



MULTNOMAH COUNTY
LAND USE AND TRANSPORTATION PROGRAM
1600 SE 190TH Avenue Portland, OR 97235
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<http://www.co.multnomah.or.us/landuse>

Decision of Hearings Officer

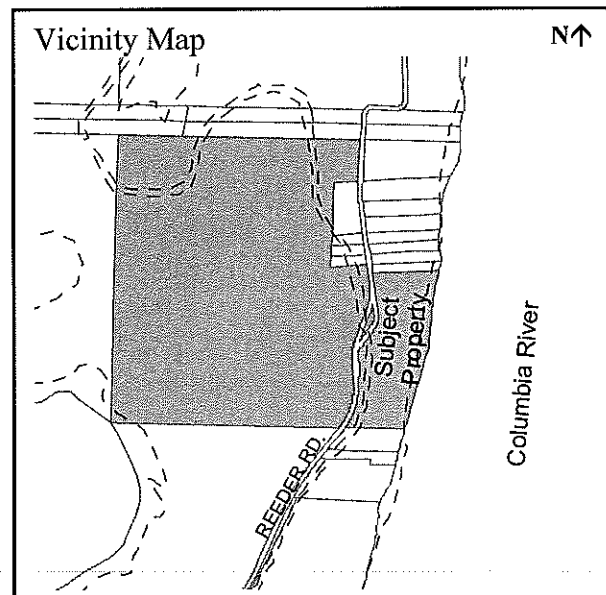
Conditional Use, Community Service Conditional Use, Design Review and Significant Environmental Concern Permits

Case File: T3-2011-1474

Hearings Officer: Liz Fancher

Hearing Date, Time, & Place:

Friday, April 13, 2012 at 10:00 am, in Room 103 at the Land Use Planning Division office located at 1600 SE 190th Avenue, Portland, OR 97235



Location: 26048 NW Reeder Road
Township 3 North, Range 1 West, Section 26, Tax Lot: 00100
Alternate Accounts # R981260050

Applicant: Steven P. Eudaly **Property Owners:** James E. Reeder Trust

Summary Application for a Conditional Use (CU) Permit for a rural store and an office trailer for the store and campground, a Community Service (CS) Conditional Use Permit to reconfigure campground, with a total of 36 camp sites shown on Exhibit A.9, including campsite utility hookups and to extend the recreational vehicle campground use to allow the entire campground to operate year round (with 90 day stay limit), a Design Review Permit for both the CU and CS uses and Significant Environmental Concern Permit for the CU and CS uses.

Zoning: Multiple Use Agriculture-20 Zone and Significant Environmental Concern Overlay Zone.

Site Size: Approximately 26 acres of a 261-acre property

APPLICABLE APPROVAL CRITERIA:

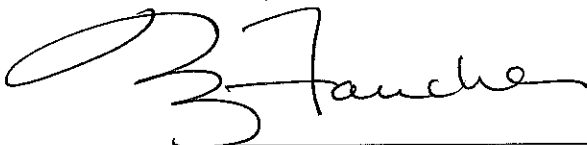
Applicable Approval Criteria: Multnomah County Code (MCC) and Multnomah County Road rules (MCRR): MCC 34.2800 et. al: MUA-20, MCC 34.6300 et al: Conditional Use, MCC 34.6000 et. al: Community Service CU, MCC 34.4100 et. al: Off-Street Parking and Loading, MCC 34.7000 et. al: Design Review and MCC 34.4500 et. al: Significant Environmental Concern, MCRR 4.000: Access to County Roads, MCRR 5.000: Transportation Impact MCRR 6.000: Improvement Requirements and MCRR 7.000: Transportation Impact Studies

Copies of the referenced Multnomah County Road Rules can be obtained by contacting the Multnomah County Land Use Planning office at 503-988-3043 or online at http://web.multco.us/sites/default/files/transportation-planning/documents/final_road_rules04.pdf.

DECISION:

The Hearings Officer approves the applicant's request for a Conditional Use (CU) Permit for a rural store and an office trailer for the store and campground, a Community Service (CS) Conditional Use Permit to reconfigure campground, with a total of 36 camp sites, including campsite utility hookups and to extend the recreational vehicle campground use to allow the entire campground to operate year round with a 90-day stay limit, a Design Review Permit for both the CU and CS uses and Significant Environmental Concern Permit for the CU and CS uses in accordance with the limitations imposed by the Scope of Approval and subject to compliance with the conditions of approval listed below.

DATED this 6th day of June, 2012.



Liz Fancher, Hearings Officer

Scope of Approval

1. Approval of this land use permit is based on the submitted written narratives and plans except to the extent modified by the conditions of approval provided below. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owners to comply with these documents and the limitations and conditions of approval described herein.
2. This land use permit expires two years from the date the decision is final pursuant to MCC 37.0690(A) and (B) as applicable. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.

CONDITIONS OF APPROVAL

1. The property owner shall obtain the required authorization permits and install a new septic system for sewage disposal to serve the store/office and the campground. The applicant shall obtain a WPCF

permit from DEQ if the size of the system needed to serve the store/office and campground requires such a permit. [MCC 34.6010(B), MCC 34.6010 (G) Policy 14 and Policy 37, MCC 34.6315(A)(2), MCC 34.6315(A)(6), MCC 34.6315(A)(7) Policy 14 and Policy 37, MCC 34.4555(D), MCC 34.4555(K), and MCC 34.4555(E)]

2. The property owner shall obtain a floodplain development permit for the store and office and shall meet the Flood Hazards Code requirements. The property owner shall obtain building permits for the store and the office trailer and meet the requirements of those permits. For any mechanical soil disturbance work within 200 feet of the stream or river the property shall obtain a grading and erosion control permit prior to soil disturbance. [MCC 34.6315(A)(6), MCC 34.7050 (A)(1), and MCC 34.4555(E)]
3. The property owner shall ensure that the length of stay by a person or vehicle in a camp, campground or campsite not exceed a total of 90 days during any consecutive 12-month period by an individual, group or family. The property owners shall maintain records, including vehicle license numbers, indicating when a party occupied a campsite and vacated the campsite. The property owner shall ensure that all camping equipment is maintained in road-ready state and can be quickly relocated off-site during flood events. The property owner shall not allow camping in any area other than the approved 36 camp sites shown on Exhibit A.9, Sheet 1. [MCC 34.6020(F), MCC 34.6010 (F), MCC 35.6015(A)(2) and MCC 34.7050]
4. Prior to submitting an application for a building permit for the store or office, the property owner or applicant shall submit a revised site plan that shows that the parking areas in the campground and parking areas for the store and office will be developed to comply with the dimensional standards of the code that apply to spaces and access aisles and requirements applicable to storm water drainage. [MCC 34.4170(A); MCC 34.4175; MCC 34.7050(A)(6)]. The new site plan shall also show a paved 20-foot wide driveway from the Reeder right-of-way passing through the store area to the campground where roads are shown at a width of 20' on the revised site plan. The handicap parking space in front of the store shall be ADA-compliant. The parking areas shown on the new site plan shall be constructed according to the new site plan required by this condition of approval.

The property owner shall provide and maintain a minimum of five paved off-street parking spaces with maneuvering area without charge to users of the store and office and one off-street parking space per campground space in each camping space. The campground spaces must be finished with a surface that complies with the requirements of MCC 34. 4180(A) (1). The parking spaces for the campsites along the river (Sites 21 through 28 and Sites 51 through 56 on Exhibit H.4) must be located in the west half of the site, away from the river. No parking of trucks, equipment, materials, structures or signs or the conduct of any business activity shall be permitted on any required parking space.

All parking areas shall be paved or improved as follows: All parking areas and spaces shall be surfaced with two inches of blacktop on a four inch crushed rock base or six inches of Portland cement or other material providing a durable and dustless surface capable of carrying a wheel load of 4,000 pounds. All vehicle parking and maneuvering areas shall be graded and drained to provide for the disposal of all surface water on the property certified by a registered professional engineer. Any artificial lighting for the parking areas approved by this application or other on-site outdoor lighting related to the store/office and campground which may be provided shall be shielded (hooded) or

deflected and directed downward so that it will not shine into adjoining properties or natural areas and so that it will not create a hazard to the traveling public on NW Reeder Road.

All parking areas shall be improved including striping (where more than one space is provided) and curbs or bumper rails and placed in a condition suited for the intended use, including paving/improvement. This task shall be completed for the store parking area and for that part of the access driveway located between Reeder Road and the southernmost part of the store/office parking area before a Certificate of Occupancy will be issued [per MCC 34.0525], or a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director. The paved driveway and parking spaces for the campground from the store area south to each of the campsites shall be paved within the two-year period allowed by this permit per MCC 37.0690(A) or an extension must be requested per MCC 37.0695. One improved parking space, in addition to the area used for RV/tent parking, must be provided in each campground space. The space shall be a minimum of 9' wide and 18 feet deep and have a vertical clearance of at least six feet six inches. Compact car spaces are not allowed as each space is a separate parking area. [MCC 34.4125(A), MCC 34.4125(B), MCC 34.4170(A), MCC 34.4175, MCC 34.4135 (A), MCC 34.4180(A), MCC 34.4180(B), MCC 34.4180(D), MCC 34.4185, and MCC 34.4555(L)]

5. Any signs installed on the subject property shall comply with the provisions of MCC 34.7465. [MCC 34.4190]
6. The property owner shall install two paved pedestrian trails to the restrooms that are wide enough for wheelchair access, one from the east side camp area and one from the west side camp area in the approximate locations shown on the Exhibit H4 site plan. The pathways shall meet ADA grade requirements. The location and extent of the paths may be adjusted if necessary to meet ADA grade requirements. The restroom shall meet ADA handicap accessibility standards. If remodeling of the restroom is required to meet these standards, a building permit shall be obtained prior to any remodeling work. [MCC 34.7050(A)(3) and MCC 34.7050(A)(4)].
7. The existing tree density shall be maintained in the campground area. If a tree dies and is removed, it shall be replaced. During construction and paving activity, the trees and shrubs on parts of the property depicted on the site plan shall be protected from damage. [MCC 34.7050(A)(5)]
8. The installation of new above-ground utilities is not authorized by this decision. If above-ground utilities are needed, the applicant or owners must seek a modification of the site plan to include a new above-ground utility. [MCC 34.7050(A)(8)]
9. Driveways in the campground that do not provide primary access to campsites shall be removed and the ground replanted with vegetation. All the remaining driveways within the campground shall be paved. [MCC 34.4555(E)]
10. Any archaeological areas known or discovered shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry. If an archaeological site is discovered during any soil disturbance during work on the site, all work in that area shall cease immediately and the property owner shall contact Oregon State Office of Historic Preservation (SHPO) and work shall remain stopped until permission is granted by SHPO to continue. [MCC 34.4555(H)]

