

BEFORE THE LAND USE HEARINGS OFFICER

FOR MULTNOMAH COUNTY, OREGON

Hearings Officer's Decision

Case File: CS 2-97

Hearings Officer: Liz Fancher

Hearing Time and Place: Wednesday, July 16, 1997, 9:00 a.m., Room 111,
2115 SE Morrison, Portland

Proposed Action and Use: Applicant requests Community Service Approval for a Swim and
Tennis Center for members and residents of the Persimmon
Country Club Community.

Location: 7415 SE Hogan Road, Gresham, OR 97080

Tax Roll Description: T1S, R3E, Section 22 Tax lot '1400'

Zoning: Multiple Use Agriculture - MUA-20

Who: *Property Owner/Applicant:*
CGC Inc.,
500 SE Butler
Gresham, OR, 97080

HEARINGS OFFICER DECISION: Approve the requested Community Service designation
and uses on the site described subject to the following conditions of approval:

1. The approval of this Community Service Use shall expire two years from the date of
issuance of the Board Order, or two years from the date of final resolution of subsequent
appeals unless the applicant has demonstrated compliance with MCC 11.15.7101(C).
2. Obtain Design Review approval of all proposed site improvements including but not
limited to, clearing, landscaping, fencing and exterior building designs. Site work shall
not proceed until required Design Review approvals are obtained or as determined by
the Director. A reduction in the size of the facility requested in this application may be

required in the event that the use requested cannot meet all design review requirements, such as storm drainage, septic drainfield and parking areas, on the subject property. Further, design review approval may be denied if all requirements of applicable design review ordinances are not met by the Applicant.

3. Approval is granted for the Community Service Use described in the application and as amended at the land use hearing. A substantial change in the use approved that increases the impact of the use proposed shall require new land use approval from the appropriate land use authority, currently Multnomah County.
4. The Applicant shall demonstrate to the County that the private water system that will serve the proposed development is adequate to serve the proposed development, prior to or during the design review process.
5. The Applicant's final site plan, approved in the design review process, shall comply with the setback standards of MCC 11.15.7025.
6. The Applicant shall provide the number of off-street parking spaces required by MCC .6100 through .6148 on the subject property. Compliance with this requirement shall be demonstrated to the County by the applicant during site plan review.
7. Any signs placed on the subject property shall be approved by the County prior to placement on the subject property. All such signs shall meet the requirements of MCC .7902 - .7982 or its successor sign code.
8. The Applicant shall provide a statement to the County from the appropriate agency that all standards can be met with respect to air quality and noise levels prior to obtaining design review approval.

FINDINGS OF FACT:

The following findings of fact support the Hearings Officer's approval of this land use application:

Note: The applicant's response to an approval criteria is indicated by the notation "Applicant's Response". Planning staff comments and analysis follow the applicant's responses to the criteria. Additional planning staff comments are added where supplemental information is needed or where staff may not concur with the applicant's statements. If no staff remarks are indicated, staff concurs with the applicant. The Hearings Officer's findings follow the applicant and staff remarks. If a statement is not specifically rejected by the Hearings Officer, it is accepted as a fact which supports the approval granted by this decision.

1. Applicant's Proposal:

General Description: The applicant requests approval of a Community Service Permit for a swim and tennis center including a snack bar and locker room for members and residents of the Persimmon Country Club Community. Prior approvals for this project include a golf course (Case files: CS 7-92, CS 5-89, PR 5-89, DR 90-04-10, CS 5-89a, SEC 13-92, TP 6-92 and DR 92-09-01).

2. Site and Vicinity Information:

The site is in Multnomah County and is located just outside the Urban Growth Boundary. There is an existing dwelling on the property and the proposal is to demolish the dwelling and replace it with a 2,200 sq. ft. building.

