 noise contour, as shown in the 1990 Portland International Airport Noise Abatement Plan or subsequent updates, is the boundary for the noise disclosure requirement. All property within that noise contour, including areas within a higher contour, is subject to this requirement if proposed for the residential development described in Section 5.13."

"B. Application on Annexed Land. This requirement shall apply to all annexed properties that meet the conditions described in above Section 5.12A."

"5.13 Noise Disclosure Statement (Exhibit A)"

Prior to the issuance of a building permit for new residential construction or reconstruction where the total cost of improvements is 75 percent or more of the total assessed value of the site, the owner must sign the City's noise disclosure statement. The statement acknowledges that the property is within the 55LDN noise contour and indicates the owner's awareness of the aircraft noise. A signed copy must be recorded with the Multnomah County Records Office. The statement is attached to Exhibit A of this amendment and is available at Fairview City Hall."

C. Manufactured Dwelling Parks

In order to provide for the future need for manufactured dwelling parks identified in Section IIC

(Section 3.222) and R-4 Two Family (duplex) Residential District.

E. Significant Environmental Concern District Amendments.

1. Change "5.134" in Section 3.603 to "3.604."
Note: This change corrects a typographical error. There is no "Section 5.134" in the Zoning Ordinance. "Section 3.604" appropriately refers to the exception section of the SEC District.
2. Change "5.139" in Section 3.607B to "3.609."
Note: This change corrects a typographical error. There is no "Section 5.139" in the Zoning Ordinance. "Section 3.609" appropriately refers to the approval criteria section of the SEC District.
3. Change "5.139" in Section 3.606 to "3.609."
Note: This change corrects a typographical error. There is no "Section 5.139" in the Zoning Ordinance. "Section 3.609" appropriately refers to the approval criteria section of the SEC District.
4. Change "B. The propagated or cutting of timber." from Section 3.604. to "B. the cutting of trees which have diameters less than 6" at four feet above grade; or the cutting of no more than four trees in a calendar year with diameters of 6" or greater at four feet above grade; or commercial forestry activity regulated by the Oregon Department of Forestry and the Oregon Forest Practices Act; or the removal of any diseased or dead trees upon prior approval by the City."
Note: This change corrects a contradiction in the SEC District. Section 3.604B presently exempts the cutting of trees from the SEC regulations while Section 3.609C regulates such activity. The proposed change makes clear what tree cutting activities are exempted.
5. Delete "B. Agriculture land and forest land shall be preserved and maintained for farm and forest use." from Section 3.609B.
Note: Land used for agricultural and commercial forestry activities is not a protected resource under Goal 5. Protecting such land within the Urban Growth Boundary would conflict with State of Oregon and METRO urban infill development policies.
6. In Section 3.609, Change "C. The harvesting of timber on lands designated SEC shall be conducted in a manner which will insure that natural, scenic and watershed qualities will be maintained to the greatest extent practicable or will be restored within a brief period of time."

application) will be taken to minimize the fill area and other negative impacts. These findings may be waived if, in the opinion of D.S.L. or ODFW, the applicant proposes to create a replacement wetland area on the property that will be of superior value to wildlife compared to the impacted area.

- 4) When development is proposed within 35 feet of a wetland area, an undeveloped buffer area shall be established between the wetland and the development as a condition of development permit approval. The required buffer area width as well as its treatment or enhancement shall be established during the permit review process, after consultation with D.S.L. or ODFW staff.
- 5) The City will not approve a partition or subdivision in an SEC area that proposes to create a lot, which because a large proportion of its area is a designated wetland, would be unbuildable.
- 6) Construction sites adjacent to wetlands shall be required to install erosion/sedimentation control devices between the land area to be disturbed and the wetland. All such devices shall conform with the specifications and procedure outlined in the City's Erosion Control Ordinance (Ordinance 8-1998).
- 7) Developments adjacent to wetlands which have significant impervious surface areas will be required to have stormwater detention and filtration facilities as part of their approved design. The design of such facilities shall conform to the Best Management Practices (BMP's) described in the City's Standard Specifications Ordinance (Ordinance 9-1974) and related ordinances and technical guidance manuals.
- 8) The City will also consider the use of tools such as dedication and conservation easements as a means to fully protect wetland areas during the development review process.
- 9) Wetlands within the Fairview Creek, Fairview Lake and Osburn Creek riparian areas will be protected according to the procedures and standards of the City's Riparian Buffer Overlay District.