11. An access permit application shall be submitted to and approved by County Transportation prior to zoning review sign-off for the building permits (contact Alan Young at 503-988-3582). The driveway access shall be a minimum width of 20 feet and shall not exceed 34.4 feet in width. [MCRR 4.000 et. al]
12. The property owners shall provide proof that the water system (well) it uses for the campground, store and office complies with OAR Chapter 333, Division 61 regarding its operation of the public water system that serves the campground, store and residences on the subject property. OAR 333-061-0020(157). This includes proof of compliance with the applicable provisions of OAR 333 Chapter 61 [this includes OAR 333-061-0025 and includes OAR 333-061-0065(2)(c) if the system is a transient noncommunity water system as defined by OAR 333-061-0020(197)]. In general, these laws require that the property owners sample and test their well water, keep records, file reports and obtain certification of the water system operator. If contaminants described in the rule are found over certain levels, treatment under OAR 333-061-0032 is required.
13. No structures, vehicles, trailers or sheds, whether affixed to the ground or mobile, shall be placed or retained in the area within 25 feet of the southern boundary of the subject property. In addition, none of the areas, structures or facilities that must be buffered or screened per MCC 34.7050(A)(7) may be located in this setback area (areas, structures and facilities for storage, machinery and equipment, services such as mail, refuse, utility wires, and the like, parking and loading areas and similar accessory areas and structures). The existing natural vegetation in this setback area, other than weeds and dead, dying or diseased plants or trees, shall be retained. If vegetation is removed, it shall be replaced with County-approved vegetation. The purpose of this setback area is to provide a natural, vegetated buffer area between the campground and properties located south of the campground.
14. No storage units are allowed in the campground area of the property (the southeast part of the property located south of the loop driveways). As boat storage areas for boats owned or leased by campers was not proposed, it is not allowed.

Note: Once this decision is final, application for building permits may be made with the City of Portland. When the applicant is ready to have building permits signed off, the applicant shall call the Staff Planner, George Plummer, at (503) 988-3043 ext. 29152, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off on the building permits before the applicant submits building plans to the City of Portland. Five (5) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee of \$53.00 will be collected. In addition, an erosion control inspection fee of \$77.00 may be required. If fees have been increased by Multnomah County, the applicant will be required to pay the fee in effect when he applies for permit review.

FINDINGS OF FACT

Note: Written findings are contained herein. The Multnomah County Code (MCC) criteria, Multnomah County Comprehensive Plan policies, and Multnomah County Road Rules (MCRR) are in **bold** font. The hearings officer's findings that address the applicable approval criteria are identified as '**Hearings Officer**.' Conclusions are in italics (titles are also in italics).

1. PROPOSAL

Hearings Officer: Application for a Conditional Use (CU) Permit for legalizing the rural store and establishing an office trailer for the store and campground, a Community Service (CS) Conditional Use Permit to reconfigure and extend the recreational vehicle campground use to allow the entire campground to operate year round (90 day stay) with hookups for a total of 36 campsites, a Design Review Permit for both the CU and CS uses and Significant Environmental Concern Permit for both the CU and CS uses (Exhibits A.1 through A.29) .

2. PROPERTY DESCRIPTION & VICINITY

Hearings Officer: NW Reeder Road crosses and divides the subject property into two sections (Exhibit B.2 and B.4). The proposed uses are located on the approximately 26-acre portion of the subject property that is located to the east of NW Reeder Road. This part of the property contains two dwellings, farm buildings and the Reeder Beach campground as well as farm fields (Exhibit A.9). The property is bordered on the east by the Columbia River. There is a stream that runs through this section of the property running parallel to the road located west of the farm homestead and the campground. The hearing officer's decision for Case T3-07-004 includes a detailed land use history of the property (Exhibit B.5).

3. ADMINISTRATION & PROCEDURES

3.1. Summary of Decision Making Process

MCC 37.0530(C): Type III decisions involve the greatest amount of discretion and evaluation of subjective approval criteria yet are not required to be heard by the Board. Applications evaluated through this process primarily involve conditional uses and some land divisions applications. The process for these decisions is controlled by ORS 197.763. Notice of the application and Hearings Officer hearing is published and mailed to the applicant, recognized neighborhood association and property owners 750 feet of the subject tract. Notice must be issued at least 20 days pre-hearing, and the staff report must be available at least 7 days pre-hearing. The Hearings Officer shall accept into the record all testimony and evidence relevant to the matter, prior to the close of the hearing. The Hearings Officer decision is the County's final decision and is appealable to LUBA within 21 days of when the decision is final. The decision is final the day the signed Hearings Officer decision is mailed pursuant to 37.0660(D).

Hearings Officer: On March 21, 2012, a Notice of Public Hearing was mailed to all property owners within 750 feet, recognized neighborhood associations, the applicant and the property

owners (Exhibit B.11). A notice was published in the Oregonian on March 23, 2012. *This standard is met.*

3.2. 150-Day Rule

MCC 37.0600 (D) Once the Planning Director determines the application is complete, or the applicant refuses to submit any more information, the County shall declare the application complete and take final action on the application within 150 days of that date unless the applicant waives or extends the 150-day period. The 150-day period, however, does not apply in the following situations:

* * *

(4) The 150 day period may be extended for a specified period of time at the written re-request of the applicant. The total of all extensions may not exceed 215 days.

Hearings Officer: The procedures for a Type III land use decision have been followed. The application was received on February 28, 2011 but was not officially submitted until the required filing fee was paid on March 2, 2011 (Exhibit A.1). The application was deemed incomplete by the county staff. A letter was sent to the applicant by county staff on March 30, 2011 that describes the information required to make the application complete (Exhibit B.7). This letter was sent within 30 days after the application was filed. As a result, the 150-day period did not begin to run at this time. A follow-up letter was sent to the applicant on April 4, 2011 (Exhibit B.8) requesting that additional information be provided to show compliance with County Transportation requirements. A follow-up letter was sent to the applicant on July 22, 2011 (Exhibit B.9) as a reminder of the approaching 180th day deadline for making the application complete. The applicant sent an e-mail to staff planner George Plummer which Mr. Plummer accepted as the applicant's declaration that the application should be processed with the information then in the file. This e-mail was sent 176 days after the application was submitted (Exhibit A.21).

The applicant requested that the 150-day clock be tolled (stopped) on August 24, 2011 for 60 days through October 23, 2011 (Exhibit A.22). On October 24, 2011 the applicant requested that the 150-day clock be tolled (stopped) for 45 days through December 7, 2011 (Exhibit A.23). On December 1, 2011, the applicant requested that the application be tolled through January 15, 2011 (Exhibit A.24).

On December 7, 2011, Multnomah County adopted an ordinance that increased the length of stay allowed in an RV campground from 30 days to 90 days. On March 8, 2012, the applicant requested that his application be reviewed for compliance under the amended law rather than the law in effect on the day his application was filed (Exhibits A.30, P.1). Planning Director Karen Schilling, in conformance with her established practice in such cases, treated this request as a request to withdraw and resubmit the land use applications (Exhibit P.1). Ms. Schilling has advised the hearings officer that this matter was discussed with and understood by the applicant. The notice of hearing states that the applicant is seeking approval of the 90-day stay length – the length of stay allowed by the amended law. As the application was withdrawn and resubmitted on March 8, 2012, the 150-day period for that application began to run no earlier than March 8, 2012. The 150-day clock has not been tolled since the time the application was resubmitted.

3.3. Code Compliance and Applications

MCC 37.0560 Except as provided in subsection (A), the County shall not make a land use decision or issue a building permit approving development, including land divisions and property line adjustments, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or

Hearings Officer: The subject property has an open Code Compliance Case, UR-08-036, for the following issues:

- Creation of additional RV campground spaces without permits
- Installation of utility hookup to campground spaces without permits
- Renting RV campground spaces for longer periods than allowed
- Conversion of an agricultural building to a building accessory to the campground used to store picnic tables without permits
- Conversion of an agricultural building to a building accessory to the campground used as a laundry facility
- Establishment of a store without permits.

The property owners have entered into a Voluntary Compliance Agreement (VCA) to resolve these violations with this permitting process which is a component of the resolution of all of these issues covered in the VCA (Exhibit B.6). *The VCA meets this requirement.*

Thomas Hicks, through his attorney Michael J. Lilly, expressed concern that the applicant and property owners will not comply with the VCA. Mr. Hicks asked that if the request is approved that “a mechanism requiring stricter compliance checks, enforcement by the County staff, and immediate revocation of the permit if the applicant fails to comply with permit conditions and the County Code” be a condition of approval. Mr. Lilly did not cite any provision of the County Code that authorizes these conditions. The hearings officer’s authority is limited to reviewing an application and determining whether it complies with the relevant approval criteria. The hearings officer lacks the authority to direct County staff to undertake stricter compliance checks or to enforce a decision or the VCA in any particular manner. That is an issue within the purview of the Planning Director and, ultimately, the Board of County Commissioners. As a general rule, the penalties for violating the conditions of a land use approval are prescribed by the County Code and cannot be amended or enhanced by the hearings officer. I have not found, and Mr. Lilly and Mr. Hicks have not identified, any provision of the relevant approval criteria that govern approval of this application that provide the hearings officer with the ability to impose enhanced penalties as a condition of approval.

4. MULTIPLE USE AGRICULTURE - 20 ZONE

4.1. MCC 34.2830(A): Community Service Uses pursuant to the provisions of MCC 33.6000 through 33.6230;

* * *

MCC 34.6015(A)(2) Camp or campground.

Hearings Officer: The applicant proposes to reconfigure the existing campground and to allow all camp spaces to be available for year-round use with a 90-day stay limit. Campgrounds are uses listed in MCC 34.6015 that are allowed if approved through a Community Service (CS) Conditional Use review.

This review includes the entire campground, including an existing restroom building. A part of the existing campground was determined to be a lawfully established non-conforming use in Case T3-07-004. By including the entire campground in the site plan and community service use application, the applicant is seeking approval of the existing campground as a new CS use under the current code standards for such a use. Once this application is approved and implemented, the use will be converted from a nonconforming to a conforming land use.

4.2. Conditional Uses

MCC 34.2830(C): The following Conditional Uses may be permitted on lands not predominantly of Agricultural Capability Class I, II, or III soils:

* * *

(2) Pursuant to the provisions of MCC 34.6300 through 34.6350:

(a) Cottage industries,

(b) Limited rural service commercial uses such as local stores, shops, offices, repair services and similar uses, and

(c) Tourist commercial uses such as restaurants, gas stations, motels, guest ranches and similar uses.