3. Ordinance Considerations:

Zoning Ordinance Requirements:

MCC 11.15.2212 - Multiple Use Agriculture

MCC 11.15.7005 - Community Service

Comprehensive Plan Policies - 13, 14, 22, 37, 38, 40

MCC 11.15.2122 - .2150, Multiple Use Agriculture Zone:

MCC 11.15.2122 Purposes

The purposes of the Multiple Use Agriculture District are to conserve those agricultural lands not suited to full-time commercial farming for diversified or part-time agriculture uses; to encourage the use of non-agricultural lands for other purposes, such as forestry, outdoor recreation, open space, low density residential development and appropriate Conditional Uses, when these uses are shown to be compatible with the natural resource base, the character of the area and the applicable County policies.

11.15.2126 Uses

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC .2128 through .2136.

11.15.2132 Conditional Uses

The following uses may be permitted when found by the approval authority to satisfy the applicable ordinance standards:

- A. Community Service Uses pursuant to the provisions of MCC .7005 through .7041

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MCC 11.15.700 - Community Service

4. Purpose

MCC .7005 through .7041 provides for the review and approval of the location and development of special uses which, by reason of their public convenience, necessity, unusual character or effect on the neighborhood, may be appropriate in any district, but not suitable for listing within the other sections of this Chapter.

11.15.7010 General Provisions

- A. Application for approval of a Community Service use shall be made in the manner provided in MCC .8205 through .8280.
- B. Except as provided in MCC .7022(F) and (G), the Approval Authority shall hold a public hearing on each application for a Community Service Use, modification thereof, or time extension.
- C. The approval of a Community Service Use shall expire two years from the date of issuance of the Board Order in the matter, or two years from the date of final resolution of subsequent appeals, unless:
 - (1) The project is completed as approved, or
 - (2) The Approval Authority establishes an expiration date in excess of the two year period, or
 - (3) The Planning Director determines that substantial construction or development has taken place. That determination shall be processed as follows:
 - (a) Application shall be made on appropriate forms and filed with the Director at least 30 days prior to the expiration date.
 - (b) The Director shall issue a written decision on the application within 20 days of filing. That decision shall be based on findings that:
 - i) Final Design Review approval has been granted under MCC .7845 on the total project; and
 - ii) At least ten percent of the dollar cost of the total project value has been expended for construction or development authorized under a sanitation, building or other development permit. Project value shall be as determined by MCC .9025(A) or .9027(A).
 - (c) Notice of the Planning Director decision shall be mailed to all parties as defined in MCC .8225.
 - (d) The decision of the Planning Director shall become final at the close of

business on the tenth day following mailed notice unless a party files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295.

- (D) A Community Service approval shall be for the specific use or uses approved together with the limitations or conditions as determined by the approval authority. Any change of use or modification of limitations or conditions shall be subject to approval authority approval after a public hearing.
- (E) In granting approval of a Community Service Use, the approval authority may attach limitations or conditions to the development, operation or maintenance of such use including but not limited to setbacks, screening and landscaping, off-street parking and loading, access, performance bonds, noise or illumination controls, structure height and location limits, construction standards, periods of operation and expiration dates of approval.
- (F) Uses authorized pursuant to this section shall be subject to Design Review approval under MCC .7805 through .7865.
- (G) A Community Service approval shall not be construed as an amendment of the Zoning Map, although the same may be depicted thereon by appropriate color designation, symbol or short title identification.

MCC 11.15.7015 Approval Criteria

In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria, except for transmission towers, which shall meet the approval criteria of MCC .7035, and except for regional sanitary landfills which shall comply with MCC .7045 through .7070.

(A) Is consistent with the character of the area;

Applicant's Response: The site is a maincured [sic] landscape which is directly north of the Persimmon Practice Range and the Persimmon golf course. The Swim and Tennis Center facility will hold activities which will be an accessory use to golf operations of the Persimmon Country Club Community and will provide community recreational resources to residences of the Persimmon Country Club Community. The activity level will be seasonal and will have minimal staffing to supervise activities at the center. The attendant will be responsible for management of the center and will oversee operations of: the snack bar, locker rooms, scheduling of lessons on the tennis courts, swimming [sic] pool and adjacent practice area. We do not anticipate heavy demand for this type of activities [sic] and that is it [sic] being provided as an amenities [sic] to members and residences of Persimmon. This facility is a private enterprise that will not offer opportunities to the public.