READ IN FULL AND BY TITLE, this 5th day of May 1998.

READ A SECOND TIME BY TITLE ONLY, this 5th day of May, 1998, by the unanimous consent of all members of the Council present, there being present a quorum.

PASSED, this 5 day of May, 1998, BY THE COUNCIL OF THE CITY OF FAIRVIEW, OREGON, there being present a quorum.

**FAIRVIEW CITY COUNCIL
REGULAR SESSION
MAY 5, 1993**

I CALL TO ORDER

This Regular Session of the Fairview City Council was called to order by Mayor Fred Carlson at 7:32 pm on May 5, 1993, at Fairview City Hall, 300 Harrison Street, Fairview, Multnomah County, Oregon.

COUNCILORS PRESENT: Fred Carlson
Ted Heckaday
Dennis Ray
Len Edwards
Roger Vonderharr

COUNCILORS ABSENT: Dave McCutcheon

STAFF PRESENT: Marilyn Holstrom, City Administrator
Nancy DiDonato, City Recorder
Jeffrey Sarvis, Director of Public Works
John Pettis, City Planner

II CONSENT AGENDA

Ted Heckaday moved and Roger Vonderharr seconded the motion to adopt the Consent Agenda consisting of Minutes of April 21, 1993 as written. The question was called and the motion carried five to zero.

III CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS

Mayor Carlson called for persons wishing to speak on non-agenda items. As there was no response, the session continued.

IV. PUBLIC HEARINGS

A. ORDINANCE 10-1993, ZONE CHANGE

John Pettis reported that the site in question is located near the northeast corner of 201st Avenue and Halsey Street. One parcel is occupied by the Wood Creek Apartments project and the other parcel is vacant. Both parcels are within the City's planning service area boundary and were recently annexed into the City. The properties currently have a Multnomah County zoning designation of MR-4, Medium Density Residential, which allows duplexes and multiplexes up to 1.1 units per acre.

Mr. Pettis explained that now that they are in the City of Fairview they require Fairview zoning designations. The A-2 zoning, which would allow 20 units per acre, is recommended because: 1) The

Council will decide at the end of each speakers presentation whether staff will respond to questions; and
5) All written materials should be submitted to the City Recorder to become part of the record.

Thereafter, Ted Hockaday moved and Len Edwards seconded the motion to read Ordinance 11-1993 in full. The vote was taken and the motion carried unanimously. Ted Hockaday then moved and Len Edwards seconded the motion to also read Ordinance 12-1993 in full. Mayor Carlson called for the vote, the motion was carried and the two readings commenced in the front office while the session continued.

John Pettis reported that the Riparian Ordinance and Zoning Ordinance Amendments which are under consideration were reviewed by the Planning Commission and the City Council as part of the City's Periodic Review Package. Although the Final Local Review Order Amendments were approved by the Council on March 17th, the Riparian Ordinance and Zoning Ordinance Amendments were not formally adopted as City Ordinances. He explained that the LCDC requires local jurisdictions to adopt all ordinances and ordinance amendments that are part of and proposed to implement a Periodic Review program, prior to the commencement of the LCDC acknowledgement procedures.

Mr. Pettis stated that the proposed ordinances are essentially the same as were reviewed on March 17th with the following changes:

Riparian Ordinance: 1) The required setback distance from Fairview Creek, Fairview Lake, Noname Creek and the Columbia Slough was changed from 50 feet to 35 feet, which reflects the Council decision of March 17th to have the buffer size reduced; 2) Appendix A has been added which is a list of construction standards for roads, bridges, culverts and utilities. These standards are recommended by the Oregon Department of Fish and Wildlife and would apply whenever infrastructure improvements would cross Fairview Creek, a regulated water feature or a riparian resource; and 3) the NR14 and NR15 areas have been removed from the Riparian Buffer protection area and will fall under the Significant Environmental Concern area regulations.