Hearings Officer: According to the *Soil Survey of Multnomah County, Oregon* by the US Department of Agriculture, Soil Conservation Service, the soil on the subject property is predominately Sauvie silt loam, a Class VIw soil (Exhibit B.10). It is not a Class I, II or III soil. As a result, limited rural service commercial uses are allowed as a conditional use on the property.

The application requests a Conditional Use Permit to legalize the existing store as a limited rural service commercial use. The store serves tourists traveling through the area and visitors to the campground. The applicant also seeks approval to place and use a trailer as an office for the store and campground. The store also serves tourists traveling through the area. The requirements of MCC 34.6300 through 34.6350 are addressed later in this decision. *The soil standard and rural service/tourist commercial standard are met and the findings later in this report demonstrate the applicable provisions of MCC 34.6300 through 34.6350 are met.*

4.3. Dimensional Requirements

MCC 34.2855(C): Minimum Yard Dimensions (in feet):

**30 front, 30 rear, 30 street side, and 10 side
Maximum Structure Height – 35 feet**

Hearings Officer: The proposed uses meet all of the minimum yard standards as show on the site plan (Exhibits A.9 and H.4)

4.4. Lot of Record

MCC 34.2870(A): ...Lot of Record definition standards in MCC 34.0005, ...

MCC 34.2870(B): A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 33.2885, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

MCC 34.0005: Definitions – Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 33.7785. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

- (a) "Satisfied all applicable zoning laws" shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.**
- (b) "Satisfied all applicable land division laws" shall mean the parcel or lot was created:**
 - 1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or**
 - 2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or**
 - 3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or**
 - 4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and**
 - 5. "Satisfied all applicable land division laws" shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code.**

Hearings Officer: In the previous case for this property, Case T3-07-004, the property was found to be a Lot of Record (Exhibit B.5). The property is in the same configuration as it was when that decision was issued. *The subject property is a Lot of Record.*

4.5. Off-Street Parking and Loading.

MCC 34.2880: Off-street parking and loading permitted as an accessory use shall be provided as required by MCC 34.4100 through 34.4215

Hearings Officer: Findings for the off-street parking requirements are in Section 7 of this report.

5. COMMUNITY SERVICE CONDITIONAL USE

5.1. Community Service Approval Criteria

5.1.1. MCC 34.6010(A): Is consistent with the character of the area;

Hearings Officer: The character of the area is rural. Uses in the area include agriculture, residential, wildlife habitat, and recreational uses. The subject property adjoins the Columbia River. Sauvie Island includes wetlands, lakes and wildlife areas. A campground is by nature a rural use. The proposed campground is located along the Columbia River. This location provides campers with recreational opportunities such as fishing and beach-related activities. The proposed use is consistent with the character of the area. *This criterion is met.*

5.1.2. MCC 34.6010(B): Will not adversely affect natural resources;

Hearings Officer: The reconfigured campground is located wholly within the area used as a campground for decades. It is not a natural resource area. Scaling back the campground to the level proposed by this application will not adversely affect any natural areas.

The proposal has been reviewed by Erin Mick, Sanitarian, City of Portland, for on-site sewage disposal. That review resulted in a determination that the existing septic system is adequate to serve the two homes located on the property. A new septic system is needed for the campground and store/office (Exhibit A.28). It has been determined by the sanitarian that it is feasible to install a new septic system on the subject property to serve the campground and store. The new system may require a WPCF permit from DEQ. A condition of approval requires that a new septic system be installed for the store/office and the campground and that a WPCF permit be obtained from DEQ, if required by law. *This criterion can be met through a condition.*

5.1.3. MCC 34.6010 (C) The use will not:

- (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; nor**
- (2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.**

Hearings Officer: The reconfigured campground is located in an area where there has been a campground for many years. The campground is isolated from farm fields by the stream flowing through the property and property's homestead area. The proposed reconfiguring of the campground and the proposed year round use will not significantly change or increase cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. *This criterion is met.*

5.1.4. MCC 34.6010 (D) Will not require public services other than those existing or programmed for the area;

Hearings Officer: The proposed reconfiguration of the campground and year-round operations will not require any additional public services other than those existing. The site is served by a

private well and will be served by a new on-site sewage disposal system that must be maintained by the property owner. No additional public services are needed other than those that currently exist. *This criterion is met.*

5.1.5. MCC 34.6010 (E) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;

Hearings Officer: The proposed use is located outside big game winter habitat. *This criterion is met.*

5.1.6. MCC 34.6010 (F) Will not create hazardous conditions;

Hearings Officer: A review of the site by Erin Mick, a Registered Environmental Health Specialist, determined that it is feasible to use the site to meet the septic disposal needs of the campground and office/store without creating hazardous environmental conditions. The campground area adjacent to the river bank is protected from high water erosion events by riprap. The campground area is located in the 100-year floodplain but equipment used for camping can be removed quickly if there is an impending flood. A condition of approval has been imposed to require that all camping equipment be road-ready and be able to be moved off-site when flooding is predicted. In addition, a condition of approval has been imposed that requires that the water supply for the campground comply with State laws regarding public water systems. OAR 660, Division 033. These rules require training of the system operator and water quality testing and reporting/recordkeeping that helps prevent the approved use from creating hazardous health conditions for campground residents. This condition is discussed in Section 5.1.7.2 of this decision, below. *Compliance with this criterion will be met through conditions of approval.*

5.1.7. MCC 34.6010 (G) Will satisfy the applicable policies of the Comprehensive Plan;

Hearings Officer: The following are applicable policies of the Comprehensive Plan for the proposed use:

5.1.7.1. Policy 14: Development Limitations

The County's policy is to direct development and land form alterations away from areas with development limitations except upon a showing that design and construction techniques can mitigate any public harm or associated public cost and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:

- A. Slopes exceeding 20%;**
- B. Severe soil erosion potential;**
- C. Land within the 100 year flood plain;**
- D. A high seasonal water table within 0-24 inches of the surface for 3 or more weeks of the year;**
- E. A fragipan less than 30 inches from the surface;**
- F. Land subject to slumping, earth slides or movement.**

Hearings Officer: The slopes on the property are relatively flat except for the bank of the river. The campground site has been protected from severe soil erosion by riprap permitted and placed along the river bank in the campground area of the subject property. The policy applying to high water table and fragipan is a concern if it prevents a property from hosting a functioning on-site sewage disposal system. The proposal has been reviewed by Erin Mick, Sanitarian, City of Portland for on-site sewage disposal and has obtained feasibility approval. (Exhibit A.28). This installation of a new septic system will mitigate environmental harm that might be caused to the public from the uses proposed. *This criterion is met.*

5.1.7.2. Policy 37: Utilities

Water and Disposal Systems

* * *

- B. Shall be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or**
- C. Shall have an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or**

* * *

Drainage

- E. Shall have adequate capacity in the storm water system to handle the run-off; or**
- F. The water run-off shall be handled on the site or adequate provisions shall be made; and**
- G. The run-off from the site shall not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjoining lands.**

Hearings Officer: The applicant submitted the following documents that show that a private water system serves the property: (a) a Certificate of Water Service indicating that the use is served by a private, on-site well (Exhibits A.5); and (b) a letter from Oregon Department of Water Resources stating a water right is not needed for a commercial use, if water usage is less than 5000 gallons per day (Exhibit A.12); and (c) a water usage table signed by the applicant, Steven (Pat) Eudaly, P.E., showing a maximum water usage of 2500 gallons a day (Exhibit A.15).

State law says that the Reeder's water system is a "water system" and that the Reeder's are a "water supplier." ORS 448.115(12) & (13). As the water system has at least four service connections or serves water to public or commercial premises used by at least 10 individual daily at least 60 days each year, it is subject to state regulation [ORS 448.119; OAR 660-033-0020(185)] and is classified by OAR 660-033-0020(157) as a "public water system." To comply with MCC 34.6010 (F), a public water system must be operated in compliance with the State's water quality regulations that apply to public water systems. These regulations are found, primarily, in OAR 660, Chapter 033 and vary depending on how a public system is classified by the administrative rule. Campgrounds are typically classified as a transient noncommunity public water system. OAR 660-033-0020(197). In order to assure that the Reeder's water system is a properly authorized public water system a condition of approval, Condition 12, has been included as a condition of approval of this decision.

Paving driveways in the campground will result in localized run-off. The sandy soils found in the campground area will, however, infiltrate this runoff effectively.

The proposal has been reviewed by Erin Mick, Sanitarian, City of Portland for on-site sewage disposal issues and has obtained feasibility approval. A condition of approval requires either approval of a WPCF permit from DEQ or approval of a septic system permit by the City of Portland, as designee of DEQ (Exhibit A.28). This criterion can be met through a condition requiring the new septic system upgrade be installed and permitted. *This criterion is met through a condition.*

5.1.7.3. Policy 37: Energy and Communications

H. There shall be an adequate energy supply to handle the needs of the proposal and the development level projected by the plan; and

Hearings Officer: The applicant has submitted a statement indicating that Portland General Electric has served the subject property for many years without any issue (Exhibit A.29). *This criterion is met.*

5.1.7.4. Policy 38: Facilities

It is the County's Policy to coordinate and encourage involvement of applicable agencies and jurisdiction in the land use process to ensure:

Fire Protection:

B. There is adequate water pressure and flow for fire fighting purposes; and

C. The appropriate fire district has had an opportunity to review and comments on the proposal.

Hearings Officer: The applicant submitted a signed Fire District Review which requested that six water connections remain to be used to suppress a fire (Exhibit A.7). *This criterion is met.*

5.2. RESTRICTIONS

MCC 34.6020: A building or use approved under MCC 34.6015 through 34.6050 shall meet the following requirements:

5.2.1. MCC 34.6020 (A): Minimum yards in EFU, MUA-20, RR, and RC, Districts:

(1) Front yards shall be 30 feet.

(2) Side yards for one-story buildings shall be 20 feet; for two-story buildings, 25 feet.

(3) Rear yards shall be as required in the district.

Hearings Officer: All buildings and uses proposed meet the minimum yard requirements. *This standard is met.*

5.2.2. MCC 34.6020(D): Off-street parking and loading shall be provided as required in MCC 34.4100 through 34.4220.

Hearings Officer: Findings for the off-street parking requirements are found in Section 7 of this report.

5.2.3. MCC 34.6020(E): Signs for Community Service Uses pursuant to the provisions of MCC 34.7400 through 34.7505.

Hearings Officer: No new signs are proposed. *This standard does not apply.*

5.2.4. MCC 34.6020(F): In the MUA-20, RR, and RC districts, the length of stay by a person or vehicle in a camp, campground or campsite shall not exceed a total of 90 days during any consecutive 12 month period by an individual, group or family.