The swimming pool is 30' x 50' which is a small pool with an occupant load of 41-62 capacity based on industry standards.

The adjacent two tennis courts will provide the opportunity for residences and members [sic] of the Persimmon community.

Directly north of the site is Butler Road and a private parcel with direct access off of Hogan Road.

Other improvements include the following:

- Adding a screen wall along south side of the driving range which will keep light from the range landing area from impacting the surrounding neighbors.
- Directly south of the range will be a [sic] 8 ft screen wall which will keep light from impacting the commercial business located directly south of the range landing area.

Noise Level

The proposed land use will not affect the noise levels since the levels of activity will only be seasonal and open only to residents and members of Persimmon during the daylight hours. The facility will be open from Memorial Day, May 27th to Labor Day, September 1st, and will remain closed the rest of the year.

Limited interior space is provided for minimal gathering of up to 25 people. The remainder of the space is used as support space consisting of locker rooms, storage and mechanical areas.

Traffic Patterns

Since most of the traffic will be coming [sic] from within the Persimmon community, the traffic impact will be minimal [sic] along Butler Road. We do not anticipate heavy demand for this type of activities [sic] which is being provided as an amenity to members and residences of Persimmon. Again this facility is a private enterprise that will not offer opportunities to the public. It is not an income generating venture.

Equipment Use

This equipment will be used [sic] for the pool and the recreation center. This equipment will not produce minimal [sic] amounts of noise producing no pollution to the surrounding environment.

Staff Comment: Staff clarified the lighting issue with the applicant in further correspondence. Lighting of the driving range was an issue of concern during the original Community Service for the golf course/driving range and the applicant will be submitting a different application for lighting approval. In a written response the applicant stated:

“Exterior lighting of the tennis courts and swimming pool area is not included in this CS

application. We will be providing security lighting, probably using bollards, of the building exterior and the parking lot.”

The lighting for the driving range is also not included in this application.

This proposal is to utilize a parcel located within the Persimmon Golf Course Community for swimming and tennis facilities and generally fits in with the character of the area, one of a golf course community. The 1989 decision concluded that the proposed golf course provides a suitable transition between agricultural and rural residential uses generally east and south of the site and the existing and planned urban development generally west and north of the site.

Hearings Officer: The Applicant amended its application in the following ways, at the land use hearing: (1) Operations will be year round, rather than seasonal; and (2) The size of the facility was increased from a 2,200 square foot recreational facility and 400 square foot mechanical space to a 2,866 square foot recreational center and a 915 square foot basement and storage area; and (3) Building occupancy was increased to 101 persons.

(B) Will not adversely affect natural resources;

Applicant's Response: The site is a residential parcel that is being renovated to a commercial development. The tennis courts will have little impact on the immediate local resources. The courts will surface drain to the adjacent grade at the edge of the courts. The swimming pool will have no impact on storm drainage since the pool will remain full. The residence is being demolished for a recreation center of approx. 2,200 sq. ft. excluding 400 sq. ft. of mechanical space for the pool.

The nearest areas of concern are potential wetlands considered east and north, across Butler Road.

The proposed activities and improvements do not impact the natural resources of the immediate area.

Staff Response: The development is approximately 300' west of an area noted as the "boundary of a wetland as determined by wetland delineation" and approximately 300' to the East of Hogan Creek.

Condition #1 requires Design Review of the site development. The DR criteria stipulates that the design shall preserve natural landscape features and existing grades to the maximum practical degree.