Zoning Ordinance Amendments: 1) Findings were added for selecting parcel 1 of Partition Plat 1992-168 for MH, Mobile Home Park Designation. This site is on the McDonald Property (near RR tracks and 223rd) and was designated MH in order to satisfy State Manufactured Housing Park requirements, as discussed in Local Review Order Amendments; 2) In the SEC Amendments (page 6) additional language was added about how wetlands are to be protected. Among other things, they require an applicant to demonstrate a need in an SEC application if proposing to fill any part of a wetland area; and 3) On page 7 of the Zoning Ordinance Amendments (SEC Section), "Osburn Creek" should be added to the list of water features with adjacent wetlands that are protected by the Riparian Ordinance.

Mr. Pettis closed his report by stating that staff recommended adoption of the Riparian Buffer Overlay District Ordinance and Zoning Amendment Ordinance with the stated addendums.

Mayor Carlson opened the Public Hearing and called for the first speaker, Jane Greybill. Ms. Greybill, 21180 NE Interlachen Lane, read into the record portions of a newspaper article regarding western pond turtles and portions of a memorandum from the Wetlands Conservancy regarding "Revisions to Wetlands Standards, Lake Oswego". A copy of these items is attached to these minutes as part of the record.

The second speaker called to the podium was Linda Robinson, 1115 NE 185th, Portland, representing the Multnomah County Parks Service. Ms. Robinson stated that the County is concerned over the reduction of the riparian buffer size from 50 feet to 35 feet. She stated that the wider buffers would allow better flood control. She noted that larger buffers would provide more wildlife corridors between the Johnson

Mayor Carlson asked Mr. Simon if Interlachen has dismissed the Fairview portion of the Court of Appeals as of this evening's date to which Mr. Simon replied negatively. Mayor Carlson stated that, because the City of Fairview was, at the time of the water quality meeting, in litigation regarding Fairview Lake, the City Attorney had advised staff not to discuss lake matters when the litigants are present.

The fourth speaker Mayor Carlson called upon was Henry Pelfrey. Mr. Pelfrey stated that he is the President of Dirt and Aggregate Interchange, Inc. located at 20905 NE Sandy Boulevard. He noted that he owns the property north of this location, on Fairview Lake, and he wants to work with the City of Fairview in regards to this land. He informed the Council that Multnomah County has contacted him by letter asking to purchase his property for use as a park.

Mr. Pelfrey explained that he has taken good care of his property in the past and wishes to continue doing so. He stated that 10 years ago he was offered \$12,000 to log the trees on this property, but he declined the offer because he wanted to retain the trees as a natural resource. He hopes to develop this property in the future and again emphasized that he wishes to work with the City toward this end.

The next speaker, Lynnia Woods, 1001 SW Fifth Avenue, Suite 1650, Portland, stated that she was the attorney for Dirt and Aggregate Interchange, Inc. She stated that the other Fairview Lake property owners chose not to attend this evening's Public Hearing because they considered that the decision to adopt the Riparian Buffer Ordinance was already decided and their testimony would not make any difference. She and Henry Pelfrey wish to go on record as not being happy with any size riparian buffer. Ms. Wood closed her testimony with some brief comments on previous testimony regarding the alleged existence of a Western Pond Turtle in Fairview Lake.

As there were no other persons wishing to speak, Mayor Carlson closed the Public Hearing. He then asked for Council comments on the two ordinances under consideration. Ted Hockaday stated that the City of Fairview has not officially been given any notification of a road being placed in the area south of Fairview Lake. He stated that the City of Fairview should represent the best interests of the property owners within the City of Fairview and that the riparian buffer should remain at 35 feet and not be enlarged. Roger Vonderharr stated that Multnomah County appears to be receiving information about Fairview from sources other than the City of Fairview. He is irritated that the County is going behind the back of the City to develop park lands. He stated that this is a waste of County resources when the City of Fairview has already gone on record as being in the process of creating a comprehensive parks and open spaces master plan for those areas within Fairview city limits.