Hearings Officer: This application was submitted March 2, 2011 when the County Code imposed a maximum stay limit of 30 days in any 12 month period. On March 8, 2012, the applicant requested that the cited version of the code be applied to the review of the submitted and consolidated applications. The cited version of MCC 34.6020(F) was adopted on November 17, 2011 and in effect on March 8, 2012. (Exhibit A.30).

ORS 215.427(3) says that the law in effect when a land use application is filed is the law that must be applied in the County's review of this land use application. The County's Planning Director, however, advised the hearings officer that the County treated the March 8, 2012 request by the applicant as a withdrawal and new submittal of the March 2, 2011 application. According to the Director, this issue was discussed and understood by the applicant when he filed his request to have the applications reviewed under the March 12, 2012 version of the stay limit rule. (Exhibit P.1). This means that the law in effect on March 8, 2012 is the law that applies to the review of this application.

The Planning Director's letter, Exhibit P.1, was filed on April 20, 2012 during the first post-hearing comment period. On April 20, 2012, Michael J. Lilly sent an e-mail to the hearings officer and county staff (Exhibit P.3). In that e-mail, Mr. Lilly objected to "this last minute introduction of the Plan Director's interpretation." Mr. Lilly claimed that the interpretation should have been provided before the hearing. Mr. Lilly claimed that "no one has time to give it careful consideration." On April 20, 2012, the hearing officer advised Mr. Lilly that he and all parties had until April 27, 2012 at 4:00 pm to submit information rebutting or responding to the Planning Director's letter (Exhibit P.6). As stated in the Exhibit P.6 e-mail, the fixed goalpost rule issue was raised by the hearings officer at the April 13, 2012 and parties were asked to provide comments on the topic and the Planning Director's letter was filed in response to that request. As, at that time, Mr. Lilly had one week to respond to the Schilling letter and the notice of hearing made it clear that a 90-day length of stay was being proposed and considered, Mr. Lilly and his client had an adequate opportunity to respond to and provide legal arguments regarding the Director's letter. Mr. Lilly did not file any comments or arguments with the county about the merits of the Planning Director's position.

As the CS request seeks a review of the entire campground, the 90-day limit will apply to the entire campground. Compliance with this requirement will be assured by a condition of approval. *This requirement is met through a condition.*

6. CONDITIONAL USE

6.1. Conditional Use Approval Criteria

6.1.1. MCC 34.6315(A)(1): Is consistent with the character of the area;

Hearings Officer: The character of the area is rural. Uses in the area include agriculture, residential, wildlife habitat, and a recreational uses. The subject property adjoins the Columbia River. Sauvie Island includes wetlands, lakes and wildlife areas. The proposed store serves the recreational population that visits the island including hunters, anglers, bird-watchers, boaters, bicyclists, beach goers and campground guests. It also serves the nearby residential population and campground guests. The store is a small convenience store that provides groceries, permits (associated with island recreation uses), recreational supplies and serves as the check in for the campground. The proposed office trailer will be used for the office needs of the store and the campground uses. By the nature and limited number of the items the store supplies, it is a rural and recreational tourist use store that is in keeping with the character of the area. *This criterion is met.*

6.1.2. MCC 34.6315(A)(2): Will not adversely affect natural resources;

Hearings Officer: The proposed store and office trailer are clustered near the farm homestead where they do not adversely affect any natural resource areas. The proposal has been reviewed by Erin Mick, Sanitarian, City of Portland, for on-site sewage disposal and has feasibility approval. A new system needs to be installed for the campground and store. This system will protect the area's water supply, a natural resource. This criterion can be met through a condition requiring the new septic system upgrade be installed. *This criterion is met through a condition.*

6.1.3. MCC 34.6315(A)(3): Will not conflict with farm or forest uses in the area:

- (a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and**
- (b) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.**

Hearings Officer: The subject property is zoned MUA-20. The property includes a farm. Most of the farm is located on the opposite side of Reeder Road from the campground and store. A field is also located north of the proposed store area. The proposed store and office are clustered near the existing farm homestead area of the site where they do not adversely impact any of the fields that are employed in farm use. *The proposed use will not conflict with farm or forest uses in the area. This criterion is met.*

6.1.4. MCC 34.6315(A)(4): Will not require public services other than those existing or programmed for the area;

Hearings Officer: The proposed store and office will not require any additional public services other than those existing. No additional services are needed other than those that currently exist. *This criterion is met.*

- 6.1.5. MCC 34.6315(A)(5): Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;**

Hearings Officer: The property is located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife. *This criterion is met.*

- 6.1.6. MCC 34.6315(A)(6): Will not create hazardous conditions; and**

Hearings Officer: There are no known hazardous conditions associated with the proposed store or office other than potential for flooding and a need for a new septic system. As discussed earlier, a new septic system will be required for this use to protect the area's groundwater. In addition, a condition of approval has been imposed that requires that the water supply for the store, that also serves the campground, comply with State laws regarding public water systems. These rules require training of the system operator and water quality testing and reporting/recordkeeping that helps prevent the approved use from creating hazardous health conditions for campground residents. This condition is discussed in Section 6.2.2 of this decision, below. *Compliance with this criterion will be met through conditions of approval.*

- 6.1.7. MCC 34.6315(A)(7): Will satisfy the applicable policies of the Comprehensive Plan.**

Hearings Officer: Findings addressing the applicable policies of the Comprehensive Plan are found in the Subsection 5.5, above. *This criterion is met.*

6.2. Comprehensive Plan Policies

6.2.1. Policy 14: Development Limitations

The County's policy is to direct development and land form alterations away from areas with development limitations except upon a showing that design and construction techniques can mitigate any public harm or associated public cost and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:

- G. Slopes exceeding 20%;**
- H. Severe soil erosion potential;**
- I. Land within the 100 year flood plain;**
- J. A high seasonal water table within 0-24 inches of the surface for 3 or more weeks of the year;**
- K. A fragipan less than 30 inches from the surface;**
- L. Land subject to slumping, earth slides or movement.**

Hearings Officer: The slopes on the property are relatively flat except along the bank of the river. The store and office is located away from the river and is not in an area that has a potential for severe soil erosion. The policies that relate to a high water table and fragipan are of concern if they compromise the ability of a property owner to establish a functioning on-site sewage disposal. The proposal has been reviewed by Erin Mick, Sanitarian, City of Portland for on-site sewage disposal. It is feasible to establish a new system on the property to serve the campground,

store and office. (Exhibit A.28). This criterion will be met through a condition requiring the new septic system be installed. *This criterion is met through the imposition of a condition of approval.*

6.2.2. Policy 37: Utilities

Policy 37: Water and Disposal Systems

* * *

C. Shall have an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or

* * *

Policy 37: Drainage

H. Shall have adequate capacity in the storm water system to handle the run-off; or

I. The water run-off shall be handled on the site or adequate provisions shall be made; and

J. The run-off from the site shall not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjoining lands.

Hearings Officer: The applicant submitted the following documents that show that an adequate private water system serves the property: (a) a Certificate of Water Service indicating that the use is served by a private, on-site well (Exhibits A.5); and (b) a letter from Oregon Department of Water Resources stating a water right is not needed for a commercial use, if water usage is less than 5000 gallons per day (Exhibit A.12); and (c) a water usage table signed by the applicant, Steven (Pat) Eudaly, P.E., showing a maximum water usage of 2500 gallons a day (Exhibit A.15).

State law says that the Reeder's water system must be a public water system. To comply with MCC 34.6315(A)(6), the system must be operated in compliance with the State's water quality regulations that apply to public water systems. If the applicant complies with the length of stay limit, the system required is a transient noncommunity public water system. In order to assure that the Reeder's water system is a public system the following condition of approval has been imposed:

"The property owners shall provide proof that it complies with OAR Chapter 333, Division 61 regarding its operation of the public water system that serves the campground, store and residences on the subject property. This includes, but is not limited to, proof of compliance with OAR 333-061-0025 and OAR 333-061-0065(2)(c). In general, these laws require that the property owners sample and test their well water, keep records, file reports and obtain certification of the water system operator. If contaminants described in the rule are found over certain levels, treatment under OAR 333-061-0032 is required."

Paving driveways in the campground will result in localized run-off, however, the sandy soils in the campground area will infiltrate this runoff effectively.

The proposal has been reviewed by Erin Mick, Sanitarian, City of Portland for on-site sewage disposal issues and has obtained feasibility approval. A condition of approval requires either approval of a WPCF permit from DEQ or approval of a septic system permit by the City of Portland, as designee of DEQ (Exhibit A.28). This criterion can be met through a condition requiring the new septic system upgrade be installed and permitted. *This criterion is met through a condition.*

6.2.3. Policy 37: Energy and Communications

- I. There shall be an adequate energy supply to handle the needs of the proposal and the development level projected by the plan; and**

Hearings Officer: The applicant has submitted a statement indicating that Portland General Electric has served the use for many years without any issue. Legalizing the operations of the store and office addition will have, at most, a minor impact on the use of electricity and an adequate energy supply exists to handle the needs of the proposal. *This criterion is met.*

6.2.4. Policy 38: Facilities

It is the County's Policy to coordinate and encourage involvement of applicable agencies and jurisdiction in the land use process to ensure:

Fire Protection:

- D. There is adequate water pressure and flow for fire fighting purposes; and**
E. The appropriate fire district has had an opportunity to review and comments on the proposal.

Hearings Officer: The applicant submitted a signed Fire District Review which requested that six water connections remain to be used to suppress a fire spreading (Exhibit A.7). *This criterion is met.*

7. OFF-STREET PARKING AND LOADING

7.1. Continuing Obligation

MCC 34.4115: The provision for and maintenance of off-street parking and loading facilities without charge to users shall be a continuing obligation of the property owner. No building or any other required permit for a structure or use under this or any other applicable rule, ordinance or regulation shall be issued until satisfactory evidence in the form of a site development plan, plans of existing parking and loading improvements, a deed, lease, contract or similar document is presented demonstrating that the property is and will remain available for the designated use as a parking or loading facility.