Hearings Officer: The subject property is currently developed with a large residence

and is not a site that contains significant “natural” resources. The County’s design review ordinances will require the Applicant to control stormwater drainage, thereby protecting the natural resources found in the wetlands identified by the Applicant and staff.

(C) Will not conflict with farm or forest uses in the area;

Applicant’s Response: The proposed activities [*sic*] and improvements will not be impacted by their relationship to the adjacent [*sic*] lands.

The land adjacent in EFU (Exclusive Farm Use) and [*sic*] is owned and operated by the applicant.

The land directly north is Butler Road. Further north is a residence zoned MUA (Mixed Use Agriculture).

Staff Comment: The zoning of the area is EFU (Exclusive Farm Use) to the East and South, urban or urban future to the West. The zoning directly north is Multiple Use Agriculture (MUA-20). The EFU zoned property to the south is the property currently in the golf course use approved under CS 5-89. The proposal is separated from the other EFU zoned property (to the east) by 242nd Ave. The proposal to change the lot from residential to a swim tennis center is consistent with the driving range/golf course use. The findings in the original CS approval for the driving range noted that “the road, by its very presence, provides a degree of separation and transition between the proposed golf course site and farm uses to the east. Also important to note is the significant buffer (500+ feet) between the proposed east edge of development and the property line which borders 242nd.

Hearings Officer: The Hearings Officer accepts the above findings.

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

Applicant’s Response: Existing utilities are in place along Butler Road. These improvements would be making connection to these utilities.

Telecommunications: Proposed improvements will come from the existing maintenance building which is directly south of the driving range.

Storm Sewer: There will and [*sic*] increase in storm water since some of the land will be developed as an impervious surface. Proposed developments on this site will connect with an existing storm sewer along the south side of Butler Road.

Electrical: Proposed developments will be served from an existing switchvault located along the south side of Butler Road, immediate *[sic]* north of the proposed tennis courts.

Water: Water supply will be provided by the applicant from a private well.

Sanitary Sewer: Proposed improvements will request an eight (8") lateral connection to the existing Hogan Creek interceptor.

Emergency services already serve this site since it is an existing structure. In addition no new roads or streets will be required to complete this development.

Staff Response: Statewide Planning Goal 11 states "Counties shall not allow...extensions of sewer lines from within urban growth boundaries or unincorporated community boundaries to land outside those boundaries." Since that issue was raised at the pre-application conference the applicant has indicated that all sanitary sewer provisions will be provided on site by septic tank. They have provided a Land Feasibility Study from the City of Portland Bureau of Buildings that determines the existing septic tank is sufficient to handle the use.

In addition, the applicant has submitted a traffic impact analysis that indicates that 242nd Ave. (Hogan Road) can adequately accommodate the anticipated traffic from the development.

Hearings Officer: The Hearings Officer questions whether Statewide Planning Goal 11 is directly applicable to this land use decision. As a general rule, land use decisions issued under acknowledged land use regulations do not require compliance with Statewide Planning Goals. There are, however, some circumstances in which statewide goals are directly applicable to local land use decisions. These circumstances may or may not exist in the current case.

It is unclear to the Hearings Officer that the 8" lateral connection to the existing Hogan Creek interceptor proposed by the applicant involves the extension of a sewer line from inside an urban growth boundary or unincorporated community boundary. If the point of connection is located outside of these boundaries, it would not be precluded by Goal 11. As the applicant has not challenged the County's position on this issue and as the applicant has amended its application to propose the use of a septic drainfield to service the facility, the Hearings Officer will not decide whether Goal 11 is or is not applicable to the proposed development. The hearings officer will, however, leave this issue open so that it may be raised by the applicant during design review.

- (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;**

Applicant's Response: The letter is not within the big game winter habitat.

Staff Response: This criteria is met.

Hearings Officer: The Hearings Officer finds that the property is not located in a big game winter habitat area.

(F) Will not create hazardous conditions; and

Applicant's Response: There will be no hazardous conditions that will be created on this development.