Dennis Ray stated that he was originally opposed to reducing the buffer from 50 feet to 35 feet, but he has not seen any new information, the pond turtle information notwithstanding, which would justify increasing the buffer back to 50 feet. Roger Vonderharr stated that one important aspect of the ESEE studies is "economics" and this seems to have been ignored by those persons requesting a large riparian buffer. He supports the 35 foot buffer because it takes into account the impact to property owners while helping to protect the lake shore. Len Edwards stated that this has been a difficult issue from its commencement, but that after the extensive discussions on the riparian buffer, he supports adoption of a 35 foot size buffer.

As there was no further discussion, Len Edwards moved and Dennis Ray seconded the motion to read Ordinance 11-1998 a second time by title only and with the amendments on page two, Section 3: 1. and 3. , which are: placing a period (.) after "the banks" in the first sentence of each section, deleting the remainder of the sentence and adding a second sentence which states, "The area within the banks will be protected as well." Mayor Carlson called for the vote, the motion was carried, and the ordinance title and amendments read by the City Administrator.

C. APPLICATION TO SUBMIT NATIONAL POLLUTION DISCHARGE ELIMINATION STUDY

Jeffrey Sarvis reported that the City of Fairview participated as co-applicants with the City of Gresham and Multnomah County on both Part I and Part II of the NPDES process, with the Oregon Department of Transportation participating in the second phase. Work sessions and public involvement have occurred throughout the application process. Mr. Sarvis noted that the application addresses the question of drainage of stormwater from adjoining jurisdictions which did not participate in the NPDES process and it reserves the right to re-review procedures after the Roseburg Court of Appeal decision regarding stormwater fees is handed down from the Court of Appeals.

Discussion followed regarding the application process and the storm event testing which took place as part of the process. In response to questions regarding Section 3 of the application, Jeff Sarvis explained the Best Management Practices and the proposed stormwater ordinance to address stormwater problems and to give the City adequate legal authority to enforce these regulations. At the end of the discussion Ted Hockaday and Len Edwards seconded the motion to authorize staff signature and submittal of Part 2 of the NPDES application to DEQ. Mayor Carlson called for the vote and the motion was carried unanimously.

VI. CITY ADMINISTRATOR REPORT

Marilyn Holstrom reported that the Charter Review Commission had received a copy of the first draft of the charter and was scheduled to meet May 10th to discuss it. May 19th is the scheduled date for the water rate increase Public Hearing. An informational pamphlet will be mailed to all Fairview water customers a week prior to the hearing.

Ms. Holstrom noted that Mayor Carlson and she had recently spent the day in Salem to attend a legislative informational one-day conference which was held for the cities. She had testified before a Lottery Subcommittee regarding various federal water quality regulations which have been and will require even small cities to spend large amounts of revenue to achieve compliance. Ms. Holstrom stated that she had been asked questions regarding the issue of stormwater flow from one jurisdiction to another, with the former often responsible for the water quality of the latter.

This portion of the session ended with a brief discussion on the upcoming Four Cities Council retreat scheduled for May 22nd.

VII. MAYOR/COMMITTEE REPORTS AND COUNCIL CONCERNS

Ted Hockaday stated that he is pleased that members of Interlachen, Inc. are finally indicating that they are willing to work with the City of Fairview and not continue to confront the City whenever an issue pertaining to that area arises. He noted that this is the first positive thing he has seen from Interlachen in many years and he likes their positive attitude.

Dennis Ray stated that a few years ago a meeting was held between the City and Interlachen residents to discuss matters which concerned both parties. The meeting had gone well, with committees being formed to address various issues. However, there was no follow up meetings and no committee meetings occurred after this time. He stated that he views this new positive approach from Interlachen, Inc. with mixed feelings, but he sees it as preferable to continuing litigation over every issue that arises.

Marilyn Holstrom informed the Mayor that Robert Simon had requested that he be able to address the Council. It was the consensus of the Council that he do so. Mr. Simon reiterated that he is authorized

VIII PAYMENT OF BILLS

Dennis Ray moved and Len Edwards seconded the motion to pay warrants in the amount of \$ 27,053.32. Mayor Carlson called for the vote and the motion was carried unanimously.

IX ADJOURNMENT

Dennis Ray moved and Len Edwards seconded the motion to adjourn. The motion was passed unanimously and this Regular Session of the Fairview City Council adjourned at 9:20 pm, May 5, 1993.