Hearings Officer: *This standard can be met through a condition.*

7.2. Use Of Space

- 7.2.1. MCC 34.4125(A): Required parking spaces shall be available for the parking of vehicles of customers, occupants, and employees without charge or other consideration.**

Hearings Officer: Dedicated parking spaces are proposed for the store and office. For the campground, a parking space will need to be provided as a part of the camping space. Fees are charged for camping in spaces but once the fee to camp is paid, parking is allowed without additional charge. *This standard can be met through a condition.*

- 7.2.2. **MCC 34.4125(B): No parking of trucks, equipment, materials, structures or signs or the conducting of any business activity shall be permitted on any required parking space.**

Hearings Officer: *This standard can be met through a condition.*

- 7.2.3. **MCC 34.4125(C): A required loading space shall be available for the loading and unloading of vehicles concerned with the transportation of goods or services for the use associated with the loading space.**

Hearings Officer: The size of the store is less than 5000 square feet, thus a loading area is not required. *This standard is not applicable.*

- 7.2.4. **MCC 34.4125(D): Except for residential and local commercial districts, loading areas shall not be used for any purpose other than loading or unloading.**

Hearings Officer: The size of the store is less than 5000 square feet, thus a loading area is not required. *This standard is not applicable.*

7.3. **Location of Parking and Loading Spaces**

MCC 34.4130(A): Parking spaces required by this Section shall be provided on the lot of the use served by such spaces.

Hearings Officer: The proposed parking spaces are on the same lot served by the spaces. This standard is met.

7.4. **Improvements Required**

MCC 34.4135(A): Required parking and loading areas shall be improved and placed in condition for use before the grant of a Certificate of Occupancy under MCC 34.0525, or a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director.

Hearings Officer: The parking spaces and loading area for the store and office area are required to be paved to the standards of MCC 34.4180. Paving may be deferred, if a performance bond is filed with the Planning Director. This requirement must be met for all required spaces unless the County approves a variance or exception to the parking improvement requirements of the code in a future land use review involving the property. *Compliance is assured by the imposition of a condition.*

7.5. **Standards of Measurement**

MCC 34.4160(A): *Square feet* means square feet of floor or land area devoted to the functioning of the particular use and excluding space devoted to off-street parking and loading.

MCC 34.4160(B): When a unit or measurement determining the number of required off-street parking or off-street loading spaces results in a requirement of a fractional space, any

fraction up to and including one-half shall be disregarded, and any fraction over one-half shall require one off-street parking or off-street loading space.

Hearings Officer: This system of measurement was used in calculating the number of parking spaces required. *This standard is met.*

7.6. Design Standards: Scope

MCC 34.4165(A): The design standards of this section shall apply to all parking, loading, and maneuvering areas except those serving a single or two-family residential dwelling or mobile home on an individual lot.

MCC 34.4165(B): All parking and loading areas shall provide for the turning, maneuvering and parking of all vehicles on the lot. After July 26, 1979 it shall be unlawful to locate or construct any parking or loading space so that use of the space requires a vehicle to back into the right-of-way of a public street.

Hearings Officer: The parking area for the store, office and for the campsites provide turning, maneuvering, and parking for all related vehicles on the lot. None of the proposed parking spaces back into the right-of-way. *These standards are met.*

7.7. Access

7.7.1. MCC 34.4170(A): Where a parking or loading area does not abut directly on a public street or private street approved under MCC 34.7700 et seq., the Land Division Chapter, there shall be provided an unobstructed paved drive not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.

Hearings Officer: The site plan shows the driveway from the road to the store is about 18 feet wide, to the south of the store the driveway narrows to about 12 feet wide for access to the campground area. Before the driveway reaches the campground the plan shows the driveway as gravel. This code section requires a paved driveway that is 20 feet wide for two-way traffic. The applicant will be required to revise its plan to provide a driveway of the required width. *This standard can be required to be met as a condition.*

7.7.2. MCC 34.4170(B): Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this section. Required spaces may be located in a private street when authorized in the approval of such private street.

Hearings Officer: None of the proposed parking is located in the public right-of-way. *This standard is met.*

7.8. Dimensional Standards

MCC 34.4175(A): Parking spaces shall meet the following requirements:

- (1)** At least 70% of the required off-street parking spaces shall have a minimum width of nine feet, a minimum length of 18 feet, and a minimum vertical clearance of six feet, six inches.

- (2) Up to 30% of the required off-street parking spaces may have a minimum width of eight and one-half feet, a minimum length of 16 feet, and a vertical clearance of six feet if such spaces are clearly marked for compact car use.
- (3) For parallel parking, the length of the parking space shall be 23 feet.
- (4) Space dimensions shall be exclusive of access drives, aisles, ramps or columns.

MCC 34.4175(B): Aisle width shall be not less than:

- (1) 25 feet for 90 degree parking,
- (2) 20 feet for less than 90 degree parking, and
- (3) 12 feet for parallel parking.
- (4) Angle measurements shall be between the center line of the parking space and the center line of the aisle.

Hearings Officer: The original site plan shows a total of 13 parking spots the store/office shown on the plan labeled Exhibit A.9 Sheet 2. The spots are shown as 90 degree parking which requires a 25 foot aisle width. There are nine parking spaces that are 18 to 20 feet in length with widths of 9 to 10 feet making up 69 percent of the total number of parking spaces. These spaces do not meet the 70 percent requirement for larger spaces. There are four compact parking spots shown on the plan labeled Number 2 through 5 in front of the store which are about 15 feet in length and 11 to 9 feet wide and make up 31 percent of the spaces. These spaces do not meet the minimum length requirement. They are a foot short of the compact parking space minimum length for 16 foot length for the 30 percent of the parking spaces. The maneuvering aisle meets the 25 foot width for all parking spots except between parking spaces Numbers 5 and 10 where the aisle narrows to 22 foot width; additionally space Number 5's length is a foot short. Parking for the camping sites meets these standards. All parking meets the vertical clearance minimum.

The applicant submitted a revised site plan at the land use hearing. That plan is Exhibit H.4. That plan, like the original site plan does not comply with the requirements of this code section. The revised site plan proposes parking spaces that are 8 feet wide by 20 feet deep. At least 70% of the spaces must be 9 feet wide and the remainder must be at least 8.5 feet wide. In addition, the handicapped parking space does not appear to meet county and ADA requirements (no unloading area; dimensions too small, drive aisle behind space too narrow, etc.). It is clear that the areas proposed for parking can, with minor adjustments, be developed with the required number of code-compliant parking spaces. *These requirements for parking for the store and office, therefore, can be met through a condition that requires submittal of a plan showing the dimensional and percentage standards are met and a condition requiring construction of a parking area meeting these dimensional and percentage requirements.*

One parking space, in addition to the area used for RV, trailer or camper parking or tent area, must be provided in each campground space. The space shall be a minimum of 9' wide, 18 feet deep with a vertical clearance of at least six feet six inches. Compact car spaces are not allowed as each space is a separate parking area.

The standards will be met for the campground by providing one code-compliant parking space in each campground space.

7.9. Improvements

7.9.1. MCC 34.4180(A): Surfacing

- (1) All areas used for parking, loading or maneuvering of vehicles shall be surfaced with two inches of blacktop on a four inch crushed rock base or six inches of portland cement or other material providing a durable and dustless surface capable of carrying a wheel load of 4,000 pounds.**
- (2) Large parking fields for intermittent uses such as amusement parks, race tracks, stadiums, and the like may be surfaced with gravel or grass and spaces may be unmarked if the parking of vehicles is supervised.**

Hearings Officer: The plan included as Exhibit A.9, Sheet 2 shows paved parking for eight spaces in front of the store for the store and office parking spaces. The plan also shows five parking spaces that are not paved. All parking spaces and the maneuvering area for the store and office are required to be paved and properly drained.

The parking spaces in the campground within each space campground camping site were considered, by Planning Staff, to be an intermittent use that can be surfaced with gravel or grass. The Hearings Officer finds that whether a use is intermittent, however, is not the only requirement imposed before a space may be surfaced with gravel or grass. The space must be located in a "large parking field." The campground spaces will not be located in such a large parking field so, unfortunately, cannot be surfaced with gravel or grass.

Each camp site is labeled. These standards can be met through *a condition of approval*.

7.9.2. MCC 34.4180(B): Curbs and Bumper Rails

- (1) All areas used for parking, loading, and maneuvering of vehicles shall be physically separated from public streets or adjoining property by required landscaped strips or yards or in those cases where no landscaped area is required, by curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress.**
- (2) The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height and at least three feet from the lot line or any required fence.**

Hearings Officer: It is difficult to determine if the bumper rail or curbing is shown on the plans. *A condition can require bumper rail or curbing for each parking spot for the store, office and campground.*

7.9.3. MCC 34.4180(C): Marking – All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC 34.4120, and such marking shall be continually maintained.

Hearings Officer: The plan shows marking for parking (Exhibit A.9). *A condition can require marking for store and office parking area. This standard can be met through a condition.*

7.9.4. MCC 34.4180(D): Drainage – All areas for the parking and maneuvering of vehicles shall be graded and drained to provide for the disposal of all surface water on the lot.

Hearings Officer: The plan does not show gradient of the slope to determine direction of the disposal of surface water from the paved parking and maneuvering area for the store and office.

Information about drainage for parking areas in the campground has not been provided. The applicant has provided a statement addressing drainage for the store and office but did not address the paved parking area. A condition can require that areas for the parking and maneuvering of vehicles related to the store, office and campground be graded and drained to provide for the disposal of all surface water on the lot as certified by a registered professional engineer. *This standard can be met through a condition.*

7.10. Lighting

MCC 34.4185: Any artificial lighting which may be provided shall be shielded or deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street.

Hearings Officer: A condition can require any artificial lighting be shielded or deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street. *This standard is met through a condition.*

7.11. Signs

MCC 34.4190 Signs, pursuant to the provisions of MCC 34.7465.

Hearings Officer: No signs are proposed. A condition can require if any signs are needed they are reviewed through a sign permit under the provisions of MCC 34.7465. *This standard can be met through a condition.*

7.12. Design Standards: Setbacks

MCC 34.4195 (A) Any required yard which abuts upon a street lot line shall not be used for a parking or loading space, vehicle maneuvering area or access drive other than a drive connecting directly to a street.

MCC 34.4195 (B) A required yard which abuts a street lot line shall not be paved, except for walkways which do not exceed 12 feet in total width and not more than two driveways which do not exceed the width of their curb cuts for each 150 feet of street frontage of the lot.

Hearings Officer: The required yard along NW Reeder Road is not proposed to be used for any parking or maneuvering areas and has one driveway passing through it. *This standard is met.*

7.13. Landscape and Screening Requirements

MCC 34.4200 (A) The landscaped areas requirements of MCC 34.7055 (C) (3) to (7) shall apply to all parking, loading or maneuvering areas which are within the scope of design standards stated in MCC 34.4165 (A).