Staff Response: The applicant submitted a geotechnical report with an evaluation of the site suitability. The geotechnical report states "the majority of the site is relatively flat with slopes on the order of 20H:1V. Steeper slopes are present along the northern and western edges of the site and are on the order of 2.4H:1V." Furthermore, the report concludes "...it is our opinion that...the improvements will not create potential slope stability problems for the site or adjacent sites."

Hearings Officer: The Hearings Officer finds that the proposed use will not create hazardous conditions if properly constructed and operated.

(G) Will satisfy the applicable policies of the Comprehensive Plan.

Applicant's Response: These developments fall within the guidelines of the Comprehensive Plan. The proposed recreation are [*sic*] compatible with the proposed use of the adjacent parcel to the south, the Persimmon golf course operations.

Staff Response: The applicable Comprehensive Plan policies follow.

Hearings Officer: Compliance with the applicable plan policies is addressed below.

11.15.7020 Uses

- (A) Except as otherwise provided in MCC .2012, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority.

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1. Park, playground, sports area, golf course or recreational use of a similar nature.

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(B) Approval of a Community Service Use shall be deemed to authorize associated public utilities, including energy and communication facilities.

11.15.7025 Restrictions

A building or use approved under MCC .7020 through .7030 shall meet the following requirements:

- (C) Minimum yards in EFU, CFU, F-2, MUA-20, MUF, RR, RC, UF-20, UF-10, LR-40, LR-30, LR-20, LR-10, R-40, R-30, R-20, and R-10 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.

Staff: The site plan meets this requirement and has setbacks of 30' from all property lines.

Hearings Officer: The Applicant shall demonstrate compliance with all applicable setbacks during site plan review.

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(E) Off-street parking and loading shall be provided as required in MCC .6100 through .6148.

Staff: The applicant has proposed 17 parking spaces which is sufficient as per the off-street parking requirements of MCC 11.15.6142 (D)(16) and (17) which requires for swimming pools: 1 space for each 100 square feet (1500 square feet as part of this application) of water surface and for tennis clubs: one space for each court (2 courts).

Hearings Officer: The applicant's revisions to the size of the building increase the number of required parking spaces. The applicant shall demonstrate compliance with the County's off-street parking requirements as a precondition of obtaining design review.

(F) Signs for Community Service Uses located in districts in MCC .2002 - .2966 pursuant to the provisions of MCC .7902 - .7982.

Staff: No signs are specified as part of this application but could be addressed as part of the Design Review process.

Hearings Officer: Any signs displayed on the subject property must comply with MCC .7902 - .7982.

- (G) Other restrictions or limitations of use or development not required under this subsection shall be provided in the district.

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Comprehensive Plan Policies - 13, 14, 22, 37, 38, 40

POLICY 13: AIR, WATER AND NOISE QUALITY

* * *

FURTHERMORE, IT IS THE COUNTY'S POLICY TO REQUIRE, PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION, A STATEMENT FROM THE APPROPRIATE AGENCY THAT ALL STANDARDS CAN BE MET WITH RESPECT TO AIR QUALITY, WATER QUALITY, AND NOISE LEVELS. IF THE PROPOSAL IS A NOISE SENSITIVE USE AND IS LOCATED IN A NOISE IMPACTED AREA, OR IF THE PROPOSED USE IS A NOISE GENERATOR, THE FOLLOWING SHALL BE INCORPORATED INTO THE SITE PLAN:

1. BUILDING PLACEMENT ON THE SITE IN AN AREA HAVING MINIMAL NOISE LEVEL DISRUPTIONS,
2. LANDSCAPING OR OTHER TECHNIQUES TO LESSEN NOISE GENERATION TO LEVELS COMPATIBLE WITH SURROUNDING LAND USES.
3. INSULATION OR OTHER CONSTRUCTION TECHNIQUES TO LOWER INTERIOR NOISE LEVELS IN NOISE-IMPACTED AREAS.