Fred Carlson, Mayor

date adopted _____

date signed _____

Nancy DiDonato, CMC
City Recorder

Page 2 of 2
July 16, 1990

Garden property may be the exception that proves the rule and I understand that there are some other lots of record contained wholly within a riparian drainage corridor. These are unusual cases and are by no means the normal circumstance.

5. Mitigation--Some areas and states are now requiring more than one-for-one mitigation. The logic being that since we have had such a short time working in this process that we are not sure that newly constructed or "enhanced" wetland will ever achieve the functions and values of the original article. We have had fair success with the creation and enhancement of emergent wetlands but little or no experience with the replacement of forested wetlands. It can take from 20 to 100 years for a forested wetland to develop so we should not be too ready to write them off in favor of development and replacement. What appears to the human eye as a pretty decent newly created wetland may be totally lacking in food chain values, water quality, ground water interchange, and such, not readily apparent wetland functions.
6. Water Quality--We all know that the loss of wetlands has been a major contributor to the corresponding loss of water quality in our streams and rivers. The Department of Environmental Quality is taking a much more active role in wetland permit application review these days and Lake Oswego should similarly take a harder line regarding the loss of wetlands and riparian stream corridors. Water quality along with wildlife habitat should be sufficient reason to go the extra mile for wetland protection. I know from personal experience, that there are many, many Lake Oswego residents who value the City's remaining wetlands and open spaces very highly and they are willing to go to bat for them. You do have public support.

Best Wishes,

Jack Broome

REMAND ORDER FOR 1/21/94 HEARING

RECEIVED Oregon

February 18, 1994

FEB 22 1994

RECORDERS OFFICE
CITY OF FAIRVIEW

DEPARTMENT OF
LAND
CONSERVATION
AND
DEVELOPMENT

The Honorable Pat Hockaday
Mayor, City of Fairview
300 Harrison Street
Fairview, Oregon 97024

Dear Mayor Hockaday:

On January 21, 1994, the Land Conservation and Development Commission took action regarding the City of Fairview's request for approval of its final periodic review order.

The Commission's decision was to sustain the majority of the city's periodic review order and to direct the city to amend its comprehensive plan and land use regulations to address certain issues.

The city is obligated under SB 97 to develop a work program to complete the tasks listed on the attached order. This work program will need to address the tasks, subtasks and timeframe for completing this work. The completion dates need to be determined by the city and submitted to us by March 15, 1994.

If you have any questions please contact Mel Lucas at 378-2472 or Jim Hinman at 373-0088.

Sincerely,



Richard P. Benner
Director

RPB:JH/deb
<order>

Enclosures

cc: John Pettis, Planning Director
Scott Pemble, Multnomah County
Dorothy Cofield
Jane Graybill
Robert Simon
Neil Kagan
Multnomah County Parks Department
Mel Lucas, Field Representative
Jim Hinman, Periodic Review Team Leader
PR Files (OF (2))

Barbara Roberts
Governor



EXHIBIT H
06-03-ZC

1175 Court Street NE
Salem, OR 97310-0590
(503) 373-0050
FAX (503) 362-6705

BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF THE PERIODIC)	
REVIEW OF THE COMPREHENSIVE)	COMMISSION'S REVIEW ORDER
PLAN AND LAND USE REGULATIONS)	94-PR/SUSTAIN-927
FOR THE CITY OF FAIRVIEW)	

This matter came before the Land Conservation and Development Commission (Commission) on January 21, 1994, as a final periodic review order pursuant to former ORS 197.644, Oregon Laws 1991, Chapter 612, Section 8(1) and the Commission's Periodic Review Rule, OAR 660, Division 19. The Commission, having fully considered the City of Fairview's periodic review order, comprehensive plan and land use regulations, comments and objections of interested parties, and the written report of the Director of the Department of Land Conservation and Development, now enters its:

Findings of Fact

1. On July 10, 1980, the Land Conservation and Development Commission acknowledged the City of Fairview's comprehensive plan and land use regulations to be in compliance with the Statewide Planning Goals (Exhibit A).
2. On August 28, 1987, the department issued notice informing the City of Fairview of the requirements under periodic review and initiating the periodic review process (Exhibit B).
3. On July 10, 1989, the department received the City of Fairview's proposed periodic review order (Exhibit C).
4. The department's review of the City of Fairview's proposed periodic review order was mailed to the city on October 3, 1989. (Exhibit D).
5. On April 1, 1991, the City of Fairview submitted its final periodic review order, including amendments to its comprehensive plan and land use regulations (Exhibit E). The department's notice to interested parties of this submittal was


review order and comprehensive plan and land use regulations meet statutory and rule requirements for periodic review and can be sustained pursuant to OAR 6660-19-090(5)(a), except for portions of the city's order that are subject to the Commission's required amendments order (94-RA-928).

THEREFORE, IT IS HEREBY ORDERED THAT:

The City of Fairview's periodic review order is sustained, except for portions of the city's order that are subject to the Commission's required amendments order (94-RA-928).

DATED THIS 18TH DAY OF FEBRUARY 1994.

FOR THE COMMISSION:


Richard P. Benner, Director
Department of Land
Conservation and Development

NOTE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this final order. Judicial review is pursuant to the provisions of ORS 183.482 and 197.650.

** Copies of all exhibits are available for review at the Department's office in Salem.

RPB:JH/deb
<orders>

BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF PERIODIC)	REQUIRED AMENDMENTS
REVIEW OF THE COMPREHENSIVE PLAN)	REMAND ORDER
AND LAND USE REGULATIONS FOR)	94-RA-928
THE CITY OF FAIRVIEW)	

This matter came before the Land Conservation and Development Commission (Commission) on January 21, 1994, as a final periodic review order pursuant to former ORS 197.644, Oregon Laws 1991, Chapter 612, Section 8(1) and the Commission Periodic Review Rule, OAR 660, Division 19. The Commission, having fully considered the City of Fairview's periodic review order, comments and objections of interested parties and the written reports of the Director of the Department of Land Conservation and Development, now enters its:

Findings of Fact

1. For the reasons set out in the Department of Land Conservation and Development Director's October 26, 1993 and December 30, 1993 reports, considered, amended and adopted by the Commission on January 21, 1994 and incorporated herein (Exhibits I and J), the Commission finds that the City of Fairview's periodic review order, comprehensive plan and land use regulations adequately address the periodic review factors (94-SUSTAIN-927) except as provided below:

Requirements:

In order to comply with Periodic Review Factor two, Goal 5, and OAR 6660-16-000 "Requirements and Application Procedures for Complying with Statewide Goal 5, the City of Fairview must:

1. Expand the ESEE analysis to address agricultural uses on site NR-14. Explain how the city's implementing measures, the "Riparian Buffer Overlay" and "Significant Natural Areas Overlay" are consistent with the Goal 5 program for this site and/or amend the overlay zones as necessary.
2. Amend the inventory of wetland sites to state that the city has insufficient information (on functions and values with the exception of fish and wildlife habitat) to complete the

Conclusion


Based on the foregoing findings and the Director's reports, as amended, the Commission concludes that the comprehensive plan, land use regulations and periodic review order for the City of Fairview require amendments as described in this order to meet statutory and rule requirements for periodic review.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The City of Fairview must complete work on its comprehensive plan, land use regulations and periodic review order to meet statutory and rule requirements for periodic review as stated in the Director's reports amended and adopted by the Commission.
2. The planning work required by the order must be resubmitted to the Director pursuant to this order and a periodic review work program under ORS 197.633 to 197.644, and SB 97 (OR Laws 1993, Ch 435).

DATED THIS 18TH DAY OF FEBRUARY 1994.