Hearings Officer: The findings for MCC 34.7055 (C) (3) to (7) can be found in the following Section 8 of this decision. *This standard is met.*

7.14. Minimum Required Off-Street Parking Spaces

MCC 34.4205(C): Retail and Office Uses

(1) Store, Supermarket, and Personal Service Shop – One space for each 400 square feet of gross floor area.

*** * ***

(3) Bank or Office – One space for each 300 square feet of gross floor area.

*** * ***

MCC 34.4205(E): Unspecified Uses

Any use not specifically listed above shall have the requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

Hearings Officer: The applicant states the store is 30 feet by 40 feet (Exhibit A.29) for a total of 1200 square feet. Three parking spaces, therefore, are required for the store. The proposed office trailer is 10 feet by 50 feet for a total of 500 square feet. The office requires two parking spaces. This means that a total of five parking spaces are required for the store and office uses. The applicant has proposed 13 parking spaces on the plan included as Exhibit A.9, Sheet 2. More spaces than are required may be proposed and built. All spaces, however, need to meet the dimensional and improvement standards for parking areas. A campground is an unspecified use. The Planning Division has advised the Hearings Officer that it has determined that a campground needs one space for each camp space. The size of the designed camp spaces shown on the plan included as Exhibit A.9, Sheet 1 and Exhibit A.16 titled "Average Site Space" (camping site space) provides enough area for each camp space to provide for one parking space for each camp site. *This standard is met.*

7.15. Minimum Required Off-Street Loading Spaces

MCC34.4210(A): Commercial, Office or Bank – 5000 feet or less zero off-street loading spaces

*** * ***

MCC34.4210(E) Unspecified Uses - Any use not specifically listed above shall have the requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

Hearings Officer: The total area of the store and office is less than 5000 square feet. No loading space is required for the store and office. A campground is an unspecified use. A loading space is not needed for a campground. *This standard is met.*

8. DESIGN REVIEW

8.1. Design Review Criteria

8.1.1. MCC 34.7050 (A)(1): Relation of Design Review Plan Elements to Environment.

- (a) The elements of the design review plan shall relate harmoniously to the natural environment and existing buildings and structures having a visual relationship with the site.**
- (b) The elements of the design review plan should promote energy conservation and provide protection from adverse climatic conditions, noise, and air pollution.**

- (c) Each element of the design review plan shall effectively, efficiently, and attractively serve its function. The elements shall be on a human scale, interrelated, and shall provide spatial variety and order.**

Hearings Officer: The store and office fit in harmoniously with the farm homestead buildings. There is plenty of space between the buildings to prevent a conflict between uses. Clustering the store and office by the farm homestead allows the northern part of the property to remain undeveloped and the campground to be located in a heavily shaded, attractive part of the property. A review of the septic system has indicated that a new system is needed for the store, office and campground. It has been shown that the site is suited for installation of the new system (Exhibit A.19). The upgrade is necessary to protect the natural environment. A condition of approval requires the applicant to make the required septic system improvements.

The store and office promotes energy conservation by reducing trips off the island by campers and nearby residents for supplies. A floodplain development permit and building permits are required for the store and office trailer. By obtaining and meeting the requirements for these permits, the applicant will assure that the only major adverse climatic condition that affects the subject property, flooding, is properly addressed. A condition requires that these permits be obtained for the store. Noise from the store is mitigated by being a substantial distance from any neighbors and a reasonable distance away from the campground. The store and office should reduce air pollution by reducing vehicle trips off the island for supplies. The clustering within the homestead area also provides for the store and office to function effectively, efficiently, and attractively on a human scale with spatial variety while providing security by the close proximity of the farm house.

The campground blends into the natural environment of the site. County staff expressed concerns about the amount of driveways in the campground and asked the applicant to decommission some of the driveway to provide more natural areas. The applicant revised its site plan to respond to staff's request, as shown by Exhibit H.4. That plan, however, shows that one of five parallel driveways that runs less than half of the length of the RV park will be removed. Others may or may not be removed. The plan also fails to say whether both driveways on either side of the "drive-through" spaces (Sites 29 through 43, Exhibit H.4) will be retained and how it would be improved, if retained. As a result, a condition of approval has been included that requires the applicant to submit a new, complete plan that meets standards recommended by the County's staff (Condition 9). The campground promotes energy conservation and reduction of air pollution by providing camping opportunities for recreationist to stay on the island instead of returning to their homes each night. There should be no noise pollution generated by the campground.

The campground layout provides elements on a human scale, interrelated, spatial variety and order through providing significant open space areas to the center of the campground and maintaining existing vegetation.

The application design meets these criteria except a need to upgrade the septic system which can be met through a condition. For the store and office building, providing protection from adverse climatic conditions will be confirmed through the Floodplain Development Permit and Building Permit reviews which are required by a condition of approval. Condition 9 also assures compliance with the requirements of this subsection of the code.

8.1.2. MCC 34.7050 (A) (2) Safety and Privacy – The design review plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transitions from public to private spaces.

Hearings Officer: The fact that the store, office and campground are clustered around the homestead area of the property allows the property owners and residents to monitor the site for safety. With a condition that the driveway width and parking area meet the Off-Street Parking Code dimensional standards and other conditioned requirements, the driveway will provide safe access including emergency vehicle access and the store/office parking area design will be safe. The condition that requires the applicants to install a new septic system will help provide a safe environment for patrons. Additional safety concerns about the store and office being built without all required permits will be addressed by a requirement that the owners obtain and meet the requirements for a floodplain development permit and building permits for the store and office trailer.

The proposed design provides privacy and transitions from public to private spaces through vegetation and setbacks. The nearest campsite is set back at least 25 feet from the southern property line. Existing spaces in this setback area must be removed.

There is a setback area (25 feet deep) and of varying depth along the southern property line. In places, the depth of the vegetated part of the setback buffer area on the subject property appears to be narrow. This buffer area, however, provides a transition from the campground to the private property to the south. The applicant's site plan shows that this area will not be improved or used for campground spaces. Thomas Hicks, through his attorney, has argued that the aerial photograph he submitted to the record shows that spaces at the southeastern edge of the property are close to the southern boundary line. The aerial photograph shows that trailers or sheds of some type appear to be placed south and west of Site 28 of Exhibit H.4, the space closest to the southern boundary on the proposed site plan. To provide a site that complies with the applicant's site plan, this decision requires that the applicant or property owners remove this structure or trailer and any other similar structures or vehicles from this part of the property.

To assure compliance with the safety and privacy requirements of this code section, a condition of approval has been imposed that requires the property owners to keep the 25'-wide setback area free of trailers, vehicles, structures and sheds (including those that can be moved), as promised by their site plan drawing (the area is shown as vegetated and without campground development). In addition, the vegetation shown in this area on the site plan shall be retained and replaced if it dies. With the distance required and the retention of the existing vegetation (other than weeds) on the subject property, the site plan offers appropriate opportunities for privacy and transitions from public to private spaces. To the adjacent property to the north there is a significant setback of more than 600 feet of agricultural field and beach scrub area on the subject property providing a buffer. *Compliance with this code section is assured by the imposition of conditions of approval.*

8.1.3. MCC 34.7050 (A) (3) Special Needs of Handicapped – Where appropriate, the design review plan shall provide for the special needs of handicapped persons, such as ramps for wheelchairs and braille signs.

Hearings Officer: The submitted plan provides handicapped parking at the store. The narrative states that "the proposed campground will be remodeled to meet the needs of the handicapped."

The applicant does not explain or show on the plans what is proposed to accomplish that goal. At a minimum there should be a paved trail for wheel chairs from both the east and the west camp site areas and that the restrooms meet handicap access standards. A building permit will be required if any remodeling is necessary to make the restrooms handicap accessible. A condition of approval can require a paved trail for wheel chairs from both the east and the west camp site areas and can require that the restrooms meet handicapped accessible standards. *This criterion is met through a condition.*

- 8.1.4. MCC 34.7050 (A) (4) Preservation of Natural Landscape – The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve their functions. Preserved trees and shrubs shall be protected during construction.**

Hearings Officer: The proposed plan preserves the natural landscape and the existing grade. A condition can require that preserved trees and shrubs be protected during construction. *This criterion is met through a condition.*

- 8.1.5. MCC 34.7050 (A) (5) Pedestrian and Vehicular Circulation and Parking – The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures, shall be designed to maximize safety and convenience and shall be harmonious with proposed and neighboring buildings and structures.**

Hearings Officer: The parking area for the store/office is small enough that items listed in the criteria are not needed to provide for safety and convenience. The speed limit is posted in the campground at 5 miles per hour. For the campground, the two paths that will be required to provide access to the restrooms for persons with handicaps will provide for pedestrian circulation. The design of the site is harmonious with neighboring buildings and structures on site and on other properties. It achieves this goal, for neighboring properties, by being separated from neighboring properties by distance and vegetation. *This criterion is met through a condition.*

- 8.1.6. MCC 34.7050 (A) (6) Drainage – Surface drainage systems shall be designed so as not to adversely affect neighboring properties or streets.**

Hearings Officer: The applicant has submitted a drainage analysis with his professional registered engineer's stamp affixed and signed stating that all the drainage will be handled on-site through the use of a filtration trench. A condition of approval has been imposed that requires that one paved parking space be provided for each campground space and that the spaces be drained to comply with MCC 34.7050(A)(6). *This criterion is met by the imposition of a condition of approval.*

- 8.1.7. MCC 34.7050 (A) (7) Buffering and Screening – Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking, and similar accessory areas and structures shall be designed, located, buffered or screened to minimize adverse impacts on the site and neighboring properties.**

Hearings Officer: The campground is buffered by a setback by a vegetated strip of land in the setback area. The amount of vegetation in this area varies. It is possible that if the vegetation on

the property to the south is removed or altered, that the vegetation on the subject property might not completely screen all campground facilities from view from the adjoining property. Such screening, however, is not required by this code section. First, this section applies to storage areas, machinery and equipment areas, service area and parking and loading areas. A review of the applicant's site plan shows that no such areas are proposed within the 25'-wide setback area. To assure compliance with this criterion, a condition of approval has been imposed to require the applicant to maintain this area free of uses that this subsection requires be buffered or screened. Additionally, the section does not require that the entire campground be screened from view from neighboring properties. Only those items described in this subsection must be buffered or screened. Finally, compliance with this code section can be achieved in one of four ways: design, location, buffering or screening. More than one can be present but no more than one is required.

In this case, the setback and existing vegetation provide a location and create a buffer and partial screen between all uses described in this subsection and the property to the south. The store and the office are buffered, screened and located beyond the homestead area of the property where their impact on the property to the south is minimized. The potential negative impact of the campground area and the store/office on neighboring properties to the north and west is minimized by the large area of separation provided between uses (location). The store office is separated from property to the east by its remote location from the east boundary. The campground is located on a river near the beach. The spaces are, according to the aerial photographs included in the record, developed so that campers' residences line the beach and vehicles are parked back away from the river. Through the use of this design in the required parking space plan for the campground, the campground will achieve compliance with this code section.

One of the aerial photographs submitted by Mr. Lilly shows a boat and what appears to be a storage shed in what appears to be a campsite. The site plan does not propose storage sheds or boat parking in the campground. A storage shed is not moveable in the case of flooding, as is the case for RVs and campers/tents and is a facility that must be designed located, buffered or screened as required by this code section. Without facts about the location of these storage areas, no findings of compliance can be made and they have been prohibited by this decision. Likewise, boat storage areas, also, must comply with this section. Without knowing the location of boat storage areas associated with reviewed uses, the hearings officer must prohibit such storage.

To assure that this setback area fulfills the aims of this section to buffer the impacts of service and parking areas on adjoining properties, the setback area has been required to remain free of vehicles and structures and any of the uses listed in MCC 34.7050(A)(7). The property from the north is more than 600 feet from the store thus is buffered by the agricultural field in between.

A review of the site plan also shows that areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking, and similar accessory areas and structures have also been designed and located to minimize adverse impacts on the site. *This criterion is met.*

8.1.8. MCC 34.7050 (A) (8) Utilities – All utility installations above ground shall be located so as to minimize adverse impacts on the site and neighboring properties.

Hearings Officer: The store and office have existing utility lines which were established for the farm use and dwelling on the property. These lines are located in the center of the property where

they minimize adverse impacts on the site and neighboring properties. The narrative states that utilities for the campground are installed underground except for distribution boxes. As no new above-ground utilities are proposed by the application, no above-ground utilities (other than distribution boxes which are an accessory feature of underground utilities) are approved or allowed unless a revised land use approval is obtained. *This criterion is met.*

8.1.9. MCC 34.7050 (A) (9) Signs and Graphics – The location, texture, lighting, movement, and materials of all exterior signs, graphics or other informational or directional features shall be compatible with the other elements of the design review plan and surrounding properties.

Hearings Officer: The entrance sign for the store and the campground is wooden with flowers around it. All other signs are traffic regulatory signs. None are lighted or have movement. This criterion is met.

8.1.10. Required Minimum Standards

MCC 34.7055(C): Required Landscape Areas

The following landscape requirements are established for developments subject to design review plan approval:

- (1) A minimum of 15% of the lot area shall be landscaped; provided, however, that computation of this minimum may include areas landscaped under subpart 3 of this subsection.
- (2) All areas subject to the final design review plan and not otherwise improved shall be landscaped.
- (3) The following landscape requirements shall apply to parking and loading areas:
 - (a) A parking or loading area providing ten or more spaces shall be improved with defined landscaped areas totaling no less than 25 square feet per parking space.
 - (b) A parking or loading area shall be separated from any lot line adjacent to a street by a landscaped strip at least 10 feet in width, and any other lot line by a landscaped strip at least 5 feet in width.
 - (c) A landscaped strip separating a parking or loading area from a street shall contain:
 1. Street trees spaces as appropriate to the species, not to exceed 50 feet apart, on the average;
 2. Low shrubs, not to reach a height greater than 3'0", spaced no more than 5 feet apart, on the average; and
 3. Vegetative ground cover.
 - (d) Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.
 - (e) A parking landscape area shall have a width of not less than 5 feet.
- (4) Provision shall be made for watering planting areas where such care is required.
- (5) Required landscaping shall be continuously maintained.
- (6) Maximum height of tree species shall be considered when planting under overhead utility lines.
- (7) *Landscaped* means the improvement of land by means such as contouring, planting, and the location of outdoor structures, furniture, walkways and similar features.

Hearings Officer: There is significant natural landscaping on the subject property that substantially exceeds the 15 percent requirement. NW Reeder Road is more than 300 feet from the store/office parking area with farm uses and natural riparian landscape between the road and the uses on the property. The campground is setback approximately 150 feet from the road with a natural riparian landscape buffer between the road and the campground. Between the river and the campground a row of cottonwood trees on the top of the river bank and willow bushes planted in the rip-rap was required as a condition of the SEC Permit Case T2-05-068 for the riprap. These areas were planted but several of the trees have not survived and are required to be replanted as a condition of that permit. No additional landscaping is needed. *These criteria are met.*

9. SIGNIFICANT ENVIRONMENTAL CONCERN CRITERIA

9.1. MCC 34.4555(A): The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, or floodwater storage area.

Hearings Officer: The store and trailer are approximately 300 feet from the river and about 200 feet from the stream that flows through the property. The store and trailer are located in an area clustered with the farm homestead area with the maximum possible open space between the river and the development given prior farm site development. The stream that flows through the property has a natural vegetated riparian area of about 50 feet width and the farm buildings are setback at minimum 50 feet.

The campground also has a natural vegetated riparian area that is about 50 feet wide along the stream and a setback of about 30 feet from the river ordinary high water line of the Columbia River. The center of the campground is densely vegetated with trees. The Oregon Land Use Board of Appeals found that, an identical approval criterion meant that “once development locations have been determined by applying other applicable standards *** the maximum possible landscaped area, open space or vegetation [must be provided] between the activity and the river.” *Stotter v. City of Eugene*, 18 Or LUBA 135, 163 (1989). The hearings officer finds that the locations selected for campsites and all other campground facilities comply with or with the imposition of conditions of approval will comply with all other applicable code standards. The entire area between the campground spaces and the Columbia River is left as natural open space and, therefore, provides the maximum possible open space area between the river and the campsites. *This criterion is met.*

9.2. MCC 34.4555(B) Agricultural land and forest land shall be preserved and maintained for farm and forest use.

Hearings Officer: The property is zoned Multiple Use Agriculture (Exhibit B.2). The proposed project will protect existing farm and forest lands on the property. The subject property is not, however, Goal 3 protected “agricultural land” or Goal 4 “forest land” as those terms are used in State law and this subsection of the County code. Instead, the subject property is a goal exception area that is zoned for large acre residential development. As a result, no part of the property must be preserved and maintained for farm and forest use. *This criterion is met.*

- 9.3. MCC 34.4555(C) 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.**

Hearings Officer: The proposed uses are located in previously developed areas. The use will not expand beyond the areas previously developed. In this way, the campground proposal will protect and preserve the areas of environmental significance on the property. *This criterion is met.*

- 9.4. MCC 34.4555(D) Recreational 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.**

Hearings Officer: The campground serves private recreational needs. The campground is large enough to accommodate all of the campsites shown on the submitted site plan and to leave a large area in the campground for other uses, such as septic disposal and the recreational needs of campers. The number of campsites does not exceed the carrying capacity of the land. A review of the existing septic system has indicated that an upgrade of the system is necessary and feasible for safe on-site sewage disposal to assure that the carrying capacity of the land is not exceeded (Exhibit A.19). The upgrade is also necessary to protect the natural environment including the stream and river water quality. A condition can require the septic system improvements. *This criterion is met through a condition.*

- 9.5. MCC 34.4555(E) 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.**

Hearings Officer: The store and office being clustered in the homestead location on the property provides for monitoring by the property owners to prevent safety, vandalism and trespass issues. With a condition that the driveway width and parking area meet the Off-Street Parking Code dimensional standards and other conditioned requirements, the driveway will provide safe access including emergency vehicle access. The store/office parking area design will be safe once the dimensional standards are met through a condition. A review of the septic system has indicated that an upgrade of the system is necessary and feasible for safe on-site sewage disposal (Exhibit A.19). A condition can require the septic system improvements. Additional safety concerns about the store and office not being permitted can be addressed through obtaining and meeting the requirements for a floodplain development permit and building permits for the store and office trailer. These permits can be required through a condition.

The upgrade of the septic system will be required by a condition of approval. Compliance with this criterion for the store and office will be achieved through the review process that applies to a Floodplain Development Permit and Building Permits. A condition of approval has been imposed to require these reviews. *This standard is met through conditions.*

- 9.6. MCC 34.4555(F) Significant fish and wildlife habitats shall be protected.**

Hearings Officer: The applicant is not proposing any development in an area that is a significant fish or wildlife habitat area. Off-site fish and wildlife habitat is protected by confining new

riverfront development to disturbed and previously developed areas of the site. *This criterion is met.*

- 9.7. **MCC 34.4555(G) The natural vegetation along rivers, lakes, wetlands and streams shall be protected and enhanced to the maximum extent practicable to assure scenic quality and protection from erosion, and continuous riparian corridors.**

Hearings Officer: The site plan protects and enhances the natural vegetation along rivers and streams by confining all proposed activities to areas that lack natural vegetation. *This criterion is met.*

- 9.8. **MCC 34.4555(H) Archaeological areas shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry.**

Hearings Officer: There are no known archeological sites. A condition can require if any are discovered that they cease work immediately and notify the Oregon State Historic Preservation Office for review prior to beginning work again. *This criterion is met through a condition.*

- 9.9. **(I) Areas of annual flooding, floodplains, 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.**

Hearings Officer: The proposed uses retain all areas of annual flooding, floodplains, water areas, and wetlands in their natural state. The proposed uses retain areas of the floodplain to the maximum possible extent to preserve water quality and protect water retention, overflow, and natural functions. *This criterion is met.*

- 9.10. **MCC 34.4555(J) Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices and may include restriction on timing of soil disturbing activities.**

Hearings Officer: There are no areas related to the development that are areas of erosion or potential erosion. This is true because rip-rap was installed near the campground permit under the authority of Multnomah County Case T2-05-068. *This criterion is met.*

- 9.11. **MCC 34.4555(K) 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.**

Hearings Officer: The proposed uses will not negatively affect air, and land resources and ambient noise levels. Water quality will be protected by the installation of an upgraded septic system as discussed earlier. *This criterion is met through a condition.*

- 9.12. **MCC 34.4555(L) 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.**

Hearings Officer: The store and office building blend with the farm buildings of the homestead and are minimal size (bulk), are one story and lighting will be required to be hooded and directed

downward. The buildings and structures do not stand out in the environment and are compatible with the character and visual quality of the area. *This criterion is met.*

- 9.13. (M) An area generally recognized as 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.

Hearings Officer: There are no known fragile or endangered plant habitats at or near the proposed uses locations. *This criterion is met.*

- 9.14. (N) The applicable policies of the Comprehensive Plan shall be satisfied.

Hearings Officer: Applicable policies of the Comprehensive Plan under the findings for the Community Service Conditional Use Section 5.1.7. and Conditional Use Section 6.5 of this decision and are adopted for this finding. *This criterion is met.*

10. TRANSPORTATION STANDARDS

10.1. MCRR 4.000: Access to County Roads

Hearings Officer: County Transportation does not have an Access Permit on record for the property. An application for an Access Permit, therefore, will be required to be submitted prior to zoning review sign-off for the building permits. *This standard is met through a condition.*

- 10.1.1. MCRR 4.100: *Required Information:* Applicants for a new or reconfigured access onto a road under County Jurisdiction may be required to provide all of the following:

- A. Site Plan;
- B. Traffic Study-completed by a registered traffic engineer;
- C. Access Analysis-completed by a registered traffic engineer;
- D. Sight Distance Certification from a registered traffic engineer; and
- E. Other site-specific information requested by the County Engineer

Hearings Officer: The required information was submitted. On the maps, the driveway appears to cross an undeveloped right-of-way before it accesses the Reeder Road right-of-way. In fact, this area is a remnant section of right-of-way that has been vacated (Exhibit B.13). *The applicant has submitted the required information included as Exhibit A.25.*

- 10.1.2. MCRR 4.200 *Number:* Reducing the number of existing and proposed access points on Arterials and Collectors and improving traffic flow and safety on all County roads will be the primary consideration when reviewing access proposals for approval. One driveway access per property will be the standard for approval. Double frontage lots will be limited to access from the lower classification street. Shared access may be required in situations where spacing standards cannot be met or where there is a benefit to the transportation system.

Hearings Officer: The subject property is served by one driveway. *The standard is met.*

10.1.3. MCRR 4.300 *Location*: All new access points shall be located so as to meet the access spacing standards laid out in the Design and Construction Manual.

Hearings Officer: For a road classified as a rural local a 50-foot minimum access spacing requirement applies for non-residential uses that access rural local roads. The nearest driveway is more than 200 feet away. *The standard is met.*

10.1.4. MCRR 4.400 *Width*: Driveway and Accessway widths shall conform to the dimensions laid out in the Design and Construction Manual.

Hearings Officer: For all uses (store, campground, agricultural and dwelling) the driveway must be a maximum of 34.4 feet. The plan included as Exhibit 9.7, Sheet 3 shows the driveway entrance to Reeder Road right-of-way at about 38 feet wide tapering out more within the right-of-way. The driveway can be reduced in width to meet the standard. A condition can require the reduction of the width to meet the standard. *This standard is met through a condition.*

10.1.5. MCRR 4.500 *Sight Distance*: All new access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the Design and Construction Manual and AASHTO's A Policy on Geometric Design of Highways and Streets.

Hearings Officer: Multnomah County Road Rules Section 4.500 states that access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the County Design and Construction Manual or AASHTO's *A Policy on Geometric Design of Highway and Streets*. The applicant has submitted for the review of the County Transportation Division a sight distance certification from a registered traffic engineer, which provides an assessment of sight distance at the intersection in question consistent with AASHTO standards. The County Engineer has determined the driveway meets sight distance standards. *The standard is met.*

10.2. MCRR 5.000 Transportation Impact

MCRR 5.100 To determine if a Transportation Impact is caused by a proposed development, the County Engineer will determine the number of new trips generated by a site by one of the following methods:

- A.** Calculations from the most recent edition of the Institute of Transportation Engineers' Trip Generation (ITE); or
- B.** A site development transportation impact study conducted by a professional engineer registered in the State of Oregon and accepted by the County.

MCRR 5.200 The County Engineer will use the information obtained pursuant to subsection 5.100 and/or the frontage length of the subject property to determine the pro-rata share of the requirements set forth in Section 6.000.

MCRR 5.300 Except where special circumstances require the County Engineer to make an alternate determination, any new construction or alteration which will increase the number of trips generated by a site by more than 20 percent, by more than 100 trips per day or by more than 10 trips in the peak hour shall be found to have a *Transportation Impact*. A minimum increase of 10 new trips per day is required to find a transportation impact.

Hearings Officer: The Multnomah County Road Rules defines a Transportation Impact as the affect of any new construction or alteration which will increase the number of trips generated by a site by more than 20 percent, by more than 100 trips per day or by more than 10 trips in the peak hour [MCRR 3.000]. A minimum increase of 10 new trips per day is required to find a transportation impact. The applicant has submitted traffic generation information. Based on this information and the proposed use the County Engineer has determined that there will be no transportation impact. *This standard is met.*

11. **EXHIBITS**

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘H’ Hearings Exhibits

‘P’ Post-hearing Exhibits

| Exhibit # | # of Pages | Description of Exhibit | Date Received/ Submitted |
|-----------|------------|---|--------------------------|
| A.1 | 1 | Applicant form | 2/28/11 3/2/11 |
| A.2 | 3 | Existing conditions Site Plan | 2/28/11 |
| A.3 | 3 | Proposed Plan | 2/28/11 |
| A.4 | 1 | Introduction and narrative addressing CU, DR & SEC code | 2/28/11 |
| A.5 | 1 | Certificate of Water Service | 2/28/11 |
| A.6 | 1 | Police Service Review | 2/28/11 |
| A.7 | 2 | Fire District Review | 2/28/11 |
| A.8 | 1 | Addendum narrative addressing traffic | 5/10/11 |
| A.9 | 3 | Revised Site Plans | 8/9/11 |
| A.10 | 11 | Revised narrative addressing code | 8/9/11 |
| A.11 | 9 | Traffic Study | 8/9/11 |
| A.12 | 2 | Water Resources letter | 8/9/11 |
| A.13 | 1 | Multnomah Co, Environmental Health, RV Park Inspection Report | 8/9/11 |
| A.14 | 2 | Inspection Report OR Dept. of Agriculture | 8/9/11 |
| A.15 | 1 | Water Usage Chart | 8/9/11 |
| A.16 | 1 | Plan showing average campsite layout | 8/9/11 |
| A.17 | 1 | Email addressing CU, septic, floodplain reg. and site plan | 8/11/11 |
| A.18 | 1 | Email requesting approval for 36 year round camp spaces | 8/17/11 |

| | | | |
|------|----|--|----------|
| A.19 | 13 | Revised narrative | 8/18/11 |
| A.20 | | Email series addressing application clock deadlines and traffic study | 8/23/11 |
| A.21 | 1 | Email deeming the application complete | 8/24/11 |
| A.22 | 1 | Email requesting clock be tolled for 60 days | 8/24/11 |
| A.23 | 1 | Email requesting clock be tolled for 45 days | 10/25/11 |
| A.24 | 1 | Email requesting clock be tolled until Jan. 15, 2012 | 12/1/11 |
| A.25 | 14 | Revised traffic study | 1/12/12 |
| A.26 | 2 | Narrative Addendum to Design Review Code | 1/12/12 |
| A.27 | 6 | Flood plain elevation certificate and information | 1/12/12 |
| A.28 | 3 | On-Site Sewage Disposal Form | 3/6/12 |
| A.29 | 1 | Applicant's certification for stormwater disposal and statement address energy use | 3/16/12 |
| A.30 | 1 | Email from applicant requesting that we use the current code | 3/8/12 |
| A.31 | 1 | Email from applicant providing detail on traffic counts | 3/15/12 |
| 'B' | # | Staff Exhibits | |
| B.1 | 2 | A&T Property Information | NA |
| B.2 | 1 | A&T Tax Map with Property Highlighted | NA |
| B.3 | 1 | Current Zoning Map | NA |
| B.4 | 1 | 2010 aerial photo of subject property and vicinity | NA |
| B.5 | 32 | T3-07-004 Decision of Hearings Officer on Remand | NA |
| B.6 | 5 | Voluntary Compliance Agreement UR-08-036 | NA |
| B.7 | 3 | Incomplete Application Letter dated March 30, 2011 and signed routing slip showing mailing date March 30, 2011 | NA |
| B.8 | 2 | Incomplete Application Letter addressing need for traffic study dated April 5, 2011 and signed routing slip showing mailing date April 5, 2011 | NA |
| B.9 | 2 | Incomplete Application Letter dated July 22, 2011 and signed routing slip showing mailing date July 22, 2011 | NA |
| B.10 | 3 | Soil Classification Map, SCS Soil Classification description and High Value Soil List | NA |
| B.11 | 6 | Notice of Public Hearing | NA |
| B.12 | 2 | Memo from County Transportation addressing driveway | NA |
| B.13 | 7 | Emails and document addressing right-of-way vacation | NA |
| 'H' | # | Hearing Exhibits | |

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| H.1 | 1 | Recommended Conditions of Approval submitted by George Plummer, Staff Planner for Multnomah County | 4/13/12 |
| H.2 | 4 | April 9, 2012 Letter from Michael J. Lilly to George Plummer and attachment (Request for Document Research) | 4/12/12 |
| H.3 | 1 | April 13, 2012 Letter from Michael J. Lilly to George Plummer | 4/13/12 |
| H.4 | 4 | Site Plan Documents filed by Steven Eudaly at 4/13/12 Hearing | 4/13/12 |
| H.5 | 1 | Document Entitled "Posting Signs" Issued on 3/29/12 | 4/13/12 |
| H.6 | 1 | Letter from Jim, Jan and Bob Reeder to "Our Neighbors" dated January 3, 2011 | 4/13/12 |
| 'P' | # | Post-Hearing Exhibits | |
| P.1 | 2 | April 20, 2012 Letter from Karen Schilling, Multnomah County Planning Director to "Hearings Officer" | 4/20/12 |
| P.2 | 18 | April 20, 2012 Letter from Michael J. Lilly to Liz Fancher, Hearings Officer | 4/20/12 |
| P.3 | 1 | E-mail from Michael J. Lilly to Liz Fancher and George Plummer dated April 20, 2012 at 4:06 pm | 4/20/12 |
| P.4 | 1 | E-mail from Jed Tomkins to Michael J. Lilly dated April 20, 2012 at 4:19 pm | 4/20/12 |
| P.5 | 1 | E-mail from Jed Tomkins to Jed Tomkins with cc: to Michael Lilly, George Plummer and Liz Fancher dated April 20, 2012 at 4:28 pm | 4/20/12 |
| P.6 | 2 | E-mail from Liz Fancher to Michael Lilly and George Plummer with cc: to Jed Tomkins and Pat Eudaly dated April 20, 2012 at 4:33 pm | 4/20/12 |
| P.7 | 2 | Letter from Steven P. Eudaly to Multnomah County (undated) | 4/27/12 |
| P.8 | 15 | Post-Hearing Response of Multnomah County Planning Staff to Written Arguments of Thomas Hicks dated April 20, 2012 In Opposition to the Application signed by Jed Tomkins, Assistant County Attorney | 4/27/12 |