Applicant's Response: It is the intent of Persimmon Country club to conform with the County's policy recognizing that health, safety and welfare and quality of life of its citizens may be adversely affected by air, water and noise pollution. With that in mind, the Owner has attempted to develop a minor recreational facility that will complement their adjacent developments. This facility has been sized to provide secondary recreational opportunities for

members and residents of the Persimmon Golf Community. The expected population of Persimmon will be approx. 1,000 people. The facility is not be [*sic*] opened to the general public.

Using this information it is clear that the potential problems related to pollution will remain minimal based on the number of people using the facility. With a limited seasonal hours of operation, Memorial Day, May 30, to Labor Day, September 1, there will be limited use of natural resources.

We do not expect to increase noise, air or water pollution. Our effort is to reduce motor vehicle traffic with the use of the bicycle parking.

Storm water will be collected and then discharged into a public storm system located along Butler Rd.

Hearings Officer: The applicant has obtained a statement from the Sanitarian that DEQ environmental quality regulations can be met if the subject property is served by a septic tank and drainfield. The applicant has not provided statements regarding air and noise regulation compliance. Such statements have been required as a condition of approval of this application. These letters must be provided to the County prior to obtaining design review approval.

The proposed use is not a noise sensitive use and is not located in a noise impacted area. Also, the use is not a noise generator.

POLICY 14: DEVELOPMENTAL 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%;

Applicants Response: The proposed site involved the demolition of an existing residence. The site is relatively flat and does not exceed the 20% slope. Professional civil engineering will be involved in developing a grading plan.

Staff Response: The geotechnical report provided by GRI verifies this.

Hearings Officer: The slope of the site does not exceed 20%.

B. SEVERE SOIL EROSION POTENTIAL;

Applicants Response: Soils studies have been conducted on site and do not indicate *[sic]* adverse soil conditions or characteristics. The proposed development does not intend *[sic]* to create sloping soil conditions. Geotechnical studies have been conducted for this site.

C. LAND WITHIN THE 100 YEAR FLOOD PLAIN;

Applicants Response: The proposed site is not 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;

Applicants Response: The proposed site does not have a high season water table within 0-24 inches of the surface for 3 or more weeks of the year.

Staff Response: The Soil Survey of Multnomah County indicates this site is Cascade Silt Loam with a water table at a depth of 18 to 30 inches from December through April.

E. A FRAGIPAN LESS THAN 30 INCHES FROM THE SURFACE;

Applicants Response: The proposed site does not have fragipan less than 30 inches from the surface.

Staff Response: Cascade Silt Loam has a fragipan depth of 60 inches or more.

F. LAND SUBJECT TO SLUMPING, EARTH SLIDES OR MOVEMENT.

Applicants Response: The area of the proposed site is not subject to slumping, earth slides or movement. Land adjacent to this site, approx. 300 yards was originally subject to movement, however developing vegetation has grown and has stabilized the site.

POLICY 22: ENERGY CONSERVATION

THE COUNTY'S POLICY IS TO PROMOTE THE CONSERVATION OF

ENERGY AND TO USE ENERGY RESOURCES IN A MORE EFFICIENT MANNER. IN ADDITION, IT IS THE POLICY OF MULTNOMAH COUNTY TO REDUCE DEPENDENCY ON NON-RENEWABLE ENERGY RESOURCES AND TO SUPPORT GREATER UTILIZATION OF RENEWABLE ENERGY RESOURCES. THE COUNTY SHALL REQUIRE A FINDING PRIOR TO THE APPROVAL OF LEGISLATIVE OR QUASIJUDICIAL ACTION THAT THE FOLLOWING FACTORS HAVE BEEN CONSIDERED:

A. THE DEVELOPMENT OF ENERGY-EFFICIENT LAND USES AND PRACTICES;

Applicants Response: The facility is designed as a small, efficient facility with all the recreational opportunities (tennis and swimming) within short walking distance. The cars are parked in a very efficient manner and are extremely close to the building's entrance.