FOR THE COMMISSION:

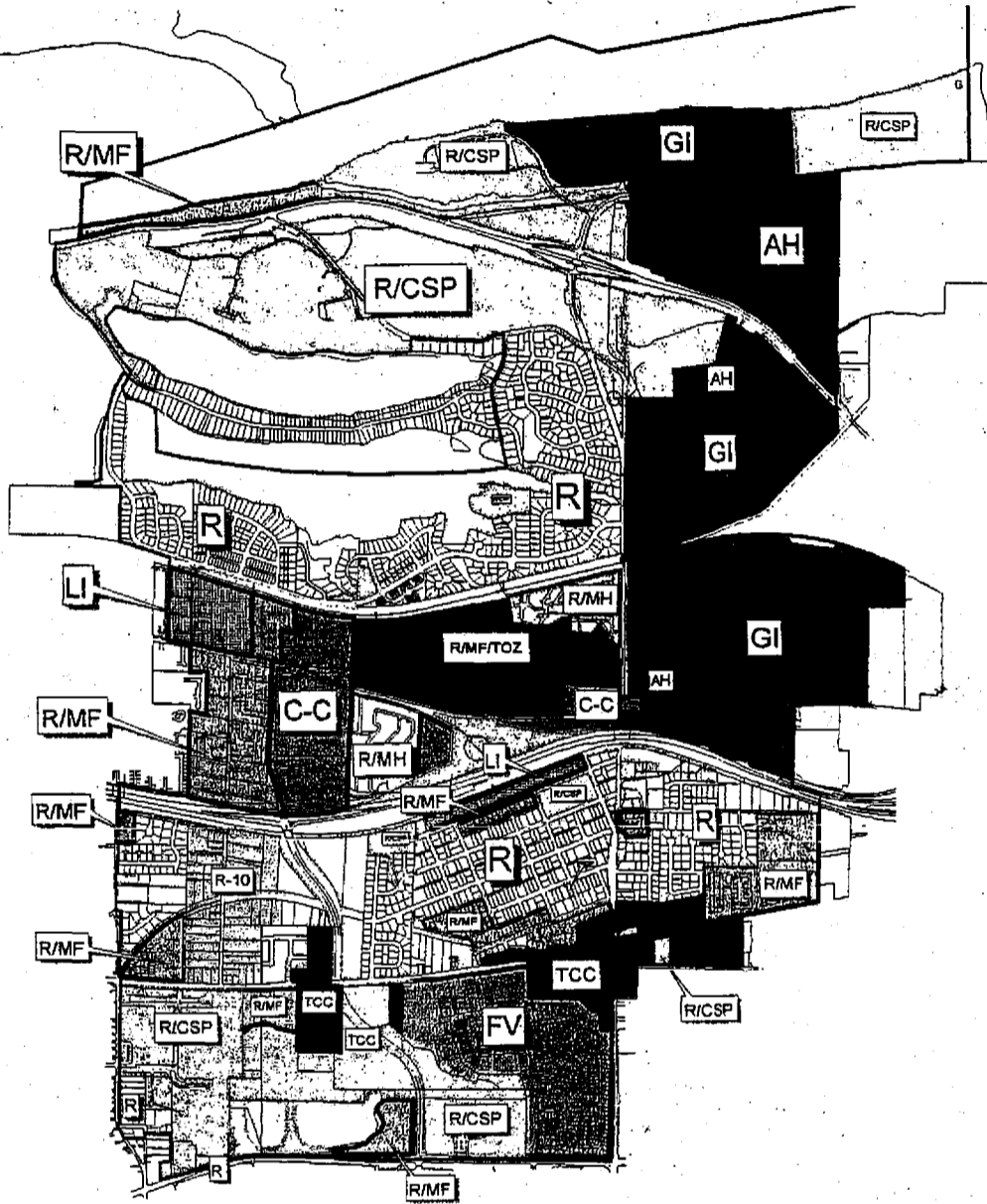

Richard P. Benner, Director
Department of Land
Conservation and Development

NOTE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this final order. Judicial review is pursuant to the provisions of ORS 183.482 and 197.650.














Copies of all exhibits are available for review at the Department's office in Salem.

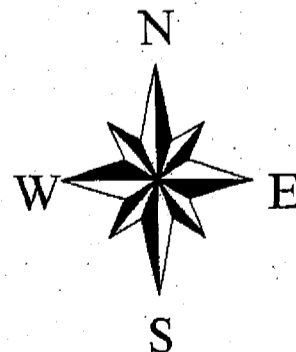
RPB:JH/deb
<orders>

OLD FAIRVIEW ZONING MAP



ZONING LEGEND

	AH	AGRICULTURAL HOLDING
	C-C	CORRIDOR COMMERCIAL
	FV	FAIRVIEW VILLAGE
	GI	GENERAL INDUSTRIAL
	LI	LIGHT INDUSTRIAL
	NC	NEIGHBORHOOD COMMERCIAL
	R-10	LOWER DENSITY RESIDENTIAL (OVERLAY ZONE)
	R	RESIDENTIAL
	R/CSP	RESIDENTIAL/COMMUNITY SERVICE/PARKS
	R/MF	RESIDENTIAL/MULTI-FAMILY
	R/MH	RESIDENTIAL MANUFACTURED HOUSING
	TCC	TOWN CENTER COMMERCIAL
	R/MF/TOZ	TOWNHOUSE (OVERLAY ZONE)



11/2001 - 1/2002

CITY
OF

FAIRVIEW

COMMUNITY DEVELOPMENT
1300 NE VILLAGE ST., P.O. BOX 337
FAIRVIEW, OREGON 97024
(503) 674-6206 FAX 667-7866

April 3, 2002

Department of Land Conservation and Development
635 Capitol Street NE, Ste 150
Salem, Oregon 97301-2540

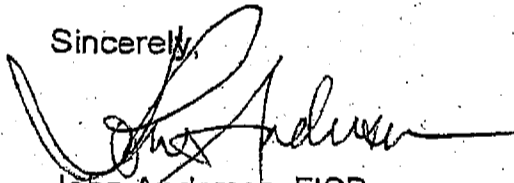
RE: Order #001368

The City of Fairview has completed the Periodic Review process. We are submitting the necessary materials to meet the requirements as outlined in your letter of February 6, 2002.

Enclosed are copies of the new Development Code (adopted November 2001), a new zoning map, and Ordinances 6-2001 and 8-2001.

Please call if you we can be of further assistance.

Sincerely,



John Andersen, FICP
Community Development Director

Encl.: City of Fairview Development Code
Zoning Map
Ordinance 6-2001
Ordinance 8-2001

EXHIBIT I
06-03-ZC





Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

635 Capitol St. NE, Suite 150

Salem, Oregon 97301-2540

Phone (503) 373-0050

Director's Fax (503) 378-5518

Main Fax (503) 378-6033

Rural/Coastal Fax (503) 378-5518

TGM/Urban Fax (503) 378-2687

Web Address: <http://www.lcd.state.or.us>

February 6, 2002

Received

FEB - 7 2002

Records Office
City of Fairview



The Honorable Roger Vonderharr
Mayor, City of Fairview
1300 NE Village Street
Fairview Oregon 97024

APPROVAL OF FINAL WORK TASK(S) and PERIODIC REVIEW COMPLETION (ORDER # 001368)

Dear Mayor Vonderharr:

I am pleased to inform you that the Department of Land Conservation and Development (DLCD) has approved the city's periodic review work task 1-4 regarding Update Goal 5 Inventory, Plan & Code. This letter constitutes the department's order approving this task (OAR 660-025-0150(1)(a)).

No objections to this work task were received in response to the local government's notice. Therefore, this order approving your work task is final and cannot be appealed.

I am pleased to inform you that, based upon this approval, DLCD has determined the city has satisfactorily completed all tasks on your periodic review work program (periodic review order #00208). Upon finishing periodic review, OAR 660-025-0210(1) requires that local governments submit complete and accurate copies of its comprehensive plan and land use regulations bearing the date of adoption (including plan and zone maps) within six months following completion of periodic review.

Documents must be accompanied by a statement signed by the Planning Director, or other city official, certifying that the materials are an accurate copy of current planning documents and that they reflect changes made as part of periodic review. These materials may be either a new printing or an up-to-date compilation of the required materials, or they may be submitted to the department on a double sided high density 3.5 inch computer disk in a format compatible with Microsoft Work 97.

Please submit one copy of a new printing or an up-to-date compilation, or a computer disk as specified above with a signed statement certifying that the materials on the disk are accurate and current planning documents by August 6, 2002. Please use the enclosed certification form as the cover sheet for your submittal.

**EXHIBIT J
06-03-ZC**