B. INCREASED DENSITY AND INTENSITY OF DEVELOPMENT IN URBAN AREAS, ESPECIALLY IN PROXIMITY TO TRANSIT CORRIDORS AND EMPLOYMENT, COMMERCIAL AND RECREATIONAL CENTERS;

Applicants Response: The proposed site is not adjacent to transit patterns or facilities. However, adjacent housing developments were considered and pedestrian paths and bicycle routes were included. Bicycle parking has been provided near the primary entrance.

Staff Response: This application is in a rural area.

C. AN ENERGY-EFFICIENT TRANSPORTATION SYSTEM LINKED WITH INCREASED MASS TRANSIT, PEDESTRIAN AND BICYCLE FACILITIES;

Applicants Response: The proposed site is not adjacent to transit patterns or facilities. However adjacent housing developments were considered and pedestrian paths and bicycle routes were included. Bicycle parking has been provided near the primary entrance.

D. STREET LAYOUTS, LOTTING PATTERNS AND DESIGNS THAT UTILIZE NATURAL ENVIRONMENTAL AND CLIMACTIC CONDITIONS TO ADVANTAGE.

Applicants Response: Proposed developments were situated to use the

existing roadway and conform to the natural landforms that were in existence. Proposed improvements have been designed to minimize grading impacts. We are providing a minimal increase in the impermeous [sic] area by adding the parking spaces. The main roadway layout is planned to go over the existing roadway attempting to minimize the impact on undisturbed area.

E. FINALLY, THE COUNTY WILL ALLOW GREATER FLEXIBILITY IN THE DEVELOPMENT AND USE OF RENEWABLE ENERGY RESOURCES.

Applicants Response: The proposed improvements will be designed to use renewable energy building materials whenever possible. Site improvements, including landscape elements will also be designed to have minimal impact on the natural environment. Native plants will be incorporated into the plant specifications.

Hearings Officer: The Hearings Officer and the County have both considered the above-listed factors prior to approving this land use application.

POLICY NO. 37, UTILITIES.

THE COUNTY'S POLICY IS TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

WATER AND DISPOSAL SYSTEM

A. THE PROPOSED USE CAN BE CONNECTED TO A PUBLIC SEWER AND WATER SYSTEM, BOTH OF WHICH HAVE ADEQUATE CAPACITY; OR

Applicants Response: Not applicable.

B. THE PROPOSED USE CAN 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

Applicants Response: Not applicable.

Staff Response: This criteria is applicable and the applicant has provided a Land Feasibility study authorizing the use of the existing septic tank for this development.

C. THERE IS AN ADEQUATE PRIVATE WATER SYSTEM, AND THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) WILL APPROVE A

SUBSURFACE SEWAGE DISPOSAL SYSTEM; OR

Applicants Response: Not applicable.

- C. THERE IS AN ADEQUATE PRIVATE WATER SYSTEM, AND A PUBLIC SEWER WITH ADEQUATE CAPACITY.

Applicants Response: Proposed improvements will incorporate the use of the private water system and the Owner has a re-use permit for the existing septic system.

Hearings Officer: The applicant has not demonstrated that the private water system is adequate. As a result, the applicant will be required to demonstrate that the proposed private water system is adequate to meet the needs of the proposed use as a condition of design review approval.

- E. THERE IS ADEQUATE CAPACITY IN THE STORM WATER SYSTEM TO HANDLE THE RUN-OFF; OR

Applicants Response: The impervious area is being increased slightly and will flow to an existing catch basin system directly south of Butler Road. This system connects with the City of Gresham sanitary sewer system.

- F. THE WATER RUN-OFF CAN BE HANDLED ON THE SITE OR ADEQUATE PROVISIONS CAN BE MADE; AND

Applicants Response: Run-off will be contained on site with individual trench drains which will be handled on site.

- G. THE RUN-OFF FROM THE SITE WILL NOT ADVERSELY AFFECT THE WATER QUALITY IN ADJACENT STREAMS, PONDS, LAKES OR ALTER THE DRAINAGE ON ADJOINING LANDS.

Applicants Response: Run-off will not affect water quality since it will be contained on site.

ENERGY AND COMMUNICATIONS

- H. THERE IS AN ADEQUATE ENERGY SUPPLY TO HANDLE THE NEEDS OF THE PROPOSAL AND THE DEVELOPMENT LEVEL PROJECTED BY THE PLAN; AND

Applicants Response: There is sufficient electric power to supply the projected needs of the proposed development. Power supply is located at a transformer directly north of the site.

- I. COMMUNICATIONS FACILITIES ARE AVAILABLE.

Applicants Response: There is sufficient capacity in the telecommunications system. The service connection is located at the Persimmon clubhouse. Immediate connection to the private, on-site system, is at the Persimmon maintenance building.

POLICY NO. 38, FACILITIES.

THE COUNTY'S POLICY IS TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

Staff Comment: The applicant has supplied service provider sign off's for the Gresham Fire District, Gresham-Barlow School District No. 10, the City of Gresham, Multnomah County Sheriff and the Bureau of Buildings for septic tank approval.

SCHOOL

- A. THE APPROPRIATE SCHOOL DISTRICT HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENT ON THE PROPOSAL.

Applicants Response: The school district has reviewed this proposal and has no comment.

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 COMMENT ON THE PROPOSAL.

Applicants Response: There is adequate water pressure and flow for fire fighting. Protection will come via tanker with a hydrant greater than 1,000 feet from site.

POLICE PROTECTION

- D. THE PROPOSAL CAN RECEIVE ADEQUATE LOCAL POLICE PROTECTION IN ACCORDANCE WITH THE STANDARDS OF THE JURISDICTION PROVIDING POLICE PROTECTION.

Applicants Response: Police Dept. reviewed this and has no comment.

POLICY 40: DEVELOPMENT REQUIREMENTS

THE COUNTY'S POLICY IS TO ENCOURAGE A CONNECTED PARK AND RECREATION SYSTEM AND TO PROVIDE FOR SMALL PRIVATE RECREATION AREAS BY REQUIRING A FINDING PRIOR TO APPROVAL OF LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

(D) PEDESTRIAN AND BICYCLE PATH CONNECTIONS TO PARKS, RECREATION AREAS AND COMMUNITY FACILITIES WILL BE DEDICATED WHERE APPROPRIATE AND WHERE DESIGNATED IN THE BICYCLE CORRIDOR CAPITAL IMPROVEMENTS PROGRAM AND MAP.

Applicants Response: There will be minimal vehicle traffic on the approach road. The intent is that pedestrians and bicyclists will use this roadway as a means of access to the facility.

Hearings Officer: The subject property is not adjacent to a designated bicycle corridor so the dedication of such facilities is not required. Further, the County has not met its burden of proving that such improvements are justified under the standards of Dolan v. City of Tigard. Such proof is required as a precondition of imposing public improvement requirements as a condition of land use approvals.


(E) LANDSCAPED AREAS WITH BENCHES WILL BE PROVIDED IN COMMERCIAL, INDUSTRIAL AND MULTIPLE FAMILY DEVELOPMENTS, WHERE APPROPRIATE.

Applicants Response: Landscaping will supplement the existing landscaping. Benches will be provided in the surrounding landscaped areas at appropriate locations.

(F) AREAS FOR BICYCLE PARKING FACILITIES WILL BE REQUIRED IN DEVELOPMENT PROPOSALS, WHERE APPROPRIATE.

Applicants Response: Bicycle parking has been incorporated and located near the entrance.

DATED THIS 24TH DAY OF JULY, 1997.



Liz Fancher, Hearings Officer
OSB #81220

MAILED this ____ day of _____, 1997.

By: